



Roll Call Number

22-0640

Agenda Item Number

59A

DATE April 18, 2022

APPROVAL OF CONTRACT AND BOND
AND PERMISSION TO SUBLET ON
2022 HMA RESIDENTIAL PAVING PROGRAM CONTRACT 1
\$1,054,288.50

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the contract and bond, in the amount of \$1,054,288.50, executed by Grimes Asphalt and Paving Corporation, Timothy Mallicoat, President, 5550 NE 22nd Street, Des Moines, IA, 50313 dated April 18, 2022, for the construction of the following improvement:

2022 HMA Residential Paving Program Contract 1, 062022013

The improvements include furnishing labor, equipment, and materials for the removal of existing Hot Mix Asphalt (HMA) pavement and surfacing materials by milling/scarifying to an average depth of four (4) inches, prepare subgrade/subbase, reconstruct with four (4) inches of HMA pavement with two (2) lifts, replace sections of Portland Cement Concrete (PCC) curb and gutter, and replace existing sidewalk ramps with ADA compliant ramps; all in accordance with the contract documents and as directed by the engineer at the following locations within the City of Des Moines, Iowa:

E. Leland Avenue from Indianola Avenue to dead end west
E. Railroad Avenue from S.E. 14th Street to S.E. 14th Court
S.E. 14th Court from E. Railroad to Maury Street
Hillside Avenue from S.W. 9th Street to Bancroft Street
Irving Street from Homes Street to Bancroft Street
S.W. 5th Street from Cutler Avenue to Kenyon Avenue
Kinsey Avenue from E. 33rd Street to E. 35th Street
E. 35th Street from Kinsey Avenue to dead end north
Eastwood Drive from E. 34th Street to E. 35th Street
E. 34th Street from Kinsey Avenue to Eastwood Drive
E. 36th Street from Kinsey Avenue to dead end north
E. Sheridan Avenue from E. 42nd Street to 4233 E. Sheridan Avenue
Snyder Avenue from Merle Hay Road to 61st Street
Rollins Avenue from 25th Street to 26th Street
26th Street from Rollins Avenue (north) to Rollins Avenue (south)

The improvements include furnishing labor, equipment, and materials for the removal of existing Hot Mix Asphalt (HMA) pavement and surfacing materials by milling/scarifying to an average depth of six (6) inches, prepare subgrade/subbase, reconstruct with six (6) inches HMA pavement with two (2) lifts, and replace sections of Portland Cement Concrete (PCC) curb and gutter; all in accordance with the contract documents and as directed by the engineer at the following sites within the City of Des Moines, Iowa:

31st Street from Grand Avenue to 532 31st Street

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

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

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

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

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

(City Council Communication Number 22-167 attached)Moved by Gatto to adopt. Second by Boesen

FORM APPROVED

FUNDS AVAILABLE

s/Kathleen VanderpoolKathleen Vanderpool
Deputy City Attorneys/Nickolas J. SchaulNickolas J. Schaul
Director of Finance**SLN** Funding Source: 2022-23 CIP, Page 110, Roadway Rehabilitation – Residential, ST013, G.O. Bonds

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

MOTION CARRIED

APPROVED

J. M. Franklin Cownie

Mayor

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

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

P. Kay Cmelik

City Clerk

Department of Engineering
City of Des Moines, Iowa



CONTRACTOR'S ANTICIPATED DBE/TSB UTILIZATION

2022 HMA Residential Paving Program Contract 1

Activity ID 062022013

On March 22, 2022, Grimes Asphalt and Paving Corporation, Timothy Mallicoat, President, 5550 NE 22nd Street, Des Moines, IA 50313 submitted a proposal for construction of the 2022 HMA Residential Paving Program Contract 1, Activity ID 062022013, which the City Council has determined to be the lowest responsible, responsive bid for said project in the amount of \$1,054,288.50. The proposal included a statement that the Disadvantaged Business Enterprise/Targeted Small Business (DBE/TSB) Program shall apply to this project.

The Engineering Department has prepared this report summarizing the information that Grimes Asphalt and Paving Corporation, has submitted indicating that it anticipates utilizing the following DBE/TSB companies on this project:

<u>DBE/TSB Name</u>	<u>Description of Work</u>	<u>Estimated Amount</u>
None	N/A	\$0.00
Estimated DBE/TSB Participation		\$0.00
Grimes Asphalt and Paving Corporation Amount		\$1,054,288.50
Percentage of DBE/TSB Participation		0.00%

ENGINEERING DEPARTMENT
CITY OF DES MOINES, IOWA

CONTRACT NO.
DATE
ROLL CALL NO.

15964
4/18/2022
22-0640

CONTRACT

THIS CONTRACT, made and entered into at Des Moines, Iowa, on April 18, 2022, by and between the City of Des Moines, by its Mayor, upon order of its City Council, hereinafter called the "Jurisdiction", and Grimes Asphalt and Paving Corporation, hereinafter called the "Contractor".

WITNESSETH:

The Contractor hereby agrees to complete the work comprising the below referenced improvement as specified in the contract documents, which are officially on file with the Jurisdiction, in the Des Moines City Engineer's Office. This contract includes all contract documents. The work under this contract shall be constructed in accordance with the SUDAS Standard Specifications, 2021 Edition; and as further modified by the supplemental specifications and special provisions included in said contract documents, and the Contract Attachments attached hereto. The Des Moines City Engineer is the Engineer. The Contractor further agrees to complete the work in strict accordance with said contract documents, and to guarantee the work as required by law, for the time required in said contract documents, after its acceptance by the Jurisdiction.

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

2022 HMA Residential Paving Program Contract 1, 062022013

The improvements include furnishing labor, equipment, and materials for the removal of existing Hot Mix Asphalt (HMA) pavement and surfacing materials by milling/scarifying to an average depth of four (4) inches, prepare subgrade/subbase, reconstruct with four (4) inches of HMA pavement with two (2) lifts, replace sections of Portland Cement Concrete (PCC) curb and gutter, and replace existing sidewalk ramps with ADA compliant ramps; all in accordance with the contract documents and as directed by the engineer at the following locations within the City of Des Moines, Iowa:

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31st Street from Grand Avenue to 532 31st Street

The Contractor agrees to perform said work for and in consideration of the Jurisdiction's payment of the bid amount of One Million Fifty Four Thousand Two Hundred Eighty Eight and 50/100 dollars (\$1,054,288.50) which amount shall constitute the required amount of the performance, payment, and maintenance bond. The Contractor hereby agrees to commence work under this contract on or after the date a written Notice to Proceed is issued by the Jurisdiction and to fully complete the project not later than May 31, 2023, and in accordance with the Completion Provisions ; and to pay liquidated damages for noncompliance with said completion provisions in the amount of Five Hundred and 00/100 dollars(\$500.00), for each calendar day thereafter that the work remains incomplete.

