

WHATCOM COUNTY CONTRACT INFORMATION SHEET		Whatcom County Contract No. 202008024
Originating Department:		85 Health
Division/Program: (i.e. Dept. Division and Program)		9550 Human Services / 855040 Housing
Contract or Grant Administrator:		Anne Deacon
Contractor's / Agency Name:		Sun Community Services
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____		
Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)		
Is this a grant agreement? If yes, grantor agency contract number(s): _____ CFDA#: _____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Is this contract grant funded? If yes, Whatcom County grant contract number(s): _____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Is this contract the result of a RFP or Bid process? Contract Cost Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Center: N/A		
Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> If no, include Attachment D Contractor Declaration form.		
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input checked="" type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.		
Contract Amount:(sum of original contract amount and any prior amendments): \$ 0		Council approval required for, all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
This Amendment Amount: \$		
Total Amended Amount: \$		
Summary of Scope: The purpose of this agreement is to lease the property owned by Whatcom County and located at 515 East Chestnut Street in Bellingham to Sun Community Services		
Term of Contract:	5 Years	Expiration Date: 06/30/2025
Contract Routing:	1. Prepared by: JT	Date: 06/24/2020
	2. Attorney signoff: RB	Date: 07/08/2020
	3. AS Finance reviewed: M Caldwell	Date: 07/14/2020
	4. IT reviewed (if IT related):	Date:
	5. Contractor signed:	Date:
	6. Submitted to Exec.: JT	Date: 08/06/2020
	7. Council approved (if necessary):	Date: 08/05/2020
	8. Executive signed:	Date: 8-11-2020
	9. Original to Council:	Date: 8-18-2020

WHATCOM COUNTY
Health Department



Erika Lautenbach, Director
Greg Stern, M.D., Health Officer

MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Erika Lautenbach, Director
RE: Sun Community Services – Sun House Lease Agreement
DATE: August 6, 2020

Attached is a lease agreement between Whatcom County and Sun Community Services for your review and signature.

▪ **Background and Purpose**

In 1982, Whatcom County agreed to sponsor Sun Community Services for special state funding with which the County acquired a transitional housing facility for adults recovering from mental illness. The County has been leasing this building, known as Sun House, to Sun Community Services since that time and it continues to be used for the same purposes. This agreement renews the lease for an additional five year term.

▪ **Funding Amount and Source**

There are no funds committed or received under this lease. Council approval is required for all Whatcom County lease agreements.

Please contact Anne Deacon at extension #6054 if you have any questions regarding this agreement.

Encl.



LEASE AGREEMENT
515 E Chestnut Street, Bellingham, WA 98225

Whatcom County Contract No. 202008024
--

Sun Community Services, hereinafter called **Lessee**, and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 8,
Exhibit A (Certificate of Insurance), p. 9.

Copies of these items are attached hereto and incorporated herein by this reference as is fully set forth herein.

The term of this Lease, regardless of the date(s) of signature herein, shall commence on the 1st of July, 2020, and shall, unless terminated or renewed as elsewhere provided in this agreement, terminate on the 30th day of June, 2025.

The general purpose or objective of this Agreement is to **lease property at 515 E. Chestnut Street in Bellingham, Washington**, as more fully and definitely described in General Conditions – Paragraph 0.2 for the operation of transitional housing for adults recovering from mental illness.

The maximum consideration for the term of this Agreement shall not exceed \$0.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement the 6th day of August, 2020.

LESSEE:

Sun Community Services
515 E Chestnut Street
Bellingham, WA 98225

Each signatory below to this Lease Agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into contract and bind the party thereto.

DocuSigned by:
 8/11/2020
7E8DB91A4A5A47B...

Denise Yorston, Executive Director

**WHATCOM COUNTY:
Recommended for Approval:**

DEPARTMENT APPROVAL

DocuSigned by:
Anne Deacon
67FCD89A9E70961
Anne Deacon, Human Services Manager

8/6/2020

Date

DocuSigned by:
Erika Lautenbach
955C851A30374BD
Erika Lautenbach, Director

8/6/2020

Date

Approved as to form:

DocuSigned by:
Royce Buckingham
Royce Buckingham, Prosecuting Attorney

8/6/2020

Date

Approved:

Accepted for Whatcom County:

By: *Satpal Singh Sidhu* 8/11/2020
7373A1F2A59A4FD...
Satpal Singh Sidhu, Whatcom County Executive

