

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.

202302022

Originating Department:	Public Works - Engineering
Division/Program: <i>(i.e. Dept. Division and Program)</i>	905900 / Construction
Contract or Grant Administrator:	Josh Cihak, P.E., Engineering Manager
Contractor's / Agency Name:	Stremler Gravel, Inc.
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: <u>1/24/2023</u> (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Contract _____ Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: <u>922020</u>	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> 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 type="checkbox"/> Goods and services provided due to an emergency <input checked="" type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input checked="" 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): \$ <u>56,080.00</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	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.
Summary of Scope:	
This project includes the installation of three (3) roadway gate sets, for temporary flood closures, on Lampman Rd, Church Rd and Emerson Rd.	
Term of Contract:	Expiration Date:Until Completed

Contract Routing:	1. Prepared by: <u>Kyle Anderson</u>	Date: <u>2/3/2023</u>
	2. Attorney signoff: <u>Christopher Quinn</u>	Date: <u>2/9/2023</u>
	3. AS Finance reviewed: <u>bbennett</u>	Date: <u>02/07/2023</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: <u>Lane Stremler</u>	Date: <u>2/1/2023</u>
	6. Submitted to Exec.: _____ ✓	Date: <u>2-13-23</u>
	7. Council approved (if necessary): <u>Kyle Anderson</u>	Date: <u>1/24/2023</u>
	8. Executive signed: _____ ✓	Date: <u>2-13-23</u>
	9. Original to Council: _____ ✓	Date: <u>2-15-23</u>

Elizabeth Kosa
Interim Director



James P. Karcher, P. E.
County Engineer
322 N. Commercial Street, Ste 301
Bellingham, WA 98225-4042
Phone: (360) 778-6200
Fax: (360) 778-6201

Memorandum

To: The Honorable Tyler Schroeder, Whatcom County Deputy Executive

Through: Elizabeth Kosa, Interim Director *EaK*

From: James P. Karcher, P.E., County Engineer *JPK*
Josh L. Cihak, P.E., Engineering Manager *JL*

Date: February 7, 2023

Re: 2022 Flood Gates Install
CRP No. 922020
Construction Contracts for Signature

RECEIVED

FEB 13 2023

WHATCOM COUNTY
EXECUTIVE'S OFFICE

Enclosed for your review and signature are two (2) originals of the above referenced contract between Whatcom County and Stremler Gravel Inc. in the amount of **\$56,080.00**

Requested Action

Public Works respectfully requests that the County Executive execute the two (2) attached original contracts. Please sign and/or date where indicated.

Background and Purpose

Bids for this project were solicited through the Whatcom County Small Works Roster. Bid proposals for the project were opened at 2:30 p.m. on Thursday, December 29, 2022. A total of two (2) responsive bids were received, with Stremler Gravel, Inc. being the lowest responsible bidder in the amount of \$56,080.00.

Funding Amount and Source

The project will be locally funded. There is sufficient budget authority for this expenditure.

Please contact Josh Cihak at extension 6277 if you have any questions or concerns regarding this contract.

CONTRACT

2022 Flood Gate Install

CRP No. 922020

This Contract, made and entered into this 13th day of February, 2023 by and between Whatcom County, Washington, a municipal Corporation and a Charter County in the State of Washington, hereinafter called the "County" and Stremben Group, Inc. hereinafter called the "Contractor."

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Contract, the parties hereto covenant and agree as follows:

1. The Contractor shall do all of the work and furnish all of the labor, materials, tools and equipment for the construction of the improvements and shall perform any changes in the work, all in full compliance with the contract documents entitled "2022 Flood Gate Install; CRP No. 922020", The Washington State Department of Transportation Standard Specifications, and all sections contained in said contract documents, including: Specifications and Conditions, Contract Forms, construction Plans, and appendices, are hereby referred to and by reference made a part hereof.
2. The County hereby promises and agrees with the Contractor to employ, and does employ the Contractor to furnish the labor, materials, tools and equipment, and to do and cause to be done the above-described work, and to complete and finish the same in accordance with the said contract documents and the terms and conditions herein contained, and hereby contracts to pay for the same, on a force account basis and in accordance with the attached AGC-WSDOT Equipment Rental Agreement, a sum not to exceed \$56,080, subject to the actual quantity of work performed, at the time and in the manner and upon the conditions provided for in this contract.
3. The Contractor for himself, and for his agents, successors, assigns, subcontractors and/or employees, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.
4. The County hereby appoints and the Contractor hereby accepts the Whatcom County Engineer, as the County's representative for the purpose of administering the provisions of this Contract, including the County's right to receive and act on all reports and documents related to this Contract, to request and receive additional information from the Contractor, to assess the general performance of the Contractor under this Contract, to determine if the contracted services are being performed in accordance with Federal, State or local laws, and to administer any other right granted to the County under this Contract. The County expressly reserves the right to terminate this Contract as provided in the contract documents, and also expressly the reserves the right to commence civil action for the enforcement of this contract.

indemnity provisions provided for in the preceding paragraphs of this specification shall be valid and enforceable only to the extent of the indemnitor's negligence.

10. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is mutually understood and agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to interpretation and performance. Any action in law, suit and equity or judicial proceedings for the enforcement of this contract, or any provisions thereof, shall be instituted and maintained in the courts of competent jurisdiction located in Whatcom County, Washington.
11. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Contract 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 obligation, or any other covenants or agreements, but the same shall be and remain in full force and effect.
12. It is understood and agreed by the parties hereto that if any part of this agreement is determined to be illegal, the validity of the remaining portions shall be construed as if the agreement did not contain the particular illegal part.
13. No change or addition to this Contract shall be valid or binding upon either party unless such change or addition shall be in writing, executed by both parties.

IN WITNESS WHEREOF, the Contractor has executed this instrument, on the day and year first below written and the County Executive has caused this instrument to be executed by and in the name of the said County, the day and year first above written.

Executed by the Contractor this 1st day of FEB 2023.

