



Roll Call Number

20-0691

Agenda Item Number

51(A)

DATE April 20, 2020

APPROVAL OF CONTRACT AND BOND
AND PERMISSION TO SUBLET ON
E. 1ST AND MARKET STREET STORM WATER PUMP STATION REPAIRS
\$809,730.00

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the contract and bond, in the amount of \$809,730.00, executed by Woodruff Construction, LLC, Donald A. Woodruff, Organizer, 1890 Kountry Lane, Fort Dodge, IA, 50501 dated April 20, 2020, for the construction of the following improvement:

E. 1st and Market Street Storm Water Pump Station Repairs, 08-2020-009

This improvement includes the repairs of the existing stormwater pump station, including the removal of two existing stormwater pumps, rehabilitation of two existing pumps, installation of two stormwater pumps, providing and installing a new electrical control system located in a premanufactured building, building foundation, electrical and controls, erosion control, site work and miscellaneous associated work, including cleanup all in accordance with the contract documents, including Plan File No. 609-010/014 located near E.1st Street and Market Street, Des Moines, Iowa

the same to be performed in accordance with the plans and specifications which have been heretofore approved by this Council, be and the same are hereby approved, subject to receipt of the contract and bond approved as to form by the Legal Department, and certificate of insurance acceptable to the Engineering Department. The attached "Contractor's Anticipated DBE/TSB Utilization" shows the Contractor's efforts to solicit DBE/TSB Participation in accordance with the Disadvantaged Business Enterprise/Targeted Small Business (DBE/TSB) Program.

BE IT FURTHER RESOLVED: That the Mayor be and is hereby authorized and directed to execute said contract on behalf of the City of Des Moines, subject to receipt of the contract and bond approved as to form by the Legal Department, and certificate of insurance acceptable to the Engineering Department, and the City Clerk, be and is hereby authorized and directed to attest to same. No contract shall be deemed to exist between the City of Des Moines and said Bidder until said contract has been executed by the Bidder, and shall have been approved by this Council and executed by the Mayor and attested to by the City Clerk.

BE IT FURTHER RESOLVED: That after said contract has been executed by the Mayor, the City Clerk be and is hereby authorized and directed to return the Contractor's bid security in accordance with the Instructions to Bidders.

BE IT FURTHER RESOLVED: That the attached Permission to Sublet form, from said Contractor requesting permission to sublet designated items, be and is hereby approved, subject to receipt of the contract and bond approved as to form by the Legal Department, and certificate of insurance acceptable to the Engineering Department; and each subcontractor is hereby granted permission to work on said improvement.



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BE IT FURTHER RESOLVED: That the Interim Des Moines Finance Director is hereby authorized to encumber this contract amount against the funds as identified below, and to acquire Builder's Risk Insurance, if appropriate, for the above referenced improvement.

(City Council Communication Number 20-173 attached)

Moved by Gatto to adopt.

FORM APPROVED /s/ Kathleen Vanderpool
Deputy City Attorney

SLN Funding Source: 2019-2020 CIP, Page Storm – 6, Flood Mitigation Improvements, SM087, Storm Water Utility Funds

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED

J. M. Franklin Cownie Mayor

I, P. Kay Cmelik, City Clerk of said City Council, hereby certify that at a meeting of the City Council, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

P. Kay Cmelik
City Clerk

ENGINEERING DEPARTMENT
CITY OF DES MOINES, IOWA

CONTRACT NO.
DATE
ROLL CALL NO.

15353
4/20/2020
20- 0691

CONTRACT

THIS CONTRACT, made and entered into at Des Moines, Iowa, on April 20, 2020, by and between the City of Des Moines, by its Mayor, upon order of its City Council, hereinafter called the "Jurisdiction", and Woodruff Construction, LLC, hereinafter called the "Contractor".

WITNESSETH:

The Contractor hereby agrees to complete the work comprising the below referenced improvement as specified in the contract documents, which are officially on file with the Jurisdiction, in the Des Moines City Engineer's Office. This contract includes all contract documents. The work under this contract shall be constructed in accordance with the SUDAS Standard Specifications, 2019 Edition; and as further modified by the supplemental specifications and special provisions included in said contract documents, and the Contract Attachments attached hereto. The Des Moines City Engineer is the Engineer. The Contractor further agrees to complete the work in strict accordance with said contract documents, and to guarantee the work as required by law, for the time required in said contract documents, after its acceptance by the Jurisdiction.

This contract is awarded and executed for completion of the work specified in the contract documents for the bid prices shown on the Contract Attachment: Item 2: Bid Items, Quantities and Prices which were proposed by the Contractor in its proposal submitted in accordance with the Notice to Bidders for the following described improvements:

E. 1st and Market Street Storm Water Pump Station Repairs, 08-2020-009

This improvement includes the repairs of the existing stormwater pump station, including the removal of two existing stormwater pumps, rehabilitation of two existing pumps, installation of two stormwater pumps, providing and installing a new electrical control system located in a premanufactured building, building foundation, electrical and controls, erosion control, site work and miscellaneous associated work, including cleanup all in accordance with the contract documents, including Plan File No. 609-010/014 located near E.1st Street and Market Street, Des Moines, Iowa

The Contractor agrees to perform said work for and in consideration of the Jurisdiction's payment of the bid amount of eight hundred nine thousand seven hundred thirty and 00/100 dollars (\$809,730.00) which amount shall constitute the required amount of the performance, payment, and maintenance bond. The Contractor hereby agrees to commence work under this contract on or before a date to be specified in a written notice to proceed by the Jurisdiction and to fully complete the project not later than February 15, 2021, and in accordance with the Completion Provisions; and to pay liquidated damages for noncompliance with said completion provisions in the amount of one thousand and 00/100 dollars (\$1,000.00), for each calendar day thereafter that the work remains incomplete.

IN WITNESS WHEREOF, the Parties hereto have executed this instrument, in triplicate on the date first shown written.

JURISDICTION:

By T. M. Franklin Cownie
T. M. Franklin Cownie, Mayor

(Seal)
ATTEST: P. Kay Cmelik
P. Kay Cmelik, City Clerk

FORM APPROVED BY:
Kathleen Vanderpool
Kathleen Vanderpool, Deputy City Attorney

CONTRACTOR:

Woodruff Construction, LLC

Contractor

By Donald A. Woodruff
Signature Donald A. Woodruff

Organizer

Title

1890 Kountry Lane

Street Address

Fort Dodge, IA

50501

City, State - Zip Code

(515) 576-1118 / donw@woodruff.build

Telephone Number / Email Address

CONTRACTOR PUBLIC REGISTRATION INFORMATION To Be Provided By

1. **All Contractors:** The Contractor's Public Registration Number, issued by the Iowa Commissioner of Labor pursuant to Section 91C.5 of the Iowa Code, is as follows:
Number C097864
2. **Out-of-State Contractors:**
 - A. Pursuant to Section 91C.7 of the Iowa Code, an out-of-state contractor, before commencing a contract in excess of five thousand dollars in value in Iowa, shall file a bond with the division of labor services of the department of workforce development. The contractor should contact 515-242-5871 for further information. Prior to contract execution, the City Engineer may forward a copy of this contract to the Iowa Department of Workforce Development as notification of pending construction work. It is the contractor's responsibility to comply with said Section 91C.7 before commencing this work.
 - B. Prior to entering into contract, the designated low bidder, if it be a corporation organized under the laws of a state other than Iowa, shall file with the Engineer a certificate from the Secretary of the State of Iowa showing that it has complied with all the provisions of Chapter 490 of the Code of Iowa, or as amended, governing foreign corporations. For further information contact the Iowa Secretary of State Office at 515-281-5204.

NOTE: All signatures on this contract must be original signatures in ink: copies or facsimile of any signature will not be accepted.

LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

State of Iowa)
) SS
Webster County)

On this 20th day of April, 2020, before me, the undersigned, a Notary Public in and for said county, personally appeared Donald A. Woodruff, to me personally know, who being by me duly sworn did say that person is Organizer of said Woodruff Construction, LLC, that ~~(the seal affixed to said instrument is the seal of said~~ OR no seal has been procured by the said Woodruff Construction, LLC, and that said instrument was signed and sealed on behalf of the said Woodruff Construction, LLC, by authority of its managers and the said Donald A. Woodruff acknowledged the execution of said instrument to be the voluntary act and deed of said Woodruff Construction, LLC, by its voluntarily executed.

Margaret Rogers
Notary Public in and for the State of Iowa
My commission expires 1-24-2023



CONTRACT ATTACHMENT ITEM 1: GENERAL

1. The Contractor acknowledges and agrees:
 - To comply with the Equal Employment Opportunity Program included in the City of Des Moines Contract Compliance Program, which is available at the following website [http://www.dmgov.org/Departments/Engineering/PDF/Contract%20Compliance%20Program%20\(June%202017\).pdf](http://www.dmgov.org/Departments/Engineering/PDF/Contract%20Compliance%20Program%20(June%202017).pdf) or from the City Engineer's Office.
 - To comply with any and all applicable provisions of the Des Moines Human Rights Ordinance, Chapter 62, of the Des Moines Municipal Code.
 - Not to discriminate against any employees, or applicants for employment, on the basis of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability, familial status or gender identity.
 - To include this provision in all subcontracts for this project.

2. The Contractor agrees to comply with the requirements of the City of Des Moines Contract Compliance Program as referenced in the proposal. Final acceptance of the project will not be made until the Contractor has submitted to the City Engineer a notarized summary of payments to and scope of work by all DBE/TSB subcontractors.

3. The City of Des Moines Master Construction Safety Packet(Safety Plan) is available at <http://www.dmgov.org/Departments/Engineering/PDF/MasterConstructionSafetyPacket.pdf> and is also available upon request from the Engineering Department. The Engineering Department will make available a copy of the City of Des Moines Safety Plan to the Contractor when the contract is awarded. The Contractor understands and agrees that said Safety Plan is for the Contractor's information only and that it is the Contractor's sole responsibility to provide, or make available, this safety information to all its Subcontractors.

4. The Contractor understands and agrees that the construction of the work included in this contract is by its nature dangerous work. The Contractor agrees:
 - That the Contractor should have a safety program; however, the Contractor need not submit a safety program to the City of Des Moines, and City of Des Moines staff will not review or approve the Contractor's safety program. The City of Des Moines assumes that the Contractor will maintain a safe worksite; however, City of Des Moines staff will not intrude in the Contractor's responsibility for safety issues.
 - That until the work is accepted by the Jurisdiction; the work shall be in the custody of and under the charge, care, and control of the Contractor.
 - That the Contractor is responsible for the project area or work site.
 - That the Contractor is solely responsible for the safety of everyone on its work site.
 - That it is the Contractor's sole responsibility to provide as safe a working site as possible given the nature of the work.
 - That it is the Contractor's responsibility to notify and advise its employees, subcontractors, suppliers, and everyone on the worksite of the dangers associated with the work, and provide them with appropriate safety information to protect them from those dangers.

5. The Contractor acknowledges and agrees that no contract shall be binding upon the City of Des Moines until said contract has been executed by the Bidder, and shall have been approved by the City Council and executed by the Mayor and attested to by the City Clerk.

6. The Contractor agrees that sixty (60) days shall constitute a reasonable time within which it shall be required to make progress payments or final payment to subcontractors after each subcontractor's satisfactory performance of its work, all as required by Section 573.12 2.b.(2) of the Code of Iowa.

CONTRACT ATTACHMENT: ITEM 2 - BID ITEMS, QUANTITIES AND PRICES: 1 of 1

This contract is awarded and executed for completion of the work specified in the contract documents for the bid price tabulated below as proposed by the contractor in its proposal submitted in accordance with notice to bidders and notice of public hearing. All quantities are subject to revision by the Jurisdiction. Quantity changes which amount to twenty (20) percent or less of the amount bid shall not affect the unit bid price of that item.

Activity ID 08-2020-009

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>UNITS</u>	<u>ESTIMATED QUANTITY</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1	E. 1st and Market Street Storm Water Pump Station Repairs, Complete as Specified and Described in Contract Documents	LS	1.00	\$809,730.00	\$809,730.00
TOTAL CONSTRUCTION COST					\$809,730.00

CONTRACT ATTACHMENT: ITEM 3 – COMPLETION PROVISIONS

The Contractor hereby agrees to:

1. Commence the work and to fully complete all work no later than February 15, 2021; and to pay liquidated damages for noncompliance with said completion provision in the amount of one thousand and no/100 dollars (\$1,000.00) for each calendar day thereafter.
2. Undertake and schedule work in compliance with the calendar day completion provisions as described below. The work to be completed by the calendar day completion requirements shall be such work as required to satisfy the calendar day completion descriptions.

Calendar Day Completion Provision:

Contractor shall limit the duration that the pump station is offline for no more than a total of thirty (30) consecutive calendar days. Contractor shall schedule the time when the pump station is offline during low river levels, refer to the specifications for details. Noncompliance with said thirty (30) calendar day requirement shall result in payment of liquidated damages with said calendar day completion provision in the amount of five thousand and no/100 dollars (\$5,000) for each calendar day thereafter.

3. Pay separate sums of liquidated damages that will be assessed for each of the conditions described hereinbefore, and they shall be cumulative if multiple conditions have not been satisfied.

PERFORMANCE, PAYMENT & MAINTENANCE BOND

KNOW ALL BY THESE PRESENTS

That we, Woodruff Construction, LLC , as Principal (the "Contractor" or "Principal"), and United Fire & Casualty Company, as Surety, are held and firmly bound unto the City of Des Moines, as Obligee (the "Jurisdiction"), and to all persons who may be injured by any breach of any of the conditions of this Bond in the penal sum of eight hundred nine thousand seven hundred thirty and 00/100 dollars (\$809,730.00), lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, legal representatives and assigns, jointly and severally, firmly by these presents.

The conditions of the above obligations are such that whereas the Contractor entered into a contract with the Jurisdiction, bearing the date of April 20, 2020, (the "Contract") wherein the Contractor undertakes and agrees to construct the following described improvements:

E. 1st and Market Street Storm Water Pump Station Repairs, 08-2020-009

This improvement includes the repairs of the existing stormwater pump station, including the removal of two existing stormwater pumps, rehabilitation of two existing pumps, installation of two stormwater pumps, providing and installing a new electrical control system located in a premanufactured building, building foundation, electrical and controls, erosion control, site work and miscellaneous associated work, including cleanup all in accordance with the contract documents, including Plan File No. 609-010/014 located near E.1st Street and Market Street, Des Moines, Iowa

and to faithfully perform all the terms and requirements of the Contract within the time specified, in a good and workmanlike manner, and in accordance with the Contract Documents. Provided however, that one year after the date of acceptance by the Jurisdiction as complete, of the work under the above referenced Contract, the maintenance portion of this Bond shall continue in force but the penal sum for maintenance shall be reduced to the sum of eight hundred nine thousand seven hundred thirty and 00/100 dollars (\$809,730.00), which is the cost associated with those items shown on the Proposal and in the Contract which require a maintenance bond period in excess of one year.

It is expressly understood and agreed by the Contractor and Surety that the following provisions are a part of this Bond and are binding upon the Contractor and Surety, to-wit:

1. **PERFORMANCE:** The Contractor shall well and faithfully observe, perform, fulfill and abide by each and every covenant, condition and part of the Contract and Contract Documents, by reference made a part hereof, and shall indemnify and save harmless the Jurisdiction from all outlay and expense incurred by the Jurisdiction by reason of the Contractor's default or failure to perform as required. The Contractor shall also be responsible for the default or failure to perform as required under the Contract and Contract Documents by all its subcontractors, suppliers, agents, or employees furnishing materials or providing labor in the performance of the Contract.

