Highway, Buildings and Grounds
Wednesday, April 26, 2023 @ 1:00 PM
Chambers

MINUTES

1:00 PM Call Meeting to Order

Chairman William Zupan called the meeting to order at 1:00 p.m. in Chambers.

Committee Members Present: Chairman William Zupan, Vice Chairman Greg Reuter, Supervisors David Jones, Thomas Stokes (1:10 p.m.), Loren Corbin

Others Present:

Director of Public Facilities John Regan, Maintenance Supervisor Lyle Malbouf, Highway Superintendent Joe Wisinski, Assistant Highway Superintendent Brad Newman, Highway Operations Manager Rich Durant, Assistant County Attorney Jeff Aumell, Director of Finance Lou Anne Randall, Public Information Specialist Ryan Coe, Board Clerk Emily Burns, Lenox Supervisor John Pinard, Lincoln Supervisor Melissa During (via Zoom)

Approval of Minutes

- Approval of minutes of the March 29, 2023 regular committee meeting

  Motion by Greg Reuter to approve the minutes of the March 29, 2023 regular committee meeting. Second by Loren Corbin. The motion was Passed.

Highway:

1. Authorizing the Chairman to Enter into an Agreement with D.H. Smith Co. Inc.

   Motion by Loren Corbin to approve the resolution. Second by Greg Reuter. The motion was Passed.

2. Rehabilitation of Certain County Roads and Bridge Replacements for 2023

   Motion by Loren Corbin to approve the resolution. Second by Greg Reuter. The motion was Passed.

3. Highway Highlights 4-26-23

   Highway Superintendent, Joe Wisinski, shared with the Committee the departments monthly highlights

Facilities/Maintenance:

1. Authorizing the Chairman to award Bid 23-11 and enter into an agreement with GDS, Inc.

   Motion by Loren Corbin to approve the resolution. Second by Greg Reuter. The motion was Passed.

2. Authorizing the Chairman to award Bid 23-12 and enter into an agreement with Murnane Building Contractors, Inc.

   Motion by Dave Jones to approve the resolution. Second by Loren Corbin. The motion was Passed.

3. Authorizing the Modification of the 2023 Adopted County Budget (ARPA)

   Consensus of the committee to move to FWM for approval

4. Authorizing the Modification of the 2023 Adopted County Budget (MH Phase II Reno)

   Consensus of the committee to move to FWM for approval

5. Authorizing the Modification of the 2023 Adopted County Budget (Host)

   Consensus of the committee to move to FWM for approval

6. Authorizing the Modification of the 2023 Adopted County Budget (Parks)

   Consensus of the committee to move to FWM for approval

7. Facilities Highlights

   Facilities Director, John Regan, shared with the Committee the departments monthly highlights

8. Central Services Monthly Report

   Facilities Director, John Regan, shared with the Committee the Central Services monthly production report

Preferred Agenda: Consensus to allow any eligible resolution from today's meeting to be added to the preferred agenda

Next Meeting: Wednesday, May 24, 2023 @ 1:00 p.m. in Chambers

Adjourn

Motion by Greg Reuter to adjourn the meeting at 1:19 p.m.. Second by Loren Corbin. The motion was Passed.

Highway, Buildings and Grounds

Wednesday, March 29, 2023 @ 1:00 PM
Chambers

MINUTES

1:00 PM Call Meeting to Order

Supervisor Thomas Stokes called the meeting to order at 1:00 p.m. in Chambers.

Committee Members Present: Chairman William Zupan (via Zoom), Vice Chairman Greg Reuter (via Zoom), Supervisors Thomas Stokes, Loren Corbin

Committee Members Absent: Supervisor David Jones

Others Present:

Director of Public Facilities John Regan (via Zoom), Maintenance Supervisor Lyle Malbouf, Highway Superintendent Joe Wisinski, Highway Operations Manager Rich Durant, Assistant County Attorney Jeff Aumell, County Administrator Mark Scimone, County Treasurer Cindy Edick, Director of Finance Lou Anne Randall, Assistant Public Information Office Ryan Coe, Board Clerk Emily Burns, Lenox Supervisor Jon Pinard, Lincoln Supervisor Melissa During (via Zoom).

Approval of Minutes

- Approval of minutes of the February 22, 2023 regular committee meeting

  Motion by Greg Reuter to approve the minutes of the February 22, 2023 regular committee meeting. Second by Loren Corbin. The motion was Passed.
  Absent: Jones

Other Committee Business

1. Gas-MEGA-Renewal

   County Administrator Marc Scimone updated the Committee on the upcoming Gas consortium renewal and the current rates. Committee advises Marc to send weekly rates to the committee to watch and review and renew by this Fall.

Highway:

1. Authorizing the Chairman to Enter into an Agreement with Suit-Kote Corporation

   Motion by Loren Corbin to approve the resolution. Second by Greg Reuter. The motion was Passed.

Absent: Jones

2. Bid Tabulation 23-08 - Bituminous Concrete (Discussion)

   Highway Superintendent Joe Wisinski review the bid results for Bituminous Concrete, discussion only no action needed to accept bids.

3. Bid Tabulation 23-09 Crushed Stone & Abrasive Products (Discussion)

   Highway Superintendent Joe Wisinski review the bid results for Crushed Stone & Abrasive Products, discussion only no action needed to accept bids.

4. Designating Disposal of Surplus County Personal Property

   consensus of the committee to push to GOC

5. Highway Highlights 3-29-23

   Highway Superintendent Joe Wisinski shared with the Committee the departments monthly highlights

   The committee entered executive session on the motion of Corbin, second by Reuter @ 1:33 p.m.

   The committee exited executive session on the motion of Stokes, second by Reuter @ 1:46 p.m.

Facilities/Maintenance:

1. Authorizing the Chairman to award Bid 23-06 and enter into an agreement with Murnane Building Contractors, Inc

   Motion by Loren Corbin to approve the resolution. Second by Greg Reuter. The motion was Passed.
   Absent: Jones

2. Authorizing the Chairman to enter into an agreement with Chem-Aqua, Inc.

   Motion by Greg Reuter to approve the resolution. Second by Loren Corbin. The motion was Passed.
   Absent: Jones

3. Facilities Highlights

   Director of Facilities John Regan shared with the Committee the departments monthly highlights

4. Central Services Report

   Director of Facilities John Regan shared with the Committee the Central Services February operational report

Preferred Agenda: Consensus to allow any eligible resolution from today's meeting to be added to the preferred agenda

Next Meeting: Wednesday, April 26, 2023 @ 1:00 p.m. in Chambers

Adjourn

Motion by T.J. Stokes to adjourn the meeting at 1:47 p.m.. Second by Loren Corbin. The motion was Passed.
Absent: Jones

RESOLUTION NO. __________

AUTHORIZING THE CHAIRMAN TO ENTER INTO AN AGREEMENT WITH D.H. SMITH CO. INC. FOR THE REPLACEMENT OF LARKIN ROAD BRIDGE

WHEREAS, sealed bids were opened on April 13, 2023 for the Replacement of Larkin Road Bridge over Sangerfield River, BIN 3308580, in the Town of Hamilton, Bid 23-15, and;

WHEREAS, the low bid meeting specifications is as follows;

D.H. Smith Co. Inc. **$884,964.20**

WHEREAS, the cost for services has been appropriated in the 2023 County Road Fund Budget;

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Board of Supervisors be and is hereby authorized to enter into an Agreement on behalf of the County of Madison with D.H. Smith Co. Inc., in the form as is on file with the Clerk of the Board.

Dated: May 9, 2023

____
William Zupan, Chairman
Highway, Buildings and Grounds Committee

Madison County Purchasing Office
315-366-2247
purchasing@madisoncounty.ny.gov
www.madisoncounty.ny.gov

RFB 23-15 Replacement of Larkin Road Bridge over Sangerfield River (BIN 3308580) in the Town of Hamilton, Madison County

Bid Open Date & Time: 4/13/2023 @ 9:15 am

Item No.		D.H. Smith Co Inc	BP Excavation LLC	Slate Hill Constructors, Inc	Vector Construction Corporation	ING Civil Inc	Winn Construction Services Inc.
1	Replacement of Larkin Road Bridge Lump sum	$884,964.20	$940,500.00	$1,340,000.00	$1,090,000.00	$949,400.00	$994,000.00

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 4/24/2023

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
Arthur J. Gallagher Risk Management Services, LLC
30 Century Hill Drive
Suite 200
Latham NY 12110

CONTACT NAME: Courtney McCall, CISR Elite, CRIS
PHONE (A/C, No, Ext): 518-556-3135 FAX (A/C, No):
E-MAIL ADDRESS: Courtney_McCall@ajg.com

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :	Continental Insurance Company	35289
INSURER B :	Valley Forge Insurance Company	20508
INSURER C :	ShelterPoint Life Insurance Company	81434
INSURER D :	Federal Insurance Company	20281
INSURER E :	American Casualty Company of Reading, PA	20427
INSURER F :		

INSURED
D.H. Smith Co. Inc. & David H. Smith
PO Box 293
Clayville NY 13322

COVERAGES **CERTIFICATE NUMBER:** 975460345 **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	
B	X COMMERCIAL GENERAL LIABILITY			4020516012	4/15/2023	4/15/2024	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
	X $2,000 PD Ded.						MED EXP (Any one person)	$ 15,000
	X Contractual Liab						PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT X LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY			4020515975	4/15/2023	4/15/2024	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY; SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY; X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			4020515989	4/15/2023	4/15/2024	EACH OCCURRENCE	$ 5,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 5,000,000
	DED X RETENTION $ 10,000							$
E	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N			7036857154	4/15/2023	4/15/2024	X PER STATUTE; OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N	N / A					E.L. EACH ACCIDENT	$ 1,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$ 1,000,000
C D D	NYS Disability Installation Leased/Rented Equipment			DBL37647 06694664 06694664	4/1/2023 4/15/2023 4/15/2023	4/1/2024 4/15/2024 4/15/2024	Statutory Limits Up to $150,000 Up to $100,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Replacement of Larkin Road Bridge over Sangerfield River (BIN 3308580)
in the Town of Hamilton, Madison County
Madison County are added to the General Liability, Automobile Liability and Umbrella/Excess Liability as an Additional Insured if required by written contract.
Notice of Cancellation applies to General Liability, Auto Liability and Umbrella Coverage subject to the policy endorsement terms & conditions.

CERTIFICATE HOLDER

Madison County Purchasing Office
138 North Court Street
PO Box 635
Wampsville, NY 13163

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

AGENCY CUSTOMER ID: ____________________

ACORD®

NEW YORK CONSTRUCTION CERTIFICATE OF LIABILITY INSURANCE ADDENDUM

DATE (MM/DD/YYYY): 4/24/2023

THIS ADDENDUM SUMMARIZES SOME OF THE POLICY PROVISIONS IN THE REFERENCED INSURANCE POLICIES AND IS ISSUED AS A MATTER OF INFORMATION ONLY; IT CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. ALL TERMS, EXCLUSIONS AND CONDITIONS IN THE ACTUAL POLICY SHOULD BE CONSULTED FOR A MORE DETAILED ANALYSIS OF COVERAGE, AS THIS ADDENDUM DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES.

AGENCY		NAMED INSURED(S)	
Arthur J. Gallagher Risk Management Services, LLC		D.H. Smith Co. Inc. & David H. Smith	
POLICY NUMBER	**EFFECTIVE DATE**	**CARRIER**	**NAIC CODE**
4020516012	4/15/2023	Valley Forge Insurance Company	20508

ADDENDUM INFORMATION **CERTIFICATE NUMBER:** 975460345 **REVISION NUMBER:**

A. Insurer

- [X] Admitted / authorized
- [ ] Excess line or free trade zone

B. General Liability (GL) policy form

- [X] ISO / ISO modified
- [ ] Other

C. Specific operations excluded or restricted (GL policy)

- [ ] Location: ____________________
- [ ] Type of construction: ____________________
- [ ] Building height: ____________________
- [ ] Classifications [see attached declarations / endorsement]
- [ ] Designated work [see attached endorsement]

D. Additional insured endorsement (GL policy)

- [ ] CG 20 10 [ ] CG 20 26 [ ] CG 20 32 [ ] CG 20 33 [ ] CG 20 37 [ ] CG 20 38
- [X] Other: #: CNA74705NY Title: Contractors' General Liability Extension Endorsement - New York

E. According to the terms of this GL policy, the additional insured has primary and noncontributory coverage

- [X] Yes [ ] No and [ ] no other option is available with this insurer

F. Additional insured will receive advance notice if insurer cancels (GL policy)

- [ ] Yes [X] No and [X] no other option is available with this insurer

G. Blanket contractual liability located in the "insured contract" definition (Section V, Number 9, Item f. in the ISO CGL policy) is removed or restricted

- [ ] Yes and [ ] no other option is available with this insurer [X] No changes made

H. "Insured contract" exception to the employers liability exclusion is removed or modified (GL policy)

- [ ] Yes and [ ] no other option is available with this insurer [X] No changes made

I. GL policy (including endorsements) does not cover the additional insured for claims involving injury to employees of the named insured or subcontractors (not workers' compensation)

- [ ] Yes and [ ] no other option is available with this insurer [X] No changes made

J. Earth movement, excavation or explosion / collapse / underground property damage is excluded or restricted (GL policy)

☐ Yes and ☐ no other option is available with this insurer ☒ No changes made

K. Insured vs. insured suits (cross liability in the ISO CGL policy) are excluded or restricted (other than named insured vs. named insured)

☐ Yes and ☐ no other option is available with this insurer ☒ No changes made

L. Property damage to work performed by subcontractors (exception to the "damage to your work" exclusion in the ISO CGL policy) is excluded or restricted

☐ Yes and ☐ no other option is available with this insurer ☒ No changes made

M. Excess / umbrella policy is primary and non-contributory for additional insureds

☒ Yes, by specific policy provision ☐ Yes, by endorsement ☐ No and ☐ no other option is available with this insurer

Nick G. Cabell

AUTHORIZED REPRESENTATIVE SIGNATURE

4/24/2023

DATE (MM/DD/YYYY)

Workers' Compensation Board — New York State

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only)	1b. Business Telephone Number of Insured
D.H. Smith Co. Inc. & David H. Smith PO Box 293 Clayville, NY 13322 Clayville, NY 13322 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	315-839-5340 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 161231765
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Madison County Purchasing Office 138 North Court Street PO Box 635 Wampsville,, NY 13163 Wampsville,, NY 13163	3a. Name of Insurance Carrier American Casualty Company of Reading, PA 3b. Policy Number of Entity Listed in Box "1a" 7036857154 3c. Policy effective period 04/15/2023 to 04/15/2024 3d. The Proprietor, Partners or Executive Officers are ☐ included. (Only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box “3" insures the business referenced above in box “1a” for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box “2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Arthur J. Gallagher Risk Management Services, LLC
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Robert Crandall 4/24/2023
(Signature) (Date)

Title: Area President

Telephone Number of authorized representative or licensed agent of insurance carrier: 518-556-3135

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only) D.H. Smith Co. Inc. & David H. Smith PO Box 293 Clayville, NY 13322 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*	1b. Business Telephone Number of Insured 315-839-5340 1c. Federal Employer Identification Number of Insured or Social Security Number 161231765
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Madison County Purchasing Office 138 North Court Street PO Box 635 Wampsville,, NY 13163	3a. Name of Insurance Carrier **ShelterPoint Life Insurance Company** 3b. Policy Number of Entity Listed in Box "1a" DBL37647 3c. Policy effective period 04/01/2023 to 04/01/2024

4. Policy provides the following benefits:
   - [x] A. Both disability and paid family leave benefits.
   - [ ] B. Disability benefits only.
   - [ ] C. Paid family leave benefits only.
5. Policy covers:
   - [x] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
   - [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 4/24/2023 By [signature]
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 518-556-3135 Name and Title ______

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed ______ By ______
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number ______ Name and Title ______

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

DB-120.1 (10-17)

BUSINESS AUTO COVERAGE PART DECLARATIONS - NEW YORK

ITEM ONE

Named Insured and Mailing Address

Named Insured: D.H. SMITH CO. INC.	**Mailing Address:** PO BOX 293 CLAYVILLE, NY 13322-0293

See **NAMED INSURED ENDORSEMENT**

Form of Business

Corporation (Not Otherwise Classified)

Policy Information

Policy Number: 4020515975

Renewal of: BUA 4020515975

Insurer's Name and Address:
Valley Forge Insurance Company
151 N Franklin St
Chicago, IL 60606

Producer Information

Producer: ARTHUR J GALLAGHER RISK MGT SERV INC

Producer Address:
784 TROY SCHENECTADY RD
LATHAM, NY 12110-2452

Producer Code: 080-074771

Policy Period

04/15/2022 to 04/15/2023 at 12:01 a.m. Standard Time at your mailing address shown above.

