

# CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number \_\_\_\_\_

Meeting Type: Regular

Meeting Date: 1/23/2014

Action Requested By:  
Public Transit

Agenda Item Type  
Resolution

**Subject Matter:**

Resolution to renew Agreement with McGriff, Seibels & Williams to provide General Liability Insurance for Revenue Vehicles

**Exact Wording for the Agenda:**

Resolution to renew Agreement with McGriff, Seibels & Williams to provide General Liability Insurance for Transit Revenue Vehicles.

**Note: If amendment, please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

This resolution is a continuation of an existing agreement between the City of Huntsville and McGriff, Seibels & Williams to provide general liability insurance for Transit Revenue Vehicles, the Shuttle and Handi-Ride Fleet. This expenditure will be federally funded at 50% through FTA.

Associated Cost:

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: \_\_\_\_\_

Date: 1/23/2014

## ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Public Transit

Council Meeting Date: 1/23/2014

Department Contact: **Kim Smith**

Phone # 256-427-6831

Contract or Agreement: **Agreement with McGriff, Seibels & Williams**

Document Name: **Policy for Insurance with McGriff, Seibels & Williams**

City Obligation Amount: **166,716.00**

Total Project Budget: **166,716.00** ✓

Uncommitted Account Balance: **\$0**

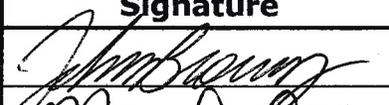
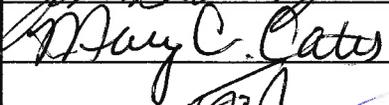
Account Number: **01-8700-603-3400**

### Procurement Agreements

<b>Not Applicable</b>	<b>Not Applicable</b>
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### Grant-Funded Agreements

<b>Federal Transit</b>	AL-90-X217	<b>Grant Name:</b>
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Department	Signature	Date
1) Originating		1-15-14
2) Legal		1-16-14
3) Finance 		1/14
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 14-\_\_\_\_\_

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, the Mayor be and is authorized to enter into a policy for insurance with McGriff, Seibels and Williams, Inc., for General Liability Insurance on Public Transit fleet of revenue vehicles, in the amount of one hundred sixty-six thousand, seven hundred and sixteen dollars and no cents (\$166,716.00), which insurance policy is substantially in words and figures similar to that certain document attached hereto and identified as "Policy for Insurance with McGriff, Seibels and Williams, Inc.", consisting of sixty (61) pages and the date of January 23, 2014, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, a copy of said document being permanently kept on file on the Office of the City Clerk-Treasurer, of the City of Huntsville, Alabama.

**ADOPTED** this the 23rd day of January, 2014.

\_\_\_\_\_  
President of the City Council of the  
City of Huntsville, Alabama

**APPROVED** this the 23rd day of January, 2014.

\_\_\_\_\_  
Mayor of the City of Huntsville,  
Alabama





## Account Service Team

### Servicing Office Location

McGriff, Seibels & Williams, Inc.  
 2211 7<sup>th</sup> Avenue South  
 Birmingham, Alabama 35233  
 (800) 476-2211  
 (205) 252-9871  
 (205) 581-9300 fax  
[www.mcgriff.com](http://www.mcgriff.com)

## Service Team Contacts

Team Member	Contact Information
<b>Greg Womack</b> <i>Senior Vice President</i>	Direct Number: (205) 581-9454 E-Mail: <a href="mailto:gwom@mcgriff.com">gwom@mcgriff.com</a>
<b>Susan Joe</b> <i>Marketing Account Executive</i>	Direct Number: (205) 581-9450 E-Mail: <a href="mailto:sjoe@mcgriff.com">sjoe@mcgriff.com</a>
<b>Margaret Wells</b> <i>Account Service Representative</i>	Direct Number: (205) 581-9440 E-Mail: <a href="mailto:mwel@mcgriff.com">mwel@mcgriff.com</a>

## Claims Service Team

Team Member	Contact Information
<b>For Automobile Claims</b> <b>Judy Franklin</b> <i>Sr. Claims Service Representative</i>	Direct Number: (205) 583-9867 Fax Number: (205) 581-9195 E-Mail: <a href="mailto:jfra@mcgriff.com">jfra@mcgriff.com</a>
<b>For Litigation or Major Claims Problems</b> <b>Shane Sumrall</b> <i>Vice President</i>	Direct Number: (205) 581-9460 Fax Number: (205) 581-9195 E-Mail: <a href="mailto:ssumrall@mcgriff.com">ssumrall@mcgriff.com</a>



## Business Automobile

**Insurance Company:** Alabama Municipal Insurance Corporation

**A. M. Best Rating:** B++ V

**Limits of Liability:**

Limit	Description	Symbol
\$ 5,000,000	Bodily Injury and Property Damage – Combined Single Limit per Occurrence	1
\$ 25,000/ \$ 50,000	Uninsured/Underinsured Motorist – Limit per Occurrence	2
\$ 5,000	Medical Payments – Each Person	2
\$1,000/\$1,000	Collision & Comprehensive	7

**Deductibles:** See Attached Schedule

**Key Coverage Amendments:**

- Hired/Non-Owned Liability



## Fleet Schedule

Flt#	Model Year	Make	Model	Serial #	Comp	Coll
1	2001	Chevrolet	G3500	1GAHG39R611213606	1000	1000
2	2004	Eldorado Natl	Transmark RE	1N9TBAC694C084157	1000	1000
3	2004	Eldorado Natl	Transmark RE	1N9TBAC604C084158	1000	1000
4	2004	Eldorado Natl	Transmark RE	1N9TBAC624C084159	1000	1000
5	2005	Eldorado	National Bus	1N9TBAC615C084154	1000	1000
6	1997	Trolley Bus		4UZ62FAA8VC844402	1000	1000
7	2006	Goshen Coach	E35E	1FDWE35L16DA32162	1000	1000
8	2006	Goshen Coach	E35E Van	1FDWE35L86DA32157	1000	1000
9	2006	Goshen Coach	E35E	1FDWE35LX6DA32161	1000	1000
10	2007	Eldorado Bus		1N9TBAC607C084178	1000	1000
11	2007	Eldorado Bus		1N9TBAC607C084179	1000	1000
12	2007	Eldorado Bus		1N9TBAC607C084181	1000	1000
13	2008	Goshen Pacer 11		1FDWE35L97DB36593	1000	1000
14	2008	Eldorado	Transmark RE	1N9TBAC699C084165	1000	1000
15	2008	Eldorado Bus	Transmark RE	1N9TBAC609C084166	1000	1000
16	2008	Eldorado Bus	Transmark RE	1N9TBAC629C084167	1000	1000
17	2008	Goshen Coach	Ford 350 Pacer	1FD3E35LX8DB51589	1000	1000
18	2008	Goshen Coach	Ford 350 Pacer	1FD3E35LX8DB51592	1000	1000
19	2008	Goshen Coach	Ford 350	1FD3E35L38DB51594	1000	1000
20	2008	Goshen Coach	Ford 350	1FD3E35L78DB51596	1000	1000
21	2008	Goshen Coach	Ford 350	1FD3E35L98DB51597	1000	1000
22	2009	Ford	E350 Pacer II Van	1FDEE35L29DA61797	1000	1000
23	2009	Ford	E350 Pacer II Van	1FDEE35L49DA61798	1000	1000
24	2010	Goshen Coach	Ford 350 Pacer II	1FDEE3FL7ADA03672	1000	1000
25	2010	Goshen Coach	Ford 350 Pacer II	1FDEE3FL6ADA01332	1000	1000
26	2010	Goshen Coach	Ford 350 Pacer II	1FDEE3FL8ADA01333	1000	1000
27	2009	Eldorado Natl	Transmark RE	1N9TBAC62AC084125	1000	1000
28	2009	Eldorado Natl	Transmark RE	1N9TBAC64AC084126	1000	1000
29	2011	Eldorado National	Transmark RE	1N9TBAC61BC084148	1000	1000
30	2011	Eldorado National	Transmark RE	1N9TBAC63BC084149	1000	1000
31	2011	Eldorado National	Transmark RE	1N9TBAC6XBC084150	1000	1000
32	2011	Goshen Coach	Ford 350 Pacer II	1FDEE3FL2BDA37181	1000	1000
33	2011	Goshen Coach	Ford 350 Pacer II	1FDEE3FL4BDA37182	1000	1000
34	2011	Goshen Coach	Ford 350 Pacer II	1FDEE3FL6BDA37183	1000	1000
35	2012	Ford Goshen	E350 Van	1FDEE3FL4CDB11105	1000	1000
36	2012	Ford Goshen	E350 Van	1FDEE3FL9CDB04800	1000	1000
37	2012	Ford Goshen	E350 Van	1FDEE3FL0CDB04801	1000	1000
38	2012	StarTran	Trolley	4UZABODTOBBCS3978	1000	1000
39	2013	Eldorado	Transmark	1N9TBAC63DC084221	1000	1000
40	2013	Eldorado	Transmark	1N9TBAC65DC084222	1000	1000
41	2013	Ford Goshen	Pacer II	1FDEE3FL1DDA15367	1000	1000
42	2013	Ford Goshen	Pacer II	1FDEE3FL3DDA15368	1000	1000
43	2013	Ford Goshen	Pacer II	1FDEE3FL3DDA15369	1000	1000



Symbol Definitions:		
Symbol	Description of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
4	Owned "Autos" Other than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
5	Owned "Autos" Subject to No-Fault	Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have No-Fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject to a Compulsory Uninsured Motorist Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorist Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorist requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three)
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent, or borrow from your "employees", partners (if you are a partnership), members (if you are a Limited Liability Company), or members of their households.
9	Non-Owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a Limited Liability Company), or members of their households but only while used in your business or your personal affairs.
10		To Be Determined

**Notes:**

- If you have a symbol 7, all newly acquired autos must be reported immediately as there is no automatic coverage.
- Some car rental companies are now charging for diminution of value, loss of use, administration fees and the estimated retail value of the rental car, if damaged. These items are not typically covered by commercial automobile policies and there may be some potential coverage gaps.
- Contractor's Equipment subject to Motor Vehicle Laws is no longer automatically covered on most Commercial General Liability Policies. This equipment must be scheduled on a Business Automobile Policy. If you have such equipment, please notify us.



