

October 24, 2024
Item No. 7.12.
Contract for Convention Center Feasibility Study

Sponsor: Jeremiah Cook, Tourism Manager

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on a contract with Hunden Strategic Partners Inc. for a Convention Center Feasibility Study in the amount of \$80,000.

Relationship to Strategic Goals:

- Financial Sustainability
- Diverse & Growing Economy

Recommendation(s): Staff recommends approval of this contract.

Summary: A Request for Proposals was released in August 2024, for a feasibility study for a convention center in College Station. Six (6) responses were received. Based on the evaluation criteria, Hunden Strategic Partners Inc. provided the most comprehensive proposal to address a multi-faceted feasibility study for the City of College Station.

Budget & Financial Summary: The total cost of the project is \$80,000. The contract is broken into multiple tasks, but ultimately two phases. Phase I will determine the market demand based on the facility and program recommendations. Phase II will include site evaluation, feasibility, financing, economic impact, and return on investment. At the conclusion of Phase I, the City will have the option of either continuing onto Phase II, or ceasing any further work efforts and concluding the contract at the completion of Phase I. The cost for Phase I is \$40,050, plus applicable travel expenses. The cost for Phase II is \$32,875, plus applicable travel expenses.

Phase I - \$40,050

Phase II - \$32,875

Maximum Reimbursable Travel Expenses - \$7,075

Total - \$80,000

Attachments:

1. Contract 24300054 - Hunden Partners

CONSULTANT CONTRACT

This Contract is by and between the **City of College Station**, a Texas Municipal Home-Rule Corporation (the “City”) and **Hunden Strategic Partners, Inc.**, an Indiana Corporation (the “Consultant”), whereby Consultant agrees to perform and the City agrees to pay for the work described herein.

ARTICLE I SCOPE OF SERVICES

1.01 This Contract is for Convention Center Feasibility Analysis (the “Project”). The scope and details of the work to be provided to the City by Consultant are set forth in **Exhibit “A”** to this Contract and are incorporated as though fully set forth herein by reference. Consultant agrees to perform or cause the performance of all the work described in **Exhibit “A.”**

1.02 Consultant agrees to perform the work described in **Exhibit “A”** hereto and the City agrees to pay Consultant a fee based on the rates set forth in **Exhibit “B”** to this Contract for the services performed by Consultant. The invoices shall be submitted to the City following the 15th day and the last day of each month. The payment terms are net payable within thirty (30) calendar days of the City’s receipt of the invoice. Upon termination of this Contract, payments under this paragraph shall cease, provided, however, that Consultant shall be entitled to payments for work performed in accordance with this Contract before and including the date of termination and for which Consultant has not yet been paid.

ARTICLE II PAYMENT

2.01 The total amount of payment, including reimbursements, by the City to Consultant for all services to be performed under this Contract may not, under any circumstances, exceed **EIGHTY THOUSAND AND 00/ 100 DOLLARS (\$80,000.00)**.

ARTICLE III CHANGE ORDERS

3.01 The City may from time to time request changes in the scope and focus of the activities, investigations, and studies conducted or to be conducted by Consultant pursuant to this Contract, provided, however, that any such change that in the opinion of Consultant, the City Manager, or the City’s Project Manager varies significantly from the scope of the work set out herein and would entail an increase in cost or expense to the City shall be mutually agreed upon in advance in writing by Consultant and the City’s Project Manager.

- (a) When the original Contract amount plus all change orders is \$100,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more than \$100,000. For such contracts, when a change order results in a total contract amount that exceeds \$100,000, the City Council of the City must approve such change order prior to commencement of the services or work; and
- (b) When the original contract amount plus all change orders is equal to or greater than \$100,000, the City Manager or his designee may approve the written change order

provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work. Thereafter, any additional change orders exceeding \$50,000 or any additional change orders totaling 25 percent following such council approval, must be approved by City Council; and

- (c) **Any request by the Consultant for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Consultant providing such services or the right to payment for such additional services shall be waived.** If there is a dispute between the Consultant and the City respecting any service provided or to be provided hereunder by the Consultant, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Consultant agrees to continue providing on a timely basis all services to be provided by the Consultant hereunder, including any service as to which there is a dispute.

ARTICLE IV TIME OF PERFORMANCE

4.01 Except as provided in Article X herein below, the Consultant shall complete all of the work described in Exhibit "A" by the dates set forth below:

Phase I Completion is eight (8) weeks after contract execution.

Phase II Draft Report Completion is four (4) weeks after receiving written authorization by City to proceed with Phase II.

Phase II Final Report Completion is two (2) weeks after receiving final written comments on the Draft Report from the City.

4.02 Time is of the essence of this Contract. The Consultant shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified.

4.03 Consultant promises to work closely with the City Manager or his designee (the "Project Manager") or other appropriate City officials. Consultant agrees to perform any and all Project-related tasks reasonably required of it by the City in order to fulfill the purposes of the work to be performed. The work of Consultant under this Contract may be authorized by the Project Manager in various phases as set forth in **Exhibit "A."**

ARTICLE V INDEPENDENT CONSULTANT

5.01 In all activities or services performed hereunder, the Consultant is an independent Consultant and not an agent or employee of the City. The Consultant, as an independent Consultant, shall be responsible for the final product contemplated under this Contract. Except for materials furnished by the City, the Consultant shall supply all materials, equipment and labor required for the execution of the work on the Project. The Consultant shall have ultimate control over the execution of the work under this Contract. The Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subconsultants, and the City shall have no control of or supervision over the employees of the Consultant or any of the Consultant's subconsultants except to the limited extent provided for in this Contract. Consultant shall be liable for any misrepresentations. Any negotiations by the Consultant on the City's behalf are binding on the City only when within the scope of work contained herein and approved by the City.

ARTICLE VI AUTHORIZATION

6.01 The City shall direct Consultant to commence work on the Project by sending Consultant a "letter of authorization" to begin work on the Project.

6.02 Upon receipt of the letter of authorization to begin work on the implementation of the Project, Consultant shall meet with the City for the purpose of determining the nature of the Project, including but not limited to the following: meeting with the City's staff to coordinate Project goals, schedules, and deadlines; coordinating data collection; briefing the City's management staff; documenting study assumptions and methodologies; devising the format for any interim reports and the final report to the City, if needed.

6.03 Consultant shall consult with the City and may in some limited circumstances, act as the City's representative, but it is understood and agreed by the parties that for all purposes related to this Contract, Consultant shall be an independent Consultant at all times and is not to be considered either an agent or an employee of the City.

ARTICLE VII WARRANTY

7.01 As an experienced and qualified professional, Consultant warrants that the information provided by Consultant reflects high professional and industry standards, procedures, and performances. Approval or acceptance by the City of any of Consultant's work product under this Contract shall not constitute, or be deemed, a release of the responsibility and liability of Consultant, its employees, agents, or associates for the exercise of skill and diligence necessary to fulfill Consultant's responsibilities under this Contract. Nor shall the City's approval or acceptance be deemed to be the assumption of responsibility by the City for any defect or error in the work products prepared by Consultant, its employees, associates, agents, or subconsultants.

7.02 Consultant shall keep the City informed of the progress of the work and shall guard against any defects or deficiencies in its work.