Your policy is composed of this Declarations, with the attached Common Policy Conditions, Coverage Forms, and Endorsements, if any. The Policy Forms and Endorsement Schedule shows all the forms applicable to this policy at the time of policy issuance.

Premium, Surcharges, Taxes and Fees at Issuance

Estimated Business Auto Policy Premium	
NY Motor Vehicle Law Enforcement Fee	
Total Policy Charges	

Premium Payable and Audit, if applicable

Premium Payable At Inception:	$
Audit Period	Not Auditable

In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this Coverage Part.

Forms and Endorsements Attached to this Policy

See **SCHEDULE OF FORMS AND ENDORSEMENTS**

SCHEDULE OF FORMS AND ENDORSEMENTS

Endorsement Number	Form Name	Form Number	Form Edition Date
	BUSINESS AUTO COVERAGE PART DECLARATIONS - NEW YORK	CNA85611NY	08-2017
	PAYMENT PLAN SCHEDULE	CNA84401XX	12-2015
	RENTAL REIMBURSEMENT COVERAGE SCHEDULE	CNA86098XX	06-2016
	COMMERCIAL AUTOMOBILE LOSS PAYEE SCHEDULE	CNA86103XX	04-2017
	UNINSURED/UNDERINSURED MOTORIST SUPPLEMENTARY SCHEDULE	CNA90230NY	09-2017
	COMMON POLICY CONDITIONS	IL 00 17	11-1998
	BUSINESS AUTO COVERAGE FORM	CA 00 01	10-2013
1	NEW YORK CHANGES IN BUSINESS AUTO AND MOTOR CARRIER COVERAGE FORMS	CA 01 12	12-2015
2	NEW YORK CHANGES - CANCELLATION	CA 02 25	08-2014
3	NEW YORK SUPPLEMENTAL SPOUSAL BODILY INJURY LIABILITY COVERAGE	CA 04 20	08-2014
4	WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)	CA 04 44	10-2013
5	LESSOR - ADDITIONAL INSURED AND LOSS PAYEE	CA 20 01	10-2013
6	NEW YORK MOBILE EQUIPMENT	CA 20 24	08-2014
7	EMPLOYEE HIRED AUTOS	CA 20 54	10-2013
8	NAMED INDIVIDUALS - BROADENED PERSONAL INJURY PROTECTION COVER	CA 22 01	01-1987
9	NEW YORK MANDATORY PERSONAL INJURY PROTECTION ENDORSEMENT	CA 22 32	11-2018
10	ADDITIONAL PERSONAL INJURY PROTECTION (NEW YORK)	CA 22 33	11-2013
11	NEW YORK OPTIONAL BASIC ECONOMIC LOSS COVERAGE	CA 22 60	04-1992
12	NEW YORK SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS ENDORSEMENT	CA 31 07	05-2018
13	AUTO MEDICAL PAYMENTS COVERAGE	CA 99 03	10-2013

SCHEDULE OF FORMS AND ENDORSEMENTS (Continued)

Endorsement Number	Form Name	Form Number	Form Edition Date
14	DRIVE OTHER CAR COVERAGE - BROADENED COVERAGE FOR NAMED INDIVIDUALS	CA 99 10	10-2013
15	HIRED AUTOS SPECIFIED AS COVERED AUTOS YOU OWN	CA 99 16	10-2013
16	RENTAL REIMBURSEMENT COVERAGE	CA 99 23	10-2013
17	EMPLOYEES AS INSUREDS	CA 99 33	10-2013
18	LOSS PAYABLE CLAUSE	CA 99 44	10-2013
19	CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS -	CNA63359XX	04-2012
20	NOTICE OF CANCELLATION TO CERTIFICATEHOLDERS	CNA68021XX	02-2013
21	NAMED INSURED ENDORSEMENT	CNA86105XX	06-2016
22	ECONOMIC AND TRADE SANCTIONS CONDITION	G-144291-A	03-2003
23	NEW YORK CANCELLATION BY US	G-17983-A31	02-1992
24	NEW YORK CHANGES - FRAUD	IL 01 83	08-2008
25	NEW YORK CHANGES - CALCULATION OF PREMIUM	IL 01 85	08-2008

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM

BUSINESS AUTO COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

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

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

Named Insured: D.H. SMITH CO. INC.
Endorsement Effective Date: 04/15/2022

SCHEDULE
Name(s) Of Person(s) Or Organization(s):
ANY PERSON OR ORGANIZATION FOR WHOM OR WHICH YOU ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO OBTAIN THIS WAIVER FROM US. YOU MUST AGREE TO THAT REQUIREMENT PRIOR TO LOSS.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "**accident**" or the "**loss**" under a contract with that person or organization.

CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. LIABILITY COVERAGE

A. Who Is An Insured

The following is added to **Section II, Paragraph A.1., Who Is An Insured**:

1. a. Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; provided that,

b. The insurance afforded by this provision **A.1.** does not apply to any such entity that is an **insured** under any other liability "policy" providing **auto** coverage.

2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

The insurance afforded by this provision **A.2.**:

a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.

b. Does not apply to:

(1) Bodily injury or **property damage** caused by an **accident** that occurred before you acquired or formed the organization; or

(2) Any such organization that is an **insured** under any other liability "policy" providing **auto** coverage.

3. Any person or organization that you are required by a written contract to name as an additional insured is an **insured** but only with respect to their legal liability for acts or omissions of a person, who qualifies as an **insured** under **SECTION II – WHO IS AN INSURED** and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional insured is a Named Insured.

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

"Policy", as used in this provision **A. Who Is An Insured,** includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or

2. Whose limits have been exhausted.

B. Bail Bonds and Loss of Earnings

Section II, Paragraphs A.2. (2) and A.2. (4) are revised as follows:

1. In **a.(2),** the limit for the cost of bail bonds is changed from $2,000 to $5,000; and

2. In **a.(4),** the limit for the loss of earnings is changed from $250 to $500 a day.

C. Fellow Employee

Section II, Paragraph B.5 does not apply.

Such coverage as is afforded by this provision C. is excess over any other collectible insurance.

II. PHYSICAL DAMAGE COVERAGE

A. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

The following is added to **Section III, Paragraph A.3.**:

With respect to any covered **auto**, any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

B. Transportation Expenses

Section III, Paragraph A.4.a. is revised, with respect to transportation expense incurred by you, to provide:

a. $60 per day, in lieu of $20; subject to

b. $1,800 maximum, in lieu of $600.

C. Loss of Use Expenses

Section III, Paragraph A.4.b. is revised, with respect to loss of use expenses incurred by you, to provide:

a. $1,000 maximum, in lieu of $600.

D. Hired "Autos"

The following is added to **Section III. Paragraph A.**:

5. Hired "Autos"

If Physical Damage coverage is provided under this policy, and such coverage does not extend to Hired Autos, then Physical Damage coverage is extended to:

a. Any covered **auto** you lease, hire, rent or borrow without a driver; and

b. Any covered **auto** hired or rented by your **employee** without a driver, under a contract in that individual **employee's** name, with your permission, while performing duties related to the conduct of your business.

c. The most we will pay for any one **accident** or **loss** is the actual cash value, cost of repair, cost of replacement or $75,000, whichever is less, minus a $500 deductible for each covered auto. No deductible applies to **loss** caused by fire or lightning.

d. The physical damage coverage as is provided by this provision is equal to the physical damage coverage(s) provided on your owned **autos.**

e. Such physical damage coverage for hired **autos** will:

(1) Include loss of use, provided it is the consequence of an **accident** for which the Named Insured is legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.

(2) Such coverage as is provided by this provision will be subject to a limit of $750 per **accident.**

E. Airbag Coverage

The following is added to **Section III, Paragraph B.3.**:

The accidental discharge of an airbag shall not be considered mechanical breakdown.

F. Electronic Equipment

Section III, Paragraphs B.4.c and B.4.d. are deleted and replaced by the following:

c. Physical Damage Coverage on a covered **auto** also applies to **loss** to any permanently installed electronic equipment including its antennas and other accessories

d. A $100 per occurrence deductible applies to the coverage provided by this provision.

G. Diminution In Value

The following is added to **Section III, Paragraph B.6.**:

Subject to the following, the **diminution in value** exclusion does not apply to:

a. Any covered **auto** of the private passenger type you lease, hire, rent or borrow, without a driver for a period of 30 days or less, while performing duties related to the conduct of your business; and

b. Any covered **auto** of the private passenger type hired or rented by your **employee** without a driver for a period of 30 days or less, under a contract in that individual **employee's** name, with your permission, while performing duties related to the conduct of your business.

c. Such coverage as is provided by this provision is limited to a **diminution in value** loss arising directly out of accidental damage and not as a result of the failure to make repairs; faulty or incomplete maintenance or repairs; or the installation of substandard parts.

d. The most we will pay for **loss** to a covered **auto** in any one accident is the lesser of:

(1) $5,000; or

(2) 20% of the **auto's** actual cash value (ACV).

III. Drive Other Car Coverage – Executive Officers

The following is added to **Sections II and III**:

1. Any **auto** you don't own, hire or borrow is a covered **auto** for Liability Coverage while being used by, and for Physical Damage Coverage while in the care, custody or control of, any of your "executive officers", except:

a. An **auto** owned by that "executive officer" or a member of that person's household; or

b. An **auto** used by that "executive officer" while working in a business of selling, servicing, repairing or parking **autos.**

Such Liability and/or Physical Damage Coverage as is afforded by this provision.

(1) Equal to the greatest of those coverages afforded any covered **auto**; and

(2) Excess over any other collectible insurance.

2. For purposes of this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document, and, while a resident of the same household, includes that person's spouse.

Such "executive officers" are **insureds** while using a covered **auto** described in this provision.

IV. BUSINESS AUTO CONDITIONS

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

The following is added to **Section IV, Paragraph A.2.a.**:

(4) Your **employees** may know of an **accident** or **loss.** This will not mean that you have such knowledge, unless such **accident** or **loss** is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to **Section IV, Paragraph A.2.b.**:

(6) Your **employees** may know of documents received concerning a claim or **suit**. This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

B. Transfer Of Rights Of Recovery Against Others To Us

The following is added to **Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an **accident** or **loss**.

C. Concealment, Misrepresentation or Fraud

The following is added to **Section IV, Paragraph B.2.**:

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

D. Other Insurance

The following is added to **Section IV, Paragraph B.5.**:

Regardless of the provisions of Paragraphs **5.a.** and **5.d.** above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract.

That written contract must have been entered into prior to **Accident** or **Loss**.

E. Policy Period, Coverage Territory

Section IV, Paragraph B. 7.(5).(a). is revised to provide:

a. 45 days of coverage in lieu of 30 days.

V. DEFINITIONS

Section V. paragraph C. is deleted and replaced by the following:

Bodily injury means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these.

NOTICE OF CANCELLATION TO CERTIFICATEHOLDERS

It is understood and agreed that:

If you have agreed under written contract to provide notice of cancellation to a party to whom the Agent of Record has issued a Certificate of Insurance, and if we cancel a policy term described on that Certificate of Insurance for any reason other than nonpayment of premium, then notice of cancellation will be provided to such Certificateholders at least 30 days in advance of the date cancellation is effective.

If notice is mailed, then proof of mailing to the last known mailing address of the Certificateholder on file with the Agent of Record will be sufficient to prove notice.

Any failure by us to notify such persons or organizations will not extend or invalidate such cancellation, or impose any liability or obligation upon us or the Agent of Record.

All other terms and conditions of the policy remain unchanged

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

CNA PARAMOUNT

Renewal **Effective Date:** 04/15/2022

Insured Name:
D.H. SMITH CO. INC.

PO BOX 293

CLAYVILLE, NY 13322-0293

Policy Number: 4020516012 **Policy Period:** 04/15/2022 – 04/15/2023

Producer's Information:
ARTHUR J GALLAGHER RISK MGT SERV INC **Producer Code:** 074771
784 TROY SCHENECTADY RD

LATHAM, NY 12110
(518)783-2665

CNA Branch Number: 080

CNA Branch Name and Address:
SYRACUSE BRANCH
5786 WIDEWATERS PARKWAY 3RD FL

DEWITT, NY 13214
(315)431-6000

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CNA PARAMOUNT

Schedule of Forms and Endorsements

Policy Number: 4020516012

I. CNA PARAMOUNT

A. Policyholder Notices

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	Notice To Policyholders Jurisdictional Inspections	CNA62823XX	07-17
	Policy Holder Notice - Countrywide	CNA74722XX	01-15
1	Policy Holder Notice - Countrywide	CNA75014XX	01-15
	Policy Holder Notice - Countrywide - Premium Basis Used on Liability Schedules	CNA75144XX	04-15
	Policy Holder Notice - Countrywide - Contractors' General Liability Extension Endorsement	CNA82876XX	07-15
	Policy Holder Notice - Countrywide	CNA89319XX	06-17

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B. Business Property

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	Business Property Schedule of Locations	CNA62644XX	10-15
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Policy Number: 4020516012

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6	General Aggregate Limit - Designated Locations Endorsement	CNA74827XX	01-15
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12	Deductible Applicable to Damages Endorsement	CNA75119XX	01-15
13	Commercial General Liability Coverage Form Endorsement - New York	CNA74831NY	10-15
14	Pollution Exclusion Amendatory Endorsement	CNA74843XX	01-15
15	Waiver of Transfer of Rights of Recovery Against Others to the Insurer Endorsement	CNA75008XX	10-16

Policy Number: 4020516012

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17	Silica Exclusion Endorsement - New York	CNA74687NY	08-15
18	Employment-Related Practices Exclusion Endorsement	CNA74761XX	01-15
19	Designated Operations Covered by a Consolidated (Wrap-Up) Insurance Program Exclusion Endorsement	CNA74764XX	01-15
20	Contractors - Professional Liability Exclusion Endorsement	CNA74801XX	01-15
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Policy Number: 4020516012

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32	Changes - Notice of Cancellation or Material Restriction Endorsement - New York	CNA74702NY	01-15
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CNA PARAMOUNT

Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

A. in the performance of your ongoing operations subject to such **written contract**; or

B. in the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:

1. the **written contract** requires you to provide the additional insured such coverage; and

2. this **coverage part** provides such coverage.

II. But if the **written contract** requires:

A. additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or

B. additional insured coverage with "arising out of" language; or

C. additional insured coverage to the greatest extent permissible by law;

then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

III. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

A. coverage broader than required by the **written contract**; or

B. a higher limit of insurance than required by the **written contract**.

IV. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury**, **property damage**, or **personal and advertising injury** arising out of:

A. the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:

1. the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and

2. supervisory, inspection, architectural or engineering activities; or

B. any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.

V. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS,** the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **coverage part**:

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Primary and Noncontributory Insurance

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. primary and non-contributing with other insurance available to the additional insured; or

2. primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

VI. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;

2. send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and

3. make available any other insurance, and tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph **3.** does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

VII. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

Written contract means a written contract or written agreement that requires you to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

A. is currently in effect or becomes effective during the term of this policy; and

B. was executed prior to:

1. the **bodily injury** or **property damage**; or

2. the offense that caused the **personal and advertising injury**;

for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

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

CNA

CNA PARAMOUNT

Waiver of Transfer of Rights of Recovery Against Others to the Insurer Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE
Name Of Person Or Organization:
ANY PERSON OR ORGANIZATION WHOM THE NAMED INSURED HAS AGREED IN WRITING IN A CONTRACT OR AGREEMENT TO WAIVE SUCH RIGHTS OF RECOVERY, BUT ONLY IF SUCH CONTRACT OR AGREEMENT:
1.IS IN EFFECT OR BECOMES EFFECTIVE DURING THE TERM OF THIS COVERAGE PART; AND 2.WAS EXECUTED PRIOR TO THE BODILY INJURY, PROPERTY DAMAGE OR PERSONAL AND ADVERTISING INJURY GIVING RISE TO THE CLAIM.

