

J-4 Standard Purchasing Resolutions:

- a) Standard Purchasing Resolution 2: Award to Low Bidder Meeting Specification – Brinston Park Tennis and Basketball Court Resurfacing

Resolution #2019-05-056-J-4a

RESOLVED, That Troy City Council hereby **AWARDS** a contract for the resurfacing of the existing Tennis Courts and the installation of a new Basketball Court at Brinston Park to the lowest responsive bidder meeting all specifications, *Nagle Paving Company of Novi, MI*, for a cost of \$132,890.00 at unit prices contained in the bid tabulation opened on May 9, 2019, with a contingency of \$7,110.00 for an estimated total cost of \$140,000.00, a copy of the bid tabulation shall be **ATTACHED** to the original Minutes of this meeting.

BE IT FURTHER RESOLVED, That the contract is **CONTINGENT** upon contractor's submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements.

# PURCHASE ORDER

No. 2019-00001362

DATE: 06/03/2019

PAGE: 1 of 1

FOB DESTINATION

Ship To

CITY OF TROY  
Building Operations  
2262 BRINSTON  
TROY, MI 48083

Bill To

CITY OF TROY  
Building Operations  
4693 ROCHESTER ROAD  
TROY, MI 48085

**EXPIRATION DATE**

06/30/2019

**COUNCIL RESOLUTION**

2019-05-056-j-4a

**VENDOR NO.** 101805

Vendor

NAGLE PAVING COMPANY  
39525 W 13 MILE RD STE 300  
NOVI, MI 48377

QUANTITY	UNIT	DESCRIPTION	UNIT COST	TOTAL COST
1	Lump Sum	Brinston Park - Tennis Resurface and Basketball Court FURNISH ALL MATERIAL, LABOR, AND EQUIPMENT TO RESURFACE THE EXISTING TENNIS COURTS AND FOR THE INSTALLATION OF A NEW BASKETBALL COURT AT BRINSTON PARK AS PER ALL BID SPECIFICATIONS OF ITB-COT 19-29. PROJECT SHALL BE COMPLETE BY 6/30/2019.	132,890.0000	\$132,890.00

Entered By: MaryBeth Murz

\$132,890.00

**Special Instructions:**

CITY COUNCIL AWARD DATE: 5/20/2019. Certificate of Insurance and Endorsements shall be on file for duration of project.

**TERMS & CONDITIONS**

1. Purchases of Municipalities are exempt from State Sales and Federal Excise Taxes.
2. Prior to acceptance, vendor agrees to provide City with information under the Right-to-Know Law, P.A. 1986, No. 80, and fully comply with all terms and conditions of the Michigan Occupational Safety and Health Act, MCL 408.1001, et seq. including vendor shall provide City with an "MSDS". Vendor also agrees to be responsible for all required labeling.
3. In cases of emergency/disaster, the City can purchase up to six(6) times the order amount for a period of six(6) months at the price contained in the contract.
4. Purchase Orders are signed electronically based upon computer generated "on-line" authorized approvals. Authentic signatures are on file in the City of Troy Purchasing Department.

NOTICE: The City could put the vendor on notice that vendors will be held financially responsible for any claims or awards made against the City as a result of the vendor's action. If the City has to defend the initial lawsuit, the City will bring in the vendor as a co-defendant or sue the vendor, either as the result of settling a claim or the conclusion of the lawsuit.

HEREBY CERTIFY THAT THIS ORDER IS PROPERLY AUTHORIZED AND APPROVED.

PURCHASE ORDER  
 CITY OF TROY  
 TENNIS COURT RESURFACING

Vendor Name:	Nagle Paving Company
City:	Novi, MI
Check #:	1366919

**PROPOSAL: Furnish all material, labor, and equipment to resurface the existing tennis courts and the installation of a new basketball court at Brinston Park in accordance with the specifications.**

<b>TOTAL BID COST:</b>	<b><u>\$132,890.00</u></b>
<b>Alternate bid:</b>	No

Schedule of Values	Y or N	Y
Contact Information:		
Hours of Operation:		7AM-7PM
24 Hour Phone #:		248-553-0600
Proposed Payment Schedule:		Net30 Days
Site Inspection:	Y or N	5/1/2019
Completion Date Met:	Y or N	Y
References:	Y or N	Y
Insurance:	Y or N	Y
Payment Terms:		Net30 Days
Warranty:		2 Year Warranty
Exceptions:	Y or N	N
Acknowledgement:	Y or N	Y
Questionnaire:	Y or N	Y
Forms:	Y or N	Y

Opening Date: 5/09/2019  
 Reviewed Date: 5/09/2019

BID TABULATION  
 CITY OF TROY  
 TENNIS COURT RESURFACING

ITB-COT 19-29  
 Pg. 1 of 1

Vendor Name:	Best Asphalt, Inc.	Nagle Paving Company	WCI Contractors, Inc.
City:	Romulus, MI	Novi, MI	Detroit, MI
Check #:	9156323079	1366919	56727635

**PROPOSAL: Furnish all material, labor, and equipment to resurface the existing tennis courts and the installation of a new basketball court at Brinston Park in accordance with the specifications.**

<b>TOTAL BID COST:</b>	<b><u>\$128,000.00</u></b>	\$132,890.00	\$136,900.00
<b>Alternate bid:</b>	No	No	If existing base is not suitable for re-use and requires excavation, off site disposal & import of 6" of 21AA limestone, add the following to our base price: \$18,700.00
Schedule of Values	Y or N	Y	Y
Contact Information:			
Hours of Operation:		6AM-7PM	7AM-7PM
24 Hour Phone #:		734-729-9440	248-553-0600
Proposed Payment Schedule:		No response	Upon Award
Site Inspection:	Y or N	No response	5/1/2019
Completion Date Met:	Y or N	Y	Y
References:	Y or N	Y	Y
Insurance:	Y or N	Y	Y
Payment Terms:		No response	Per Contract
Warranty:		No response	2 Years
Exceptions:	Y or N	N	N
Acknowledgement:	Y or N	Y	Y
Questionnaire:	Y or N	Y	Y
Forms:	Y or N	Y	Y

Attest:  
 \_\_\_\_\_  
 Dennis Trantham  
 \_\_\_\_\_  
 Jackie Ahlstrom  
 \_\_\_\_\_  
 Sue Reisterer



CITY OF TROY  
BID PROPOSAL

ITB-COT 19-29  
Page 1 of 7

The undersigned proposes to furnish all material, labor and equipment to resurface the existing tennis courts and the installation of a new Basketball Court in accordance with the attached bid specifications that are to be considered an integral part of this bid proposal, which include the following sections at the prices listed below:

COMPANY NAME: NAGLE PAVING COMPANY

**Section List**

Instruction to Bidders (2 pages)	Technical Specifications – Fencing Materials (1 Page)
Bid Proposal (7 pages)	Layouts and Detail Sheets (6 Pages)
Vendor Questionnaire (2 pages)	Public Act 57 (2 pages)
Contract Documents/Forms (8 pages)	Insurance Certificate and Endorsement (3 pages)
General Conditions (2 pages)	Consent of Surety Form (1 page)
Technical Specifications – Tennis Courts (4 Pages)	Statement of No Bid (1 page)

**PROPOSAL-**

The undersigned, as bidder, declares that he/she having examined the specifications with related documents and the sites of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project, including availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies to complete the project in accordance with the contract documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents, of which this bid Proposal is part.

