

**SPECIAL MEETING NOTICE
FOR THE WEST HAYMARKET
JOINT PUBLIC AGENCY (JPA)
TO BE HELD MONDAY, JUNE 13, 2022 AT 8:30 A.M.
CITY-COUNTY BUILDING
COUNCIL CHAMBERS, 1ST FLOOR
555 S. 10TH STREET
LINCOLN, NE 68508**

THE WEST HAYMARKET JOINT PUBLIC AGENCY WILL BE VIDEOCONFERENCING ITS SPECIAL MEETING OF JUNE 13, 2022. BOARD MEMBER TAMMY WARD WILL PARTICIPATE BY VIDEOCONFERENCE.

YOU MAY VIEW THE MEETING AT [HTTPS://YOUTUBE.COM/LNKTVcity](https://youtube.com/LNKTVcity) OR [HTTPS://FACEBOOK.COM/LNKTVcity](https://facebook.com/LNKTVcity).

IF YOU HAVE CONCERNS YOU WISH TO EXPRESS TO THE BOARD MEMBERS, PLEASE EMAIL THEM TO [KSIMONSON@LINCOLN.NE.GOV](mailto:ksimonson@lincoln.ne.gov).

YOU MAY APPEAR IN PERSON TO TESTIFY ON THE AGENDA ITEM(S), YOU MAY COME TO THE COUNTY-CITY BUILDING, 555 S 10TH ST, 1ST FLOOR.

FOR THOSE WHO WISH TO TESTIFY BY VIDEO, YOU ARE INVITED TO THE FOLLOWING ZOOM WEBINAR:

TOPIC: WEST HAYMARKET JPA

WHEN: JUNE 13, 2022 AT 08:30 AM CENTRAL TIME (US AND CANADA)

<https://lincolnne.zoom.us/j/98992439781>

**SPECIAL MEETING AGENDA
FOR THE WEST HAYMARKET
JOINT PUBLIC AGENCY (JPA)
TO BE HELD MONDAY, JUNE 13, 2022 AT 8:30 A.M.
CITY-COUNTY BUILDING
COUNCIL CHAMBERS, 1ST FLOOR
555 S. 10TH STREET
LINCOLN, NE 68508**

1. Introductions and Notice of Open Meetings Law Posted by Door.
2. Public Comment and Time Limit Notification Announcement.
Individuals from the audience will be given a total of 5 minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record.
3. WH 22-5 Resolution to approve a Contract between the West Haymarket JPA and Theatrical Media Services for a total amount not to exceed \$61,980.50 for a sound amplifier for the Pinnacle Bank Arena, pursuant to Bid No. 22-099. (Chris Connolly)
 - Public Comment
 - (Staff recommendation: Approval)
4. Motion to Adjourn

RESOLUTION NO.

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public
2 Agency:

3 That the attached Contract Agreement between the West Haymarket Joint Public Agency
4 and Theatrical Media Services for replacement of a sound amplifier at the Pinnacle Bank Arena,
5 for a total amount not to exceed \$61,980.50, pursuant to Bid No. 22-099, is hereby approved and
6 the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby
7 authorized to execute said Contract Agreement.

Adopted this _____ day of June, 2022.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Leirion Gaylor Baird

Tim Clare

Tammy Ward

CONTRACT DOCUMENTS

***West Haymarket Joint Public Agency
Lincoln, Nebraska***

**Sound Amplifier for the Pinnacle Bank Arena
Bid No. 22-099**

**Theatrical Media Services
7510 Burlington Street
Omaha, NE 68127
402-592-5522**

**West Haymarket Joint Public Agency
Lincoln, Nebraska
Contract Agreement**

THIS CONTRACT, made and entered into by and between **Theatrical Media Services, 7510 Burlington Street, Omaha, NE 68127** hereinafter called Contractor, and West Haymarket Joint Public Agency, Lincoln, Nebraska, hereinafter called JPA.