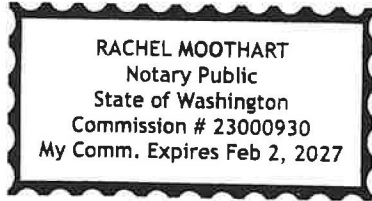
By: [Signature] (SEAL)

Title: LANE STREMLER, Pres

Contractor: STREMLER GRAVEL, INC.

STATE OF WASHINGTON)
) ss.
COUNTY OF Whatcom)

On this 1st day of February, 2023, before me personally appeared Lane Stremler, to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof.



[Signature]
Notary Public, in and for the State of Washington, residing at:

My commission expires: Feb 2, 2027

Executed by Whatcom County this 13th day of February, 2023.

By: [Signature]
Tyler Schroeder
Whatcom County Deputy Executive

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 13th day of February, 2023, before me personally appeared Tyler Schroeder, to me personally known to be the Executive of Deputy Whatcom County described in and who executed the above instrument and who acknowledged to me the act of signing thereof.



Suzanne M. Mildner
Notary Public, in and for the
State of Washington, residing at:
Bellingham

My commission expires: 12-31-26

Approved as to form: [Signature]
Christopher Quinn By LC 2.8.23
Senior Civil Deputy Prosecuting Attorney

CONTRACT BOND

2022 Flood Gate Install

CRP No. 922020

Bond No. 107743440

KNOW ALL MEN BY THESE PRESENTS, that Stremler Gravel, Inc. :

as PRINCIPAL, and Travelers Casualty and Surety Company of America

a corporation duly authorized to do a general Surety business in the State of Washington, as SURETY, are jointly and severally held and bound unto the COUNTY OF WHATCOM, OBLIGEE herein, in the sum of

Fifty-Six Thousand Eighty and 00/100 Dollars :

(\$ 56,080.00), lawful money of the United States, for the payment of which we bind our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the PRINCIPAL has executed and entered into a certain Contract, with the OBLIGEE, dated 2/13/23 in the Contract described, which Contract is hereto annexed.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

If the PRINCIPAL shall well and truly perform and fulfill all and every obligation of the covenants, conditions, stipulations, and agreements in the Contract mentioned to be performed and fulfilled; and shall promptly make payment to all persons supplying him with labor, equipment and materials in the prosecution of the work provided for in the Contract; and shall keep the OBLIGEE harmless and indemnified from and against all and every claim, demand, judgment, lien, cost and fee of every description incurred in suits or otherwise against the OBLIGEE, growing out of or incurred in, the prosecution of the work according to the terms of the Contract; and shall repay to the OBLIGEE all sums of money which the OBLIGEE may pay to other persons on account of work and labor done or materials furnished on or for the Contract; and if the PRINCIPAL shall in all respects, faithfully perform said Contract, then this obligation shall be void; otherwise, the same shall remain in full force and virtue.

It is, however, mutually understood between the parties hereto, that in no event shall the SURETY be liable for a greater sum than the penalty of this bond.

COPY

IN WITNESS WHEREOF, this instrument is executed in 1 counterparts, each one of which shall be deemed an original. This 31st day of January, 2023

WITNESS AS TO PRINCIPAL

Stremler Gravel, Inc. (SEAL)

Principal

By: *LANE STREMLER, PRES*
Travelers Casualty and Surety Company of America

Surety

By: *Julie R Truitt*
Julie R Truitt
Attorney-in-Fact

The Attorney-In-Fact (Resident Agent) who executes this bond on behalf of the Surety, must attach a copy of his power of attorney as evidence of his authority.

APPROVED:
Local Agency: Whatcom County
Title: *Tyler Schroeder*
Deputy County Executive

By: *[Signature]*
Date: *2/13/23*

Approved as to form: *B/Christopher Quinn*
Senior Civil Deputy Prosecuting Attorney *By LC 2.8.23*

Surety Bond No.: 107743440

Wh Co Contract No.: CRP No. 922020
202302022

COPY

RETAINAGE INVESTMENT OPTION

2022 Flood Gate Install

CRP No. 922020

CONTRACTOR: Stremlen Gravel, Inc.

Pursuant to R.C.W. 60.28.010, as amended, you may choose how your retainage under this contract will be held and invested. Please complete and sign this form indicating your preference. If you fail to do so, the County will hold your retainage as described in "Current Expense" option 1 below.

1. **Current Expense:** The County will retain your money in its Current Expense Fund Account until sixty (60) days following final acceptance of the improvement or work as completed. You will not receive interest earned on this money.
2. **Interest Bearing Account:** The County will deposit retainage checks in an interest-bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of the improvement or work as completed or until agreed to by both parties. Interest on the account will be paid to you.
3. **Escrow/Investments:** The County will place the retainage checks in escrow with a bank or trust company until thirty days following the final acceptance of the improvement or work as completed. When the moneys reserved are to be placed in escrow, the County will issue a check representing the sum of the moneys reserved payable to the bank or trust company and you jointly. This check will be converted into bonds and securities chosen by you and approved by the County and these bonds and securities will be held in escrow. Interest on these bonds and securities will be paid to you as interest accrues. If this option is chosen, the bidder shall complete the Escrow Agreement form on the following pages.
4. **Retainage Bond:** The Bidder shall post a retainage bond equal to 5% of the total bid price on this. If this option is chosen, the Bidder shall complete the Retainage Bond form supplied in this document.

Retainage is normally released 45-60 days after final acceptance of work by the County, or following receipt of Washington State Departments of **Labor and Industries / Revenue / Employment Security**, whichever takes longer.


(Contractor's signature)

LANE STEINER, Pres.
(Title)

ESCROW AGREEMENT

Escrow No. _____
Agency Whatcom County

TO: _____

The undersigned, _____, hereinafter referred to as the Contractor, has directed Whatcom County hereinafter referred to as the Agency, to deliver to you its warrants or checks which shall be payable to you and the Contractor jointly. Such warrants or checks are to be held and disposed of by you in accordance with the following instructions and upon the terms and conditions hereinafter set forth.