2. PAYMENT: The Contractor and Surety on this bond hereby agree to pay all just claims submitted by persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the performance of the Contract, including but not limited to claims for all amounts due for labor, materials, lubricants, oil, gasoline, repairs on machinery, equipment and tools, consumed or used by the Contractor or any subcontractor, wherein the same are not satisfied out of the portion of the contract price which the Jurisdiction is required to retain until completion of the improvement, but the Contractor and Surety shall not be liable unless the claims have been established as provided by law. The Contractor and Surety hereby bind themselves to the obligations and conditions set forth in Iowa Code Chapter 573.

3. MAINTENANCE: The Contractor and the Surety shall, at their own expense:

- A. Remedy any and all defects that may develop in or result from work to be performed under the Contract within the period of four (4) year(s) from the date of acceptance of the work under the Contract, by reason of defects in workmanship or materials used in construction of the work;
- B. Keep all work in continuous good repair; and
- C. Pay the Jurisdiction's reasonable costs of monitoring and inspecting to assure that any defects are remedied, and to repay the Jurisdiction all outlay and expense incurred as a result of Contractor's and Surety's failure to remedy any defect as required by this section.

Contractor's and Surety's obligation extends to defects in workmanship or materials not discovered or known to the Jurisdiction at the time the work was accepted.

4. GENERAL: Every Surety on this Bond shall be deemed and held bound, any contract to the contrary notwithstanding, to the following provisions:

- A. To consent without notice to any extension of time to the Contractor in which to perform the Contract;
- B. To consent without notice to any change in the Contract or Contract Documents, that increases the total contract price and the penal sum of this bond, provided that all such changes do not, in the aggregate, involve an increase of more than twenty percent of the total contract price, and that this Bond shall then be released as to such excess increase; and
- C. To consent without notice that this Bond shall remain in full force and effect until the contract is completed, whether completed within the specified contract period, within an extension thereof, or within a period of time after the contract period has elapsed and liquidated damages are being charged against the Contractor.

The Contractor and every Surety on this Bond shall be deemed and held bound, any contract to the contrary notwithstanding, to the following provisions:

- A. That no provision of this Bond or of any other contract shall be valid which limits to less than five years after the acceptance of the work under the Contract the right to sue on this Bond.

- B. That as used herein, the phrase "all outlay and expense" is not to be limited in any way, but shall include the actual and reasonable costs and expenses incurred by the Jurisdiction including interest, benefits and overhead as applicable. Accordingly, "all outlay and expense" would include but not be limited to all contract or employee expense, all equipment usage or rental, materials, testing, outside experts, attorneys fees (including overhead expenses of the Jurisdiction's staff attorneys), and all costs and expenses of litigation as they are incurred by the Jurisdiction. It is intended the Contractor and Surety will defend and indemnify the Jurisdiction on all claims made against the Jurisdiction on account of Contractor's failure to perform as required in the Contract and Contract Documents, that all agreements and promises set forth in the Contract and Contract Documents, in approved change orders, and in this Bond will be fulfilled, and that the Jurisdiction will be fully indemnified so that it will be put into the position it would have been in had the Contract been performed in the first instance as required.
- C. In the event the Jurisdiction incurs any "outlay and expense" in defending itself with respect to any claim as to which the Contractor or Surety should have provided the defense, or in the enforcement of the promises given by the Contractor in the Contract, Contract Documents, or approved change orders, or in the enforcement of the promises given by the Contractor and Surety in this Bond, the Contractor and Surety agree that they will make the Jurisdiction whole for all such outlay and expense, provided that the Surety's obligation under this Bond shall not exceed 125% of the penal sum of this Bond.

In the event that any actions or proceedings are initiated with respect to this Bond, the parties agree that the venue thereof shall be Polk County, State of Iowa. If legal action is required by the Jurisdiction to enforce the provisions of this Bond or to collect the monetary obligation accruing to the benefit of the Jurisdiction, the Contractor and Surety agree, jointly and severally, to pay the Jurisdiction all outlay and expense incurred by the Jurisdiction. All rights, powers, and remedies of the Jurisdiction hereunder shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to the Jurisdiction, by law. The Jurisdiction may proceed against the Surety for any amount guaranteed hereunder whether action is brought against the Contractor or whether or not the Contractor is joined in the action.

NOW THEREFORE, the condition of this obligation is such that if the Principal shall faithfully perform all of the promises of the Principal, as set forth and provided in the Contract, in the Contract Documents, and in this Bond, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

When a word, term, or phrase is used in this Bond, it shall be interpreted or construed first as defined in this Bond, the Contract, or the Contract Documents; second, if not defined in the Bond, Contract, or Contract Documents, it shall be interpreted or construed as defined in applicable provisions of the Iowa Code; third, if not defined in the Iowa Code, it shall be interpreted or construed according to its generally accepted meaning in the construction industry; and fourth, if it has no generally accepted meaning in the construction industry, it shall be interpreted or construed according to its common or customary usage.

Failure to specify or particularize shall not exclude terms or provisions not mentioned and shall not limit liability hereunder. The Contract and Contract Documents are hereby made a part of this Bond.

Witness our hands, in triplicate, this 20th day of April, 2020

PRINCIPAL:

Woodruff Construction, LLC

Contractor

By 

Signature Donald A. Woodruff

Organizer _____

Title _____

FORM APPROVED BY:

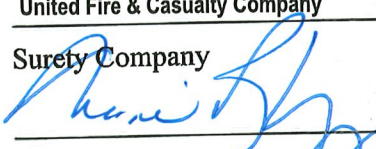


Kathleen Vanderpool
Deputy City Attorney

SURETY:

United Fire & Casualty Company

Surety Company

By 

Signature Attorney-in-Fact/Officer

Dione R. Young, Attorney-in-Fact

Name of Attorney-in-Fact/Officer

Holmes, Murphy and Associates, LLC

Company Name

2727 Grand Prairie Parkway

Company Address

Waukee, IA 50263

City, State Zip Code

(515) 223-6800

Company Telephone Number

NOTE:

1. All signatures on this performance, payment & maintenance bond must be original signatures in ink; copies or facsimile of any signature will not be accepted.
2. This bond must be sealed with the Surety's raised, embossed seal.
3. The Certificate or Power of Attorney accompanying this bond must be valid on its face and sealed with the Surety's raised, embossing seal.
4. The name and signature of the Surety's Attorney-in-Fact/Officer entered on this bond must be exactly as listed on the Certificate or Power of Attorney accompanying this bond.
5. This bond form must be utilized as printed; no additions/deletions/alterations are permitted, other than providing the required information.



UNITED FIRE & CASUALTY COMPANY, CEDAR RAPIDS, IA
 UNITED FIRE & INDEMNITY COMPANY, WEBSTER, TX
 FINANCIAL PACIFIC INSURANCE COMPANY, ROCKLIN, CA

Inquiries: Surety Department
 118 Second Ave SE
 Cedar Rapids, IA 52401

CERTIFIED COPY OF POWER OF ATTORNEY

(original on file at Home Office of Company – See Certification)

KNOW ALL PERSONS BY THESE PRESENTS, That UNITED FIRE & CASUALTY COMPANY, a corporation duly organized and existing under the laws of the State of Iowa; UNITED FIRE & INDEMNITY COMPANY, a corporation duly organized and existing under the laws of the State of Texas; and FINANCIAL PACIFIC INSURANCE COMPANY, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies), and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint **CRAIG E. HANSEN, JAY D. FREIERMUTH, BRIAN M. DEIMERLY, CINDY BENNETT, ANNE CROWNER, TIM MCCULLOH, STACY VENN, SHIRLEY BARTENHAGEN, DIONE R. YOUNG, KEVIN J. KNUTSON, MICHELLE GRUIS, KATHLEEN BREWER, SETH D. ROOKER, SYDNEY BURNETT, EACH INDIVIDUALLY**

their true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$100,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted is continuous and shall remain in full force and effect until revoked by UNITED FIRE & CASUALTY COMPANY, UNITED FIRE & INDEMNITY COMPANY, AND FINANCIAL PACIFIC INSURANCE COMPANY.