WHEREAS, JPA has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

**Sound Amplifier for the Pinnacle Bank Arena
Bid No. 22-099**

and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to JPA, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, JPA, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and JPA have agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute, construct, and complete all Work included in and covered by JPA's award of this Contract to the Contractor, such award being based on the acceptance by JPA of the Contractor's Proposal, or part thereof, as follows:

Agreement to full proposal

2. The JPA agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by JPA:

The JPA will pay for products/services, according to the Line-Item pricing as listed in Contractors Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract for a total of \$61,980.50.

3. EQUAL EMPLOYMENT OPPORTUNITY: In connection with the carrying out of this project, the Contractor shall not discriminate against any employee, applicant for employment, or any other person because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. 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 compensation; and selection for training, including apprenticeship.

4. E-VERIFY: In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
5. GUARANTEE: A performance and payment bond in the full amount of the contract shall be required for all construction contracts. These bonds shall remain in effect during the guarantee period as stated in the specifications. Once the project is completed, the Contractor may submit a maintenance bond in place of the performance bond.
- 6a. TERMINATION FOR CAUSE
- a) JPA may terminate the Contract if the Contractor:
 - 1. Refuses or fails to supply enough properly skilled workers or proper materials;
 - 2. Fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
 - 3. Disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
 - 4. Otherwise commits a substantial breach of any provision of the Contract Documents.
 - b) When any of the above reasons exist, JPA without prejudice to any other rights or remedies of JPA may (after giving the Contractor and the Contractor's surety, if any, seven days' written notice) terminate employment of the Contractor. In addition JPA may (subject to any prior rights of the surety):
 - 1. Take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 - 2. Accept assignment of subcontracts; and
 - 3. Finish the Work by whatever reasonable method JPA may deem expedient.
 - c) If the Contract is terminated by JPA as provided in this section, Contractor shall not be entitled to receive any further payment until the expiration of 35 days after Final Completion and acceptance of all Work by JPA.
 - d) If the unpaid balance of the Contract Sum exceeds the cost of completing the Work, including all additional costs and expenses made necessary thereby, including costs for JPA staff time, plus all losses sustained, including any liquidated damages provided under the Contract Documents, such excess shall be paid to Contractor. If such costs, expenses, losses, and liquidated damages exceed the unpaid balance of the Contract Sum, Contractor shall pay such excess to JPA.
 - e) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination has been issued for the convenience of JPA.
 - f) No termination or action taken by JPA after termination shall prejudice any other rights or remedies of JPA provided by law or by the Contract Documents upon such termination; and JPA may proceed against Contractor to recover all losses suffered by JPA.

6b. TERMINATION BY JPA FOR CONVENIENCE

- a) JPA may at its option, terminate this Contract in whole or in part at any time without cause by written notice thereof to the Contractor.
- b) Upon any such termination, the Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof, and as the sole right and remedy of the Contractor, JPA shall pay Contractor in accordance with this Paragraph. The provisions of the Contract which by their nature survive final acceptance of the Work, shall remain in full force and effect after such termination to the extent provided in such provisions.
- c) Upon receipt of any such notice of termination, the Contractor shall, unless the Notice directs otherwise, immediately:
 - 1. Discontinue the Work to the extent specified by JPA;
 - 2. Place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of that portion of the Work, if any, JPA has directed not to be discontinued;
 - 3. Promptly make every reasonable effort to procure cancellation upon satisfactory terms as determined by JPA of all orders and subcontracts not related to that portion of the Work, if any, JPA has directed not to be discontinued;
 - 4. Do only such other activity as may be necessary to preserve and protect work already in progress and to protect materials and plants and equipment on the Project Site or in transit thereto.
- d) Upon such termination, the obligations of the Contract shall continue as to portions of the Work already performed and as to bona fide obligations the Contractor assumed prior to the date of termination.
- e) Upon termination, JPA shall pay the Contractor the full cost of all Work properly done by the Contractor to the date of termination not previously paid for by JPA. If at the date of such termination the Contractor has properly prepared or fabricated off site any goods for subsequent incorporation in the Work, JPA may direct the Contractor to deliver such goods to the Site or to such other place as JPA may reasonably determine, whereupon JPA shall pay to the Contractor the cost for such goods and materials.
- f) Upon such termination, JPA shall pay to Contractor the sum of the following:
 - 1. The amount of the Contract Sum allocable to the portion of the Work properly performed by Contractor as of the date of termination, less sums previously paid to Contractor.
 - 2. Previously unpaid costs of any items delivered to the Project site which were fabricated for subsequent incorporation in the Work.
 - 3. Any proven losses with respect to materials and equipment directly resulting from such termination.
 - 4. Reasonable demobilization costs.
- g) The above payment shall be the sole and exclusive remedy to which Contractor is entitled in the event of termination of the Contract by JPA pursuant to this provision; and Contractor will be entitled to no other compensation or damages and expressly waives same.