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

Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, it is understood and agreed that the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended by the addition of the following:

With respect to the person or organization shown in the Schedule above, the Insurer waives any right of recovery the Insurer may have against such person or organization because of payments the Insurer makes for injury or damage arising out of the **Named Insured's** ongoing operations or **your work** included in the **products-completed operations hazard**.

All other terms and conditions of the Policy remain unchanged.

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

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CNA	CNA PARAMOUNT **Contractors' General Liability Extension Endorsement - New York**

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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1. ADDITIONAL INSUREDS

a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **H.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **H.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

C. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

D. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

E. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury** or **property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls 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, hoistaway 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; or

2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

a. Bodily injury, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or

b. Bodily injury or **property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

H. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** caused by:

a. the **Named Insured's** acts or omissions; or

b. the acts or omissions of those acting on the **Named Insured's** behalf,

in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. BODILY INJURY – EXPANDED DEFINITION

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

Bodily injury means physical injury, sickness, shock, humiliation, disability or disease, mental injury or mental anguish sustained by a person, including death resulting from any of these.

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

a. on the effective date of this **Coverage Part**; or

b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**, qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership, limited liability company or joint venture; or

(b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or

B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph **3.** above, this insurance does not apply to:

a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor

b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

6. BROADENED LIABILITY COVERAGE FOR DAMAGE TO YOUR PRODUCT AND YOUR WORK

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusions **k.** and **l.** and replace them with the following:

This insurance does not apply to:

k. Damage to Your Product

Property damage to **your product** arising out of it, or any part of it except when caused by or resulting from:

(1) fire;

(2) smoke;

(3) collapse; or

(4) explosion.

l. Damage to Your Work

Property damage to **your work** arising out of it, or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply:

(1) If the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor; or

(2) If the cause of loss to the damaged work arises as a result of:

(a) fire;

(b) smoke;

(c) collapse; or

(d) explosion.

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $100,000 is the most the Insurer will pay under **Coverage A** for the sum of **damages** arising out of any one **occurrence** because of **property damage** to **your product** and **your work** that is caused by fire, smoke, collapse or explosion and is included within the **product-completed operations hazard.** This sublimit does not apply to **property damage** to **your work** if the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor.

C. This **Broadened Liability Coverage For Damage To Your Product And Your Work** Provision does not apply if an endorsement of the same name is attached to this policy.

7. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

Insured Contract means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner is not an **insured contract**;

b. A sidetrack agreement;

c. Any easement or license agreement;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

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

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

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;

(2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(1)** above and supervisory, inspection, architectural or engineering activities.

8. ELECTRONIC DATA LIABILITY

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **p. Electronic Data** and replace it with the following:

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

(1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or

(2) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **electronic data** that does not result from physical injury to tangible property.

The above exclusions apply even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relation expenses or any other loss, cost or expense incurred by the **Named Insured** or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to **damages** because of **bodily injury**.

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $100,000 is the most the Insurer will pay under **Coverage A** for all **damages** arising out of any one **occurrence** because of **property damage** that results from physical injury to tangible property and arises out of **electronic data**.

C. The following definition is added to **DEFINITIONS**:

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

D. For the purpose of the coverage provided by this **ELECTRONIC DATA LIABILITY** Provision, the definition of **property damage** in **DEFINITIONS** is replaced by the following:

Property damage means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it; or

c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate **electronic data**, resulting from physical injury to tangible property. All such loss of **electronic data** shall be deemed to occur at the time of the **occurrence** that caused it.

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

9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks

damages from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

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

11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT

A. For each construction project away from premises the **Named Insured** owns or rents, a separate Construction Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

1. All **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Construction Project General Aggregate Limit of any other construction project.

B. All:

1. **Damages** under **Coverage B**, regardless of the number of locations or construction projects involved;

2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single construction project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single construction project,

will reduce the General Aggregate Limit shown in the Declarations.

C. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Construction Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular construction project.

D. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.

E. If a single construction project away from premises owned by or rented to the **Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

12. IN REM ACTIONS

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

(1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.

(2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions:

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

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Medicare/Medicaid Fraud

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. DEFINITIONS is amended to:

i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

a. **professional health care services** on behalf of the **Named Insured** or

b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

a. Physician;

b. Nurse;

c. Nurse practitioner;

d. Emergency medical technician;

e. Paramedic;

f. Dentist;

g. Physical therapist;

h. Psychologist;

i. Speech therapist;

j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.

ii. delete the definition of **occurrence** and replace it with the following:

Occurrence means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

iii. amend the definition of **Insured** to:

a. add the following:

- the **Named Insured's employees** are **Insureds** with respect to:

  (1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

- the **Named Insured's volunteer workers** are **Insureds** with respect to:

  (1) **bodily injury** to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

  (2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

  when such **bodily injury** arises out of a **health care incident**.

b. delete Subparagraphs **(a)**, **(b)**, **(c) and (d)** of Paragraph **2.a.(1)** of **WHO IS AN INSURED**.

D. The **Other Insurance** condition is amended to delete Paragraph **b.(1)** in its entirety and replace it with the following:

Other Insurance

b. Excess Insurance

(1) To the extent this insurance applies, it is excess over any other valid and collectible insurance, self-insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

No person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;

b. the **bodily injury** or **property damage** first occurred after such termination date; and

c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company; and

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph **c.** above. But this provision will not serve to exclude **bodily injury**, **property damage** or **personal and advertising injury** that would otherwise be covered under the **Contractors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **j. Damage to Property** in its entirety and replace it with the following:

This insurance does not apply to:

j. Damage to Property

Property damage to:

(1) Property the **Named Insured** owns, rents, or occupies, 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 the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;

(3) Property loaned to the **Named Insured**;

(4) Personal property in the care, custody or control of the **Insured**;

(5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** 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) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph **(2)** of this exclusion does not apply if the premises are **your work**.

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

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

Paragraphs **(3)** and **(4)** of this exclusion do not apply to **property damage** to:

i. tools, or equipment the **Named Insured** borrows from others, nor

ii. other personal property of others in the **Named Insured's** care, custody or control;

while being used in the **Named Insured's** operations away from any **Named Insured's** premises. However, the coverage granted by this exception to Paragraphs **(3)** and **(4)** does not apply to:

a. property at a job site awaiting or during such property's installation, fabrication, or erection;

b. property that is **mobile equipment** leased by an **Insured**;

c. property that is an **auto**, aircraft or watercraft;

d. property in transit; or

e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.

B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE.**

C. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $25,000 is the most the Insurer will pay under **Coverage A** for **damages** arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds $1,000.

D. Paragraph **6.**, Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

6. Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **Coverage A** for **damages** because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

a. $500,000; or

b. The Damage To Premises Rented To You Limit shown in the Declarations.

E. Paragraph **4.b.(1)(a)(ii)** of the **Other Insurance** Condition is deleted and replaced by the following:

(ii) That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

16. LIQUOR LIABILITY

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

17. MEDICAL PAYMENTS

A. LIMITS OF INSURANCE is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C – Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

(1) $15,000 unless a different amount is shown here: ; or

(2) the amount shown in the Declarations for Medical Expense Limit.

B. Under **COVERAGES**, the **Insuring Agreement** of **Coverage C** – **Medical Payments** is amended to replace Paragraph **1.a.(3)(b)** with the following:

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

18. NON-OWNED AIRCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;

2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and

3. the aircraft is not being used to carry persons or property for a charge.

19. NON-OWNED WATERCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph **(2)** of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

(a) less than 75 feet long; and

(b) not being used to carry persons or property for a charge.

20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

- Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation:

(a) is based solely on disparate impact or vicarious liability; and

(b) is not done intentionally by or at the direction of the **Named Insured**; or any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

This exclusion shall not apply to discrimination or humiliation **based solely on either disparate impact or vicarious liability** that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

(a) the **Named Insured**; or

(b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a

limited liability company) of the **Named Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

- Provision **1. ADDITIONAL INSURED** of this endorsement; or
- attachment of an additional insured endorsement to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

A. Under **COVERAGES**, **Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability**.

B. Solely for the purpose of the coverage provided by this **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** provision, the following changes are made to the section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:**

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

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

C. This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

22. PROPERTY DAMAGE – ELEVATORS

A. Under **COVERAGES**, **Coverage A** – **Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3)**, **(4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.

B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any other valid and collectible insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

23. SUPPLEMENTARY PAYMENTS

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

A. Paragraph **1.b.** is amended to delete the $250 limit shown for the cost of bail bonds and replace it with a $5,000. limit; and

B. Paragraph **1.d.** is amended to delete the limit of $250 shown for daily loss of earnings and replace it with a $1,000. limit.

24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

25. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or

2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and

2. was executed prior to the **bodily injury**, **property damage** or **personal and advertising injury** giving rise to the **claim**.

26. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS

Note: The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

Contractors' General Liability Extension Endorsement - New York

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

A. The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury**, **property damage**, or **personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor

2. **Bodily injury** or **property damage** included within the **products-completed operations hazard** that arises out of those portions of the project that are not **residential structures**.

B. Condition **4. Other Insurance** is amend to add the following subparagraph **4.b.(1)(c)**:

This insurance is excess over:

(c) Any of the other valid and collectible insurance whether primary, excess, contingent or any other basis that is insurance available to the **Named Insured** as a result of the **Named Insured** being a participant in a **consolidated (wrap-up) insurance program**, but only as respects the **Named Insured's** involvement in that **consolidated (wrap-up) insurance program**.

C. **DEFINITIONS** is amended to add the following definitions:

Consolidated (wrap-up) insurance program means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

Residential structure means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and

2. the common areas and structures appurtenant to the structures in paragraph **1.** (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, **residential structure** does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. **Residential structure** also does not include hospitals or prisons.

This **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

All other terms and conditions of the Policy remain unchanged.

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

VALLEY FORGE INSURANCE COMPANY
Insured Name: D.H. SMITH CO. INC.

Policy No: 4020516012
Endorsement No: 5
Effective Date: 04/15/2022

CNA	CNA PARAMOUNT **Changes - Notice of Cancellation or Material Restriction Endorsement - New York**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
EMPLOYEE BENEFITS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
TECHNOLOGY ERRORS AND OMISSIONS LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY – NEW YORK DEPARTMENT OF TRANSPORTATION

SCHEDULE	
Number of days notice (other than for nonpayment of premium):	030
Number of days notice for nonpayment of premium:	10
Name of person or organization to whom notice will be sent:	PER SCHEDULE ON FILE
Address:	PER SCHEDULE ON FILE PER SCHEDULE ON FILE , XX 00000

If no entry appears above, the number of days notice for nonpayment of premium will be 10 days. In no event shall the number of days listed be fewer than the number required by New York State.

It is understood and agreed that in the event of cancellation or any material restrictions in coverage during the **policy period**, the Insurer also agrees to mail prior written notice of cancellation or material restriction to the person or organization listed in the above Schedule. Such notice will be sent prior to such cancellation in the manner prescribed in the above Schedule.

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All other terms and conditions of the Policy remain unchanged.

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

CNA	CNA PARAMOUNT **Additional Coverage Limited Pollution Liability Coverage - Worksites Endorsement**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE		
Limited Pollution Liability Aggregate Limit	$2,000,000	
Each Limited Pollution Incident Limit	$1,000,000	
Pollution Deductible Amount		**Each Limited Pollution Incident**

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

It is understood and agreed as follows:

I. Under **COVERAGES**, the following additional coverage is added:

LIMITED POLLUTION INCIDENT COVERAGE

1. Insuring Agreement

Subject to the Limited Pollution Liability Limits and the Pollution Deductible Amount, the Insurer will pay those sums the **Insured** becomes legally obligated to pay as **damages** because of **bodily injury** or **property damage** that directly results from a **limited pollution incident** within the **coverage territory**, provided that:

a. the first emission, discharge, release or escape of the **pollutants** from which such **bodily injury** or **property damage** arises is demonstrable as having occurred during the **policy period**; and

b. such **bodily injury** or **property damage** does not qualify for coverage under **Coverage A – Bodily Injury and Property Damage Liability**, whether or not any **Coverage A** limits remain; and

c. such **limited pollution incident** happens on or from a **worksite**.

The Insurer will have the right and duty to defend any **suit** seeking those **damages**, even if the allegations of the **suit** are groundless, false or fraudulent. The Insurer may at its discretion investigate any **limited pollution incident** and settle any **claim** that may result. But:

(1) The Insurer's right and duty to defend end when the Insurer has used up the applicable limit of insurance in the payment of judgments or settlements; and

(2) The Insurer has no duty to defend **suits** seeking **damages** not covered by this insurance.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**, which hereby also apply to **LIMITED POLLUTION INCIDENT COVERAGE**.

2. Exclusions

A. Under **Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** hereby also applies to **LIMITED POLLUTION INCIDENT COVERAGE** subject to the following changes, which apply only with respect to the coverage provided by this endorsement:

1. the following exclusions are deleted:

a. the exclusions entitled **Pollution**, **Electronic Data** and **War**;

b. exclusions attached by endorsement to exclude fungi, microbes, or silica; and

c. the endorsement entitled **Respirable dust Exclusion Endorsement**, if attached to this policy.

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2. the following entitled exclusions:
   - **Damage To Property**
   - **Damage to Your Product**;
   - **Damage to Your Work**;
   - **Damage to Impaired Property or Property Not Physically Injured**;
   - **Recall of Products, Work Or Impaired Property**,

   are deleted and replaced by the following:

   This insurance does not apply to:

   - **Damage To Property**

     Property Damage to:

     (1) property at any time owned, rented, or occupied by the **Named Insured**, including any costs or expenses incurred by the **Named Insured**, or by 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 the **Named Insured** sells, gives away or abandons if the **property damage** arises out of any part of those premises;

     (3) property loaned to an **Insured**;

     (4) personal property in the care, custody or control of an **Insured**; or

   - **Products or Completed Operations**

     bodily injury or **property damage** included within the **products-completed operations hazard**.

B. With respect only to the coverage provided by this endorsement, the following additional exclusions apply:

This insurance does not apply to:

- **Acid Rain**

  bodily injury or **property damage** arising out of acid rain.

- **Cleanup or Monitoring Costs**

  any loss, cost or expense arising out of any:

  (1) request, demand, order or statutory or regulatory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of, **pollutants**: or

  (2) **claim** by or on behalf of a governmental authority for **damages** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of, **pollutants**.

  But this exclusion does not apply to liability for **damages** for **property damage** that is otherwise covered by this **LIMITED POLLUTION INCIDENT COVERAGE**.

- **Failure to Comply With Environmental Statutes**

  bodily injury or **property damage** arising out of a **limited pollution incident** which results from, or is directly or indirectly attributable to, failure to comply with any applicable statute, regulation, ordinance, directive or order relating to the protection of the environment and promulgated by any governmental body, provided that failure to comply is a willful or deliberate act or omission of:

(1) the **Insured**; or

(2) the **Named Insured** or any of the **Named Insured's** executive officers (if a corporation), members or managers (if a limited liability corporation), or members or partners (if a joint venture or partnership).

- **Natural Resources**

  any loss, cost or expense arising out of any request, demand, order or **suit** by a designated natural resource trustee or other person vested with the authority under any federal or state statute to make such claims, that any **Insured** or others assess, replace, restore or rehabilitate natural resources, or in any way provide compensation for **property damage** to natural resources due to the effects of **pollutants**.

- **Offshore Facilities And Deepwater Ports**

  bodily injury or **property damage** arising out of the ownership or operation of any offshore facility as defined in the Outer Continental Shelf Lands Act Amendment of 1978 or the Clean Water Act of 1977 as amended 1978 or any deepwater port as defined in the Deepwater Port Act of 1974 as amended or as may be amended.