7.03 Consultant shall be responsible for using due diligence to correct errors, deficiencies or unacceptable work product. Consultant shall, at no cost to the City, remedy any errors, deficiencies

or any work product found unacceptable, in the City's sole discretion, as soon as possible, but no later than fifteen (15) calendar days after receiving notice of said errors, deficiencies, or unacceptable work product.

7.04 Any and all of Consultant's work product ("Work Product") hereunder shall be the exclusive property of the City. Upon completion or termination of this Contract, Consultant shall promptly deliver to the City all records, notes, data, memorandum, models, and equipment of any nature that are within Consultant's possession or control and that are the City's property or relate to the City or its business.

7.05 Consultant warrants to City that (i) Consultant has the full power and authority to enter into this Contract, (ii) Consultant has not previously assigned, transferred or otherwise encumbered the rights conveyed herein, (iii) Work Product is an original work of authorship created by Consultant's employees during the course of their employment by Consultant, and does not infringe on any copyright, patent, trademark, trade secret, contractual right, or any other proprietary right of any person or entity, (iv) Consultant has not published the Work Product (including any derivative works) or any portion thereof outside of the United States, and (v) to the best of the Consultant's knowledge, no other person or entity, except City, has any claim of any right, title, or interest in or to the Work Product.

7.06 Consultant shall not seek to invalidate, attack, or otherwise do anything either by act of omission or commission which might impair, violate, or infringe the title and rights assigned to City by Consultant in this Article VII of the Contract.

ARTICLE VIII INDEMNIFICATION & RELEASE

8.01 INDEMNITY

- (a)** To the fullest extent permitted by law, Consultant agrees to indemnify and hold harmless the City, its Council members, officials, officers, agents, employees, and volunteers (separately and collectively referred to in this paragraph as "Indemnitee") from and against all claims, damages, losses and expenses (including but not limited to attorney's fees) arising out of or resulting from any negligent act, error or omission, intentional tort or willful misconduct, intellectual property infringement or breach of contract including failure to pay a subconsultant, or supplier occurring in the course of performance of professional services pursuant to this Contract by Consultant, its employees, subconsultants, subconsultants, or others for whom Consultant may be legally liable ("Consultant Parties"), but only to the extent caused in whole or in part by the Consultant Parties. **IF THE CLAIMS, ETC. ARE CAUSED IN PART BY CONSULTANT PARTIES, AND ALSO IN PART BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY OR ALL OF THE INDEMNITEES OR ANY OTHER THIRD PARTY, THEN CONSULTANT SHALL ONLY INDEMNIFY ON A COMPARATIVE BASIS, AND ONLY FOR THE AMOUNT FOR WHICH CONSULTANT PARTIES ARE FOUND LIABLE**

AND NOT FOR ANY AMOUNT FOR WHICH ANY OR ALL INDEMNITEES OR OTHER THIRD PARTIES ARE LIABLE.

- (b) To the fullest extent permitted by law, Consultant agrees to defend the Indemnitees where the indemnifiable acts named in section 8.01 above occur outside the course of performance of professional services (i.e. non-professional services) and the claim is not based wholly or partly on the negligence of, fault of, or breach of contract by the governmental agency, the agency's agent, employee, or other entity over which the governmental agency exercises control, other than the Consultant or Consultant Parties.**
- (c) It is mutually understood and agreed that the indemnification provided for in this section shall indefinitely survive any expiration, completion or termination of this Contract.**
- (d) It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under this section, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect. There shall be no additional indemnification other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.**

8.02 Release. The Consultant releases, relinquishes, and discharges the City, its council members, officials, officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Consultant or its employees and any loss of or damage to any property of the Consultant or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Consultant's work to be performed hereunder. Both the City and the Consultant expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance and in the event of injury, sickness, death, loss, or damage suffered by the Consultant or its employees, but not otherwise, this release shall apply regardless of whether such loss, damage, injury, or death was caused in whole or in part by the City, any other party released hereunder, the Consultant, or any third party. There shall be no additional release or hold harmless provision other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

ARTICLE IX INSURANCE

9.01 General. The Consultant shall procure and maintain at its sole cost and expense for the duration of this Contract insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the

Consultant, its agents, representatives, volunteers, employees or subconsultants. The policies, limits and endorsements required are as set forth below:

During the term of this Contract all Consultant's insurance policies shall meet the minimum requirements of this section:

9.02 Types. Consultant shall have the following types of insurance:

- (a) Commercial General Liability.
- (b) Business Automobile Liability.
- (c) Workers' Compensation/Employer's Liability.
- (d) Professional Liability.

9.03 Certificates of Insurance. For each of these policies, the Consultant's insurance coverage shall be primary insurance with respect to the City, its officials, agents, employees and volunteers. Any self-insurance or insurance policies maintained by the City, its officials, agents, employees or volunteers, shall be considered in excess of the Consultant's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Consultant to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Contract, attached hereto as **Exhibit C**, and approved by the City before any letter of authorization to commence project will issue or any work on the Project commences.

9.04 General Requirements Applicable to All Policies. The following General requirements applicable to all policies shall apply:

- (a) Only licensed insurance carriers authorized to do business in the State of Texas will be accepted.
- (b) Deductibles shall be named on the Certificate of Insurance.
- (c) "Claims made" policies will not be accepted, except for Professional Liability insurance.
- (d) Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of College Station.
- (e) The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

9.05 Commercial General Liability requirements. The following Commercial General Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.
- (b) Minimum Limit of \$1,000,000 per occurrence for bodily injury and property damage with a \$2,000,000 annual aggregate.
- (c) No coverage shall be excluded from the standard policy without notification of

individual exclusions being attached for review and acceptance.

- (d) The coverage shall not exclude premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures exist, Explosion Collapse and Underground coverage.
- (e) The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

9.06 Business Automobile Liability requirements. The following Business Automobile Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated “A:VIII” or better in accordance with the current. A. M. Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- (c) The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- (d) The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- (e) The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

9.07 Workers’ Compensation/Employer’s Liability Insurance requirements. The Workers’ Compensation/Employer’s Liability Insurance shall include the following terms:

- (a) Employer's Liability limits of \$1,000,000 for each accident is required.
- (b) “Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04” shall be included in this policy.
- (c) Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those named in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

9.08 Professional Liability requirements. The following Professional Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated “A:VIII” or better in accordance with the current A.M. Best Key Rating Guide.
- (b) Minimum of \$1,000,000 per claim and \$2,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City of College Station when requested.
- (c) Consultant must continuously maintain professional liability insurance with prior acts coverage for a minimum of two years after completion of the Project or termination of this Contract, as may be amended, whichever occurs later. Coverage under any renewal policy form shall include a retroactive date that precedes the earlier of the effective date of this Contract or the first performance of services for the Project. The purchase of an extended discovery period or an extended reporting

period on this policy will not be sufficient to comply with the obligations hereunder.

- (d) Retroactive date must be shown on certificate.

ARTICLE X TERMINATION

10.01 At any time, the City may terminate the Project for convenience, in writing. At such time, the City shall notify Consultant, in writing, who shall cease work immediately. Consultant shall be compensated for the services performed. In the event that the City terminates this Contract for convenience, the City shall pay Consultant for the services properly performed and expenses incurred before and including the date of termination.