**Proposal:**

**FURNISH ALL MATERIAL, LABOR, AND EQUIPMENT TO RESURFACE THE EXISTING TENNIS COURTS AND THE INSTALLATION OF A NEW BASKET COURT AT BRINSTON PARK IN ACCORDANCE WITH THE SPECIFICATIONS.**

Total Bid Price: \$ 132,890<sup>00</sup>

**SCHEDULE OF VALUES:**

The City of Troy may be required to add or delete work due to unforeseen circumstances. Therefore, a unit price schedule should be attached to your bid document at the time of submission that indicates unit prices for all items to be used during the course of the project. All unit prices shall include the labor to install the item.

YOUR SCHEDULE OF VALUES FORM IS ATTACHED AND MARKED UNIT PRICE FOR IDENTIFICATION.  
SCHEDULE OF VALUES

**DESIGNATED CITY REPRESENTATIVES:**

Dennis Trantham, Facilities and Grounds Operations Manager, is the designated City representative.

**ADDITIONAL INFORMATION:**

For additional information or questions concerning this project please contact: **Dennis Trantham, Facilities and Grounds Operations Manager** at (248) 524-3503 or [dennis.trantham@troymi.gov](mailto:dennis.trantham@troymi.gov)

**DOWNPAYMENTS AND PREPAYMENTS:**

Any bid submitted which requires a down payment or prepayment of any kind prior to delivery of material and acceptance, as being in conformance with specifications, will not be considered for award.

**CONTACT INFORMATION:**

Hours of operation: 7AM-7PM. 24 Hr. Contact Phone No. 248-553-0600

**CONTRACT FORMS:**

Bidders should complete the Legal Status of Bidder, Non-Collusion Affidavit, Certification regarding Debarment and the Certification regarding "Iran Linked Business" forms and return with your bid proposal.

**AWARD:**

The evaluation and award of this bid shall be a combination of factors, including but not limited to: cost, professional competence, equipment, references, and the correlation of the proposal submitted to the needs of the City of Troy. The City of Troy reserves the right to award this bid to the lowest responsible total bidder meeting specifications for **EACH** Proposal; to reject low bids which have major deviations from specifications; to accept a higher bid which has only minor deviations.

**MICHIGAN CONSTRUCTION LIEN ACT:**

The bidder agrees that, if awarded the Contract(s) he/she will abide by all requirements of the Michigan Construction Lien Act (P.A. 1980, No. 497) as amended and effective March 1, 1982, and to provide full and complete Sworn Statements on Owner-approved forms.

**PUBLIC ACT 57:**

Public Act 57 requires contractors to provide certain notices to governmental entities concerning improvements on real property; to allow for modifications of contracts for improvement of real property; to provide for remedies; and to repeal acts and parts of acts. This contract shall comply with all applicable provisions of Public Act 57 [a copy of the act is attached for reference (2 pages)].

**SUBCONTRACTORS:**

The undersigned agrees to submit a list of proposed subcontractors, if applicable, for approval by the designated City representative within 72 hours after notification of being the low qualified bidder. It will be understood that this may occur prior to bid award, but the bidder's status will not be final until approved by the Troy City Council.

**BID DEPOSIT AND FORFEITURE:**

The bid deposit of the lowest bidder shall be forfeit if, after bid opening, a change in the bid price or other provision of the bid is required by the bidder that is prejudicial to the interest of the City of Troy or fair competition.

**CONTRACT TERMINATION:**

The City of Troy shall reserve the right to terminate the contract upon 30 days written notice due to poor performance. The City of Troy designated representative will be solely responsible for determining acceptable performance levels. His/her decision will be deemed in the City of Troy's best interest and will be final. The City of Troy reserves the right to re-award the contract to the next low bidder or re-bid the contract.

COMPANY NAME: NAGLE PAVING COMPANY

**TERMINATION FOR CONVENIENCE:**

The City may cancel the contract for its convenience, in whole or in part, by giving the contractor written notice 30 days prior to the date of cancellation. If the City chooses to cancel this contract in part, the charges payable under this contract shall be equitably adjusted to reflect those services that are cancelled.

**PROGRESS PAYMENTS:**

The City of Troy will consider a progress payment schedule for work as completed in accordance with specifications (See Supplemental General Conditions, page 1 of 2). The Facilities and Grounds Operations Manager will have final approval of the schedule as presented. No payments for work will be made until the designated City representative approves the work as complete in accordance with specifications. Prior to release of the final payment, consent of surety document (AIA Document G707) will be required and signed by the surety Company. The City of Troy reserves the right to reject the payment schedule if deemed necessary, and determine the final schedule.

Proposed Payment Schedule ~~\_\_\_\_\_~~ \* \* UPON AWARD OF CONTRACT.

**SITE INSPECTION:**

Bidders should examine the sites to determine the amount of work to be done in accordance with the specifications. If a bidder does not make a site inspection, that bidder accepts full responsibility and risk for any errors or omissions in his/her bid proposal. Contact Dennis Trantham at (248) 524-3503 to arrange a site visit between the hours of 8:30 am - 3:00pm Monday through Friday.

- Our company visited the sites on 5-1-19
- Our company did not visit the sites.

**BOND SUBMITTAL:**

Subsequently, upon notice of award to the successful bidder, the Contractor shall qualify for, sign, and deliver to the City of Troy an executed Performance Bond, an executed Labor and Materials Payment Bond, and an executed **two-year** Maintenance Bond secured by a surety company, acceptable to the City of Troy by being licensed to do business in Michigan, and be included on the U. S. Treasury Department Surety List and/or have a rating of **A- or better** by A. M. Best, and/or Standard and Poors, on standard AIA forms, each in the amount of one hundred percent (100%) of the contract sum. Attorneys-in-fact, who sign Performance, Payment, and Maintenance Bonds, must file a certified copy of their power of attorney to sign such bonds. The Contractor shall pay the cost of all bond premiums.

**PURCHASE ORDER:**

After the Troy City Council has approved the award, the City of Troy Purchasing Department will send an award letter to the successful bidder. The successful bidder once notified, will be required to submit the specified bonds. A purchase order will be issued in approximately one-week and released, once acceptable bonds and insurance are received. The purchase order issued in conjunction with the Contract Form (provided in the Contract Documents Section) from the City of Troy will create a bilateral contract between the parties, and the successful bidder shall commit to perform the contract in accordance with specifications.

**COMPLETION DATE:**

The work shall commence upon award as soon as possible. A work schedule shall be provided to Dennis Trantham, Facilities and Grounds Operations Manager. The designated City representative shall approve the work schedule prior to the start of the project. His/her decision as to acceptability shall be deemed in the City of Troy's best interest. The City of Troy is the only party to this contract that may authorize amendment of this schedule. The contractor is required to start the project within ten (10) working days after notification to start work. The entire project must be completed by **June 30, 2019**.

- Our company can meet the completion date
- Our company cannot meet the completion date but offers:  
\_\_\_\_\_

COMPANY NAME: NAGLE PAVING COMPANY

**REFERENCES:**

The City of Troy requires that your company list at least three (3) clients who have recently had similar work performed by your company. If you or your company has worked for the City of Troy in the past, please indicate by completing the information below.