December 6, 2013

City of Huntsville  
P.O. Box 308  
Huntsville, AL 35804

RE: Insurer Financial Security

Dear Kim:

We have endeavored to place your business insurance coverage with providers that have displayed evidence of strong financial condition. However, this provider has not been the subject of a satisfactory review by our Security Review Committee within the last twelve months. In these circumstances, the operating procedures of McGriff, Seibels & Williams, Inc. require specific approval from our client before coverage is bound. We therefore request that you authorize the use of this provider by signing and returning the attached copy of this letter.

McGriff, Seibels & Williams, Inc., acting in its capacity as an insurance broker, makes no judgment concerning the financial strength of this provider nor does it accept any responsibility for the financial performance of this or any security. Financial strength and performance of this and any other provider is ultimately the responsibility of the insurance provider and its management.

Sincerely,

Greg Wornack  
Senior Vice President

Placement approved by

Title:

PUBLIC TRANSIT MANAGER

Date: \_\_\_\_\_

SIGNED ORIGINAL W/ TB  
APPROVAL 12/17/13



## Premium Summary

	<b>Expiring</b>	<b>Renewal</b>
<b>Business Automobile</b>	\$ 167,214	\$ 166,716



## Disclaimer

This Proposal of Insurance is to be used only as an overview of each policy written and in no way should it be used, nor is intended to be used, as a substitute for the original policy provisions. It has been prepared as a guideline for your reference only

The policy/policies contain conditions, limitations and exclusions which may affect or limit coverage to be provided and should be reviewed by the insured to verify that coverage has been written as requested.

All of the information contained in this proposal is subject to the terms, conditions and limitations contained in the policies. Values are based on information provided by the client.

THIS DOCUMENT IS PROPRIETARY, CONFIDENTIAL AND/OR PRIVILEGED AND IS INTENDED TO BE REVIEWED ONLY BY THE INDIVIDUAL AND/OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OR A REPRESENTATIVE OF THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, COPYING, DISCLOSURE AND/OR DISSEMINATION OF THIS DOCUMENT OR THE INFORMATION CONTAINED HEREIN IS PROHIBITED.



## Compensation Statement

Our principal remuneration for the placement and service of your insurance policy(ies) will be by commission (a proportion of the premium paid that is allowed to us by the insurance company(ies)) and/or a mutually agreed fee.

You should be aware that we may receive additional income from the following sources:

- **Interest or Investment Income** earned on insurance premiums.
- **Expense Allowances or Reimbursements** from insurance companies and other vendors for (a) educational and professional development programs; (b) managing and administering certain binding authorities and other similar facilities, including claims which may arise, and (c) attendance at insurance company meetings and events; all of which we believe enable us to provide more efficient service and competitive terms to those clients for whom we consider the use of such facilities appropriate.
- **Contingent Commission** (sometimes referred to as "profit sharing") which can be based on profitability, premium volume and/or growth. If any part of your account is on a fee basis, we will not accept contingent commissions related to your account.

If you have questions or desire additional information about remuneration and other income, please contact your Agent who will put you in touch with our Senior Insurance Market Conduct Officer for assistance. If any part of your insurance program is placed through any BB&T-owned companies (including wholesale insurance brokers CRC Insurance Services, Inc. and Crump Life Insurance Services, Inc.; Florida domiciled insurance company, American Coastal Insurance Company; managing general underwriter AmRisc, LP; insurance premium finance company, Prime Rate Premium Finance Corporation, Inc. or affiliates; or BB&T Assurance Company, Ltd.), disclosure of that income will also be included.

6/13 Ed



## Provider Security Standards

The following is a brief summary of the measures that we have taken as your broker to review and report to you objectively on the financial security of your insuring companies. Information is included on A.M. Best Company, our primary security rating source, and the internal policies and standards, which we have established to address this important issue for our customers.

### MSW Security Review:

McGriff, Seibels & Williams has established an internal "Security Review Committee" composed of senior management representatives from the Finance, Marketing, Branch, Wholesale and Administrative Divisions of the company. This committee's purpose is to develop and implement all policies, procedures and standards for the financial security of all insurers, intermediaries and associations used by MSW and its subsidiary companies.

This committee meets periodically to review the current listing of all companies, intermediaries and associations, which are actively used by MSW. It will also act on any pending requests received from throughout the company to have new providers activated, and to deactivate any providers that do not meet current MSW standards.

### MSW Provider Classifications:

- **"Approved Provider"** is any provider whose Best's rating is A- VIII or higher. The Best's rating of an "approved" provider must be printed on all MSW binders and proposals delivered to clients or prospects.
- **"Acceptable Provider"** is any provider whose Best's rating is B+ VIII or higher, but below A - VIII. The Best's rating of an "acceptable" provider must be printed on all MSW binders and proposals delivered to clients or prospects. Additionally, a copy of the latest Best Financial Overview Report on the provider in question will be printed and attached at the time of proposal and at binding.
- **"Restricted Provider"** is any provider whose Best's rating is B+ VII or lower, or who has no Best's rating and has not been given an exception by the Security Review Committee, including those listed not rated (NR) and any provider not shown in AM Best. Additionally, a copy of the latest Best Financial Overview Report, if available, on the provider in question will be printed and attached at the time of proposal and at binding. Restricted Providers will be bound only upon presentation of a Standard Disclaimer Letter and signed by the client acknowledging they are authorizing MSW to place their coverage with the provider in question. This must be done at each renewal.
- **"Exception Provider"** is certain providers, which have been reviewed by the Security Review Committee, are considered acceptable security. Just like the acceptable provider, the client will not be required to sign any form of disclaimer or acknowledgment of receipt of this information. A copy of the latest Best Financial Overview Report, if available, on the provider in question will be printed and attached at the time of proposal and at binding.



Providers approved by MSW with A.M. Best downgrade rating changes will be posted on our website ([www.mcgriff.com](http://www.mcgriff.com)). Rate changes that result in an Approved or Acceptable provider moving to a lower classification (e.g. downgraded from "Approved" or "Acceptable" to "Restricted") will be communicated to you in writing and delivered via U.S. mail.

#### A.M. Best Rating System:

##### History:

A.M. Best Company was incorporated in 1899 as the first rating agency in the world to offer reliable information on the financial condition of U.S. insurance companies. The *Best's Rating Guide* was first published in 1900, and has since become a cornerstone of the security review process by continuously evaluating the financial integrity of over 4,100 insurance companies. In 1984, the first edition of the *Best's International Rating Guide* was published, reporting on the claims-paying ability of over 950 international insurers.

The information used by Best to rate insurance carriers is provided by the companies themselves as a part of their normal filings with the National Association of Insurance Commissioners, those states in which the company is licensed, the SEC and/or with its shareholders. Rating reviews are performed annually on each insurance company, and on an interim basis as conditions dictate.

##### Best's Rating System:

The Best's rating system is designed to evaluate a wide range of objective and subjective factors that affect the overall performance of an insurance company (not applicable to associations or intermediaries). These factors deal with the company's financial strength, its operating performance and its ability to meet its financial obligations to policyholders, as follows:

- |                                         |                                        |
|-----------------------------------------|----------------------------------------|
| * Profitability                         | * Spread of risk                       |
| * Quality of reinsurance program        | * Leverage/Capitalization              |
| * Quality and diversification of assets | * Liquidity                            |
| * Adequacy of policy loss reserves      | * Adequacy of policyholder's surplus   |
| * Capital structure                     | * Management experience and objectives |

##### Best's Rating Symbols:

A typical Best's rating is composed of two parts. The "**Security**" portion provides an alphabetical indication of the quality of the security provided by a company to its policyholders. This rating is further defined in three categories, "Secure", "Vulnerable" or "Not Assigned". The "**Financial Size**" (FSC) portion of the Best's rating uses Roman numerals to rank companies based on the dollar amount of their policyholder's surplus and contingent reserve funds.

While comparative rankings for security or financial size by themselves may not adequately portray the complete financial health of a company, the combination of the two has proven to be reliable in predicting the ability of a company to meet its claims obligations in a timely manner, both now and in the near future. The actual rating symbols used by Best and their meanings are:



<b>"Secure" Ratings</b>	<b>A++ or A+</b>	Superior
	<b>A or A-</b>	Excellent
	<b>B++ or B+</b>	Good
<b>"Vulnerable" Ratings</b>	<b>B or B-</b>	Fair
	<b>C++ or C+</b>	Marginal
	<b>C or C-</b>	Weak
	<b>D</b>	Poor
	<b>E</b>	Under Supervision
	<b>F</b>	In Liquidation
	<b>S</b>	Suspended

**"NR" Not Rated Designation:**

Assigned to companies not rated by A.M. Best.