This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted on May 15, 2013, by the Boards of Directors of UNITED FIRE & CASUALTY COMPANY, UNITED FIRE & INDEMNITY COMPANY, and FINANCIAL PACIFIC INSURANCE COMPANY.

“Article VI – Surety Bonds and Undertakings”

Section 2, Appointment of Attorney-in-Fact. “The President or any Vice President, or any other officer of the Companies may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby; such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal of the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this 15th day of January, 2014



UNITED FIRE & CASUALTY COMPANY
 UNITED FIRE & INDEMNITY COMPANY
 FINANCIAL PACIFIC INSURANCE COMPANY

By: *Dennis J. Richmann*
 Vice President

State of Iowa, County of Linn, ss:

On 15th day of January, 2014, before me personally came Dennis J. Richmann

to me known, who being by me duly sworn, did depose and say; that he resides in Cedar Rapids, State of Iowa; that he is a Vice President of UNITED FIRE & CASUALTY COMPANY, a Vice President of UNITED FIRE & INDEMNITY COMPANY, and a Vice President of FINANCIAL PACIFIC INSURANCE COMPANY the corporations described in and which executed the above instrument; that he knows the seal of said corporations; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.

Judith A. Jones



Notary Public
 My commission expires: 04/23/2021

I, Mary A. Bertsch, Assistant Secretary of UNITED FIRE & CASUALTY COMPANY and Assistant Secretary of UNITED FIRE & INDEMNITY COMPANY, and Assistant Secretary of FINANCIAL PACIFIC INSURANCE COMPANY, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations
 this 20th day of April, 2020.



By: *Mary A. Bertsch*

Assistant Secretary,
 UFG & UFI & FPIC



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/09/2020

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 Holmes Murphy & Assoc - WDM PO Box 9207 Des Moines, IA 50306-9207	1-800-247-7756	CONTACT NAME: PHONE (A/C, No. Ext): E-MAIL ADDRESS:	FAX (A/C, No):
INSURED Woodruff Construction LLC 1890 Kountry Lane Ft. Dodge, IA 50501		INSURER(S) AFFORDING COVERAGE	
		INSURER A: UNITED FIRE & CAS CO	NAIC # 13021
		INSURER B: TRAVELERS PROP CAS CO OF AMER	25674
		INSURER C: AMERISURE PARTNERS INS CO	11050
		INSURER D: XL SPECIALTY INS CO	37885
		INSURER E: ATLANTIC SPECIALTY INS CO	27154
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 59022111 **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 SUBR INSD 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 <input checked="" type="checkbox"/> Includes XCU <input checked="" type="checkbox"/> Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		60373583	07/01/19	07/01/20	EACH OCCURRENCE	\$ 1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
						MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 2,000,000
							\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		60373583	07/01/19	07/01/20	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
							\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		ZUP10T3996219NF	07/01/19	07/01/20	EACH OCCURRENCE	\$ 20,000,000
						AGGREGATE	\$ 20,000,000
							\$
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	WC20930340405	07/01/19	07/01/20	<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	Installation Floater		UM00077810MA19A	07/01/19	07/01/20	\$5,000 Deductible	1,000,000
D	Builders Risk-Rptd 5k ded		UM00077810MA19A	07/01/19	07/01/20	Site/Bldg Frame	2,500,000
D	Builders Risk-Rptd 5k ded		UM00077810MA19A	07/01/19	07/01/20	Site/Bldg JM	5,000,000

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

Re: E. 1st and Market Street Storm Water Pump Station Repairs / Activity ID 08-2020-009

City of Des Moines is included as an Additional Insured on the General Liability, Auto Liability and Umbrella Liability on a primary and non-contributory basis when required by written contract or agreement. Waiver of Subrogation applies in favor of the Additional Insured on the General Liability, Auto Liability, Umbrella Liability and Workers Compensation when required by written contract or agreement. Governmental Immunity Applies. 30 day notice of cancellation applies. Umbrella Liability is used to meet minimum limit requirements.

CERTIFICATE HOLDER City of Des Moines Engineering Department 400 Robert D. Ray Drive Des Moines, IA 50309 USA	APPROVED APR 15 2020 CITY OF DES MOINES ENGINEERING DEPARTMENT	CANCELLATION 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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

IOWA GOVERNMENTAL IMMUNITIES ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

BUSINESSOWNERS COVERAGE FORM

BUSINESS AUTO COVERAGE FORM

SCHEDULE

Name of Organization:

CITY OF DES MOINES
400 E COURT AVENUE
DES MOINES IA.50309

1. **Nonwaiver of Governmental Immunity.** The insurance carrier expressly agrees and states that the purchase of this policy and the including of the organization shown in the Schedule as an Additional Insured does not waive any of the defenses of governmental immunity available to the organization shown in the Schedule under Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.
2. **Claims Coverage.** The insurance carrier further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.
3. **Assertion of Governmental Immunity.** The organization shown in the Schedule shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurance carrier. Nothing contained in this endorsement, shall prevent the carrier from asserting the defense of governmental immunity on behalf of the organization shown in the Schedule.
4. **Non-Denial of Coverage.** The insurance carrier shall not deny coverage under this policy and the insurance carrier shall not deny any of the rights and benefits accruing to the organization shown in the Schedule under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the organization shown in the Schedule.
5. **No Other Change in Policy.** The insurance carrier and the organization shown in the Schedule agree that the above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

e. Any organization that is acquired or formed by you, during the term of this policy and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:

- (1) That is a joint venture or partnership,
- (2) That is an "insured" under any other policy,
- (3) That has exhausted its Limit of Insurance under any other policy, or
- (4) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an accident that occurred before you formed or acquired the organization.

(Employee as Insureds)

f. Any employee of yours while acting in the course of your business or your personal affairs while using a covered "auto" you do not own, hire or borrow.

(Additional Insured Status by Contract, Agreement or Permit)

g. Any person or organization whom you are required to add as an additional insured on this policy under a written contract or agreement; but the written contract or agreement must be:

- (1) Currently in effect or becoming effective during the term of this policy; and
- (2) Executed prior to the "bodily injury" or "property damage".

The additional insured status will apply only with respect to your liability for "bodily injury" or "property damage" which may be imputed to that person(s) or organization(s) directly arising out of the ownership, maintenance or use of the covered "autos" at the location(s) designated, if any.

Coverage provided by this endorsement will not exceed the limits of liability required by the written contract or written agreement even if the limits of liability stated in the policy exceed those limits. This endorsement shall not increase the limits stated in Section II, C, Limits of Insurance.

For any covered "auto" you own this Coverage Form provides primary coverage.

C. AMENDED FELLOW EMPLOYEE EXCLUSION

Only with respect to your "employees" who occupy positions which are supervisory in nature, SECTION II, LIABILITY B, Exclusion 5, Fellow Employee is replaced by:

5. Fellow Employee

"Bodily Injury":

- (a) To you, or your partners or members (if you are a partnership or joint venture), or to your members (if you are a limited liability company);
- (b) To your "executive officers" and directors (if you are an organization other than a partnership, joint venture, or limited liability company) but only with respect to performance of their duties as your officers or directors;
- (c) For which there is an obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph a and b above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

For purposes of this endorsement, a position is deemed to be supervisory in nature if that person performs principle work which is substantially different from that of his or her subordinates and has authority to hire, transfer, direct, discipline or discharge.

D. BROADENED PHYSICAL DAMAGE COVERAGES

SECTION III - PHYSICAL DAMAGE COVERAGE
Coverage is amended as follows:

(TOWING AND LABOR)

2. Towing and Labor

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- (a) For private passenger type vehicles or "light trucks" we will pay up to \$75 per disablement. "Light trucks" have a gross vehicle weight (GVW) of 10,000 pounds or less.

- (b) For "medium trucks" we will pay up to \$160 per disablement. "Medium trucks" have a gross vehicle weight (GVW) of 10,001 lbs. to 20,000 pounds.

However, the labor must be performed at the place of disablement.