INSTRUCTIONS

The Agency shall deliver to you from time to time, checks or warrants payable jointly to you and the Contractor. You are hereby authorized by the Contractor to endorse in the Contractor's name, any such check or warrant so that you may receive the proceeds thereof and invest the same. The power of endorsement hereby granted to you by the Contractor shall be deemed a power coupled with an interest and shall be irrevocable during the term of this escrow. Although you may be a payee named in such warrants or checks as shall be delivered to you, your duties and responsibilities with respect to the same shall be only those duties and responsibilities which a depository bank would have, pursuant to Article 4 of the Uniform Commercial Code of the State of Washington for an item deposited with it for collection as of the date such check or warrant shall be delivered to you. The proceeds from collections shall be used by you to purchase, as directed by the Contractor, bonds or other securities chosen by the Contractor and approved by you and the Agency. For the purpose of each such purchase, you may follow the last written direction received by you from the Contractor, provided such direction otherwise conforms with the restrictions or investments recited herein. Attached is a list of such bonds or other securities approved by the Agency. No further approval is necessary if any securities, except stocks, may be selected by the Contractor, subject to express written approval of you and the Agency. Purchase of such bonds or other securities shall be in a form which shall allow you alone to reconvert such bonds or other securities into money if you are required to do so by the Agency as provided in paragraph 4 of this Escrow Agreement.

The investments selected by the Contractor, approved by the Agency and purchase by you must mature on or prior to the date set for the completion of the contract, including extensions thereof or thirty days following the final acceptance of said improvement or work.

When and as interest on the securities held by you pursuant to this agreement accrues and is paid, you shall collect such interest and forward it to the Contractor at the address designated below unless within your written consent you are otherwise directed in writing by the Contractor.

except as herein expressly provided; you shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

The foregoing provisions shall be binding upon the assigns, successors, personal representatives and heirs to the parties hereto.

The undersigned have read and hereby approve the instructions as given above governing the administration of this escrow and do hereby execute this agreement this _____ day of _____, 20____.

Contractor Agency

By: _____
Signature and Title Signature and Title

Address

The above escrow instructions received and accepted this ____ day of _____, 20__.

Bank or Trust Company

By: _____

Bond No. _____

RETAINAGE BOND

KNOW ALL MEN BY THESE PRESENTS, that _____,
A corporation existing under and by virtue of the laws of the State of
_____ and authorized to do business in the State of Washington as
Principal, and _____ a corporation organized and existing under
the laws of the _____ and authorized to transact business in the
State of Washington as Surety, are jointly and severally held and bound unto WHATCOM
COUNTY, WASHINGTON, hereinafter called Obligee, and are similarly held and bound unto the
beneficiaries of the trust fund created by RCW 60.28, in the penal sum of:

_____ Dollars
(\$ _____) which is 5% of the Principal's price on
Contract No. _____.

WHEREAS, on the _____ the said Principal herein executed a
contract with the Obligee, for _____.

WHEREAS, said contract and RCW 60.28 require the Obligee to withhold from the principal the
sum of 5% from monies earned on estimates during the progress of the construction, hereinafter
referred to as earned retained funds.

AND NOW WHEREAS, Principal has requested that the Obligee not retain any earned retained
funds as allowed under RCW 60.28.

NOW THEREFORE, the condition of this obligation is such that the surety is held and bound
unto the beneficiaries of the trust fund created by RCW 60.28 in the penal sum of 5 percent of
the final contract cost which shall include any increases due to change orders, increases in
quantities of work or the addition of any new item of work. If the Principal shall use the earned
retained funds, which will not be retained, for the trust fund purposes of RCW 60.28, then this
obligation shall be null and void; otherwise, it shall remain in full force and effect until release is
authorized in writing by the Obligee.

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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Propel Insurance 601 Union Street; Suite 3400 COM Construction Seattle, WA 98101-1371	CONTACT NAME: Rainey Lindholm
	PHONE (A/C, No, Ext): 800 499-0933 FAX (A/C, No): 866 577-1326 E-MAIL ADDRESS: rainey.lindholm@propelinsurance.com
INSURED Stremler Gravel, Inc. P O Box 527 Lynden, WA 98264	INSURER(S) AFFORDING COVERAGE INSURER A: BITCO General Insurance Corporation NAIC # 20095
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

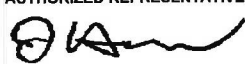
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE 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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> PD Ded: 2,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			CLP3723781	12/05/2022	12/05/2023	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 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 OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/>			CAP2723782	12/05/2022	12/05/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000			CUP2821547	12/05/2022	12/05/2023	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			CLP3723781 WA Stop Gap	12/05/2022	12/05/2023	PER STATUTE 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
A	<input checked="" type="checkbox"/> Leased & Rented Equipment Scheduled Equip			CLP3723781 CLP3723781	12/05/2022 12/05/2022	12/05/2023 12/05/2023	\$500,000 Limit \$1,000 Ded See Description Below

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

RE: 2022 Flood Gate Install, CRP #922020.

Whatcom County, and its officers, elected officials, employees, agents and volunteers shall be included as additional insured per the attached endorsements.

CERTIFICATE HOLDER Whatcom County 311 Grand Avenue Bellingham, WA 98225	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 page has been left blank intentionally.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TRANSPORTATION CONTRACTORS EXTENDED LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

It is agreed that the provisions listed below apply only upon the entry of an in the box next to the caption of such provision.