- **Priority Clean-up Sites**

  any loss, cost or expense arising out of any request, demand or order by a governmental authority that any **Insured** or others test for, monitor, clean-up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants** at any site which is included on an EPA or state environmental agency priority clean-up list prior to the **limited pollution incident**.

- **Punitive Damages**

  any punitive or exemplary **damages** nor the multiplied portion of multiplied **damages**. This exclusion does not apply if such exclusions are not permitted in the state where the **Named Insured** is domiciled.

- **Rolling Stock**

  bodily injury or **property damage** arising out of the ownership, maintenance, use or entrustment to others of any rolling stock owned or operated by, or rented or loaned to, or loaded or unloaded by any **Insured**.

- **Waste Facilities**

  (1) **bodily injury** or **property damage** arising out of a **limited pollution incident** at or from a **waste facility** which is a **worksite**.

  (2) **bodily injury** at or from, or **property damage** to, a **waste facility** to which waste from the operations of an **Insured** are consigned.

- **Wells**

  bodily injury or **property damage** arising out of the emission, discharge, release or escape of drilling fluid, oil, gas or other fluids from any oil, gas, mineral, water or geothermal well. This exclusion applies without regard to whether vehicle-mounted well servicing equipment contributed to causing the **limited pollution incident**.

II. Under **WHO IS AN INSURED**, and solely with respect to the coverages provided by this endorsement, the following changes apply:

A. paragraph **3.** is amended to add the following paragraph **d.**:

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d. **LIMITED POLLUTION INCIDENT COVERAGE** does not apply to:

(1) **bodily injury** or **property damage** that first occurred; nor

(2) **limited pollution incidents** that first commenced,

before the **Named Insured** acquired or formed the organization.

B. the following paragraph is added:

No person or organization qualifying as an **Insured** on any endorsement attached to this **Coverage Part** is an **Insured** with respect to **bodily injury** or **property damage** arising out of **limited pollution incidents** other than the **Named Insured** and the **Named Insured's employees**. However, with respect to such **bodily injury** or **property damage**, if the **Named Insured** is required under a written contract or written agreement to add a person or organization as an additional insured, then such person or organization is an **Insured** with respect to the coverage provided by the **LIMITED POLLUTION LIABILITY COVERAGE** endorsement, but:

a. only with respect to such person or organization's liability for acts or omissions of the **Named Insured**; and

b. only if such contract or agreement is currently in effect and was executed prior to the **limited pollution incident** that caused the **bodily injury** or **property damage**. Furthermore, and subject always to the terms and conditions of this **Coverage Part**, including the limits of insurance, the Insurer will not provide such person or organization with

(1) coverage broader than required by such contract or agreement; or

(2) a higher limit of insurance than required by such contract or agreement.

Any coverage granted by this provision shall apply only to the extent permissible by law.

III. **LIMITS OF INSURANCE** is amended as follows:

A. the following paragraphs are added:

The Limited Pollution Liability Aggregate Limit shown in the Schedule of the **LIMITED POLLUTION LIABILITY COVERAGE** endorsement is the most the Insurer will pay under **LIMITED POLLUTION LIABILITY COVERAGE** for the total of all **damages** because of **bodily injury** and **property damage** resulting from **limited pollution incidents**.

Subject to the Limited Pollution Liability Aggregate Limit described above, the Each Limited Pollution Incident Limit is the most the Insurer will pay under **LIMITED POLLUTION LIABILITY COVERAGE** for the total of all **damages** because of **bodily injury** and **property damage** resulting from any one **limited pollution incident**.

B. with respect only to **property damage** arising out of a **limited pollution incident** the following Deductible provision is added:

1. The Insurer's obligation under **LIMITED POLLUTION LIABILITY COVERAGE** to pay **damages** for **property damage** on the **Insured's** behalf applies only to the amount of **damages** in excess of any Pollution Deductible amount stated in the **LIMITED POLLUTION LIABILITY COVERAGE** endorsement as applicable to Each Limited Pollution Incident. Neither the Each Limited Pollution Incident Limit nor the Limited Pollution Liability Aggregate Limit will be reduced by the application of such deductible amount.

2. The terms of this insurance, including those with respect to:

a. the Insurer's right and duty to defend any **suits** seeking those **damages**; and

b. the **Named Insured's** duties in the event of an **occurrence** or **claim**,

apply irrespective of the application of the deductible amount.

3. The Insurer may pay any part or all of the deductible amount to effect settlement of any **claim**, and, upon notification of the action taken, the **Named Insured** shall promptly reimburse the Insurer for such part of the deductible amount as the Insurer has paid.

IV. Under **CONDITIONS**, and with respect only to the coverage provided by this endorsement, paragraph **a.** of the condition entitled **Duties In The Event of Pollution Incident, Claim or Suit** is deleted and replaced by the following:

Duties In The Event of Pollution Incident, Claim or Suit.

a. The **Named Insured** must see to it that the Insurer is notified as soon as practicable of an **occurrence** or offense which may result in a **claim**. To the extent possible, notice should include:

(1) how, when, and where the **occurrence** or offense took place;

(2) the names and addresses of any injured persons and witnesses; and

(3) the nature and location of:

i. any injury or damage arising out of the **occurrence** or offense; and

ii. any **limited pollution incident**, and of the **pollutants** that escaped or were emitted, discharged or released in the limited pollution incident.

V. Solely with respect to the coverage granted by this Endorsement, and notwithstanding anything to the contrary in any endorsement attached to this **Coverage Part**, the section entitled **Definitions** is amended as follows,:

A. the following definitions are added:

Above-ground means on or above:

a. the surface of the land;

b. the basement floor of any building; or

c. any navigable or surface body of water.

Limited pollution incident means an accidental emission, discharge, release, or escape of **pollutants** that results in the injurious presence of **pollutants** in or upon land, the atmosphere, interior of a building or any water course, body of water or ground water. A series of emissions, discharges, releases or escapes of **pollutants** that are logically or causally connected by any common fact, circumstance, situation, transaction, event, advice or decision will be deemed to be one **limited pollution incident**. All **bodily injury** and **property damage** resulting from one **limited pollution incident** shall be deemed to have occurred only at the commencement date of the **limited pollution incident**.

Waste facility means any site to which waste is delivered for storage, disposal, processing or treatment, whether or not such site is licensed by a governmental authority to perform such storage, disposal, processing or treatment.

Worksite means any site or location on which any **Insured** or any contractors or subcontractors working directly or indirectly on any **Insured's** behalf are performing operations, including sites temporarily borrowed or rented in support of a single worksite for storage of construction equipment. **Worksite** does not include any premises, site or location:

(1) which is or was at any time owned by, rented or loaned to any **Insured**; nor

(2) occupied by any **Insured** for any purpose other than performing construction operations for others.

B. the following definitions are amended:

1. The definition of **damages** is amended to add the following:

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Damages also do not include fines or penalties.

2. the first sentence of paragraph **f.** of the definition of **insured contract** is deleted and replaced by the following:

   f. That part of any other written contract or written agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization, provided the **bodily injury** or **property damage** is entirely caused by the **Named Insured** or by those acting on the **Named Insured's** behalf. However, such part of a contract or agreement shall only be considered an **insured contract** to the extent the **Named Insured's** assumption of the tort liability is permitted by law.

   This amendment does not apply if paragraph **f.** has been deleted without replacement by another endorsement attached to this **Coverage Part**.

All other terms and conditions of the Policy remain unchanged.

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

POLICY DECLARATIONS

Named Insured and Mailing Address

Named Insured:
D.H. SMITH CO. INC.

Mailing Address:
PO BOX 293
CLAYVILLE, NY 13322-0293

Policy Information

Policy Number: 4020515989

Renewal of: 4020515989

Insurer's Name and Address:
The Continental Insurance Company
151 N Franklin St
Chicago, IL 60606

Producer Information

Producer:
ARTHUR J GALLAGHER RISK MGT SERV INC
784 TROY SCHENECTADY RD
LATHAM, NY 12110-2452

Producer Code: 080-074771

Policy Period

04/15/2022 to **04/15/2023** at 12:01 a.m. Standard Time at your mailing address.

Limits of Insurance

Each **Incident Limit**	$5,000,000
Aggregate Limit	$5,000,000
Aggregate **Products-Completed Operations Hazard** Limit	$5,000,000
Policy Aggregate Limit	N/A
Crisis Management Expenses Aggregate Limit	$300,000
Key Employee Replacement Expenses Aggregate Limit	$100,000

Self-Insured Retention

Self-Insured Retention	$10,000

Schedule of Underlying Insurance

Underlying Insurer Policy Number Policy Period Note:	Underlying Insurance	Coverages	Limits of Insurance
Valley Forge Insurance Company 4020516012 04/15/2022 to 04/15/2023	General Liability	Each Occurrence Limit	$1,000,000
		General Aggregate Limit	$2,000,000
		Per Location : yes	
		Per Project : yes	
		Products/ Completed Operations Aggregate Limit	$2,000,000
		Personal and Advertising Injury Liability Limit	$1,000,000
		ALAE	Outside Limits
Valley Forge Insurance Company 4020515975 04/15/2022 to 04/15/2023	Auto Liability	Combined Single Limit	$1,000,000
		ALAE	Outside Limits
AmTrust Insurance company of Kansas, Inc. KWC1246704 04/15/2022 to 04/15/2023	Employers Liability	Bodily Injury by Accident- Each Accident Limit	$1,000,000
		Bodily Injury by Disease - Policy Limit	$1,000,000
		Bodily Injury by Disease - Each Employee Limit	$1,000,000
		ALAE	Outside Limits

Underlying Insurer Policy Number Policy Period Note:	Underlying Insurance	Coverages	Limits of Insurance
Valley Forge Insurance Company 4020516012 04/15/2022 to 04/15/2023	Employee Benefits Liability	Each Occurrence Limit Aggregate Limit	$1,000,000 $1,000,000

Forms and Endorsements Attached to this Policy

See SCHEDULE OF FORMS AND ENDORSEMENTS

Premium

Minimum Earned Premium	0% of the Total Premium
Total Premium	$
Premium includes the following amount for Certified Acts of Terrorism Coverage	$0

Notices

Notice to insurer

Address:	CNA Claims Reporting P.O. Box 8317 Chicago, IL 60680-8317
Fax #:	800-446-8632
Email Address:	HPReports@CNA.com

PAYMENT PLAN SCHEDULE

PAYMENT PLAN SCHEDULE	
THE BILLING FOR THIS POLICY WILL BE FORWARDED TO YOU DIRECTLY FROM CNA. **THIS PREMIUM WILL BE INVOICED BY CNA ON A SEPARATE STATEMENT ACCORDING TO THE PAYMENT OPTION YOU SELECT.**	
The premium amount for this transaction is:	

SCHEDULE OF FORMS AND ENDORSEMENTS

Endorsement Number	Form Name	Form Number	Form Edition Date
1	CANCELLATION AND NON-RENEWAL ENDORSEMENT - NEW YORK	CNA62814NY	09-2012
2	NUMBER OF DAYS NOTICE OF CANCELLATION ENDORSEMENT	CNA75513XX	03-2015
3	EXCLUSION OF CERTIFIED ACTS OF TERRORISM ENDORSEMENT	CNA75517XX	03-2015
4	CHANGES - NOTICE OF CANCELLATION ENDORSEMENT	CNA75525XX	03-2015
5	ENGINEERS ARCHITECTS OR SURVEYORS PROFESSIONAL LIABILITY EXCLUSION ENDORSEMENT	CNA75541XX	03-2015
6	SUBSIDENCE EXCLUSION ENDORSEMENT	CNA75542XX	03-2015
7	CONTRACTORS LIMITATION ENDORSEMENT - EXCESS AND UMBRELLA LIABILITY	CNA75575XX	01-2017
8	BODILY INJURY LIMITATION ENDORSEMENT	CNA76442XX	03-2015
9	UNDERLYING INSURANCE COVERAGE LIMITATION ENDORSEMENT	CNA76492XX	03-2015
10	ENGINEERS ARCHITECTS OR SURVEYORS PROFESSIONAL LIABILITY EXCLUSION ENDORSEMENT COVERAGE B	CNA76510XX	03-2015
11	TRANSFER OF DUTIES WHEN A LIMIT OF INSURANCE IS USED UP ENDORSEMENT NEW YORK	CNA76568NY	03-2015
12	POLLUTANT ENDORSEMENT - INDIANA	CNA76575XX	03-2015
13	STATE AMENDATORY ENDORSEMENT - NEW YORK	CNA76599NY	11-2015
14	AMENDMENT TO NAMED INSURED	CNA88301XX	08-2017
15	EMPLOYERS LIABILITY (UNLIMITED) EXCLUSION ENDORSEMENT	CNA102395XX	08-2021
	POLICYHOLDER NOTICE OFAC REQUIREMENTS	CNA76614XX	03-2015
	PAYMENT PLAN SCHEDULE	CNA84401XX	12-2015
	PARAMOUNT EXCESS AND UMBRELLA LIABILITY POLICY	CNA75504XX	03-2015
	POLICY DECLARATIONS	CNA75501XX	03-2015
	NEW YORK FREE TRADE ZONE DISCLOSURE NOTICE	CNA72342NYFTZ	11-2018

SCHEDULE OF FORMS AND ENDORSEMENTS (Continued)

Endorsement Number	Form Name	Form Number	Form Edition Date
	POLICYHOLDER NOTICE - OFFER OF TERRORISM COVERAGE CONFIRMATION OF REJECTION OF COVERAGE DISCLOSURE OF PREMIUM	CNA75533XX	01-2021

NUMBER OF DAYS NOTICE OF CANCELLATION ENDORSEMENT

This endorsement modifies insurance provided under the following:

PARAMOUNT EXCESS AND UMBRELLA LIABILITY POLICY

PARAMOUNT UMBRELLA LIABILITY POLICY

PARAMOUNT EXCESS LIABILITY POLICY

It is understood and agreed as follows:

NUMBER OF DAYS NOTICE OF CANCELLATION (OTHER THAN NONPAYMENT OF PREMIUM)

Notwithstanding anything to the contrary, for any statutorily permitted reason other than nonpayment of premium, the number of days required for written notice of cancellation to the **Named Insured** listed first in the Declarations of this Policy is increased to 30 days before the effective date of cancellation.

All other terms and conditions of the policy remain unchanged.

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

PARAMOUNT EXCESS AND UMBRELLA LIABILITY POLICY

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered.

The "Insurer" refers to the insurer providing this insurance as set forth on the Declarations of this Policy. Words and phrases that appear in **bold** have special meaning. Refer to the section entitled **DEFINITIONS**.

I. COVERAGES

A. Coverage A - Excess Follow Form Liability

The Insurer will pay on behalf of the **Insured** those **damages** in excess of the applicable **underlying limits**. Coverage hereunder will attach only after the full amount of the applicable **underlying limits** have been exhausted through payment in legal currency of covered loss under all applicable **underlying insurance** and to which this Coverage A applies**.**

Coverage A under this Policy will then apply in conformance with the provisions of the applicable **underlying insurance** except for the premium, limits of insurance, deductible, retentions, or any defense obligations and any other terms and conditions specifically set forth in this Policy.

Upon exhaustion of the applicable **underlying limits**, the Insurer shall only pay for **damages** in excess of the applicable **underlying limits**. This Coverage A does not provide coverage for any loss not covered by the applicable **underlying insurance** except and to the extent that such loss is not paid under the applicable **underlying insurance** solely by reason of the exhaustion of the applicable **underlying limits** through payment of loss thereunder.

This Coverage applies:

1. if the applicable **underlying insurance** is on an occurrence basis, then only if that which must take place in the policy period of the **underlying insurance** in order to trigger coverage, takes place during this **policy period**; and
2. if the applicable **underlying insurance** is on a claims made basis, then only if:
   a. that which must take place in the **underlying insurance** in order to trigger coverage, takes place after the retroactive date and prior to the end of the **policy period**; and
   b. the **claim** is first made during the **policy period**.