7. INDEPENDENT CONTRACTOR: It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of JPA and employees of JPA shall not be deemed to be employees of the Contractor. The Contractor and JPA shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor JPA's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

8. PERIOD OF PERFORMANCE: The work included in this Contract shall begin as soon as possible from date of executed contract. The completion shall be no later than May 25, 2022.
9. The Contract Documents comprise the Contract, and consist of the following:
 1. Contract Agreements
 2. Performance and Payment Bonds
 3. Certified Statement
 4. Accepted Proposal
 5. Specifications
 6. Plans (Including the Schedule of Approximate Quantities)
 7. Instructions to Bidders
 8. Insurance Requirements
 9. Notice to Bidders
 10. Sales Tax Exemption Forms 13 & 17

* If project includes paving, water, sewer, sidewalk, lighting or traffic signal work, JPA Standard Specifications for Municipal Construction will apply, which are on file in the office of JPA Clerk. Copies may be obtained at the Office of the City Engineer.

The herein above-mentioned Contract Documents form this Contract and are a part of the Contract as if hereto attached. Said documents which are not attached to this document may be viewed at: lincoln.ne.gov - Keyword: Bid - Awarded or Closed bids.

The Contractor and JPA hereby agree that all the terms and conditions of this Contract shall by these presents be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and JPA do hereby execute this contract.

EXECUTION BY THE WEST HAYMARKET JOINT PUBLIC AGENCY

ATTEST:

CITY OF LINCOLN, NEBRASKA

City Clerk

Leirion Gaylor Baird, Chairperson of the West Haymarket
Joint Public Agency Board of Representatives

Approved by:

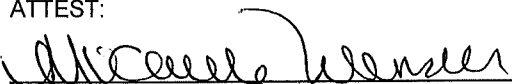
Resolution No. _____

Dated _____

EXECUTION BY CONTRACTOR

IF A CORPORATION:

ATTEST:

 (SEAL)
Secretary Michelle Zielinski

Theatrical Media Service, Inc

Name of Corporation

7510 Burlington Street, Omaha, Ne 68127

Address

By:

Duly Authorized Official

Paul Jonas

Sales Manager

Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

Address

By:

Member

By:

Member

IF AN INDIVIDUAL:

Name

Address

Signature

COMMENTARY TO ACCOMPANY CONSTRUCTION BONDS

A. GENERAL INFORMATION

There are two types of construction bonds that are required by statutes for public work in many jurisdictions and are widely used for other projects as well.

Construction Performance Bond
Construction Payment Bond

The Construction Performance Bond is an instrument that is used to assure the availability of funds to complete the construction.

The Construction Payment Bond is an instrument that is used to assure the availability of sufficient funds to pay for labor, materials and equipment used in the construction. For public work the Construction Payment Bond provides rights of recovery for workers and suppliers similar to their rights under the mechanics lien laws applying to private work.

The objective underlying the re-writing of construction bond forms was to make them more understandable to provide guidance to users. The intention was to define the rights and responsibilities of the parties, without changing the traditional rights and responsibilities that have been decided by the courts. The new bond forms provide helpful guidance regarding time periods for various notices and actions and clarify the extent of available remedies.

The concept of pre-default meeting has been incorporated into the Construction Performance Bond. All of the participants favored early and informal resolution of the problems that may precipitate a default, but some Surety companies were reluctant to participate in pre-default settings absent specific authorization in the bond form.

The responsibilities of the Owner and the options available to the Surety when a default occurs are set forth in the Construction Performance Bond. Procedures for making a claim under the Construction Payment Bond are set forth in the form.