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


JURISDICTION:

By


T. M. Franklin Cownie, Mayor

(Seal)

ATTEST:


P. Kay Cmelik, City Clerk

FORM APPROVED BY:


Kathleen Vanderpool, Deputy City Attorney

CONTRACTOR:

Grimes Asphalt and Paving Corporation

Contractor

By


Signature Michael Yonker

Treasurer

Title

5550 NE 22nd Street

Street Address

Des Moines, IA

50313

City, State - Zip Code

(515) 266-5173 / mike@grimesasphalt.com

Telephone Number / Email Address

CONTRACTOR PUBLIC REGISTRATION INFORMATION To Be Provided By:

1. All Contractors: The Contractor's Public Registration Number, issued by the Iowa Commissioner of Labor pursuant to Section 91C.5 of the Iowa Code, is as follows:
Number C114379
2. Out-of-State Contractors:
 - A. Pursuant to Section 91C.7 of the Iowa Code, an out-of-state contractor, before commencing a contract in excess of five thousand dollars in value in Iowa, shall file a bond with the division of labor services of the department of workforce development. The contractor should contact 515-242-5871 for further information. Prior to contract execution, the City Engineer may forward a copy of this contract to the Iowa Department of Workforce Development as notification of pending construction work. It is the contractor's responsibility to comply with said Section 91C.7 before commencing this work.
 - B. Prior to entering into contract, the designated low bidder, if it be a corporation organized under the laws of a state other than Iowa, shall file with the Engineer a certificate from the Secretary of the State of Iowa showing that it has complied with all the provisions of Chapter 490 of the Code of Iowa, or as amended, governing foreign corporations. For further information contact the Iowa Secretary of State Office at 515-281-5204.

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

CORPORATE ACKNOWLEDGEMENT

State of Iowa)
) SS
Polk County)

On this 4th day of April, 20 22, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Michael Yonker and _____, to me known, who, being by me duly sworn, did say that they are the Treasurer, and _____, respectively, of the corporation executing the foregoing instrument; that (no seal has been procured by) (~~the seal affixed thereto is the seal of~~) the corporation; that said instrument was signed (and sealed) on behalf of the corporation by authority of this Board of Directors; Michael Yonker and _____ acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.



Notary Public in and for the State Iowa
My commission expires 2-24-24

CONTRACT ATTACHMENT: ITEM 1: GENERAL

1. The Contractor acknowledges and agrees:
 - To comply with the Equal Employment Opportunity Program included in the City of Des Moines Contract Compliance Program, which is available at the following website [http://www.dmgov.org/Departments/Engineering/PDF/Contract%20Compliance%20Program%20\(June%202017\).pdf](http://www.dmgov.org/Departments/Engineering/PDF/Contract%20Compliance%20Program%20(June%202017).pdf) or from the City Engineer's Office.
 - To comply with any and all applicable provisions of the Des Moines Human Rights Ordinance, Chapter 62, of the Des Moines Municipal Code.
 - Not to discriminate against any employees, or applicants for employment, on the basis of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability, familial status or gender identity.
 - To include this provision in all subcontracts for this project.
2. The Contractor agrees to comply with the requirements of the City of Des Moines Contract Compliance Program as referenced in the proposal. Final acceptance of the project will not be made until the Contractor has submitted to the City Engineer a notarized summary of payments to and scope of work by all DBE/TSB subcontractors.
3. The City of Des Moines Master Construction Safety Packet (Safety Plan) is available at <http://www.dmgov.org/Departments/Engineering/PDF/MasterConstructionSafetyPacket.pdf> and is also available upon request from the Engineering Department. The Engineering Department will make available a copy of the City of Des Moines Safety Plan to the Contractor when the contract is awarded. The Contractor understands and agrees that said Safety Plan is for the Contractor's information only and that it is the Contractor's sole responsibility to provide, or make available, this safety information to all its Subcontractors.
4. The Contractor understands and agrees that the construction of the work included in this contract is by its nature dangerous work. The Contractor agrees:
 - That the Contractor should have a safety program; however, the Contractor need not submit a safety program to the City of Des Moines, and City of Des Moines staff will not review or approve the Contractor's safety program. The City of Des Moines assumes that the Contractor will maintain a safe worksite; however, City of Des Moines staff will not intrude in the Contractor's responsibility for safety issues.
 - That until the work is accepted by the Jurisdiction; the work shall be in the custody of and under the charge, care, and control of the Contractor.
 - That the Contractor is responsible for the project area or work site.
 - That the Contractor is solely responsible for the safety of everyone on its work site.
 - That it is the Contractor's sole responsibility to provide as safe a working site as possible given the nature of the work.
 - That it is the Contractor's responsibility to notify and advise its employees, subcontractors, suppliers, and everyone on the worksite of the dangers associated with the work, and provide them with appropriate safety information to protect them from those dangers.
5. The Contractor acknowledges and agrees that no contract shall be binding upon the City of Des Moines until said contract has been executed by the Bidder, and shall have been approved by the City Council and executed by the Mayor and attested to by the City Clerk.