**Financial Size Categories:**

<b>I</b>	Under \$1,000,000	<b>VIII</b>	100,000,000 – 250,000,000
<b>II</b>	1,000,000 – 2,000,000	<b>IX</b>	250,000,000 – 500,000,000
<b>III</b>	2,000,000 – 5,000,000	<b>X</b>	500,000,000 – 750,000,000
<b>IV</b>	5,000,000 – 10,000,000	<b>XI</b>	750,000,000 – 1,000,000,000
<b>V</b>	10,000,000 – 25,000,000	<b>XII</b>	1,000,000,000 – 1,250,000,000
<b>VI</b>	25,000,000 – 50,000,000	<b>XIII</b>	1,250,000,000 – 1,500,000,000
<b>VII</b>	50,000,000 – 100,000,000	<b>XIV</b>	1,500,000,000 – 2,000,000,000
		<b>XV</b>	Over \$2,000,000,000

Source: *Best's Key Rating Guide – 2012 Edition*

# ALABAMA MUNICIPAL INSURANCE CORPORATION

## COMMON POLICY CONDITIONS

### 1. Assignment.

Assignment of interest under this Policy shall not be binding on us unless our consent is endorsed on the Policy.

### 2. Insolvency or Bankruptcy.

Bankruptcy or insolvency of the Insured will not relieve us of our obligation under any of these Policy Provisions.

### 3. Inspection and Surveys

We have the right but are not obligated to:

- a. Make inspections and surveys at any time;
- b. Give you reports on the conditions we find; and
- c. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. We do not warrant that conditions:

- (1) Are safe or healthful; or
- (2) Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

### 4. Examination of Your Books and Records

We may examine and audit your books and records as they relate this policy at any time during the policy period and up to three years afterward.

### 5. Cancellation and Non-Renewal.

- a. The first Named Insured in the Declarations may cancel this Policy by mailing or delivering to us advance written notice.
- b. We may cancel this Policy by mailing or delivering to you written notice of cancellation at least:
  - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of Premium; or
  - (2) 45 days before the effective date of cancellation if we cancel for any other reason.
- c. We will mail our notice via certified mail to your last mailing address known to us.
- d. Proof of mailing the cancellation notice to you will constitute proper notification of cancellation.
- e. If this Policy is canceled by us, we will refund any premium due you. The cancellation will be effective even if we have not offered a refund.

### 6. Changes.

This Policy contains all the agreements between you and us concerning the Insurance afforded. You are authorized to make changes in the terms of this Policy with our consent. The terms of this Policy can be amended or waived only by endorsement issued by us and made a part of this Policy.

### 7. Premiums.

- a. We will compute all premiums for this Policy in accordance with our rules and rates.
- b. You must keep records of the information we need for premium computation and send copies to us at such times as we may reasonably request.

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

## **CALCULATION OF PREMIUM**

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART  
BUSINESSOWNERS POLICY  
COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL CRIME COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
FARM COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
PROFESSIONAL LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY – NEW YORK

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

POLICY NUMBER:

IL 09 86 03 08

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# EXCLUSION OF CERTIFIED ACTS OF TERRORISM INVOLVING NUCLEAR, BIOLOGICAL, CHEMICAL OR RADIOLOGICAL TERRORISM; CAP ON COVERED CERTIFIED ACTS LOSSES

This endorsement modifies insurance provided under the following:

- BOILER AND MACHINERY COVERAGE PART
- COMMERCIAL INLAND MARINE COVERAGE PART
- COMMERCIAL PROPERTY COVERAGE PART
- CRIME AND FIDELITY COVERAGE PART
- EQUIPMENT BREAKDOWN COVERAGE PART
- FARM COVERAGE PART
- STANDARD PROPERTY POLICY

## SCHEDULE

The **Exception Covering Certain Fire Losses** (Paragraph C) applies to property located in the following state(s), if covered under the indicated Coverage Form, Coverage Part or Policy:

State(s)	Coverage Form, Coverage Part Or Policy
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. The following definition is added with respect to the provisions of this endorsement:

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

B. The following exclusion is added:

**LIMITED EXCLUSION OF CERTIFIED ACTS OF TERRORISM**

We will not pay for loss or damage caused directly or indirectly by a "certified act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. But this exclusion applies only when one or more of the following are attributed to such act:

1. The terrorism is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the terrorism was to release such material; or
3. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical material; or
4. Pathogenic or poisonous biological or chemical material is released, and it appears that one purpose of the terrorism was to release such material.

When this terrorism exclusion applies in accordance with the terms of Paragraph B.1. or B.2., the terrorism exclusion applies without regard to the Nuclear Hazard Exclusion in this Coverage Part or Policy.

**C. Exception Covering Certain Fire Losses**

The following exception to the exclusion in Paragraph B. applies only if indicated and as indicated in the Schedule of this endorsement.

If a "certified act of terrorism" excluded under Paragraph B. results in fire, we will pay for the loss or damage caused by that fire, subject to all applicable policy provisions including the Limit of Insurance on the affected property. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under Business Income and/or Extra Expense coverage forms or endorsements that apply to those coverage forms, or to the Legal Liability Coverage Form or the Leasehold Interest Coverage Form.

**D. Cap On Certified Terrorism Losses**

The following limitation applies to coverage for any one or more "certified acts of terrorism" that are not excluded by the terms of the exclusion in Paragraph B. and to any loss or damage that is covered and to which the exception in Paragraph C. applies:

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

This Paragraph, D., does not apply to insurance provided under the Crime And Fidelity Coverage Part.

**E. Application Of Exclusions**

The terms and limitations of any terrorism exclusion, or the non-applicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Part or Policy, such as losses excluded by the War And Military Action Exclusion.

**ALABAMA MUNICIPAL INSURANCE CORPORATION**  
**COMMERCIAL AUTO COVERAGE PART**  
**BUSINESS AUTO COVERAGE FORM DECLARATIONS**

POLICY NO: 1004947672141

EFFECTIVE DATE: 02/01/2011

12:01 A.M., Standard Time

ITEM ONE - NAMED INSURED: CITY OF HUNTSVILLE

TERRITORY: Town & State where the Covered Autos will be principally garaged  
HUNTSVILLE, AL

ITEM TWO: SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those 'autos' shown as covered 'autos'. 'Autos' are shown as covered 'autos' for a particular coverage by the entry of one or more of the symbols from the COVERED AUTOS Section of the Business Auto Coverage Form next to the name of the coverage.

COVERAGES	COVERED AUTOS	LIMITS/DEDUCTIBLES	PREMIUM
LIABILITY	7	\$5,000,000	\$Included
AUTO MEDICAL PAYMENTS	7	\$5,000	\$Included
UNINSURED MOTORISTS	7	25/50	\$Included
UNDERINSURED MOTORISTS			
PHYSICAL DAMAGE (Actual cash value or cost of repair, whichever is less, minus the deductible for each covered auto)			
COMPREHENSIVE	7	See schedule for ded. For all loss except fire or lightning	\$Included
SPECIFIC CAUSES OF LOSS			
COLLISION	7	mischief or vandaliem See schedule for ded.	\$Included
		Premium for Endorsements	\$Included
		* Estimated Total Premium	\$Included

FORMS AND ENDORSEMENTS applying to this Coverage Part and made :

part of this policy at the time of issue:

AMCA-003 (09/99)	AMCA-004 (09/99)	AMCA-006 (06/06)
CA 00 01 07 97	CA 21 58 03 94	CA 21 59 10 97
CA 24 02 12 93	CA 99 03 07 97	CA 99 15 12 93

These declarations are part of the policy declarations containing the name of the insured and the policy period. Includes copyrighted material of Insurance Services Office, Inc., with its permission. Copyright, Insurance Services Office, Inc., 1985.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

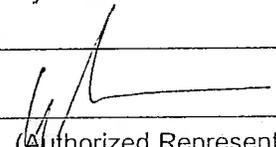
## ALABAMA CHANGES - SPLIT UNINSURED MOTORISTS LIMITS

This endorsement modifies insurance provided under the following:

### UNINSURED MOTORISTS COVERAGE ENDORSEMENT

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

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

Endorsement Effective: 02/01/2011	Countersigned By 
	(Authorized Representative)
Named Insured: CITY OF HUNTSVILLE	

#### SCHEDULE

"Bodily Injury"	\$	Each Person
	\$	Each "Accident"

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

Paragraph 1. of LIMIT OF INSURANCE is replaced by the following:

1. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the limit of insurance is as follows:

a. The most we will pay for all damages resulting from "bodily injury" to any one person caused by any one "accident", including all damages claimed by any person or organization for care, loss of services or death resulting from the "bodily injury", is the limit of "Bodily Injury" shown in the Schedule for each person. If there is more than one covered "auto", the limit of insurance for any one person is the sum of the limits for "each person" applicable to each covered "auto", subject to a maximum of three covered "autos".

b. Subject to the limit for "each person", the most we will pay for all damages resulting from "bodily injury" caused by any one "accident" is the limit shown in this endorsement for "each accident". If there is more than one covered "auto", the Limit of Insurance for any one "accident" is the sum of the limits for "each accident" applicable to each covered "auto", subject to a maximum of three covered "autos".