COMPANY: GROSSE POINTE SHORES - OSUIS PARK  
ADDRESS: 800 LAKE SHORE DRIVE  
PHONE: 313-881-2622 CONTACT: BRETT SMITH  
EMAIL: \_\_\_\_\_

COMPANY: MCCARTHY SMITH LINCOLN PARK HIGH SCHOOL TENNIS COURT  
ADDRESS: 1701 CHAMPAGNE LINCOLN PARK MI 48146  
PHONE: 248-427-8400 CONTACT: TIM MCCARTHY  
EMAIL: TMCCARTHY@MCCARTHYSMITH.COM

COMPANY: GROSSE ILE HIGH SCHOOL RUNNING TRACK (AUCH CONSTRUCTION)  
ADDRESS: 7800 GRAND DRIVE, GROSSE ILE TWP, MI 48138  
PHONE: 248-431-6235 CONTACT: DANIELLE ESCHNER  
EMAIL: DESCHNER@AUCHCONSTRUCTION.COM

COMPANY NAME: NAGLE PAULINO COMPANY



Insurance requirements shall be in accordance with the attached **SAMPLE INSURANCE CERTIFICATE and ENDORSEMENT**. The required Insurance Certificate and Endorsement must be submitted to the city within 5 days of the verbal/ electronic request after the bid award. The Insurance Certificate and Endorsement may be faxed to the Purchasing Office at (248) 619-7608, and is the only bid document accepted in this format.

The contractor, or any of their subcontractors, shall not commence work under this contract until they have obtained the insurance required, and shall keep such insurance in force during the entire life of this contract. All coverage shall be with insurance companies licensed and admitted to business in the State of Michigan and acceptable to the City of Troy. The requirements below should not be interpreted to limit the liability of the Contractor. All deductibles and self-insured retentions (SIR's) are the responsibility of the Contractor.

**We can meet the specified insurance requirements.**

**We cannot meet the specified insurance requirements.**

**We do not carry the specified limits but can obtain the additional insurance coverage of \$ \_\_\_\_\_, at the cost of \$ \_\_\_\_\_.**

**NOTE: Please note the amendments on a sample insurance certificate and attach it to your bid proposal.**

**Our proposal is reduced by \$ \_\_\_\_\_ if we lower the requirement to \$ \_\_\_\_\_.**

**NOTE: Please note the amendments on a sample insurance certificate and attach it to your bid proposal.**

**IMPORTANT:** A Certificate of Insurance on an ACORD Form showing present coverage as well as the required endorsements **SHALL** be attached to the proposal document at the time of submission of the proposal to the Office of the City Clerk.

**NOTE:** Failure on the part of any bidder to contact his/her insurance carrier to verify that the insurance carried by the bidder meets City of Troy specifications may result in this proposal being completed incorrectly.

**OTHER:** Sole proprietors must execute a certificate of exemption from Worker's Compensation requirements or provide proof of Worker's Compensation Insurance. All coverage shall be with insurance carriers licensed and admitted to do business in Michigan in accordance with all applicable statutes of the State of Michigan and acceptable to the City of Troy.

**INSURANCE VERIFICATION:**

A bidder shall complete the above portion, which details additional costs that may be incurred for specified coverage without purchasing the additional coverage prior to bid submission.

**WORKERS' COMPENSATION INSURANCE,** including Employers' Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

**COMMERCIAL GENERAL LIABILITY INSURANCE** on an "Occurrence Basis" with limits of liability not less than \$1,000,000.00 per occurrence and aggregate. Coverage shall include the following extensions: (A) Contractual liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (XCU) Exclusions, if applicable.

**AUTOMOBILE LIABILITY,** including Michigan No-Fault Coverages, with limits of liability not less than \$1,000,000.00 per occurrence combined single limit for Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

COMPANY NAME: NAGLE PAVING COMPANY

**ADDITIONAL INSURED:**

Commercial General Liability and Automobile Liability, as described in the attached SAMPLE shall include an Additional Insured Endorsement stating the following shall be **Additional Insureds:** The City of Troy including all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and council members, including employees and volunteers thereof. It is understood and agreed by naming the City of Troy as additional insured, coverage afforded is considered to be primary and any other insurance the City of Troy may have in effect shall be considered secondary and/or excess.

**CANCELLATION NOTICE:**

All policies, as described above, shall include an endorsement stating that it is understood and agreed that Thirty (30) days, Ten (10) days for non-payment of premium, Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change shall be mailed to:

City of Troy  
Purchasing Manager  
500 West Big Beaver  
Troy, MI 48084

**PROOF OF INSURANCE COVERAGE:**

The Contractor shall provide the City of Troy, at the time that the contracts are returned by him/her for execution, a Certificate of Insurance as well as the required endorsements. In lieu of required endorsements, if applicable, a copy of the policy sections where coverage is provided for additional insured and cancellation notice would be acceptable. Copies or certified copies of all policies mentioned above all shall be furnished, if so requested.

If any of the applicable coverages expire during the term of this contract, the Contractor shall deliver renewal certificates and endorsements to the City of Troy at least ten (10) days prior to the expiration date.

**LETTER VERIFICATION:**

The recommended bidder will be notified to submit a letter from the *insurance agent or carrier* that the insurance to be supplied will meet specifications. As an alternative, the recommended bidder may submit the certificate of insurance meeting specifications at this time at his/her option. *The City must receive this letter or certificate within 5 business days after verbal / electronic notification has been delivered to the recommended bidder or the bidder will be considered non-responsive and the bid un-awardable. This process will occur before presentation of the award recommendation to the Troy City Council.*

**FINAL INSURANCE CERTIFICATE SUBMISSION:**

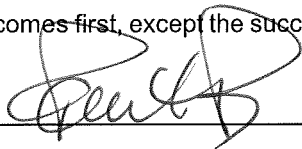
After approval by Troy City Council, the City's Purchasing Manager will review the insurance certificates and endorsements to ensure all acceptable documents have been received and allow (5) business additional days after verbal / electronic notification to submit final insurance certificate(s) in accordance with specifications. The City of Troy reserves the right to WITHHOLD AND KEEP any bid surety for failure to comply. The company will be considered in default of contract and will be barred from doing business with the City of Troy for a minimum of three (3) years for failing to meet insurance requirements.

COMPANY NAME: NAGLE PAVING COMPANY

SIGNATURE PAGE

PRICES: Prices shall remain firm for 60 days or bid award, whichever comes first, except the successful bidder whose prices shall remain firm through project completion.

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE: \_\_\_\_\_



NOTE: The undersigned has checked carefully the bid figures and understands that he/she shall be responsible for any error or omission in this bid offer and is in receipt of all addenda as issued.

TAX ID: 38-1572719

COMPANY: NAGLE PAVING COMPANY

ADDRESS: 39525 W. BRIMLEY CITY: NOVI STATE: MI ZIP: 48377

PHONE: (248) 553-0600 FAX NUMBER: (248) 553-0669

REPRESENTATIVE NAME: ROB NAGLE

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE: \_\_\_\_\_ (Print)



PAYMENT TERMS: PER CONTRACT WARRANTY: 2 YEARS

CHECK INCLUDED: \$5,000 COMPLETION: JUNE 30, 2019

EMAIL: RNAGLE@NAGLEPAVING.COM

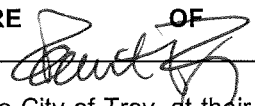
EXCEPTIONS: Any exceptions, substitutions, deviations, etc. from the City of Troy specifications and this proposal must be stated below and reason for, and is an integral part of this bid offer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ACKNOWLEDGEMENT:

I, ROB NAGLE, certify that I have read the *Instructions to Bidders* (2 Pages) and that the bid proposal documents contained herein were obtained directly from the City's Purchasing Department or MITN website, [www.mitn.info](http://www.mitn.info) and is an official copy of the Authorized Version.

