

CONTRACT AGREEMENT ITB 2025-004 ROAD AND CURB DRAINAGE REPAIRS

This Agreement is made and entered into this _____ day of ______ in the year 2025; by and between the City of Tucker, Georgia, having its principal place of business at 1975 Lakeside Pkwy Suite 350, Tucker, Georgia 30084 and GEORGIA PAVING, LLC, ("CONTRACTOR"), located at 3625 Buford Highway, Duluth, Georgia 30096.

WHEREAS, the City of Tucker is charged with the responsibility for the establishment of contracts for the acquisition of goods, materials, supplies and equipment, and services by the various departments of the City of Tucker; and

WHEREAS, the City of Tucker has caused **Invitation to Bid 2025-004** to be issued soliciting bids from qualified Contractors to furnish all items, labor services, materials and appurtenances called for by them in accordance with these specifications. Selected ("Contractor") is required to provide the services as called for in the specifications; and

WHEREAS, the Contractor submitted a response to ITB 2025-004; and

WHEREAS, the City of Tucker deemed the Contractor's bid to be the lowest responsible and responsive bid per the scope of services.

NOW THEREFORE, in consideration of the mutual covenant and promises contained herein, the parties agree as follows:

1.0 Scope of Work

That the Contractor has agreed and by these present does agree with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out as delineated in "Exhibit A" (Scope of Services), which is attached hereto and incorporated herein, and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

EXHIBIT A – SCOPE OF SERVICES EXHIBIT B – COST PROPOSAL EXHIBIT C – W-9

EXHIBIT D – CERTIFICATE OF INSURANCE EXHIBIT E – E-VERIFY AFFIDAVIT EXHIBIT F – ADDENDUM(S) EXHIBIT G – OATH OF NON-COLLUSION EXHIBIT H– PERFORMANCE AND PAYMENT BONDS EXHIBIT I – CONTACT INFORMATION

2.0 Key Personnel

The City of Tucker enters into this Agreement having relied upon Contractor providing the services of the Key Personnel, if any. No Key Personnel may be replaced or transferred without the prior approval of the City's authorized representative. Any Contractor personnel to whom the City objects shall be removed from City work immediately. The City maintains the right to approve in its sole discretion all personnel assigned to the work under this Agreement.

3.0 Compensation

- 3.1 Pricing. The Contractor will be paid for the goods and services sold pursuant to the Contract in accordance with the bid and final pricing documents as incorporated into the terms of the Contract. All prices are firm and fixed and are not subject to variation. The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as "Exhibit B" (Cost Proposal) and incorporated herein, shall be firm throughout the term of this Contract. The maximum costs owed by the City, unless otherwise agreed to in writing, shall not exceed \$66,832.95.
- 3.2 Billings. If applicable, the Contractor shall submit, on a regular basis, an invoice for goods and services supplied to the City under the Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The City shall pay all approved invoices in arrears and in accordance with applicable provisions of City law. Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the City for any goods or services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract.

Invoices are to be emailed to the City project manager named in the Notice to Proceed and to <u>invoice@tuckerga.gov</u>. Invoices must reference the Purchase Order number provided with the Notice to Proceed. A W-9 Request for Taxpayer Identification Number and Certification Form must be submitted. "Exhibit C" (W-9) is attached hereto and incorporated herein.

3.3 Delay of Payment Due to Contractor's Failure. If the City in good faith determines that the Contractor has failed to perform or deliver any service or product as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such service or product is performed or delivered. In this event, the City may withhold that portion of the Contractor's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the City to incur costs, the City may deduct the amount of such incurred costs from any amounts payable to Contractor. The City's authority to

deduct such incurred costs shall not in any way affect the City's authority to terminate the Contract.

3.4 Set-Off Against Sums Owed by the Contractor. In the event that the Contractor owes the City any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the City may set off the sum owed to the City against any sum owed by the City to the Contractor in the City's sole discretion.

4.0 Duration of Contract

- 4.1 Contract Term. The Contract between the City and the Contractor shall begin on the date of execution and end upon the completion of the work, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 36-60-13, this Contract shall not be deemed to create a debt of the City for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.
- 4.2 Contract Extension. This contract may be extended by mutual consent of both the City and Contractor for reasons of additional time, additional services and/or additional areas of work.

5.0 Independent Contractor

- 5.1 The Contractor shall be an independent Contractor. The Contractor is not an employee, agent or representative of the City of Tucker. The successful Contractor shall obtain and maintain, at the Contractor's expense, all permits, license or approvals that may be necessary for the performance of the services. The Contractor shall furnish copies of all such permits, licenses or approvals to the City of Tucker Representative within ten (10) day after issuance.
- 5.2 Inasmuch as the City of Tucker and the Contractor are independent of one another neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City of Tucker without the express knowledge and prior written consent of the City.

6.0 Indemnification

6.1 The Contractor agrees to indemnify, hold harmless and defend the City, its public officials, officers, employees, and agents from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including reasonable attorney's fees) to the extent rising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract except for such claims that arise from the City's sole negligence or willful misconduct.

6.2 Notwithstanding the foregoing indemnification clause, the City may join in the defense of any claims raised against it in the sole discretion of the City. Additionally, if any claim is raised against the City, said claim(s) cannot be settled or compromised without the City's written consent, which shall not be unreasonably withheld.

7.0 Performance

Performance will be evaluated on a bi-weekly basis. If requirements are not met, City of Tucker Procurement will notify the Contractor in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship. A written response from the Contractor detailing how corrections will be made is required to be delivered to the City. The contractor will have thirty (30) days to remedy the situation.

The scope of work under this agreement is to be completed within one hundred and twenty (120) days from Contractor's receipt of the Notice to Proceed. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay. The City will retain five percent (5%) from all progress payments and will impose liquidated damages of \$500 per day for every day that the project remains incomplete after 120 days.

If requirements are not remedied City of Tucker has the right to cancel this Agreement with no additional obligation to Contractor.

- 7.1 Final Completion, Acceptance, and Payment
 - 7.1.1 Final Completion shall be achieved when the work is fully and finally complete in accordance with the Contract Documents. The City shall notify Contractor in writing once the date of final completion has been achieved.
 - 7.1.2 Final Acceptance is the formal action of the City acknowledging Final Completion. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's right under any warranty or guarantee. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents submit to City a Notice of any outstanding disputes or claims between Contractor and any of its subcontractors, including the amounts and other details thereof. Neither Final Acceptance nor final payment shall release Contractor or its sureties from any obligations of these Contract Documents or the bond, or constitute a waiver of any claims by City arising Contractor's failure to perform the work in accordance with the Contract Documents.
 - 7.1.3 Acceptance of final payment by Contractor, or any subcontractor, shall constitute a waiver and release to City of all claims by Contractor, or any such subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of City relating to or arising out of the work, except for those Claims made in accordance with the procedures, including the time limits, set forth herein in Section 12.0 Claims

and Dispute Resolution.

8.0 Changes

City, within the general scope of the Agreement, may, by written notice to Contractor, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

9.0 Change Order Defined

Change Order shall mean a written order to the Contractor executed by the City issued after the execution of this Agreement, authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

10.0 Insurance

- 10.1 The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation, commercial general liability, and commercial automobile insurance coverage covering the period of this Agreement. Such insurance shall be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The statutory Workers Compensation and Employers Liability Insurance shall have limits of not less than \$1,000,000, and such insurance must contain a waiver of subrogation against the City of Tucker and its affiliates. The commercial General Liability coverage shall have limits of not less than \$3,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name the City of Tucker as an additional named insured. The commercial automobile liability insurance shall have limits of not less than \$1,000,000 combined single limit for bodily injury and/or property damage per occurrence, and such policies shall name the City of Tucker as an additional named insured. Providing and maintaining the insurance identified in this paragraph and naming the City as an additional insured shall be a material provision of this agreement.
- 10.2 Contractor shall provide certificates of insurance evidencing the coverage requested herein before the execution of this agreement, and at any time during the term of this Agreement, upon the request of the City, Contractor shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect. "Exhibit D" (Certificate of Insurance) is attached hereto and incorporated herein.
- 10.3 The Contractor shall submit a Performance Bond and Payment Bond payable to the City of Tucker in the amount of 100% of the total contract price pursuant to Official Code of Georgia Annotated Sections 36-91-70 and 90. "Exhibit H" (Performance and Payment Bonds) is attached hereto and incorporated herein.

11.0 Termination

- 11.1 Immediate Termination. Pursuant to O.C.G.A. Section 36-60-13, this Contract will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:
 - 11.1.1 In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
 - 11.1.2 The City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
 - 11.1.3 The Contractor fails to comply with confidentiality laws or provisions; and/or
 - 11.1.4 The Contractor furnished any statement, representation or certification which is materially false, deceptive, incorrect or incomplete.
- 11.2 Termination for Cause. The occurrence of any one or more of the following events shall constitute cause or the City to declare the Contractor in default of its obligations under the Contract:
 - 11.2.1 The Contractor fails to deliver conforming goods or services or has delivered nonconforming goods or services or fails to perform to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
 - 11.2.2 The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
 - 11.2.3 The Contractor fails to make substantial and timely progress toward performance of the contract;
 - 11.2.4 The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
 - 11.2.5 The Contractor has failed to comply with applicable federal, state and local laws,

rules, ordinances, regulations and orders when performing within the scope of the Contract;

- 11.2.6 The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or
- 11.2.7 The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the City, or a third party.
- 11.3 Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the City may:
 - 11.3.1 Immediately terminate the Contract without additional written notice; and/or
 - 11.3.2 Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,
 - 11.3.3 Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.
- 11.4 Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Contractor. In the event of a termination for convenience, Contractor shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third parties unless otherwise instructed by the City. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, the City shall pay Vendor for work performed to date as set forth herein in Section 3.0 Compensation. The City shall have no further liability to Vendor for such termination.

City shall pay Contractor for work performed to date in accordance with Section herein. The City shall have no further liability to Contractor for such termination.

- 11.5 Payment Limitation in the event of Termination. In the event termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.
- 11.6 The Contractor's Termination Duties. Upon receipt of notice of termination or upon request

of the City, the Contractor shall:

- 11.6.1 Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
- 11.6.2 Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
- 11.6.3 Comply with the City's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
- 11.6.4 Cooperate in good faith with the City, its employees, agents and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and
- 11.6.5 Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

12.0 Claims and Dispute Resolution

- 12.1 Claims Procedure
 - 12.1.1 If the parties fail to reach an agreement regarding any dispute arising from the Contract Documents, including a failure to reach an agreement on the terms of any Change Order for City- directed work as provided herein in Section 8 Changes, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, Contractor's only remedy shall be to file a Claim with City as provided in this section.
 - 12.1.2 Contractor shall file its Claim within 120 Days from the City's final instructions in accordance with Section 7.0 Performance, or the date of Final Acceptance, whichever is earlier.
 - 12.1.3 The Claim shall be deemed to cover all changes in cost and time (including direct, indirect) impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. The Claim shall contain a detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of work affected by the Claim.
 - 12.1.4 If an adjustment in the Contract Time is sought: the specific Days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time.

- 12.1.5 If any adjustment in the Contract Sum is sought: the exact amount sought and a breakdown of that amount into the categories; and a statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes City is liable.
- 12.1.6 After Contractor has submitted a fully documented Claim, the City shall respond, in writing, to Contractor with a decision within sixty (60) days of the date the Claim is received, or with notice to Contractor of the date by which it will render its decision.

12.2 Arbitration

- 12.2.1 If Contractor disagrees with City's decision rendered in accordance with Section 12.1 above, Contractor shall provide City with a written demand for arbitration. No demand for arbitration of any such Claim shall be made later than thirty (30) Days after the date of City's decision on such Claim, failure to demand arbitration with said thirty (30) Day period shall result in City's decision being final and binding upon Contractor and its subcontractors,
- 12.2.2 Notice of the demand for arbitration shall be filed with the American Arbitration Association (AAA), with a copy provide to City. The parties shall negotiate or mediate under the Voluntary Construction Mediation Rules of the AAA, or mutually acceptable service, before seeking arbitration in accordance with the Construction Industry Arbitration Rules of AAA as follows:
 - (1) Disputes involving \$30,000 or less shall be conducted in accordance with the Southeast Region Expedited Commercial Arbitration Rules; or
 - (2) Disputes over \$30,000 shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA, unless the parties agree to use the expedited rules.
 - (a) All Claims arising out of the work shall be resolved by arbitration. The judgment upon the arbitration award may be entered, or review of the award may occur, in the Superior Court of DeKalb County.
 - (b) If the parties resolve the Claim prior to arbitration judgment, the terms of the resolution shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of the Claim, including all claims for time and for direct, indirect, or consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity.
 - (c) Choice of Law and Forum. The laws of the State of Georgia shall govern

and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within DeKalb County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the City.

(d) All Claims filed against City shall be subject to audit at any time following the filing of the Claim. Failure of Contractor, or subcontractor of any tier, to maintain and retain sufficient records to allow City to verify all or a portion of the Claim or to permit City access to the books and records of Contractor, or subcontractor of any tier, shall constitute a waiver of the Claim and shall bar any recovery.

13.0 Confidential Information

- 13.1 Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the City to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Contractor will have access to the City's confidential information, then:
 - 13.1.1 The Contractor shall provide to the City a written description of the Contractor's policies and procedures to safeguard confidential information;
 - 13.1.2 Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
 - 13.1.3 The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
 - 13.1.4 The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.
- 13.2 No Dissemination of Confidential Data. No confidential data collected, maintained, or used

in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the City. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.

- 13.3 Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.
- 13.4 Reporting of Unauthorized Disclosure. The Contractor shall immediately report to the City any unauthorized disclosure of confidential information.
- 13.5 Survives Termination. The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

14.0 Inclusion of Documents

"Exhibit F" (Addendums) and any other Contractor's documents submitted in response to any ITB or other solicitation from the City, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the ITB or other city solicitation, as amended, and the Contractor's submittal, the language in the former shall govern.

14.1 Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

15.0 Compliance with All Laws and Licenses

The Contractor must obtain all necessary licenses and comply with local, state and federal requirements. The Contractor shall comply with all laws, rules and regulations of any governmental entity pertaining to its performance under this Agreement.

- 15.1 Georgia Security and Immigration Compliance Act
 - 15.2.1 The parties certify that Contractor has executed an affidavit verifying that Contractor has registered and participates in the federal work authorization program to verify information of all new employees, per O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02. The appropriate affidavit is attached hereto as "Exhibit E" (E-Verify Form) and incorporated herein by reference and made a part of this contract.
 - 15.2.2 The Contractor further certifies that any subcontractor employed by Contractor for Page **11** of **14**

the performance of this agreement has executed an appropriate subcontractor affidavit verifying its registration and participation in the federal work authorization program and compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02, and that all such affidavits are incorporated into and made a part of every contract between the Contractor and each subcontractor.

15.2.3 Contractor's compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02 is a material condition of this agreement and Contractor's failure to comply with said provisions shall constitute a material breach of this agreement.

16.0 Assignment

If the scope of work contemplates the use of subcontractors by the contractor, the contractors shall be responsible for every component of their compliance and performance. The names, addresses and any other written proof of legal compliance from subcontractors shall be supplied by the contractor to the city.

17.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

18.0 Drug-Free and Smoke-Free Workplace

- 18.1 A drug-free and smoke-free workplace will be provided for the Contractor's employees during the performance of this Agreement; and
- 18.2 The Contractor will secure from any sub-Contractor hired to work in a drug-free and smokefree work place a written certification so stating and in accordance with Paragraph 7, subsection B of the Official Code of Georgia Annotated Section 50-24-3.
- 18.3 The Contractor may be suspended, terminated, or debarred if it is determined that:
 - 18.3.1 The Contractor has made false certification herein; or
 - 18.3.2 The Contractor has violated such certification by failure to carry out the requirements of Official Code of Georgia Annotated Section 50-24-3.

19.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Contractor packaging, Invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

20.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Contractor acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City of Tucker all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Tucker pursuant hereto.

21.0 Reporting Requirement

Reports shall be submitted to the Project Manager, as identified in "Exhibit I" (Contact Information) which is attached hereto and incorporated herein, on a quarterly basis providing, as a minimum, data regarding the number of items purchased as well as the total dollar volume of purchases made from this contract.

22.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

23.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statement, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, or inducement not contained herein.

24.0 Contractor's Oath of Non-Collusion

The Oath identified as "Exhibit G" is attached hereto and incorporated herein.