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

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

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

Activity ID 06-2022-013

ITEM	ITEM CODE	DESCRIPTION	UNITS	ESTIMATED	UNIT	AMOUNT
				QUANTITY	PRICE	
0001	2010.1.08.H	GRANULAR STABILIZATION, MODIFIED SUBBASE	TON	1030.00	\$47.00	\$48,410.00
0002	2010.1.08.H	GRANULAR STABILIZATION, 3" CLEAN CRUSHED STONE	TON	40.00	\$68.00	\$2,720.00
0003	2010.2.04.C	SUBGRADE TREATMENT - GEOGRID, TYPE 2	SY	1470.00	\$4.00	\$5,880.00
0004	5010.1.08.E.3	NEW STOP BOX HOUSING	EA	4.00	\$1,200.00	\$4,800.00
0005	5010.1.08.E.3	NEW STOP BOX ROD	EA	4.00	\$1,100.00	\$4,400.00
0006	6010.1.08.E	MANHOLE ADJUSTMENT, MINOR, WITH BOXOUT	EA	16.00	\$2,100.00	\$33,600.00
0007	7010.1.08.E	CURB AND GUTTER 2' PCC	LF	2234.00	\$40.50	\$90,477.00
0008	7020.1.08.A	HMA STANDARD TRAFFIC (ST) SURFACE, 1/2" MIX, NO FRIC, PG 58-28S	TON	4442.00	\$96.50	\$428,653.00
0009	7020.1.08.A	HMA STANDARD TRAFFIC (ST) BASE, 3/4" MIX, NO FRIC, PG 58-28S	TON	453.00	\$87.50	\$39,637.50
0010 *	7030.1.08.A	REMOVAL OF DRIVEWAY	SY	300.00	\$40.00	\$12,000.00
0011	7030.1.08.G	DETECTABLE WARNING DEVICES, CAST IRON	SF	80.00	\$67.00	\$5,360.00
0012	7030.1.08.H	DRIVEWAY, PAVED, PCC, 6"	SY	300.00	\$100.00	\$30,000.00
0013 *	7040.1.08.G	MILLING, 4" AVERAGE DEPTH	SY	19692.00	\$5.50	\$108,306.00
0014 *	7040.1.08.G	MILLING, 6" AVERAGE DEPTH	SY	2084.00	\$6.00	\$12,504.00
0015 *	7040.1.08.I	REMOVE CURB AND GUTTER 2' PCC	LF	2234.00	\$25.00	\$55,850.00
0016 *	8030.1.08.A	TRAFFIC CONTROL	LS	1.00	\$23,250.00	\$23,250.00
0017	9060.1.08.A	CHAIN LINK FENCE, GALVANIZED, 48 IN.	LF	20.00	\$66.00	\$1,320.00
0018 *	9060.1.08.E	REMOVAL OF FENCE	LF	25.00	\$17.00	\$425.00
0019 *	11020.1.08.A	MOBILIZATION	LS	1.00	\$31,450.00	\$31,450.00
0020	TECHNICAL SPECS	SUBGRADE TREATMENT - CEMENT	TON	100.00	\$367.00	\$36,700.00
0021	TECHNICAL SPECS	SUBGRADE TREATMENT - CEMENT - MOBILIZATION	EA	1.00	\$8,900.00	\$8,900.00
0022 *	TECHNICAL SPECS	UTILITY POTHOLING	EA	36.00	\$250.00	\$9,000.00
0023	TECHNICAL SPECS	SIDEWALK, 4" PCC CLASS 'B', REMOVE AND REPLACE	SY	68.00	\$143.00	\$9,724.00
0024	TECHNICAL SPECS.	SIDEWALK, ADA COMPLIANT RAMP, 6" PCC, REMOVE AND REPLACE	SY	68.00	\$216.00	\$14,688.00
0025	TECHNICAL SPECS	SIDEWALK AT DRIVEWAY, 6" PCC, REMOVE AND REPLACE	SY	20.00	\$120.00	\$2,400.00
0026	TECHNICAL SPECS	SIDEWALK, 7" PCC THROUGH ALLEY, REMOVE AND REPLACE	SY	28.00	\$180.00	\$5,040.00
0027 *	SUPPLEMENTAL SPECS	TREE PROTECTION FENCE, 4' HIGH	LF	200.00	\$6.00	\$1,200.00
0028 *	TECHNICAL SPECS	TREE ROOT GRINDING	EA	6.00	\$222.00	\$1,332.00
0029 *	TECHNICAL SPECS	SOD, NURSERY IN PLACE	SQ	12.00	\$450.00	\$5,400.00
0030 *	TECHNICAL SPECS	HYDRAULIC SEEDING	SQ	12.00	\$450.00	\$5,400.00
0031 *	TECHNICAL SPECS	TRAFFIC CONTROL SIGN, REMOVE AND REPLACE	EA	2.00	\$611.00	\$1,222.00
0032	TECHNICAL SPECS	LOOP DETECTOR, REPLACEMENT, 6'x8'	EA	4.00	\$1,560.00	\$6,240.00
0033	TECHNICAL SPECS	LOOP DETECTOR, REPLACEMENT, 6'x20'	EA	4.00	\$2,000.00	\$8,000.00
TOTAL CONSTRUCTION COST						\$1,054,288.50

*Item does not have to be included in 4-year maintenance bond but shall be covered by a 1-year maintenance bond.

*TOTAL= \$267,339.00

NOTE: It is understood that the above quantities are estimated for the purpose of this bid. All quantities are subject to revision by the City. Quantity changes which amount to twenty (20) percent or less of the total bid shall not affect the unit bid price of that item.

CONTRACT ATTACHMENT: ITEM 3 – COMPLETION PROVISIONS

The Contractor hereby agrees to:

1. Commence the work on the project on or after a date to be specified in a written Notice to Proceed by the City and to fully complete the project not later than May 31, 2023, and to pay liquidated damages for noncompliance with said completion provision in the amount of five hundred and no/100 dollars (\$500.00) for each calendar day thereafter.
2. Undertake and schedule work in compliance with intermediate completion provisions as described below. The work to be completed by the intermediate completion date shall be such work as required to satisfy the intermediate completion date description.

Intermediate Completion Conditions:

- From time of mobilization to each of the project site locations, the Contractor shall be allowed no more than ten (10) calendar days to complete all milling, grading, removals, paving, cleanup, and restoration at each site; and to pay liquidated damages for noncompliance with said completion provision in the amount of five hundred and no/100 dollars (\$500.00) for each calendar day thereafter.

The following items do not need to be completed for the Intermediate Completion Condition as described above. This list includes but is not limited to the following:

- Seeding
 - Sod
 - Construction of ADA compliant sidewalk ramps
-
- Commence the work at the following site on or after June 6, 2022, and fully complete the work (including punch list items) by August 12, 2022; and to pay liquidated damages for noncompliance with said completion provision in the amount of five hundred and no/100 dollars (\$500.00) for each calendar day thereafter.
 - **E. Sheridan Avenue from E. 42nd Street to 4233 E. Sheridan Avenue**

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

PERFORMANCE, PAYMENT & MAINTENANCE BOND

KNOW ALL BY THESE PRESENTS:

That we, Grimes Asphalt and Paving Corporation, as Principal (the "Contractor" or "Principal"), and Western Surety Company, as Surety, are held and firmly bound unto the City of Des Moines, as Obligee (the "Jurisdiction"), and to all persons who may be injured by any breach of any of the conditions of this Bond in the penal sum of One Million Fifty Four Thousand Two Hundred Eighty Eight and 50/100 dollars (\$1,054,288.50), lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, legal representatives and assigns, jointly and severally, firmly by these presents.

The conditions of the above obligations are such that whereas the Contractor entered into a contract with the Jurisdiction, bearing the date of April 18, 2022, (the "Contract") wherein the Contractor undertakes and agrees to construct the following described improvements:

2022 HMA Residential Paving Program Contract 1, 062022013

The improvements include furnishing labor, equipment, and materials for the removal of existing Hot Mix Asphalt (HMA) pavement and surfacing materials by milling/scarifying to an average depth of four (4) inches, prepare subgrade/subbase, reconstruct with four (4) inches of HMA pavement with two (2) lifts, replace sections of Portland Cement Concrete (PCC) curb and gutter, and replace existing sidewalk ramps with ADA compliant ramps; all in accordance with the contract documents and as directed by the engineer at the following locations within the City of Des Moines, Iowa:

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31st Street from Grand Avenue to 532 31st Street

and to faithfully perform all the terms and requirements of the Contract within the time specified, in a good and workmanlike manner, and in accordance with the Contract Documents. Provided however, that one year after the date of acceptance by the Jurisdiction as complete, of the work under the above referenced Contract, the maintenance portion of this Bond shall continue in force but the penal sum for maintenance shall be reduced to the sum of Seven Hundred Eighty Six Thousand Nine Hundred Forty Nine and 50/100 dollars (\$786,949.50), which is the cost associated with those items shown on the Proposal and in the Contract which require a maintenance bond period in excess of one year.