- | | |
|--|---|
| A. <input checked="" type="checkbox"/> Partnership and Joint Venture Extension | N. <input checked="" type="checkbox"/> Construction Project General Aggregate Limits |
| B. <input checked="" type="checkbox"/> Contractors Automatic Additional Insured Coverage – Ongoing Operations | O. <input checked="" type="checkbox"/> Fellow Employee Coverage |
| C. <input checked="" type="checkbox"/> Automatic Waiver of Subrogation | P. <input checked="" type="checkbox"/> Property Damage Liability - Elevators |
| D. <input checked="" type="checkbox"/> Extended Notice of Cancellation, Nonrenewal | Q. <input checked="" type="checkbox"/> Property Damage to the Named Insured's Work |
| E. <input checked="" type="checkbox"/> Unintentional Failure to Disclose Hazards | R. <input checked="" type="checkbox"/> Care, Custody or Control |
| F. <input checked="" type="checkbox"/> Broadened Mobile Equipment | S. <input checked="" type="checkbox"/> Electronic Data Liability Coverage |
| G. <input checked="" type="checkbox"/> Personal and Advertising Injury - Contractual Coverage | T. <input checked="" type="checkbox"/> Consolidated Insurance Program Residual Liability Coverage |
| H. <input checked="" type="checkbox"/> Nonemployment Discrimination | U. <input checked="" type="checkbox"/> Automatic Additional Insureds – Managers or Lessors of Premises |
| I. <input checked="" type="checkbox"/> Liquor Liability | V. <input checked="" type="checkbox"/> Automatic Additional Insureds – State or Governmental Agency or Political Subdivisions – Permits or Authorizations |
| J. <input checked="" type="checkbox"/> Broadened Conditions | W. <input checked="" type="checkbox"/> Contractors Automatic Additional Insured Coverage – Completed Operations |
| K. <input checked="" type="checkbox"/> Automatic Additional Insureds – Equipment Leases | X. <input checked="" type="checkbox"/> Additional Insured – Engineers, Architects or Surveyors |
| L. <input checked="" type="checkbox"/> Suits Against Dredges and Barges | |
| M. <input checked="" type="checkbox"/> Insured Contract Extension - Railroad Property and Construction Contracts | |

A. PARTNERSHIP AND JOINT VENTURE EXTENSION

The following provision is added to **SECTION II - WHO IS AN INSURED**:

The last full paragraph which reads as follows:

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.

is deleted and replaced with the following:

With respect to the conduct of any past or present joint venture or partnership not shown as a Named Insured in the Declarations and of which you are or were a partner or member, you are an insured, but only with respect to liability arising out of "your work" on behalf of any partnership or joint venture not shown as a Named Insured in the Declarations, provided no other similar liability insurance is available to you for "your work" in connection with your interest in such partnership or joint venture.

B. CONTRACTORS AUTOMATIC ADDITIONAL INSURED COVERAGE – ONGOING OPERATIONS

SECTION II – WHO IS AN INSURED is amended to include as an additional insured any person or organization who is required by written contract to be an additional insured on your policy, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the project(s) designated in the written contract.

With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "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.

This insurance is excess of all other insurance available to the additional insured, whether primary, excess, contingent or on any other basis, unless the written contract requires this insurance to be primary. In that event, this insurance will be primary relative to insurance policy(s) which designate the additional insured as a Named Insured in the Declarations and we will not require contribution from such insurance if the written contract also requires that this insurance be non-contributory. But with respect to all other insurance under which the additional insured qualifies as an insured or additional insured, this insurance will be excess.

C. AUTOMATIC WAIVER OF SUBROGATION

Item 8. of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, is deleted and replaced with the following:

- 8. Transfer of Rights of Recovery Against Others to Us and Automatic Waiver of Subrogation.**
 - a. If the insured has rights to recover all or part of any payment we have made under this Coverage Form, those rights are transferred to us. The insured must do nothing after loss to impair those rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.
 - b. If required by a written contract executed prior to loss, 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 "your work" for that person or organization.

D. EXTENDED NOTICE OF CANCELLATION, NONRENEWAL

Item **A.2.b.** of the **COMMON POLICY CONDITIONS**, is deleted and replaced with the following:

A.2.b. 60 days before the effective date of the cancellation if we cancel for any other reason.

Item **9.** of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, is deleted and replaced with the following:

9. WHEN WE DO NOT RENEW

- a. If we choose to nonrenew this policy, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 60 days before the expiration date.
- b. If we do not give notice of our intent to nonrenew as prescribed in **a.** above, it is agreed that you may extend the period of this policy for a maximum additional sixty (60) days from its scheduled expiration date. Where not otherwise prohibited by law, the existing terms, conditions and rates will remain in effect during that extension period. It is further agreed that so long as it is not otherwise prohibited by law, this one time sixty day extension is the sole remedy and liquidated damages available to the insured as a result of our failure to give the notice as prescribed in **9. a.** above.

E. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Although we relied on your representations as to existing and past hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

F. BROADENED MOBILE EQUIPMENT

Item **12.b.** of **SECTION V - DEFINITIONS**, is deleted and replaced with the following:

12.b. Vehicles maintained for use solely on or next to premises, sites or locations you own, rent or occupy.

G. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL COVERAGE

Exclusion 2.e. of **SECTION I, COVERAGE B** is deleted.

H. NONEMPLOYMENT DISCRIMINATION

Unless "personal and advertising injury" is excluded from this policy:

Item **14.** of **SECTION V - DEFINITIONS**, is amended to include:

"Personal and advertising injury" also means embarrassment or humiliation, mental or emotional distress, physical illness, physical impairment, loss of earning capacity or monetary loss, which is caused by "discrimination."

SECTION V - DEFINITIONS, is amended to include:

"Discrimination" means the unlawful treatment of individuals based on race, color, ethnic origin, age, gender or religion.

Item 2. Exclusions of SECTION I, COVERAGE B, is amended to include:

"Personal and advertising injury" arising out of "discrimination" directly or indirectly related to the past employment, employment or prospective employment of any person or class of persons by any insured;

"Personal and advertising injury" arising out of "discrimination" by or at your, your agents or your "employees" direction or with your, your agents or your "employees" knowledge or consent;

"Personal and advertising injury" arising out of "discrimination" directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any dwelling, permanent lodging or premises by or at the direction of any insured.