**(PHYSICAL DAMAGE ADDITIONAL
TRANSPORTATION EXPENSE COVERAGE)**

4. Coverage Extensions

~~a. Transportation Expense is amended to provide the following limits:~~

We will pay up to \$50 per day to a maximum of \$1,000. All other terms and provisions of this section remain applicable.

(EXTRA EXPENSE - THEFT)

The following language is added to 4. Coverage Extensions;

c. Theft Recovery Expense

If you have purchased Comprehensive Coverage on an "auto" that is stolen, we will pay the expense of returning that stolen auto to you. The limit for this coverage extension is \$5,000.

**(RENTAL REIMBURSEMENT AND ADDITIONAL
TRANSPORTATION EXPENSE)**

d. Rental Reimbursement

We will provide Rental Reimbursement and Additional Expense coverage only for those Physical Damage coverages for which a premium is shown in the Declarations or schedule pages. Coverage applies only to a covered "auto" of the private passenger or light truck (10,000 lbs. or less gross vehicle weight) type for which Physical Damage coverages apply.

- (1) We will pay for auto rental expense and the expense incurred by you because of "loss" to remove and transfer your materials and equipment from a covered "auto" to a covered "auto." Payment applies in addition to the otherwise applicable coverage you have on a covered "auto." No deductible applies to this coverage.

- (2) We will pay only for expenses incurred during the policy period and beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:

- (a) The number of days reasonably required to repair or replace the covered "auto." If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and return it to you, or

- (b) 30 days.

- (3) Our payment is limited to the lesser of the following amounts:

- (a) Necessary and actual expenses incurred; or

- (b) \$35 per day.

- (c) This coverage does not apply while there are spare or reserve "autos" available to you for your operations.

- (d) If "loss" results from the total theft of a covered "auto" of the private passenger or light truck type, we will pay under this coverage only that amount of your rental reimbursement expense which is not already provided for under the SECTION III - PHYSICAL DAMAGE COVERAGE, A, Coverage, 4. Coverage Extensions, a. Transportation Expenses.

(PERSONAL EFFECTS COVERAGE)

e. Personal Effects

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$500 for Personal Effects stolen with the "auto". The insurance provided under this provision is excess over any other collectible insurance. For this coverage extension, Personal Effects means tangible property that is worn or carried by an "insured". Personal Effects does not include tools, jewelry, guns, musical instruments, money, or securities.

(AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE)**(Deletion of Audio Visual Equipment Exclusion)****f. Audio, Visual and Data Electronic Equipment Coverage.**

We will pay for "loss" to any electronic equipment that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound. This coverage applies only if the equipment is permanently installed in a covered "auto" at the time of the "loss" or the equipment is removable from a housing unit which is permanently installed in a covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto."

- (1) We will pay with respect to a covered "auto" for "loss" to any accessories used with the electronic equipment described above. However, this does not include tapes, records or discs.
- (2) In addition to the exclusions that apply to Physical Damage Coverage with exception of the exclusion relating to audio, visual and data electronic equipment, the following exclusions also apply:
- (3) We will not pay for any electronic equipment or accessories used with such electronic equipment that are:
 - (a) Necessary for the normal operation of the covered "auto" for the monitoring of the covered "auto's" operating system; or
 - (b) Both:

An integral part of the same unit housing any sound reproducing equipment designed solely for the reproducing of sound if the sound reproducing equipment is permanently installed in the covered "auto"; and

Permanently installed in the opening of the dash or console normally used by the manufacturer for the installation of a radio.

(4) With respect to this coverage, the most we will pay for all "loss" of audio, visual or data electronic equipment and any accessories used with this equipment as a result of any one "accident" is the lesser of:

- (a) The actual cash value of the damaged or stolen property as of the time of the "loss";
- (b) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or \$1,000;

minus a deductible of \$100.

An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of loss. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

If there is other coverage provided for audio, visual and data electronic equipment, the coverage provided herein is excess over any other collectible insurance.

(AIRBAG ACCIDENTAL DISCHARGE)**D. SECTION III - PHYSICAL DAMAGE COVERAGE, B. Exclusions is amended as follows:**

The following language is added to Exclusion 3.:

If you have purchased Comprehensive or Collision Coverage under this policy, this exclusion does not apply to mechanical breakdown relating to the accidental discharge of an air bag. This coverage applies only to a covered auto you own and is excess of any other collectible insurance or warranty. No deductible applies to this coverage.

E. AUTO LOAN/LEASE TOTAL LOSS PROTECTION

SECTION III - PHYSICAL DAMAGE COVERAGE - C. Limit of Insurance is amended by adding the following language:

4. In the event of a total "loss" to a covered "auto" shown in the Schedule pages, subject at the time of the "loss" to a loan or lease, we will pay any unpaid amount due on the lease or loan for a covered "auto" less:

- a. The amount paid under the Physical Damage Coverage Section of the policy; and
- b. Any:
 - (1) Overdue lease / loan payments at the time of the "loss";
 - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3) Security deposits not returned by the lessor;
 - (4) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
 - (5) Carry-over balances from previous loans or leases.

(GLASS REPAIR - DEDUCTIBLE AMENDMENT)

Under D., Deductible is amended by adding the following:

Any deductible shown in the Declarations as applicable to the covered "auto" will not apply to glass breakage if the damaged glass is repaired, rather than replaced.

F. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

Under SECTION IV - BUSINESS AUTO CONDITIONS, Subsection A., Loss Conditions, the following is added to paragraph 2. Duties In The Event of Accident, Suit or Loss:

- d. Knowledge of any "accident," "claim," "suit" or "loss" will be deemed knowledge by you when notice of such "accident," "claim," "suit" or "loss" has been received by:
 - (1) You, if you are an individual;
 - (2) Any partner or insurance manager if you are a partnership;
 - (3) An executive officer or insurance manager, if you are a corporation;

- (4) Your members, managers or insurance manager, if you are a limited liability company; or
- (5) Your officials, trustees, board members or insurance manager, if you are a not-for-profit organization.

G. WAIVER OF SUBROGATION REQUIRED BY CONTRACT

Under SECTION IV, BUSINESS AUTO CONDITIONS, A. Loss Conditions 5. Transfer of Rights of Recovery Against Others to Us the following language is added:

However, we waive any rights of recovery we may have against the person or organization with whom you have agreed in writing in a contract, agreement or permit, to provide insurance such as is afforded under the policy to which this endorsement is attached. This provision does not apply unless the written contract or written agreement has been executed, or permit has been issued, prior to the "bodily injury" or "property damage."

H. UNINTENTIONAL FAILURE TO DISCLOSE

Under SECTION IV - BUSINESS AUTO CONDITIONS, Subsection B, General Conditions, the following is added to 2. Concealment, Misrepresentation Or Fraud:

Your unintentional error in disclosing, or failing to disclose, any material fact existing at the effective date of this Coverage Form, or during the policy period in connection with any additional hazards, will not prejudice your rights under this Coverage Form.

I. HIRED, LEASED, RENTED OR BORROWED AUTO PHYSICAL DAMAGE

Under SECTION IV - BUSINESS AUTO CONDITIONS B. General Conditions 5. Other Insurance

Paragraph 5.b. is replaced by the following:

- b. (1) For "Comprehensive" and "Collision" Auto Physical Damage provided by this endorsement, the following are deemed to be covered "autos" you own:
 - (a) Any Covered "auto" you lease, hire, rent or borrow; and

- (b) Any Covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto"

(2) Limit of Insurance For This Section

The most we will pay for any one "loss" is the lesser of the following:

- (a) \$50,000 per accident, or
- (b) actual cash value at the time of loss, or
- (c) cost of repair.

minus a \$500 deductible. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss. No deductible applies to "loss" caused by fire or lightning.

- (3) This Hired Auto Physical Damage coverage is excess over any other collectible insurance.

(4) Definitions For This Section

(a) Comprehensive Coverage: from any cause except the covered "auto's" collision with another object or the covered "auto's" overturn. We will pay glass breakage, "loss" caused by hitting a bird or animal and, "loss" caused by falling objects or missiles.

(b) Collision Coverage: caused by the covered "auto's" collision with another object or by the covered "auto's" overturn.