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

1. **PERFORMANCE:** The Contractor shall well and faithfully observe, perform, fulfill and abide by each and every covenant, condition and part of the Contract and Contract Documents, by reference made a part hereof, and shall indemnify and save harmless the Jurisdiction from all outlay and expense incurred by the Jurisdiction by reason of the Contractor's default or failure to perform as required. The Contractor shall also be responsible for the default or failure to perform as required under the Contract and Contract Documents by all its subcontractors, suppliers, agents, or employees furnishing materials or providing labor in the performance of the Contract.
2. **PAYMENT:** The Contractor and Surety on this bond hereby agree to pay all just claims submitted by persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the performance of the Contract, including but not limited to claims for all amounts due for labor, materials, lubricants, oil, gasoline, repairs on machinery, equipment and tools, consumed or used by the Contractor or any subcontractor, wherein the same are not satisfied out of the portion of the contract price which the Jurisdiction is required to retain until completion of the improvement, but the Contractor and Surety shall not be liable unless the claims have been established as provided by law. The Contractor and Surety hereby bind themselves to the obligations and conditions set forth in Iowa Code Chapter 573.
3. **MAINTENANCE:** The Contractor and the Surety shall, at their own expense:
 - A. Remedy any and all defects that may develop in or result from work to be performed under the Contract within the period of four (4) year(s) from the date of acceptance of the work under the Contract, by reason of defects in workmanship or materials used in construction of the work;
 - B. Keep all work in continuous good repair; and
 - C. Pay the Jurisdiction's reasonable costs of monitoring and inspecting to assure that any defects are remedied, and to repay the Jurisdiction all outlay and expense incurred as a result of Contractor's and Surety's failure to remedy any defect as required by this section.

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

4. **GENERAL:** Every Surety on this Bond shall be deemed and held bound, any contract to the contrary notwithstanding, to the following provisions:
 - A. To consent without notice to any extension of time to the Contractor in which to perform the Contract;
 - B. To consent without notice to any change in the Contract or Contract Documents, that increases the total contract price and the penal sum of this bond, provided that all such changes do not, in the aggregate, involve an increase of more than twenty percent of the total contract price, and that this Bond shall then be released as to such excess increase; and

- C. To consent without notice that this Bond shall remain in full force and effect until the contract is completed, whether completed within the specified contract period, within an extension thereof, or within a period of time after the contract period has elapsed and liquidated damages are being charged against the Contractor.
5. The Contractor and every Surety on this Bond shall be deemed and held bound, any contract to the contrary notwithstanding, to the following provisions:
- A. That no provision of this Bond or of any other contract shall be valid which limits to less than five years after the acceptance of the work under the Contract the right to sue on this Bond.
- B. That as used herein, the phrase "all outlay and expense" is not to be limited in any way, but shall include the actual and reasonable costs and expenses incurred by the Jurisdiction including interest, benefits and overhead as applicable. Accordingly, "all outlay and expense" would include but not be limited to all contract or employee expense, all equipment usage or rental, materials, testing, outside experts, attorneys fees (including overhead expenses of the Jurisdiction's staff attorneys), and all costs and expenses of litigation as they are incurred by the Jurisdiction. It is intended the Contractor and Surety will defend and indemnify the Jurisdiction on all claims made against the Jurisdiction on account of Contractor's failure to perform as required in the Contract and Contract Documents, that all agreements and promises set forth in the Contract and Contract Documents, in approved change orders, and in this Bond will be fulfilled, and that the Jurisdiction will be fully indemnified so that it will be put into the position it would have been in had the Contract been performed in the first instance as required.
- C. In the event the Jurisdiction incurs any "outlay and expense" in defending itself with respect to any claim as to which the Contractor or Surety should have provided the defense, or in the enforcement of the promises given by the Contractor in the Contract, Contract Documents, or approved change orders, or in the enforcement of the promises given by the Contractor and Surety in this Bond, the Contractor and Surety agree that they will make the Jurisdiction whole for all such outlay and expense, provided that the Surety's obligation under this Bond shall not exceed 125% of the penal sum of this Bond.

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

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

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

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

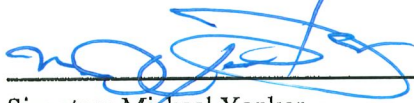
Witness our hands, in triplicate, this 18th day of April, 20 22

PRINCIPAL:

Grimes Asphalt and Paving Corporation

Contractor

By

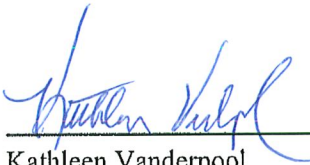


Signature Michael Yonker

Treasurer

Title

FORM APPROVED BY:

Kathleen Vanderpool
Deputy City Attorney

SURETY:

Western Surety Company

Surety Company

By



Signature Attorney-in-Fact/Officer

Nicole Stillings

Name of Attorney-in-Fact/Officer

CSDZ, LLC

Company Name

1600 Aspen Commons, Suite 990

Company Address

Middleton, WI 53562

City, State Zip Code

608-242-2551

Company Telephone Number

NOTE:

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

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

R. W. Frank, Nicole Stillings, Rachel Thomas, Joshua R. Loftis, Ted Jorgensen, Sandra M. Engstrum, Melinda C. Blodgett, R. C. Bowman, Brian J. Oestreich, Lin Ulven, Emily White, Nathan Weaver, C. White, Individually

of Minneapolis, MN, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 21st day of December, 2021.



WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 21st day of December, 2021, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 18th day of April . 2022



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Form F4280-7-2012

Go to www.cnasurety.com > Owner / Oblige Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/11/2022

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

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

PRODUCER CSDZ, LLC 225 South Sixth Street, Suite 1900 Minneapolis MN 55402	CONTACT NAME: Amy Sanderson PHONE (A/C, No, Ext): 612-349-2400 FAX (A/C, No): 612-349-2490 E-MAIL ADDRESS: asanderson@csdz.com
INSURED Grimes Asphalt and Paving Corporation PO Box 3333 Des Moines, IA 50313-2530	INSURER(S) AFFORDING COVERAGE INSURER A: Western National Assurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER: 646467035

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contr Liab Per <input checked="" type="checkbox"/> Policy Form/XCU GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	CPP1284364	4/1/2022	4/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	CPP1284363	4/1/2022	4/1/2023	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"/> EXCESS LIAB <input type="checkbox"/> RETENTION \$ \$10,000 <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE	Y	Y	UMB1047984	4/1/2022	4/1/2023	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? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	Y	WCV1036353	4/1/2022	4/1/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
DSM- 2022 HMA Residential Paving Program Contract 1, Activity ID 06-2022-013

Additional Insured only if required by written contract with respect to General Liability, Automobile Liability and Umbrella/Excess Liability applies on a primary basis and the insurance of the additional insured shall be non-contributory: City of Des Moines

Waiver of Subrogation only if required by written contract with respect to General Liability, Automobile Liability, Workers Compensation and Umbrella/Excess Liability applies in favor of: City of Des Moines

See Attached...