EJCDC recommends the use of two separate bonds rather than a combined form. Normally the amount of each bond is 100 percent of the contract amount. The bonds have different purposes and are separate and distinct obligations of the Surety. The Surety Association reports that the usual practice is to charge a single premium for both bonds and there is no reduction in premium for using a combined form or for issuing one bond without the other.

B. COMPLETING THE FORMS

Bonds have important legal consequences; consultation with an attorney and a bond specialist is encouraged with respect to federal, state and local laws applicable to bonds and with respect to completing or modifying the bond forms.

Both bond forms have a similar format and the information to be filled in is ordinarily the same on both bonds. If modification is necessary, the modifications may be different.

The bond forms are prepared for execution by the Contractor and the Surety. Evidence of authority to bind the Surety is usually provided in the form of a power of attorney designating the agent who is authorized to sign on behalf of the Surety. The power of attorney should be filed with the signed bonds.

Each bond must be executed separately since they cover separate and distinct obligations.

Preferably the bond date should be the same date as the contract, but in no case should the bond date precede the date of the contract.

To accompany the Construction Performance Bond (EJCDC No.1910-28A) and the Construction Payment Bond (EJCDC No. 1910-28B)
Prepared by the Engineers' Joint Contract Documents Committee

Performance Bond

GRNE 54087

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Theatrical Media Services Inc.
7510 Burlington Street
Omaha, NE 68127

SURETY (Name and Principal Place of Business):

Granite Re, Inc.
14001 Quailbrook Drive
Oklahoma City, OK 73134

OWNER (Name and Address):

West Haymarket Joint Public Agency
City of Lincoln, 555 South 10th Street Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:

Amount: Sixty-one Thousand Nine Hundred Eighty And 50/100 (\$61,980.50)

Description (Name and Location):

Sound Amplifier Replacement for Pinnacle Bank Arena

BOND

Date (Not earlier than Construction Contract Date): 5/12/2022

Amount: Sixty-one Thousand Nine Hundred Eighty And 50/100 (\$61,980.50)

Modifications to this Bond Form: None

Theatrical Media Services Inc.

CONTRACTOR AS PRINCIPAL
Company

(Corp. Seal)

Signature:
Name and Title:

Paul Janas

Granite Re, Inc.

SURETY
Company

(Corp. Seal)

Signature:
Name and Title: Jacob J. Buss Attorney-in-Fact

EJCDC No. 1910-28A (1984 Edition)

Prepared through the joint efforts of the Surety Association of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3. 1.

3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1. The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2. The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3. 1; and

3.3. The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1. Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2. Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

1. After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

2. Deny liability in whole or in part and notify the Owner citing reasons therefor.

5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1,

(FOR INFORMATION ONLY-Name, Address and Telephone)
AGENT or BROKER:

Gene Lilly Surety Bonds, Inc., 735 S. 56th Street
Lincoln, NE 68510 (402) 475-7700

4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1. The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2. Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3. Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.

8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. Definitions.

12.1. Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

12.2. Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3. Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

12.4. Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Theatrical Media Services Inc.
7510 Burlington Street
Omaha, NE 68127

SURETY (Name and Principal Place of Business):

Granite Re, Inc.
14001 Quailbrook Drive
Oklahoma City, OK 73134

OWNER (Name and Address):

West Haymarket Joint Public Agency
City of Lincoln, 555 South 10th Street Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:

Amount: Sixty-one Thousand Nine Hundred Eighty And 50/100 (\$61,980.50)

Description (Name and Location):

Sound Amplifier Replacement for Pinnacle Bank Arena

BOND

Date (Not earlier than Construction Contract Date): 5/12/2022

Amount: Sixty-one Thousand Nine Hundred Eighty And 50/100 (\$61,980.50)

Modifications to this Bond Form: None

Theatrical Media Services Inc.
CONTRACTOR AS PRINCIPAL
Company

(Corp. Seal)

Signature: _____
Name and Title:

Paul Jones

Granite Re, Inc.
SURETY
Company

(Corp. Seal)

Signature: _____
Name and Title: Jacob J. Buss Attorney-in-Fact

EJCDC No. 1910-28B (1984 Edition)

Prepared through the joint efforts of the Surety Association of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, American Institute of Architects, American Subcontractors Association, and the Associated Specialty Contractors.
Reprinted 10/90

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2. With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2. Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4. The Surety shall have no obligation to Claimants under this Bond until:

4.1. Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2. Claimants who do not have a direct contract with the Contractor:

1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and

2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and

3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

6.1. Send an answer to the Claimant, with a copy to the Owner. Within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2. Pay or arrange for payment of any undisputed amounts.