J. EXTENDED CANCELLATION CONDITION

A. Under CANCELLATION, of the COMMON POLICY CONDITIONS form, Item 2.b, is replaced by the following:

- b. 60 days before the effective date of cancellation if we cancel for any other reason

ULTRA LIABILITY PLUS ENDORSEMENT

COMMERCIAL GENERAL LIABILITY EXTENSION ENDORSEMENT SUMMARY OF COVERAGES

This is a summary of the various additional coverages and coverage modifications provided by this endorsement. No coverage is provided by this summary.

- * Coverage for non-owned watercraft is extended to 61 feet in length
- * Voluntary Property Damage Coverage
\$5,000 Occurrence with a \$10,000 Aggregate
- * Care, Custody and Control Property Damage Coverage
\$25,000 Occurrence with a \$100,000 Aggregate - \$500 Deductible
- * Product Recall Expense
\$25,000 Each Recall Limit with a \$50,000 Aggregate - \$1,000 Deductible

- * Water Damage Legal Liability - \$25,000
- * Increase in Supplementary Payments: Bail Bonds to \$1,000 and Loss of Earnings to \$500
- * For newly formed or acquired organizations - extend the reporting requirement to 180 days
- * Automatic Additional Insured - Owners, Lessees or Contractors - Automatic Status When Required In Construction Agreement With You
- * Automatic Additional Insured - Vendors
- * Automatic Additional Insured - Lessor of Leased Equipment Automatic Status When Required In Lease Agreement With You
- * Automatic Additional Insured - Managers or Lessor of Premises
- * Additional Insured - Engineers, Architects or Surveyors Not Engaged by the Named Insured
- * Additional Insured - Employee Injury to Another Employee
- * Primary Additional Insured
- * Expanded Fire Legal Liability to Include Explosion, Lightning and Sprinkler Leakage
- * Automatically included - Aggregate Limits of Insurance (per location)
- * Automatically included - Aggregate Limits of Insurance (per project)
- * Knowledge of occurrence - Knowledge of an "occurrence", "claim or suit" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee
- * Unintentional failure to disclose all hazards. If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.
- * Liberalization Condition
- * Mobile equipment to include snow removal, road maintenance and street cleaning equipment less than 1,000 lbs GVW
- * Blanket Waiver of Subrogation
- * Property Damage - Borrowed Equipment
- * Property Damage Liability - Elevators
- * Bodily Injury Redefined
- * Extended Property Damage
- * Damage to Media Legal Liability - \$50,000

REFER TO THE ACTUAL ENDORSEMENT FOLLOWING ON PAGES 2 THROUGH 15 FOR CHANGES AFFECTING YOUR INSURANCE PROTECTION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ULTRA LIABILITY PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I - COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

The Following changes are made to 2. Exclusions:

Extended Property Damage

Exclusion 2.a., Expected or Intended Injury is replaced with the following:

- a. "Bodily Injury" or "property damage" expected or intended from the standpoint of the Insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

Extended Watercraft Coverage

Exclusion g.(2) is deleted and replaced by the following:

g.(2) A watercraft you do not own that is:

- (a) Less than 51 feet long;
- (b) Not being used to carry persons or property for a charge;

Property Damage Liability - Borrowed Equipment

The following is added to Exclusion J.:

Paragraph (4) of this exclusion does not apply to "property damage" to borrowed equipment while at a jobsite and while not being used to perform operations. The most we will pay for "property damage" to any one borrowed equipment item under this coverage is \$25,000 per occurrence. The insurance afforded under this provision is excess over any valid and collectible property insurance (including deductible) available to the Insured, whether primary, excess, contingent or on any other basis.

Property Damage Liability - Elevators

The following is added to Exclusion J.:

Under paragraph 2, Exclusions of Coverage A. "Bodily Injury" and "Property Damage" Liability Paragraphs 3, 4 & 6 of this exclusion do not apply to "property damage" resulting from the use of elevators. However, any insurance provided for such "property damage" is excess over any valid and collectible property insurance (including deductible) available to the Insured, whether primary, excess, contingent or on any other basis.

The last paragraph of Item 2, Exclusions is deleted and replaced by the following:

Exclusions c. through n. do not apply to damage by fire, explosion, lightning, smoke resulting from such fire, explosion, or lightning or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of this owner. A separate limit of insurance applies to this coverage as described in Section III - Limits of Insurance.

THE FOLLOWING COVERAGES ARE ADDED:

Voluntary Property Damage Coverage

The insurance provided under Coverage A (Section I) is amended to include "property damage" to property of others caused by the insured:

- a. While in your possession; or
- b. Arising out of "your work".

Coverage applies at the request of the insured, whether or not the insured is legally obligated to pay.

For the purposes of this Voluntary Property Damage Coverage only:

1. Exclusion j, Damage to Property under Coverage A (Section I) is deleted and replaced by the following:

j. Damage to Property

"Property damage" to:

- (1) Property held by the insured for servicing, repair, storage or sale at premises you own, rent, lease, operate or use;
- (2) Property transported by or damage caused by any "automobile", "watercraft" or "aircraft" you own, hire or lease;
- (3) Property you own, rent, lease, borrow or use.

Care, Custody and Control Property Damage Coverage

For the purpose of this Care, Custody and Control Property Damage Coverage only:

1. Item (4) of Exclusion j. of Coverage A (Section I) does not apply.

COVERAGE M. DAMAGE TO MEDIA LEGAL LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of damage to "electronic data" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "electronic data" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited to \$50,000.

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under this coverage or any other applicable coverage or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to damages to "electronic data" only if:

(1) The damage to "electronic data" is caused by an "occurrence" that takes place in the "coverage territory";

(2) The damage to "electronic data" occurs during the policy period; and

(3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the damage to "electronic data" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the damage to "electronic data" occurred, then any continuation, change or resumption of such damage to "electronic data" during or after the policy period will be deemed to have been known prior to the policy period.

c. Damage to "electronic data" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that damage to "electronic data" after the end of the policy period.

d. Damage to "electronic data" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1 of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the damage to "electronic data" to us or any other insurer;

(2) Receives a written or verbal demand or claim for damages because of the damage to "electronic data"; or

(3) Becomes aware by any other means that damage to "electronic data" has occurred or has begun to occur.

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

Damage to "electronic data" expected or intended from the standpoint of the insured.

b. Contractual Liability

Damage to "electronic data" for which the insured 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 insured would have in the absence of the contract or agreement.

c. Pollution

Damage to "electronic data" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants".

d. Aircraft, Auto, Watercraft or Mobile Equipment

Damage to "electronic data" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

e. War

Damage to "electronic data" however caused, arising directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

f. Damage To Property

Damage to "electronic data" that is:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Property loaned to you;
- (3) Personal property in the care, custody or control of the insured;
- (4) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (5) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

g. Damage To Your Product

Damage to "electronic data" in "your product" or arising out of it or any part of it.

h. Damage To Your Work

Damage to "electronic data" in "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

i. **Damage To Impaired Property Or Property Not Physically Injured**

Damage to "electronic data" in "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

j. **Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

k. **Personal And Advertising Injury**

Damage to "electronic data" arising out of "personal and advertising injury".

COVERAGE R. PRODUCT RECALL EXPENSE

1. **Insuring Agreement**

- a. We will pay 90% of "product recall expense" you incur as a result of a "product recall" you initiate during the coverage period.
- b. We will only pay for "product recall expense" arising out of "your products" which have been physically relinquished to others.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE .

2. **Exclusions**

This insurance does not apply to "product recall expense" arising out of:

- a. Any fact, circumstance or situation which existed at the inception date of the policy and which you were aware of, or could reasonably have foreseen that would have resulted in a "product recall".
- b. Deterioration, decomposition or transformation of a chemical nature, except if caused by an error in the manufacture, design, processing, storage, or transportation of "your product".
- c. The withdrawal of similar products or batches that are not defective, when a defect in another product or batch has been found.