CONTRACTOR INFORMATION:

Sun Community Services
515 E Chestnut Street
Bellingham, WA 98225
sunhouse@suncommunity.comcastbiz.net

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Lease

0.1 Nature of Lease

In 1979 legislation designated as Referendum 37 was enacted by the State of Washington which provided funding for land acquisition, construction or renovation of buildings, and purchase of equipment for the care, training, and rehabilitation of persons with sensory, physical or mental handicaps. Sun Community Services (Lessee) developed a project utilizing these funds, and on September 4, 1980, the Whatcom County Council, by Resolution No. 80-54, agreed to accept the rights and responsibilities of sponsorship in accordance with Chapter 275 – 150 WAC, and pursuant to the provisions of SHB 740 and HB 1483; this document provides for the lease of said facility

0.2 Property Description:

County, in consideration of the covenants and conditions herein set forth to be performed by Lessee, does hereby demise and let unto Lessee, all of the following-described property: The Southeasterly 70 feet of Lots 9 and 10, Block 93, "Map of the Town of New Whatcom", according to the plat thereof, recorded in Volume 1 of Plats, Page 24, in the Auditor's Office of said county and state. Commonly known as 515 E Chestnut Street, Bellingham, WA 98225. Lessor is fee simple title owner of this property.

0.3 Condition of Property:

Lessee has inspected the above-described property and accepts the premises in the condition prevailing on the date of the execution of this Lease.

0.4 Use of Premises:

Lessee, in consideration of the granting of this lease by County for the benefit of the citizens of Whatcom County, hereby understands and agrees that the only type of use or activity to be conducted upon the leased premises by Lessee shall be that of a community home for adults recovering from mental illness. Failure of Lessee to perform this type of business on the property, or cessation of such services, or carrying on other uses or activities without first obtaining a lease modification with Lessor's written approval, shall constitute cause for default under the terms of this Lease.

As further consideration for the granting of this lease, Lessee hereby agrees to properly and fairly serve the public, provide reasonable hours of operation, suitable services and tariff charges in keeping with recognized standards of the trade. Failure of Lessee to so serve the public shall be considered a breach of this clause and thereby constitute a cause for default.

By this Lease, the parties acknowledge and understand that the Lessor leases this property to Lessee as a non-profit organization and that Lessee is not a residential tenant of said premises. It is acknowledged and understood by the parties that the Lessee will provide temporary shelter and/or transitional housing to homeless individuals, however the County Lessor has no residential landlord-tenant relationship with the Lessee or occupying parties under this Lease Agreement. Lessee is required to comply with all Federal, State, municipal and local laws, regulations, licensing, and permit requirements which apply to operating a shelter/transitional housing facility.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Under the provisions of Referendum 37 Funding Grant, the previous lease of the property was for a fixed term of years sufficient to amortize the State's interest in the facility. This facility has been occupied since 1982. This lease shall commence on the 1st day of July, 2020 and end on the 30th day of June, 2025, unless sooner terminated according to this agreement.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than five years. At the end of this Lease term, the county may modify the terms of this Lease, including the current monthly rent of \$0.00 to charge a monthly rent up to a fair market value, if the County determines, in its sole discretion, that the Lessee has not maintained the property in good condition, has otherwise not complied with the terms of this Lease, or determines that it is in the best interests of the County.

11.1 Termination for Default:

If the Lessee defaults by failing to perform any of the obligations of this lease or any other contract for services with County, or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Lessee in the U.S. mail, first class postage prepaid, terminate the lease. Termination shall be effective as provided in section 11.4 below. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Lessee. The Lessee shall bear any extra expenses incurred by the County in terminating the lease, including all costs for any damage sustained, or which may be sustained by the County by reason of such default.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

11.4 Termination of Lease:

This lease shall terminate as follows:

- A. At the expiration of the term of this lease.
- B. Upon the failure of Lessee to correct violations of any condition of this lease after 30 days written notice from the County.
- C. In all other respects this lease shall not be cancellable nor subject to forfeiture except as such may be provided for under Referendum 37 Grant Program and the laws and regulations pertaining thereto.
- D. Lessee has breached the lease and the breach is substantial.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services: Not Applicable

21.1 Taxes:

The Lessee agrees to pay all taxes and assessments levied against the premises during the term of this Lease.