SIGNATURE \_\_\_\_\_ OF \_\_\_\_\_ AUTHORIZED \_\_\_\_\_ COMPANY \_\_\_\_\_ REPRESENTATIVE:



NOTE: The City of Troy, at their discretion, may require the bidder to supply a Financial Report from an impartial Financial Credit Reporting Service before award of contract.

IMPORTANT: All City of Troy purchases require a MATERIAL SAFETY DATA SHEET, where applicable, in compliance with the MIOSHA "Right to Know" Law. Please include a copy of any relevant MSDS at the time of bid submission.

U.S. FUNDS: All prices quoted are to be in U. S. Currency.



VENDOR QUESTIONNAIRE

DATE: 5-9-19  
Month/Date/Year

FIRM NAME: NAGLE PAVING COMPANY

ESTABLISHED: APRIL, 19 58 or 20      STATE: MI

TYPE OF ORGANIZATION: (Circle One)

- a. Individual
- b. Partnership
- c. Corporation
- d. Joint Venture
- e. Other \_\_\_\_\_ If applicable:

FORMER COMPANY NAME(S)

\_\_\_\_\_

Please provide the following information and submit with your bid proposal:

- 1) Number of years of experience in this type of work: 61 Years
- 2) List the number and types of equipment to be used if awarded this bid (Attach itemized list that is marked \_\_\_\_\_ for identification if more space is required):  
1- EXCAVATOR 1- BACKHOE  
1- DOZER  
1- ASPHALT PAVER

3) List all contract commitments your firm has been engaged to perform for 2019. Give organization name, value of contract and percent complete.

ORGANIZATION	VALUE	PERCENTAGE
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<u>* AVAILABLE UPON AWARD OF CONTRACT</u>		

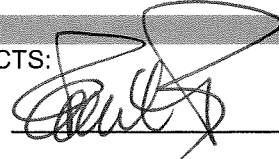
4) If applicable, list all proposed subcontractors to be used in the performance of this contract and the work to be performed by each.

GODDARD - ASPHALT COATING & STRIPING  
SHAMROCK FENCE - FENCE, BASKETBALL GOALS & TENNIS EQUIPMENT

- 5) Name of your bank or other financial reference: COMERICA BANK.
- 6) Comments: \_\_\_\_\_

THE FOREGOING QUESTIONNAIRE IS A TRUE STATEMENT OF FACTS:

Signature of Authorized Company Representative:

  
\_\_\_\_\_

Company:

NAGLE PAINTING COMPANY

Address:

39525 W. 13 MILE SUITE 300  
NOVI, MI 48377

Phone Number:

248-553-0600

Representative's Name:

ROB NAGLE

Date:

5-9-19  
(print)







## Legal Status of Bidder:

The Bidder shall fill out the appropriate form and strike out the other two:

NAGLE PAVING COMPANY

A **corporation** duly organized and doing business under the laws of the State of MI for whom TOB NAGLE, bearing the office title of VICE PRESIDENT, whose signature is affixed to this proposal, is duly authorized to execute contracts.

A **partnership**, all members of which, with addresses, are:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

AN **INDIVIDUAL**, WHOSE SIGNATURE IS AFFIXED TO THE PROPOSAL:

_____	_____
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CITY OF TROY  
OAKLAND COUNTY, MICHIGAN  
NON-COLLUSION AFFIDAVIT

TO WHOM IT MAY CONCERN:

ROB NAGLE, being duly sworn deposed, says that he/she  
(Print Full Name)

is VICE PRESIDENT. The party making the foregoing proposal or bid,  
(State Official Capacity in Firm)

that such bid is genuine and not collusion or sham; that said bidder has not colluded, conspired, connived, or agree, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding and has not in any manner directly or indirectly sought by agreement or collusion, or communication or conference, with any person to fix the bid price or affiant or any other bidder, or to fix any overhead, profit, or cost element of said bid price, or that of any other bidder, or to secure the advantage against the City of Troy or any person interested in the proposed contract; and that all statements contained in said proposal or bid are true.

SIGNATURE OF PERSON SUBMITTING BID

NOTARY'S SIGNATURE

Subscribed and sworn to before me this 9 day of May, 2019 in and for Oakland County.

My commission expires:

12-27-24

DAWN M. CONLON  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF MACOMB  
My Commission Expires Dec. 27, 2024  
Acting in the County of Oakland





**CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The prospective participant certifies, to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions under any non-procurement programs by any federal, state or local agency.
2. Have not, within the three year period preceding, had one or more public transactions (federal, state, or local) terminated for cause or default; and
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) and have not, within the three year period preceding the proposal, been convicted of or had a civil judgment rendered against it:
  - a. For the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction (federal, state, or local), or a procurement contract under such a public transaction;
  - b. For the violation of federal, or state antitrust statutes, including those proscribing price fixing between competitors, the allocation of customers between competitors, or bid rigging; or
  - c. For the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

I understand that a false statement on this certification may be grounds for the rejection of this proposal or the termination of the award. In addition, the general grant of this authority exists within the City's Charter, Chapter 12, Section 12.2- Contracts.

*I am able to certify to the above statements.*

NAGLE PAVING COMPANY

Name of Agency/Company/Firm (Please Print)

ROB NAGLE VICE PRESIDENT

Name and title of authorized representative (Please Print)

Signature of authorized representative

5-9-19

Date

*I am unable to certify to the above statements. Attached is my explanation.*



**VENDOR CERTIFICATION  
THAT IT IS NOT AN  
"IRAN LINKED BUSINESS"**

Pursuant to Michigan law, (the Iran Economic Sanctions Act, 2012 PA 517, MCL 129.311 et seq.), before accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must first certify that it is not an "IRAN LINKED BUSINESS", as defined by law.

Vendor	
Legal Name	NAGLE PAWING COMPANY
Street Address	39525 W. 13 MILE SUITE 300
City	NOVI
State, Zip	MI 48377
Corporate I.D. Number/State	2101137547 - MICHIGAN
Taxpayer I.D. #	38-1572719

The undersigned, with: 1.) full knowledge of all of Vendors business activities, 2.) full knowledge of the requirements and possible penalties under the law MCL 129.311 et seq. and 3.) the full and complete authority to make this certification on behalf of the Vendor, by his/her signature below, certifies that: the Vendor is NOT an "IRAN LINKED BUSINESS" as require by MCL 129.311 et seq., and as such that Vendor is legally eligible to submit a bid and be considered for a possible contract to supply goods and/or services to the City of Troy.

Signature of Vendor's Authorized Agent: \_\_\_\_\_

Printed Name of Vendor's Authorized Agent: \_\_\_\_\_

ROB NAGLE

Witness Signature: \_\_\_\_\_

Printed Name of Witness: \_\_\_\_\_

Dawn M Conlon



**Proposer's Sworn and Notarized Familial Disclosure**  
*(to be provided by the Proposer)*

The undersigned, the owner or authorized officer of NAGLE PAULING Co (the "Proposer"), pursuant to the familial disclosure requirement provided in the Request for Proposal, hereby represent and warrant, except as provided below, that no familial relationships exist between the owner(s) or any employees of NAGLE PAULING Company and any member of the City of Troy City Council or City of Troy management.