- d. Acts, errors or omissions of any of your employees, done with prior knowledge of any of your officers or directors.
 - e. Inherent vice, meaning a natural condition of property that causes it to deteriorate or become damaged.
 - f. "Bodily Injury" or "property damage".
 - g. Failure of "your product" to accomplish its intended purpose, including any breach of warranty of fitness, quality, efficacy or efficiency, whether written or implied.
 - h. Loss of reputation, customer faith or approval, or any costs incurred to regain customer market, or any other consequential damages.
-
- i. Legal fees or expenses.
 - j. Damages claimed for any loss, cost or expense incurred by you or others for the loss of use of "your product".
 - k. "Product recall expense" arising from the "product recall" of any of "your products" for which coverage is excluded by endorsement.

COVERAGE W - WATER DAMAGE LEGAL LIABILITY

The Insurance provided under Coverage W (Section I) applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

The Limit under this coverage shall not be in addition to the Damage To Premises Rented To You Limit.

SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B is amended to read SUPPLEMENTARY PAYMENTS; and

Items 1.b. and 1.d are amended as follows:

- b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the Insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

SECTION II - BROAD FORM NAMED INSURED

1. Section II - Who Is An Insured is amended to include as an insured any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period.
2. For the purpose of the coverage provided by this provision only, the following is added to Condition 4.b. Excess Insurance, under Section IV - Commercial General Liability Conditions: This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to an insured solely by reason of ownership by you of more than 50 percent of the voting stock.
3. This provision does not apply to a policy written to apply specifically in excess of this policy.

Item 4.a. is deleted and replaced by the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

The following are added:

5. Additional Insured - Owners, Lessees or Contractors - Automatic Status When Required In Construction or Service Agreement With You

- a. Any person or organization for whom you are performing operations when you have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to your liability which may be imputed to that person or organization directly arising out of your ongoing operations performed for that person or organization. A person's or organization's status as an insured under this endorsement ends when your operations for that insured are completed.
- b. With respect to the insurance afforded 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:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
- (2) Supervisory, inspection, architectural or engineering activities.

6. Additional Insured - Vendors

Any person or organization (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, subject to the following additional exclusions:

- a. The insurance afforded the vendor does not apply to:
 - (1) "Bodily Injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in 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;
 - (2) Any express warranty unauthorized by you;
 - (3) Any physical or chemical change in the product made intentionally by the vendor;
 - (4) Repackaging, unless 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;
 - (5) 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;
 - (6) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(7) 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.

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

7. Additional Insured - Lessor of Leased Equipment - Automatic Status When Required In Lease Agreement With You

a. Any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an insured, but only with respect to your liability arising out of the maintenance, operation or use of such leased equipment, which may be imputed to that person or organization as the lessor of equipment. A person's or organization's status as an insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

b. With respect to the insurance afforded these additional insureds, the following additional exclusion apply:

(1) To any "occurrence" which takes place;

(2) To "bodily injury" or "property damage" arising out of the sole negligence of such person or organization.

8. Additional Insured - Managers or Lessors of Premises

Any person or organization, but only with respect to the liability arising out of the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to any:

a. Any "occurrence" which takes place after you cease to be a tenant in that premises.

b. Structural alterations, new construction or demolition operations performed by or on behalf of any person or organization.

9. Additional Insured - Engineers, Architects or Surveyors Not Engaged by the Named Insured

Coverage is provided only when the insured is contractually required to add the engineer, architect or surveyor. Coverage is provided with respect to your liability for "bodily injury" or "property damage" or "personal and advertising injury" directly arising out of:

a. Your acts or omissions; or

b. Your acts or omissions of those acting on your behalf;

In the performance of your ongoing operations for that additional insured(s).

10. Additional Insured - Employee Injury to Another Employee

With respect to your "employees" who occupy positions which are supervisory in nature:

Paragraph 2.a.(1) of this section is amended to read:

(1) "Bodily Injury" or "personal and advertising injury"

- a. To you, to your partners or members (if you are a partnership or joint venture), or to your members (if you are a limited liability company);
- b. For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph (1)(a) above; or
- c. Arising out of his or her providing or failing to provide professional health care services. Paragraph 3.a. is deleted.

For the purpose of this Item 10 only, a position is deemed to be supervisory in nature if that person performs principal work which is substantially different from that of his or her subordinates and has authority to hire, direct, discipline or discharge.

11. Primary Additional Insured

- A. Commercial General Liability Conditions (Section IV), paragraph 4. (Other Insurance) is deleted and replaced by the following:

4. Other Insurance

If valid and collectible "other insurance" is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the "other insurance" is also primary. Then, 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) That is Fire, Extended Coverage, Builder's Risk, Installation Risk, or similar coverage for "your work";
- (2) That is Fire Insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (3) 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; or
- (4) 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 I - Coverage A - Bodily Injury and Property Damage Liability; or
- (5) That is available to the insured when the insured is an additional insured under any other policy, including any umbrella or excess policy.
- (6) That is provided to any person or organization who qualifies as an additional insured herein, except when you and that person or organization have agreed in writing that this insurance shall be primary.

When this insurance is excess, we will have no duty under Coverages A or B to defend the Insured against any "suit" if any provider of "other insurance" has a duty to defend the Insured against that "suit". If no provider of "other insurance" defends, we will undertake to do so, but we will be entitled to the Insured's rights against all those providers of "other insurance".

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 that "other insurance".

We will share the remaining loss, if any, with any "other insurance" that is not described in this Excess Insurance provision.

c. Method of Sharing

If all of the "other insurance" permits contribution by equal shares, we will follow this method also. Under this approach each provider of insurance 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, the share of each provider of insurance is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all providers of insurance.

- B. For the purposes of this insurance coverage provided by this Item 11 only, the following definition is added to DEFINITIONS (Section V):

"Other Insurance":

- a. Means insurance, or the funding of losses, that is provided by, through or on behalf of:

- (1) Another insurance company;
- (2) Us or any of our affiliated insurance companies, except when the Non-cumulation of Each Occurrence Limit section of Paragraph 5 LIMITS OF INSURANCE (Section III) or the Non-cumulation of Personal and Advertising Injury Limits sections of Paragraph 4 of LIMITS OF INSURANCE (Section III) applies;
- (3) Any risk retention group;
- (4) Any self-insurance method or program, other than any funded by you and over which the Coverage Part applies; or
- (5) Any similar risk transfer or risk management method.

- b. Does not include umbrella insurance, or excess insurance, that you bought specifically to apply in excess of the Limits of Insurance shown on the Declarations of this Coverage Part.

SECTION III - LIMITS OF INSURANCE

Items 2, 3, and 6 are deleted and replaced by the following:

2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
 - c. Damages under Coverage B; and
 - d. Damages under Coverage W.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" and Coverage R.
6. Subject to 5. above, the Damage to Premises Rented to You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, explosion, lightning, smoke resulting from such fire, explosion, or lightning or sprinkler leakage while rented to you or temporarily occupied by you with permission of the owner.

The following are added:

8. Subject to 5. above, \$25,000 is the most we will pay for Under Coverage W for Water Damage Legal Liability.
9. Coverage R - Product Recall Expense

Aggregate Limit \$50,000

Each Product Recall Limit \$25,000

 - a. The Aggregate Limit shown above is the most we will pay for the sum of all "product recall expense" you incur as a result of all "product recalls" you initiate during the endorsement period.
 - b. The Each Product Recall Limit shown above is the most we will pay, subject to the Aggregate and \$1,000 deductible, for "product recall expense" you incur for any one "product recall" you initiate during the endorsement period.
10. Aggregate Limits of Insurance (Per Location)

The General Aggregate Limit applies separately to each of your "locations" owned by or rented to you or temporarily occupied by you with the permission of the owner.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
11. Aggregate Limits of Insurance (Per Project)

The General Aggregate Limit applies separately to each of your projects away from premises owned by or rented to you.