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

CA 21 59 10 97

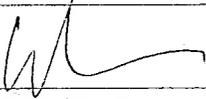
**ALABAMA UNINSURED MOTORISTS COVERAGE**

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

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

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

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

Endorsement effective <b>February 1st, 2011</b> 12:01 A.M. standard time	Countersigned by  (Authorized Representative)
Policy No. <b>1004947672141</b>	
Named Insured <b>CITY OF HUNTSVILLE</b>	

**SCHEDULE**

**LIMIT OF INSURANCE**                      \$ 25/50                      Each "Accident"

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

**A. COVERAGE**

1. We will pay all sums the "insured" is legally entitled to recover as damages from the owner or driver of an "uninsured motor vehicle." The damages must result from "bodily injury" sustained by the "insured" caused by an "accident." The owner's or driver's liability for these damages must result from the ownership maintenance or use of the "uninsured motor vehicle."
2. With respect to damages resulting from an "accident" with a vehicle described in paragraph b. of the definition of "uninsured motor vehicle", we will pay under this coverage only if a. or b. below applies:
  - a. The limits of any applicable liability bonds or policies have been exhausted by judgments or payments;  
or
  - b. A tentative settlement has been made between an "insured" and the insurer of a vehicle described in paragraph b. of the definition of "uninsured motor vehicle"; and we:
    1. Have been given prompt written notice of such tentative settlement; and
    2. Advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

3. No judgment for damages arising out of a "suit" brought against the owner or operator of an "uninsured motor vehicle" is binding on us unless we:

- a. Received reasonable notice of the pendency of the "suit" resulting in the judgment; and
- b. Had a reasonable opportunity to protect our interest in the "suit."

However, if reasonable notice has not been given to us, we have the option to accept the judgment in the suit as binding on us.

#### **B. WHO IS AN INSURED**

1. You.
2. If you are an individual, any "family member."
3. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, loss or destruction.
4. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".

#### **C. EXCLUSIONS**

This insurance does not apply to:

1. Any claim settled without our consent.
2. However, this exclusion does not apply to a settlement made with the insurer of a vehicle described in paragraph b. of the definition of "uninsured motor vehicle."  
  
The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.
3. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.
4. Punitive or exemplary damages. However, this exclusion does not apply to punitive or exemplary damages which are awarded in a wrongful death action.

#### **D. LIMIT OF INSURANCE**

1. Regardless of the number of covered "autos," "insureds," premiums paid, claims made or vehicles involved in the accident, the most we will pay for all damages resulting from any one "accident" is the limit of Uninsured Motorists Insurance shown in the Declarations. If there is more than one covered "auto," our limit of insurance for any one "accident" is the sum of the limits applicable to each covered "auto," subject to maximum of three covered autos."
2. No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Liability Coverage or Medical Payments Coverage endorsement attached to this Coverage Part.

We will not make a duplicate payment under this Coverage Form for any element of "loss" for which payment has been made by or for anyone who is legally responsible.

We will not pay for any element of "loss" if a person is entitled to receive payment for the same element of "loss" under any workers' compensation, disability benefits or similar law.

## E. CHANGES IN CONDITIONS

The Conditions are changed for Uninsured Motorists Coverage as follows:

1. The reference in Other Insurance in the Business Auto and Garage Coverage Forms and Other Insurance - Primary And Excess Insurance Provisions in the Truckers and Motor Carrier Coverage Forms to "other collectible insurance" applies only to other collectible uninsured motorists insurance.
2. **DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS** is changed by adding the following:
  - a. Promptly notify the police if a hit-and-run driver is involved, and
  - b. Promptly send us copies of the legal papers if a "suit" is brought.
  - c. A person seeking Uninsured Motorists Coverage must also promptly notify us in writing of a tentative settlement between the "insured" and the insurer of a vehicle described in paragraph b. of the definition of "uninsured motor vehicle" and allow us 30 days to advance payment to that insured in an amount equal to the tentative settlement to preserve our rights against the insured, owner or operator of such a vehicle described in paragraph b. of the definition of "uninsured motor vehicle."

3. **TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US** is changed by adding the following:

Our rights do not apply under this provision with respect to damages caused by an "accident" with a vehicle described in paragraph b. of the definition of "uninsured motor vehicle" if we:

- a. Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of a vehicle described in paragraph b. of the definition of "uninsured motor vehicle"; and
- b. Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

- a. That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Uninsured Motorists Coverage; and
- b. We have a right to recover the advanced payment.

If we make any payment and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid. We shall be entitled to recovery only after the insured has been fully compensated for damages.

4. The Two Or More Coverage Forms Or Policies Issued By Us General Condition does not apply to you or any "family member."
5. The following condition is added:

### ARBITRATION

- a. If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle" or do not agree as to the amount of damages that are recoverable by that "insured," then the matter may be arbitrated. However, disputes concerning coverage under this endorsement may not be arbitrated. Either party may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

- b. This Arbitration provision will not apply if legal action has been commenced by the "insured" against the owner or operator of an "uninsured motor vehicle."

#### F. ADDITIONAL DEFINITIONS

As used in this endorsement:

1. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household, including a ward or foster child.
2. "Occupying" means in, upon, getting in, on, out or off.
3. "Uninsured motor vehicle" means a land motor vehicle or trailer:
  - a. For which no liability bond or policy at the time of an "accident" provides at least the amounts required by the applicable law where a covered "auto" is principally garaged;
  - b. That is an underinsured motor vehicle. An underinsured motor vehicle is a motor vehicle or trailer for which the sum of all liability bonds or policies at the time of an "accident" provides a limit that is less than the amount an "insured" is legally entitled to recover as damages caused by the "accident";
  - c. For which an insuring or bonding company denies coverage or is or becomes insolvent; or
  - d. That is a hit-and-run vehicle and neither the driver nor owner can be identified. The vehicle must either:
    - (1) Hit an "insured," a covered "auto" or a vehicle an "insured" is "occupying"; or
    - (2) Cause "bodily injury" to an "insured" without hitting an "insured," a covered "auto" or a vehicle an "insured" is "occupying," provided the facts of the "accident" can be corroborated by competent evidence other than the testimony of any person making a claim under this or any other similar insurance as the result of such "accident."

However, "uninsured motor vehicle" does not include any vehicle:

- a. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the mounts required by that motor vehicle law;
- b. Designed for use mainly off public roads while not on public roads.

# ALABAMA MUNICIPAL INSURANCE CORPORATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## POLLUTION COVERAGE FOR COVERED AUTOS

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

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

1. Under **SECTION II – LIABILITY COVERAGE, B. Exclusions**, the following is added to the end of 11. **Pollution:**

Paragraph a. above applies only to liability:

- (1) Assumed under a contract or agreement; or
- (2). Which arises from the loading or unloading to or from a covered "auto".

However, (2) above does not apply if the "bodily injury" or "property damage" is caused by fire and/or explosion.

2. Under **SECTION II – LIABILITY COVERAGE, B. Exclusions**, Exclusion 6. **Care, Custody Or Control** is deleted and replaced by the following:

#### 6. Care, Custody Or Control

"Property damage" to property transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

3. Under **SECTION V – DEFINITIONS**, Definition D. is deleted and replaced by the following:

D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any request, demand or order; or
2. Any claim or "suit" by or on behalf of a governmental authority demanding

that the "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- b. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured"; or
- c. Which arises from the loading or unloading to or from a covered "auto".

Paragraphs a. and b. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

Paragraph c. does not apply if the "covered pollution cost or expense" is caused by fire and/or explosion.

All other terms and conditions of this policy remain unchanged.

# ALABAMA MUNICIPAL INSURANCE CORPORATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## FELLOW EMPLOYEE COVERAGE

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

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

- A. We will pay for "bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business.
- B. Under **SECTION II – LIABILITY COVERAGE, B. Exclusions**, Exclusion 5. is deleted in its entirety.
- C. Under **SECTION II – LIABILITY COVERAGE, B. Exclusions**, Exclusion 4. a. is deleted and replaced with the following:

"Bodily injury" to:

- a. An "employee" of the "insured" arising out of and in the course of:
  - (1) Employment by the "insured"; or
  - (2) Performing the duties related to the conduct of the "insured's" business;but this exclusion does not apply to "bodily injury" caused by any fellow "employee" of the "insured"; or

All other terms and conditions of this policy remain unchanged.

# ALABAMA MUNICIPAL INSURANCE CORPORATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ CAREFULLY.

## WORK RELEASE PROGRAMS EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided by the following:

### COMMERCIAL AUTOMOBILE COVERAGE PART

1. This insurance does not apply to any of the following:

**Claims or Suits for Damages** arising out of **Bodily Injury or Property Damage** sustained by any participants in any work release or work service program.

A Work Release or Work Service program means:

- (1) Any work; or
- (2) Training; or
- (3) Rehabilitation program which utilizes prisoners or detainees as laborers.

## BUSINESS AUTO COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

### SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

#### A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
5	Owned "Autos" Subject To No-Fault	Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have No-Fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent, or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9	Nonowned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households but only while used in your business or your personal affairs.

## B. Owned Autos You Acquire After The Policy Begins

1. If Symbols 1, 2, 3, 4, 5 or 6 are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol 7 is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
  - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
  - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

## C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
  - a. Breakdown;
  - b. Repair;
  - c. Servicing;
  - d. "Loss"; or
  - e. Destruction.

## SECTION II – LIABILITY COVERAGE

### A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

### 1. Who Is An Insured

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
  - (1) The owner or anyone else from whom you hire or borrow a covered "auto". This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.
  - (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
  - (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
  - (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".
  - (5) A partner (if you are a partnership), or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

- c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

### 2. Coverage Extensions

#### a. Supplementary Payments

In addition to the Limit of Insurance, we will pay for the "insured":

- (1) All expenses we incur.

- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earning up to \$250 a day because of time off from work.
- (5) All costs taxed against the "insured" in any "suit" against the "insured" we defend.
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

**b. Out-Of-State Coverage Extensions**

While a covered "auto" is away from the state where it is licensed we will:

- (1) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

**B. Exclusions**

This insurance does not apply to any of the following:

**1. Expected Or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

**2. Contractual**

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an "insured contract" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- b. That the "insured" would have in the absence of the contract or agreement.

**3. Workers' Compensation**

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

**4. Employee Indemnification And Employer's Liability**

"Bodily injury" to:

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

This exclusion applies:

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

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

**5. Fellow Employee**

"Bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business.

## 6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

## 7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or
- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

## 8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

## 9. Operations

"Bodily injury" or "property damage" arising out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

## 10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraphs a. or b. above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed.
- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
- (3) 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.

## 11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
  - (1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";
  - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
  - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

- (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

## 12. War

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

## 13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

## C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined, resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage Endorsement, Uninsured Motorists Coverage Endorsement or Underinsured Motorists Coverage Endorsement attached to this Coverage Part.

## SECTION III – PHYSICAL DAMAGE COVERAGE

### A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

#### a. Comprehensive Coverage

From any cause except:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

#### b. Specified Causes Of Loss Coverage

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;

- (5) Mischief or vandalism; or

- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

### c. Collision Coverage

Caused by:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

## 2. Towing

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

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

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. "Loss" caused by hitting a bird or animal; and
- c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

## 4. Coverage Extension

We will pay up to \$15 per day to a maximum of \$450 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

### B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

#### a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

**b. War Or Military Action**

- (1) War, including undeclared or civil war;
  - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
  - (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.
2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.
  3. We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:
    - a. Wear and tear, freezing, mechanical or electrical breakdown.
    - b. Blowouts, punctures or other road damage to tires.
  4. We will not pay for "loss" to any of the following:
    - a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
    - b. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.
    - c. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.
    - d. Any accessories used with the electronic equipment described in Paragraph c. above.

Exclusions 4.c. and 4.d. do not apply to:

- a. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or such equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or
- b. Any other electronic equipment that is:
  - (1) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or
  - (2) An integral part of the same unit housing any sound reproducing equipment described in a. above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

**C. Limit Of Insurance**

The most we will pay for "loss" in any one "accident" is the lesser of:

1. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

**D. Deductible**

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

## SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

### A. Loss Conditions

#### 1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

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

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:
  - (1) How, when and where the "accident" or "loss" occurred;
  - (2) The "insured's" name and address; and
  - (3) To the extent possible, the names and addresses of any injured persons and witnesses.
- b. Additionally, you and any other involved "insured" must:
  - (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
  - (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
  - (4) Authorize us to obtain medical records or other pertinent information.

- (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is "loss" to a covered "auto" or its equipment you must also do the following:

- (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.
- (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
- (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.
- (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

#### 3. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form until:

- a. There has been full compliance with all the terms of this Coverage Form; and
- b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

#### 4. Loss Payment – Physical Damage Coverages

At our option we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

#### 5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

## B. General Conditions

### 1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

### 2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

### 3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

### 4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

### 5. Other Insurance

- a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Liability Coverage this Coverage Form provides for the "trailer" is:
  - (1) Excess while it is connected to a motor vehicle you do not own.
  - (2) Primary while it is connected to a covered "auto" you own.
- b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".
- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Liability Coverage is primary for any liability assumed under an "insured contract".

- d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

### 6. Premium Audit

- a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.
- b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

### 7. Policy Period, Coverage Territory

Under this Coverage Form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the coverage territory.

The coverage territory is:

- a. The United States of America;
- b. The territories and possessions of the United States of America;
- c. Puerto Rico; and
- d. Canada.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

### 8. Two Or More Coverage Forms Or Policies Issued By Us

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

## SECTION V – DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means a land motor vehicle, "trailer" or semitrailer designed for travel on public roads but does not include "mobile equipment".
- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.
- D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any request, demand or order; or
2. Any claim or "suit" by or on behalf of a governmental authority demanding

that the "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
  - (1) Being transported or towed by, handled, or handled for movement into, onto or from the covered "auto";
  - (2) Otherwise in the course of transit by or on behalf of the "insured";
  - (3) Being stored, disposed of, treated or processed in or upon the covered "auto"; or
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs 6.b. or 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

E. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

F. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

G. "Insured contract" means:

1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;
6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

- a. That indemnifies any person or organization for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing; or
  - b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
  - c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
- H. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- I. "Loss" means direct and accidental loss or damage.
- J. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  2. Vehicles maintained for use solely on or next to premises you own or rent;
  3. Vehicles that travel on crawler treads;
  4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - a. Power cranes, shovels, loaders, diggers or drills; or
    - b. Road construction or resurfacing equipment such as graders, scrapers or rollers.
  5. Vehicles not described in Paragraphs 1., 2., 3., or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
    - b. Cherry pickers and similar devices used to raise or lower workers.
6. Vehicles not described in Paragraphs 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
- a. Equipment designed primarily for:
    - (1) Snow removal;
    - (2) Road maintenance, but not construction or resurfacing; or
    - (3) Street cleaning;
  - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
  - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment.
- K. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- L. "Property damage" means damage to or loss of use of tangible property.
- M. "Suit" means a civil proceeding in which:
1. Damages because of "bodily injury" or "property damage"; or
  2. A "covered pollution cost or expense", to which this insurance applies, are alleged.
- "Suit" includes:
- a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
- N. "Temporary worker" means a person who is furnished to you for a finite time period to support or supplement your workforce in special work situations such as "employee" absences, temporary skill shortages and seasonal workloads.
- O. "Trailer" includes semitrailer.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **PUBLIC TRANSPORTATION AUTOS**

This endorsement modifies insurance provided under the following:

### **BUSINESS AUTO COVERAGE FORM**

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

LIABILITY COVERAGE for a covered "auto" licensed or used to transport the public is changed as follows:

The CARE, CUSTODY OR CONTROL exclusion does not apply to "property damage" to or "covered pollution cost or expense" involving property of the "insured's" passengers while such property is carried by the covered "auto".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## AUTO MEDICAL PAYMENTS COVERAGE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

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

### A. Coverage

We will pay reasonable expenses incurred for necessary medical and funeral services to or for an "insured" who sustains "bodily injury" caused by "accident". We will pay only those expenses incurred, for services rendered within three years from the date of the "accident".

### B. Who Is An Insured

1. You while "occupying" or, while a pedestrian, when struck by any "auto".
2. If you are an individual, any "family member" while "occupying" or, while a pedestrian, when struck by any "auto".
3. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, loss or destruction.

### C. Exclusions

This insurance does not apply to any of the following:

1. "Bodily injury" sustained by an "insured" while "occupying" a vehicle located for use as a premises.
2. "Bodily injury" sustained by you or any "family member" while "occupying" or struck by any vehicle (other than a covered "auto") owned by you or furnished or available for your regular use.
3. "Bodily injury" sustained by any "family member" while "occupying" or struck by any vehicle (other than a covered "auto") owned by or furnished or available for the regular use of any "family member".

4. "Bodily injury" to your "employee" arising out of and in the course of employment by you. However, we will cover "bodily injury" to your domestic "employees" if not entitled to workers' compensation benefits. For the purposes of this endorsement, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. "Bodily injury" to an "insured" while working in a business of selling, servicing, repairing or parking "autos" unless that business is yours.

6. "Bodily injury" caused by declared or undeclared war or insurrection or any of their consequences.

7. "Bodily injury" to anyone using a vehicle without a reasonable belief that the person is entitled to do so.

8. "Bodily Injury" sustained by an "insured" while "occupying" any covered "auto" while used in any professional racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply to any "bodily injury" sustained by an "insured" while the "auto" is being prepared for such a contest or activity.

### D. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for "bodily injury" for each "insured" injured in any one "accident" is the Limit Of Insurance for Auto Medical Payments Coverage shown in the Declarations.

No one will be entitled to receive duplicate payments for the same elements of "loss" under this coverage and any Liability Coverage Form, Uninsured Motorists Coverage Endorsement or Underinsured Motorists Coverage Endorsement attached to this Coverage Part.

#### E. Changes In Conditions

The Conditions are changed for Auto Medical Payments Coverage as follows:

1. The Transfer Of Rights Of Recovery Against Others To Us Condition does not apply.
2. The reference in Other Insurance in the Business Auto and Garage Coverage Forms and Other Insurance – Primary And Excess Insurance Provisions in the Truckers and Motor Carrier Coverage Forms to "other collectible insurance" applies only to other collectible auto medical payments insurance.

#### F. Additional Definitions

As used in this endorsement:

1. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household, including a ward or foster child.
2. "Occupying" means in, upon, getting in, on, out or off.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **GOVERNMENTAL BODIES AMENDATORY ENDORSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

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

Any land motor vehicle or "trailer" you own or lease that is designed for travel on public roads is an "auto" and not "mobile equipment" if the sole reason for considering it "mobile equipment" is such vehicle is used solely on roads you own.

## E-VERIFY – NOTICE

The Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No. 2011-535, *Code of Alabama (1975) § 31-13-1 through 31-13-30* (also known as and hereinafter referred to as "the Alabama Immigration Act") is applicable to contracts with the City of Huntsville. As a condition for the award of a contract and as a term and condition of the contract with the City of Huntsville, in accordance with § 31-13-9 (a) of the Alabama Immigration Act, any business entity or employer that employs one or more employees shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien and shall attest to such by sworn affidavit signed before a notary. Such business entity or employer shall provide a copy of such affidavit to the City of Huntsville as part of its bid or proposal for the contract along with a copy of the Memorandum of Understanding as documentation establishing that the business entity or employer is enrolled in the E-Verify program. The required affidavit form for the contractor and for subcontractors are included at the end of this notice.