**List any Familial Relationships:**

BIDDER: [Signature]

By: ROB NAGLE

Its: VICE PRESIDENT

STATE OF MICHIGAN )  
 )ss.  
COUNTY OF Oakland )

This instrument was acknowledged before me on the 9 day of May, 2019, by Rob Nagle

DAWN M. CONLON  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF MACOMB  
My Commission Expires Dec. 27, 2024  
Acting in the County of Oakland

[Signature]

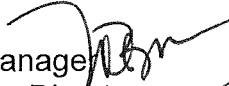





500 West Big Beaver  
Troy, MI 48084  
troymi.gov

# CITY COUNCIL AGENDA ITEM

Date: May 10, 2019

To: Mark F. Miller, City Manager

From: MaryBeth Murz, Purchasing Manager   
Tom Darling, Financial Services Director   
Kurt Bovensiepe, Public Works Director   
Dennis Trantham, Facilities and Grounds Operations Manager 

Subject: Award Standard Purchasing Resolution 2 – Award to Low Bidder meeting Specifications Brinston Park Tennis and Basketball Court Resurfacing

### History

- Brinston Park is an 18 acre Community Park with a wide array of recreational opportunities.
- The existing Tennis Courts have fallen into disrepair.
- In 2016 a survey was conducted and it was determined that the Park users desired to have a Basketball Court in addition to the existing Tennis Court.
- This addition of a Basketball Court would be the only Basketball Court in the City of Troy Parks.

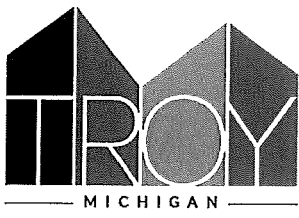
### Purchasing

- On May 9, 2019 a bid opening was conducted as required by the City Charter/Code to furnish all material, labor, and equipment to resurface the existing tennis courts and for the installation of a *new* basketball court at Brinston Park.
- The bid was posted on the Michigan Intergovernmental Trade Network (MITN); [www.mitn.info](http://www.mitn.info).
- 339 vendors were notified via the MITN website. Three (3) bids were received. Below is a detail summary of the vendor responses.

Companies notified via MITN	339
Troy Companies notified via MITN	12
Troy Companies - Active email Notification	11
Troy Companies - Active Free	1
Companies that viewed the bid	29
Troy Companies that viewed the bid	0

*MITN provides a resourceful online platform to streamline the procurement process, reduce costs, and make it easier and more transparent for vendors to do business with the City of Troy.*  
**Active MITN** members with a current membership and paying annual dues receive automatic electronic notification which allows instant access to Bids, RFPS and Quote opportunities with the City.  
**Active MITN non-paying members** are responsible to monitor and check the MITN website for opportunities to do business with the City.  
**Inactive MITN member** status can occur when a company does not renew their account upon expiration. Inactive members cannot be notified of solicitations or access any bid information.

- Based upon the bid responses and as per the attached bid tabulation; it is in the City's best interest to award the bid; to the *low responsive* bidder meeting all bid specifications which also includes a 2-year warranty. The award is contingent upon the contractor's submission of proper insurance certificates, and all other specified requirements.



500 West Big Beaver  
Troy, MI 48084  
troymi.gov

## CITY COUNCIL AGENDA ITEM

### **Financial**

Funds in the amount of \$140,000 are available in the Capital Account # 401.751.770.7974.025. The Project # is 2019C0033.

### **Recommendation**

City management recommends awarding a contract for the resurfacing of the existing Tennis Courts and the installation of a *new* Basketball Court at Brinston Park to the lowest responsive bidder meeting all specifications, *Nagle Paving Company of Novi, MI* for a cost of \$132,890.00 at unit prices contained in the bid tabulation opened on May 9, 2019; with a contingency of \$7,110.00 for an estimated total cost of \$140,000.00.

BID TABULATION  
 CITY OF TROY  
 TENNIS COURT RESURFACING

Vendor Name:	Best Asphalt, Inc.	Nagle Paving Company	WCI Contractors, Inc.
City:	Romulus, MI	Novi, MI	Detroit, MI
Check #:	9156323079	1366919	56727635

**PROPOSAL: Furnish all material, labor, and equipment to resurface the existing tennis courts and the installation of a new basketball court at Brinston Park in accordance with the specifications.**

<b>TOTAL BID COST:</b>	\$128,000.00	<b><u>\$132,890.00</u></b>	\$136,900.00	
<b>Alternate bid:</b>	No	No	If existing base is not suitable for re-use and requires excavation, off site disposal & import of 6" of 21AA limestone, add the following to our base price: \$18,700.00	
Schedule of Values	Y or N	Y	Y	N
Contact Information:				
Hours of Operation:		6AM-7PM	7AM-7PM	8AM-4:30PM
24 Hour Phone #:		734-729-9440	248-553-0600	248-330-8663
Proposed Payment Schedule:		No response	Net30 Days	Net30 Days
Site Inspection:	Y or N	No response	5/1/2019	5/8/2019
Completion Date Met:	Y or N	Y	Y	Y
References:	Y or N	Y	Y	Y
Insurance:	Y or N	Y	Y	Y
Payment Terms:		No response	Net30 Days	Net30 Days
Warranty:		No response	2 Year Warranty	2 Year Warranty
Exceptions:	Y or N	N	N	N
Acknowledgement:	Y or N	Y	Y	Y
Questionnaire:	Y or N	Y	Y	Y
Forms:	Y or N	Y	Y	Y

Attest:  
 \_\_\_\_\_  
 Dennis Trantham  
 \_\_\_\_\_  
 Jackie Ahlstrom  
 \_\_\_\_\_  
 Sue Reisterer

  
 \_\_\_\_\_  
 MaryBeth Murz,  
 Purchasing Manager

**STANDARD PURCHASING RESOLUTION 2 - Low Bidder meeting Specifications -  
Brinston Park Tennis and Basketball Court Resurfacing**

RESOLVED, That Troy City Council hereby **AWARDS** a contract for the resurfacing of the existing Tennis Courts and the installation of a *new* Basketball Court at Brinston Park to the lowest responsive bidder meeting all specifications, *Nagle Paving Company of Novi, MI* for a cost of \$132,890.00 at unit prices contained in the bid tabulation opened on May 9, 2019 with a contingency of \$7,110.00 for an estimated total cost of \$140,000.00.

BE IT FURTHER RESOLVED, That the contract is **CONTINGENT** upon contractor's submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
2/27/2019

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 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 Doeren Mayhew Insurance Group 305 West Big Beaver Rd. Suite 102 Troy MI 48084	CONTACT NAME: Melissa Thompson	
	PHONE (A/C, No, Ext): (248) 290-0650 FAX (A/C, No): (248) 290-0654	
INSURED Nagle Paving Company and Rabil Trucking Company 39525 W. 13 Mile Rd., Ste 300 Novi MI 48377	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Cincinnati Insurance Co	10677
	INSURER B: Travelers St Paul	36137
	INSURER C: Accident Fund Company	10166
	INSURER D:	
INSURER E:		
INSURER F:		

COVERAGES CERTIFICATE NUMBER: CL1922706070 REVISION NUMBER:

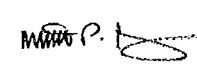
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liability <input checked="" type="checkbox"/> X, C & U Included GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		X	EPP0484109	3/1/2019	3/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		X	EBA0484109	3/1/2019	3/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured Motorist Combined \$ 1,000,000
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0			ZUP 21N40393 18 NF	3/1/2019	3/1/2020	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N	N/A WCV6123958	3/1/2019	3/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Installation Floater Equipment Leased / Rented			EPP0484109 EPP0484109	3/1/2019 3/1/2019	3/1/2020 3/1/2020	\$1,000 Deductible \$100,000 \$500 Deductible \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
City of Troy is included as Additional Insured for General Liability Coverage and Auto Liability Coverage, as required within a written contract.