Fines, penalties, specific performance or injunctions levied or imposed by a governmental entity, or governmental code, law, or statute because of "discrimination."

I. LIQUOR LIABILITY

Exclusion 2.c. of SECTION I, COVERAGE A, is deleted.

J. BROADENED CONDITIONS

Items 2.a. and 2.b. of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, are deleted and replaced with the following:

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

a. You must see to it that we are notified of an "occurrence" or an offense which may result in a claim as soon as practicable after the "occurrence" has been reported to you, one of your officers or an "employee" designated to give notice to us. Notice should include:

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

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

- (1) Record the specifics of the claim or "suit" and the date received as soon as you, one of your officers, or an "employee" designated to record such information is notified of it; and
- (2) Notify us in writing as soon as practicable after you, one of your officers, your legal department or an "employee" you designate to give us such notice learns of the claims or "suit."

Item 2.e. is added to SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:

2.e. If you report an "occurrence" to your workers compensation insurer which develops into a liability claim for which coverage is provided by the Coverage Form, failure to report such "occurrence" to us at the time of "occurrence" shall not be deemed in violation of paragraphs 2.a., 2.b., and 2.c. However, you shall give written notice of this "occurrence" to us as soon as you are made aware of the fact that this "occurrence" may be a liability claim rather than a workers compensation claim.

K. AUTOMATIC ADDITIONAL INSURED - EQUIPMENT LEASES

SECTION II - WHO IS AN INSURED is amended to include any person or organization with whom you agree in a written equipment lease or rental agreement to name as an additional insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, at least in part, by your maintenance, operation, or use by you of the equipment leased to you by such person or organization, subject to the following additional exclusions.

The insurance provided to the additional insured does not apply to:

1. "Bodily injury" or "property damage" occurring after you cease leasing the equipment.
2. "Bodily injury" or "property damage" arising out of the sole negligence of the additional insured.
3. "Property damage" to:
 - a. Property owned, used or occupied by or rented to the additional insured; or
 - b. Property in the care, custody or control of the additional insured or over which the additional insured is for any purpose exercising physical control.

This insurance is excess of all other insurance available to the additional insured, whether primary, excess, contingent or on any other basis, unless the written contract requires this insurance to be primary. In that event, this insurance will be primary relative to insurance policy(s) which designate the additional insured as a Named Insured in the Declarations and we will not require contribution from such insurance if the written contract also requires that this insurance be non-contributory. But with respect to all other insurance under which the additional insured qualifies as an insured or additional insured, this insurance will be excess.

L. SUITS AGAINST DREDGES AND BARGES

We agree that any "suit" in rem against any dredge or barge owned, operated by or for you, and used in your operations, shall in all respects be treated in the same manner as though the "suit" were against you.

This coverage is excess over and above any specific insurance on any dredge or barge owned, operated by or for you, and used in your operations.

M. INSURED CONTRACT EXTENSION - RAILROAD PROPERTY AND CONSTRUCTION CONTRACTS

Item 9. of **SECTION V - DEFINITIONS**, is deleted and replaced with the following.

9. "Insured Contract" means:
 - 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 to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;

- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
- (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

N. CONSTRUCTION PROJECT GENERAL AGGREGATE LIMITS

This modifies **SECTION III - LIMITS OF INSURANCE**.

- A. For all sums which can be attributed only to ongoing operations at a single construction project for which the insured becomes legally obligated to pay as damages caused by an "occurrence" under **SECTION I - COVERAGE A**, and for all medical expenses caused by accidents under **SECTION I - COVERAGE C**:
1. A separate Construction Project General Aggregate Limit applies to each construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard," and for medical expenses under **COVERAGE C** regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits."
 3. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the Construction Project General Aggregate Limit for that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Construction Project General Aggregate Limit for any other construction project.
 4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Construction Project General Aggregate Limit.

- B.** For all sums which cannot be attributed only to ongoing operations at a single construction project for which the insured becomes legally obligated to pay as damages caused by an "occurrence" under **SECTION I - COVERAGE A**, and for all medical expenses caused by accidents under **SECTION I - COVERAGE C**:
1. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Construction Project General Aggregate Limit.
- C.** Payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Construction Project General Aggregate Limit.
- D.** If a construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E.** The provisions of **SECTION III - LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to be applicable.

O. FELLOW EMPLOYEE COVERAGE

Exclusion 2.e. Employers Liability of **SECTION I, COVERAGE A**, is deleted and replaced with the following:

2.e. "Bodily injury" to

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to:

- (1) Liability assumed by the insured under an "insured contract"; or
- (2) Liability arising from any action or omission of a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business.

Item 2.a. (1)(a) of **SECTION II - WHO IS AN INSURED**, is deleted and replaced with the following:

2.a. (1)(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), or to your "volunteer workers" while performing duties related to the conduct of your business.

P. PROPERTY DAMAGE LIABILITY - ELEVATORS

"Property damage" liability is changed as follows:

1. **Exclusions 2.j.(3) and 2.j.(4) of SECTION I, COVERAGE A**, do not apply to the use of elevators.
2. The insurance afforded by reason of this provision is excess over any valid and collectible property insurance (including any deductible portion thereof) available to the insured whether primary, excess, contingent or on any other basis, and the **OTHER INSURANCE** condition is changed accordingly.