10.02 No term or provision of this Contract shall be construed to relieve the Consultant of liability to the City for damages sustained by the City or because of any breach of contract by the Consultant. The City may withhold payments to the Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined and paid.

ARTICLE XI MISCELLANEOUS TERMS

11.01 This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

11.02 Any official notice under this Contract will be sent to the following addresses below. Day to day communication may be done by email.

CITY:

City of College Station
Attn: Michael Ostrowski
P.O. Box 9960
College Station, Texas 77842
Email: mostrowski@cstx.gov

CONSULTANT:

Hunden Strategic Partners, Inc.
Attn: Rob Hunden
213 W. Institute Pl. Ste. 707
Chicago, IL 60610-3125
Email: rob@hunden.com

11.03 Consultant, its employees, associates or subconsultants shall perform all the work hereunder. Consultant agrees that all of its associates, employees, or subconsultants who work on this Project shall be fully qualified and competent to do the work described hereunder. Consultant shall undertake the work and complete it in a timely manner.

11.04 The Consultant shall comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the Immigration Reform and Control Act (IRCA). The Consultant may not knowingly obtain the labor or services of an undocumented worker. The Consultant, not the City, must verify eligibility for employment as required by IRCA.

11.05 No action or failure to act by the City shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing. No waiver of any provision of the Contract shall be of any force or effect, unless such waiver is in writing, expressly stating to be a waiver of a specified provision of the Contract and is signed by the party to be bound thereby. In addition, no waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition and shall not in any way limit or waive that party's right thereafter to enforce or compel strict compliance with the Contract or any portion or provision or right under the Contract.

11.06 This Contract and all rights and obligations contained herein may not be assigned by Consultant without the prior written approval of the City.

11.07 Invalidity. If any provision of this Contract shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Contract with legal terms and conditions approximating the original intent of the parties.

11.08 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or portions thereof added by Contractor to this Contract as exhibits that conflict with such laws, or that conflict with the terms and conditions herein excluding the additions by Contractor. In either case, the applicable law or the applicable provision of this Contract excluding such conflicting addition by Contractor shall prevail. The parties understand this section comprises part of this Contract without necessity of additional consideration.

11.09 This Contract represents the entire and integrated Contract between the City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

11.10 The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

11.11 This Contract goes into effect when duly approved by all parties hereto.

11.12 Notice of Indemnification. City and Consultant hereby acknowledge and agree this Contract contains certain indemnification obligations and covenants.

11.13 Verification No Boycott. To the extent applicable, this Contract is subject to the following:

- (a) Boycott Israel. If this Contract is for goods and services subject to § 2270.002 Texas Government Code, Consultant verifies that it i) does not boycott Israel; and ii) will not boycott Israel during the term of this Contract;
- (b) Boycott Firearms. If this Contract is for goods and services subject to § 2274.002 Texas Government Code, Consultant verifies that it i) does not have a practice,

policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and

- (c) Boycott Energy Companies. Subject to § 2274.002 Texas Government Code Consultant herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Contract.

11.14 Fraud Reporting. To reduce the risk of fraud and to protect the Contractor's financial information from fraud, the Contractor must report to the City in writing at VendorInvoiceEntry@cstx.gov if the Contractor reasonably suspects or knows if any of their financial information has been subject to fraudulent activity or suspected fraudulent activity.

List of Exhibits

- A. Scope of Services
- B. Payment Schedule
- C. Certificates of Insurance

HUNDEN STRATEGIC PARTNERS, INC.

CITY OF COLLEGE STATION

By: Rob Hunden
Printed Name: Rob Hunden
Title: CEO
Date: 10/18/2024

By: _____
City Manager
Date: _____

APPROVED:

City Attorney
Date: _____

Assistant City Manager/CFO
Date: _____

Exhibit A
Scope of Services

The terms and conditions of this Contract shall take precedence and control over any term or provision of the Scope of Services that in any way conflicts with, differs from, or attempts to alter the terms of this Contract.

Scope of Services attached below are incorporated herein.

Project Scope of Work

Hunden's work plan is organized as follows:

Phase I

- Task I. Market Demand Analysis
 - Task I.A – In-Person Kickoff and Project Orientation
 - Task I.B – Economic, Demographic and Tourism Analysis
 - Task I.C – Convention and Meetings Market Analysis
 - Task I.D – Hotel and Walkable Package Analysis
 - Task I.E – Case Studies and Best Practices
- Task II. Facility and Program Recommendations

Phase II

- Task III. Site Evaluation
- Task IV. Feasibility Study
- Task V. Financing Options
- Task VI. Economic Impact Analysis
- Task VII. Return on Investment

Project Methodology

Phase I

Task I. Market Demand Analysis

Task I.A – In-Person Kickoff and Project Orientation

The Team will perform the following orientation and due-diligence oriented tasks:

- Obtain information and data from the City of College Station, City and County officials, additional key stakeholders, and any other appropriate agencies.
- Tour College Station, any potential sites, surrounding demand generators, and support amenities, both operational and under construction.
- Interview stakeholders from a variety of local private and public organizations, including Texas A&M facilities management, other convention/conference and hospitality venue management, and perform fieldwork as appropriate.
- Inventory meeting spaces and hotels in College Station and the surrounding area.
- Gather and review available economic, demographic, and financial data.

Task I.B – Economic, Demographic and Tourism Analysis

Hunden will evaluate College Station’s position as a center of economic activity related to various demographics, including resident population and growth, business location and growth, accessibility, and as a destination for visitors. This analysis will provide a realistic SWOT assessment for the local and regional area. Among the data gathered and analyzed will be:

- Geographic attributes, accessibility, and transportation links, especially those that influence the ability to host conventions and other events,
- Trends in population growth and income,
- Corporate presence, major employers and any significant recent or likely future changes,
- Tourism attractions and visitation, and those that contribute to the City’s attractiveness as a destination for conventions and meetings.

Hunden utilizes the latest market data, visitor origin data, demographic data, psychographic data and other resources to determine a comprehensive view of your marketplace.

Task I.C – Convention and Meetings Market Analysis

Industry Trends. Hunden will profile the health of the convention, conference, and meetings industry and discuss the various factors influencing the industry trends and affecting meeting facilities in communities

similar to College Station. This will provide the Client with a strong grasp on the current forces shaping building development, including trends for various types of event growth.

Local Market Profile. Hunden will map and profile local facilities in and around College Station, noting their capacity, utilization rate, and operating revenues and expenses, as available.