C2025-004-PO25-1045

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF TUCKER:	CONTRACTOR: GEORGIA PAVING, LLC
By:	By:
Title:	Title: VI Georgia Operations
Name:	Name: Etwin Livingston
Date:	Date: 512/25
Attest:	
Bonnie Warne, City Clerk	(Seal)
Approved as to form:	

Ted Baggett, City Attorney

ITB #2025-004 ROAD AND CURB DRAINAGE REPAIRS <u>Exhibit A: Scope of Work</u>

PURPOSE, INTENT AND PROJECT DESCRIPTION

The City of Tucker seeks to engage the services of a qualified contractor to furnish materials, qualified labor, equipment, traffic control, erosion control, and site restoration for Road and Curb Draining Repairs in three (3) locations. This document in its entirety, including the scope, specifications, and other relevant information for ITB 2025-004 is available for download on the City of Tucker website http://tuckerga.gov/bids, the DOAS/Georgia Procurement Registry Website or may be requested by emailing procurement@tuckerga.gov.

SCOPE OF WORK

- 1. 2109 Lavista Executive Park
 - a. Remove 115 linear feet of curb and gutter.
 - b. Replace with new curb and gutter at adjusted height per the accompanying exhibit, 115 LF.
 - c. Mill 1-1/2" of existing asphalt at saw cut edge, replace with 1-1/2" 12.5 mm overlay course and 19 mm Leveling asphalt of varying depths to match replaced gutter elevation, average depth 4", 250 SY.
 - d. Tack Coat
 - e. Clean work area.
 - f. Reference schedule of values from Bid Form for particular scope
- 2. 2115 Carthage Road
 - a. Remove 80 linear feet of curb and gutter.
 - b. Replace with new curb and gutter at adjusted height per the accompanying exhibit, 80 LF.
 - c. Mill 1-1/2" of existing asphalt at saw cut edge, replace with 1-1/2" 9.5 mm overlay course and 19 mm Leveling asphalt of varying depths to match replaced gutter elevation, average depth 4", 160 SY.
 - d. Tack Coat.
 - e. Clean work area.
 - f. Reference schedule of values from Bid Form for particular scope
- 3. 5356 Stillwater Court
 - a. Remove 120 linear feet of curb and gutter.
 - b. Replace with new curb and gutter at adjusted height per the accompanying exhibit, 120 LF.
 - c. Mill 1-1/2" of existing asphalt at saw cut edge, replace with 1-1/2" 9.5 mm overlay course and 19 mm Leveling asphalt of varying depths to match replaced gutter elevation, average depth 4", 200 SY.
 - d. Tack Coat.
 - e. Clean work area.
 - f. Reference schedule of values from Bid Form for particular scope

GENERAL CONDITIONS

The contractor shall execute the work according to and meet the requirements of the following:

- The Contractor shall maintain access to residential properties as necessary by detours or covering of the work area when not mobilized.
- The Contractor shall furnish, install, maintain and remove all necessary traffic signs, barricades, lights, signals, cones and other traffic control devices, and all flagging and other means of traffic protection and guidance as required by Special Provision 150 of the Georgia Department of Transportation. Such work shall be considered incidental to the overall contract, and no additional compensation will be made.
- The Contractor will be responsible for calling in and identifying utility locations. The City shall be notified of any potential utility conflicts.
- The work is intended to be conducted within the city right of way and established drainage easements. If necessary, the city will obtain all easements and right of entries which may be necessary to execute the repair.
- Specifications for repair activities in accordance with Georgia Department of Transportation Standards
- City of Tucker ordinances and regulations.
- OSHA standards and guidelines.
- Any other applicable codes, laws and regulations including but not limited to Section 45- 10-20 through 45-10-28 of the Official Code of Georgia Annotated, Title VI of the Civil Rights Act, Drug-Free Workplace Act, and all applicable requirements of the Americans with Disabilities Act of 1990.

The contractor will be responsible for providing all labor, materials, and equipment necessary to perform the work. This is a unit price bid. Payment will be made based on actual work completed.

The contractor is responsible for inspecting the jobsite prior to submitting a bid. No change orders will be issued for differing site conditions.

5% retainage will be withheld from the total amount due the contractor until Final Acceptance of work is issued by the City. City staff will inspect the work as it progresses.

PROSECUTION AND PROGRESS

The Contractor will mobilize with sufficient forces such that all construction identified as part of this contract shall be substantially completed by 120 calendar days. The contractor will be considered substantially complete when all work required by this contract has been completed.

The normal workday for this project shall be 8:00AM to 7:00PM and the normal workweek shall be Monday through Friday. The City will consider extended workdays or workweeks upon written request by the Contractor on a case-by-case basis. No work will be allowed on national holidays (i.e. Memorial Day, July 4th, Labor Day, etc.).

The work will require the bidder to provide all labor, administrative forces, equipment, materials and other incidental items to complete all required work. The City shall perform a Final Inspection upon substantial completion of the work. The contractor will be allowed to participate in the Final Inspection. All repairs shall be completed by the contractor at the contractor's expense prior to issuance of Final Acceptance.

The contractor shall be assessed liquidated damages in the amount of \$500.00 per calendar day for any contract work that is not completed by 120 calendar days. Liquidated damages shall be deducted from the 5% retainage held by the City. The contractor will also be assessed liquidated damages in the amount of \$500.00 per calendar day for not completing any required Punch List work within 45 calendar days.

The contractor shall provide all material, labor, and equipment necessary to perform the work without delay until final completion.

PERMITS AND LICENSES

The contractor shall procure all permits and licenses, pay all charges, taxes and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

BONDING AND INSURANCE REQUIREMENTS

No bid may be withdrawn for a period of ninety (90) days after the bid deadline/opening.

All bids must be accompanied by a Bid Bond of a reputable bonding company authorized to do business in the State of Georgia, in an amount equal to at least five percent (5%) of the total amount of the bid.

Upon Notice of Award, the successful contractor shall submit a Performance Bond payable to the City of Tucker in the amount of 100% of the total contract price. The successful contractor shall also submit a Payment Bond in the amount of 100% pursuant to O.C.G.A. § 36-91-70 and 90.

Upon Notice of Award, the successful contractor shall procure and maintain the following insurance policies:

- 1. Commercial General Liability coverage at their sole cos and expense with limits of not less than \$3,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name the City of Tucker as an additional named insured.
- 2. Statutory Workers Compensation and Employers Liability Insurance with limits of not less than \$1,000,000, which insurance must contain a waiver of subrogation against the City of Tucker and its affiliates.
- 3. Commercial automobile liability insurance with limits of not less than \$1,000,000 combined single limit for bodily injury and/or property damage per occurrence, and such policies shall name the City of Tucker as an additional named insured.

EXISTING CONDITIONS / DEVIATION OF QUANTITIES

All information given in this ITB concerning quantities, scope of work, existing conditions, etc. is for information purposes only. It is the Contractor's responsibility to inspect the project site to verify existing conditions and quantities prior to submitting their bid. This is a Unit Price bid and no payment will be made for additional work without prior written approval from the City. At no time will Contractor proceed with work outside the prescribed scope of services for which additional payment will be requested without the written authorization of the City.

The City reserves the right to add, modify, or delete quantities. The City may also elect to add or eliminate certain work locations at its discretion. The Contractor will not be entitled to any adjustment of unit prices or any other form of additional compensation because of adjustments made to quantities and/or work locations. Contractor will be paid for actual in-place quantities completed and accepted for pay items listed in the Bid Schedule. All other work required by this ITB, plans, specs, standards, etc. but not specifically listed in the Bid Schedule shall be considered "incidental work" and included in the bid prices for items on the Bid Schedule.

TRAFFIC CONTROL

The contractor shall, at all times, conduct their work so as to assure the least possible obstruction of traffic. The safety and convenience of the general public and the residents along the roadway and the protection of persons and property shall be provided for by the contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150.

Traffic whose origin and destination is within the limits of the project shall be provided ingress and egress at all times unless otherwise specified by the City. The ingress and egress includes entrances and exits via driveways at various properties, and access to the intersecting roads and streets. The contractor shall maintain sufficient personnel and equipment (including flaggers and traffic control signing) on the project at all

times, particularly during inclement weather, to ensure that ingress and egress are safely provided when and where needed.

Two-way traffic shall be maintained at all times, unless otherwise specified or approved by the City. In the event of an emergency situation, the Contractor shall provide access to emergency vehicles and/or emergency personnel through or around the construction area. Any pavement damaged by such an occurrence will be repaired by the Contractor at no additional cost to the City.

The contractor shall furnish, install and maintain all necessary and required barricades, signs and other traffic control devices in accordance with the MUTCD and DOT specifications, and take all necessary precautions for the protection of the workers and safety of the public.

CLEANUP

All restoration and clean-up work shall be performed daily. Operations shall be suspended if the contractor fails to accomplish restoration and clean-up within an acceptable period of time. Asphalt and other debris shall be removed from gutters, sidewalks, yards, driveways, etc. Failure to perform clean-up activities may result in suspension of the work. Milling operation shall be followed immediately by clean-up at which the contractor is to provide power brooms, vacuum sweepers, power blowers, or other means to remove loose debris or dust. Do not allow dust control to restrict visibility of passing traffic or to disrupt adjacent property owners. All pavement areas shall be clean and dry prior to placing tack coat, asphaltic concrete or other materials.

SAFETY

Beginning with mobilization and ending with acceptance of work, the contractor shall be responsible for providing a clean and safe work environment at the project site. The contractor shall comply with all OSHA regulations as they pertain to this project.

ITB #2025-004 ROAD AND CURB DRAINAGE REPAIRS <u>Exhibit B: Unit Price Cost Proposal</u>

ITEM #	GDOT #	DESCRIPTION	UNIT EST UNITS		UNIT PRICE	TOTAL
1	150-1000	Traffic Control	per DAY	2	50.00	100
2	151-1000	Mobilization	LS	1	700.00	700.00
3	432-0206	Overlay Mill Asph Conc Pvmt, 1- 1/2" Depth	SY	50	13.10	655.00
4	400-3205	12.5mm Recycled Asph. Conc. 12.5mm Superpave, GP 2 Only- including Bituminous Material and H Lime	Ton	25	149.14	3,728.50
5	402-1812	Recycled 19mm Asph Conc, Leveling, Incl Bitum Matl & H Lime	Ton	40	127.35	5,094.00
6	610-0355	REM CONC CURB & GUTTER ALL SIZES	LF	120	44.06	5,287.20
7	441-6012	CONC CURB & GUTTER, 6 IN X 24 IN, TP 2	LF	120	44.06	5,287.20
8	611-8050	Adjust Manhole to Grade	EA	1	150.00	150.00
9	413-0750	TACK COAT	GAL	175	7.29	1,275.75
1	LOCATION	1: 2109 LAVISTA EXECUTIVE H	PARK SU	BTOTAL:	\$22,2	277.65

LOCATION 1: 2109 LAVISTA EXECUTIVE PARK

LOCATION 2: 2115 CARTHAGE ROAD

ITEM #	GDOT #	DESCRIPTION	UNIT	EST UNITS	UNIT PRICE	TOTAL
1	150-1000	Traffic Control	per DAY	2	50.00	100.00
2	151-1000	Mobilization	LS	1	700.00	700.00
3	432-0206	Overlay Mill Asph Conc Pvmt, 1- 1/2" Depth	SY	50	13.10	655.00
4	400-3205	12.5mm Recycled Asph. Conc. 12.5mm Superpave, GP 2 Only- including Bituminous Material and H Lime	Ton	25	149.14	3,728.50
5	402-1812	Recycled 19mm Asph Conc, Leveling, Incl Bitum Matl & H Lime	Ton	40	127.35	5,094.00

ITEM #	GDOT #	DESCRIPTION UNIT EST UNIT UNITS PRICE			TOTAL	
6	610-0355	REM CONC CURB & GUTTER ALL SIZES	LF	120	44.06	5,287.20
7	441-6012	CONC CURB & GUTTER, 6 IN X 24 IN, TP 2	LF	120	44.06	5,287.20
8	611-8050	Adjust Manhole to Grade EA 1 150.00		150.00		
9	413-0750	TACK COAT	GAL	175	7.29	1,275.75
LOCATION 2: 2115 CARTHAGE ROAD SUBTOTAL:				\$22,2	77.65	

LOCATION 2: 2115 CARTHAGE ROAD CONTINUED

LOCATION 3: 5363 STILLWATER COURT

ITEM #	GDOT #	DESCRIPTION	UNIT	EST UNITS	UNIT PRICE	TOTAL
1	150-1000	Traffic Control	per DAY	2	50.00	100.00
2	151-1000	Mobilization	LS	1	700.00	700.00
3	432-0206	Overlay Mill Asph Conc Pvmt, 1- 1/2" Depth	SY	50	13.10	655.00
4	400-3205	12.5mm Recycled Asph. Conc. 12.5mm Superpave, GP 2 Only- including Bituminous Material and H Lime	Ton	25	149.14	3,728.50
5	402-1812	Recycled 19mm Asph Conc, Leveling, Incl Bitum Matl & H Lime	Ton	40	127.35	5,094.00
6	610-0355	REM CONC CURB & GUTTER ALL SIZES	LF	120	44.06	44.06
7	441-6012	CONC CURB & GUTTER, 6 IN X 24 IN, TP 2	LF	120	44.06	44.06
8	611-8050	Adjust Manhole to Grade	EA	1	150.00	150.00
9	413-0750	TACK COAT	GAL	175	7.29	1,275.75
		5363 STILLWATER CO	\$22,	277.65		

	COST PROPOSAL
LOCATION 1: 2109 LAVISTA EXECUTIVE PARK	\$22,277.65
LOCATION 2: 2115 CARTHAGE ROAD	\$22,277.65
LOCATION 3: 5363 STILLWATER COURT	\$22,277.65
COST PROPOSAL TOTAL:	\$66,832.95

*In case of discrepancy between the unit price and the total price on the completed Bid Schedule, the unit price will prevail, and the total price will be corrected.

Proposal Price Certification

In compliance with the attached specification, the undersigned understands the City's minimum scope requirements.

The undersigned offers and agrees that if this proposal is accepted by the Mayor and City Council within one hundred twenty (120) days of the date of proposal opening, that the undersigned will furnish any or all of the deliverables and additional services offered, at the quoted price, to the designated point(s) within the time specified.