During the performance of the contract, such business entity or employer shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations. The business entity or employer shall assure that these requirements are required of every subcontractor in accordance with §31-13-9(c) and shall maintain records that are available upon request by the City, state authorities or law enforcement to verify compliance with the requirements of the Alabama Immigration Act. Failure to comply with these requirements may result in breach of contract, termination of the contract or subcontract, and possibly suspension or revocation of business licenses and permits in accordance with §31-13-9 (e) (1) & (2) or in the case of a subcontractor, in accordance with §31-13-9 (f) (1) & (2).

### AFFIDAVITS:

FORM FOR SECTIONS 9 (a) and (b) BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT; CODE OF ALABAMA, SECTIONS 31-13-9 (a) and (b)  
AFFIDAVIT FOR BUSINESS ENTITY/EMPLOYER /CONTRACTOR  
(To be completed as a condition for the award of any contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees)

State of ALABAMA  
County of JEFFERSON  
Before me, a notary public, personally appeared GREG WOMACK (print name) who, being duly sworn, says as follows:  
As a condition for the award of any contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, I hereby attest that in my capacity as SR. V. P. (state position) for McGRIFF, SEIBELS & WILLIAMS (state business entity/employer/contractor name) that said business entity/employer/contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien.

I further attest that said business entity/employer/contractor is enrolled in the E-Verify program.  
(ATTACH DOCUMENTATION ESTABLISHING THAT BUSINESS ENTITY/EMPLOYER/CONTRACTOR IS ENROLLED IN THE E-VERIFY PROGRAM)

Greg Wornack Signature of Affiant  
Sworn to and subscribed before me this 27 day of December, 2011.  
I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

Raven [Signature] Signature and Seal of Notary Public  
MY COMMISSION EXPIRES 9/28/15

**Author:** Jean Brown  
**Statutory Authority:** Code of Alabama, sections 31-13-9 (a) and (b); Section 31-13-9 (h).  
**History: New Rule:** Filed December 12, 2011; effective December 12, 2011

**820-4-1-.02ER Contents of Acceptable Affidavit Form For Administering Code of Alabama, Section 31-13-9 (c).**

(1) This rule is intended to provide an acceptable form to be completed by subcontractors as a condition for performing work on a project paid for by contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity.

(2) The form shall appear as follows:

**FORM FOR SECTION 9 (c) BEASON- HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT; CODE OF ALABAMA, SECTION 31-13-9 (c)**

**AFFIDAVIT FOR SUBCONTRACTOR**

(To be completed as a condition for performing work on a project paid for by contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity)

State of \_\_\_\_\_  
County of \_\_\_\_\_

Before me, a notary public, personally appeared \_\_\_\_\_ (print name) who, being duly sworn, says as follows:

As a condition for being a subcontractor on a project paid for by contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity, I hereby attest that in my capacity as \_\_\_\_\_ (state position) for \_\_\_\_\_ (state subcontractor name), said subcontractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien.

I further attest that said subcontractor is enrolled in the E-Verify program prior to performing any work on the project. (ATTACH DOCUMENTATION ESTABLISHING THAT SUBCONTRACTOR IS ENROLLED IN THE E-VERIFY PROGRAM)

\_\_\_\_\_  
Signature of Affiant

Sworn and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

\_\_\_\_\_  
Signature and Seal of Notary Public

**Author:** Jean Brown

**Statutory Authority:** Code of Alabama, section 31-13-9 (c);  
Section 31-13-9 (h).

**History: New Rule:** Filed December 12, 2011; effective:  
December 12, 2011

**820-4-1-.03ER Contents of Acceptable Affidavit Form for  
Administering Code of Alabama, Section 31-13-9 (d).**

(1) This rule is intended to set forth an acceptable form for a direct subcontractor to provide to a contractor on a project paid for by contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state-funded entity pursuant to Code of Alabama, section 31-13-9 (d).

(2) The form shall appear as follows:

FORM FOR SECTION 9 (d) BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT;  
CODE OF ALABAMA, SECTION 31-13-9 (d)

AFFIDAVIT OF DIRECT SUBCONTRACTOR TO BE GIVEN TO CONTRACTOR

State of \_\_\_\_\_

County of \_\_\_\_\_

Before me, a notary public, personally appeared \_\_\_\_\_ (print name)  
who, being duly sworn, says as follows:

I hereby attest that as \_\_\_\_\_ (state position) for the direct  
subcontractor \_\_\_\_\_ (state business  
entity/employer/subcontractor name) for \_\_\_\_\_ (state  
business entity/employer/contractor name) said direct subcontractor has not knowingly employed,  
hired for employment, or continued to employ an unauthorized alien. I further attest that I have  
verified each of the above-named direct subcontractor's employee's eligibility for employment. I  
further attest that I have in good faith complied with Code of Alabama, Section 31-13-9 (c)\*

\_\_\_\_\_  
Signature of Affiant

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

\_\_\_\_\_  
Signature and Seal of Notary Public

Company ID Number: 135982

THE E-VERIFY PROGRAM FOR EMPLOYMENT VERIFICATION

MEMORANDUM OF UNDERSTANDING

## ARTICLE I

### **PURPOSE AND AUTHORITY**

This Memorandum of Understanding (MOU) sets forth the points of agreement between the Social Security Administration (SSA), the Department of Homeland Security (DHS) and McGriff, Seibels & Williams, Inc. (Employer) regarding the Employer's participation in the Employment Eligibility Verification Program (E-Verify). E-Verify is a program in which the employment eligibility of all newly hired employees will be confirmed after the Employment Eligibility Verification Form (Form I-9) has been completed.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note).

## ARTICLE II

### **FUNCTIONS TO BE PERFORMED**

#### **A. RESPONSIBILITIES OF THE SSA**

1. Upon completion of the Form I-9 by the employee and the Employer, and provided the Employer complies with the requirements of this MOU, SSA agrees to provide the Employer with available information that allows the Employer to confirm the accuracy of Social Security Numbers provided by all newly hired employees and the employment authorization of U.S. citizens.
2. The SSA agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. The SSA agrees to provide the Employer with names, titles, addresses, and telephone numbers of SSA representatives to be contacted during the E-Verify process.
3. The SSA agrees to safeguard the information provided by the Employer through the E-Verify program procedures, and to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security Numbers and for evaluation of the E-Verify program or such other persons or entities who may be authorized by the SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).
4. SSA agrees to establish a means of automated verification that is designed (in conjunction with DHS's automated system if necessary) to provide confirmation or tentative nonconfirmation of U.S. citizens' employment eligibility and accuracy of SSA records for both citizens and aliens within 3 Federal Government work days of the initial inquiry.

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5. SSA agrees to establish a means of secondary verification (including updating SSA records as may be necessary) for employees who contest SSA tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of U.S. citizens' employment eligibility and accuracy of SSA records for both citizens and aliens within 10 Federal Government work days of the date of referral to SSA, unless SSA determines that more than 10 days may be necessary. In such cases, SSA will provide additional verification instructions.

## **B. RESPONSIBILITIES OF THE DEPARTMENT OF HOMELAND SECURITY**

1. Upon completion of the Form I-9 by the employee and the Employer and after SSA verifies the accuracy of SSA records for aliens through E-Verify, DHS agrees to provide the Employer access to selected data from DHS's database to enable the Employer to conduct:

- Automated verification checks on newly hired alien employees by electronic means, and
- Photo verification checks (when available) on newly hired alien employees.

2. DHS agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.

3. DHS agrees to provide to the Employer a manual (the E-Verify Manual) containing instructions on E-Verify policies, procedures and requirements for both SSA and DHS, including restrictions on the use of E-Verify.. DHS agrees to provide training materials on E-Verify.

4. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in the E-Verify program. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, and U.S. Department of Justice.

5. DHS agrees to issue the Employer a user identification number and password that permits the Employer to verify information provided by alien employees with DHS's database.

6. DHS agrees to safeguard the information provided to DHS by the Employer, and to limit access to such information to individuals responsible for the verification of alien employment eligibility and for evaluation of the E-Verify program, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security Numbers and employment eligibility, to enforce the Immigration and Nationality Act and federal criminal laws, and to ensure accurate wage reports to the SSA.

7. DHS agrees to establish a means of automated verification that is designed (in conjunction with SSA verification procedures) to provide confirmation or tentative nonconfirmation of employees' employment eligibility within 3 Federal Government work days of the initial inquiry.

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8. DHS agrees to establish a means of secondary verification (including updating DHS records as may be necessary) for employees who contest DHS tentative nonconfirmations and photo non-match tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

### **C. RESPONSIBILITIES OF THE EMPLOYER**

1. The Employer agrees to display the notices supplied by DHS in a prominent place that is clearly visible to prospective employees.

2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted regarding E-Verify.

3. The Employer agrees to become familiar with and comply with the E-Verify Manual.

4. The Employer agrees that any Employer Representative who will perform employment verification queries will complete the E-Verify Tutorial before that individual initiates any queries.

A. The employer agrees that all employer representatives will take the refresher tutorials initiated by the E-Verify program as a condition of continued use of E-Verify.