APPROVED

CERTIFICATE HOLDER

CANCELLATION

City of Des Moines Engineering Department 400 Robert D. Ray Drive Des Moines IA 50309-1891	APR 11 2022 Rose Olson	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 Rose Olson

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AGENCY CUSTOMER ID: GRIASPPC

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY CSDZ, LLC		NAMED INSURED Grimes Asphalt and Paving Corporation PO Box 3333 Des Moines, IA 50313-2530	
POLICY NUMBER			
CARRIER	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

The following supersedes the cancellation wording: Should any of the above described policies be cancelled before the expiration date, 30 Days written notice (10 Days for Non-Payment) will be delivered to the certificate holder.

Fellow employee exclusion deleted for managers and supervisors under general liability and auto liability included in the Umbrella coverage.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GOVERNMENTAL ENTITY AS ADDITIONAL INSURED – IOWA

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Municipality:	CITY OF DES MOINES ENGINEERING DEPARTMENT
Mailing Address:	400 ROBERT D DAY DR DES MOINES IA 50309

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

The following provisions are added to the coverage part as listed above:

A. ADDITIONAL INSURED PROVISION

The Municipality shown in the schedule, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees, and volunteers, are included as Additional Insureds with respect to liability arising out of the insured's work and/or services performed for the municipality shown in the Schedule. This coverage shall be primary to other insurance naming the Additional Insured as a Named Insured, and will not seek contribution from any other insurance or similar protection naming the Additional Insured as a Named Insured, whether other available coverage is primary, contributing or excess.

B. GOVERNMENTAL IMMUNITIES PROVISION

- 1. Nonwaiver of Governmental Immunity.** The insurance carrier expressly agrees and states that the purchase of this policy and the including of the municipality shown in the Schedule as an Additional Insured does not waive any of the defenses of governmental immunity available to them under Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.
- 2. Claims Coverage.** The insurance carrier further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.

- 3. Assertion of Governmental Immunity.** The municipality shown in the Schedule shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurance carrier. Nothing contained in this endorsement shall prevent the carrier from asserting the defense of governmental immunity on behalf of the municipality shown in the Schedule.

- 4. Non-Denial of Coverage.** The insurance carrier shall not deny coverage under this policy and the insurance carrier shall not deny any of the rights and benefits accruing to the municipality shown in the Schedule under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the municipality.

- 5. No Other Change in Policy.** The insurance carrier and the municipality shown in the Schedule agree that the above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

C. CANCELLATION AND MATERIAL CHANGES PROVISION

Thirty (30) days Advance Written Notice of Cancellation, ten (10) days Written Notification of Cancellation due to non-payment of premium, and forty-five (45) days Advance Written Notification of Non-Renewal shall be sent to the address shown in the Schedule. This endorsement supersedes the standard cancellation statement on the Certificate of Insurance to which this endorsement is attached.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION ENDORSEMENT

This endorsement modifies insurance provided under the following:

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

The following condition is added:

If we cancel this policy, for any reason other than nonpayment of premium, we will mail advance notice to the person(s) or organization(s) shown in the Schedule in accordance with the Cancellation and Nonrenewal provisions of the policy and any applicable endorsements.

SCHEDULE

**Person or Organization
(Name and Address)**

AS REQUIRED BY CONTRACT AT
SUCH TIME AGENT/POLICYHOLDER
WILL PROCURE A LIST OF THOSE
REQUIRING 30 DAYS NOTICE

NOTICE OF CANCELLATION ENDORSEMENT

If we cancel this policy, for any reason other than nonpayment of premium, we will mail advance notice to the person(s) or organization(s) as shown in the Schedule in accordance with the Cancellation condition of the policy and any applicable endorsements.

SCHEDULE**Person or Organization****(Name and Address)**

AS REQ'D BY CONTRACT, AT SUCH
TIME AGENT/POLICY HOLDER WILL
PROCURE A LIST OF THOSE REQ 30
DAYS NOTICE

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

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

Endorsement Effective
Insured

Policy No.

Endorsement No.
Premium

Insurance Company

Countersigned by _____

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following condition is added:

If we cancel this policy, for any reason other than nonpayment of premium, we will mail advance notice to the person(s) or organization(s) as shown in the Schedule in accordance with the Cancellation and Nonrenewal conditions of the policy and any applicable endorsements.

SCHEDULE

**Person or Organization
(Name and Address)**

AS REQ'D BY WRITTEN CONTRACT
AT SUCH TIME AGENT/POLICY
HOLDER WILL PROCURE A LIST OF
THOSE REQ'ING NOTICE-30 DAY

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

Schedule

BLANKET

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

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

Endorsement Effective 04/01/2022

Policy No. WCV1036353

Endorsement No.

Insured Grimes Asphalt and Paving Corporation

Premium \$

Insurance Company

Countersigned by _____

BUSINESS AUTO ENHANCEMENT ENDORSEMENT

The Business Auto Enhancement Endorsement is an optional endorsement that provides coverage enhancements. The following is a summary of broadened coverages provided by this endorsement. No coverage is provided by this summary, refer to following endorsement for changes in your policy.

SUMMARY OF COVERAGES	PAGE
Accidental Airbag Deployment Coverage	4
Auto Loan/Lease Gap Coverage	4
Blanket Additional Insured	2
Blanket Waiver of Subrogation	5
Broadened Definition of Insured includes:	
• Newly Acquired Organizations for up to 180 Days	2
• Employees as Insureds	2
• Subsidiaries in Which You Own 50% or More	2
Deductible Waiver for Glass Repair	3
Employee Hired Auto	2, 5
Fellow Employee Coverage	3
Hired Auto Physical Damage Coverage	4
Knowledge of Accident, Claim, Suit or Loss	5
Loss Of Use Expenses - Amended	3
Personal Effects	3
Rental Reimbursement Coverage	4
Supplementary Payments - Amended:	
• Bail Bonds up to \$5,000	2
• Loss of Earnings up to \$500/Day	2
Transportation Expense Limits – Amended	3
Unintentional Failure to Disclose Hazards	5

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

BUSINESS AUTO ENHANCEMENT ENDORSEMENT

This endorsement modifies the insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to the coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement. The SECTIONS of the Business Auto Coverage Form identified in this endorsement will be amended as shown below.