COMPANY Georgia Paving LLC

ADDRESS 3625 Bufo	rd Highway, Duluth, GA 30096
AUTHORIZED SIGNA	TURE 2 CM
PRINT / TYPE NAME	Ed Livingston

PHONE NUMBER 770-330-4994

EMAIL ADDRESS elivingston@georgiapaving.com

EXHIBIT C

FormW-9Request for Taxpayer Identification Number and CertificationGive form to requester. If send to the send to theDepartment of the Treasury Internal Revenue ServiceGo to www.irs.gov/FormW9 for instructions and the latest information.Give form to requester. If send to the								
Befo		guidance related to the purpose of Form W-9, see individual. An entry is required. (For a sole proprietor or di			1	the busicesside		
	entity's name o	noimoual. An entry is required, (Por a sole prophetor or di n line 2.)	isregarded enuty, enter the own	her's name on line	1, and enter	the business/disregarded		
	Georgia Pavin	g, LLC						
	2 Business nama	disregarded entity name, if different from above.						
Print or type. See Specific Instructions on page 3.	only one of the	opriate box for federal tax classification of the entity/indiv following seven boxes. ole proprietor C corporation S corporati		n line 1. Check Trust/estete	certain e	ons (codes apply only to obiles, not individuale; uctions on page 3):		
 In the set of the se								
	Other (see i	nstructions)			code (if any	ð		
P Spechic	and you are pro	checked "Partnership" or "Trust/estate," or checked "LLC oviding this form to a partnership, trust, or estate in whi ave any foreign partners, ownere, or beneficiaries. See Ins	ch you have an ownership inte			to accounts maintained a the United States.)		
See	5 Address (numbe 3625 Buford Hi	er, street, and apt. or suite no.). See instructions. NY	Re	equester'e name a	nd address	(oplional)		
	6 City, state, and 2 Duluth GA, 300							
	7 List account nur	nber(s) here (optional)						
Par	t Taxpave	er Identification Number (TIN)	······					
backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EiN). If you do not have a number, see How to get a <i>TIN</i> , later. Note: If the account is in more than one name, see the instructions for line 1. See also <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter. 5 8 - 2 2 3 0 7 3 1								
Par								
1. The 2. I arr Sen	n not subject to bac vice (IRS) that I am	y, I certify that: this form is my correct taxpayer identification num kup withholding because (a) I am exempt from ba subject to backup withholding as a result of a failu ackup withholding; and	ckup withholding, or (b) I ha	ave not been not	ified by the	e Internal Revenue		
		ther U.S. person (defined below); and						
Certifi becaus acquisi	cation instructions se you have failed to ition or abandonme	tered on this form (if any) indicating that I am exem . You must cross out item 2-above if you have been preport all interest and dividends on your tax return. Int of secured property, cancellation of debt, contribu idends, you are not required to sign the certification.	notified by the IRS that you a For real estate transactions, itlons to an individual retirem	are currently subj Item 2 does not : ient arrangement	apply. For i (IRA), and,	mortgage interest paid, generally, payments		
Sign Here	Signature of U.S. person	2 mil	Date	7/2	29/	24		
Gen	neral Instru	ictions	New line 3b has been required to complete this					
Section references are to the Internal Revenue Code unless otherwise foreign partners, owners, noted. Future developments. For the latest information about developments					s when it p t has an ov ough entity	rovides the Form W-9 mership interest. This with information		
after th		ts Instructions, such as legislation anacted go to www.irs.gov/FormW9.	 regarding the status of it beneficiaries, so that it c requirements. For examp partners may be required Partnership instructions i 	an satisfy any ap ple, a partnershi d to complete So	pplicable replicable replicable replicable replicable replicable replicable replicable replicable replicable re	eporting any Indirect foreign (-2 and K-3. See the		
		l to clarify how a disregarded entity completes disregarded entity should check the	Purpose of Forr		2 000 11-0			
pprop	rlate box for the ta	x classification of its owner. Otherwise, it ox and enter its appropriate tax classification.	An individual or entity (For Information return with th	orm W-9 request	ter) who is	required to file an		
		Cat. No. 10231X		io into lo Brainß)		orm W-9 (Rev. 3-2024)		
					•			



EXHIBIT D CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

	-						4/2	22/2025
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 If SUBROGATION IS WAIVED, subject	to th	e ter	ms and conditions of th	e policy, certain p	olicies may ı			
this certificate does not confer rights t	o the	cert	ificate holder in lieu of su	ICh endorsement(s	s).			
PRODUCER Reseco Insurance Advisors, LLC				NAME:		FAX		
7901 N. 16th Street,				PHONE (A/C, No, Ext): 602-75	3-4250	FAX (A/C, No):	602-419)-2242
Suite 100				E-MAIL ADDRESS: certificat	es@resecoad	visors.com		
Phoenix AZ 85020				IN	SURER(S) AFFOR	DING COVERAGE		NAIC #
				INSURER A : Endurar	nce American	Insurance Co		10641
INSURED			6934	INSURER B : Traveler				25674
Georgia Paving, A Sunland Company						Company of New Yark		34452
3625 Buford Hwy Duluth GA 30096						Surplus Lines Company		29696
Dulutin GA 30030						surance Co of Pittsburgh	DΔ	19445
						Surance Ob of Fittsburgh		10440
COVERAGES CER			NUMBER: 1879624234	INSURER F :		REVISION NUMBER:		
THIS IS TO CERTIFY THAT THE POLICIES								
INDICATED. NOTWITHSTANDING ANY RE CERTIFICATE MAY BE ISSUED OR MAY EXCLUSIONS AND CONDITIONS OF SUCH	QUIR PERT. POLIC	emei Ain, Cies.	NT, TERM OR CONDITION THE INSURANCE AFFORDE LIMITS SHOWN MAY HAVE	OF ANY CONTRACT ED BY THE POLICIE BEEN REDUCED BY	OR OTHER I S DESCRIBEI PAID CLAIMS.	DOCUMENT WITH RESPEC	ст то и	VHICH THIS
INSR LTR TYPE OF INSURANCE	ADDL INSD		POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMIT	s	
E X COMMERCIAL GENERAL LIABILITY	Y	Y	GL9925617	4/1/2025	4/1/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 2,000, \$ 500,00	
						MED EXP (Any one person)	\$ 25,000)
						PERSONAL & ADV INJURY	\$ 2,000,	
GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$4,000,	
						PRODUCTS - COMP/OP AGG	\$4,000,	
OTHER:						FRODUCTS - COMP/OF AGG	\$ 4 ,000, \$	000
	Y	Y	CA9775927	4/1/2025	4/1/2026	COMBINED SINGLE LIMIT	\$2,000,	000
			0/(01/10021	4/1/2020	4/ 1/2020	(Ea accident) BODILY INJURY (Per person)	\$_,000,	
OWNED SCHEDULED						BODILY INJURY (Per accident)	\$	
AUTOS ONLY AUTOS X HIRED X NON-OWNED						PROPERTY DAMAGE	\$ \$	
AUTOS ONLY AUTOS ONLY						(Per accident)		
			0.00 0.00 0.00				\$	
C X UMBRELLA LIAB X OCCUR	Y	Y	CXP-016711-01 EX-2T42594A-24-NF	4/1/2025 4/1/2025	4/1/2026 4/1/2026	EACH OCCURRENCE	\$ 15,000	
EXCESS LIAB CLAIMS-MADE						AGGREGATE	\$ 15,000	0,000
DED X RETENTION \$ \$10,000							\$	
E WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N		Y	WC072113252	4/1/2025	4/1/2026	X PER OTH- STATUTE ER		
ANYPROPRIETOR/PARTNER/EXECUTIVE	N/A					E.L. EACH ACCIDENT	\$2,000,	000
(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	\$2,000,	000
If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	\$2,000,	
A Prof/Poll Liabilty B Installation Floater Aviation Liability		Y Y	PNV10015397701 QT-630-3S841370-TIL-24	4/1/2025 8/1/2024	4/1/2026 8/1/2025	Aggregate/Each Claim Any One Jobsite	\$5,000 \$2,000	
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Certificate holder is hereby included as Additional Insured with respects to the General Liability, Automobile Liability and Umbrella Liability on a primary and non-contributory basis if required by written contract subject to all provisions and limitations of the policies. Waiver of Subrogation in favor of Certificate Holder applies to the General Liability, Automobile Liability and Employers Liability/Workers Compensation if required by written contract subject to all provisions and limitations of the policies. The above referenced Excess/Umbrella Liability policy is follow-form and provides additional limits of insurance for General Liability, Automobile Liability and Employers Liability/Workers Compensation. The \$100,000 is the limit for hired auto physical damage. Deductibles are \$250/\$500. Leased/Rented Equipment – Limit Per Item/Deductible: \$1,500,000 / \$5,000								
See Attached								
CERTIFICATE HOLDER				CANCELLATION				
PROCUREMENT NOTE: VE City of Tucker	RIF	TEI	04/29/25		N DATE THE	ESCRIBED POLICIES BE C/ EREOF, NOTICE WILL E Y PROVISIONS.		
1975 Lakeside Parkway, S Tucker, GA 30234	uite (350			ENTATIVE			
				wo				
				© 19	988-2015 AC	ORD CORPORATION.	All righ	ts reserved.

The ACORD name and logo are registered marks of ACORD

AGENCY CUSTOMER ID: 6934

	AGEI	LOC #:	
ACORD ADDITIONA	L REMA	ARKS SCHEDULE	Page _ 1 _ of _ 1
AGENCY Reseco Insurance Advisors, LLC POLICY NUMBER		NAMED INSURED Georgia Paving, A Sunland Company 3625 Buford Hwy Duluth GA 30096	
POLICY NUMBER		Duluin GA 30096	
CARRIER	NAIC CODE	EFFECTIVE DATE:	
ADDITIONAL REMARKS			
THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO AC			
FORM NUMBER:25 FORM TITLE: CERTIFICATE O		NSURANCE	
Carrier/NAIC #: Travelers Property Casualty Co of America / 3119 Policy Number: QT-630-3S841370-TIL-24 Policy Term: 8/1/2024 – 8/1/2025)4		
Cyber Liability – Aggregate Limit \$5,000,000 Carrier/NAIC #: Palomar Excess and Surplus Insurance Company Policy Number: PLM-CB-S5KOFRQYX-003 Policy Term: 04/01/2025 - 04/01/2026 Cyber Liability includes Privacy, Security and Data Breach.	/ 16754		
Crime/Employee Dishonesty – Limit/Deductible: \$1,000,000 / \$10, Carrier/NAIC #: Hudson Insurance Company / 25054 Policy Number: SXS31210420 Policy Term: 1/13/2021 – 1/13/2027	,000		
Aviation Liability – Limit: \$1,000,000 Carrier/NAIC #: American Alternative Ins Corp / 19720 Policy Number: 9044202 Policy Term: 04/01/2025 - 04/01/2026			
Technology Errors & Omissions: Limit \$5,000,000 Carrier/NAIC #: Endurance American Insurance Co / 10641 Policy Number: PNV10015397700 Policy Term: 04/01/2025 - 04/01/2026 City of Tucker is named additional insured if required by written c	ontract.		

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

This endorsement, effective 12:01 AM 04/01/2025

forms a part of Policy No. WC 072113252

Issued to SUNLAND ASPHALT & CONSTRUCTION, LLC

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

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

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

Schedule

ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY AGAINST, UNDER ANY WRITTEN CONTRACT OR AGREEMENT YOU ENTER INTO PRIOR TO THE OCCURRENCE OF LOSS.

Covered States: AZ CO NM NV TX GA

This form is not applicable in Kansas for private construction contracts as defined in K.S.A. 16-1801 through K.S.A 16-1807 or public construction contracts as defined in K.S.A. 16-1901 through 16-1908, except where permitted by statute or other applicable law, such as for use in wrap-up insurance programs.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, Texas, or Utah.

DEDH. M.Soy

WC 00 03 13 (Ed. 04/84) Countersigned by

Authorized Representative

Archive Copy

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2025 forms a part of

Policy No. CA 977-59-27 issued to SUNLAND ASPHALT & CONSTRUCTION INC SUNLAND ASPHALT & CONSTRUCTION, LLC

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

- 1. the cancellation effective date is prior to this policy's expiration date;
- 2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
- 3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within <u>30</u> days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

- 1. First Named Insured means the Named Insured shown on the Declarations Page of this policy.
- 2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.

⁷ Authorized Representative

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2025 forms a part of

policy No CA9775927 issued to Sunland Asphalt & Construction Inc Sunland Asphalt & Construction, LLC

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

ADDITIONAL INSURED:

ANY PERSON OR ORGANIZATION FOR WHOM YOU ARE CONTRACTUALLY BOUND TO PROVIDE ADDITIONAL INSURED STATUS BUT ONLY TO THE EXTENT OF SUCH PERSON OR ORGANIZATIONS LIABILITY ARISING OUT OF THE USE OF A COVERED AUTO.

- I. SECTION II COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 1. Who Is Insured, is amended to add:
 - d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:
 - (1) The coverage and/or limits of this policy, or
 - (2) The coverage and/or limits required by said contract or agreement.

AUTHORIZED REPRESENTATIVE

This endorsement, effective 12:01 A.M. 04/01/2025 forms a part of

policy No. CA 977-59-27 issued to Sunland Asphalt & Construction Inc Sunland Asphalt & Construction, LLC by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INSURANCE PRIMARY AS TO CERTAIN ADDITIONAL INSUREDS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, B., General Conditions, 5., Other Insurance, c., is amended by the addition of the following sentence:

The insurance afforded under this policy to an additional insured will apply as primary insurance for such additional insured where so required under an agreement executed prior to the date of accident. We will not ask any insurer that has issued other insurance to such additional insured to contribute to the settlement of loss arising out of such accident.

All other terms and conditions remain unchanged.

R

Authorized Representative or Countersignature (in States Where Applicable)

74445 (10/99)

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2025 forms a part of Policy No. 977-59-27 issued to SUNLAND ASPHALT & CONSTRUCTION by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, A. - Loss Conditions, 5. - Transfer of Rights of Recovery Against Others to Us, is amended to add:

However, we will waive any right of recover we have against any person or organization with whom you have entered into a contract or agreement because of payments we make under this Coverage Form arising out of an "accident" or "loss" if:

- (1) The "accident" or "loss" is due to operations undertaken in accordance with the contract existing between you and such person or organization; and
- (2) The contract or agreement was entered into prior to any "accident" or "loss".

No waiver of the right of recovery will directly or indirectly apply to your employees or employees of the person or organization, and we reserve our rights or lien to be reimbursed from any recovery funds obtained by any injured employee.

Serben Huch

AUTHORIZED REPRESENTATIVE

ENDORSEMENT

This endorsement, effective 12:01 A.M.04/01/2025 forms a part of

Policy No.GL 992-56-17 issued to SUNLAND ASPHALT & CONSTRUCTION INC SUNLAND ASPHALT & CONSTRUCTION, LLC

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

- 1. the cancellation effective date is prior to this policy's expiration date;
- the First Named Insured is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the Insurer, either directly or through its broker of record, the email address of a contact at each such entity; and
- 3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within <u>30</u> days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

- 1. First Named Insured means the Named Insured shown on the Declarations Page of this policy.
- 2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.

Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations				
ANY PERSON OR ORGANIZATION WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED AS A RESULT OF ANY CONTRACT OR AGREEMENT YOU HAVE ENTERED INTO.	PER THE CONTRACT OR AGREEMENT.				
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.					

- A. Section II Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
 - 1. Your acts or omissions; or
 - 2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

- The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- **B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

- 2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- C. With respect to the insurance afforded to these additional insureds, the following is added to Section III Limits Of Insurance:

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

- 1. Required by the contract or agreement; or
- **2.** Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

ENDORSEMENT

This endorsement, effective 12:01 A.M. 04/01/2025 forms a part of

policy No.GL 992-56-17 issued to SUNLAND ASPHALT & CONSTRUCTION INC SUNLAND ASPHALT & CONSTRUCTION, LLC

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF LIMITS OF INSURANCE (Per Project or Per Location Aggregate Limit)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

I. Your policy is amended to include either a Per Project General Aggregate Limit, a Per Location General Aggregate Limit or a Per Project and Per Location General Aggregate Limit. Please select only *one* of the following:

[X] Per Project General Aggregate Limit	\$ 2,000,000
[] Per Location General Aggregate Limit	\$
[] Per Project and Per Location General Aggregate Limit	\$

IF NEITHER OF THESE BOXES ARE CHECKED, THIS ENDORSEMENT IS VOID. IF MORE THAN ONE OF THE THESE BOXES ARE CHECKED, THIS ENDORSEMENT IS VOID.

- **II. SECTION III LIMITS OF INSURANCE** , is amended to include the following:
 - **1.** The Limits of Insurance and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - **b.** Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 - 2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - **b.** Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the products-completed operations hazard"; and
 - c. Damages under Coverage B.
 - The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
 - 4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
 - 5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - **b.** Medical expenses under Coverage **C**

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

- 6. Subject to 5. above, the Damage to Premises Rented To You Limit is the most we will pay under Coverage A because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
- 7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.
- 8. Subject to 2., 4., 5., 6., and/or 7. above, the Per Project Aggregate Limit is the most we will pay under Coverages A, B, and C combined for the sum of:
 - **a.** Damages under Coverage **A**;
 - **b.** Damages under Coverage **B**; and
 - c. Medical Expenses under Coverage C

arising out of any single Project described above.

- 9. Subject to 2., 4., 5., 6., and/or 7. above, the Per Location Aggregate Limit is the most we will pay under Coverages A, B, and C combined for the sum of:
 - **a.** Damages under Coverage **A**;
 - **b.** Damages under Coverage **B**; and
 - c. Medical expenses under Coverage C

arising out of the any single Location described above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

III. The Limits of Insurance shown in the Declarations are deleted in their entirety and replaced by the Limits of Insurance set forth below.

	Lin	Limits of Insurance	
General Aggregate Limit	\$ 1	0,000,000	
Each Occurrence Limit	\$	1,000,000	
Products-Completed Operations Aggregate Limit	\$	2,000,000	
Personal & Advertising Injury Limit	\$	1,000,000	
Damage to Premises Rented to You	\$	500,000	
Medical Expense Limit	\$	25,000	
Per Project General Aggregate Limit, Per Location	\$	2,000,000	
General Aggregate Limit or Per			
Project and Per Location General Aggregate Limit			

- **IV. SECTION V DEFINITIONS**, is amended to include the following:
 - **23.** "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway, or right-of-way railroad.