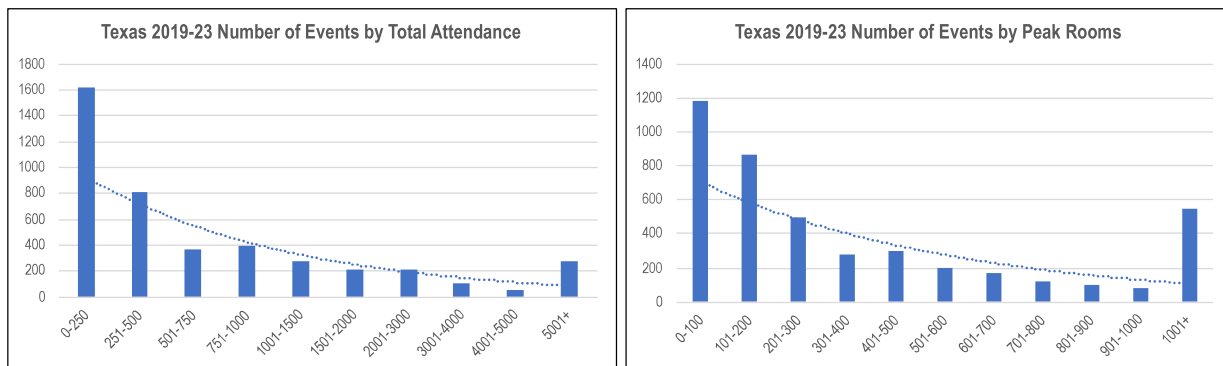
Competitive Market Analysis. Hunden will assess the relevant local, regional (paying particular attention to the Texas Triangle), and national convention/conference and events markets to determine relevant competitive venues. Hunden will compare them as part of a competitive set selected for the Project.

This analysis will document, as data is available and relevant:

- Location,
- Physical traits, including size and quality of ballroom, meeting rooms, and others,
- Year built,
- Flexibility of spaces,
- Hotel, and/or walkable and proximate hotel package,
- Demand data, as available or estimated using Placer.ai cell-phone tracking technology,
- Walkable restaurants, bars, retailers, and surrounding districts and amenities, and
- Critical factors of success or failure.

Hunden will also profile the relevant meeting facility projects underway or imminent and consider those as part of the future competitive set absorption dynamic. Hunden will identify gaps in the College Station market and discern whether new facilities would fill those gaps. Hunden will consider events, corporate trainings, conferences, corporate meetings, local cultural, sporting, and performing arts events, banquets, meetings and any other event types that may make sense.

Mint+ Database Assessment. Hunden has access to the Mint+ meetings and group business database that compiles historical meetings activity by state to help determine the function space and hotel rooms needed to accommodate groups at a convention facility. The graphics below show an example of data collected from Mint+ for the state of Texas from 2019 to 2023.

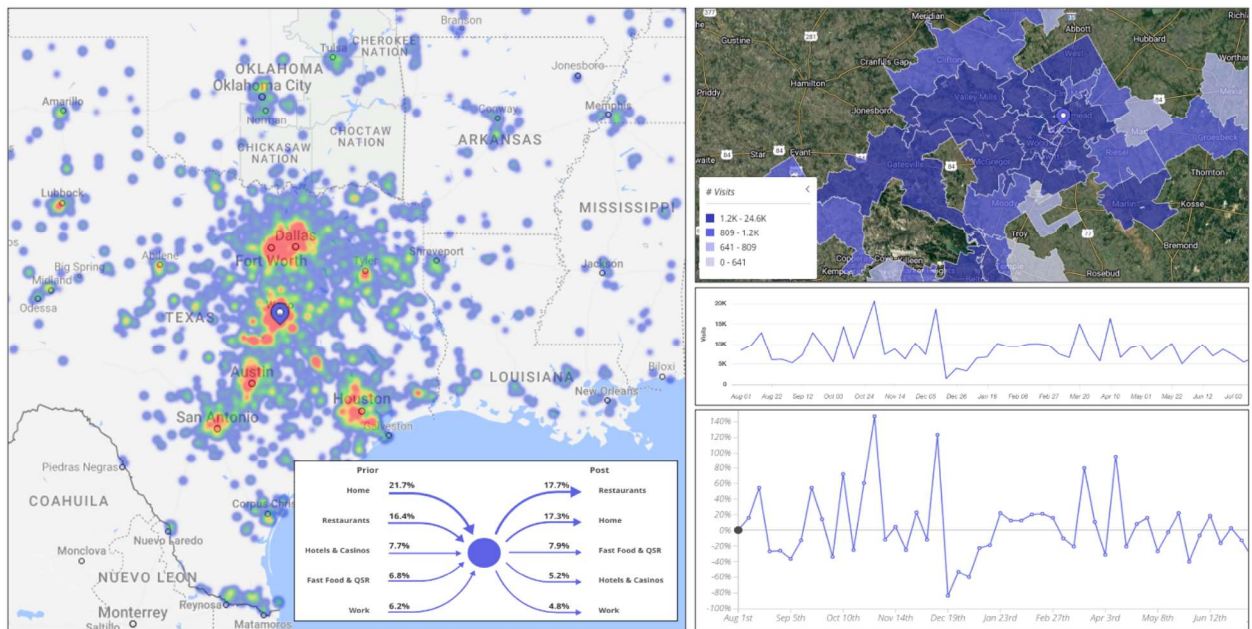


Knowland Database Assessment. Hunden has access to the Knowland database of meetings activity occurring in many markets, primarily sourcing data about meetings and events occurring at conference and convention hotels. Hunden will access this data as available and relevant to understand the level and type of business occurring at competitive properties. The following figure shows sample output and findings using this tool for the Phoenix market.

| Number of Groups at Competitive Meetings Hotels (Most Relevant Year*) | | | | | | | | | | |
|---|------------|----------------------------|-------------------------|--------------------------|---------------------------|-----------------------|------------------------------|------------|--------------|--------------|
| Group Type | The Camby | DoubleTree Phoenix Gilbert | DoubleTree Phoenix Mesa | DoubleTree Phoenix Tempe | Marriott Phoenix Chandler | Marriott Tempe Buttes | Sheraton Mesa @ Wrigleyville | The Wigwam | Westin Tempe | Total |
| Association | 23 | 4 | 28 | 37 | 9 | 17 | 2 | 45 | 8 | 173 |
| Corporate | 197 | 31 | 67 | 159 | 146 | 171 | 20 | 368 | 73 | 1,232 |
| Government | 2 | 2 | 0 | 5 | 1 | 4 | 1 | 28 | 1 | 44 |
| SMERF | 14 | 8 | 26 | 37 | 13 | 18 | 6 | 83 | 22 | 227 |
| Total | 236 | 45 | 121 | 238 | 169 | 210 | 29 | 524 | 104 | 1,676 |
| *2019 or 2022, showing most relevant data set available Source: Knowland | | | | | | | | | | |

| Estimated Group Attendance at Competitive Meetings Hotels (Most Relevant Year*) | | | | | | | | | | |
|---|---------------|----------------------------|-------------------------|--------------------------|---------------------------|-----------------------|------------------------------|----------------|--------------|----------------|
| Group Type | The Camby | DoubleTree Phoenix Gilbert | DoubleTree Phoenix Mesa | DoubleTree Phoenix Tempe | Marriott Phoenix Chandler | Marriott Tempe Buttes | Sheraton Mesa @ Wrigleyville | The Wigwam | Westin Tempe | Total |
| Association | 4,133 | 790 | 5,371 | 5,671 | 1,437 | 1,670 | 520 | 13,696 | 455 | 33,743 |
| Corporate | 25,982 | 4,424 | 11,672 | 17,600 | 14,992 | 28,602 | 2,886 | 84,263 | 3,851 | 194,272 |
| Government | 127 | 494 | - | 1,097 | 39 | 1,194 | 60 | 5,674 | - | 8,685 |
| SMERF | 2,041 | 2,864 | 5,577 | 5,217 | 1,243 | 3,780 | 1,707 | 17,433 | 1,856 | 41,718 |
| Total | 32,283 | 8,572 | 22,620 | 29,585 | 17,711 | 35,246 | 5,173 | 121,066 | 6,162 | 278,418 |
| <i>Attendance Per Event</i> | <i>137</i> | <i>190</i> | <i>187</i> | <i>124</i> | <i>105</i> | <i>168</i> | <i>178</i> | <i>231</i> | <i>59</i> | <i>166</i> |
| *2019 or 2022, showing most relevant data set available Source: Knowland | | | | | | | | | | |

Demand Generator Profiles. Hunden has invested in **geofencing research technology** as a key resource to study customer origin and traffic analytics. This research technology provides data on consumer behaviors and visitor origins back to 2017. The Team can also determine demographics and other datapoints that provide insight into user group behaviors. The performance models are then used to support economic impact projections. Hunden creates custom data analytics and maps for any geographic place in the U.S., as exhibited by the following figures of the Waco Convention Center.