7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all

funds earned by the Contractor in the performance of Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond subject to the Owner's priority to use the funds for the completion of the work.

9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expense of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2 (iii), or (2) on which the last labor service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. DEFINITIONS

15.1. Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and, all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2. Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3. Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

(FOR INFORMATION ONLY-Name, Address and Telephone)
AGENT or BROKER:

Gene Lilly Surety Bonds, Inc, 735 S. 56th Street
Lincoln, NE 68510 (402) 475-7700

GRANITE RE, INC.
GENERAL POWER OF ATTORNEY

Know all Men by these Presents:

That GRANITE RE, INC., a corporation organized and existing under the laws of the State of MINNESOTA and having its principal office at the City of OKLAHOMA CITY in the State of OKLAHOMA does hereby constitute and appoint:

ROBERT T. CIRONE; JAMES M. KING; JACOB J. BUSS; SUZANNE P. WESTERHOLT; THOMAS L. KING; SETH P. WEEDIN; its true and lawful Attorney-in-Fact(s) for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said GRANITE RE, INC. a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said GRANITE RE, INC. through us, its Board of Directors, hereby ratifies and confirms all and whatsoever the said:

ROBERT T. CIRONE; JAMES M. KING; JACOB J. BUSS; SUZANNE P. WESTERHOLT; THOMAS L. KING; SETH P. WEEDIN; may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said GRANITE RE, INC. has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Assistant Secretary, this 3rd day of January, 2020.

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)





Kenneth D. Whittington, President




Kyle P. McDonald, Assistant Secretary

On this 3rd day of January, 2020, before me personally came Kenneth D. Whittington, President of the GRANITE RE, INC. Company and Kyle P. McDonald, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said, that they, the said Kenneth D. Whittington and Kyle P. McDonald were respectively the President and the Assistant Secretary of GRANITE RE, INC., the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their name thereto by like order as President and Assistant Secretary, respectively, of the Company.

My Commission Expires:
April 21, 2023
Commission #: 11003620





Notary Public

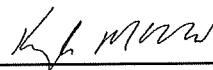
GRANITE RE, INC.
Certificate

THE UNDERSIGNED, being the duly elected and acting Assistant Secretary of Granite Re, Inc., a Minnesota Corporation, HEREBY CERTIFIES that the following resolution is a true and correct excerpt from the July 15, 1987, minutes of the meeting of the Board of Directors of Granite Re, Inc. and that said Power of Attorney has not been revoked and is now in full force and effect.

"RESOLVED, that the President, any Vice President, the Assistant Secretary, and any Assistant Vice President shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the Company in the course of its business. On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the Company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

IN WITNESS WHEREOF, the undersigned has subscribed this Certificate and affixed the corporate seal of the Corporation this
12th day of May, 2022.





Kyle P. McDonald, Assistant Secretary

Certified Statement Pursuant to Neb. Rev. Stat. § 77-1323

§ 77-1323 Every person, partnership, limited liability company, association, or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall furnish a certified statement to be attached to the contract that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

Pursuant to Neb. Rev. Stat. § 77-1323, I, Paul Jonas, do hereby certify that all equipment to be used on JPA Bid No. 22-099, except that equipment acquired since the assessment date, has been assessed for taxation for the current year, in Douglas County, Nebraska.

DATED this 11th day of May, 2022.

By: Paul Jonas
Paul Jonas

Title: Sale Manager

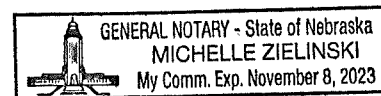
STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

On May 11th, 2022, before me, the undersigned Notary Public duly commissioned for and qualified in said County, personally came Paul Jonas, to me known to be the identical person, whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and notarial seal the day and year last above written.