B. Coverage B - Umbrella Liability

The Insurer will pay on behalf of the **Insured** those **damages** in excess of the **retained amount:**

1. that an **Insured** becomes legally obligated to pay because of **bodily injury**, **property damage** or **personal and advertising injury**; or
2. because of liability for **bodily injury** or **property damage** assumed under an **insured contract,** provided the **bodily injury** or **property damage** occurs subsequent to the execution of such **insured contract;**

and provided that:

a. the **bodily injury** or **property damage** occurs during the **policy period**;

b. the **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage territory**;

c. the **personal and advertising injury** is caused by an offense arising out of the **Named Insured's** business; and

d. the offense giving rise to **personal and advertising injury** was first committed during the **policy period** and in the **coverage territory**;

Provided, however, that **Coverage B - Umbrella Liability:**

i. does not apply to:

(a) any part of **damages** to which **underlying insurance** applies; or

(b) any part of **damages** to which **underlying insurance** would have applied regardless of:

(1) the availability of **underlying insurance**; or

(2) the exhaustion of the applicable **underlying limits;**

(c) any **defense costs** related to **damages** as described in **a.** and **b.** above.

ii. applies only if prior to the effective date of the **policy period**, no **authorized insured**:

(a) knew that such **bodily injury** or **property damage** had occurred, in whole or in part. If any **authorized insured** knew, prior to the **policy period**, that any such **bodily injury** or **property damage** had occurred, then any continuation, change or resumption of such **bodily injury** or **property damage** during or after the **policy period** will be deemed to have been known prior to the **policy period**; or

(b) knew that any offense giving rise to **personal and advertising injury** had occurred, in whole or in part.

Bodily injury or **property damage** which occurs during the **policy period** and was not, prior to the **policy period**, known to have occurred by any **authorized insured**, includes any continuation, change or resumption of that **bodily injury** or **property damage** after the end of the **policy period.**

An **authorized insured** will be deemed to know:

1. that such **bodily injury** or **property damage** occurred, at the earliest time when such **authorized insured**:

a. reports the **bodily injury** or **property damage** to the Insurer or any other insurer;

b. receives a **claim** arising out of the **bodily injury** or **property damage**; or

c. becomes aware by any other means that the **bodily injury** or **property damage** has occurred or has begun to occur;

2. that such offense giving rise to **personal and advertising injury** occurred, on the date of the first utterance or dissemination or, if there is no utterance or dissemination, then on the first date of the activity giving rise to a **claim.**

C. **Coverage C - Crisis Management Expenses**

The Insurer will reimburse the **Named Insured** for **crisis management expenses** incurred by the **Named Insured** as a direct result of its response to a **crisis management event** that first occurs during the **policy period**, provided:

1 such **crisis management event** is reported to the Insurer as soon as reasonably practicable following the **crisis management event,** or within 72 hours after such **crisis management event** begins if such **crisis management event** is likely to give rise to **bodily injury** or **property damage**;

2. such **crisis management expenses** are incurred within 180 days after the **crisis management event** and reported to the Insurer as soon as reasonably practicable; and,

3. such **crisis management expenses** are approved in advance by the Insurer.

The period of time for which the Insurer will pay **crisis management expenses** will not be limited by the expiration of the **policy period.**

D. Coverage D – Key Employee

The Insurer will reimburse the **Named Insured** for **key employee replacement expenses** due to the **Named Insured's** permanent loss of the services of a **key employee** provided that:

1. the **Named Insured** would not have incurred such **key employee replacement expenses** if the **Named Insured** had not lost the services of the **key employee**;

2. such **key employee replacement expenses** are incurred by the **Named Insured** within 180 days of the **covered accident** and reported to the Insurer as soon as reasonably practicable;

3. such loss of service is caused by a **covered accident;**

4. the **covered accident** occurs during the **policy period**; and

5. a replacement for such **key employee** is hired within 180 days after the **covered accident.**

The period of time for which the Insurer will pay **key employee replacement expenses** will not be limited by the expiration of the **policy period**.

II. DEFENSE COSTS PAYMENT AND RELATED DUTIES

A. The Insurer has the right and duty to defend any **suit**, and the right to assume control of the investigation and settlement of any **claim,** against the **Insured**, as follows:

1. with respect to the **Coverage A - Excess Follow Form Liability**, upon exhaustion through payment in legal currency of the full amount of the applicable **underlying limits** over which **Coverage A** applies.

2. with respect to the **Coverage B - Umbrella Liability**, upon receipt by the Insurer of a **claim** to which Coverage B applies.

When the Insurer has the duty to defend any **suit** and the right to investigate any **claim** but is prevented by law from doing so, the **Insured** will undertake such defense and investigation, and the Insurer will reimburse the **Insured** for the **defense costs.**

The Insurer's obligation to defend any **suit**, investigate any **claim**, or reimburse for any **defense costs** does not apply if any other insurer has a duty to defend. Further, any obligation to defend any **suit**, investigate any **claim**, or reimburse for any **defense costs** ceases upon exhaustion of the applicable limits of insurance of this Policy.

B. The Insurer may, at the Insurer's sole discretion and at the Insurer's own cost, elect to participate in the investigation, settlement or defense of any **claim** against any of the **Insureds** for matters covered by this Policy even if the applicable **underlying limit** has not been exhausted.

C. The Insurer will pay **defense costs** as follows**:**

1 with respect to the **Coverage A - Excess Follow Form Liability**, **defense costs** are paid within or excess of the limits of insurance as set forth in the applicable **underlying insurance.**

2. with respect to the **Coverage B - Umbrella Liability**, **defense costs** are paid in excess of and do not erode the limits of insurance or the **retained amount.**

D Where the Insurer investigates a **claim** or defends a **suit**, the Insurer will do so even if the allegations of a **claim** are groundless, false, or fraudulent. If Insurer investigates a **claim** or defends a **suit,** Insurer will do so only until the Insurer:

1. makes payment of; or
2. offers to pay; or
3. deposits in court

that part of a judgment up to but not exceeding the Insurer's applicable limits of insurance.

E. No **Insured** shall admit liability, consent to any judgment, agree to any settlement or make any settlement offer which is reasonably likely to involve this Policy without the Insurer's prior written consent, such consent not to be unreasonably withheld. The **Insureds** agree that they shall not knowingly take any action that increases the Insurer's exposure for **damages** or **defense costs** under this Policy.

III. EXCLUSIONS

A. Coverage A - Excess Follow Form Liability and Coverage B - Umbrella Liability Exclusions

With respect to both the **Coverage A- Excess Follow Form Liability** and **Coverage B -Umbrella Liability**, this Insurance does not apply to:

1. Access to or Disclosure of Confidential or Personal Information and Data-Related Liability

any actual or alleged **damages** arising out of:

a. any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or

b. the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **electronic data.**

This exclusion applies even if **damages** are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by the **Named Insured** or others arising out of that which is described in paragraph **a.** or **b.** above.

However, unless paragraph **a.** above applies, this exclusion does not apply to **bodily injury** to the extent that such liability is covered by **underlying insurance.**

2. Asbestos

a. any actual or alleged liability arising out of the actual, alleged or threatened exposure at any time to **asbestos**; or

b. any actual or alleged loss, cost or expense that may be awarded or incurred:

   i. by reason of a **claim** for any such injury or damage; or

   ii. in complying with a governmental direction or request to test for, monitor, clean up, remove, contain or dispose of **asbestos**.

3. Damage to Impaired Property or Property not Physically Injured

any actual or alleged **property damage** to **impaired property** or property that has not been physically injured, arising out of:

a. a defect, deficiency, inadequacy or dangerous condition in **your product** or **your work**; or

b. a delay or failure by the **Named Insured** or anyone acting on the **Named Insured's** behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to **your product** or **your work** after it has been put to its intended use.

4. Damage to Premises Rented or Occupied by the Named Insured

any actual or alleged **property damage** to premises rented to the **Named Insured** or in the case of damage by fire, while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner.

5. Distribution or Recording of Material or Information in Violation of Laws

any actual or alleged liability arising directly or indirectly out of any actual or alleged:

a. violation of:

i. the Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

ii. the CAN-SPAM Act of 2003, including any amendment of or addition to such law;

iii. the Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or

iv. any statute, ordinance, regulation or law other than the TCPA, CAN-SPAM Act of 2003, or FCRA, including FACTA, and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information; or

b. conversion or consumption of another's tangible property or electronic assets. For the purpose of this provision, electronic assets include but are not limited to minute allowances, text message allowances, and other electronic consumables.

6. Employment Related Practices

any actual or alleged **bodily injury** or **personal and advertising injury** to:

a. a person arising out of any actual or alleged:

i. refusal to employ that person;

ii. termination of that person's employment;

iii employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or

b the **spouse**, child, parent, brother or sister of that person as a consequence of such **bodily injury** or **personal and advertising injury** to that person at whom any of the employment-related practices described in paragraphs **a. i., ii.,** or **iii.** above is directed.

This exclusion applies:

a. whether the injury-causing event described in paragraphs **a. i., ii.,** or **iii.** above occurs before employment, during employment or after employment of that person;

b. whether the **Insured** may be liable as an employer or in any other capacity; and

c. to any obligation to share damages with or repay someone else who must pay damages because of the injury.

However, this exclusion does not apply to **bodily injury** a person sustains during a job interview while attempting to demonstrate a physical capability or skill required by the job to the extent that such liability is covered by **underlying insurance.**

7. **ERISA**

any actual or alleged liability arising out of any actual or alleged obligation of any **Insured** under the Employees Retirement Income Security Act of 1974 or any similar common or statutory law anywhere in the world including any amendments or additions thereto.

8. **Nuclear Energy Liability**

any actual or alleged **bodily injury**, **property damage** or **personal and advertising injury:**

a. with respect to which an **Insured** under this policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of insurance;

b. resulting from the **hazardous properties** of **nuclear material** and with respect to which:

i. any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or

ii. the **Insured** is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization; or

c. resulting from **hazardous properties** of **nuclear material**, if:

i. the **nuclear material**:

(a) is at any **nuclear facility** owned by, or operated by or on behalf of, an **Insured** or

(b) has been discharged or dispersed therefrom;

ii. the **nuclear material** is contained in **spent fuel** or **nuclear waste** at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an **Insured**;

or

iii the **bodily injury**, **property damage** or **personal and advertising injury** arises out of the furnishing by an **Insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion applies only to **property damage** to such **nuclear facility** and any property thereat.

d. Under any Medical Payments coverage, to expenses with respect to **bodily injury** resulting from the **hazardous properties** of **nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.

Solely as used in this exclusion:

(a) **property damage** includes all forms of radioactive contamination of property;

(b) **hazardous properties** includes but is not limited to radioactive, toxic or explosive properties;

(c) source material, special nuclear material, and by-product material have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

(d) **spent fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.

9. Recall of Products, Work or Impaired Property

any actual or alleged loss, cost or expense incurred by the **Named Insured** or any person or entity, for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of **your product**, **your work** or **impaired property**, if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

10. Unfair Competition/Antitrust Claims/RICO Claims

any actual or alleged liability arising out of any:

a. unfair competition, dilution, deceptive trade practices, or civil actions for consumer fraud;

b. charges of price fixing, monopolization or restraint of trade; or

c. any violation of:

i. the Federal Trade Commission Act;

ii. the Sherman Act, the Clayton Act, or any federal statutory provision regarding anti-trust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade;

iii. the Racketeer Influenced and Corrupt Organizations Act;

iv. any rules or regulations promulgated under or in connection with the above statutes; or

v. any state, federal or local statute or other law which similarly regulates business practices.

11. Uninsured/Underinsured Motorists

any actual or alleged liability arising out of any obligations under an uninsured/underinsured motorist law, a personal injury protection law, a reparations benefit law or other similar law.

12. War

any actual or alleged liability arising, directly or indirectly out of any:

a. war, including undeclared or civil war;

b. warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

c. insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

13. Workers' Compensation and Similar Laws /Nonsubscriber Status

any actual or alleged liability arising out of any obligation of any **Insured**:

a. under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

b. by reason of a statement of non-subscription on file with any applicable Worker's Compensation authority of any State indicating the **Named Insured** has chosen not to participate in the Workers Compensation system in accordance with laws of such state.

B. Coverage A - Excess Follow Form Liability Exclusions

With respect to **Coverage A - Excess Follow Form Liability**, this Insurance does not apply to:

1. Coverages Subject to a Sub Limit

any actual or alleged liability, loss, cost or expense covered under any **underlying insurance** which is subject to a **sub limit**.

2. **Crisis Management Expenses**

crisis management expenses except as provided for in **Coverage C** above even if such insurance is afforded under **underlying insurance** or would have been afforded but for the exhaustion of the **underlying limits.**

3. **Pollution**

a. any actual or alleged **bodily injury** or **property damage** arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**:

i. at or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any **Insured** except that this subparagraph does not apply to:

(a) **bodily injury** or **property damage** arising out of heat, smoke or fumes from a **hostile fire**; or

(b) **bodily injury** if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

ii. at or from any premises, site or location which is or was at any time used by or for any **Insured** or others for the handling, storage, disposal, processing or treatment of waste;

iii. which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any **Insured** or any person or organization for whom the **Named Insured** may be legally responsible; or

iv. at or from any premises, site or location on which any **Insured** or any contractors or subcontractors working directly or indirectly on any **Insured**'s behalf are performing operations:

(a) If the **pollutants** are brought on or to the premises, site or location in connection with such operations by such **Insured**, contractor or subcontractor; except that this subparagraph does not apply to **bodily injury** or **property damage** arising out of:

(1) the escape of fuels, lubricants, or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for operation of **mobile equipment** or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the **bodily injury** or **property damage** arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such **Insured**, contractor or subcontractor; or

(2) heat, smoke or fumes from a **hostile fire**; or

(b) If the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants;**

v. that are, or that are contained in property that is:

(a) being transported or towed by, or handled for movement into, onto or from a covered **auto**;

(b) otherwise in the course of transit; or

(c) being stored, disposed of, treated or processed in or upon the covered **auto** except that this subparagraph does not apply to fuels, lubricants, fluids, exhaust, gases or other similar **Pollutants** that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered **auto** or its parts if the **pollutants** escape or are discharged, dispersed or released directly from an **auto** part designed by its manufacturer to hold, store, receive or dispose of such **pollutants;**

vi. before the **pollutants** or property in which the **pollutants** are contained are moved from the place where they are accepted by the **Insured** for movement into or onto the covered **auto**;

or

vii. after the **pollutants** or property in which the **pollutants** are contained are moved from the covered **auto** to the place where they are finally delivered, disposed of or abandoned by the **Insured.**

Subparagraphs **vi.** and **vii.** do not apply if the **pollutants** or property in which the **pollutants** are contained are upset, overturned or damaged as a result of the maintenance or use of a covered **auto** and the discharge, dispersal, release or escape of the **pollutants** is caused directly by such upset, overturn or damage.

b. any actual or alleged **personal and advertising injury** arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time.

c. any actual or alleged loss, cost or expense arising out of any:

i. request, demand, order or statutory or regulatory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**; or

ii. **claim** by or on behalf of a governmental authority for **damages** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **pollutants.**

However, if liability for **damages** because of **property damage** is not excluded by paragraph **a.** of this exclusion, then neither will paragraph **c.** above serve to exclude such **damages**.

C. Coverage B - Umbrella Liability Exclusions

With respect to the **Coverage B - Umbrella Liability**, this Insurance does not apply to:

1. Aircraft, Auto, Watercraft or Mobile Equipment

any actual or alleged **bodily injury, property damage, personal and advertising injury** arising out of the ownership, maintenance, operation, use, **loading or unloading** or entrustment to others of any:

a. **aircraft** owned by any **Insured** or rented, loaned or chartered by or on behalf of any **Insured** without crew; or

b. **autos,** watercraft or **mobile equipment**

This exclusion applies even if such **claim** against an **Insured** alleges negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **Insured.**

This exclusion does not apply to:

i. watercraft while ashore on premises the **Named Insured** owns or rents;

ii. watercraft the **Named Insured** does not own that is:

(a) less than 55 feet long; and

(b) not being used to carry persons or property for a charge; or

iii. liability assumed under any **insured contract** for the ownership, maintenance or use of watercraft.