Demand Interviews. Hunden will conduct interviews with meeting planners that have used the various spaces for conventions, meetings, conferences and events in the area. Hunden will get its most informed responses from phone/virtual interviews with these planners. Interviews will include planners from many sectors and types, including industry trade groups, associations, corporations, government groups, educational groups, religious groups, and others as appropriate. Implications will be discussed.

Task I.D – Headquarter Hotel and Walkable Package Analysis

Industry Trends. Simply put, a walkable hotel package anchored by a convention headquarters hotel is critical to the success of convention venues. Hunden will provide an overview of the industry trends that influence headquarter and convention-oriented hotel developments and performance and how recent macro events have impacted them. In addition, Hunden will cover key drivers of demand, financial realities, including typical metrics and cap rates, and others as relevant.

Local Market. Hunden will survey the area supply of hotels, as well as the key nodes or clusters of hotels in the College Station marketplace. Hunden will interview local hotel and tourism management representatives to determine the sources of demand for the market generally and for individual hotels in and around the College Station area. Hunden will gather local and regional tourism data from specific hotel, event, and meeting facilities and organizations. Hunden will consider annual events and seasonal tourism waves to examine how the existing hotels are or are not accommodating the demand that is driven by such events and seasonal tourism waves.

Regional Competitive Market. Any recommended hotel will compete for business against other large conference hotels and hotels paired with small convention centers around the region. Hunden will assess relevant regional markets for similar conference-oriented hotels that would be of similar size and function space (ballrooms, meeting rooms, etc.). Hunden will profile these and may consider these to be the competitive set instead of relying on a local set of hotels.

Competitive Set. Hunden will analyze the local and regional markets to determine the competitive set of hotels. Hunden will consider location, size, quality, age, brand, concept, and amenities including retail/restaurant and other factors. Hunden will obtain data through interviews and STR (Smith Travel Research) statistical database and reports, and a variety of industry resources.

Proposed and Under Construction Projects. Hunden will survey the relevant hotel projects underway or imminent and consider those as part of the future competitive set absorption dynamic.

Comp Set Performance. The analysis will include tracking of occupancy, monthly room night demand, average daily rate (ADR), and Revenue per Available Room (RevPAR), and performance by year, month, day of week, unaccommodated demand and demand type/market mix.

Hunden will discuss how new hotels have been absorbed into the market and how any additions or renovations have impacted the performance of the hotel market. Hunden will provide conclusions on the ability of these improvements to induce more demand from each major market segment. Market segmentation within the set will also be shown in three primary categories:

- Commercial transient,
- Group (both corporate group, association, and other), and
- Leisure.

Interviews. Hunden will interview competitive set hotel management to understand what business they are accommodating and the type of business that they believe may be going to other hotels outside of College Station due to quality, space availability and other issues. These interviews are critical to a true understanding of the market beyond what historical statistics show and portend. *This is a step that Hunden always includes that many firms do not.*

Task I.E – Case Studies and Best Practices

The previous tasks will lead to understanding of most relevant comparable convention center and hotel case studies. Hunden will profile case studies, including the physical offerings and performance of facilities that the Client can learn from. Like the competitive analysis, profiles will include interviews with management, data collection via Knowland, Placer.ai and STR Host analytics, as available and relevant.

Best Practices. Hunden believes that a career’s worth of experience should result in wisdom and best practices, and shares this knowledge with the Client.

| |
|---|
| <h2>Task II. Facility and Program Recommendations</h2> |
|---|

Hunden takes an internal iterative approach to refine recommendations, scenarios, and financial modeling. At the conclusion of the in-depth market research and analysis and after internal iterations of scenarios, Hunden will provide the Client with preliminary findings and recommended scenarios in order to facilitate a dialogue about the direction of the study.

Hunden will provide recommendations and details on the optimal program and needs for the development of a new convention/conference center and other amenities, such as a hotel, in College Station based on an understanding of what product the market is able to absorb. Recommendations will include:

- Number, size, quality, and type of meeting space/function rooms (ballrooms, breakout meeting rooms, special event spaces, etc.),
- Number, size and quality of restaurants/food and beverage options,
- Number, quality and mix of guest rooms and suites,
- Implications for brand or chain level as appropriate,
- Recommended support amenities/retail space,
- Site parameters as appropriate, and
- Other amenities and technical requirements.

Hunden will present preliminary findings in-person to the City of College Station, which will mark the completion of Task II.

At the conclusion of Task II, the City of College Station will have the option of either continuing onto Phase II, Tasks III thru VII, or ceasing any further work efforts and concluding the contract at the completion of Phase I. If the City of College Station opts to not continue to Phase II, then the study will end, Hunden will send the final Phase I PowerPoint style deliverable as-is to the city and the last invoice submitted for the Project will be for the completion of Task II.

If the City of College Station opts to continue on with Phase II, Hunden will execute the following scope of services.

Phase II

Task III. Site Evaluation

Site Assessment. Hunden Partners prioritizes synergistic districts and destination placemaking, rather than single building developments. The site assessment and recommendations will be based, in part, on areas that will best take advantage of the City's assets, as well as generate the most demand.

The Hunden team will determine the amount of land required for the development of the recommended Project.

Hunden will assess up to five (5) sites, including:

- Location,
- Current site conditions,
- Site size and configuration,
- Site development/site preparation needed,

- Visibility,
- Vehicular and pedestrian access,
- Existing amenities and infrastructure, and
- Ability to stimulate future development.

Amenities and District Analysis. Hunden will also profile the current and proposed commercial market assets and developments surrounding the proposed sites. Hunden will determine strengths and weaknesses of the site and how those will may influence future developments.

Layouts. For the top-rated site, TVS will create a high-level site plan and concept layout for the recommended Project, as determined by the Market Findings presentation recommendations.

Cost Estimates. The Team will use the top ranked site option as the basis for the order-of-magnitude cost analysis. This will include estimated construction and operating costs for the recommended facility.

Task IV. Feasibility Study

Demand Projections. Hunden will comprehensively research and explain the market area's demand for each of the uses over the next twenty years using the best available data and employing appropriate research from the prior tasks to provide a robust understanding of the demand for each use. Our approach and data presentation aligns with industry-standard reporting for private sector real estate demand modeling.