B. Failure to complete a refresher tutorial will prevent the employer from continued use of the program.

5. The Employer agrees to comply with established Form I-9 procedures, with two exceptions:

- If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2 (b) (1) (B)) can be presented during the Form I-9 process to establish identity).
- If an employee presents a DHS Form I-551 (Permanent Resident Card) or Form I-766 (Employment Authorization Document) to complete the Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The employer will use the photocopy to verify the photo and to assist the Department with its review of photo non-matches that are contested by employees. Note that employees retain the right to present any List A, or List B and List C, documentation to complete the Form I-9. DHS may in the future designate other documents that activate the photo screening tool.

6. The Employer understands that participation in E-Verify does not exempt the Employer from the responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, except for the following modified requirements applicable by reason of the Employer's participation in E-Verify: (1) identity documents must have photos, as described in paragraph 5 above; (2) a

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rebuttable presumption is established that the Employer has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of any individual if it obtains confirmation of the identity and employment eligibility of the individual in compliance with the terms and conditions of E-Verify ; (3) the Employer must notify DHS if it continues to employ any employee after receiving a final nonconfirmation, and is subject to a civil money penalty between \$500 and \$1,000 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) the Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A) if the Employer continues to employ any employee after receiving a final nonconfirmation; and (5) no person or entity participating in E-Verify is civilly or criminally liable under any law for any action taken in good faith on information provided through the confirmation system. DHS reserves the right to conduct Form I-9 compliance inspections during the course of E-Verify, as well as to conduct any other enforcement activity authorized by law.

7. The Employer agrees to initiate E-Verify verification procedures within 3 Employer business days after each employee has been hired (but after both sections 1 and 2 of the Form I-9 have been completed), and to complete as many (but only as many) steps of the E-Verify process as are necessary according to the E-Verify Manual. The Employer is prohibited from initiating verification procedures before the employee has been hired and the Form I-9 completed. If the automated system to be queried is temporarily unavailable, the 3-day time period is extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability. In all cases, the Employer must use the SSA verification procedures first, and use DHS verification procedures and photo screening tool only after the the SSA verification response has been given.

8. The Employer agrees not to use E-Verify procedures for pre-employment screening of job applicants, support for any unlawful employment practice, or any other use not authorized by this MOU. The Employer must use E-Verify for all new employees and will not verify only certain employees selectively. The Employer agrees not to use E-Verify procedures for re-verification, or for employees hired before the date this MOU is in effect. The Employer understands that if the Employer uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and the immediate termination of its access to SSA and DHS information pursuant to this MOU.

9. The Employer agrees to follow appropriate procedures (see Article III.B. below) regarding tentative nonconfirmations, including notifying employees of the finding, providing written referral instructions to employees, allowing employees to contest the finding, and not taking adverse action against employees if they choose to contest the finding. Further, when employees contest a tentative nonconfirmation based upon a photo non-match, the Employer is required to take affirmative steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

10. The Employer agrees not to take any adverse action against an employee based upon the employee's employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1 (l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification to verify work authorization, a tentative nonconfirmation, or the finding of

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a photo non-match, does not mean, and should not be interpreted as, an indication that the employee is not work authorized. In any of the cases listed above, the employee must be provided the opportunity to contest the finding, and if he or she does so, may not be terminated or suffer any adverse employment consequences until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo non-match, then the Employer can find the employee is not work authorized and take the appropriate action.

11. The Employer agrees to comply with section 274B of the INA by not discriminating unlawfully against any individual in hiring, firing, or recruitment or referral practices because of his or her national origin or, in the case of a protected individual as defined in section 274B(a)(3) of the INA, because of his or her citizenship status. The Employer understands that such illegal practices can include selective verification or use of E-Verify, discharging or refusing to hire eligible employees because they appear or sound "foreign", and premature termination of employees based upon tentative nonconfirmations, and that any violation of the unfair immigration-related employment practices provisions of the INA could subject the Employer to civil penalties pursuant to section 274B of the INA and the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-7688 or 1-800-237-2515 (TDD).

12. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

13. The Employer agrees that it will use the information it receives from the SSA or DHS pursuant to E-Verify and this MOU only to confirm the employment eligibility of newly-hired employees after completion of the Form I-9. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords) to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU.

14. The Employer acknowledges that the information which it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a (i) (1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)), and that any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

15. The Employer agrees to allow DHS and SSA, or their authorized agents or designees, to make periodic visits to the Employer for the purpose of reviewing E-Verify -related records, i.e., Forms I-9, SSA Transaction Records, and DHS verification records, which were created during the Employer's participation in the E-Verify Program. In addition, for the purpose of evaluating E-Verify, the Employer agrees to allow DHS and SSA or their authorized agents or designees, to interview it regarding its experience with E-Verify, to interview employees hired during E-Verify use concerning their experience with the pilot, and to make employment and E-Verify related records available to DHS and the SSA, or their designated agents or designees. Failure to comply with the terms of this paragraph may lead DHS to terminate the Employer's access to E-Verify.

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### **ARTICLE III**

#### **REFERRAL OF INDIVIDUALS TO THE SSA AND THE DEPARTMENT OF HOMELAND SECURITY**

##### **A. REFERRAL TO THE SSA**

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation.

2. The Employer will refer employees to SSA field offices only as directed by the automated system based on a tentative nonconfirmation, and only after the Employer records the case verification number, reviews the input to detect any transaction errors, and determines that the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security Number to SSA for verification again if this review indicates a need to do so. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.

3. If the employee contests an SSA tentative nonconfirmation, the Employer will provide the employee with a referral letter and instruct the employee to visit an SSA office to resolve the discrepancy within 8 Federal Government work days. The Employer will make a second inquiry to the SSA database using E-Verify procedures on the date that is 10 Federal Government work days after the date of the referral in order to obtain confirmation, or final nonconfirmation, unless otherwise instructed by SSA or unless SSA determines that more than 10 days is necessary to resolve the tentative nonconfirmation..

4. The Employer agrees not to ask the employee to obtain a printout from the Social Security Number database (the Numident) or other written verification of the Social Security Number from the SSA.

##### **B. REFERRAL TO THE DEPARTMENT OF HOMELAND SECURITY**

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must print the tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation.

2. If the Employer finds a photo non-match for an alien who provides a document for which the automated system has transmitted a photo, the employer must print the photo non-match tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the finding.

3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation received from DHS automated verification process or when

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the Employer issues a tentative nonconfirmation based upon a photo non-match. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.

4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will provide the employee with a referral letter and instruct the employee to contact the Department through its toll-free hotline within 8 Federal Government work days.

5. If the employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will provide the employee with a referral letter to DHS. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.

6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will send a copy of the employee's Form I-551 or Form I-766 to DHS for review by:

- Scanning and uploading the document, or
- Sending a photocopy of the document by an express mail account (furnished and paid for by DHS).

7. The Employer understands that if it cannot determine whether there is a photo match/non-match, the Employer is required to forward the employee's documentation to DHS by scanning and uploading, or by sending the document as described in the preceding paragraph, and resolving the case as specified by the Immigration Services Verifier at DHS who will determine the photo match or non-match.

#### **ARTICLE IV**

#### **SERVICE PROVISIONS**

The SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access the E-Verify System, an Employer will need a personal computer with Internet access.

#### **ARTICLE V**

#### **PARTIES**

This MOU is effective upon the signature of all parties, and shall continue in effect for as long as the SSA and DHS conduct the E-Verify program unless modified in writing by the mutual consent of all parties, or terminated by any party upon 30 days prior written notice to the others. Any and all system enhancements to the E-Verify program by DHS or SSA, including but not limited to the E-Verify checking against additional data sources and instituting new verification procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes. DHS agrees to train employers on all changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify manual. Even

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without changes to E-Verify, the Department reserves the right to require employers to take mandatory refresher tutorials.

Termination by any party shall terminate the MOU as to all parties. The SSA or DHS may terminate this MOU without prior notice if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established procedures or legal requirements. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as they may determine.

Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.

Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.

The employer understands that the fact of its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to, Congressional oversight, E-Verify publicity and media inquiries, and responses to inquiries under the Freedom of Information Act (FOIA).

The foregoing constitutes the full agreement on this subject between the SSA, DHS, and the Employer.

The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively.

**To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify Operations at 888-464-4218.**

**Employer McGriff, Seibels & Williams, Inc.**

**Temple C May**

\_\_\_\_\_  
Name (Please type or print)

\_\_\_\_\_  
Title

*Electronically Signed*

\_\_\_\_\_  
Signature

**07/11/2008**

\_\_\_\_\_  
Date

**Department of Homeland Security – Verification Division**

Company ID Number: 135982

**USCIS Verification Division**

\_\_\_\_\_  
Name (Please type or print)

\_\_\_\_\_  
Title

*Electronically Signed*

**07/11/2008**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



Company ID Number: 135982

Name:	<b>Temple C May</b>	Fax Number:	<b>(205) 581 - 9638</b>
Telephone Number:	<b>(205) 581 - 9325 ext. 9325</b>		
E-mail Address:	<b>tmay@mcgriff.com</b>		
Name:	<b>Jennifer K Stanfield</b>	Fax Number:	<b>(205) 581 - 9638</b>
Telephone Number:	<b>(205) 581 - 9478 ext. 9478</b>		
E-mail Address:	<b>jstanfield@mcgriff.com</b>		
Name:	<b>Amy P Kirkpatrick</b>	Fax Number:	<b>(205) 581 - 9638</b>
Telephone Number:	<b>(205) 581 - 9238 ext. 9238</b>		
E-mail Address:	<b>akirkpatrick@mcgriff.com</b>		
Name:	<b>Emily P Skelton</b>	Fax Number:	<b>(205) 581 - 0833</b>
Telephone Number:	<b>(205) 583 - 9561 ext. 9561</b>		
E-mail Address:	<b>eskelton@mcgriff.com</b>		

**CITY OF HUNTSVILLE, DEPARTMENT OF PARKING & PUBLIC TRANSIT  
FTA COMPLIANCE CERTIFICATIONS  
LARGE ACQUISITIONS  
\$100,000 and Over**

**This procurement is partially funded with FTA § 5307 UAFP funds, CFDA 20.507. The following certifications apply to this procurement contract.**

Of Note, the awarded Contractor is certifying compliance to all relevant clauses herein and that all sub-contractors under this contract certify all relevant clauses herein if applicable.