All other terms and conditions of this policy remain the same.

Authórized Representative or

/Authórized Representative or Countersignature (in States Where Applicable)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY -OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

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

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

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

COMMERCIAL GENERAL LIABILITY

CG 24 04 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART ELECTRONIC DATA LIABILITY COVERAGE PART LIQUOR LIABILITY COVERAGE PART POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART RAILROAD PROTECTIVE LIABILITY COVERAGE PART UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

SCHEDULE

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

any person or organization required per contract

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

The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET LOSS PAYEES

This endorsement modifies insurance provided under the

COMMERCIAL INLAND MARINE COVERAGE PART

The following is added to Section E – ADDITIONAL COVERAGE CONDITIONS:

Loss Payable Provision

In the event of a Covered Cause of Loss to Covered Property in which both you and a Loss Payee share an insurable interest, we will:

a. Adjust the loss or damage with you; and

b. Pay any claim for loss or damage jointly to you and the Loss Payee as your interests may appear.

This endorsement applies to all Covered Property for which a Loss Payee is on file with us or your insurance agent or insurance broker. **Emergency Mitigation Actions**, but in no event later than seventy-two (72) hours after the **Pollution Condition(s)** or **Biological Agent Condition(s)** has been discovered.

M. NOTICE OF CIRCUMSTANCES

If during the **Policy Period** any **Insured** first becomes aware of any fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** which may reasonably be expected to give rise to a **Claim** that would be covered under this **Policy**, and provided that the **Insured** gives written notice to the Company of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** during the **Policy Period**, then any **Claim** that may subsequently be made against any **Insured** arising out of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** shall be deemed for purposes of this **Policy** to have been made during the **Policy Period**.

As a condition precedent to exercising its rights hereunder, the **Insured** shall include within any such notice a full description of the fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)**, that is the subject of the notice, the nature or extent of the injury or potential damages, the names of the potential claimants, the manner in which the **Insured** first became aware of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, **Biological Agent Condition(s)**, and give the Company any such additional information and cooperation as it may reasonably request.

N. OTHER INSURANCE

This **Policy** shall be in excess of the amount of the applicable Self-Insured Retention of this **Policy** and excess of any other insurance or indemnification available to the **Insured**, whether such insurance or indemnification is collectible or uncollectible, and whether such insurance is stated to be primary, pro rata, contributory, excess, contingent, or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided in this **Policy**. However, under Coverage A, when the **Insured** is required by contract, agreement or permit to include any person or entity as an additional insured, such coverage shall be provided on a primary and non-contributory basis.

O. REPRESENTATIONS AND COVENANTS

The **First Named Insured** acknowledges and agrees that:

- 1. The information, warranties and representations contained in the **Application** submitted by the **Insured** as well as in all supplemental documents provided herewith are true, correct and complete;
- 2. The Company has issued this **Policy** in specific reliance upon the truth and accuracy of the warranties and representations contained in the **Application**; and
- 3. All activities of the **Insured** have been and will be conducted in full compliance with **Environmental Laws**.

The **Application**, the Declarations and endorsements, if any, are incorporated into, and are part of, this **Policy** and embody all agreements existing between the **First Named Insured** and the Company and supersede all prior agreements, whether written or oral, expressed or implied.

P. SEPARATION OF INSURED

Except with respect to the Limits of Liability, the Insured versus Insured exclusion and the Known Conditions exclusion under the Exclusions section, and any rights or duties specifically assigned to the **Insured**, this **Policy** applies:

- 1. As if each **Insured** were the only **Insured**; and
- 2. Separately to each **Insured** against whom a **Claim** is made.

In the event of any misrepresentation, concealment, breach of condition or violation of any obligation under this **Policy** by any one **Insured**, such misrepresentation, concealment, breach of condition or violation of any obligation will not prejudice any other **Insured** that did not participate or assist in, or have knowledge of, such misrepresentation, concealment, breach of condition or violation of any obligation unless the **Insured** that misrepresented, concealed or breached a term or condition of or violated an obligation under this **Policy** is a parent, subsidiary or affiliate of the **Insured**.

Q. SUBROGATION

In the event that the Company pays any amount under this **Policy**, the Company shall be subrogated to all of each **Insured's** rights of recovery against any person or organization. All **Insureds** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. No **Insured** shall do anything to waive or prejudice such rights. Any recovery obtained through subrogation, after expenses incurred in such subrogation are deducted by the Company, shall be applied first to the **Insured** to the extent of any payments in excess of the Limits of Liability under this **Policy**, if any, then to the Company to the extent of its payment under the **Policy**, and then to the **Insured** to the extent of any retention or deductible. However, if the **Insured** has, prior to the time the **Wrongful Act(s)**, **Pollution Condition(s)**, **Biological Agent Condition(s)** is discovered or the **Damages**, **Bodily Injury**, **Property Damage** or **Cleanup Costs** to which this **Policy** applies takes place, waived subrogation rights against a person or organization in a written contract or agreement, the Company hereby waives any rights of recovery against such person or organization, provided that such person or organization is not a subcontractor of the **Insured**.

R. TERRITORY

This **Policy** only applies to a **Claim** first brought within the United States of America, its territories or possessions, or Canada.

S. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Any rights and duties under this **Policy** may not be transferred without the Company's prior written consent except in the case of death of an individual **Insured**. If an individual **Insured** dies, the rights and duties will be transferred to the individual **Insured's** legal representative but only while acting within the scope of duties as the individual **Insured's** legal representative. Until the individual **Insured's** legal representative is appointed, anyone having proper temporary custody of the individual **Insured's** property will have the individual **Insured's** rights and duties but only with respect to that property.

VIII. DEFINITIONS

- 16. Emergency Mitigation Action means action that is necessary to clean up a Pollution Condition or Biological Agent Condition has been discovered that presents an immediate, dangerous and significant threat to human health or the environment where any delay by the Insured would cause further injury to persons or damage to property or increase significantly the cost of responding to a potential Claim. Prior written approval from the Company is required after expiration of the 72 hour period before the Insured may incur any additional Cleanup Costs or other costs or expenses to which this Policy would otherwise apply.
- 17. Environmental Damage means physical damage to the environment, including but not limited to surface water, groundwater, soil, flora, or fauna, that results in Cleanup Costs being required. With respect to Biological Agents, Environmental Damage includes physical damage to buildings or structures, or systems within such buildings or structures, that results in Cleanup Costs being required. Environmental Damage shall not include Property Damage.
- 18. Environmental Laws means any federal, state, provincial, foreign or local laws (including, but not limited to, statutes, rules, regulations, ordinances, guidance documents, and governmental, judicial or administrative orders and directives) that are applicable to Pollution Condition(s) or Biological Agent Condition(s).
- 19. First Named Insured means the person(s) or organization(s) described as the First Named Insured in the Declarations.
- 20. **Green Building Materials** means environmentally preferable, sustainable, and/or energy efficient building products or materials that are recognized by The Leadership in Energy and Environmental Design (LEED®), Green Globes Assessment and Rating System, International Green Construction Code or Energy Star.
- 21. Insured means:
 - a. The First Named Insured;
 - b. Any entity of which the **First Named Insured** owns, either legally or beneficially, more than a fifty percent (50%) interest on or before the inception date of this **Policy**;
 - c. Any present or former director, officer, manager, partner, principal, trustee, member, shareholder, employee, volunteer, **temporary worker or leased worker** of the **First Named Insured**, but only while acting within the scope of his/her duties as such;
 - d. Any **Insured** with regard to its participation in a legal entity or joint ventures, but only with respect to **Liabilities** arising out of **Professional Services** or **Covered Operations** performed by or on behalf of the **First Named Insured**; **Insured** does not include the legal entity or joint venture itself, except as respects liability assumed by the **First Named Insured** for a **Pollution Condition** or **Biological Agent Condition**;
 - e. With regard to Coverage A COVERED OPERATIONS only, any client of the **First Named Insured** or entity or person that requires the **First Named Insured** in a written contract, agreement, or permit to add such person or organization to this **Policy** as an "Additional Insured", but only to the extent required and up to the limits required in such written contract or agreement;

- f. The estate, heirs, executors, administrators, and legal representatives of each **Insured** in the event of death, incapacity or bankruptcy, but only with respect to the liability of each **Insured** as otherwise covered by this **Policy**;
- g. Any other person or organization listed as an **Insured** by endorsement to this **Policy**;
- h. Any organization newly formed or acquired by the **First Named Insured** during the **Policy Period** and in which, thereafter, the **First Named Insured** has more than a fifty percent (50%) ownership interest. However, coverage for such organization(s) shall apply:
 - i. Only to **Professional Services** or **Covered Operations** performed on or after the date of formation or acquisition or exercised financial or management control; and
 - ii. Until the ninetieth (90th) day following the date of formation or acquisition or until the end of the **Policy Period**, whichever is earlier. After the ninetieth (90th) day, coverage shall only apply if such organization(s) has been endorsed to the **Policy** by the Company. Before doing so, the Company may, at its sole discretion, require additional information, including but not limited to a completed **Application**, loss history, or information regarding the operations of such organization(s), and may also require an additional premium.

22. Insured Contract means:

- a. With respect to any **Claim** arising from **Covered Operations** or **Professional Services**:
 - i. A contract or agreement with a client in which the **Insured** assumes liability for the operations of subcontractors for work performed on behalf of the **Insured** by such subcontractors;
 - ii. A sidetrack agreement;
 - iii. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or
 - iv. That part of any other contract or agreement pertaining to Covered Operations or Professional Services of the Insured (including an indemnification of a municipality in connection with work performed for a municipality) under which the Insured has assumed the tort liability of another party to pay for Environmental Damage, Cleanup Costs, Bodily Injury, Property Damage or Damages to a third party. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- b. With respect to any **Claim** arising from a **Scheduled Location** or **Ancillary Location**, a contract or agreement that is approved by the Company and scheduled by endorsement to the **Policy** as an **Insured Contract**.

23. Insured Product means:

- a. Any goods or products, other than real property, manufactured, sold, supplied, or distributed by the **Insured**, others trading under the **Insured**'s name or a person or organization whose business or assets the **Insured** has acquired; and
- b. Containers, materials, parts or equipment furnished in connection with such goods or products.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2025

forms a part of Policy No. WC 11-56-9704

Issued to SUNLAND ASPHALT & CONSTRUCTION INC SUNLAND ASPHALT & CONSTRUCTION, LLC By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL TO ENTITIES OTHER THAN THE NAMED INSURED (WORKERS' COMPENSATION ONLY)

This policy is amended as follows:

In the event that the Insurer cancels this policy for any reason other than non-payment of premium, and

- 1. the cancellation effective date is prior to this policy's expiration date;
- 2. the Named Insured or, if applicable, any other employers named in Item 1 of the Information Page is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and the Named Insured has provided to the Insurer, either directly or through its broker of record, the email address of a contact at each such entity; and
- 3. the **Insurer** received this information after the **Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within <u>30</u> days after the **Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following definitions apply to this endorsement:

- 1. Named Insured means the insured first named employer in Item 1 of the Information Page of this policy.
- 2. **Insurer** means the insurance company shown in the header on the Information Page of this policy.

All other terms, conditions and exclusions shall remain the same.

AUTHORIZED REPRESENTATIVE



CONTRACTORS ENDORSEMENT BLANKET ADDITIONAL INSURED - NON-CONTRIBUTING - WAIVER OF SUBROGATION

In consideration of the premium charged, it is understood and agreed that:

A. Additional Insureds

When a written contract, signed prior to an "event" requires that you provide Additional Insured coverage with Limits of Insurance greater than "underlying limits" and "controlling underlying insurance" provides such coverage:

- 1. SECTION II WHO IS AN INSURED is amended to include the Additional Insured as an insured for the lesser of:
 - a. Coverage required by the written contract; or
 - b. Coverage provided by this insurance or "controlling underlying insurance."
- As respects the coverage provided by this endorsement, SECTION III LIMITS OF INSURANCE is amended to add:

Limits of Insurance provided to the Additional Insured will be the lesser of:

- a. Limits required by the written contract; or
- b. Limits available under the applicable Limits of Insurance.
- B. Primary and Non-Contributing

When a written contract signed prior to an "event" requires, for Limits of Insurance greater than "underlying limits," that this insurance is primary to and will not seek contribution from any other insurance available to the Additional Insured, this insurance will apply in this manner provided that:

- 1. the Additional Insured is a Named Insured under such other insurance; and
- 2. all "underlying insurance" applies in the same manner.
- C. Waiver of Subrogation

When a written contract signed prior to an "event" requires, for Limits of Insurance greater than "underlying limits," that we waive our rights of recovery against the Additional Insured, then, to the extent required by the contract, the following is added to SECTION IV – CONDITIONS:

Waiver of Rights of Recovery

We waive any right of recovery we may have against the Additional Insured because of any payment we make under this policy. Such waiver by us applies only to the extent that you have waived your right of recovery prior to the "event" causing the "injury or damage."

All other terms and conditions remain unchanged.

CXS 20 50 08 21	Contains copyrighted material of the Insurance Services Office, Inc. with its permission.	Page 1 of 1
-----------------	--	-------------

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Any person or organization whom you become obligated to include as an additional insured as a result of any contract or agreement you have entered into.	Per the contract or agreement.

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

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

However:

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

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

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

- 1. Required by the contract or agreement; or
- **2.** Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

CONTRACTORS PROFESSIONAL AND POLLUTION LIABILITY POLICY (OCCURRENCE FORM)

FOR THOSE COVERAGES THAT ARE IDENTIFIED AS APPLYING ON A CLAIMS-MADE BASIS, SUCH COVERAGES ARE LIMITED TO CONDITIONS THAT ARE DISCOVERED AND REPORTED DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD(S) FOR CLAIMS THAT ARE FIRST MADE AND REPORTED TO THE INSURER WITHIN THE POLICY PERIOD OR, IF APPLICABLE, THE EXTENDED REPORTING PERIOD(S). THIS POLICY DOES NOT PROVIDE COVERAGE FOR CLAIMS ARISING OUT OF CONDITIONS THAT TOOK PLACE PRIOR TO THE APPLICABLE RETROACTIVE DATE. READ THE ENTIRE POLICY CAREFULLY TO DETERMINE YOUR RIGHTS, DUTIES AND WHAT IS AND WHAT IS NOT COVERED.

DEFENSE EXPENSES, INCLUDING ATTORNEY FEES AND EXPENSES, ARE INCLUDED WITHIN AND ERODE THE LIMITS OF LIABILITY. OTHER WORDS AND PHRASES THAT APPEAR IN BOLD HAVE SPECIAL MEANING. REFER TO THE DEFINITIONS SECTION.

In consideration of premium paid or payable and in reliance on all statements made and information furnished by the **Insureds** in the underwriting of this **Policy**, and subject to the terms and conditions of this **Policy**, the insurer identified in the Declarations (herein referred to as the "Company") agrees as follows:

I. INSURING AGREEMENTS

ONLY THOSE COVERAGES WITH A SPECIFIC LIMIT OF INSURANCE SHOWN IN THE DECLARATIONS ARE APPLICABLE.

A. COVERAGE A – COVERED OPERATIONS

The Company shall pay, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, on behalf of the **Insured** for:

- 1. Cleanup Costs, Bodily Injury or Property Damage that the Insured becomes legally obligated to pay; and
- 2. Defense Expenses;

that result from **Pollution Condition(s)** or **Biological Agent Condition(s)** caused by **Covered Operations**.

This coverage applies only if the **Environmental Damage**, **Bodily Injury** or **Property Damage** occurs during the **Policy Period**.

If the same **Pollution Condition(s)** or **Biological Agent Condition(s)**, or series of related **Pollution Condition(s)** or **Biological Agent Condition(s)**, results in **Environmental Damage**, **Bodily Injury**, or **Property Damage** that occurs over the **Policy Periods** of two or more Contractor's Pollution Liability policies issued by the Company, such **Environmental Damage**, **Bodily Injury** or **Property Damage** will be deemed to have occurred only during the **Insured's** first such policy under which the **Environmental Damage**, **Bodily Injury** or **Property Damage** is covered. This shall apply even if the date that the **Environmental Damage**, **Bodily Injury** or

Property Damage first occurred is prior to the **Policy Period** or is unknown, provided that, the **Environmental Damage**, **Bodily Injury** or **Property Damage** occurs during the **Policy Period** of this **Policy**. Related **Pollution Condition(s)** or **Biological Agent Condition(s)** are those **Pollution Condition(s)** or **Biological Agent Condition(s)** that arise out of, are based on, relate to, or are in consequence of, the same or related or series of related facts, events, circumstances or situations.