22.1 Withholding Payment: Not Applicable

23.1 Labor Standards: Not Applicable

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor: Not Applicable

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this Agreement shall be accomplished by the Lessee. No portion of this contract may be assigned or subcontracted to any other individual, firm, or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment: Not Applicable

31.2 Patent/Copyright Infringement: Not Applicable

32.1 Confidentiality:

The Lessee, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Lessee in performance of this Agreement, except upon the prior written consent of the county or an order entered by a court after having acquired jurisdiction over the County. Lessee shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Lessee shall indemnify and hold harmless the County, its officials, agents, or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorney's fees and costs resulting from Lessee's breach of this provision.

33.1 Right to Review:

This lease is subject to review by any Federal, State, or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other

materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The County shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after lease termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. County also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the County, then the County agrees to notify the Administrative Officer as soon as it is practical.

33.2 Records and Reports:

Lessee shall maintain all records, books, documents, reports and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended and performed under the Referendum 37 grant. All books, records, documents, reports, and other data shall be subject to inspection review or audit by the County, the Office of the State Auditor, and other governmental officials authorized by law.

34.1 Proof of Insurance:

The Lessee shall carry for the duration of this Agreement, general liability and property damage insurance with the following minimums:

- Property Damage per occurrence - \$500,000.00
- General Liability & Property Damage for bodily injury- \$1,000,000.00
- Professional Liability insurance - \$1,000,000 occurrence/\$1,000,000 aggregate

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "A". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

Fire and Casualty Insurance, including coverage for property damage, theft, destruction, malicious mischief, and vandalism to the physical structures, buildings and property on leased premises, in an amount not less than \$500,000.

A Certificate of Insurance must be provided annually to the county. Lessee must immediately notify the County of any claims made against their insurance of any change of insurance carrier.

34.2 Industrial Insurance Waiver: Not applicable to this lease agreement

34.3 Defense & Indemnity Agreement:

The Lessee agrees to defend, indemnify and save harmless, the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgements, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to the property is due to the negligence of the Lessee, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall be occasioned by the sole negligence of the County or its appointed or elected officials or employees.

It is further provided that no liability shall attach to the County by reason of entering into this lease, except as expressly provided herein.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, age, marital status, disability, or veteran status. The Lessee shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Lessee is governed by such laws, the Lessee shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions,

layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Lessee shall state that all qualified applicants will receive consideration for employment without regard to race, color religion, sex or national origin.

During the performance of this lease, Lessee agrees that no person shall, on the grounds of race, creed, color, national origin, sex, sexual orientation, marital status, age, religion, or in the presence of any sensory, mental or physical handicap, veteran status, be excluded from full employment rights or client services with Lessee.

35.2 Non-Discrimination in Client Services:

The Lessee shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt of any service or services or other benefits provided under this Agreement; or deny an individual of business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition: Not Applicable

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Lessee or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Lessee shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Lessee to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Lease:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Lessee also agrees to comply with all federal, state, county, or municipal standards for licensing, certification, or operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Lessee hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Anne Deacon, Human Services Manager
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225
360-778-6054
ADeacon@co.whatcom.wa.us

37.3 Assignment of Lease:

Lessee shall not assign this lease, or sublease any portion of the premises, without the prior written consent of the Lessor. No rights hereunder shall pass by operation of law or other judicial process or through insolvency proceedings. The rights and obligations of this lease shall extend to and be binding upon all successors, representatives and assigns as the case may be. Lessee shall furnish Lessor with copies of all such sublease agreements. For the purposes of this lease, any change of ownership including sale, liquidation, or other disposition of corporate stock shall be considered an assignment.

37.4 Laws, Permits, and Regulations:

Lessee agrees to comply with all applicable federal, state, county, or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals. Lessee agrees to conform to and abide by all lawful rules, codes, laws and regulations in connection with its use of said premises and the construction of improvements and operation of Lessee's business thereon and not to permit said premises to be used in violation of any lawful rule, code, law, regulation or other authority.

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.3 Disposition of Improvements at End of Lease:

Lessee shall have the right to remove all equipment, personal property and improvements which may have been placed upon the premises during the period of this lease provided that the same are removed before the lease is terminated and while the lease is in good standing. Any improvements not removed from the premises at the conclusion of the lease shall revert to the Lessor. Leased premises shall be restored by Lessee to conditions prevailing at the time of commencement of the lease, normal wear excepted.