Michelle Zielinski
Notary Public Michelle Zielinski

(S E A L)





22-099 Addendum 1

Theatrical Media Services

Supplier Response

Event Information

Number: 22-099 Addendum 1
Title: Sound Amplifier for the Pinnacle Bank Arena
Type: Notice to Bidders
Issue Date: 3/25/2022
Deadline: 4/13/2022 12:00 PM (CT)
Notes: Questions and added more bid line items.

Contact Information

Contact: Sharon Mulder Interim Purchasing Agent
Address: Suite 200
Purchasing
440 S. 8th St.
Lincoln, NE 68508
Phone: (402) 441-7428
Fax: (402) 441-6513
Email: smulder@lincoln.ne.gov

Theatrical Media Services Information

Contact: Paul Jonas
Address: 7510 Burlington Street
Omaha, NE 68127
Phone: (402) 592-5522
Fax: (402) 592-0094
Email: pjonas@tmsomaha.com
Web Address: tmsomaha.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Paul Jonas

Signature

Submitted at 4/12/2022 9:00:19 AM

pjonas@tmsomaha.com

Email

Response Attachments

Bid Bond -TMS.pdf

Bid Bond

QT 6754 Pinnacle Bank Arena.pdf

Quote

Bid Attributes

1 Agreement to Addendum No. 1

Addenda are instruments issued by the Purchasing Department prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Vendor must acknowledge receipt of this addendum in the space provided at time of bid submission.

Be advised of the following clarifications and changes to the Specification and bidding documents:

QUESTIONS

1. On the line Items tab it only list one item "Sound Amplifiers" Ten of them. There is not any place for me to enter the other line items that you are purchasing as part of this bid.
2. On part 2.2 of dib document "22-099 Amplifier PBA Sound System" you are asking for the amps. Part 2.3.1 says "any extra items needed must be provided by the bidder." In part 2.4.1 it is asking for a DBX Drive Rack.

Added bid line items to cover questions 1 and 2.

3. Bid has been extended and will close on Wednesday April 13th at 12:00 p.m. Central Tim.

All other terms, conditions, and requirements of the request remain the same as originally indicated in the document or as modified on previous addenda.

Sharon Mulder
Assistant Purchasing Agent

☒ Yes (Yes)

2 Instructions to Bidders

I acknowledge reading and understanding the Instructions to Bidders.

☒ Yes (Yes)

3 Insurance Requirements and Endorsements

Vendor agrees to provide insurance coverage and comply with each provision listed in the **Insurance Requirements** form, including the submission of the **Certificate of ACORD** and the applicable **endorsements**.

Insurance Certificate and required endorsements are required at time of contract execution by awarded vendor.

Vendors are strongly encouraged to send the insurance requirements and endorsement information to their insurance agent prior to bid closing in order to expedite the contract execution process.

☒ Yes (Yes)

4 Specifications

I acknowledge reading and understanding the specifications.

☒ Yes (Yes)

5 Sample Contract

I acknowledge reading and understanding the sample contract.

☒ Yes (Yes)

6 Contact

Name of person submitting this bid:

Paul Jonas

7 Bid Bond Submission - County

I acknowledge and understand that my bid will not be considered unless a bid bond or certified check in the sum of five percent (5%) of the total amount of the bid is made payable to the order of the Lancaster County Treasurer as a guarantee of good faith prior to the bid opening. The bid security may be scanned and attached to the 'Response Attachments' section of your response or faxed to the Purchasing Office (402)441-6513. The original bond/check must then be received in the Purchasing Office, 440 S. 8th Street, Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.

Failure to submit bid bond within three (3) days may result in rejection of bid.

YOU MUST INDICATE YOUR METHOD OF BID BOND SUBMISSION IN BOX TO RIGHT!

I have scanned and attached my bid bond.

8 Performance/Payment Bonds

I acknowledge that a Performance Bond and a Payment Bond each in the amount of 100% of the Contract amount will be required with the signed contract upon award of this project.

☒ Yes (Yes)

9 Purchase Order, Contract and Delivery Contact

The City/County Purchasing Department issues Purchase Orders and Contracts via email to a designated contact person of the awarded Vendor. This designee will be the primary contact with the department through the delivery of the product/services. Please list the name, email address and phone number of the person who will be the contact person for the contract/PO to be awarded.