B. COVERAGE B – INSURED'S LOCATIONS

THIS COVERAGE APPLIES ON A CLAIMS-MADE BASIS.

The Company shall pay, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, on behalf of the **Insured** for:

- 1. Cleanup Costs;
- 2. Bodily Injury or Property Damage that the Insured becomes legally obligated to pay; and
- 3. Defense Expenses;

that result from **Pollution Condition**(s) at, upon, within, under or migrating from:

- a. A **Scheduled Location** which commenced on or after the applicable **Retroactive Date**, and before the **Policy** terminates, provided that the **Claim** for such **Pollution Condition(s)** is first made and the **Pollution Condition(s)** is first discovered during the **Policy Period**, and reported to the Company during the **Policy Period**, the Automatic Extended Reporting Period or the Optional Extended Reporting Period, if any; or
- b. An Ancillary Location which commenced on or after the Policy inception date and before the Policy terminates, provided that such Pollution Condition(s) is first discovered no more than ten (10) days after commencement of such Pollution Condition(s) and reported to the Company no later than thirty (30) days after the commencement of such Pollution Condition(s), but in any event during the Policy Period, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any.

C. COVERAGE C - NON-OWNED DISPOSAL SITES

The Company shall pay, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, on behalf of the **Insured** for:

- 1. Cleanup Costs, Bodily Injury or Property Damage that the Insured becomes legally obligated to pay to parties other than owners, operators or contractors of Non-owned Disposal Sites; and
- 2. Defense Expenses;

resulting from **Pollution Condition(s)** in the processing, treatment or disposal, or the arranging for the processing, treatment or disposal, of waste at, upon, within, under or migrating from **Nonowned Disposal Sites**. This coverage applies only if such waste first originates from **Covered Operations** performed by or on behalf of the **Insured**, provided that:

The Environmental Damage, Bodily Injury or Property Damage occur during the Policy Period. If the same Pollution Condition(s) or series of related Pollution Condition(s) results in Environmental Damage, Bodily Injury or Property Damage that occurs over the Policy Periods

of two or more Contractor's Pollution Liability policies issued by the Company, such **Environmental Damage**, **Bodily Injury** or **Property Damage** will be deemed to have occurred only during the **Insured**'s first such policy under which the **Environmental Damage**, **Bodily Injury** or **Property Damage** is covered. This shall apply even if the date that the **Environmental Damage**, **Bodily Injury** or **Property Damage** first occurred is prior to the **Policy Period** or is unknown, provided the **Environmental Damage**, **Bodily Injury** or **Property Damage** first occurred is prior to the **Policy Period** or is unknown, provided the **Environmental Damage**, **Bodily Injury** or **Property Damage** occurs during the **Policy Period** of this **Policy**. Related **Pollution Condition(s)** are those **Pollution Condition(s)** that arise out of, are based on, relate to, or are in consequence of, the same or related or series of related facts, events, circumstances or situations.

D. COVERAGE D - PUBLIC RELATION EXPENSES

The Company shall reimburse the **Insured**, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, for **Public Relation Expenses** resulting from **Pollution Condition(s)** or **Biological Agent Condition(s)** or a **Wrongful Act(s)** to which coverage applies under COVERAGE A, COVERAGE B or COVERAGE C, or COVERAGE E of this **Policy**.

E. COVERAGE E – PROFESSIONAL LIABILITY

THIS COVERAGE APPLIES ON A CLAIMS-MADE BASIS.

The Company shall pay, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, on behalf of the **Insured** for

1. **Damages**; and

2. Defense Expenses;

that result from a **Wrongful Act**(s) in the performance of or failure to perform **Professional Services**.

This coverage applies only if:

- a. Such **Professional Services** are performed on or after the **Retroactive Date** and before the end of the **Policy Period**; and
- b. The **Claim** is first made against the **Insured** during the **Policy Period**, and reported to the Company during the **Policy Period**, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any

F. COVERAGE F – PROTECTIVE PROFESSIONAL LIABILITY

THIS COVERAGE APPLIES ON A CLAIMS-MADE BASIS.

The Company shall reimburse the **Insured**, up to the Limits of Liability as specified in the Declarations, for **Ultimate Loss** in excess of all applicable limits of liability of the **Design Professionals Insurance** provided that:

1. the **Ultimate Loss** arise out of **Professional Services** performed on or after the **Retroactive Date** and before the end of the **Policy Period**;

- 2. the **Protective Claim** for such **Ultimate Loss** is first made by the **Insured** during the **Policy Period** and reported to the Company during the **Policy Period**, the Automatic Extended Reporting Period or the Optional Extended Reporting Period, if any; and
- 3. the **Insured** has done all that is reasonable and legally permitted in seeking recovery for **Ultimate Loss**.

G. COVERAGE G – MITIGATION OF LOSS

The Company shall indemnify the **Insured**, up to the Limits of Liability and in excess of the Self-Insured Retention as specified in the Declarations, for **Mitigation Costs** provided that:

- 1. the **Covered Operations** or **Professional Services** took place on or after the **Retroactive Date** and before the end of the **Policy Period**;
- 2. the **Insured** notifies the Company in writing during the **Policy Period** of the circumstances that would reasonably be expected to lead to such **Claim**; and
- 3. prior written approval by the Company is given after the **Insured** demonstrates that mitigation is reasonable and necessary to prevent or avoid a covered **Claim**.

However, the prior written approval of the Company shall not be required when necessary **Emergency Mitigation Action** is taken within 72 hours after a **Pollution Condition** or **Biological Agent Condition** has been discovered.

II. DEFENSE, SETTLEMENT and COOPERATION

A. DEFENSE AND SETTLEMENT OF CLAIMS

The Company has the right and the duty to defend the **Insured** against any **Claim** to which this **Policy** applies, and may, investigate and settle such **Claims**. The Company shall have the right to designate legal counsel for the investigation, adjustment and defense of **Claims**. The Company's duty to defend any **Claim** shall commence upon notice of a **Claim**, but the Company's duty to pay **Defense Expenses** shall commence only upon the **Insured's** satisfaction of the Self-Insured Retention set forth in the Declarations.

In the event the **Insured** has the legal right to designate independent counsel, the Company will only be obligated to reimburse **Defense Expenses** for such independent counsel at those rates that the Company pays to counsel it retains in the ordinary course of business in the defense of similar claims in the geographical area where the **Claim** is being defended.

The Company's duty to defend the **Insured** shall terminate when the Company establishes: (i) the absence of coverage under the terms and conditions of this **Policy**; or (ii) the Limits of Liability have been exhausted. In such circumstance, the Company shall take reasonably appropriate steps to transfer control of any existing defense to the **Insured**.

The **Insureds** shall not settle or offer to settle any **Claim**, incur **Defense Expenses**, admit any liability, stipulate to any judgment, or otherwise assume any obligation with respect to any **Claim** without the prior written consent of the Company, which shall not be unreasonably withheld. The Company shall not be liable for **Cleanup Costs**, **Bodily Injury**, **Property Damage**, **Environmental Damage**, **Public Relations Expenses**, **Ultimate Loss**, or **Damages** as a result of any offer to settle, settlement, assumed obligation, admission of liability, stipulated judgment, or

Defense Expenses to which it has not consented. However, if the **Insureds** are able to fully and finally settle, with prejudice, all **Claims** subject to a single Self-Insured Retention for an aggregate amount, including **Defense Expenses**, that does not exceed such Self-Insured Retention, then the Company's consent is not required for such settlement.

The Company shall have the right to make any investigation it deems necessary and, with the written consent of the **Insured**, make any settlement of a **Claim** covered by this **Policy**. If the Company recommends settlement of a **Claim**, the claimant is willing to agree to such settlement, and the **Insured** refuses to give written consent to settlement as recommended by the Company, then the **Insured** thereafter shall negotiate or defend such **Claim** independently of the Company and on the **Insured's** own behalf. In such event, the Company's liability for any such **Claim** shall be limited to the amount of the proposed settlement, plus **Defense Expenses** incurred up to the time that the **Insured** refused to agree to the proposed settlement, provided that the Company's liability under this **Policy** for such **Claim** shall not exceed the remaining portion of the applicable Limit of Liability.

B. COOPERATION

The **Insureds** agree to provide the Company with all information, assistance, and cooperation that the Company reasonably requests with respect to any **Claim**, including, but not limited to, submitting to examination by the Company's representative, attending hearings and depositions, and assisting the Company in the investigation and defense of a **Claim**. The **Insureds** agree that they will not knowingly take any action that will prejudice the Company's position or its potential or actual rights of recovery with respect to any amounts paid under this **Policy**. The **Insureds** shall forward to the Company every demand, pleading, notice, or other process received by or on behalf of the **Insured** in connection with any **Claim**.

III. EXCLUSIONS

This **Policy** does not cover any **Claims** arising out of, based upon, involving directly or indirectly, resulting from or with respect to:

A. ACTS OF WAR

The consequence of war, invasion, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot or civil commotion.

B. ASBESTOS

COVERAGE B only, the existence, use, sale or clean up of, exposure to or testing for asbestos products, fibers, asbestos dust or asbestos containing products or materials unless specifically endorsed onto this **Policy**. This exclusion does not apply to **Claims** for **Bodily Injury** or **Property Damage**; or **Environmental Damage** for the remediation of naturally occurring asbestos in soil, sediment, groundwater and surface water.

This exclusion shall not apply to **Cleanup Costs** solely incurred for the remediation of asbestos containing material which has been inadvertently impacted (not including any displacement associated with activities including renovation, demolition or abatement) by an accident at a **Scheduled Location** or **Ancillary Location** which commences, in its entirety, during the **Policy Period** and demonstrable by the **Insured**. There shall be no coverage for any costs incurred to

remove, abate, monitor, repair or otherwise address asbestos products, fibers, asbestos dust or asbestos containing products or materials that have not been impacted by such accident.

C. COMPLIANCE ACTIONS AND IMPROVEMENTS

COVERAGE B only, funds spent for additions, equipment, upgrades or physical improvements to the **Scheduled Location** or **Ancillary Location** or other property of the **Insured** irrespective of whether actions or improvements were undertaken voluntarily, to assure future compliance with applicable laws, rules or regulations or for any other reason.

D. CONTRACTUAL LIABILITY

The liability of others assumed by an **Insured** under any contract or agreement unless:

- 1. The Insured would have such liability in the absence of a contract or agreement; or
- The liability is assumed in a contract or agreement that is an Insured Contract, if such contract or agreement existed before the Pollution Condition, Biological Agent Condition, and/or Wrongful Act giving rise to such libility occurs.

E. FAULTY WORKMANSHIP/OWN WORK

Faulty construction workmanship (including approval thereof or any materials, parts, or equipment furnished in connection therewith) in any construction, erection, fabrication, installation, assembly, manufacture, or remediation performed by, on behalf of, or at the direction of any **Insured**, or any entity acting in the capacity of an agent, contractor, or subcontractor of any **Insured**.

This Exclusion shall not apply to:

- 1. a **Wrongful Act** committed by any **Insured**, subcontractor, or any other entity for whose acts an **Insured** is legally responsible; or
- 2. a Pollution Condition or Biological Agent Condition resulting from Covered Operations.

F. INSURED'S INTERNAL EXPENSES

Any costs, charges or expenses incurred by the **Insured** for goods supplied or services performed by any staff or salaried employees of the **Insured** or the **Insured**'s parent, subsidiary or affiliate (whether or not an **Insured** under this **Policy**).

G. INSURED'S OWNED LOCATIONS

Any real property that is or was owned, leased, managed, or rented by (a) the **Insured**, (b) any person or organization with an ownership stake in or management control of the **Insured**, or (c) by any organization in which the **Insured** has an ownership stake or management control.

This exclusion shall not apply to:

- 1. COVERAGE B;
- 2. COVERAGE C or COVERAGE D with respect to any **Scheduled Location**(s) or **Ancillary Location**(s); or
- 3. Property temporarily leased, rented or occupied for use in the performance of **Covered Operations**, including staging areas or storage of equipment or materials at or near a job site.

H. INSURED PRODUCT LIABILITY

Any goods or products designed, manufactured, sold, supplied, or distributed by an **Insured**, or others trading under an **Insured**'s name, including any, materials, parts, components or equipment furnished or installed by or on behalf of the Insured.

This exclusion does not apply to:

- 1. computer software sold or supplied by an **Insured** to its client solely in connection with the **Insured's** rendering or failure to render **Professional Services**;
- 2. any goods or products installed in the course of **Covered Operations** that result in **Cleanup Costs, Bodily Injury** or **Property Damage**; or
- 3. goods or products installed in the course of **Covered Operations** that have been exclusively designed but not manufactured by or on behalf of the **Insured** for use in a specific project.

I. INSURED VERSUS INSURED

Any suit, action, demand, complaint or claim by any Insured against any other Insured.

This exclusion shall not apply to **Claims** brought by or against clients for whom the **Professional Services** or **Covered Operations** are or were performed

J. INTENTIONAL OR ILLEGAL ACTS

Any **Insured's**:

- 1. Intentional, willful, deliberate non-compliance with any statute, regulation, ordinance, administrative complaint or notice of violation, notice letter, executive order or instruction of any governmental agency or body; or
- 2. Dishonest, illegal, fraudulent or criminal act.

This exclusion shall not apply to non-compliance based upon the **Insured's** good faith reliance upon written advice of qualified counsel received in advance of such non-compliance or an **Insured's** reasonable efforts to mitigate a **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)** that necessitates immediate action, provided that such **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)** is reported to the Company within fourteen (14) days of its commencement.

K. KNOWN CONDITIONS

Any:

- 1. Claim or circumstance reported under any prior policy or to another carrier;
- 2. Pollution Condition(s) or Biological Agent Condition(s);
- 3. Bodily Injury, Property Damage or Environmental Damage; or
- 4. Wrongful Act;

that was known or discovered by a **Responsible Person** prior to the inception date of this **Policy** and not disclosed in the **Application** for this **Policy** or a prior policy, of which this **Policy** is a renewal, that was issued by the Company. This exclusion applies even if such **Pollution**

Condition(s), Biological Agent Conditions(s), Bodily Injury, Property Damage, Environmental Damage, or Wrongful Act or circumstance results in a new Claim during the Policy Period of this Policy.

L. LEAD-BASED PAINT

COVERAGE B only, the existence, required removal or abatement of lead paint. This exclusion does not apply to **Claims** for **Bodily Injury** or **Property Damage**.

This exclusion shall not apply to **Cleanup Costs** solely incurred for the remediation of lead-based paint which has been inadvertently impacted (not including any displacement associated with activities including renovation, demolition or abatement) by an accident at a **Scheduled Location** or **Ancillary Location** which commences, in its entirety, during the **Policy Period** and is demonstrable by the **Insured**. There shall be no coverage for any costs incurred to remove, abate, monitor, repair or otherwise address lead-based paint that has not been impacted by such accident.

M. PROPERTY DAMAGE TO COVERED OPERATIONS AND PRODUCTS

Any **Property Damage** to:

- 1. That particular part of real property on which **Covered Operations** are being performed, if the **Property Damage** is caused by such **Covered Operations**;
- 2. That particular part of property or real property that has been constructed, furnished or serviced as part of **Covered Operations**; or
- 3. The **Insured Product**, if the **Property Damage** arises from the **Insured Product** or any part of it.

Subparagraphs 1. and 2. do not apply to **Completed Operations**.

N. PROTECTIVE CLAIM

The amount of any default judgment, arbitration award or adjudicator's decision in circumstances where the **Design Professional** has failed to plead and/or provide a defense, response or answer, or take any other procedural step, except that this exclusion shall not apply to the amount of **Ultimate Loss** which the **Insured** would have been entitled to recover from the **Design Professional** had such defense, response or answer been pleaded and/or provided, or procedural step been taken.

In such instance where the **Design Professional** has failed to plead and/or provide a defense, response or answer, or take any other procedural step, the burden of proving the extent of **Ultimate Loss** which the **Insured** would have been entitled to recover from the **Design Professional** will be upon the **Insured**.

O. PROTECTIVE CLAIM LEGAL FEES

Attorney's fees and any other costs and expenses incurred by any **Insured** in connection with the making and prosecution of a **Protective Claim**.