12. Subject to 5. above, a \$5,000 "occurrence" limit and a \$10,000 "aggregate" limit is the most we will pay under Coverage A for damages because of "property damage" covered under Voluntary Property Damage Coverage.
13. Subject to 5. above, a \$25,000 "occurrence" limit and a \$100,000 "aggregate" limit is the most we will pay under Care, Custody and Control Coverage regardless of the number of:
- Insureds;
 - Claims made or "suits" brought; or
 - Persons or organizations making claims or bringing "suits".

Deductible - Our obligation to pay damages on your behalf applies only to the amount of damages in excess of \$500.

This deductible applies to all damages because of "property damage" as the result of any one "occurrence" regardless of the number of persons or organizations who sustain damages because of that "occurrence".

We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

As respects this coverage "Aggregate" is the maximum amount we will pay for all covered "occurrences" during one policy period.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

Condition 2., Items a. and b. are deleted and replaced by the following:

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

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. Knowledge of an "occurrence" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee. To the extent possible, notice should include:

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

- b. If a claim is made or "suit" is brought against any insured, you must:

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

You must see to it that we receive written notice of the claim or "suit" as soon as practicable. Knowledge of a claim or "suit" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee.

Condition 2.c.(5) is added:

- (5) Upon our request, replace or repair the property covered under Voluntary Property Damage Coverage at your actual cost, excluding profit or overhead.

Conditions 10., 11. and 12. are added:

10. Blanket Waiver Of Subrogation

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of: premises owned or occupied by or rented or loaned to you, ongoing operations performed by you or on your behalf, done under a contract with that person or organization, "your work", or "your products". We waive this right where you have agreed to do so as part of a written contract, executed by you before the "bodily injury" or "property damage" occurs or the "personal injury" or "advertising injury" offense is committed.

11. If a revision to this Coverage Part, which would provide more coverage with no additional premium becomes effective during the policy period in the state designated for the first Named Insured shown in the Declarations, your policy will automatically provide this additional coverage on the effective date of the revision.
12. Based on our reliance on your representations as to existing hazards, if you unintentionally should fail to disclose all such hazards at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

The following conditions are added in regard to Coverage R - Product Recall Expense

In event of a "product recall", you must

1. See to it that we are notified as soon as practicable of a "product recall". To the extent possible, notice should include how, when and where the "product recall" took place and estimated "product recall expense".
2. Take all reasonable steps to minimize "product recall expense". This will not increase the limits of insurance.
3. If requested, permit us to question you under oath at such times as may be reasonably required about any matter relating to this insurance or your claim, including your books and records. Your answers must be signed.
4. Permit us to inspect and obtain other information proving the loss. You must send us a signed, sworn statement of loss containing the information we request to investigate the claim. You must do this within 60 days after our request.
5. Cooperate with us in the investigation or settlement of any claim.
6. Assist us upon our request, in the enforcement of any rights against any person or organization which may be liable to you because of loss to which this insurance applies.

SECTION V - DEFINITIONS

The following is added to Item 12. Mobile Equipment

- e. Vehicles with equipment for snow removal, road maintenance and street cleaning less than 1,000 lbs. GVW.

The following definitions are added for this endorsement only:

3. Bodily Injury Redefined.

Under V-Definitions, definition 3, is deleted and replaced with the following:

3. "bodily injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

23. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tape drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

24. "Product recall" means a withdrawal or removal from the market of "your product" based on the determination by you or any regulatory or governmental agency that:

(1) The use or consumption of "your product" has caused or will cause actual or alleged "bodily injury" or "property damage"; and

(2) Such determination requires you to recover possession or control of "your product" from any distributor, purchaser or user, to repair or replace "your product", but only if "your product" is unfit for use or consumption, or is hazardous as a result of:

(a) An error or omission by an insured in the design, manufacturing, processing, labelling, storage, or transportation of "your product"; or

(b) Actual or alleged intentional, malicious or wrongful alteration or contamination of "your product" by someone other than you.

25. "Product recall expense" means reasonable and necessary expenses for:

(1) Telephone, radio and television communication and printed advertisements, including stationery, envelopes and postage.

(2) Transporting recalled products from any purchaser, distributor or user, to locations designated by you.

(3) Remuneration paid to your employees for overtime, as well as remuneration paid to additional employees or independent contractors you hire.

(4) Transportation and accommodation expense incurred by your employees.

(5) Rental expense incurred for temporary locations used to store recalled products.

(6) Expense incurred to properly dispose of recalled products, including packaging that cannot be reused.

(7) Transportation expenses incurred to replace recalled products.

(8) Repairing, redistributing or replacing covered recalled products with like products or substitutes, not to exceed your original cost of manufacturing, processing, acquisition and/or distribution.

These expenses must be incurred as a result of a "product recall".

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 required by written contract or certificate of insurance."

"This endorsement is not applicable in California, Kentucky, New Hampshire, New Jersey, Texas and Utah."

This endorsement is not applicable in Wisconsin.

"This endorsement does not apply to policies in Missouri where the employer is in the construction group of code classifications. According to Section 287.150(6) of the Missouri Statutes, a contractual provision purporting to waive subrogation rights is against public policy and void where one party to the contract is an employer in the construction group of code classifications."

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Policy No. Endorsement No.
Insured Premium \$

Insurance Company

Countersigned by _____

**NOTIFICATION ENDORSEMENT
FOR
CANCELLATION/NON-RENEWAL or
MATERIAL CHANGE IN COVERAGE**

THIS ENDORSEMENT SUPPLEMENTS THE TERMS OF THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY

1. If the Schedule below indicates "**Cancellation/Non-Renewal Notification**", we agree to provide written notice to the person(s) or organization(s) shown in the Schedule due to a cancellation or non-renewal of the policy to which this form is endorsed. The number of days' notice we will provide is indicated in the Schedule.
2. If the Schedule below indicates "**Material Change in Coverage Notification**", we agree to provide written notice to the person(s) or organization(s) shown in the Schedule due to a material change in the policy to which this form is endorsed. For purposes of this endorsement a material change is a change:
 - a. that is initiated by us; and
 - b. in which the First Named Insured is provided written notification by us.

The number of days' notice we will provide is indicated in the Schedule.

SCHEDULE

Name of Person(s) or Organization(s) and Mailing Address :

CITY OF DES MOINES
400 E COURT AVE
DES MOINES IA 50309-2017

Cancellation/Non-renewal Notification. Number of Days: 45

Material Change in Coverage Notification. Number of Days: 45

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO ULTRA ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

COVERAGE INDEX

Description	Page
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BROAD FORM INSURED	1
EMPLOYEES AS INSURED	2
ADDITIONAL INSURED STATUS BY CONTRACT, AGREEMENT OR PERMIT	2
AMENDED FELLOW EMPLOYEE EXCLUSION	2
TOWING AND LABOR	2
PHYSICAL DAMAGE ADDITIONAL TRANSPORTATION EXPENSE COVERAGE	3
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RENTAL REIMBURSEMENT AND ADDITIONAL TRANSPORTATION EXPENSE	3
PERSONAL EFFECTS COVERAGE	4
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AIRBAG ACCIDENTAL DISCHARGE	4
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WAIVER OF SUBROGATION REQUIRED BY CONTRACT	5
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EXTENDED CANCELLATION CONDITION	6

The COVERAGE INDEX set forth above is informational only and grants no coverage.

Terms set forth in *(Bold Italics)* are likewise for information only and by themselves shall be deemed to grant no coverage.

A. TEMPORARY SUBSTITUTE AUTO PHYSICAL DAMAGE

SECTION I - COVERED AUTOS, paragraph C. Certain Trailers, Mobile Equipment and Temporary Substitute Autos is amended by adding the following at the end of the existing language:

If Physical Damage Coverage is provided under this Coverage form for an "auto" you own, the Physical Damage coverages provided for that owned "auto" are extended to any "auto" you do not own while used with the permission of its owner as a temporary substitute for the covered "auto" you own that is out of service because of its breakdown, repair, servicing, "loss", or destruction.

B. BROADENED LIABILITY COVERAGES

SECTION II - LIABILITY COVERAGE in Paragraph A. Coverage at 1. Who Is An Insured is amended to include the following:

(Broad Form Insured)

d. Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.