Q. PROPERTY DAMAGE TO THE NAMED INSURED'S WORK

Exclusion I of SECTION I, COVERAGE A, is deleted and replaced with the following:

I. Damage to Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products completed operation hazard."

This exclusion applies only to that portion of any loss in excess of \$50,000 per occurrence if the damaged work and the work out of which the damage arises was performed by you.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

R. CARE, CUSTODY OR CONTROL

Exclusion 2.j.4 of SECTION I, COVERAGE A, is deleted and replaced with the following:

- 2.j.4** Personal property in the care, custody or control of the insured. However, for personal property in the care, custody or control of you or your "employees," this exclusion applies only to that portion of any loss in excess of \$25,000 per occurrence, subject to the following terms and conditions;
- (a) The most that we will pay under this provision as an annual aggregate is \$100,000, regardless of the number of occurrences.
 - (b) This provision does not apply to "employee" owned property or any property that is missing where there is not physical evidence to show what happened to the property.
 - (c) The aggregate limit for this coverage provision is part of the General Aggregate Limit and **SECTION III - LIMITS OF INSURANCE** is changed accordingly.
 - (d) In the event of damage to or destruction of property covered by this exception, you shall, if requested by us, replace the property or furnish the labor and materials necessary for repairs thereto, at actual cost to you, exclusive of prospective profit or overhead charges of any nature.

- (e) \$2,500 shall be deducted from the total amount of all sums you became obligated to pay as damages on account of damage to or destruction of all property of each person or organization, including the loss of use of that property, as a result of each "occurrence." Our limit of liability under the endorsement as being applicable to each "occurrence" shall be reduced by the amount of the deductible indicated above; however, our aggregate limit of liability under this provision shall not be reduced by the amount of such deductible. The conditions of the policy, including those with respect to duties in the event of "occurrence," claims or "suit" apply irrespective of the application of the deductible amount. 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.

S. ELECTRONIC DATA LIABILITY COVERAGE

1. **Exclusion 2.p. Electronic Data** of **SECTION I, COVERAGE A**, is deleted and replaced with the following:
 - 2.p. Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.
2. The following definition is added to **SECTION V – DEFINITIONS**:

"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, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
3. For the purposes of this coverage, the definition of "property damage" in **SECTION V – DEFINITIONS** is replaced by the following:

"Property damage" means:

 - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;
 - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it; or
 - c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

T. CONSOLIDATED INSURANCE PROGRAM RESIDUAL LIABILITY COVERAGE

With respect to "bodily injury", "property damage", or "personal and advertising injury" arising out of your ongoing operations; or operations included within the "products-completed operations hazard", the policy to which this coverage is attached shall apply as excess insurance over coverage available to "you" under a Consolidated Insurance Program (such as an Owner Controlled Insurance Program or Contractors Controlled Insurance Program).

Coverage afforded by this endorsement does not apply to any Consolidated Insurance Program involving a "residential project" or any deductible or insured retention, specified in the Consolidated Insurance Program.

The following is added to **Section V – Definitions**

“Residential project” means any project where 30% or more of the total square foot area of the structures on the project is used or is intended to be used for human residency. This includes but is not limited to single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments and appurtenant structures (including pools, hot tubs, detached garages, guest houses or any similar structures). A “residential project” does not include military owned housing, college/university owned housing or dormitories, long term care facilities, hotels, motels, hospitals or prisons.

All other terms, provisions, exclusions and limitations of this policy apply.

U. AUTOMATIC ADDITIONAL INSUREDS - MANAGERS OR LESSORS OR PREMISES

SECTION II – WHO IS AN INSURED is amended to include:

Any person or organization with whom you agree in a written contract or written agreement to name as an additional insured but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises, designated in the written contract or written agreement, that is leased to you and subject to the following additional exclusions:

This insurance does not apply to:

1. Any “occurrence” which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the additional insured listed in the written contract or written agreement.

This insurance is excess of all other insurance available to the additional insured, whether primary, excess, contingent or on any other basis, unless the written contract requires this insurance to be primary. In that event, this insurance will be primary relative to insurance policy(s) which designate the additional insured as a Named Insured in the Declarations and we will not require contribution from such insurance if the written contract also requires that this insurance be non-contributory. But with respect to all other insurance under which the additional insured qualifies as an insured or additional insured, this insurance will be excess.

V. AUTOMATIC ADDITIONAL INSUREDS – STATE OR GOVERNMENTAL AGENCY OR POLITICAL SUBDIVISIONS – PERMITS OR AUTHORIZATIONS

SECTION II – WHO IS AN INSURED is amended to include any state or governmental agency or subdivision or political subdivision with whom you are required by written contract, ordinance, law or building code to name as an additional insured subject to the following provisions:

This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

This insurance does not apply to:

1. “Bodily injury”, “property damage” or “personal and advertising injury” arising out of operations performed for the federal government, state or municipality; or
2. “Bodily injury” or “property damage” included within the “products-completed operations hazard”.

This insurance is excess of all other insurance available to the additional insured, whether primary, excess, contingent or on any other basis, unless the written contract requires this insurance to be primary. In that event, this insurance will be primary relative to insurance policy(s) which designate the additional insured as a Named Insured in the Declarations and we will not require contribution

from such insurance if the written contract also requires that this insurance be non-contributory. But with respect to all other insurance under which the additional insured qualifies as an insured or additional insured, this insurance will be excess.

W. CONTRACTORS AUTOMATIC ADDITIONAL INSURED COVERAGE – COMPLETED OPERATIONS

SECTION II – WHO IS AN INSURED is amended to include as an additional insured any person or organization who is required by written contract to be an additional insured on your policy for completed operations, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the project designated in the contract, performed for that additional insured and included in the "products-completed operations hazard".

This insurance is excess of all other insurance available to the additional insured, whether primary, excess, contingent or on any other basis, unless the written contract requires this insurance to be primary. In that event, this insurance will be primary relative to insurance policy(s) which designate the additional insured as a Named Insured in the Declarations and we will not require contribution from such insurance if the written contract also requires that this insurance be non-contributory. But with respect to all other insurance under which the additional insured qualifies as an insured or additional insured, this insurance will be excess.

X. ADDITIONAL INSURED – ENGINEERS, ARCHITECTS OR SURVEYORS

SECTION II – WHO IS AN INSURED is amended to include as an additional insured any architect, engineer or surveyor who is required by written contract to be an additional insured on your policy, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations performed by you or on your behalf.

This includes such architect, engineer or surveyor, who may not be engaged by you, but is contractually required to be added as an additional insured to your policy.