SECTION II – COVERED AUTOS LIABILITY COVERAGE AMENDMENTS

A. Who Is An Insured

SECTION II – COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured is amended to add:

- d. Any legally incorporated subsidiary of yours in which you own more than 50% of the voting stock on the effective date of this coverage form. However, "insured" does not include any subsidiary of yours that is an "insured" under any other automobile liability policy, or would be an "insured" under such policy but for termination of such policy or the exhaustion on such policy's limits of insurance.
- e. Any organization which is newly acquired or formed by you and over which you maintain majority ownership. However, coverage under this provision:
 - (1) is afforded only for the first 180 days after you acquire or form the organization or until the end of the policy period, whichever comes first;
 - (2) does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization;
 - (3) does not apply to any newly acquired or formed organization that is a joint venture or partnership; and
 - (4) does not apply to an "insured" under any other automobile liability policy, or would be an "insured" under such a policy but for termination of such policy or the exhaustion of such policy's limits of insurance.
- f. 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.

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

B. Blanket Additional Insured

SECTION II – COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured, paragraph c. is amended to add the following:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that persons or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

C. Liability Coverage Extensions – Supplementary Payments

SECTION II – COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 2. Coverage Extensions, a. Supplementary Payments is amended by replacing subparagraphs (2) and (4) with the following:

- (2) Up to \$5,000 for cost of bail bonds (including bonds for related traffic law 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 \$500 a day because of time off from work.

D. Fellow Employee Coverage

SECTION II – COVERED AUTOS LIABILITY COVERAGE, B. Exclusions, 5. Fellow Employee, the following is added:

Co-Employee Reimbursement	Lawsuit	Defense	Cost
--------------------------------------	----------------	----------------	-------------

If a suit seeking damages for "bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business, or a suit seeking damages brought by the spouse, child, parent, brother or sister of that fellow "employee", is brought against you, we will reimburse reasonable costs that you incur in the defense of such matters. Any reimbursement made pursuant to this sub-section will be in addition to the limits of liability set forth in the Declarations.

SECTION III – PHYSICAL DAMAGE COVERAGE AMENDMENTS

A. Transportation Expense – Limits Amended

SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, a. Transportation Expenses is amended by replacing \$20 per day/\$600 maximum limit with \$50 per day/\$1000 maximum.

B. Hired Auto Physical Damage – Loss Of Use Expenses – Limits Amended

SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, b. Loss of Use Expenses is amended by replacing the \$20 per day/\$600 maximum limit with \$50 per day/\$750 maximum limit.

C. Personal Effects Coverage

SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions is amended by adding the following:

c. Personal Effects

We will pay up to \$500 for "loss" to personal effects, which are:

- (1) Owned by an "insured"; and
- (2) In or on your covered "auto."

This coverage applies only in the event of the total theft of your covered "auto." No deductible applies to this coverage

D. Glass Repair – Deductible Waiver

SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles, is amended by adding the following:

No deductible will apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

E. Hired Auto Physical Damage

SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage is amended by adding the following:

5. Hired Auto Physical Damage

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this coverage form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire of like kind and use, subject to the following:

- a. The most we will pay for any one "loss" is \$50,000 or the actual cash value or cost to repair or replace, whichever is less, minus a deductible;
- b. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. Any Comprehensive deductible does not apply to "loss" caused by fire or lightening;
- c. Hired Auto Physical Damage coverage is excess over any other collectible insurance; and
- d. Subject to the above limit, deductible and excess provisions we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

If a limit for Hired Auto Physical Damage is indicated in the Declarations, then that limit replaces, and is not added to, the \$50,000 limit indicated above.

F. Rental Reimbursement

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage, is amended by adding the following:

6. Rental Reimbursement

This coverage applies only to a covered "auto" of the private passenger or light truck type as follows:

- a. We will pay for rental reimbursement expenses incurred by you for the rental of a private passenger or light truck type "auto" because of "loss" to a covered private passenger or light truck type "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered private passenger or light truck type "auto." No deductibles apply to this coverage.
- b. We will pay only 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:
 - (1) The number of days reasonably required to repair or replace the covered private passenger or light truck type "auto". If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered private passenger or light truck type "auto" and return it to you; or
 - (2) 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, up to a maximum of \$1,000.
- d. This coverage does not apply while there are spare or reserve private passenger or light truck type "autos" available to you for your operations.
- e. If "loss" results from the total theft of a covered "auto" of the private passenger or light truck type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under **SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions**.

For the purposes of this Rental Reimbursement coverage, light truck is defined as a truck with a gross vehicle weight of 10,000 lbs. or less as defined by the manufacturer as the maximum loaded weight the auto is designed to carry.

G. Accidental Airbag Deployment Coverage

SECTION III – PHYSICAL DAMAGE COVERAGE,

A. Coverage is amended by adding the following:

7. Accidental Airbag Deployment Coverage

We will pay to reset or replace factory installed airbag(s) in any covered "auto" for accidental discharge, other than discharge due to a collision loss.

This coverage is applicable only if comprehensive coverage applies to the covered "auto".

This coverage is excess over any other collectible insurance or reimbursement by manufacturer's warranty.

H. Auto Loan/Lease Gap Coverage

SECTION III PHYSICAL DAMAGE COVERAGE, Item A., Coverage, is amended by adding the following:

8. Auto Loan/Lease Gap Coverage

This coverage applies only to a covered "auto" described or designated in the Schedule or in the Declarations as including physical damage coverage.

In the event of a covered total "loss" to a covered "auto" described or designated in the Schedule or in the Declarations, we will pay any unpaid amount due on the lease or loan for a covered "auto" less:

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

**SECTION IV – BUSINESS AUTO CONDITIONS
AMENDMENTS**

A. Duties In The Event Of Accident, Claim, Suit Or Loss Amended

SECTION IV – BUSINESS AUTO CONDITIONS, A. Loss Conditions, 2. Duties In The Event Of Accident, Claim, Suit Or Loss, a. is amended by adding the following:

This condition applies only when the “accident” or “loss” is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) An executive officer or insurance manager, if you are a corporation; or
- (4) A member or manager, if you are a limited liability company.

But, this section does not amend the provisions relating to notification of police, protection or examination of the property which was subject to the “loss”.

B. Blanket Waiver of Subrogation

Section IV – BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer of Rights of Recovery Against Others to Us, is amended by adding the following exception:

However, we waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any “accident” or “loss”, provided that the “accident” or “loss” arises out of operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

C. Unintentional Failure to Disclose Hazards

SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions, 2. Concealment, Misrepresentation Or Fraud, is amended by adding the following paragraph:

If you unintentionally fail to disclose any hazards existing at the inception date of the policy, or during the policy period in connection with any additional hazards, we will not deny coverage under this Coverage Part because of such failure.