Hunden will conduct a demand model, including a penetration analysis. This will then lead to assumptions that will be used to determine the detailed financial projections for each use. These will include major line-item detail of revenue and expense for each component, which will then result in net operating income (NOI) that will support debt service. Hunden will present projections from each component and then combine these results into a mixed-use financial projection.

Financial Projections. In order to determine financial feasibility, the net operating income must be shown against a development cost. Hunden will show the supportable equity and debt that the net cash flows support. From these financial analytics, the feasibility will be determined. If there is a feasibility gap, the modeling from Hunden will determine the amount and what key items led to the gap (costs, absorption, rents, etc.).

Based on the projection of demand and applying a number of assumptions Hunden will prepare a financial projection for each of the recommended uses, this will include the following:

- Estimated revenues for at least twenty years of operations. Expenses directly related to the Project will also be projected for the period. The model will generate a pro-forma operating statement that includes the revenue and expense items, including the following:
 - Revenues: revenues, rentals (as appropriate), sales, reimbursed expenses, and other income, as relevant to each use.

- Direct operating expenses: wages and salaries, contract services, utilities, maintenance and repair, supplies, and other expenses,
 - Unallocated expenses: administrative salaries, employee benefits, advertising and promotion, general and administrative, professional services, insurance, maintenance reserves, and other expenses,
 - Debt service related to developing the Project.
- One-time and recurring revenue opportunities and expenses should be considered. The results will be presented with full discussion of assumptions and projections.
 - Provide a projection of the annual surplus or subsidy needed for each of the twenty years in the period.

Task V. Financing Options

College Station is interested in exploring the potential for public/private cooperation in the development and/or operation of the convention/conference center to create a financing plan with maximum benefits to the community. Based on similar case studies, best practices, and interviews with the City and key stakeholders, Hunden will provide the Client with financing options and funding strategies to support the proposed Project. Options may include public/private partnerships/operating agreements with private management companies, operating agreements with hotel management companies, and/or development agreements with potential hotel and convention facility developers. Hunden will identify the pros and cons of various public and private financing methods and funding sources.

Hunden will also evaluate the local, state and federal funding options as identified by the Client to determine the optimal solutions/options that also support the Project's feasibility.

Task VI. Economic Impact Analysis

Hunden will conduct an economic, fiscal and employment impact analysis to determine the direct, indirect, and induced impacts, including the tax revenues that are generated by the Project.

Based on the above analysis, a projection of net new direct spending will be tabulated. New spending is spending that is new to the community due to new residents, visitors to retail/restaurant, new employees in offices and other spending impacts associated with the development. The model will consider net new recaptured and induced spending only (versus gross spending) to ensure that substitution spending is netted out of the impacts. Spending categories primarily include food/beverage, retail, transportation, lodging and entertainment/other. The net new and recaptured spending is considered to be the **Direct Impact**.

From the direct spending figures, further impact analyses will be completed.

- **Indirect Impacts** are the supply of goods and services resulting from the initial direct spending.

- **Induced Impacts** embody the change in local spending due to the personal expenditures by employees whose incomes are affected by direct and indirect spending.
- **Fiscal Impacts** represent the incremental tax revenue collected by the City due to the net new economic activity related to a development. The fiscal impact represents the government's share of total economic benefit. There will be distinct tax impacts for each governmental entity. Fiscal impacts provide an offset to the potential public expenditures required to induce the development of the Project. Hunden will identify the taxes affected and conduct an analysis of the impact on these accounts and governmental units.
- **Employment Impacts** include the incremental employment provided not only onsite, but due to the spending associated with the Project.

Hunden uses one of the industry's most relied upon multiplier models, IMPLAN. This input-output model estimates the indirect and induced impacts, as well as employment impacts, based on the local economy. An input-output model generally describes the commodities and income that normally flow through the various sectors of the economy. The indirect and induced expenditure, payroll, and employment result from the estimated changes in the flow of income and goods caused by the projected direct impacts. The model data are available by various jurisdictional levels, including counties.

Task VII. Return on Investment

Depending on if the recommended development is a single convention/conference center hotel, or one or two separate facilities (conference center with or without a hotel), Hunden will develop models detailing the performance of the recommended program. The model will include an absorption/penetration model for the hotel, followed by a demand and financial model for the conference center and hotel components.

Hunden will provide a net operating income statement incorporating the operating revenues and expenditures to arrive at a projected surplus or loss, which may or may not require an ongoing subsidy.

Milestones and Touchpoints

Phase I Touchpoints and Deliverables

- **Kickoff Organizing Call** – Once the administrative engagement paperwork process is complete, Hunden will schedule an initial kickoff organizing call/Zoom with the Client team for introductions and to schedule the in-person site visit, tours, and meetings. Hunden will send a kickoff memo outlining requests for data, scheduling arrangements, and key contact information.
- **Site Visit/Local Discovery** – Members of the Hunden key personnel team will travel to College Station to conduct an in-person kickoff trip with the Client, including stakeholder meetings and interviews, a site tour, and tours of surrounding demand generators.
- **Circle Back Call** – After the kickoff trip, Hunden will schedule a ‘circle-back call’ with the Client to wrap up data requests and any outstanding discovery phase items.
- **Check-In Calls** – Throughout the market research tasks, Hunden can schedule check-in calls with the Client to ensure timely forward direction through the study process.
- **In-Person Recommendations Presentation** – At the completion of Task II Facility and Program Recommendations, Hunden will submit a PowerPoint-style deliverable of market findings electronically to the Client. This will include our recommendations and scenarios as appropriate. Hunden will also travel to College Station to present the preliminary findings in-person.

Phase II Touchpoints and Deliverables

- **Draft Report** – At the completion of Task VII Return on Investment, Hunden will complete all financial and impact modeling elements of the scope of work and compile the results into a PowerPoint-style draft analysis of its financial outputs, which will be presented to the Client electronically for review and comment.
- **Final Report** – After receiving comments from the Client on the draft analysis, Hunden will issue its final analysis. At an agreed upon time after issuance of the final analysis by Hunden to the Client, Hunden will travel to College Station to present the final deliverable in-person.

Project Timeline

We expect the overall timeline for both phases of work to be fourteen (14) weeks, assuming Client responsiveness, availability and prompt authorization to proceed with Phase II.

| Timeline & Deliverable Milestones | Week # | | | | | | | | | | | | | |
|---|--------|---|---|---|---|---|---|---|---|----|----|----|----|----|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| Task I. Market Demand Analysis | | | | | | | | | | | | | | |
| Task I.A – In-Person Kickoff and Project Orientation | | | | | | | | | | | | | | |
| Task I.B – Economic, Demographic and Tourism Analysis | | | | | | | | | | | | | | |
| Task I.C – Convention and Meetings Market Analysis | | | | | | | | | | | | | | |
| Task I.D – Hotel and Walkable Package Analysis | | | | | | | | | | | | | | |
| Task I.E – Case Studies and Best Practices | | | | | | | | | | | | | | |
| Task II. In-Person Facility and Program Recommendations | | | | | | | | X | | | | | | |
| Task III. Site Evaluation | | | | | | | | | | | | | | |
| Task IV. Feasibility Study | | | | | | | | | | | | | | |
| Task V. Financing Options | | | | | | | | | | | | | | |
| Task VI. Economic Impact Analysis | | | | | | | | | | | | | | |
| Task VII. Return on Investment | | | | | | | | | | | | | | |
| Draft Report | | | | | | | | | | | | | X | |
| Client Edits | | | | | | | | | | | | | | |
| Final Report | | | | | | | | | | | | | | X |

**Exhibit B
Payment Terms**

Payment is a fixed fee for each Task and not to exceed the amount listed in Article II of this Contract. This amount shall be payable by the City pursuant to the payment schedule below and upon satisfactory completion of the services by Task, as described below, and written acceptance by the City, which will not be unreasonably withheld.