P. PROTECTIVE LOSS CONSENT

Any settlement that has been reached with the **Design Professional** involving the limits of liability of this **Policy** without the express written consent of the Company, such consent not to be unreasonably withheld or delayed

Q. PUNITIVE OR EXEMPLARY DAMAGES

Punitive or exemplary damages, multiplied damages, assessments, fines or penalties (including those arising from criminal actions), except where the law permits insurance to pay such damages and fines.

R. SEPARATELY INSURED PROJECTS

Any project that is insured under a project specific professional and/or pollution insurance policy, provided, however, that this exclusion shall not apply where the **Insured's** liability is found to be in excess of the limit of liability available under such project specific professional and/or pollution insurance policy as applicable.

S. UNDERGROUND STORAGE TANKS

COVERAGE B only, the existence of any underground storage tank(s), the contents within any underground storage tank(s) and associated underground piping at a **Scheduled Location** or **Ancillary Location**.

This exclusion does not apply to Scheduled Locations with respect to:

- 1. Unknown underground storage tank(s), the contents within any underground storage tank(s) and associated underground piping that the **Insured** had discovered after the inception date of this **Policy**;
- 2. Underground storage tank(s) that are endorsed onto this **Policy**;
- 3. Any underground storage tank(s) that have been closed or abandoned in place in accordance with all applicable **Environmental Laws**; or
- 4. Storage tank(s) located within an accessible subsurface underground vault that can be visually inspected in its entirety.

T. WASTE FACILITIES

Any waste or other kind of products or materials transported, shipped or delivered via any automobile, aircraft, watercraft, or rolling stock to any transfer, storage or disposal facility beyond the boundaries of a location at which **Covered Operations** are being performed.

This exclusion shall not apply to:

- 1. COVERAGE C; or
- 2. **Transportation** to which this **Policy** applies.

U. WORKERS COMPENSATION AND EMPLOYERS LIABILITY

1. Any obligation of any **Insured** under workers compensation, disability benefits, unemployment compensation, employee benefits, pension sharing, ERISA law or any similar law; or

2. Any actual or alleged refusal to employ, termination of employment, harassment, humiliation or discrimination on any basis, or other employment related practices or policies. This exclusion applies whether the **Insured** may be held liable as an employer or in any other capacity.

IV. LIMITS OF INSURANCE

The limits of this insurance are presented in the following sections regarding "Maximum Aggregate Limit" and separate limits of liability.

A. MAXIMUM AGGREGATE LIMIT

The Company's total liability hereunder for all **Bodily Injury, Property Damage, Cleanup Costs**, **Damages, Environmental Damage, Ultimate Loss, Mitigation Costs, Public Relations Expenses** and **Defense Expenses** or any other amounts under this **Policy**, including any coverages added by endorsement (unless otherwise indicated), shall not exceed the 'Maximum Aggregate Limit'' specified in the Declarations irrespective of any of the following:

- 1. The number of **Claims** made;
- 2. The number of persons or organizations making **Claims**;
- 3. The number of persons or organizations covered hereunder;
- 4. The number of actual or alleged **Pollution Condition(s)**, **Biological Agent Condition(s)**, or **Wrongful Acts**; or
- 5. The number of times Cleanup Costs, Public Relations Expenses, Bodily Injury, Property Damage, Environmental Damage, Ultimate Loss, Damages, Mitigation Costs are incurred.

B. LIMITS OF LIABILITY

Subject to the Maximum Aggregate Limit above:

- The "Coverage A Covered Operations", amounts shown in the Declarations is the maximum amount the Company will pay under COVERAGE A of this **Policy** for any **Claim(s)** resulting from the same or related **Pollution Condition(s)** or **Biological Agent Condition(s)**, whichever applies.
- The "Coverage B Insured's Locations" and "Coverage C Non-owned Disposal Sites" amounts shown in the Declarations are the maximum amounts the Company will pay under COVERAGES B and C, respectively, of this **Policy** for any **Claim(s)** resulting from the same or related **Pollution Condition(s)**.
- The "Coverage D Public Relation Expenses" amount shown in the Declarations is the maximum amount the Company will pay for **Public Relations Expenses** under COVERAGE D of this **Policy** for any **Claim(s)** resulting from the same or related **Wrongful Acts**, **Pollution Condition(s)** or **Biological Agent Condition(s)**, whichever applies.
- 4. The "Coverage E Professional Liability" and "Coverage F Protective Professional Liability" amounts shown in the Declarations are the maximum amounts the Company will pay under COVERAGES E and F of this **Policy** for any **Claim(s)** resulting from the same or related **Wrongful Act(s)**, whichever applies.

- The "Coverage G Mitigation of Loss" amount shown in the Declarations is the maximum amount the Company will pay under COVERAGE G of this Policy for any Mitigation Costs resulting from the same or related Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s).
- 6. If more than one coverage applies to the same **Claim**, the Company's maximum limit of liability for that **Claim** under all those coverages shall not exceed the single highest coverage limit of liability applicable to such **Claim**.
- 7. The "Maximum Aggregate Limit" amount shown in the Declarations is the maximum amount the Company will pay under this **Policy**.

The Limits of Insurance shown in the Declarations shall apply in excess of the Self-Insured Retention amount shown in the Declarations.

The single Limit of Liability applies if the same Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s) or series of related Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s), whichever applies, takes place over two or more Policy Periods. Related Wrongful Acts(s), Pollution Condition(s) or Biological Agent Condition(s) are those Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s), respectively, that arise out of, are based on, relate to, or are in consequence of, the same or related or series of related facts, events, circumstances or situations.

C. If a Separate Defense Expenses Limit amount is shown in the Declarations, then Defense Expenses shall not be included within or reduce the Limits of Liability described in A. and B. above, until Defense Expenses in the aggregate paid by the Company for all Claims under the Policy equal the amount designated in the Declarations. Once payment of Defense Expenses under the Policy equals the amount shown in the Declarations, Defense Expenses shall be included within and reduce the Limits of Liability described in A. and B. above.

D. SUPPLEMENTARY PAYMENTS

- 1. The Company will reimburse the **Insured** up to \$500 for loss of earnings to each **Insured** for each day, or part of a day, such **Insured** is in attendance, at the request of the Company, defense counsel, or as required by law, at a trial, hearing, or arbitration proceeding involving a covered **Claim**. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$5,000 regardless of the number of **Insureds**, the number of days or partial days the **Insured** is in attendance, the number of trials, hearings, or arbitration proceedings the **Insured** is required to attend, or the number of **Claims** resulting in such payments.
- 2. The Company will reimburse the Insured up to \$10,000 for reasonable attorneys' fees, costs, and expenses incurred in connection with the investigation or defense of each Disciplinary Proceeding, where notice of such Disciplinary Proceeding is both first received by the Insured and reported in writing to the Company during the Policy Period, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any, and such Disciplinary Proceeding arises from an actual or alleged Wrongful Act, Pollution Condition or Biological Agent Condition. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$100,000 regardless of the number of Insureds or the number

of **Disciplinary Proceedings**. The Company shall not be obligated to defend any **Disciplinary Proceeding**, or pay any fine, penalty, or award resulting from any **Disciplinary Proceeding**.

- 3. The Company will reimburse the **Insured** for reasonable attorneys' fees, costs, and expenses incurred in connection with responding to any governmental investigation, action, or proceeding commenced against any **Insured** and reported in writing to the Company during the **Policy Period**, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any, pursuant to the Americans with Disabilities Act of 1990 (ADA), the federal Fair Housing Act (FHA), or the Occupational Safety and Health Act (OSHA), and arising from a **Wrongful Act**. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$10,000 each **Claim** / \$100,000 in the Aggregate, regardless of the number of **Insureds** or the number of ADA, FHA, or OSHA related governmental investigations, actions, or proceedings.
- 4. Upon written request by the **Insured** during the **Policy Period**, the Automatic Extended Reporting Period, or the Optional Extended Reporting Period, if any, the Company will retain and pay up to \$10,000 each **Claim** for reasonable attorneys' fees and costs to advise and/or represent the **Insured** regarding the production of documents and/or during the preparation and giving of testimony, in response to a subpoena served on the **Insured**, arising from a **Wrongful Act, Pollution Condition** or **Biological Agent Condition**. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$100,000 in the Aggregate, regardless of the number of **Insureds** or the number of subpoenas.
- 5. The Company will reimburse the **Insured** for the reasonable and necessary additional expense payable to a third party software consulting company that are not otherwise recoverable from any warranty or guarantee, arising from loss of or damage to information due to a malfunction of software used in connection with a Building Information Modeling (BIM) system purchased from a third-party vendor that was not modified by the **Insured** or on the **Insured's** behalf, including erroneous calculations or modeling, provided that the malfunction is first discovered during the **Policy Period** and after the system has been put to its intended use in the course of construction in support of **Professional Services** and is reported to the Company, in writing, by the **Insured**, during the **Policy Period**, within ninety (90) days of the end of the **Policy Period**, if any. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$25,000 regardless of the number of consulting companies, systems purchased or malfunctions.
- 6. The Company will reimburse the **Insured** for any reasonable and necessary expenses incurred by the **Insured** in the use of **Green Building Materials**, even when the use of such materials is not necessary, as part of **Cleanup Costs** when otherwise covered under this **Policy**. The maximum amount payable by the Company hereunder for all such amounts shall not exceed \$250,000 regardless of the number of **Pollution Conditions** or **Biological Agent Conditions**.

Supplementary Payments are not subject to a Self-Insured Retention and shall not reduce the Limits of Liability. The Company's consent is required prior to incurring any Supplementary Payments described in Paragraphs 1.-6. above, and the Company shall not be liable for any Supplementary Payment to which it has not consented.

E. MULTIPLE INSUREDS, CLAIMS, AND CLAIMANTS

The inclusion herein of more than one **Insured** shall not operate to increase the Company's Limits of Liability, including any Sublimits. **Claims** based upon, arising out of, or attributable to the actual or alleged same **Wrongful Act, Pollution Conditions** or **Biological Agent Conditions**, or **Wrongful Acts, Pollution Conditions** or **Biological Agent Conditions** that are **Interrelated** shall be treated as a single **Claim**, regardless of whether made against one or more than one **Insured**. All such **Claims**, whenever made, shall be considered first made when the earliest related **Claim** was first made, whether before or during the **Policy Period**, and all such **Claims** shall be subject to the Limits of Liability, any applicable Sublimit, and the Self-Insured Retention as set forth in the Declarations.

V. SELF-INSURED RETENTION

The Company's obligation for **Bodily Injury**, **Property Damage**, **Cleanup Costs**, **Damages**, **Ultimate Loss**, **Mitigation Costs**, **Public Relations Expenses**, **Environmental Damage** and **Defense Expenses** shall only be in excess of the applicable Self-Insured Retention as specified in the Declarations for the same or related **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**. The Self-Insured Retention shall be applied as shown in the Declarations.

Payment of the Self-Insured Retention is a condition precedent to coverage and must be paid by the **First Named Insured** and is not insured by the Company. Further, the **First Named Insured** must remain wholly liable for the Self-Insured Retention and cannot insure any amounts within the Self-Insured Retention. Other insurance will not be applied to reduce the Self-Insured Retention under this **Policy**. The **First Named Insured** shall reimburse the Company for advancing any element of **Bodily Injury**, **Property Damage**, **Cleanup Costs**, **Damages**, **Ultimate Loss**, **Mitigation Cost**, **Public Relations Expenses**, **Environmental Damage** or **Defense Expenses** falling within the Self-Insured Retention within thirty (30) days of the Company's advancement of any amounts within the Self-Insured Retention.

VI. EXTENDED REPORTING PERIOD

THE PROVISIONS IN THIS SECTION OF THIS CONTRACT APPLY ONLY TO CLAIMS-MADE COVERAGES

The following section describes the automatic and optional extended reporting period provisions of this **Policy**. The Extended Reporting Period provisions provided by this section shall apply only to coverages that are indicated as applying on a Claims-made basis, and shall under no circumstance extend the **Policy Period**, change the scope of coverage, broaden or extend the reporting requirements applicable to **Ancillary Location(s)** or increase any Aggregate Limits of Insurance shown in the Declarations.

A. AUTOMATIC EXTENDED REPORTING PERIOD

The **Insured** is entitled to a sixty (60) day Automatic Extended Reporting Period for no additional premium upon cancellation or non-renewal of this **Policy** in accordance with the terms and conditions of this section. The Automatic Extended Reporting Period shall apply to **Claims** first made and reported to the Company within the Automatic Extended Reporting Period, but:

1. For **Professional Services** only with respect to **Professional Services** performed prior to the end of the **Policy Period** and on or after the **Retroactive Date**; and

 For Scheduled Location(s) or Ancillary Location(s), only with respect to Pollution Condition(s) or Biological Agent Condition(s) that (a) are discovered during the Policy Period and reported during the Automatic Extended Reporting Period, and (b) commenced on or after the applicable Retroactive Date, if any, and before the Policy terminates.

The **Insured** shall not have the right to the Automatic Extended Reporting Period if:

- 1. The **Policy** was cancelled due to non-payment of premium, fraud or material misrepresentation; or
- 2. The **Insured** purchases other insurance to replace this **Policy**.

B. OPTIONAL EXTENDED REPORTING PERIOD

The **First Named Insured** may purchase an Optional Extended Reporting Period upon cancellation or non-renewal of the **Policy** subject to the following terms and conditions:

- 1. The **First Named Insured** makes a written request for an Optional Extended Reporting Period that the Company receives within thirty (30) days of the **Termination Date**; and
- 2. The **First Named Insured** pays the Company an additional premium (to be determined by the Company) within thirty (30) days of the **Termination Date**. Such additional premium charge may not exceed 200% of the **Policy** premium stated in the Declarations.

The maximum Optional Extended Reporting Period may at the election of the **First Named Insured** be for a period of up to thirty-six (36) months from the **Termination Date**. The Optional Extended Reporting Period shall apply to **Claims** first made against the **Insured** and reported to the Company within the Optional Extended Reporting Period, but:

- a. For **Professional Services** only with respect to **Professional Services** performed prior to the end of the **Policy Period** and on or after the **Retroactive Date**; and
- b. For Scheduled Location(s) or Ancillary Location(s), only with respect to Pollution Condition(s) or Biological Agent Condition(s) that (a) are Discovered and reported during the Optional Extended Reporting Period, and (b) commenced on or after the applicable Retroactive Date, if any, and before the Policy terminates.

The **First Named Insured** shall not have the option to purchase the Optional Extended Reporting Period if:

- a. The **Policy** was cancelled due to non-payment of premium, fraud or material misrepresentation; or
- b. The First Named Insured purchases other insurance to replace this Policy.

In the event that the Optional Extended Reporting Period is purchased by the **First Named Insured**, the Optional Extended Reporting Period shall run concurrent to the Automatic Extended Reporting Period and shall not be in addition to the Automatic Extended Reporting Period. Once purchased, the Optional Extended Reporting Period is non-cancellable and will only be effective if the premium is paid when due.

VII. CONDITIONS

A. ASSIGNMENT

This **Policy** may be assigned only with the prior written consent of the Company. Such written consent shall not be unreasonably withheld or delayed by the Company.

B. BANKRUPTCY

Bankruptcy or insolvency of the **Insured** or of the **Insured**'s estate will not relieve the Company of its obligations under this **Policy**.

C. CANCELLATION

1. The **First Named Insured** may cancel this **Policy** by mailing to the Company written notice stating when thereafter such cancellation shall become effective. The **Termination Date** shall be the date stated in such written notice.

The Company may cancel this **Policy** for:

- a. Fraud or material misrepresentation by an **Insured**;
- b. Any **Insured**'s failure to comply with the terms and conditions under this **Policy**;
- c. Material change in the nature or extent of the risk involved hereunder; or
- d. Failure to pay premium.

In the event of cancellation for any reason other than failure to pay premium, the Company shall provide written notice stating when not less than thirty (30) days thereafter such cancellation shall become effective. In the event the **First Named Insured** fails to pay premium under this **Policy**, the Company shall provide not less than fifteen (15) days written notice of cancellation of the **Policy**. The **Termination Date** shall be the date stated in any such written notice.

However, with respect to b. or d. above, the **Insured** shall have the ability, within such thirty (30) day time period with respect to b. or such fifteen (15) day time period with respect to d., to cure such failure. The Company shall have the right, in its sole discretion, to determine whether or not such a failure has been cured.

The mailing of notice to the last known address of the **First Named Insured** in the manner provided herein or hand delivery to such address shall be sufficient proof of notice.