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

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

1. The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
2. Supervisory, inspection or engineering services.

This insurance is excess of all other insurance available to the additional insured, whether primary, excess, contingent or on any other basis, unless the written contract requires this insurance to be primary. In that event, this insurance will be primary relative to insurance policy(s) which designate the additional insured as a Named Insured in the Declarations and we will not require contribution from such insurance if the written contract also requires that this insurance be non-contributory. But with respect to all other insurance under which the additional insured qualifies as an insured or additional insured, this insurance will be excess.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BROADENED COVERAGE - AUTOMOBILES

The following modifies insurance provided under:

BUSINESS AUTO COVERAGE FORM

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

- | | |
|---|--|
| 1 - Broad Form Named Insured | 11 - Bodily Injury Extension |
| 2 - Automatic Waiver of Subrogation | 12 - Hired Auto Physical Damage |
| 3 - Automatic Additional Insured | 13 - Enhanced Supplementary Payments |
| 4 - Primary and Noncontributory - Other Insurance Condition | 14 - Fellow Employee Coverage for Designated Positions |
| 5 - Unintentional Failure to Disclose Hazards | 15 - Physical Damage – Transportation Expenses |
| 6 - Extended Notice of Cancellation, Non-Renewal | 16 - Rental Reimbursement Coverage |
| 7 - When We Do Not Renew | 17 - Loan/Lease Gap Coverage |
| 8 - Notice of Knowledge of Accident or Loss | 18 - Accidental Air Bag Discharge Coverage |
| 9 - Employees as Insured | 19 - Glass Repair – Waiver of Deductible |
| 10 - Employee Hired Autos | |

1. BROAD FORM NAMED INSURED

SECTION II. A. 1. -WHO IS AN INSURED - Paragraph d. is added:

- d. Any organization you newly acquire or form, except for a partnership, joint venture or limited liability company, and over which you maintain majority ownership or interest (51% or more) or for which you have assumed the active management, will qualify as a Named Insured if there is no other similar insurance available to that organization. However, coverage under this provision is only afforded until the end of the policy period or the 12-month anniversary of the policy inception date, whichever is earlier.

2. AUTOMATIC WAIVER OF SUBROGATION

Section IV – Business Auto Conditions, Paragraph A5., Transfer of Rights of Recovery Against Others to Us, is deleted and replaced with the following:

- a. If the insured has rights to recover all or part of any payment we have made under this Coverage Form, those rights are transferred to us. The insured must do nothing after loss to impair those rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.
- b. If required by a written contract executed prior to loss, we waive any right of recovery we may have against any person or organization because of payments we make for damages under this coverage form.

3. AUTOMATIC ADDITIONAL INSURED

SECTION II – WHO IS AN INSURED, Paragraph A.1, is amended to include as an "insured" any person or organization who is required by written contract or agreement to be an additional insured on your policy, but only with respect to liability arising out of operations performed by you or on your behalf for the additional insured.

4. PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

The following is added to the Other Insurance Condition in the Business Auto Coverage Form and the Other Insurance - Primary And Excess Insurance Provisions in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

5. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Although we relied on your representations as to existing and past hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

6. EXTENDED NOTICE OF CANCELLATION, NON-RENEWAL

The **COMMON POLICY CONDITIONS** , Item **A.2.b.** is deleted and replaced with the following:

A.2.b. 60 days before the effective date of the cancellation if we cancel for any other reason.

7. WHEN WE DO NOT RENEW

SECTION IV – BUSINESS AUTO CONDITIONS , is amended to add Item **B.9.**:

- a. If we choose to nonrenew this policy, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 60 days before the expiration date.
- b. If we do not give notice of our intent to nonrenew as prescribed in **a.** above, it is agreed that you may extend the period of this policy for a maximum additional sixty (60) days from its scheduled expiration date. Where not otherwise prohibited by law, the existing terms, conditions and rates will remain in effect during that extension period. It is further agreed that so long as it is not otherwise prohibited by law, this one-time sixty-day extension is the sole remedy and liquidated damages available to the insured as a result of our failure to give the notice as prescribed in **9. a.** above.

8. NOTICE OF KNOWLEDGE OF ACCIDENT OR LOSS

SECTION IV - BUSINESS AUTO CONDITIONS , Item **A.2.a.** is deleted and replaced with the following:

2 Duties in the Event of Accident, Claim Suit or Loss:

- a. You must see to it that we are notified of an "accident", "claim", "suit" or "loss" which may result in a claim as soon as practicable after the "occurrence" has been reported to you, a partner, a member, an officer, or an employee designated to give notice to us. Notice should include:

- (1) How, when and where the "accident" or "loss" occurred;

- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

9. EMPLOYEES AS INSURED

The following is added to the **Section II - Covered Autos Liability Coverage**, Paragraph **A.1. Who Is An Insured** provision:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

10. EMPLOYEE HIRED AUTOS

A. Changes In Covered Autos Liability Coverage

The following is added to the **Who Is An Insured** Provision:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

B. Changes In General Conditions

Paragraph **5.b.** of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph **5.f.** of the **Other Insurance - Primary And Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

1. Any covered "auto" you lease, hire, rent or borrow, and
2. Any covered "auto" hired or rented by your "employee" under a contract in an "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".

11. BODILY INJURY EXTENSION

SECTION V - DEFINITIONS , Paragraph **C.** is deleted and replaced by the following:

- C.** "Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish or death resulting from any of these, at any time. Mental anguish means any type of mental or emotional illness or disease.

12. HIRED AUTO PHYSICAL DAMAGE

SECTION III.A.4. - Coverage Extensions - Paragraph **c.** is added:

c. Hired Auto Physical Damage

If Comprehensive, Specified Causes of Loss or Collision coverage is provided under this policy, then Hired Auto Physical Damage is provided for that coverage part subject to the following:

- (1) The most we will pay for any one "accident" or "loss" under this Hired Auto Physical Damage Coverage is the lesser of:
 - (a) The any one "Accident" or "Loss" amount of \$100,000;
 - (b) The actual cash value; or

(c) Cost of repair.