If there are any questions or comments, please contact Kim Smith, PFO, City of Huntsville, Department of Parking & Public Transit, 500 B Church Street, Huntsville, AL 35801, 256-427-6831.

**1. No Obligation by the Federal Government –FTA MA(17) 10-1-2010 §2.f**

- 1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- 2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**2. Program Fraud and False or Fraudulent Statements or Related Acts –FTA MA(17) 10-1-2010 §3.f**

- 1) **Civil Fraud.** The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- 2) **Criminal Fraud.** The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a Project authorized under 49 U.S.C. Chapter 53 or any other Federal law, the Federal Government reserves the right to impose the penalties of 49 U.S.C. § 5323(i), 18 U.S.C. § 1001 or other applicable Federal law to the extent the Federal Government deems appropriate.
- 3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**3. Access to Records – FTA MA(17) 10-01-2010 §15.t**

- 1) The following access to records requirements apply to this contract: The contractor and all sub-contractors at each tier must provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records as required by 49 C. F. R. § 5325(g), for a period not less than three years.

**4. Federal Changes- FTA MA(17) 10-1-2010 §2.c(1)**

- 1) Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement referenced above between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor’s failure to so comply shall constitute a material breach of this contract.

**5. Civil Rights-FTA MA(17) 10-1-2010 §**The Contractor and the Contractor’s Sub-Contractor(s) agree to following Federal Equal Employment Opportunity (EEO) requirements:

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- 1) **Nondiscrimination** –§a and §b
  - a. The contractor and all sub-contractors agrees to comply with provisions of 49 U.S.C. §5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex or age, and prohibits discrimination in employment or business opportunity.
  - b. The contractor and all sub-contractors agree to comply with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d et.seq.,
- 2) **Equal Employment Opportunity Requirements** - The Contractor agrees to comply and assures compliance of its Sub-Contractor(s) or other participants, with all equal employment opportunity requirements of U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 et seq., which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note, and also with any Federal laws and regulations in accordance with applicable Federal directives affecting construction undertaken as part of the Project:
  - a. **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  - b. **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. Sections 621 thru 634, and EEOC implementing regulations, “Age Discrimination in Employment Act,” 29 CFR Part 1625, prohibit employment discrimination against individuals on the basis of age. The “Age Discrimination Act of 1974, as amended, 42 U.S.C. Sections 6101et seq., and Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 CFR Part 90, also prohibit discrimination against individuals on the basis of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  - c. **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue under 49 CFR 27 as relates to ADA Access.
  - d. **The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.**

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**6. Disadvantaged Business Enterprise (DBE) 49 CFR Part 23, updated Part 26 – FTA MA(17) 10-1-2011 §12.d, as applicable to bids/proposals:**

- 1) If you are, or may be, a DBE please call Kim Smith @ 256-427-6831
- 2) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal is updated every three (3) years and is available for review at 500 B Church Street, Huntsville, AL 35801, Kim Smith 256-427-6831.
- 3) A separate contract goal has not been established for this procurement.
- 4) The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Huntsville deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)). The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- 5) The prime contractor agrees to pay each sub-contractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the City of Huntsville. The prime contractor agrees further to return retainage payments to each sub-contractor within 30 days after the sub-contractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Huntsville. This clause applies to both DBE and non-DBE sub-contractors.
- 6) The contractor must promptly notify the City of Huntsville, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the City of Huntsville.

**7. Incorporation of Federal Transit Administration (FTA) Terms- FTA MA(17) 10-1-2010 §15.a -**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City of Huntsville requests which would cause City of Huntsville to be in violation of the FTA terms and conditions.

**8. Energy Conservation-FTA MA(17) 10-1-2010 §26 -** The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**9. Suspension and Debarment- FTA MA(17) 10-1-2010 §11 –**

- 1) The Contractor agrees to comply, and assures the compliance of each subrecipient, lessee, or third party contractor at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Government wide Debarment and Suspension (Nonprocurement)," 49 C.F.R. Part 29. The Contractor agrees to, and assures that its subrecipients, lessees, and third party contractors will review the "Excluded Parties Listing System" at <http://epls.gov/> before entering into any third subagreement, lease or third party contract. [U.S. DOT issued a new amendment to these regulations adopting the optional lower tier coverage for tiers lower than the first tier below a covered nonprocurement transaction. See, 71 Fed. Reg. 62394, October 25, 2006.]By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the City of Huntsville. If it is later determined that the bidder or proposer

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knowingly rendered an erroneous certification, in addition to remedies available to the City of Huntsville, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**10. Termination Provisions –**

- 1) **Termination for Convenience (General Provision)** - The City of Huntsville may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to City of Huntsville to be paid the Contractor. If the Contractor has any property in its possession belonging to the City of Huntsville, the Contractor will account for the same, and dispose of it in the manner the City of Huntsville directs.
- 2) **Termination for Default [Breach or Cause] (General Provision)** - If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City of Huntsville may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the City of Huntsville that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the City of Huntsville, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- 3) **Opportunity to Cure (General Provision)** - The City of Huntsville in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to City of Huntsville's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor or written notice from City of Huntsville setting forth the nature of said breach or default, the City of Huntsville shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the City of Huntsville from also pursuing all available remedies against Contractor and its sureties for said breach or default.
- 4) **Waiver of Remedies for any Breach** - In the event that the City of Huntsville elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by The City of Huntsville shall not limit City of Huntsville's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- 5) **Termination for Default (Supplies and Service)** - If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the City of Huntsville may terminate this contract for default. The City of Huntsville shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City of Huntsville.

**NOT  
APPLICABLE**

~~**11. Buy America** – The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, and any later amendments, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by~~

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FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)© and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver.

NOT  
APPLICABLE

- 1) FTA Construction Contract clauses Oct 2008 Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors. Certification requirement for procurement of steel, iron, or manufactured products.
- 2) Certificate of Compliance with 49 U.S.C. 5323(j)(1) The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. Part 661.5.
  - a. Date \_\_\_\_\_
  - b. Signature \_\_\_\_\_
  - c. Company Name \_\_\_\_\_
  - d. Title \_\_\_\_\_
- 3) Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1) The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.
  - a. Date \_\_\_\_\_
  - b. Signature \_\_\_\_\_
  - c. Company Name \_\_\_\_\_
  - d. Title \_\_\_\_\_

**12. Breaches and Dispute Resolution- FTA MA(17) 10-1-2011 §54**

- 1) Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City of Huntsville's Attorney. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City Attorney. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City Attorney shall be binding upon the Contractor and the Contractor shall abide by the decision.
- 2) Performance During Dispute - Unless otherwise directed by the City of Huntsville, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
- 3) Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages thereof shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- 4) Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City of Huntsville and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City of Huntsville is located.
- 5) Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City of Huntsville, or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

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**13. Lobbying - Byrd Anti-Lobbying Amendment-FTA MA(17) 10-1-2010 §3.d**, 31 U.S.C. 1352 (a), as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq .)]
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. [Note: Pursuant to 31 U.S.C. § 1352©(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]
- 4) The Contractor, McGRIFF, SEIBELS & WILLIAMS, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

a. Signature of Contractor's Authorized Official

Greg Womack

b. Name and Title of Contractor's Authorized Official

GREG WOMACK SR.V.P.

c. Date

1-2-14

**14. Clean Air-FTA MA(17) 10-1-2010 §25.b** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q and;

- 1) Report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities,"
- 2) Refrain from using any violating facilities,
- 3) Report violations to FTA and the Regional U.S. EPA Office, and

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- 4) Comply with the inspection and other applicable requirements of:
- a. Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q; and
  - b. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**15. Clean Water –FTA MA (17) 10-1-2010 §25.c**

- 1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- 2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**16. Partial funding for this project come from Urbanized Area Formula Grant Program (UAFP) authorized by U.S. DOT, Federal Transit Administration (FTA) Section 5307 UAFP Funds, 49 U.S.C. §5307, CFDA 20.507.**

**CERTIFICATION:**

The Contractor, McGRIFF, SEIBELS & WILLIAMS, certifies that all the above referenced federal requirements will be complied with as stated herein. **FAILURE TO CERTIFY IS TO DISQUALIFY THE ACCOMPANYING BID PROPOSAL.**

Date: 1-2-14

Signature of Contractor's Authorized Official: Greg Womack

Company Name: McGRIFF, SEIBELS & WILLIAMS

Name and Title of Contractor's Authorized Official: GREG WOMACK SR. V.P.

If there are any questions regarding the FTA compliance certifications, please contact Kim Smith at 500 B Church Street, Huntsville, AL 35801, 256-427-6831; fax 256-427-6832.