D. Employee Hired Auto

SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance, paragraph **b.** is deleted and replace by the following:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be a covered “autos” you own:

- (1) Any covered “auto” you lease, hire, rent or borrow.
- (2) Any covered “auto” hired or rented by your “employee” under a contract in that individual “employee’s” name, with your permission, while performing duties related to the conduct of your business.

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

POLICY NUMBER:

COMMERCIAL AUTO
WN CA 71 06 16

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION – PRIMARY AND NONCONTRIBUTORY

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.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Grimes Asphalt and Paving Corporation

Endorsement Effective Date:

SCHEDULE

Name of Person(s) or Organization(s):

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A. Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualified as an "insured" under the Who is An Insured provision contained in paragraph A.1. of **SECTION II – COVERED AUTOS LIABILITY COVERAGE** in the Business Auto and Motor Carrier Coverage Forms and paragraph D.2. of **SECTION I – COVERED AUTOS COVERAGE** of the Auto Dealers Coverage Form.
- B. 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 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".
- C. The following is added to the **Other Insurance** Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:
- This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary 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".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
AS REQ'D BY WRITTEN CONTRACT	ALL PROJECTS
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, 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 location(s) designated above.

B. 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 ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
AS REQ'D BY WRITTEN CONTRACT	ALL PROJECTS
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the “products-completed operations hazard”.

COMMERCIAL GENERAL LIABILITY ENHANCEMENT ENDORSEMENT

The Commercial General Liability Enhancement Endorsement is an optional endorsement that provides coverage enhancements. The following is a summary of broadened coverages provided by this endorsement. No coverage is provided by this summary, refer to following endorsement for changes in your policy.

SUMMARY OF COVERAGES	PAGE
Bodily Injury And Property Damage Liability	
• Non Owned Watercraft Up To 50 Feet	2
Property Damage Liability	
• Elevators	3
• Fire, Lightning, Explosion Or Sprinkler Leakage Exception	3
• Borrowed Equipment (\$25,000 Per Occurrence, \$50,000 Aggregate, \$2,500 Deductible Per Occurrence	3
Supplementary Payments – Amended	
• Bail Bonds Up To \$5,000	4
• Loss of Earnings Up To \$500/Day	4
Who Is An Insured Amendments	
• Employee Bodily Injury To A Co-Employee	4
• Newly Formed Or Acquired Organizations For Up To 180 Days	4
• Blanket Additional Insured – Vendors – As Required By Contract	4
• Blanket Additional Insured – Lessor Of Leased Equipment	6
• Blanket Additional Insured – Managers Or Lessors Of Premises	6
• Blanket Additional Insured – State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations	7
• Blanket Additional Insured – State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations Relating To Premises	8
Damage To Premises Rented To You – \$300,000	9
Medical Payments Increased Limit – \$10,000 Or Amount Shown on Declarations	9
Conditions	
• Knowledge of Occurrence, Offense, Claim Or Suit Amended	9
• Unintentional Failure To Disclose Hazards	9
• Waiver of Subrogation	10
Insured Contract Amended	10
Personal And Advertising Injury Redefined	
• Televised, Videotaped Or Electronic Publication	10

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

COMMERCIAL GENERAL LIABILITY ENHANCEMENT ENDORSEMENT

This endorsement modifies the insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

With respect to the coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement. The SECTIONS of the Commercial General Liability Coverage Form identified in this endorsement will be amended as shown below.

SECTION I – COVERAGES AMENDMENTS

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

A. Non Owned Aircraft Or Watercraft

Item 2. Exclusions, Paragraph g. is replaced by the following:

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

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" involved in the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 50 feet long; and
 - (b) Not being used to carry persons or property for a charge;

This Subparagraph (2) applies to any person, who with your expressed or implied consent, either uses or is responsible for the use of the watercraft;

- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
 - (b) The operation of any of the machinery or equipment listed in Paragraph f. (2) or f. (3) of the definition of "mobile equipment".

B. Damage To Property Coverage Extensions

Item 2. Exclusions, Paragraph j. is replaced by the following:

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion or sprinkler leakage) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **SECTION III – LIMITS OF INSURANCE**. However, the provisions of this paragraph do not apply if coverage for Damage To Premises Rented To You is excluded by endorsement.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (4) of this exclusion does not apply to "property damage" to borrowed equipment while not being used to perform operations at the jobsite. Subject to Paragraph 2. of **SECTION III – LIMITS OF INSURANCE**, the rules below fix the most we will pay for "property damage" under this provision:

- (1) \$25,000 any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence";
- (2) \$50,000 annual aggregate; and
- (3) We will pay only for damages in excess of \$2,500 as a result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence". We may, or if required by law, pay all or any part of any deductible amount, if applicable, to effect settlement of any claim or "suit". Upon notice of our payment of a deductible amount, you shall promptly reimburse us for the part of the deductible amount we paid.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

The insurance provided for "property damage" from the use of elevators and for "property damage" to borrowed equipment is excess over any other valid and collectible property insurance (including any deductible portion thereof) available to the insured whether primary, excess, contingent or on any other basis.

C. Damage To Premises Rented To You

Item 2. **Exclusions**, the last paragraph is replaced by the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Paragraph 6. of **SECTION III – LIMITS OF INSURANCE**.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

D. Personal And Advertising Injury

Item 2. **Exclusions** is amended by replacing Subparagraphs b. and c. with the following:

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral, written, televised, videotaped or electronic publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral, written, televised, videotaped or electronic publication, in any manner, of material whose first publication took place before the beginning of the policy period.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

E. Supplementary Payments – Coverages A and B

Item 1. is amended by replacing Subparagraphs b. and d. with the following:

- b. Up to \$5,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

SECTION II – WHO IS AN INSURED AMENDMENTS

A. Employee Bodily Injury To A Co-Employee

Paragraph 2. a. (1) is replaced by the following:

However, none of these "employees" or "volunteer workers" are insureds for "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 the 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 Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

However, if a suit seeking damages for "bodily injury" or "personal and advertising injury" to any co-"employee" or other "volunteer worker" arising out of and in the course of the co-"employee's" or "volunteer worker's" employment or while performing duties related to the conduct of your business, or a suit seeking damages brought by the spouse, child, parent, brother or sister of the co-"employee" or other "volunteer worker", is brought against you or a co-"employee" or a "volunteer worker", we will reimburse the reasonable costs that you incur in providing a defense to the co-"employee" or "volunteer worker" against such matters. Any reimbursement made pursuant to this sub-section will be in addition to the limits of liability set forth in the Declarations.