Our obligation to pay for a loss in c.(1) above will be reduced by a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. The deductible will be waived for "loss" caused by fire or lightning.

- (2) Subject to paragraph c.(1). above, we will provide coverage equal to the broadest physical damage coverage applicable to any covered "auto" shown in the declarations.
- (3) When you are required by written contract to indemnify a lessor for actual financial loss because of loss of use of a hired "auto" resulting from a covered "accident" or "loss", we will cover that financial loss subject to the limit specified in paragraph c.(1).

13. ENHANCED SUPPLEMENTARY PAYMENTS

SECTION II.A.2.a. COVERAGE EXTENSIONS, Supplementary Payments (2) and (4) are replaced by the following:

- (2) Up to \$2,500 for the cost of bail bonds (including bonds for related traffic laws violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$350 a day because of time off from work.

14. FELLOW EMPLOYEE COVERAGE FOR DESIGNATED POSITIONS

The **Fellow Employee Exclusion contained in Section II.B.5.** does not apply to the following positions or job titles: foreman, supervisor, manager, officer, partner or other senior level "employee". Coverage is excess over all other collectible insurance.

15. PHYSICAL DAMAGE - TRANSPORTATION EXPENSES

SECTION III.A.4.a. Transportation Expenses is replaced by the following:

a. Transportation Expenses

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto". We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Cause of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expirations, when the covered "auto" is returned to use or we pay for its "loss".

For autos provided with temporary transportation expense, the following physical damage coverage will apply:

- (1) The most we will pay for any one "accident" or "loss" under the temporary transportation expense physical damage coverage is the lessor of:
 - (a) The any one "Accident" or "Loss" amount of \$100,000;
 - (b) The actual cash value; or
 - (c) Cost of repair.

Our obligation to pay for a loss in a.(1) above will be reduced by a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. The deductible will be waived for "loss" caused by fire or lightning.

- (2) Subject to paragraph a.(1). above, we will provide coverage equal to the broadest physical damage coverage applicable to any covered "auto" shown in the declarations.
- (3) When you are required by written contract to indemnify a lessor for actual financial loss because of loss of use of a hired "auto" resulting from a covered "accident" or "loss", we will cover that financial loss subject to the limit specified in paragraph a.(1).

16. RENTAL REIMBURSEMENT COVERAGE

SECTION III.A.4. - Coverage Extensions - Paragraph **d.** is added.

- d.** If you carry Comprehensive, Specified Causes of Loss or Collision coverage for the damaged covered "auto" as provided under this policy, then Rental Reimbursement Coverage is provided for that coverage part subject to the following:
 1. We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" other than theft, to a covered "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto". No deductibles apply to this coverage.
 2. We will only pay for those expenses incurred during the policy period 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"; or,
 - (b) 30 days.
 - (c) Our payment is limited to the lesser of the following amounts:
 - (1) Necessary and actual expenses incurred; or
 - (2) \$50 per day.

17. LOAN/LEASE GAP COVERAGE

Physical Damage Coverage is amended by the addition of the following:

In the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the loss and the "outstanding balance" of the loan/lease, not to exceed \$2,500 for any one vehicle or \$25,000 annually in aggregate.

For the purposes of this endorsement, "outstanding balance" means the amount you owe on the loan/lease at the time of loss less any amounts representing taxes, overdue payments, penalties, interest or charges resulting from overdue payments, additional mileage charges, excess wear and tear charges or lease termination fees, costs for extended warranties, credit Life Insurance; Health, Accident or Disability Insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

18. ACCIDENTAL AIR BAG DISCHARGE COVERAGE

SECTION III.B.3.a - Exclusions . This exclusion does not apply to the accidental discharge of an air bag.

19. GLASS REPAIR - WAIVER OF DEDUCTIBLE

SECTION III.D - Deductible is replaced with the following:

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning. The deductible does not apply to glass damage if the glass is repaired rather than replaced.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WASHINGTON CHANGES

For a covered "auto" licensed or principally garaged in, or for "auto dealer operations" conducted in, Washington, this endorsement modifies insurance provided under the following:

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

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

A. Changes In Covered Autos Liability Coverage

The **Employee Indemnification And Employer's Liability** Exclusion applies only to "bodily injury" to any "employee" of the "insured" whose employment is not subject to the Industrial Insurance Act of Washington (Washington Revised Code Title 51).

With respect to "bodily injury" to "employees" of the "insured" whose employment is subject to the Industrial Insurance Act of Washington, the **Employee Indemnification And Employer's Liability** Exclusion is replaced by the following:

Employee Indemnification And Employer's Liability

This insurance does not apply to "bodily injury" to:

- a. An "employee" of the "insured" arising out of and in the course of:
 - (1) Employment by the "insured"; or
 - (2) Performing duties related to the conduct of the "insured's" business; or
- b. Any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". A domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

B. Changes In Physical Damage Coverage

1. The lead-in to Paragraph **B.1.** in the Business Auto and Motor Carrier Coverage Forms and Paragraph **F.3.a.** in the Auto Dealers Coverage Form is replaced by the following:

We will not pay for "loss" caused directly or indirectly by any of the following:

2. The **Limit Of Insurance** provision with respect to repair or replacement resulting in better than like kind or quality is replaced by the following and supersedes any provision to the contrary:

We may deduct for betterment for parts normally subject to repair and replacement during the useful life of the "auto". In this event, deductions shall be limited to the lesser of:

- a. An amount equal to the proportion that the expired life of the part to be repaired or replaced bears to the normal useful life of that part; or
 - b. The amount by which the resale value of the "auto" is increased from the repair or replacement.
3. The following is added to the **Limit Of Insurance** provision:

We will not pay for a "loss" which is paid under Underinsured Motorists Coverage.