2. In the event of cancellation by the **First Named Insured**, the earned premium shall be computed in accordance with the customary short rate table after applying the minimum earned premium percentage or amount, as applicable, set forth in the Declarations, provided that, the minimum earned premium amount shall be 100% in the event a **Claim** has been made under this **Policy**. In the event of cancellation by the Company, the earned premium shall be computed pro rata and the Company will tender any return premium subject to retaining a minimum earned premium equal to 25% of the amount specified in the Declarations, provided that, the minimum earned premium amount shall be 100% in the event a **Claim** has been made under this **Policy**. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable thereafter, but neither tender of the unearned premium nor return of this **Policy** shall be a condition to cancellation hereunder.

D. CHANGES

No provision of this **Policy** may be amended, waived or otherwise changed except by endorsement hereto and the written agreement of the **First Named Insured** and the Company.

E. CONCEALMENT OR FRAUD

If the **Insured** wilfully concealed or misrepresented any fact or circumstance material to the granting of coverage under this **Policy**, this entire **Policy** shall be voidable by the Company.

F. ECONOMIC OR TRADE SANCTIONS

If coverage for a **Claim** or suit under this **Policy** is in violation of any United States of America economic or trade sanctions, including but not limited to, sanctions administered and enforced by the United States Treasury Department's Office of Foreign Assets Control ('OFAC'), then coverage for that **Claim** or suit shall be null and void.

G. ENFORCEABILITY

If any part of this **Policy** is deemed invalid or unenforceable, it shall not affect the validity or enforceability of any other part of this **Policy**, which shall be enforced to the full extent permitted by law.

H. FIRST NAMED INSURED AS AGENT

The **First Named Insured** is responsible for payment of all premiums, retentions and deductibles, and will act as the sole agent on behalf of all **Insureds** with respect to all matters involving this **Policy** unless any such responsibilities are otherwise designated by endorsement.

I. HEADINGS

The descriptions in the headings of this **Policy** are solely for convenience and form no part of the **Policy** terms and conditions.

J. INSPECTION AND AUDIT

The Company has the right, upon reasonable advance notice, to inspect the **Insured's** property or operations at any time. The Company may examine an audit the **Insured's** books and records as they relate to this **Policy** at any time during the **Policy Period** and up to three (3) years afterward. Neither the Company's right to inspect the **Insured's** property or operations, any actual inspection performed pursuant to this right, nor any report resulting from any inspection shall constitute an undertaking, on behalf of the **Insured** or any other party, to determine or warrant that the property or operations are safe, healthful, conform to acceptable engineering practice or are in compliance with any law, rule or regulation. The **Insured** will provide appropriate assistance and cooperation to the Company during any inspection.

K. NO ACTION AGAINST COMPANY

No right of action brought by any person or organization, other than an **Insured**, shall lie against the Company unless, as a condition precedent thereto:

- 1. Each Insured has fully complied with all the provisions of the Policy; and
- 2. The amount of the **Insured's** obligation to pay has been finally determined either by:
 - a. Written agreement of the Insured, the Company and the party asserting the Claim; or

b. By final judgment against the **Insured** after actual trial of the issues and the period of time to appeal has elapsed without an appeal having been taken or, if an appeal has been taken, until after such appeal has been adjudicated.

No person or organization shall have any right under this **Policy** to join the Company as a party to any action against the **Insured** to determine the **Insured**'s liability nor shall the Company be impleaded by the **Insured** or its legal representative.

L. NOTICE OF CONDITIONS AND CLAIMS

The **First Named Insured** shall as soon as practicable provide written notice of any **Wrongful Act(s)**, Pollution **Condition(s)**, or **Biological Agent Condition(s)** discovered, or **Claim** received. Such written notice:

- 1. Shall be given to the Company; and
- 2. Shall contain complete details regarding the **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**, or **Claim**, including, but not limited to:
 - a. The exact date the **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)** was Discovered or the **Claim** was made, its nature and location, and circumstances giving rise to such **Claim** or discovery;
 - b. All information relating to the cause of the Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s), including, the Bodily Injury, Property Damage, Cleanup Costs, or Damages that have resulted or may result from such Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s), all engineering information available on the Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s), and any other information that the Company deems reasonably necessary;
 - c. All demands, summonses, notices or other process or papers filed with a court of law, administrative agency or an investigative body;
 - d. The names and addresses of all parties asserting a Claim and all persons with knowledge of the Claim and Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s); and
 - e. All other information in the possession of the **Insured** regarding the **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**, the discovery and the **Claim**.

The duties of the **First Named Insured** hereunder may not be delegated. Nothing contained herein shall relieve the **First Named Insured** from any obligation, including any notification requirements it may have pursuant to applicable laws, rules or regulations.

Written notice shall be given whether or not the **First Named Insured** believes that a **Wrongful Act(s)**, **Pollution Condition(s)**, **Biological Agent Condition(s)** or **Claim** will result in a demand in excess of the Self-Insured Retention.

When a **Pollution Condition(s)**, **Biological Agent Condition(s)** or other circumstance requires an **Insured** to undertake **Emergency Mitigation Actions**, the **First Named Insured** must immediately provide written notice to the Company upon undertaking such **Emergency Mitigation Actions**, but in no event later than seventy-two (72) hours after the **Pollution Condition(s)** or **Biological Agent Condition(s)** has been discovered.

M. NOTICE OF CIRCUMSTANCES

If during the **Policy Period** any **Insured** first becomes aware of any fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** which may reasonably be expected to give rise to a **Claim** that would be covered under this **Policy**, and provided that the **Insured** gives written notice to the Company of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** during the **Policy Period**, then any **Claim** that may subsequently be made against any **Insured** arising out of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)** shall be deemed for purposes of this **Policy** to have been made during the **Policy Period**.

As a condition precedent to exercising its rights hereunder, the **Insured** shall include within any such notice a full description of the fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, or **Biological Agent Condition(s)**, that is the subject of the notice, the nature or extent of the injury or potential damages, the names of the potential claimants, the manner in which the **Insured** first became aware of such fact, circumstance, **Wrongful Act(s)**, **Pollution Condition(s)**, **Biological Agent Condition(s)**, and give the Company any such additional information and cooperation as it may reasonably request.

N. OTHER INSURANCE

This **Policy** shall be in excess of the amount of the applicable Self-Insured Retention of this **Policy** and excess of any other insurance or indemnification available to the **Insured**, whether such insurance or indemnification is collectible or uncollectible, and whether such insurance is stated to be primary, pro rata, contributory, excess, contingent, or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided in this **Policy**. However, under Coverage A, when the **Insured** is required by contract, agreement or permit to include any person or entity as an additional insured, such coverage shall be provided on a primary and non-contributory basis.

O. REPRESENTATIONS AND COVENANTS

The First Named Insured acknowledges and agrees that:

- 1. The information, warranties and representations contained in the **Application** submitted by the **Insured** as well as in all supplemental documents provided herewith are true, correct and complete;
- 2. The Company has issued this **Policy** in specific reliance upon the truth and accuracy of the warranties and representations contained in the **Application**; and
- 3. All activities of the **Insured** have been and will be conducted in full compliance with **Environmental Laws**.

The **Application**, the Declarations and endorsements, if any, are incorporated into, and are part of, this **Policy** and embody all agreements existing between the **First Named Insured** and the Company and supersede all prior agreements, whether written or oral, expressed or implied.

P. SEPARATION OF INSURED

Except with respect to the Limits of Liability, the Insured versus Insured exclusion and the Known Conditions exclusion under the Exclusions section, and any rights or duties specifically assigned to the **Insured**, this **Policy** applies:

- 1. As if each **Insured** were the only **Insured**; and
- 2. Separately to each **Insured** against whom a **Claim** is made.

In the event of any misrepresentation, concealment, breach of condition or violation of any obligation under this **Policy** by any one **Insured**, such misrepresentation, concealment, breach of condition or violation of any obligation will not prejudice any other **Insured** that did not participate or assist in, or have knowledge of, such misrepresentation, concealment, breach of condition or violation of any obligation unless the **Insured** that misrepresented, concealed or breached a term or condition of or violated an obligation under this **Policy** is a parent, subsidiary or affiliate of the **Insured**.

Q. SUBROGATION

In the event that the Company pays any amount under this **Policy**, the Company shall be subrogated to all of each **Insured's** rights of recovery against any person or organization. All **Insureds** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. No **Insured** shall do anything to waive or prejudice such rights. Any recovery obtained through subrogation, after expenses incurred in such subrogation are deducted by the Company, shall be applied first to the **Insured** to the extent of any payments in excess of the Limits of Liability under this **Policy**, if any, then to the Company to the extent of its payment under the **Policy**, and then to the **Insured** to the extent of any retention or deductible. However, if the **Insured** has, prior to the time the **Wrongful Act(s)**, **Pollution Condition(s)**, **Biological Agent Condition(s)** is discovered or the **Damages**, **Bodily Injury**, **Property Damage** or **Cleanup Costs** to which this **Policy** applies takes place, waived subrogation rights against a person or organization in a written contract or agreement, the Company hereby waives any rights of recovery against such person or organization, provided that such person or organization is not a subcontractor of the **Insured**.

R. TERRITORY

This **Policy** only applies to a **Claim** first brought within the United States of America, its territories or possessions, or Canada.

S. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Any rights and duties under this **Policy** may not be transferred without the Company's prior written consent except in the case of death of an individual **Insured**. If an individual **Insured** dies, the rights and duties will be transferred to the individual **Insured's** legal representative but only while acting within the scope of duties as the individual **Insured's** legal representative. Until the individual **Insured's** legal representative is appointed, anyone having proper temporary custody of the individual **Insured's** property will have the individual **Insured's** rights and duties but only with respect to that property.

VIII. DEFINITIONS

Words and phrases in bold in this **Policy** have the following special meaning:

- 1. Ancillary Location means:
 - a. Any location(s) designated on a Scheduled Ancillary Location(s) Endorsement; or
 - b. Any real property owned, occupied, rented or leased by the First Named Insured designated in the Declarations and utilized exclusively as office, warehouse, or vehicle and equipment parking or storage, or a combination thereof, provided that, such location(s) is utilized by the First Named Insured for activities or materials that directly support Covered Operations. Ancillary Location shall not include any property that is leased or rented to third parties for profit.
- 2. **Application** means all **Applications**, including attachments, and all other materials and information provided by the **Insured** to the Company for the purposes of underwriting or issuing this **Policy** or any policy of which this **Policy** is a direct or indirect renewal or replacement.
- 3. **Biological Agents** means any legionella pneumophila, fungi including mold or mildew and any mycotoxins, spores, or byproducts produced or released by fungi.
- 4. **Biological Agent Condition(s)** means the presence of **Biological Agents**, which the **Insured** had not discovered prior to the inception of this **Policy**.

Biological Agent Condition(s) does not include Pollution Condition(s).

- 5. **Bodily Injury** means, sickness, disease, mental anguish, emotional distress or physical injury sustained by any person, including death resulting therefrom. **Bodily Injury** shall also include medical monitoring costs.
- 6. **Cargo** means goods, products or wastes carried for delivery on or within: (a) an automobile, van, truck, trailer or semitrailer designed and registered to travel on public roads; or (b) an aircraft, rolling stock, or watercraft, by a carrier that is properly licensed to transport such goods, products or wastes.
- 7. **Claim(s)** means written notice:
 - a. To an **Insured** seeking to hold any **Insured** responsible for **Cleanup Costs**, **Environmental Damage**, **Bodily Injury**, **Property Damage**, or **Damages**; and
 - b. By the **Insured** seeking coverage for **Cleanup Costs** or **Public Relations Expenses** resulting from **Pollution Condition(s)** or **Biological Agent Condition(s)**.
- Cleanup Costs means the reasonable and necessary costs incurred to investigate, test, sample, monitor, remove, remediate, dispose, treat, neutralize, or immobilize Pollution Condition(s) or Biological Agent(s) to the extent required by Environmental Law in the jurisdiction of such Pollution Condition(s) or Biological Agent(s).

Cleanup Costs shall also include actions undertaken to repair, replace or restore tangible property to substantially the same condition such tangible property was in prior to being damaged during work performed in the course of incurring **Cleanup Costs**.

- 9. **Completed Operations** means **Covered Operations** that have been completed. For the purposes of determining when work has been completed, **Covered Operations** shall be deemed completed at the earliest of the following times:
 - a. When all of the work called for in the **Insured's** contract has been completed;
 - b. When all of the work to be done at the job site has been completed if the **Insured's** contract calls for work at more than one job site; or
 - c. When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

10. Covered Operations means activities performed for third parties, by or on behalf of the Insured, and includes Completed Operations associated with such activities.

Covered Operations includes:

- a. **Transportation**, whether conducted for the movement of the **Insured's** own materials and equipment or provided as a service to third parties; and
- b. Ancillary activities performed by the **Insured** for itself that are necessary for the performance of **Covered Operations** but not directly performed for third parties, including but not limited to temporary use of storage areas, job site preparation, or mobilization of equipment and materials.
- 11. **Damages** means those amounts an **Insured** is legally obligated to pay on account of a **Wrongful Act**.
- 12. **Defense Expenses** means the reasonable and necessary legal costs, charges and expenses incurred by the Company, fees and expenses of any third-party administrator for the Company or, with the prior written approval of the Company, by an **Insured**, in the investigation, adjustment or defense of **Claims. Defense Expenses** do not include salary charges of regular employees or officials of the Company, fees and expenses of supervisory counsel retained by the Company, or the time and expense incurred by the **Insured** in assisting in the investigation of or resolving a **Claim** or in connection with **Cleanup Costs**, including, but not limited to, the cost of the **Insured's** in-house counsel, unless otherwise indicated.
- 13. Design Professional means those qualified persons or entities under written contract with an Insured to perform Professional Services.
- 14. **Design Professionals Insurance** means all available professional liability insurance policies, whether designated as primary or excess, where the **Design Professional** is an insured, including any professional liability insurance issued to design sub consultants.
- 15. **Disciplinary Proceeding** means any proceeding by an administrative, regulatory, or disciplinary official, board, or agency, to investigate charges or allegations of professional misconduct in the performance of or failure to perform **Professional Services**, including an initial inquiry before a state or federal licensing board or peer review committee. However, **Disciplinary Proceeding** shall not include a criminal proceeding or an Organizational Peer Review.

- 16. Emergency Mitigation Action means action that is necessary to clean up a Pollution Condition or Biological Agent Condition has been discovered that presents an immediate, dangerous and significant threat to human health or the environment where any delay by the Insured would cause further injury to persons or damage to property or increase significantly the cost of responding to a potential Claim. Prior written approval from the Company is required after expiration of the 72 hour period before the Insured may incur any additional Cleanup Costs or other costs or expenses to which this Policy would otherwise apply.
- 17. Environmental Damage means physical damage to the environment, including but not limited to surface water, groundwater, soil, flora, or fauna, that results in Cleanup Costs being required. With respect to Biological Agents, Environmental Damage includes physical damage to buildings or structures, or systems within such buildings or structures, that results in Cleanup Costs being required. Environmental Damage shall not include Property Damage.
- 18. Environmental Laws means any federal, state, provincial, foreign or local laws (including, but not limited to, statutes, rules, regulations, ordinances, guidance documents, and governmental, judicial or administrative orders and directives) that are applicable to Pollution Condition(s) or Biological Agent Condition(s).
- 19. First Named Insured means the person(s) or organization(s) described as the First Named Insured in the Declarations.
- 20. **Green Building Materials** means environmentally preferable, sustainable, and/or energy efficient building products or materials that are recognized by The Leadership in Energy and Environmental Design (LEED®), Green Globes Assessment and Rating System, International Green Construction Code or Energy Star.
- 21. Insured means:
 - a. The First Named Insured;
 - b. Any entity of which the **First Named Insured** owns, either legally or beneficially, more than a fifty percent (50%) interest on or before the inception date of this **Policy**;
 - c. Any present or former director, officer, manager, partner, principal, trustee, member, shareholder, employee, volunteer, **temporary worker or leased worker** of the **First Named Insured**, but only while acting within the scope of his/her duties as such;
 - d. Any **Insured** with regard to its participation in a legal entity or joint ventures, but only with respect to **Liabilities** arising out of **Professional Services** or **Covered Operations** performed by or on behalf of the **First Named Insured**; **Insured** does not include the legal entity or joint venture itself, except as respects liability assumed by the **First Named Insured** for a **Pollution Condition** or **Biological Agent Condition**;
 - e. With regard to Coverage A COVERED OPERATIONS only, any client of the **First Named Insured** or entity or person that requires the **First Named Insured** in a written contract, agreement, or permit to add such person or organization to this **Policy** as an "Additional Insured", but only to the extent required and up to the limits required in such written contract or agreement;

- f. The estate, heirs, executors, administrators, and legal representatives of each **Insured** in the event of death, incapacity or bankruptcy, but only with respect to the liability of each **Insured** as otherwise covered by this **Policy**;
- g. Any other person or organization listed as an **Insured** by endorsement to this **Policy**;
- h. Any organization newly formed or acquired by the **First Named Insured** during the **Policy Period** and in which, thereafter, the **First Named Insured** has more than a fifty percent (50%) ownership interest. However, coverage for such organization(s) shall apply:
 - i. Only to **Professional Services** or **Covered Operations** performed on or after the date of formation or acquisition or exercised financial or management control; and
 - ii. Until the ninetieth (90th) day following the date of formation or acquisition or until the end of the **Policy Period**, whichever is earlier. After the ninetieth (90th) day, coverage shall only apply if such organization(s) has been endorsed to the **Policy** by the Company. Before doing so, the Company may, at its sole discretion, require additional information, including but not limited to a completed **Application**, loss history, or information regarding the operations of such organization(s), and may also require an additional premium.