40.4 Off-Street Parking:

Lessee agrees to provide space for the parking of vehicles in the number necessary to comply with applicable regulations and otherwise to accommodate its normal business requirements on the property included within this lease; and shall not rely upon any public streets, right-of-way or other properties not included in this lease for the parking of said vehicles.

40.5 Utilities:

Lessee shall arrange for normal utilities (water, sewer, gas, garbage, electricity, and telephone). Lessee shall arrange and pay for all utility connections and services and distribution of such utilities within the leased premises.

40.6 Maintenance of Facilities:

Maintenance of the leased premises and all improvements thereon shall be the responsibility of the Lessee.

1. Lessee takes the premises "as is" and shall make all repairs, improvements, and replacements to said premises as are necessary, and maintain the premises in a safe, sanitary, operable, habitable, and usable manner at all times.
2. Lessee agrees to maintain, repair and replace when reasonably necessary, all portions of the property, including but not limited to: roof and gutters, lighting and electrical system, plumbing and drainage, heating and HVAC system (including annual maintenance, duct cleaning and filter changes), interior and exterior stairs, railings, ramps and decks, yard work, parking lot, and walkway surfaces.
3. Use of a wood burning fireplace is prohibited; No portable electric heaters are allowed; Smoking is not allowed inside premises and any smoking allowed must be in a designated area with extinguishing receptacles.
4. Lessee must comply with all laws of fire and safety code, which requires the installation and maintenance of smoke and fire alarms, carbon monoxide detectors, fire extinguishers and must conduct monthly checks for batter replacement and operability. Lessee is required to have annual fire and health code inspections.

No later than, and by December 31st of each year, Lessee shall prepare and submit to Lessor, a written report of the maintenance, repair, and replacement work performed during the preceding 12 months, and any such work scheduled for the ensuing year.

40.7 Access:

Lessor reserves the right of access to the premises for the purpose of securing compliance with the terms of this lease.

40.8 Commit No Waste:

Lessee agrees not to allow conditions of waste and refuse to exist on the above-described premises and to keep the premises in a neat, clean and orderly condition and to be responsible for all damages caused to the leased premises by Lessee, its agents or any third party on the premises at the instance of Lessee.

41.1 Severability:

If any term or condition of this lease or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this lease are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this lease shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this lease shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements

of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Lessee and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 10.2, 11.1, 11.2, 11.3 if utilized, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 40.5, 40.6, 41.1, 41.2, 42.1, and 43.1, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
(INSURANCE)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

A. NON-OWNED AIRCRAFT

Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, exclusion g. Aircraft, Auto Or Watercraft does not apply to an aircraft provided:

1. It is not owned by any insured;
2. It is hired, chartered or loaned with a trained paid crew;
3. The pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating her or him a commercial or airline pilot; and
4. It is not being used to carry persons or property for a charge.

However, the insurance afforded by this provision does not apply if there is available to the insured other valid and collectible insurance, whether primary, excess (other than insurance written to apply specifically in excess of this policy), contingent or on any other basis, that would also apply to the loss covered under this provision.

B. NON-OWNED WATERCRAFT

Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Subparagraph (2) of exclusion g. Aircraft, Auto Or Watercraft is replaced by the following:

This exclusion does not apply to:

- (2) A watercraft you do not own that is:
 - (a) Less than 52 feet long; and
 - (b) Not being used to carry persons or property for a charge.

C. PROPERTY DAMAGE LIABILITY - ELEVATORS

1. Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Subparagraphs (3), (4) and (6) of exclusion j. Damage To Property do not apply if such "property damage" results from the use of elevators. For the purpose of this provision, elevators do not include vehicle lifts. Vehicle lifts are lifts or hoists used in automobile service or repair operations.
2. The following is added to Section IV - Commercial General Liability Conditions, Condition 4. Other Insurance, Paragraph b. Excess Insurance:

The insurance afforded by this provision of this endorsement is excess over any property insurance, whether primary, excess, contingent or on any other basis.

D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)

If Damage To Premises Rented To You is not otherwise excluded from this Coverage Part:

1. Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability:
 - a. The fourth from the last paragraph of exclusion j. Damage To Property is replaced by the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from an automatic fire protection system) to:

 - (i) Premises rented to you for a period of 7 or fewer consecutive days; or
 - (ii) Contents that you rent or lease as part of a premises rental or lease agreement for a period of more than 7 days.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" to contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in Section III - Limits of Insurance.



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- b. The last paragraph of subsection **2. Exclusions** is replaced by the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III - Limits Of Insurance**.