2. **Contractual Liability**

any actual or alleged **bodily injury**, **property damage** or **personal and advertising injury** for which an **Insured** is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement other than an **insured contract.** This exclusion does not apply to liability that the **Insured** would have in the absence of such contract or agreement.

3. **Damage to Property**

any actual or alleged **property damage** to:

a. property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by the **Named Insured**, 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;

b. premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;

c. property loaned to the **Named Insured**;

d. personal property in the care, custody or control of the **Insured**;

e. that particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on its behalf are performing operations, if the **property damage** arises out of those operations; or

f. that particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraph **b.** of this exclusion does not apply if the premises are **your work** and were never occupied, rented or held for rental by the **Named Insured.**

Paragraphs **c., d., e.** and **f.** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **f.** of this exclusion does not apply to **property damage** included in the **products-completed operations hazard.**

4. **Damage to Your product**

any actual or alleged **property damage** to **your product** arising out of it or any part of it.

5. **Damage to Your work**

any actual or alleged **property damage** to **your work** arising out of it or any part of it and included in the **products-completed operations hazard.** This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on the **Named Insured's** behalf by a subcontractor.

6. **Employee Injury**

any actual or alleged **bodily injury** or **personal and advertising injury** to:

a. an **employee** arising out of and in the course of employment by the **Insured** or performing duties related to the conduct of the **Insured's** business; or

b. the **spouse**, child, parent, brother or sister of that **employee** as a consequence of **a.** above.

This exclusion applies:

- **i.** whether an **Insured** may be liable as an employer or in any other capacity; and
- **ii.** to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the **Insured** under an **insured contract**.

7. Expected or Intended injury

any actual or alleged **bodily injury** or **property damage** arising out of an act or omission:

- **a.** intended by an **Insured;** or
- **b.** that would be expected from the standpoint of a reasonable person in the circumstances of the **Insured;**

to cause **bodily injury** or **property damage,** even if the actual **bodily injury** or **property damage** is of a different degree or type than intended or expected.

This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

8. Fungi or Other Organic Pathogens

- **a.** any actual or alleged **bodily injury**, **property damage** or **personal and advertising injury** arising out of any actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or growth or presence of any **fungi or other organic pathogens**;
- **b.** any actual or alleged loss, cost or expense arising out of or relating to the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating,or disposing of, or in any way responding to or assessing the effects of **fungi or other organic pathogens** by any **Insured** or by anyone else; or
- **c.** any actual or alleged **property damage** caused by water where there also exists any **property damage** arising out of or relating to, in whole or in part, the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or growth or presence of any **fungi or other organic pathogens.**

This exclusion applies regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage, loss, cost or expense.

9. Liquor Liability

any actual or alleged **bodily injury** or **property damage** for which any **Insured** may be held liable by reason of:

- **a.** causing or contributing to the intoxication of any person, including causing or contributing to the intoxication of any person because alcoholic beverages were permitted to be brought on the **Insured's** premises, for consumption on the **Insured's** premises;
- **b.** the furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- **c.** any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the **claims** against any **Insured** allege negligence or other wrongdoing in:

- **i.** the supervision, hiring, employment, training or monitoring of others by that **Insured**; or

ii. providing or failing to provide transportation with respect to any person that may be under the influence of alcohol,

if the **occurrence** which caused the **bodily injury** or **property damage** involved that which is described in paragraph **a.**, **b.** or **c.** above.

10. Nonemployment Related Discrimination

any actual or alleged personal and advertising injury arising out of any actual or alleged nonemployment related discrimination committed intentionally against a person.

11. Personal and Advertising Injury

any actual or alleged **personal and advertising injury**:

a. Breach of Contract

arising out of breach of contract, except an implied contract to use another's advertising idea in the **Named Insured's advertisement.**

b. Criminal Acts or Conduct

arising out of any actual or alleged criminal act or omission committed by or at the direction of any **Insured**. This exclusion does not apply to the extent liability is imposed upon the **Insured** for acts or omissions of another committed without the knowledge or consent of the **Insured.**

c. Electronic Chat Rooms or Bulletin Boards

arising out of an electronic chat room or bulletin board the **Insured** hosts, owns, or over which the **Insured** exercises control.

d. Infringement of Copyright, Patent, Trademark or Trade Secret

arising out of infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in the **Named Insured's advertisement.** However, this exclusion does not apply to infringement of copyright, trade dress or slogan in the **Named Insured's advertisement.**

e. Insureds in Media and Internet Type Businesses

committed by an **Insured** whose business is:

i. advertising, broadcasting, publishing or telecasting;

ii. designing or determining content or web-sites for others; or

iii. an Internet search, access, content or service provider.

However, this exclusion does not apply to paragraph **A., B.** or **C.** of **personal and advertising injury** as defined in the section entitled Definitions.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for the **Named Insured** or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

f. Knowing Violation of Rights of Another

caused by an actual or alleged offense, act or omission by or at the direction of the **Insured** if the **Insured** knew or should have known that such offense, act or omission would cause such **personal and advertising injury.**

g. **Material Published Prior To Policy Period**

arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the **policy period**.

h. **Material Published with Knowledge of Falsity**

arising out of written publication in any manner of material, if the **Insured** knew or should have known the material was false.

i. **Quality or Performance of Goods – Failure to Conform to Statements**

arising out of any failure of goods, products or services to conform to any statement of quality or performance made in the **Named Insured's advertisement**.

j. **Unauthorized Use of Another's Name or Product**

arising out of unauthorized use of another's name or product in the **Named Insured's** e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

k. **Wrong Description of Prices**

arising out of the wrong description of the price of goods, products or services stated in the **Named Insured's advertisement.**

12. Pollution

a any actual or alleged **bodily injury**, **property damage** or **personal and advertising injury** arisingout of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time.

b. any actual or alleged loss, cost or expense arising out of any:

i. request, demand, order, or statutory or regulatory requirement that anyone test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of **pollutants**; or

ii. **claim** by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of **pollutants.**

13. Silica

a. any actual or alleged **bodily injury** arising, in whole or in part, out of the actual, alleged or threatened respiration or ingestion at any time of **silica**; or

b. any actual or alleged **property damage** arising in whole or in part out of the actual, alleged or threatened presence of **silica.**

c. any actual or alleged **personal and advertising injury** arising, in whole or in part, out of the actual, alleged or threatened:

i. exposure at any time to; or

ii. presence at any time of;

silica.

14. Terrorism

any actual or alleged **bodily Injury**, **property damage** or **personal and advertising injury** arising out of any act of terrorism.

D. Coverage D - Key Employee Exclusions

With respect to **Coverage D – Key Employee**, this insurance does not apply to any actual or alleged:

1. Death or Disability

death or permanent disability of a **key employee** relating to, or arising out of:

a. nuclear reaction or radiation or radioactive contamination, however caused;

b. sickness or disease, including mental illness or mental injury;

c. pregnancy, childbirth, miscarriage or abortion;

d. suicide, attempted suicide or self inflicted bodily injury, while sane or insane;

e. the **key employee's** intoxication, impairment or otherwise being under the influence of alcohol or controlled substances;

f. war, including undeclared or civil war;

g. warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

h. insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

2. Other Expenses

a. expenses the **Named Insured** incurs which the **Named Insured** would not have incurred if the **Named Insured** had used all reasonable means to:

i. find a permanent replacement for the **key employee**; and

ii. reduce or discontinue the **key employee** replacement expense;

as soon as possible after the **Named Insured's** permanent loss of the services of the **key employee** caused by a **covered accident.**

b. additional expenses incurred due to the **Named Insured's** loss of the services of a permanent replacement appointed or hired to replace a **key employee**, however caused. However, this exclusion does not apply if the replacement employee is included in the definition as a **key employee** and the **Named Insured's** loss of the services of the replacement employee is caused by a **covered accident.**

IV. WHO IS AN INSURED

The following persons or organizations are **Insureds.**

A. With respect to **Coverage A - Excess Follow Form Liability**, the **Named Insured** and any persons or organizations included as an insured under the provisions of **underlying insurance** are **Insureds**, and then only for the same coverage, except for limits of insurance, afforded under such **underlying insurance.**

B. With respect to the **Coverage B - Umbrella Liability**:

1. If the **Named Insured** is designated in the Declarations of this Policy as:

a. an individual, the **Named Insured** and the **Named Insured's spouse** are **Insureds**, but only with respect to the conduct of a business of which the **Named Insured** is the sole owner.

b. a partnership or joint venture, the **Named Insured** is an **Insured.** The **Named Insured's** members, the **Named Insured's** partners, and their **spouse**s are also **Insureds**, but only with respect to the conduct of the **Named Insured's** business.

c. a limited liability company, the **Named Insured** is an **Insured**. The **Named Insured's** members are also **Insureds**, but only with respect to the conduct of the **Named Insured's** business. The **Named Insured's** managers are **Insureds**, but only with respect to their duties as the **Named Insured's** managers.

d. an organization other than a partnership, joint venture or limited liability company, the **Named Insured** is an **Insured**. The **Named Insured's executive officers** and directors are **Insureds**, but only with respect to their duties as the **Named Insured's** officers or directors. The **Named Insured's** stockholders are also **Insureds**, but only with respect to their liability as stockholders.

e. a trust, the **Named Insured** is an **Insured**. The **Named Insured's** trustees are also **Insureds**, but only with respect to their duties as trustees.

2. Each of the following are also **Insureds**:

a. The **Named Insured's volunteer workers** but only while performing duties related to the conduct of the **Named Insured's** business.

b. The **Named Insured's employees**, other than either the **Named Insured's executive officers** (if the **Named Insured** is an organization other than a partnership, joint venture or limited liability company) or the **Named Insured's** managers (if the **Named Insured** is a limited liability company), but only for acts within the scope of their employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business.

However, none of these **employees** or **volunteer workers** are **Insureds** for:

i. **bodily injury** or **personal and advertising injury**:

(a) to the **Named Insured**, to the **Named Insured's** partners or members (if the **Named Insured** is a partnership or joint venture), to the **Named Insured's** members (if the **Named Insured** is 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 the **Named Insured's** business, or to the **Named Insured's** other **volunteer workers** while performing duties related to the conduct of the **Named Insured's** business;

(b) to the **spouse**, child, parent, brother or sister of that co-**employee** or **volunteer worker** as a consequence of paragraph **(i)(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 **i. (a)** or **(b)** above; or

(d) arising out of his or her providing or failing to provide professional health care services.

ii. **property damage** to property:

(a) owned, occupied or used by;

(b) rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

the **Named Insured**, any of the **Named Insured's employees**, **volunteer workers**, any partner or member (if the **Named Insured** is a partnership or joint venture), or any member (if the **Named Insured** is a limited liability company).

C. With respect to the **Coverage C - Crisis Event Management** and the **Coverage D - Key Employee**, the **Named Insured** is the **Insured**.

V. LIMITS OF INSURANCE

A. Multiple Insureds, claims, claimants

The limits of insurance shown in the Declarations of this Policy and the rules below fix the most the

Insurer will pay regardless of the number of:

1. **Insureds**;
2. **claims** made or brought against the **Insured**;
3. persons or organizations making **claims** or bringing **claims**; and
4. coverages under this Policy.

B. Aggregate Limit

Subject to the paragraphs **D.** and **E.** below, the limit of insurance shown in the Declarations of this Policy as the Aggregate limit is the most that the Insurer will pay as **damages** under this Policy, regardless of which coverage applies, except for:

1. **damages** covered by any auto liability policy listed in the Schedule of **Underlying Insurance** where the limits of insurance of such auto liability policy are not aggregated; and
2. **damages** covered under the **products-completed operations hazard**.

The limits of insurance shown in the Declarations of this Policy apply to the entire **policy period**, regardless of length.

In addition, with respect to **Coverage A – Excess Follow Form Liability** only, the Aggregate limit shown in the Declarations of this Policy shall be applied in the same manner as the applicable Aggregate limits in the Schedule of **underlying insurance.**

C. Aggregate Products-Completed Operations Hazard

Subject to paragraph **D.** and **E.** below, the limit of insurance shown in the Declarations of this Policy as the Aggregate Products-Completed Operations Hazard limit is the most that the Insurer will pay as **damages** arising out of the **products-completed operations hazard,** regardless of whether such **damages** are or otherwise would be covered in any way under more than one coverage.

D. Policy Aggregate Limit

This provision **D.** only applies if an amount is shown in the Declarations as the Policy Aggregate Limit.

Subject to the Each **Incident** limit, Aggregate limit and Aggregate **products-completed operations hazard** limit, the Policy Aggregate limit is the most the Insurer will pay as **damages** under this Policy, regardless of which coverage applies, except for **damages** covered by any auto liability policy listed in the Schedule of **Underlying Insurance** where the limits of insurance of such auto liability policy are not aggregated.

E. Each Incident

Subject to paragraphs **B.**, **C.** and **D.** above, the limit of insurance shown in the Declarations of this Policy as the Each **Incident** limit is the most the Insurer will pay for the sum of all **damages** arising out of any one **incident** under this Policy, regardless of which coverage applies.

F. Crisis Management

Solely with respect to **Coverage C – Crisis Management Expenses,** the most the Insurer will pay is the limit of insurance shown on the Declarations of this Policy as the **Crisis Management Expenses** Aggregate limit, regardless of the number **crisis management events** for which **crisis management expenses** are incurred. **Crisis management expenses** are not subject to the **retained amount.**

The **Crisis Management Expenses** Aggregate limit of insurance is in addition to and will not erode any other limits of this Policy. The **Crisis Management Expenses** Aggregate limit of insurance shall be excess of any other limits of insurance available to the **Insured** for the same expenses.

G. Key Employee Replacement Expenses

Solely with respect to **Coverage D – Key Employee,** the most the Insurer will pay for **key employee replacement expenses** is the **Key Employee** Aggregate limit shown on the Declarations of this Policy, regardless of the number **key employees** for which **key employee replacement expenses** are incurred. **Key employee replacement expenses** are not subject to the **retained amount.**

The **Key Employee Replacement Expenses** Aggregate limit of insurance is in addition to and will not erode any other limits of this Policy. The **Key Employee Replacement Expenses** Aggregate limit of insurance shall be excess of any other limits of insurance available to the **Insured** for the same expenses.

H. Defense Costs

Defense costs are either paid within or are in excess of the limits of insurance as set forth in paragraph **C.** of the section entitled **Defense Costs Payment and Related Duties.**

I. Exhaustion or Reduction of Applicable Underlying Limit

Solely with respect to **Coverage A - Excess Follow Form Liability,** if the applicable **underlying limits** are:

1. reduced solely by the payment of covered loss as set forth in **Coverage A** including related costs and expenses (if such related costs and expense reduce such limits) **Coverage A** will apply in excess of the remaining amount of such applicable **underlying limit**; or
2. exhausted, solely by the payment of covered loss as set forth in **Coverage A** including related costs and expenses (if such related costs and expense reduce such limits) then **Coverage A** will apply, subject to this Policy's limit of insurance provision and to the remaining terms and provisions and conditions of this Policy in place of such exhausted applicable **underlying limit.**

If any loss covered under any **underlying insurance** is subject to a **sub-limit** (whether or not such **sub-limit** erodes the limits generally available to all claims), then the **underlying limits** shall not be deemed depleted by payment of any such **sub-limits.**

Nothing herein shall serve to increase the limits of insurance shown in the Declarations of this Policy.

VI. CONDITIONS

A. Appeals

If the **Named Insured** or its **underlying insurers** elect not to appeal a judgment in excess of the limits of insurance afforded by the **underlying insurance** the Insurer may elect to appeal at the Insurer's expense. The Insurer's limits of insurance shall not be increased because of such appeal. However, the Insurer will pay the following costs and expenses:

1. all premium bonds to release attachments for an amount not in excess of the applicable limit of insurance of this policy;
2. all premiums on appeal bonds required in such defended **claims**, but without obligation to apply for or furnish such bonds;
3. court fees; and
4. costs and expenses taxed against the **Named Insured** by the appellate court and interest accruing after entry of a judgment against the **Named Insured** and before the Insurer has paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance of this Policy. Where the **underlying insurers** terminate their liability to pay interest on the judgment by an offer to pay their limits, the **Named Insured** shall demand that such limits be paid. If the appeal is successful, such amounts not obligated to be paid shall be returned to such **underlying insurer**.