### CERTIFICATE HOLDER

### CANCELLATION

City of Troy 500 W. Big Beaver Troy, MI 48084	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 Matthew Kunz/SC 

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED BY CONTRACT**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM**

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

Endorsement Effective: <b>03-01-2019</b>	Policy Number: <b>EBA 048 41 09</b>
Named Insured: <b>NAGLE PAVING COMPANY, DETROIT RECYCLED CONCRETE COMPANY, RABIL TRUCKING COMPANY</b>	
Countersigned by:	

(Authorized Representative)

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

**SECTION II - LIABILITY COVERAGE, A. Coverage, I. Who is an Insured** is amended to include as an insured any person or organization with which you have agreed in a valid written contract to provide insurance as is afforded by this policy.

This provision is limited to the scope of the valid written contract.

This provision does not apply unless the valid written contract has been executed prior to the "bodily injury" or "property damage".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## CONTRACTORS' COMMERCIAL GENERAL LIABILITY BROADENED ENDORSEMENT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### A. Endorsement - Table of Contents:

<u>Coverage:</u>	<u>Begins on Page:</u>
1. Employee Benefit Liability Coverage .....	2
2. Unintentional Failure to Disclose Hazards .....	8
3. Damage to Premises Rented to You .....	8
4. Supplementary Payments .....	9
5. Medical Payments .....	9
6. Voluntary Property Damage (Coverage a.) and Care, Custody or Control Liability Coverage (Coverage b.) .....	9
7. 180 Day Coverage for Newly Formed or Acquired Organizations .....	10
8. Waiver of Subrogation .....	10
9. Automatic Additional Insured - Specified Relationships: .....	10
• Managers or Lessors of Premises;	
• Lessor of Leased Equipment;	
• Vendors;	
• State or Political Subdivisions - Permits Relating to Premises;	
• State or Political Subdivisions - Permits; and	
• Contractors' Operations	
10. Broadened Contractual Liability - Work Within 50' of Railroad Property .....	14
11. Property Damage to Borrowed Equipment .....	14
12. Employees as Insureds - Specified Health Care Services: .....	15
• Nurses;	
• Emergency Medical Technicians; and	
• Paramedics	
13. Broadened Notice of Occurrence .....	15

#### B. Limits of Insurance:

The Commercial General Liability Limits of Insurance apply to the insurance provided by this endorsement, except as provided below:

##### 1. Employee Benefit Liability Coverage

Each Employee Limit: \$ 1,000,000  
Aggregate Limit: \$ 3,000,000  
Deductible: \$ 1,000

##### 3. Damage to Premises Rented to You

The lesser of:

- The Each Occurrence Limit shown in the Declarations; or
- \$500,000 unless otherwise stated \$ \_\_\_\_\_

##### 4. Supplementary Payments

- Bail bonds: \$ 1,000
- Loss of earnings: \$ 350

**5. Medical Payments**

Medical Expense Limit: \$ 10,000

**6. Voluntary Property Damage (Coverage a.) and Care, Custody or Control Liability Coverage (Coverage b.)**

Limits of Insurance (Each Occurrence)

Coverage a. \$1,000

Coverage b. \$5,000 unless otherwise stated \$ \_\_\_\_\_

Deductibles (Each Occurrence)

Coverage a. \$250

Coverage b. \$250 unless otherwise stated \$ \_\_\_\_\_

COVERAGE	PREMIUM BASIS (a) Area (b) Payroll (c) Gross Sales (d) Units (e) Other	RATE  (For Limits in Excess of \$5,000)	ADVANCE PREMIUM  (For Limits in Excess of \$5,000)
b. Care, Custody or Control			\$
<b>TOTAL ANNUAL PREMIUM</b>			\$

**11. Property Damage to Borrowed Equipment**

Each Occurrence Limit: \$ 10,000

Deductible: \$ 250

**C. Coverages:**

**1. Employee Benefit Liability Coverage**

a. The following is added to **SECTION I - COVERAGES: Employee Benefit Liability Coverage.**

**(1) Insuring Agreement**

(a) We will pay those sums that the insured becomes legally obligated to pay as damages caused by any act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any claim or "suit" that may result. But:

1) The amount we will pay for damages is limited

as described in **SECTION III - LIMITS OF INSURANCE;** and

2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

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

(b) This insurance applies to damages only if the act, error or omission, is negligently committed in the "administration" of your "employee benefit program"; and

1) Occurs during the policy period; or

2) Occurred prior to the effective date of this endorsement provided:

a) You did not have knowledge of a claim or "suit" on

or before the effective date of this endorsement.

You will be deemed to have knowledge of a claim or "suit" when any "authorized representative";

i) Reports all, or any part, of the act, error or omission to us or any other insurer;

ii) Receives a written or verbal demand or claim for damages because of the act, error or omission; and

b) There is no other applicable insurance.

## (2) Exclusions

This insurance does not apply to:

### (a) Bodily Injury, Property Damage or Personal and Advertising Injury

"Bodily injury", "property damage" or "personal and advertising injury".

### (b) Dishonest, Fraudulent, Criminal or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

### (c) Failure to Perform a Contract

Damages arising out of failure of performance of contract by any insurer.

### (d) Insufficiency of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the

"employee benefit program".

### (e) Inadequacy of Performance of Investment/Advice Given With Respect to Participation

Any claim based upon:

1) Failure of any investment to perform;

2) Errors in providing information on past performance of investment vehicles; or

3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

### (f) Workers' Compensation and Similar Laws

Any claim arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

### (g) ERISA

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

### (h) Available Benefits

Any claim for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

### (i) Taxes, Fines or Penalties

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

**(j) Employment-Related Practices**

Any liability arising out of any:

- (1) Refusal to employ;
- (2) Termination of employment;
- (3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, acts or omissions; or
- (4) Consequential liability as a result of (1), (2) or (3) above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

**(3) Supplementary Payments**

**SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** also apply to this Coverage.

**b. Who is an Insured**

As respects Employee Benefit Liability Coverage, **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced by the following:

- (1) If you are designated in the Declarations as:
  - (a) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - (b) A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds but only with respect to the conduct of your business.
  - (c) A limited liability company, you are an insured. Your members are also insureds,

but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

- (d) An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - (e) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
- (2) Each of the following is also an insured:
- (a) Each of your "employees" who is or was authorized to administer your "employee benefit program".
  - (b) Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.
  - (c) Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
- (3) Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However, coverage under this provision:
- (a) Is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- (b) Does not apply to any act, error or omission that was committed before you acquired or formed the organization.

**c. Limits of Insurance**

As respects Employee Benefit Liability Coverage, **SECTION III - LIMITS OF INSURANCE** is deleted in its entirety and replaced by the following:

- (1) The Limits of Insurance shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** and the rules below fix the most we will pay regardless of the number of:
  - (a) Insureds;
  - (b) Claims made or "suits" brought;
  - (c) Persons or organizations making claims or bringing "suits";
  - (d) Acts, errors or omissions; or
  - (e) Benefits included in your "employee benefit program".
- (2) The Aggregate Limit shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".
- (3) Subject to the limit described in (2) above, the Each Employee Limit shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:
  - (a) An act, error or omission; or
  - (b) A series of related acts, errors or omissions, regardless of the amount of time that lapses between such acts, errors or omissions,

negligently committed in the "administration" of your "employee benefit program".