- 2. Paragraph **6.** under **Section III - Limits Of Insurance** is replaced by the following:

- 6. Subject to Paragraph 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:

- a. Any one premise:

- (1) While rented to you; or

- (2) While rented to you or temporarily occupied by you with permission of the owner for damage by fire, lightning, explosion, smoke or leakage from automatic protection systems; or

- b. Contents that you rent or lease as part of a premises rental or lease agreement.

- 3. As regards coverage provided by this provision **D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)** - Paragraph **9.a.** of **Definitions** is replaced with the following:

9.a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with the permission of the owner, or for damage to contents of such premises that are included in your premises rental or lease agreement, is not an "insured contract".

E. MEDICAL PAYMENTS EXTENSION

If **Coverage C Medical Payments** is not otherwise excluded, the Medical Payments provided by this policy are amended as follows:

Under Paragraph **1. Insuring Agreement** of **Section I - Coverage C - Medical Payments**, Subparagraph **(b)** of Paragraph **a.** is replaced by the following:

- (b) The expenses are incurred and reported within three years of the date of the accident; and

F. EXTENSION OF SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

- 1. Under **Supplementary Payments - Coverages A and B**, Paragraph **1.b.** is replaced by the following:

- b. Up to **\$3,000** 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.

- 2. Paragraph **1.d.** is replaced by the following:

- 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.

G. ADDITIONAL INSURED - BY CONTRACT, AGREEMENT OR PERMIT

- 1. Paragraph **2.** under **Section II - Who Is An Insured** is amended to include as an insured any person or organization whom you have agreed to add as an additional insured in a written contract, written agreement or permit. Such person or organization is an additional insured but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by:

- a. Your acts or omissions, or the acts or omissions of those acting on your behalf, in the performance of your on going operations for the additional insured that are the subject of the written contract or written agreement provided that the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" is committed, subsequent to the signing of such written contract or written agreement; or

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- b. Premises or facilities rented by you or used by you; or
- c. The maintenance, operation or use by you of equipment rented or leased to you by such person or organization; or
- d. Operations performed by you or on your behalf for which the state or political subdivision has issued a permit subject to the following additional provisions:
 - (1) This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of the operations performed for the state or political subdivision;
 - (2) This insurance does not apply to "bodily injury" or "property damage" included within the "completed operations hazard".
 - (3) Insurance applies to premises you own, rent, or control but only with respect to the following hazards:
 - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - (b) The construction, erection, or removal of elevators; or
 - (c) The ownership, maintenance, or use of any elevators covered by this insurance.

However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to Paragraph 1.a. above, a person's or organization's status as an additional insured under this endorsement ends when:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

With respect to Paragraph 1.b. above, a person's or organization's status as an additional insured under this endorsement ends when their written contract or written agreement with you for such premises or facilities ends.

With respects to Paragraph 1.c. above, this insurance does not apply to any "occurrence" which takes place after the equipment rental or lease agreement has expired or you have returned such equipment to the lessor.

The insurance provided by this endorsement applies only if the written contract or written agreement is signed prior to the "bodily injury" or "property damage".

We have no duty to defend an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured as required in Paragraph b. of Condition 2. **Duties In the Event Of Occurrence, Offense, Claim Or Suit under Section IV - Commercial General Liability Conditions.**



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2. With respect to the insurance provided by this endorsement, the following are added to Paragraph 2. **Exclusions under Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

- a. "Bodily injury" or "property damage" arising from the sole negligence of the additional insured.
- b. "Bodily injury" or "property damage" that occurs prior to you commencing operations at the location where such "bodily injury" or "property damage" occurs.
- c. "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; or
 - (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

- d. "Bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- e. Any person or organization specifically designated as an additional insured for ongoing operations by a separate **ADDITIONAL INSURED -OWNERS, LESSEES OR CONTRACTORS** endorsement issued by us and made a part of this policy.

3. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or
 - b. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

H. PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED EXTENSION

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

Condition 4. **Other Insurance of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

- a. The following is added to Paragraph a. **Primary Insurance:**

If an additional insured's policy has an Other Insurance provision making its policy excess, and you have agreed in a written contract or written agreement to provide the additional insured coverage on a primary and noncontributory basis, this policy shall be primary and we will not seek contribution from the additional insured's policy for damages we cover.