B. Cancellation and Nonrenewal

The Cancellation/Nonrenewal provisions are as set forth in the Cancellation/Nonrenewal Endorsement attached to this Policy.

C. Changes to the **Policy**

Notice to any of the Insurer's agents or knowledge possessed by any such agent or any other person shall not act as a waiver or change in any part of this Policy, nor will such notice prevent the Insurer from asserting any rights under the provisions of this Policy. None of the provisions of this Policy will be waived, changed or modified except by written endorsement issued by the Insurer to form a part of this Policy.

D. Concealment, Misrepresentation and Fraud

No concealment, misrepresentation or fraud shall avoid or defeat recovery under this Policy unless such concealment, misrepresentation or fraud was material. Concealment, misrepresentation or fraud in the procurement of this Policy which if known by the Insurer would have led to refusal by the Insurer to make this contract or provide coverage, or to make this contract or provide coverage on different terms or conditions, will be deemed material.

E. Duties of the First Named Insured on the Declarations of this Policy

The **First Named Insured**, on behalf of all others, will be:

1. authorized to make changes in the terms of this Policy with the consent of the Insurer;

2. the payee of any premiums the Insurer refunds;

3. responsible for:

a. remitting the payment of all premiums due, but all **Named Insureds** jointly and severally agree to make such payments in full if the **First Named Insured** fails to pay the amount due within 10 days after the Insurer give written notice or demand;

b. keeping records of the information the Insurer requires for premium computation, and sending copies of such records at such times as requested by the Insurer;

c. notifying the Insurer that the **First Named Insured** on behalf of all others wants to cancel this Policy; and

d. providing any notice required under this Policy.

F. Economic and Trade Sanctions

This Policy does not provide coverage for an **Insured**, transaction or that part of loss that is uninsurable under the laws or regulations of the United States concerning trade or economic sanctions.

G. Entire Contract

By acceptance of this Policy, the **Insureds** agree that this Policy, including all endorsements to this Policy, constitute the entire contract existing between the parties relating to this insurance.

H. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this Policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for **claim**s arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or spouse outside the scope of such person's capacity or status as such provided however that this sentence does not apply to the spouse of:

1. a sole proprietorship **Named Insured**; or

2. members or partners of joint venture or partnership **Named Insureds.**

Examination of the **Named Insured's Books and Records**
The Insurer may examine and audit the **Named Insured's** books and records as they relate to this Policy at any time during the **policy period** and up to 3 years afterward.

J. Financial Impairment

Bankruptcy, rehabilitation, receivership, liquidation or other financial impairment of the **Named Insured** or an **underlying insurer** shall neither relieve nor increase any of the Insurer's obligations under this Policy.

In the event there is diminished recovery or no recovery available to the **Named Insured** as a result of financial impairment of an **underlying insurer**, the coverage under this Policy shall apply only in excess of the **underlying limits.** Under no circumstances shall the Insurer be required to drop down and replace the **underlying limits**, or assume the obligations of the **Named Insured** or the financially impaired insurer.

K. Headings

The description in the headings and subheadings of this Policy is solely for convenience, and forms no part of the terms and conditions of coverage.

L. Inspections and Surveys

The Insurer has the right but is not obligated to:

1. make inspections and surveys at any time;
2. give the **Named Insured** reports on the conditions it finds;
3. recommend changes; or
4. conduct loss control and prevention activity.

Any inspections, surveys, reports, or recommendations relate only to insurability and the premiums to be charged.

The Insurer does not:

1. make safety inspections;
2. undertake to perform the duty of any organization to provide for the health or safety of workers or the public; nor
3. warrant that conditions are safe or healthful or comply with laws, regulations, codes or standards.

This provision applies not only to the Insurer, but also to any rating, advisory, rate service, or similar organization which makes insurance inspections, surveys, recommendations, reports, or gives loss control or prevention advice, on its behalf.

M. Legal Action Limitation

No person or organization has a right under this Policy:

1. to join the Insurer as a party or otherwise bring the Insurer into a **suit** asking for **damages** from an **Insured**; or
2. to sue Insurer on this Policy unless all of its terms have been fully complied with.

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

N. Maintenance of Underlying Insurance

Solely with respect to **Coverage A - Excess Follow Form Liability**, while this Policy is in force the **First Named Insured** agrees that the **underlying insurance** and renewals and replacements thereof shall be maintained, without alterations of terms or conditions, in full effect during the term of this Policy; except for reduction or exhaustion of the limits of insurance in the **underlying insurance**, provided that such reduction or exhaustion is solely the result of **incidents** covered under this Policy.

If the **First Named Insured** fails to maintain **underlying insurance**, this condition shall not invalidate this Policy. However, in the event of such failure, the Insurer will only be liable to the same extent as if such **underlying insurance** was in full force and effect without alteration of its terms and conditions.

O. Notice of Claims/Crisis Management Event/Covered Accident

1. Solely with respect to **Coverage A - Excess Follow Form Liability**, if any **underlying insurance** is a policy issued by the Insurer or any of its affiliates, then notice of any **claim** under such **underlying insurance** is notice to the Insurer under this Policy**.**
2. It is a condition precedent to coverage under this Policy that:
   - **a.** subject to paragraph **b.** below, the **Insured** notify the Insurer as soon as practicable of an **incident** which an **Insured** believes may result in a **claim.** To the extent possible, notice should include:
     - **i.** how, when and where the **incident** took place;
     - **ii.** the names and addresses of any injured persons and witnesses; and
     - **iii.** the nature and location of any injury or damage arising out of the **incident.**
   - **b.** the **Insured** notify the Insurer as soon as practicable of an **incident** if it involves:
     - **i.** a demand against the **Insured** which exceeds 50% of any remaining applicable **underlying limit**;
     - **ii.** any **underlying insurance** reserve or monetary exposure exceeding $500,000; or
     - **iii.** any of the following:
       - **(a)** brain damage, including but not limited to any neurological impairment of infants or adults and coma;
       - **(b)** spinal cord injury, including but not limited to paraplegia or quadriplegia;
       - **(c)** loss of any organ;
       - **(d)** severe disfigurement, including but not limited to burns and amputations; or
       - **(e)** death.
   - **c.** if a **claim** is made against any **Insured,** the **Named Insured:**
     - **i.** will immediately record the specifics of the **claim** and the date received and notify the Insurer of such **claim**;
     - **ii.** will immediately send the Insurer copies of any demands, notices, summonses or legal papers received in connection with the **claim**;
     - **iii.** will authorize the Insurer to obtain records and other information;
     - **iv.** will cooperate with the Insurer in the investigation or settlement of the **claim** or defense against the **suit**;

       will assist the Insurer, upon its request, in the enforcement of any right against any person or organization which may be liable to the **Insured** because of injury or damage to which this insurance may also apply; and

vi. will not voluntarily make a payment, except at its own cost, assume any obligation, or incur any expense, other than for first aid, without the Insurer's prior consent.

3. Cooperation

With respect to both **Coverage A - Excess Follow Form Liability** and **Coverage B – Umbrella Liability**, the **Named Insured** will cooperate with the Insurer in addressing all **claims** required to be reported to the Insurer in accordance with this paragraph **O. Notice of Claims/Crisis Management Event/Covered Accident,** and refuse, except solely at its own cost, to voluntarily, without the Insurer's approval, make any payment, admit liability, assume any obligation or incur any expense related thereto.

P. Notices

Any notices required to be given by an **Insured** shall be submitted in writing to the Insurer at the address set forth in the Declarations of this Policy.

Q. Other Insurance

If the **Insured** is entitled to be indemnified or otherwise insured in whole or in part for any **damages** or **defense costs** by any valid and collectible **other insurance** for which the **Insured** otherwise would have been indemnified or otherwise insured in whole or in part by this Policy, the limits of insurance specified in the Declarations of this Policy shall apply in excess of, and shall not contribute to a **claim**, **incident** or such event covered by such **other insurance.**

With respect to **Coverage A – Excess Follow Form Liability** only, if:

a. the **Named Insured** has agreed in writing in a contract or agreement with a person or entity that this insurance would be primary and would not seek contribution from any other insurance available;

b. **Underlying Insurance** includes that person or entity as an additional insured; and

c. **Underlying Insurance** provides coverage on a primary and noncontributory basis as respects that person or entity;

then this insurance is primary to and will not seek contribution from any insurance policy where that person or entity is a named insured.

R. Premium

All premium charges under this Policy will be computed according to the Insurer's rules and rating plans that apply at the inception of the current **policy period**. Premium charges may be paid to the Insurer or its authorized representative.

S. In Rem Actions

A quasi *in rem* action against any vessel owned or operated by or for a **Named Insured**, or chartered by or for a **Named Insured**, will be treated in the same manner as though the action were *in personam* against the **Named Insured**.

T. Separation of Insureds

Except with respect to the limits of insurance, and any rights or duties specifically assigned in this Policy to the **First Named Insured**, this insurance applies:

1. as if each **Named Insured** were the only **Named Insured**; and

2. separately to each **Insured** against whom a **claim** is made.

U. Transfer of Interest

Assignment of interest under this policy shall not bind the Insurer unless its consent is endorsed hereon.

V. Unintentional Omission

Based on Insurer's reliance on the **Named Insured's** representations as to existing hazards, if the **Named Insured** should unintentionally fail to disclose all such hazards at the effective date of this Policy, the Insurer will not deny coverage under this Policy because of such failure.

W. Waiver of Rights of Recovery

The Insurer waives any right of recovery it may have against any person or organization because of payments the Insurer makes under this Policy if the **Named Insured** has agreed in writing to waive such rights of recovery in a contract or agreement, and only if the contract or agreement:

1. is in effect or becomes effective during the **policy period**; and

2. was executed prior to loss.

VII. DEFINITIONS

For purposes of this Policy, words in bold face type, whether expressed in the singular or the plural, have the meaning set forth below.

Advertisement means a notice that is broadcast or published to the general public or specific market segments about the **Named Insured's** goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

A. notices that are published include material placed on the Internet or on similar electronic means of communication; and

B. regarding web-sites, only that part of a web-site that is about the **Named Insured's** goods, products or services for the purposes of attracting customers or supporters is considered an **advertisement.**

Aircraft means any machine or device that is capable of atmospheric flight.

Arbitration proceeding means a formal alternative dispute resolution proceeding or administrative hearing to which an **Insured** is required to submit by statute or court rule or to which an **Insured** has submitted with the Insurer's consent.

Asbestos means the mineral in any form whether or not the asbestos was at any time airborne as a fiber, particle or dust, contained in or formed a part of a product, structure or other real or personal property, carried on clothing, inhaled or ingested, or transmitted by any other means.

Authorized Insured means any **executive officer**, member of the **Named Insured's** risk management or in-house general counsel's office, or any **employee** authorized by the **Named Insured** to give or receive notice of a **claim.**

Auto means:

A. a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

B. any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, **auto** does not include **mobile equipment.**

Bodily injury means bodily injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the bodily injury, sickness or disease.

Claim means a:

A. **suit**; or

RESOLUTION NO. 23-__________

REHABILITATION OF CERTAIN COUNTY ROADS AND BRIDGE REPLACEMENTS FOR 2023

WHEREAS, the County Superintendent of Highways has presented a statement of certain County roads and bridges which he has approved for replacement and/or rehabilitation with County Funds during the year 2023 as follows:

In the Town of **SMITHFIELD** on **BUYEA ROAD,** County Rte. 54, a distance of 3.87 miles, with an asphalt pavement width of 26 feet wide and 2 inches thick at an estimated cost of **$589,984.**

In the Town of **LEBANON** on **CAMPBELL ROAD,** County Rte. 71, a distance of 3.55 miles, with necessary widening, ditching, and asphalt pavement width of 22 feet wide and 5.5 inches thick at an estimated cost of **$585,395.**

In the City of **ONEIDA** on **CHAPEL STREET,** County Rte. 44, a distance of 0.45 miles, with an asphalt pavement width of 24 feet wide and 3.5 inches thick at an estimated cost of **$110,936.**

In the City of **ONEIDA** on **CRAMER AVENUE,** County Rte. 44, a distance of 0.17 miles, with an asphalt pavement width of 26 feet wide and 3.5 inches thick at an estimated cost of **$44,664.**

In the City of **ONEIDA** on **KENWOOD AVENUE,** County Rte. 51, a distance of 0.54 miles, with an asphalt pavement width of 27 feet to 30 feet wide and 3.5 inches thick at an estimated cost of **$148,672.**

In the Town of **DERUYTER** on **MARIPOSA ROAD,** County Rte. 61, a distance of 1.23 miles, with necessary ditching and asphalt pavement 22 feet wide and 5.5 inches thick at an estimated cost of **$193,159.**

In the City of Oneida on **MIDDLE ROAD**, County Rte. 33, a distance of 2.78 miles, with necessary widening, ditching, and asphalt pavement 26 feet wide and 4.5" inches thick, at an estimated cost of **$500,234.**

In the Town of **DERUYTER** on **MIDDLE LAKE ROAD,** County Rte. 55, a distance of 1.20 miles, with necessary ditching and asphalt pavement 22 feet wide and 5.5 inches thick at an estimated cost of **$199,225.**

In the Town of **LEBANON** on **RODMAN ROAD,** County Rte. 107, a distance of 1.61 miles, with necessary ditching and asphalt pavement 22 feet wide and 5.5 inches thick at an estimated cost of **$265,060.**

In the Towns of **LEBANON and GEORGETOWN** on **SOUTH LEBANON ROAD,** County Rte. 64, a distance of 6.42 miles, with necessary ditching and asphalt pavement 22 feet wide and 5.5 inches thick at an estimated cost of **$1,034,190.**

In the Town of **MADISON** on **STRATFORD STREET,** County Rte. 39, a distance of 1.63 miles, with necessary ditching and asphalt pavement 22 feet wide and 5.5 inches thick at an estimated cost of **$252,671.**

In the City of Oneida on **UNION STREET**, County Rte. 44, a distance of 1.21 miles, with necessary widening, ditching, and asphalt pavement 26 feet wide and 5.5" inches thick, at an estimated cost of **$238,090.**

In the Town of **CAZENOVIA** on **WEST LAKE ROAD,** County Rte. 15, a distance of 2.41 miles, with necessary ditching and asphalt pavement 22 feet wide and 5.5 inches thick at an estimated cost of **$392,797.**

In the Town of **SULLIVAN, LAKEPORT ROAD BRIDGE**, (BIN 3309210), over Black Creek at an estimated cost of **$150,000**.

In the Town of **HAMILTON, LARKIN ROAD BRIDGE**, (BIN 3308580), over Sangerfield River at a cost of **$884,965.**

In the Town of **LEBANON, RESERVOIR ROAD CULVERT**, (LEB-559), over Kingsley Brook at a cost of **$590,500.**

In the Town of **SULLIVAN, NORTH ROAD CULVERT**, (SUL-009), over tributary of Chittenango Creek at an estimated cost of **$100,000**.

In the Town of **EATON, BRADLEY BROOK ROAD CULVERT**, (EAT-348), over Bradley Brook at an estimated cost of **$120,000**.

In the Town of **LENOX, ROBERTS STREET**, (LEN-95), over tributary of Cowaselon Creek at an estimated cost of **$80,000**.

In the Town of **LEBANON, SOUTH LEBANON ROAD CULVERTS**, (LEB-583, LEB-585, LEB-586 and Cross Culvert #30), over Tributaries to South Lebanon Brook at an estimated cost of **$500,000**.

WHEREAS, the total cost for said replacement and/or rehabilitation projects for 2023 will be Six million, nine hundred eighty thousand, five hundred and forty one dollars and twenty cents. **($6,980,542)**;

WHEREAS, bids will be received for the above projects and award will be made on the basis of lowest responsible bidder meeting specifications,

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Board of Supervisors be and is hereby authorized to enter into agreements on behalf of the County of Madison with Contractors, in the form as is on file with the Clerk of the Board.