22. Insured Contract means:

- a. With respect to any Claim arising from Covered Operations or Professional Services:
 - i. A contract or agreement with a client in which the **Insured** assumes liability for the operations of subcontractors for work performed on behalf of the **Insured** by such subcontractors;
 - ii. A sidetrack agreement;
 - iii. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or
 - iv. That part of any other contract or agreement pertaining to Covered Operations or Professional Services of the Insured (including an indemnification of a municipality in connection with work performed for a municipality) under which the Insured has assumed the tort liability of another party to pay for Environmental Damage, Cleanup Costs, Bodily Injury, Property Damage or Damages to a third party. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- b. With respect to any **Claim** arising from a **Scheduled Location** or **Ancillary Location**, a contract or agreement that is approved by the Company and scheduled by endorsement to the **Policy** as an **Insured Contract**.

23. Insured Product means:

- a. Any goods or products, other than real property, manufactured, sold, supplied, or distributed by the **Insured**, others trading under the **Insured**'s name or a person or organization whose business or assets the **Insured** has acquired; and
- b. Containers, materials, parts or equipment furnished in connection with such goods or products.

Insured Product includes warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of an **Insured Product** and the providing of or failure to provide warnings or instructions.

Insured Product does not include waste sold or relinquished to a third party to be recycled or reused in lieu of disposal.

- 24. **Interrelated** means having as a common nexus any fact, circumstance, situation, event, transaction, or cause, or series of causally or logically connected facts, circumstances, situations, events, transactions, or causes.
- 25. Mitigation Costs mean those direct costs or expenses that are necessarily incurred, with the prior written consent of the Company, in order to mitigate or rectify Wrongful Act(s), Pollution Condition(s), or Biological Agent Condition(s) that would reasonably be expected to lead to a covered Claim under this Policy. Mitigation Costs do not include any costs or expenses that result in a betterment of the Insured's work.
- 26. **Natural Resource Damages** means physical injury to or destruction of, including the resulting loss of value of, land, fish, wildlife, biota, air, water, groundwater, drinking water supplies and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)), any state or local government, any foreign government, any Native American tribe or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.
- 27. Non-owned Disposal Site means any treatment, storage or disposal facility used by an Insured provided that:
 - a. as of the date the waste or material is treated, stored or disposed of, the site is permitted or licensed by the applicable federal, state, local or provincial authorities to accept such waste or material,
 - b. as of the inception date of this **Policy** is not a Superfund Site or currently being investigated under the Comprehensive Environmental Response Compensation and Liability Act of 1980.

Non-owned Disposal Site does not include any treatment, storage or disposal facility that is owned, operated, managed leased or rented at any time by an **Insured** or any subsidiary or affiliate.

- 28. **Policy** means this document as well as the **Application**, all endorsements, the Declarations, modifications and addenda thereto.
- 29. **Policy Period** means the period set forth in the Declarations, any shorter period arising as a result of cancellation or any other period as changed by endorsement.
- 30. Pollutant(s) means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, toxic chemicals, liquids or gases, other irritants or contaminants or any discarded materials of any kind. Pollutant(s) includes electromagnetic fields, medical waste, and low level radiological material. Pollutant(s) also includes silt or sedimentation originating from a job site at which Covered Operations are being performed that has migrated off such job site.

Pollutants shall not include:

- a. "Source Material," "Special Nuclear Material" or "By-product Material" as such terms are defined in the Atomic Energy Act of 1954;
- b. Any materials described in a. above for which the **Insured** is protected under the Price Anderson Act, or under any indemnity from the United States Department of Energy or any governmental authority of the United States or any other nation; or
- c. Biological Agents.
- 31. **Pollution Condition(s)** means the discharge, dispersal, release or escape of **Pollutants**. **Pollution Condition(s)** includes the illicit abandonment of **Pollutants** at a **Scheduled Location**, **Ancillary Location** or job site at which **Covered Operations** are being performed, provided that such illicit abandonment was committed by a person or organization that is not an **Insured**, and without the knowledge of an **Insured**.

Pollution Condition(s) does not include a Biological Agent Condition(s).

- 32. **Professional Services** means services performed for third parties, by or on behalf of the **Insured** as follows:
 - a. only those services the **Insured** is qualified to perform for others in the **Insured's** capacity as an architect, engineer, land surveyor, landscape architect, construction manager, interior designer, environmental consultant, scientist, land planner, or space planner; or as an expert witness, technical consultant, or LEED Certification Consultant with respect to the foregoing listed services;.
 - b. construction management, program management, project management, owner's representation and any design delegated responsibility or design assist performed by the **Insured**, including but not limited to constructability reviews or value engineering;
 - c. professional services with respect to any Building Information Modeling (BIM) systems, including but not limited to modification or alteration, transfer, protection, manipulation, use or misuse thereof; or
 - d. ordinary technology services utilized in the performance of **Professional Services** described above. Such technology services include the design, development, programming, analysis, training, use, hosting, management, support and maintenance of any software, database, internet service, or website.

Professional Services do not include any activities in connection with construction means, methods or techniques; site safety; crane erection and use; scaffolding; or any temporary fencing or structures.

33. Property Damage means:

- a. Physical injury to or destruction of tangible property of persons or organizations other than the **Insured**, including the resulting loss of use and diminution in value thereof;
- b. Loss of use of tangible property of persons or organizations other than the **Insured** that has not been physically injured or destroyed, excluding any diminution in value of such property;

c. Natural Resource Damages; or

d. The diminution of value of tangible property of persons or organizations other than the Insured that is directly attributable to the effects of Pollution Condition(s) or Biological Agent Condition(s);

but only to the extent the above injuries are not already remedied by **Cleanup Costs**. For purposes of determining the extent, if any, of diminution in value, the value of the tangible property injured shall equal the replacement cost of such property reduced by physical depreciation and obsolescence as of the time the damage to such tangible property was sustained.

Property Damage does not include Cleanup Costs and Environmental Damage.

For the purposes of this definition of **Property Damage** only, the definition of **Insured** shall not include:

- i. Clients for whom the Covered Operations are or were performed;
- ii. Owners, financiers or lenders of a project at which **Covered Operations** are or were performed;
- iii. Owners or managers of real property at which Covered Operations are or were performed;
- iv. Owners of equipment or property leased, rented or borrowed by the **Named Insured** or by those performing **Covered Operations** on behalf of the **Named Insured**, but only with respect to **Covered Operations**; or
- v. Persons or organizations added to the **Policy** as additional **Insureds** by endorsement.
- 34. Protective Claim means a written demand, demand for arbitration or mediation or a suit instituted by the Insured against the Design Professional seeking a remedy and alleging liability or responsibility on the part of such Design Professional arising from a Wrongful Act(s) in the performance or failure to perform Professional Services. Protective Claim does not include a demand or proceeding for non-monetary or injunctive relief.
- 35. **Public Relation Expenses** means reasonable and necessary expenses incurred by the **Insured**, and with the Company's prior written consent:
 - a. After a newspaper or magazine publication or television news broadcast alleging responsibility on the part of an **Insured** for a **Wrongful Act(s)**, **Pollution Condition(s)** or **Biological Agent Condition(s)**;
 - b. For public relations or crisis management firms to restore public reputation and consumer confidence relating to the **Insured**;
 - c. At the request or recommendation of such public relations or crisis management firms, including any advertisement in any media if the Company provides its prior written consent to such advertisement; and
 - d. provided that such expenses are incurred within fourteen (14) days of the first such publication or broadcast and within thirty (30) days of the commencement of the Wrongful Act(s), Pollution Condition(s) or Biological Agent Condition(s).

- 36. **Responsible Person** means any officer, director, partner or other employee responsible for environmental affairs of the **Insured**.
- 37. **Retroactive Date** means:
 - a. With respect to any **Covered Operations** or **Professional Services**, the date described as such and set forth in the Declarations or any applicable endorsement to the **Policy**, which is the earliest date that any **Covered Operations** or **Professional Services** can be performed for any coverage to be provided under this **Policy**; and
 - b. With respect to any Scheduled Location(s), the date described as such and set forth in the Declarations, on a Scheduled Location(s) Endorsement, or any applicable endorsement to the Policy, which is the earliest date that a Pollution Condition(s) or Biological Agent Condition(s) can commence for any coverage to be provided under this Policy.
- 38. Scheduled Location means any location(s) designated on a Scheduled Location(s) Endorsement.
- 39. Termination Date means the effective date and hour of cancellation or expiration of this Policy.
- 40. Transportation means the movement of Cargo from its point of origin to the place of final delivery, including the loading or unloading of such Cargo. Transportation does not include (i) any movement within the legal boundaries of a Scheduled Location, Ancillary Location or Non-owned Disposal Site, or (ii) any intentional dispersal or release of Cargo from an aircraft.
- 41. Ultimate Loss means the amount the Insured is legally entitled to recover from each responsible Design Professional either by final adjudication by a court of competent jurisdiction, settlement, arbitration or any other method of dispute resolution to which the Company agrees in writing. Such Ultimate Loss must be the result of a Wrongful Act(s) of a Design Professional. In the event that multiple Design Professionals cause the same or related loss, the amount of Ultimate Loss shall not exceed the single loss caused by such multiple Design Professionals.
- 42. Wrongful Act means an actual or alleged negligent act, error or omission committed or attempted in the performance of, or failure to perform, **Professional Services**.



EXHIBIT E

GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

GEORGIA E-Verify and Public Contracts: The Georgia E-Verify law requires contractors and all sub-contractors on Georgia public contract (contracts with a government agency) for the physical performance of services over \$2,499 in value to enroll in E-Verify, regardless of the number of employees.

Contractor Name:	Georgia Paving LLC
Solicitation/Bid number or Project Description:	ITB 2025-004 ROAD AND CURB DRAINAGE REPAIRS

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, entity or corporation which is engaged in the physical performance of services under a contract on behalf of the <u>City of Tucker, Georgia</u> has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period as required by O.C.G.A. § 13-10-91(b) and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present and affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

582230731

Federal Work Authorization User Identification Number (EEV/E-Verify Company Identification Number)

Georgia Paving LLC

Name of Contractor

I hereby declare under penalty of perjury that the foregoing is true and correct

Kevin House

Printed Name (of Authorized Officer or Agent of Contractor)

Signature (of Authorized Officer or Agent)

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

22 DAY OF

Notary Public

My Commission Expires: 9-2-26

6/27/2008

Date of Authorization

Vice President of Operations

Title (of Authorized Officer or Agent of Contractor)

125

Date Signed

[NOTARY SEAL]



EXHIBIT F

CITY OF TUCKER

ACKNOWLEDGE RECEIPT OF ADDENDUM #1

ITB 2025-004 ROAD AND CURB DRAINAGE REPAIRS

Please print this page and add to your submittal.

I hereby acknowledge receipt of the supplement pertaining to the above referenced bid.

COMPANY NAME: Georgia Paving LL	С	
CONTACT PERSON: Hannah Livingsto	n	1
ADDRESS: 3625 Buford Highway		
CITY: Duluth	STATE: GA	ZIP: <u>30096</u>
PHONE: 404-229-7957	FAX:	
EMAIL ADDRESS: hlivingston@georgia	apaving.com	6
4th	4/22/2025	
SIGNATURE	DATE	- ad V
hed		orate
"shed 1892	₩ Incor	pe

EXHIBIT F

CITY OF TUCKER

ACKNOWLEDGE RECEIPT OF ADDENDUM #2

ITB 2025-004 ROAD AND CURB DRAINAGE REPAIRS

Please print this page and add to your submittal.

I hereby acknowledge receipt of the supplement pertaining to the above referenced bid.

COMPANY NAME: Georgia Paving L	LC		
CONTACT PERSON: Hannah Livingst			1
ADDRESS: <u>3625 Buford Highway</u>		35	
CITY: Duluth	STATE: <u>GA</u>	ZIP: <u>30096</u>	
PHONE: 404-229-7957	FAX:		
EMAIL ADDRESS: hlivingston@georg	iapaving.com	9	
H.h.	4/22/25		<u> </u>
SIGNATURE	DATE	-01	
'shed		orate	
⁻⁴ 189	2 ¥ Incor	por	

AUG/CER. GEORO

EXHIBIT G

OATH OF NON-COLLUSION

	COMES NOW,	Georgia Paving LLC	("Contractor"),
		[name of Contractor]	
appe	aring by and through	Kevin House	,
	[name	e of individual with authority to bind	Contractor]
its	Vice President of Operation	ns ("Individual And Represe	entative Affiant"), and
	[title]	a na kana kana kana kana kana kana kana	
-			
_			

[insert the names of all those required to give the oath]

(collectively, "Individual Affiants"), and each of the Individual And Representative Affiant and

Individual Affiants, after first being duly sworn, deposes and says that:

1. Contractor has not directly or indirectly violated subsection (d) of the Official Code of

Georgia Annotated Section 36-91-21, which provides as follows:

Whenever a public works construction contract for any governmental entity subject to the requirements of this chapter is to be let out by competitive sealed bid or proposal, no person, by himself or herself or otherwise, shall prevent or attempt to prevent competition in such bidding or proposals by any means whatever. No person who desires to procure such work for himself or herself or for another shall prevent or endeavor to prevent anyone from making a bid or proposal therefor by any means whatever, nor shall such person so desiring the work cause or induce another to withdraw a bid or proposal for the work.

Code Section 36-91-21(d) also applies to municipal street system contracts pursuant to

Official Code of Georgia Annotated Section 32-4-122.

2. Individual And Representative Affiant is the officer of Contractor whose duty it is to make the payment.

- 3. If Contractor is a partnership, then Individual and Representative Affiant and Individual Affiants together constitute all of the partners and any officer, agent or other person who may have represented or acted for Contractor in bidding for or procuring the contract.
- 4. If Contractor is a corporation, then Individual and Representative Affiant and Individual Affiants together constitute all officers, agents, or other persons who may have acted for or represented Contractor in bidding for or procuring the contract.

Further affiants sayeth not.

This 22 day of April , 2025.

By:

[signature of Individual And Representative Affiant]

Name: Kevin House

Title: Vice President of Operations

____, individually and on behalf of Contractor

Individual Affiants' signatures and names:

Name:

Name:

Name:

Name:

Name:

Subscribed and Sworn before me on this .2025 day of ADRI

NOTARY PUBLIC My Commission Expires:

-2-26

Name:



HOLD FOR EXHIBIT H: PERFORMANCE AND PAYMENT BONDS

Contact Information Form

Please fill out this form with the appropriate contact information for your company.

Full Legal Name of Company: Georgia Paving LLC
Date: <u>4/22/2025</u>
Contractor Information:
Primary Contact Person: Hannah Livingston
Title: Sales Representative Telephone Number: 404-229-7957
E-mail Address: hlivingston@georgiapaving.com
Secondary Contact Person: Kevin House
Title: Vice President of Operations Telephone Number: 706-983-1041
E-mail Address: khouse@georgiapaving.com
Preferred Contact for Administration: (i.e. Document Processing) (Choose one)
Primary Contact Secondary Contact
Address: 3625 Buford Highway
City / State / Zip:Duluth, GA 30096
Mailing Address (If different than above):
City / State / Zip:

Federal Employee ID Number (FEIN): <u>582230731</u>