B. Newly Acquired Organizations

Paragraph 3. a. is replaced by the following:

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

The following are added:

C. Blanket Additional Insured – Vendors – As Required By Contract

- 1. Section II – Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) (referred to throughout this endorsement as vendor) with whom you have agreed in a written contract, executed prior to loss, to name as an additional insured, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

However,

- a. The insurance afforded to such vendor only applies to the extent permitted by law; and
 - b. If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.
- 2. With respect to the insurance afforded to these vendors, the following additional exclusions apply:
 - a. The insurance afforded the vendor does not apply to:
 - (1) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - (2) Any express warranty unauthorized by you;
 - (3) Any physical or chemical change in the product made intentionally by the vendor;
 - (4) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (5) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - (6) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - (7) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - (8) "Bodily injury or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (i) The exceptions contained in Subparagraphs (4) or (6); or
 - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
3. This Provision C. does not apply:
- a. To any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products;
 - b. To any vendor for which coverage as an additional insured specifically is scheduled by endorsement; or
 - c. When liability included within the "products-completed operations hazard" has been excluded for such product either by the provisions of the coverage part or by endorsement.
4. With respect to the insurance afforded to these vendors, the following is added to **Section III – Limits Of Insurance**:
- If coverage provided to the vendor is required by a contract or agreement, the most we will pay on behalf of the vendor is:
- a. The minimum amount required by the contract or agreement; or
 - b. The Limits of Insurance shown in the Declarations;
- whichever is less.
- This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.
5. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:
- This insurance does not apply to:
- a. "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 an additional 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 failure to render any professional services by you with respect to your providing engineering, architectural or surveying services in your capacity as an engineer, architect or surveyor.

D. Blanket Additional Insured – Lessor Of Leased Equipment

1. **Section II – Who Is An Insured** is amended to include as an additional insured any person(s) or organization(s) from whom you lease equipment when you and such person(s) or organization(s) have agreed in writing in a contract or agreement, executed prior to loss, that such person(s) or organization(s) be added as an additional insured on your policy. Such person(s) or organization(s) is an insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

However, the insurance afforded to such additional insured:

- a. Only applies to the extent permitted by law; and
- b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

2. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.
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:

- a. The minimum amount required by the contract or agreement; or
- b. The Limits of Insurance shown in the Declarations;

whichever is less.

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

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

This insurance does not apply to:

- a. "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 an additional 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 failure to render any professional services by you with respect to your providing engineering, architectural or surveying services in your capacity as an engineer, architect or surveyor.

E. Blanket Additional Insured – Managers Or Lessors Of Premises

1. **Section II – Who Is An Insured** is amended to include as an additional insured any person(s) or organization(s) with whom you have agreed in a written contract, executed prior to loss, 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 leased to you, subject to the following additional exclusions:

This insurance does not apply to:

- a. Any "occurrence" which takes place after you cease to be a tenant in that premises.
- b. Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
 - b. 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.
2. 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:
- a. The minimum amount required by the contract or agreement; or
 - b. The Limits of Insurance shown in the Declarations;
- whichever is less.
- This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.
3. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to:

- a. "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 an additional 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 failure to render any professional services by you with respect to your providing engineering, architectural or surveying services in your capacity as an engineer, architect or surveyor.

F. Blanket Additional Insured – State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations

Section II – Who Is An Insured is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision with whom you have agreed in a written contract, executed prior to loss, to name as an additional insured, subject to the following provisions:

1. 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.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. 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.

2. This insurance does not apply to:

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

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:

- a. The minimum amount required by the contract or agreement; or
- b. The Limits of Insurance shown in the Declarations;

whichever is less.

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

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

This insurance does not apply to:

- a. "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 an additional 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 failure to render any professional services by you with respect to your providing engineering, architectural or surveying services in your capacity as an engineer, architect or surveyor.

G. Blanket Additional Insured – State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations Relating To Premises

Section II – Who Is An Insured is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision with whom you have agreed in a written contract, executed prior to loss, to name as an additional insured, subject to the following provision:

1. This insurance applies only with respect to the following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:
 - 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,

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
 - b. 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.
2. 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:

- a. The minimum amount required by the contract or agreement; or
 - b. The Limits of Insurance shown in the Declarations;

whichever is less.

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

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

This insurance does not apply to:

- a. "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 an additional 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 failure to render any professional services by you with respect to your providing engineering, architectural or surveying services in your capacity as an engineer, architect or surveyor.

SECTION III – LIMITS OF INSURANCE AMENDMENTS

A. Damage To Premises Rented To You

Paragraph 6. is replaced by the following:

6. Subject to Paragraph 5. above, the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning, explosion or sprinkler leakage, while rented to you or temporarily occupied by you with permission of the owner is the greater of:

- a. \$300,000; or
- b. The amount shown next to the Damage To Premises Rented To You Limit in the Declarations.

However, the provisions of this paragraph do not apply if Damage To Premises Rented To You Coverage is excluded by endorsement.

B. Medical Expense Limit

Paragraph 7. is replaced with the following:

7. Subject to Paragraph 5. above, the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person is the greater of:

- a. \$10,000; or
- b. The amount shown next to the Medical Expense Limit in the Declarations.

This insurance does not apply if coverage for Medical Expenses is excluded either by the provisions of the coverage part or by endorsement.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS AMENDMENTS

A. Knowledge Of Occurrence

Item 2. **Duties In The Event Of Occurrence, Offense, Claim or Suit** is amended by adding the following:

- e. You must give us or our authorized representative prompt notice of an "occurrence", claim or loss only when the "occurrence", claim or loss is known to:
 - (1) You, if you are an individual;
 - (2) A partner, if you are a partnership;
 - (3) An executive officer or insurance manager, if you are a corporation; or
 - (4) A member or manager, if you are a limited liability company.

B. Other Insurance

Item 4. **Other Insurance, b. Excess Insurance (1) (a) (ii)** is replaced by the following:

- (ii) That is fire, lightning, explosion or sprinkler leakage insurance for premises rented to you or temporarily occupied by you with permission of the owner;

C. Unintentional Failure To Disclose Hazards

Item 6. **Representations** is replaced by the following:

6. Representations And Unintentional Failure To Disclose Hazards

- a. By accepting this policy, you agree:
 - (1) The statements in the Declarations are accurate and complete;
 - (2) Those statements are based upon representations you made to us; and
 - (3) We have issued this policy in reliance upon your representations.
- b. If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

D. Waiver of Subrogation

Item **8. Transfer of Rights of Recovery Against Others to Us** is hereby amended by the addition of the following:

We waive any right of recovery we may have because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a written contract, executed prior to loss, requiring such waiver with that person or organization and included in the "products-completed operations hazard". However, our rights may only be waived prior to the "occurrence" giving rise to the injury or damage for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce those rights.

SECTION V – DEFINITIONS AMENDMENTS

A. Insured Contract Amended

Paragraph **9. a.** is replaced by the following:

- 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 or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

B. Personal And Advertising Injury Redefined

Paragraph **14. d.** and **e.** are replaced by the following:

- d.** Oral, written, televised, videotaped or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or service;
- e.** Oral, written, televised, videotaped or electronic publication of material that violates a person's right of privacy;