Notwithstanding the foregoing, the City will have sole discretion in choosing whether to cease work of Consultant after Phase I and continue to Phase II Tasks, as described below, and written authorization by the City will be required for Consultant to perform Phase II Tasks under this Contract. For the avoidance of doubt, the City will not owe payments to Consultant for Tasks not performed and fully completed.

Upon Task completion, Consultant may submit invoices to the City, accompanied by an explanation of charges, professional fees, services, and expenses. The City will pay such undisputed invoices according to its normal payment procedures. The City will reimburse Consultant for agreed upon reasonable travel expenses up to the not to exceed amount of \$7,705. Consultant may invoice City monthly for travel expenses as incurred. The City will not reimburse for alcohol expenses and may ask for a detailed explanation or receipts for travel reimbursement.

Schedule of Payment for each Task completion:

Phase I:

Task I – Market Demand Analysis: \$31,350

Task II – Facility & Program Recommendations: \$ 8,700

Phase I Total Payment: \$40,050

Phase II:

Task III – Site Evaluation: \$ 7,050

Task IV – Feasibility Study: \$ 8,600

Task V – Financing Options: \$ 4,200

Task VI – Economic Impact Study: \$ 8,600

Task VII – Return on Investment, Draft Report Completion and
Final Report Completion: \$ 4,425

Phase II Total Payment: \$32,875

Maximum Reimbursable Travel Expenses: \$ 7,075

TOTAL CONTRACT NOT TO EXCEED AMOUNT: \$80,000

Exhibit C
Certificates of Insurance

Contract No. 24300054
Professional Services -
Consultant Form 04-20-2023
CRC 10/17/2024



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/17/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | |
|--|---|--------------------------------------|
| PRODUCER Shepherd Insurance, LLC. 111 Congressional Boulevard Suite 200 Carmel IN 46032 | CONTACT NAME: Alan Schulte PHONE (A/C, No, Ext): (317) 846-5554 E-MAIL ADDRESS: aschulte@shepherdins.com | FAX (A/C, No): (317) 846-5444 |
| | INSURER(S) AFFORDING COVERAGE | |
| INSURED Hunden Strategic Partners, Inc 15185 Hawthorne Ln Suite 707 Lakeside MI 49116 | INSURER A: Hartford Underwriters Ins Co | NAIC # 30104 |
| | INSURER B: Valley Forge Insurance Company | 20508 |
| | INSURER C: The Continental Insurance Co | 35289 |
| | INSURER D: Continental Casualty Company | 20443 |
| | INSURER E: | |
| | INSURER F: | |

COVERAGES **CERTIFICATE NUMBER:** CL24101745262 **REVISION NUMBER:**


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|--|--|---------------|-------------------------|-------------------------|---|
| A | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR | | | 36SBAAF7H9Z | 03/06/2024 | 03/06/2025 | EACH OCCURRENCE \$ 2,000,000 |
| | | | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 | | | | |
| | | | MED EXP (Any one person) \$ 10,000 | | | | |
| | | | PERSONAL & ADV INJURY \$ 2,000,000 | | | | |
| | GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: | | | | | | GENERAL AGGREGATE \$ 4,000,000 |
| | | | | | | | PRODUCTS - COMP/OP AGG \$ 4,000,000 |
| | | | | | | | \$ |
| B | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY | | | 6020828538 | 03/13/2024 | 03/13/2025 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 |
| | | | BODILY INJURY (Per person) \$ | | | | |
| | | | BODILY INJURY (Per accident) \$ | | | | |
| | | | PROPERTY DAMAGE (Per accident) \$ | | | | |
| | | | | | | | \$ |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB | | | 36SBAAF7H9Z | 03/06/2024 | 03/06/2025 | EACH OCCURRENCE \$ 3,000,000 |
| | | | AGGREGATE \$ 3,000,000 | | | | |
| | | <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000 | | | | | |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | Y / N <input checked="" type="checkbox"/> N | N / A | 6020998933 | 03/13/2024 | 03/13/2025 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER |
| | | | E.L. EACH ACCIDENT \$ 1,000,000 | | | | |
| | | | E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 | | | | |
| | | | E.L. DISEASE - POLICY LIMIT \$ 1,000,000 | | | | |
| D | Errors and Omissions Retroactive Date: 4/24/2015 | | | 652205693 | 03/13/2024 | 03/13/2026 | Limit: per occurrence 2,000,000 |
| | | | Aggregate limit 2,000,000 | | | | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of College Station is included as an Additional Insured which applies to General and Auto Liability coverages on a Primary & Non-Contributory Basis where required by written contract subject to policy terms, conditions & exclusions. Automatic Additional Insured applies to Umbrella coverage where required by written contract subject to policy terms, conditions & exclusions. Waiver of Subrogation applies to General Liability, Auto Liability, & Workers Compensation coverages where required by written contract subject to policy terms, conditions & exclusions. The coverage extensions referenced on this certificate are achieved through the following forms which are included on the policy & attached to this certificate: SL3032 06 21, SL 00 00 10 18, SL 30 18 10 18, SU 00 02 10 18, SU 00 06 10 18, CA 04 43 11 20, WC 00 03 13 04 1984. A 30 day notice of cancellation applies.

CERTIFICATE HOLDER**CANCELLATION**

| | |
|--|--|
| City of College Station Attention Risk Manager PO Box 9960 College Station TX 77842 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE  |
|--|--|

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A ENDMEN - GRE A E LI ITS (PE P JEC)

This endorsement modifies insurance provided under the following:

BUSINESS LIABILITY COVERAGE FORM

Except as otherwise stated in this endorsement, the terms and conditions of the Policy apply.

A. The following changes are made to Section D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE:

1. The following provision is added to Paragraph 2. Aggregate Limits:

The General Aggregate Limit under Section **D. LIABILITY AND MEDICAL EXPENSES LIMIT OF INSURANCE** applies separately to each of your "projects".

2. The following provision is added to Paragraph 2. Aggregate Limits:

When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit.

B. The following changes are made to Section F. LIABILITY AND MEDICAL EXPENSES DEFINITIONS:

1. The following definition is added:

"Project" means a premises, site or location that is away from a premises, site or location owned or rented to you and at which "your work" at said premises, site or location has not yet been completed, as completion is described in the "products-completed operation hazard". All of "your work" at such premises, site or location is deemed to involve a single project, regardless of whether "your work" is abandoned, delayed, or restarted, or if "your work" deviates from plans, blueprints, designs, specifications or timetables.



WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: WC 00 03 13 (04-1984)

Endorsement Effective Date:

Endorsement No: 5; Page: 1 of 1

Underwriting Company: The Continental Insurance Company, 151 N Franklin St, Chicago, IL 60606

Endorsement Expiration Date:

Policy No: WC 6 20998933

Policy Effective Date: 03/13/2023

Policy Page: 39 of 59



BLANKET ADDITIONAL INSURED BY CONTRACT – UMBRELLA

This endorsement modifies insurance provided under the following:

UMBRELLA LIABILITY SUPPLEMENTAL POLICY

Except as otherwise stated in this endorsement, the terms and conditions of the Supplemental Policy apply.

A. The following is added to Paragraph 2. of Section C. **WHO IS AN INSURED:**

- a.** Any person or organization when you have agreed, because of a written contract or written agreement, or when required by a written permit issued by a state or governmental agency or subdivision or political subdivision, to provide insurance such as is afforded under this Supplemental Policy, but only with respect to your operations performed by you or on your behalf, "your work" or facilities owned or used by you.

This provision does not apply:

- (1) Unless the written contract or written agreement has been executed, or the permit has been issued, prior to the "bodily injury," "property damage," or "personal and advertising injury";
- (2) Unless the limits of liability specified in such written contract, written agreement or permit are greater than the limits of liability provided by the "underlying insurance"; and
- (3) Beyond the period of time required by the written contract, written agreement or permit;

However, no such person or organization is an "insured" under this provision if such person or organization qualifies as an "insured" by any other provision of this Supplemental Policy.

- b.** With respect to the insurance afforded to the persons or organizations qualifying as an "insured" in Paragraph **a.** above, the following additional exclusion applies:

- (1) This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services, including:

- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, surveying, inspection, architectural or engineering activities.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an "insured", if the "bodily injury", "property damage", or "personal and advertising injury" arises out of the rendering of or the failure to render any professional service.

- c.** The insurance afforded to such "insured" will not be broader than that which you are required by the contract, agreement or permit to provide for such "insured".
- d.** The insurance afforded to such "insured" only applies to the extent permitted by law.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.



GENERAL AGGREGATE LIMIT REVISION

This endorsement modifies insurance provided under the following:

UMBRELLA LIABILITY SUPPLEMENTAL POLICY

Except as otherwise stated in this endorsement, the terms and conditions of the Supplemental Policy apply.

The following is added to Section **D. LIMITS OF INSURANCE**:

The General Aggregate Limit, shown in the Declarations, under Limits of Insurance, applies separately in excess of each General Aggregate Limit afforded by the Business Liability Coverage Part shown in the Extension Schedule of Underlying Insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.



BLANKET ADDITIONAL INSURED BY CONTRACT

This endorsement modifies insurance provided under the following:

BUSINESS LIABILITY COVERAGE FORM

Except as otherwise stated in this endorsement, the terms and conditions of the Policy apply.

A. The following is added to Section C. WHO IS AN INSURED:

Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written contract or written agreement, or when required by a written permit issued by a state or governmental agency or subdivision or political subdivision that such person or organization be added as an additional insured on your Coverage Part, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by any other endorsement issued by us and made a part of this Coverage Part.

The insurance afforded to such additional insured will not be broader than that which you are required by the contract, agreement, or permit to provide for such additional insured.

The insurance afforded to such additional insured only applies to the extent permitted by law.

The limits of insurance that apply to additional insureds are described in Section D. **LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE**. How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. **LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS**.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;



- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (i) The exceptions contained in Paragraphs (d) or (f); or
 - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
 - (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
 - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
 - (a) In connection with your premises;
 - (b) In the performance of your ongoing operations performed by you or on your behalf; or
 - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if:
 - (i) The written contract, written agreement or permit requires you to provide such coverage to such additional insured; and
 - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services, including:

- (i) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (ii) Supervisory, surveying, inspection, architectural or engineering activities.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "bodily injury", "property



damage", or "personal and advertising injury" arises out of the rendering of or the failure to render any professional service.

e. State Or Governmental Agency Or Subdivision Or Political Subdivision Issuing Permit

- (1) Any state or governmental agency or subdivision or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
 - (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
 - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

- (1) Any other person or organization who is not in one of the categories or classes listed above in Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
 - (a) In the performance of your ongoing operations performed by you or on your behalf;
 - (b) In connection with your premises owned by or rented to you; or
 - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if:
 - (i) The written contract, written agreement or permit requires you to provide such coverage to such additional insured; and
 - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

 - (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
 - (b) Supervisory, surveying, inspection, architectural or engineering activities.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "bodily injury", "property damage", or "personal and advertising injury" arises out of the rendering of or the failure to render any professional service described in Paragraphs f.(2)(a) or f.(2)(b) above.



BUSINESS LIABILITY COVERAGE FORM

READ YOUR POLICY CAREFULLY

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- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to **2.a.** or **2.b.** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance required in a written contract, written agreement or permit; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

If more than one limit of insurance under this Policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this Policy and the endorsements is the single highest limit of liability of all



coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured under this Coverage Part must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured under this Coverage Part must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured under this Coverage Part must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured under this Coverage Part, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with such additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs a. and b. apply to you or to any additional insured under this Coverage Part only when such "occurrence", offense, claim or "suit" is known to:



- (1) You or any additional insured under this Coverage Part that is an individual;
- (2) Any partner, if you or an additional insured under this Coverage Part is a partnership;
- (3) Any manager, if you or an additional insured under this Coverage Part is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured under this Coverage Part is a corporation;
- (5) Any trustee, if you or an additional insured under this Coverage Part is a trust; or
- (6) Any elected or appointed official, if you or an additional insured under this Coverage Part is a political subdivision or public entity.

This Paragraph **f.** applies separately to you and any additional insured under this Coverage Part.

3. Legal action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

5. Representations

a. When You Accept This Policy

By accepting this Policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this Policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

6. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk, Owner Controlled Insurance Program or OCIP, Contractor Controlled Insurance Program or CCIP, Wrap Up Insurance or similar coverage for "your work";



(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **B.** Exclusions.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **k.** of Section **B.** Exclusions.

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.



If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

7. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

F. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purpose of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purpose of attracting customers or supporters is considered an advertisement.
2. "Advertising idea" means any idea for an "advertisement".
3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.
4. "Auto" means:
 - a. A land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged.However, "auto" does not include "mobile equipment".
5. "Bodily injury" means physical:
 - a. Injury;
 - b. Sickness; or
 - c. Diseasesustained by a person and, if arising out of the above, mental anguish or death at any time.
6. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in **a.** above;
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in **a.** above;
 - (2) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business; or



WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION) – AUTOMATIC WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

- AUTO DEALERS COVERAGE FORM
- BUSINESS AUTO COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The **Transfer Of Rights Of Recovery Against Others To Us** Condition does not apply to any person(s) or organization(s) for whom you are required to waive subrogation with respect to the coverage provided under this Coverage Form, but only to the extent that subrogation is waived:

- A.** Under a written contact or agreement with such person(s) or organization(s); and
- B.** Prior to the "**accident**" or the "**loss.**"

Form No: CA 04 43 11 20

Endorsement Effective Date:

Endorsement No: 4; Page: 1 of 1

Underwriting Company: Valley Forge Insurance Company, 151 N Franklin St, Chicago, IL 60606

Endorsement Expiration Date:

Policy No: BUA 6020828538

Policy Effective Date: 03/13/2024

Policy Page: 45 of 99