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b. The following is added to Paragraph **b. Excess Insurance**:

When a written contract or written agreement, other than a premises lease, facilities rental contract or agreement, an equipment rental or lease contract or agreement, or permit issued by a state or political subdivision between you and an additional insured does not require this insurance to be primary or primary and non-contributory, this insurance is excess over any other insurance for which the additional insured is designated as a Named Insured.

Regardless of the written agreement between you and an additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

I. ADDITIONAL INSURED - EXTENDED PROTECTION OF YOUR "LIMITS OF INSURANCE"

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

1. The following is added to Condition **2. Duties In The Event Of Occurrence, Offense, Claim or Suit**:

An additional insured under this endorsement will as soon as practicable:

- a. Give written notice of an "occurrence" or an offense that may result in a claim or "suit" under this insurance to us;
- b. Tender the defense and indemnity of any claim or "suit" to all insurers whom also have insurance available to the additional insured; and
- c. Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.
- d. We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured.

2. The limits of insurance applicable to the additional insured are those specified in a written contract or written agreement or the limits of insurance as stated in the Declarations of this policy and defined in **Section III - Limits of Insurance** of this policy, whichever are less. These limits are inclusive of and not in addition to the limits of insurance available under this policy.

**J. WHO IS AN INSURED - INCIDENTAL MEDICAL ERRORS / MALPRACTICE
WHO IS AN INSURED - FELLOW EMPLOYEE EXTENSION - MANAGEMENT EMPLOYEES**

Paragraph 2.a.(1) of **Section II - Who Is An Insured** is replaced with the following:

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

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1) (a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1) (a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services. However, if you are not in the business of providing professional health care services or providing professional health care personnel to others, or if coverage for providing professional health care services is not otherwise excluded by separate endorsement, this provision (Paragraph (d)) does not apply.

Paragraphs (a) and (b) above do not apply to "bodily injury" or "personal and advertising injury" caused by an "employee" who is acting in a supervisory capacity for you. Supervisory capacity as used herein means the "employee's" job responsibilities assigned by you, includes the direct supervision of other "employees" of yours. However, none of these "employees" are insureds for "bodily injury" or "personal and



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advertising injury" arising out of their willful conduct, which is defined as the purposeful or willful intent to cause "bodily injury" or "personal and advertising injury", or caused in whole or in part by their intoxication by liquor or controlled substances.

The coverage provided by provision J. is excess over any other valid and collectable insurance available to your "employee".

K. NEWLY FORMED OR ADDITIONALLY ACQUIRED ENTITIES

Paragraph 3. of **Section II - Who Is An Insured** is replaced by the following:

3. Any organization you newly acquire or form and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the expiration of the policy period in which the entity was acquired or formed by you;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
 - d. Records and descriptions of operations must be maintained by the first Named Insured.

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

L. FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES

Under **Section IV - Commercial General Liability Conditions**, the following is added to Condition 6. **Representations**:

Your failure to disclose all hazards or prior "occurrences" existing as of the inception date of the policy shall not prejudice the coverage afforded by this policy provided such failure to disclose all hazards or prior "occurrences" is not intentional.

M. KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

Under **Section IV - Commercial General Liability Conditions**, the following is added to Condition 2. **Duties In The Event of Occurrence, Offense, Claim Or Suit**:

Knowledge of an "occurrence", offense, claim or "suit" by an agent, servant or "employee" of any insured shall not in itself constitute knowledge of the insured unless an insured listed under Paragraph 1. of **Section II - Who Is An Insured** or a person who has been designated by them to receive reports of "occurrences", offenses, claims or "suits" shall have received such notice from the agent, servant or "employee".

N. LIBERALIZATION CLAUSE

If we revise this Commercial General Liability Extension Endorsement to provide more coverage without additional premium charge, your policy will automatically provide the coverage as of the day the revision is effective in your state.

O. BODILY INJURY REDEFINED

Under **Section V - Definitions**, Definition 3. is replaced by 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.

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P. EXTENDED PROPERTY DAMAGE

Exclusion a. of COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY is replaced by the following:

a. Expected Or Intended Injury

"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.

Q. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - WHEN REQUIRED IN A CONTRACT OR AGREEMENT WITH YOU

Under **Section IV - Commercial General Liability Conditions**, the following is added to **Condition 8. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard" provided:

1. You and that person or organization have agreed in writing in a contract or agreement that you waive such rights against that person or organization; and
2. The injury or damage occurs subsequent to the execution of the written contract or written agreement.



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