However, the amount paid under this endorsement shall not exceed, and will be subject to the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program".

**(4) Deductible Amount**

- (a) Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in the Declarations as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.
- (b) The deductible amount stated in the Declarations applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.
- (c) The terms of this insurance, including those with respect to:
  - 1) Our right and duty to defend the insured against any "suits" seeking those damages; and
  - 2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or claim,apply irrespective of the application of the deductible amount.
- (d) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

**d. Additional Conditions**

As respects **Employee Benefit Liability Coverage, SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

- (1) Item 2. **Duties in the Event of Occurrence, Offense, Claim or Suit** is deleted in its entirety and replaced by the following:

**2. Duties in the Event of an Act, Error or Omission, or Claim or Suit**

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a claim. To the extent possible, notice should include:

- (1) What the act, error or omission was and when it occurred; and  
(2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

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

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

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";  
(2) Authorize us to obtain records and other information;  
(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and  
(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

- (2) Item 5. **Other Insurance** is deleted in its entirety and replaced by the following:

**5. Other Insurance**

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

**a. Primary Insurance**

This insurance is primary except when c. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in b. below.

**b. Method of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**c. No Coverage**

This insurance shall not cover any loss for which the insured is en-

titled to recovery under any other insurance in force previous to the effective date of this Coverage Part.

**e. Additional Definitions**

As respects Employee Benefit Liability Coverage, SECTION V - DEFINITIONS is amended as follows:

(1) The following definitions are added:

1. "Administration" means:
  - a. Providing information to "employees", including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
  - b. Interpreting the "employee benefit programs";
  - c. Handling records in connection with the "employee benefit programs"; or
  - d. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program".

However, "administration" does not include:

- a. Handling payroll deductions; or
  - b. The failure to effect or maintain any insurance or adequate limits of coverage of insurance, including but not limited to unemployment insurance, social security benefits, workers' compensation and disability benefits.
2. "Cafeteria plans" means plan authorized by applicable law to allow "employees" to elect to pay for certain benefits with pre-tax dollars.
  3. "Employee benefit programs" means a program providing some or all of the

following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:

- a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
- b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;
- c. Unemployment insurance, social security benefits, workers' compensation and disability benefits; and
- d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.

(2) The following definitions are deleted in their entirety and replaced by the following:

21. "Suit" means a civil proceeding in which money damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:



- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent;
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent; or
  - c. An appeal of a civil proceeding.
8. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

**2. Unintentional Failure to Disclose Hazards**

**SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 7. Representations** is hereby amended by the addition of the following:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not reject coverage under this Coverage Part based solely on such failure.

**3. Damage to Premises Rented to You**

- a. The last Subparagraph of Paragraph 2. **SECTION I - COVERAGES, COVERAGE A. - BODILY INJURY AND PROPERTY DAMAGE, 2. LIABILITY Exclusions** is hereby deleted and replaced by the following:

Exclusions c. through q. do not apply to damage by fire, explosion, lightning, smoke or soot to premises while rented to you or temporarily occupied by you with permission of the owner.

- b. The insurance provided under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

- (1) As respects Water Damage Legal Liability, as provided in Paragraph 3.b. above:

The exclusions under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**, other than **i. War and the Nuclear Energy Liability Exclusion**, are deleted and the following are added:

This insurance does not apply to:

- (a) "Property damage":
  - 1) Assumed in any contract; or
  - 2) Loss caused by or resulting from any of the following:
    - a) Wear and tear;
    - b) Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
    - c) Smog;
    - d) Mechanical breakdown including rupture or bursting caused by centrifugal force;
    - e) Settling, cracking, shrinking or expansion; or
    - f) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.
- (b) Loss caused directly or indirectly by any of the following:
  - 1) Earthquake, volcanic eruption, landslide or any other earth movement;

- 2) Water that backs up or overflows from a sewer, drain or sump;
  - 3) Water under the ground surface pressing on, or flowing or seeping through:
    - a) Foundations, walls, floors or paved surfaces;
    - b) Basements, whether paved or not; or
    - c) Doors, windows or other openings.
- (c) Loss caused by or resulting from water that leaks or flows from plumbing, heating, air conditioning, or fire protection systems caused by or resulting from freezing, unless:
- 1) You did your best to maintain heat in the building or structure; or
  - 2) You drained the equipment and shut off the water supply if the heat was not maintained.
- (d) Loss to or damage to:
- 1) Plumbing, heating, air conditioning, fire protection systems, or other equipment or appliances; or
  - 2) The interior of any building or structure, or to personal property in the building or structure caused by or resulting from rain, snow, sleet or ice, whether driven by wind or not.

**c. Limit of Insurance**

The Damage to Premises Rented to You Limit as shown in the Declarations is amended as follows:

- (2) Paragraph 6. of SECTION III - LIMITS OF INSURANCE is hereby deleted and replaced by the following:
  - 6. Subject to 5. above, the Damage to Premises Rented to You Limit is the most

we will pay under **COVER-AGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, for damages because of "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of any one "occurrence" to which this insurance applies.

- (3) The amount we will pay is limited as described in Section B. **Limits of Insurance, 3. Damage to Premises Rented to You** of this endorsement.

**4. Supplementary Payments**

Under SECTION I - COVERAGE, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B:

- a. Paragraph 2. is replaced by the following:

Up to the limit shown in Section B. **Limits of Insurance, 4.a.** Bail Bonds of this endorsement for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- b. Paragraph 4. is replaced by the following:

All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to the limit shown in Section B. **Limits of Insurance, 4.b.** Loss of Earnings of this endorsement per day because of time off from work.

**5. Medical Payments**

The Medical Expense Limit of Any One Person as stated in the Declarations is amended to the limit shown in Section B. **Limits of Insurance, 5. Medical Payments** of this endorsement.

**6. Voluntary Property Damage and Care, Custody or Control Liability Coverage**

- a. **Voluntary Property Damage Coverage**

We will pay for "property damage" to property of others arising out of op-

erations incidental to the insured's business when:

- (1) Damage is caused by the insured; or
- (2) Damage occurs while in the insured's possession.

With your consent, we will make these payments regardless of fault.

**b. Care, Custody or Control Liability Coverage**

**SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, j. Damage to Property, Subparagraphs (3), (4) and (5) do not apply to "property damage" to the property of others described therein.**

With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

- a. The Limits of Insurance shown in the Declarations are replaced by the limits designated in **Section B. Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in **Section B. Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (1) Insureds;
- (2) Claims made or "suits" brought; or
- (3) Persons or organizations making claims or bringing "suits".

**b. Deductible Clause**

- (1) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the deductible amount stated in **Section B. Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement. The limits of insurance will not be re-

duced by the application of such deductible amount.

- (2) **Condition 2. Duties in the Event of Occurrence, Offense, Claim or Suit**, applies to each claim or "suit" irrespective of the amount.