Dated: May 9, 2023

William Zupan, Chairman
Highway, Buildings and Grounds Committee

Highway Highlights 4/26/2023

1. Crews are going to a 4 - 10hr work day schedule beginning May 1st. Crews have been cutting shoulders, ditching, installing culvert pipes, and cutting trees, primarily on this year's projects. We have also completed road sweeping and bridge washing.

2. We have restarted our dump truck sandblasting and painting program. We have two trucks nearly done, with two more planned.

3. The crack fill contracted work is progressing well this year and completion is anticipated to be sooner than in previous years.

4. We have two retired county highway employees returning to assist with roadside mowing beginning May 1st, and the two Laborer's which are new positions this year, are doing well.

5. The Safety Day training event took place on April 18th at the Brown road shop. We had three different trainers, for county and town highway employees. The Town Highway Association, along with the County shared in the costs for the very successful event.

RESOLUTION NO. _____

AUTHORIZING THE CHAIRMAN TO AWARD BID 23-11 AND ENTER INTO AN AGREEMENT WITH GDS, INC.

WHEREAS, sealed bids were received and opened on April 6, 2023 for the County Campus Wayfinding Signage Project (BID 23-11); and

WHEREAS, all bids have been canvassed and reviewed by design engineer LaBella Associates, who made their recommendation to award the bid to the lowest responsible bidder; and

WHEREAS, the Highway, Buildings and Grounds Committee has reviewed and recommends moving forward with entering into the agreement as recommended by LaBella Associates for the performance of this work;

NOW, THEREFORE, BE IT RESOLVED, that the County accept the following bid for the work heretofore described, to wit:

<u>Bid Ref No. 23-11 County Campus Wayfinding Signage</u>

GDS, Inc.
93 Marcus Blvd.
Hauppauge, NY 11788

BID TOTAL: $154,596.50

BE IT FURTHER RESOLVED, that the Chairman of the Board of Supervisors be and is hereby authorized to enter into an agreement on behalf of the County of Madison with GDS, Inc. in the form as is on file with the Clerk of the Board.

Dated: May 9, 2023

William Zupan, Chairman
Highway, Buildings and Grounds Committee

Madison County Purchasing Office
315-366-2247
purchasing@madisoncounty.ny.gov
www.madisoncounty.ny.gov

RFB 23-11 County Campus Wayfinding Installation
Bid Open Date & Time: 4/6/2023 @ 9:15 am

Item No.		GDS Inc.	IDS Inc.
1	General Contractor - Lump Sum	$154,596.50	$298,500.00

LaBella
Powered by partnership.

April 11, 2023

Laurie Winters
Madison County Purchasing
138 North Court Street
PO Box 635
Wampsville NY 13163

Re: Recommendation of Award for
Madison County Wayfinding Improvements
LaBella Project No. 2224082

Dear Ms. Winters:

On April 6, bids were received for the above referenced project from the following contractors:

1.	GDS, Inc.	$154,596.50
2.	IDS, Inc.	$298,500.00

GDS, Inc. - In reviewing the proposals submitted, LaBella Associates believes the bid is reasonable and represents the market value of the work. The bidder submitted the proper documentation including a 5% bid bond with their bid, therefore we feel that GDS. Inc is the apparent low bidder for the project at a cost $154,596.50, which is also below LaBella's estimate.

GDS, Inc. has performed a number of signage and wayfinding projects for numerous colleges, health care facilities, and agencies in New York State. Although we (LaBella Associates) have not worked with GDS, Inc. in the past, we believe they are qualified to perform the work of this contract.

LaBella spoke with Chris Glanzman, Vice President of Operations for GDS, Inc., via MS Teams meeting on April 11, 2023. He confirmed that they understand the proposed scope of work and related project requirements.

We have worked with the apparent high bidder, IDS, Inc on previous projects and we documented them as the basis of design. The apparent low bidder, GDS, Inc has confirmed they will provide products equal to the basis of design.

Based on the above, LaBella Associates recommends awarding the **Madison County Wayfinding Improvements Contract, to GDS, Inc.**

A Pre-Construction Meeting with the Contractor and other County Stakeholders should be scheduled as soon as possible following the Madison County approval and contract process. If you have any questions regarding this recommendation, please contact me at 585-770-2509 or aweis@labellapc.com.

Sincerely,

LABELLA ASSOCIATES, D.P.C.

Anne E. Weis

Anne E. Weis, CID

Interior Designer

Cc (with enclosed): John Regan, Madison County

Mark Kukuvka, AIA, LaBella Associates

RESOLUTION NO. _____

AUTHORIZING THE CHAIRMAN TO AWARD BID 23-12 AND ENTER INTO AN AGREEMENT WITH MURNANE BUILDING CONTRACTORS, INC

WHEREAS, sealed bids were received and opened on April 6, 2023 for the Mental Health Phase II Renovation project (BID 23-12); and

WHEREAS, all bids have been canvassed and reviewed by design engineer King & King Architects, who made their recommendation to award the bid to the lowest responsible bidder; and

WHEREAS, the Highway, Buildings and Grounds Committee has reviewed and recommends moving forward with entering into the agreement as recommended by King & King Architects for the performance of this work;

NOW, THEREFORE, BE IT RESOLVED, that the County accept the following bid for the work heretofore described, to wit:

Bid Ref No. 23-12 MH Phase II Renovations

Murnane Building Contractors, Inc.
15 Wood Rd.
Whitesboro, NY 13492

BASE BID:	**$382,000.00**
ALTERNATE #1:	**$2,900.00**
ALTERNATE #2:	**$4,600.00**
TOTAL:	**$ 389,500.00**

BE IT FURTHER RESOLVED, that the Chairman of the Board of Supervisors be and is hereby authorized to enter into an agreement on behalf of the County of Madison with Murnane Building Contractors, Inc., in the form as is on file with the Clerk of the Board.

Dated: May 9, 2023

William Zupan, Chairman
Highway, Buildings and Grounds Committee

Madison County Purchasing Office
315-366-2247
purchasing@madisoncounty.ny.gov
www.madisoncounty.ny.gov

RFB 23-12 Madison County Bldg #2 MH Phase II Renovations

Bid Open Date & Time: 4/6/2023 @ 11:15 am

Item No.		Murnane Building Contactors	M.E.I.D LLC		
1	General Contractor Base Bid - Lump Sum	$382,000.00	$450,675.00		
2	Alternate No. 1: Select Cable Tray - Lump Sum	$2,900.00	$7,500.00		
3	Alternate No. 2: Select IT Equipment - Lump Sum	$4,600.00	$10,400.00		
4	Alternate No. 3: Observation Rm. 235 - Lump Sum	$4,800.00	$3,770.00		

king+king ARCHITECTS

April 12, 2023

Ms. Laurie Winters – Purchasing Agent
Mr. John Regan - Director of Public Facilities
Madison County Facilities/Maintenance
138 North Court Street
PO Box 546
Wampsville, NY 13163

Re: Award of Contracts for
Madison County Bid #RFB 23-12
Bldg. #2 MH Phase II Renovations
King + King Project #23-11-7894

Dear Laurie and John:

We have reviewed the bids and bidders' qualifications for the above-referenced project, discussed the project with low bidder, and recommend that the County consider award of contract to the following bidder:

General Construction Contract: Award of contract to the low bidder, Murnane Building Contractors, Inc.; Whitesboro, New York in the following amount representing the County's preferred Alternate selection:

Base Bid w/	$382,000.00
Alternate No. 01 (Select Cable Tray)	$ 2,900.00
Alternate No. 02 (Select IT Equipment)	$ 4,600.00
Total	**$389,500.00**

Please note that Murnane Building Contractor's signature/pricing page did not acknowledge receipt of Addendum No. 2. We have reviewed the content of Addendum No. 2 with Murnane, who has stated that the form omission does not affect their bid results (no change to price, quality, quantity or schedule), thus we believe that the omission is inconsequential and may be considered an informality by the County. Prior to award we request that County Purchasing and Legal confirm this determination and confirm this omission as an informality.

All contractors must comply with the contractual requirements by furnishing the bond and insurance certifications along with the other documents required of successful bidders.

Thank you for the opportunity to continue working with you on this and future projects, and we look forward to a successful completion.

Sincerely,

King + King Architects LLP

Chad T. Rogers
Partner
King + King Architects, LLP

cc: file

RESOLUTION NO. _____

AUTHORIZING THE MODIFICATION OF THE 2023 ADOPTED COUNTY BUDGET (ARPA)

BE IT RESOLVED that the 2023 Adopted County Budget be modified as follows:

	From	To
General Fund		
1461 Records Management (ARPA)		
Expense		
A146110 540136 Indexing Software	$15,750	$-0-
1631 County Buildings (ARPA)		
Expense		
A163110 540351 Roof Repair & Coating Expense	$9,152	$-0-
A163110 540357 Mental Health-Phase II IT	70,000	139,000
1681 Information Technology (ARPA)		
Expense		
A168110 540400 Furniture Expense	$64,689	$61,477
A168110 540419 Public Health Conference Room Upgrade	29,089	-0-
A168110 540418 Exchange Online	29,097	58,186
1720 Benefits & Awards (ARPA)		
Expense		
A172010 516000 Supplemental Pay	$3,000	$-0-
A172010 582100 Social Security & Medicare Expense	230	-0-
A172010 583100 Workers Compensation Expense	1,123	-0-
3023 Communications E911 (ARPA)		
Expense		
A302330 524145 CAD/RMS System	$213,154	$170,574
A302330 541943 Recorder Upgrade	60,000	102,580
4018 Public Health (ARPA)		
Expense		
A401840 540154 Wastewater Testing for Opiates, Cannabis	$44,100	$-0-
County Road Fund		
5114 Highway (ARPA)		
Expense		
D511450 529111 GPS Unit-Survey Total Station	$260	$-0-
D511450 529113 Hand Liner for Striping Crew	1,007	-0-
D511450 529114 Retroreflectometer	6,287	-0-
D511450 546002 Guide Rail Box Beam	34,390	-0-
Road Machinery Fund		
5133 Road Machinery Equipment (ARPA)		
Expense		
DM513350 529050 10 Wheel Dump Truck	$215,716	$215,695
DM513350 529094 Dirt Roller	2,571	-0-
DM513350 529112 Stump Grinder	35,600	-0-
DM513350 529691 Motor Grader	290,000	289,827
DM513350 529692 Heavy Truck Lift	-0-	87,876
Control Totals	$1,125,215	$1,125,215

Dated: May 9, 2023

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Matthew Roberts, Chairman
Finance, Ways & Means Committee

RESOLUTION NO. _____

AUTHORIZING THE MODIFICATION OF THE 2023 ADOPTED COUNTY BUDGET

BE IT RESOLVED that the 2023 Adopted County Budget be modified as follows:

General Fund

1619 County Buildings-Veteran's Memorial Bldg	From	To
Revenue		
A161910 428127 Interfund Revenue-Mental Health Dept	$ 265,000	$ 277,800
Control Total		$ 12,800
Expense		
A161910 540356 Mental Health Project-Phase II	$ 269,200	$ 282,000
Control Total		$ 12,800
4308 Mental Health-Clinic		
Revenue		
A430840 444883 Federal Aid Medicaid Admn Claiming	$ 345,000	$ 357,800
Control Total		$ 12,800
Expense		
A430840 540356 Mental Health Project-Phase II	$ 265,000	$ 277,800
Control Total		$ 12,800

Dated: May 9, 2023

____
Matthew Roberts, Chairman
Finance, Ways & Means Committee

RESOLUTION NO. _____

AUTHORIZING THE MODIFICATION OF THE 2023 ADOPTED COUNTY BUDGET
(2023 Host Community Benefit)

BE IT RESOLVED that the 2023 Adopted County Budget be modified as follows:

	From	To
General Fund		
1460 Records Management		
Expense		
A146010 540136 Indexing Software	$-0-	$15,750
1620 County Buildings		
Expense		
A162010 540368 Cooling Tower Maintenance	-0-	27,000
1680 Information Technology		
Expense		
A168010 521060 Cabling & Rewiring Projects	75,000	6,000
4012 Public Health Preventive		
Expense		
A401240 540154 Wastewater Testing for Opiates, Cannabis	-0-	44,100
Totals	$75,000	$92,850
Control Total		$17,850
Fund Balance		
A 300599 Appropriated Fund Balance	$7,378,887	$7,396,737
Control Total		$17,850

Dated: May 9, 2023

____
Matthew Roberts, Chairman
Finance, Ways & Means Committee

RESOLUTION NO. _____

AUTHORIZING THE MODIFICATION OF THE 2023 ADOPTED COUNTY BUDGET

BE IT RESOLVED that the 2023 Adopted County Budget be modified as follows:

	From	To
General Fund		
1620 County Buildings		
Expense		
A162010 540410 Maintenance & Development-Parks	$20,000	$22,000
7110 Madison County Parks		
Expense		
A711070 540410 Maintenance & Development-Parks	$50,000	$48,000
Control Totals	$70,000	$70,000

Dated: May 9, 2023

____
Matthew Roberts, Chairman
Finance, Ways & Means Committee

Facilities Updates 4/26/23

Maintenance Highlights

- Painting at DSS continues
- Seasonal equipment switch-over completed
- Sullivan ambulance barn (North Chittenango) debris removed, building cleaned and floors waxed
- Cleaned and prepared parks for spring/summer usage
- Spring filter changes underway

Facilities Projects

County Office Building Bathroom Renovations

- Construction Kick-Off meeting held 4/19/23. Contractor schedule provided. Anticipated to start renovations in the basement level first on 5/9/23, project complete by end of October.

Wayfinding Signage for Wampsville Complex for Interior and Exterior of Buildings

- Bids vetted by Engineer, recommend award to GDS, Inc. Board approval in May.

Mental Health Phase II project

- Bids vetted by Engineer, recommend award to Murnane. Board approval in May.

Stand–By Generator Project

MEID is awaiting approvals on submittals. Have also submitted for a Building Permit from the State. Anticipated to start May 1st or sooner.

PSB Fire Alarm

- Contractor started mobilizing the site on 4/17/23. Awaiting permit from the State and receiving materials to load in their storage container.

Jail Isolation Rooms R.T.U. Replacement

Purchase Order will be issued to DF Brandt 4/21/23 for materials only. Argus Engineering will provide design and scope of work for contractors. Looking to coordinate with Purchasing on timeline for bidding.

Veterans Agency Center- Gorman

King & King almost complete with Design. Bidding in May/June. Construction anticipated for July through end of the year.

Reconnect Project

Facilities will produce scope of work for installation of Fiber Huts and hiring of an electrical contractor to perform the electrical service for all the hut locations. Facilities will coordinate with Purchasing for bidding. Anticipating of work to be performed this summer into the fall.

MADISON COUNTY CENTRAL SERVICES

PO Box 546
Wampsville, New York 13163
(315) 366 2380

To: Buildings & Grounds Committee
From: Todd Russell - Central Services Technician
Subject: Central Services Monthly Report
Report Date: April 12, 2023

Listed below are the totals for the Central Services Department for the month of: MARCH 2023

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year to Date
Printing													
Jobs	43	65	66										
Charge Back	$2,242.70	$6,945.35	$4,884.78										$14,072.83
Sheets of Paper Printed	19,965.00	56,305	40,604										116874
Envelopes Printed	5,000	57,500	15,000										77500
Cases of Blank Paper	22	28	21										71
US Mail Postage													
Pieces Processed	12,067	8,892	9,726										30685
Charged Postage	$14,633.95	$7,189.22	$9,180.90										$31,004.07
UPS/FEDEX/Other													
UPS Incoming Pkgs.	166	183	164										513
UPS Outgoing Pkgs.	37	38	62										137
FedEx Incoming Pkgs.	97	135	119										351
FedEx Outgoing Pkgs.		2	0										2
AMAZON Deliveries Pkgs.		4	4										8
Freight & Other Delivers													
	12	5	5										22