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

**7. 180 Day Coverage for Newly Formed or Acquired Organizations**

**SECTION II - WHO IS AN INSURED** is amended as follows:

Subparagraph a. of Paragraph 4. is hereby deleted and replaced by the following:

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

**8. Waiver of Subrogation**

**SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 9. Transfer of Rights of Recovery Against Others to Us** is hereby amended by the addition of the following:

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

**9. Automatic Additional Insured - Specified Relationships**

- a. The following is hereby added to **SECTION II - WHO IS AN INSURED**:

- (1) Any person or organization described in Paragraph 9.a.(2) below (hereinafter referred to as additional insured) whom you

are required to add as an additional insured under this Coverage Part by reason of:

- (a) A written contract or agreement; or
- (b) An oral agreement or contract where a certificate of insurance showing that person or organization as an additional insured has been issued,

is an insured, provided:

- (a) The written or oral contract or agreement is:
    - 1) Currently in effect or becomes effective during the policy period; and
    - 2) Executed prior to an "occurrence" or offense to which this insurance would apply; and
  - (b) They are not specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part.
- (2) Only the following persons or organizations are additional insureds under this endorsement, and insurance coverage provided to such additional insureds is limited as provided herein:
- (a) The manager or lessor of a premises leased to you with whom you have agreed per Paragraph 9.a.(1) above to provide insurance, but only with respect to liability arising out of the ownership, maintenance or use of that part of a premises leased to you, subject to the following additional exclusions:

This insurance does not apply to:

- 1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- 2) Structural alterations, new construction or demolition operations performed by or on be-

half of such additional insured.

- (b) Any person or organization from which you lease equipment with whom you have agreed per Paragraph 9.a.(1) above to provide insurance. Such person(s) or organization(s) are insureds solely with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person(s) or organizations(s). However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.
- (c) Any person or organization (referred to below as vendor) with whom you have agreed per Paragraph 9.a.(1) above to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:
  - 1) The insurance afforded the vendor does not apply to:
    - a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
    - b) Any express warranty unauthorized by you;
    - c) Any physical or chemical change in the product

made intentionally by the vendor;

- d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
  - g) Products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.
- 2) This insurance does not apply to any insured person or organization:
- a) From whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or

containing such products; or

- b) When liability included within the "products-completed operations hazard" has been excluded under this Coverage Part with respect to such products.
- (d) Any state or political subdivision with which you have agreed per Paragraph 9.a.(1) above to provide insurance, subject to the following additional provision:
- This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent or control and to which this insurance applies:
- 1) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - 2) The construction, erection, or removal of elevators; or
  - 3) The ownership, maintenance, or use of any elevators covered by this insurance.
- (e) Any state or political subdivision with which you have agreed per Paragraph 9.a.(1) above to provide insurance, subject to the following provisions:
- 1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

- 2) This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or political subdivision.
- (f) Any person or organization with which you have agreed per Paragraph 9.a.(1) above to provide insurance, but only with respect to liability arising out of "your work" performed for that additional insured by you or on your behalf. A person or organization's status as an insured under this provision of this endorsement continues for only the period of time required by the written contract or agreement, but in no event beyond the expiration date of this Coverage Part. If there is no written contract or agreement, a person or organization's status as an insured under this endorsement ends when your operations for that insured are completed.
- (3) Any insurance provided to an additional insured designated under Paragraph 9.a.(2):
- (a) Subparagraphs (e) and (f) does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard";
- (b) Subparagraphs (a), (b), (d), (e) and (f) does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence or willful misconduct of the additional insured or their agents, "employees" or any other representative of the additional insured; or
- (c) Subparagraph (f) does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:
- 1) Defects in design furnished by or on behalf of the additional insured; or
  - 2) The rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
    - a) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
    - b) Supervisory, inspection, architectural or engineering activities.
  - 3) "Your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor-project manager or owner of the construction project in which you are involved.
- b. Only with regard to insurance provided to an additional insured designated under Paragraph 9.a.(2) Subparagraph (f) above, **SECTION III - LIMITS OF INSURANCE** is amended to include:
- The limits applicable to the additional insured are those specified in the written contract or agreement or in the Declarations of this Coverage Part, whichever are less. If no limits are specified in the written contract or agreement, or if there is no written contract or agreement, the limits applicable to the additional insured are those specified in the Declarations of this Coverage Part. The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.
- c. **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is hereby amended as follows:
- (1) Condition 5. **Other Insurance** is amended to include:

(a) Where required by a written contract or agreement, this insurance is primary and/or noncontributory as respects any other insurance policy issued to the additional insured, and such other insurance policy shall be excess and/or noncontributing, whichever applies, with this insurance.

(b) Any insurance provided by this endorsement shall be primary to other insurance available to the additional insured except:

1) As otherwise provided in **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 5. Other Insurance, b. Excess Insurance**; or

2) For any other valid and collectible insurance available to the additional insured as an additional insured by attachment of an endorsement to another insurance policy that is written on an excess basis. In such case, the coverage provided under this endorsement shall also be excess.

(2) **Condition 11. Conformance to Specific Written Contract or Agreement** is hereby added:

**11. Conformance to Specific Written Contract or Agreement**

With respect to additional insureds described in Paragraph **9.a.(2)(f)** above only:

If a written contract or agreement between you and the additional insured specifies that coverage for the additional insured:

a. Be provided by the Insurance Services Office additional insured form number **CG 20 10** or **CG 20 37** (where edition specified); or

b. Include coverage for completed operations; or

c. Include coverage for "your work";

and where the limits or coverage provided to the additional insured is more restrictive than was specifically required in that written contract or agreement, the terms of Paragraphs **9.a.(3)(a)**, **9.a.(3)(b)** or **9.b.** above, or any combination thereof, shall be interpreted as providing the limits or coverage required by the terms of the written contract or agreement, but only to the extent that such limits or coverage is included within the terms of the Coverage Part to which this endorsement is attached. If, however, the written contract or agreement specifies the Insurance Services Office additional insured form number **CG 20 10** but does not specify which edition, or specifies an edition that does not exist, Paragraphs **9.a.(3)(a)** and **9.a.(3)(b)** of this endorsement shall not apply and Paragraph **9.b.** of this endorsement shall apply.

**10. Broadened Contractual Liability - Work Within 50' of Railroad Property**

It is hereby agreed that Paragraph **f.(1)** of Definition **12. "Insured contract"** (**SECTION V - DEFINITIONS**) is deleted.

**11. Property Damage to Borrowed Equipment**

a. The following is hereby added to Exclusion **j. Damage to Property** of Paragraph **2., Exclusions** of **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Paragraphs **(3)** and **(4)** of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.

b. With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

(1) The Limits of insurance shown in the Declarations are replaced by the limits designated in Section **B. Limits of Insurance, 11.** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section **B. Limits of Insurance, 11.** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (a) Insureds;
- (b) Claims made or "suits" brought; or
- (c) Persons or organizations making claims or bring "suits".

(2) **Deductible Clause**

- (a) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the Deductible amount stated in Section **B. Limits of Insurance, 11.** of this endorsement. The limits of insurance will not be reduced by the application of such Deductible amount.
- (b) Condition **2. Duties in the Event of Occurrence, Offense, Claim or Suit**, applies to each claim or "suit" irrespective of the amount.
- (c) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reim-

burse us for such part of the deductible amount as has been paid by us.

**12. Employees as Insureds - Specified Health Care Services**

It is hereby agreed that Paragraph 2.a.(1)(d) of **SECTION II - WHO IS AN INSURED**, does not apply to your "employees" who provide professional health care services on your behalf as duly licensed:

- a. Nurses;
- b. Emergency Medical Technicians; or
- c. Paramedics,

in the jurisdiction where an "occurrence" or offense to which this insurance applies takes place.

**13. Broadened Notice of Occurrence**

Paragraph a. of Condition 2. **Duties in the Event of Occurrence, Offense, Claim or Suit (SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS)** is hereby deleted and replaced by the following:

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. 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 any injury or damage arising out of the "occurrence" or offense.

This requirement applies only when the "occurrence" or offense is known to an "authorized representative".