Paul Jonas, pjonas@tmsomaha.com, 402-592-5522,

10	Bid Documents I acknowledge and accept that it is my responsibility as a Bidder to promptly notify the Purchasing Department Staff prior to the close of the bid of any ambiguity, inconsistency or error which I may discover upon examination of the bid documents including, but not limited to the Specifications. <input checked="" type="checkbox"/> Yes (Yes)
11	Employee Class Act EO I acknowledge reading and understanding the Employee Classification Act, Executive Order 83319. <input checked="" type="checkbox"/> Yes (Yes)
12	Employee Class Act Affidavit I acknowledge if awarded the contract I will abide by the law, notarize and attach the Employee Classification Act Affidavit to my contract. <input checked="" type="checkbox"/> Yes (Yes)
13	COVID 19 Virus Impact Do you believe the COVID 19 virus will have an impact on the completion of the project dates listed in the bid documents: <div style="margin-left: 20px;"> <ul style="list-style-type: none"> If YES, provide the details regarding the impact and your proposed completion date. If NO, the contract will be executed as required in the bid documents. </div> <div style="border: 1px solid black; padding: 2px; margin-top: 10px;">No</div>
14	Recycling of Corrugated Cardboard I acknowledge and accept that I must comply with the City of Lincoln recycling regulations which includes a ban of all corrugated cardboard from the City Landfill effective April 1, 2018. Vendors shall haul any recyclable material directly to any of the three processor facilities which are currently operating in the City of Lincoln, or they can use a recycled material hauler for curbside collection at their place of business. Vendors are also encouraged to recycle any other approved materials used, or removed, from a City or County jobsite. Go to - http://lincoln.ne.gov/city/pworks/solid-waste/recycle/ for more information on City of Lincoln recycling programs. <input checked="" type="checkbox"/> Yes (Yes)
15	U.S. Citizenship Attestation Is your company legally considered an Individual or Sole Proprietor: YES or NO As a Vendor who is legally considered an Individual or a Sole Proprietor I hereby understand and agree to comply with the requirements of the United States Citizenship Attestation Form, available at: http://www.sos.ne.gov/business/notary/citizenforminfo.html All awarded Vendors who are legally considered an Individual or a Sole Proprietor must complete the form and submit it with contract documents at time of execution. If a Vendor indicates on such attestation form that he or she is a qualified alien, the Vendor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Vendor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program. Vendor further understands and agrees that lawful presence in the United States is required and the Vendor may be disqualified or the Contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. 4-108. <div style="border: 1px solid black; padding: 2px; margin-top: 10px;">No</div>

**1
6 Tax Exempt Certification Forms**

Materials being purchased in this bid are tax exempt and unit prices are reflected as such. A Purchasing Agent Appointment form and a Exempt Sales Certificate form shall be issued with contract documents. (Note: State Tax Law does not provide for sales tax exemption for proprietary functions for government, thereby excluding the purchases of pipes to be installed in water lines and purchase of water meters.)

☒ Yes (Yes)

**1
7 Electronic Signature**

Please check here for your electronic signature.

☒ Yes (Yes)

Bid Lines**1 New Drive Rack; Professional Audio Processor, 48090 DBX**

Quantity: 1 UOM: EA Unit Price: \$1,688.70 Total: \$1,688.70

Item Notes: This will be furnished and installed inside of the Pinnacle Bank Arena to the current sound system.

Item Attributes**1. Manufacturer and Model**

Please provide manufacture and model of product bidding.

Biamp -Tesira FORTE AI -DSP- 12 inputs x 8 outputs & Up To 8 Ch. Of USB Audio

2 Amp Hardware (See bid line item attribute for the breakdown and information to complete this line item)

Quantity: 1 UOM: Lump Sum Unit Price: \$44,343.00 Total: \$44,343.00

Manufacturer: Lab Gruppen

Item Notes: Per Specifications Section 2, 2.2

Item Attributes**1. Manufacturer, Model, Quantity, Channel Amp and Amount**

Please provide manufacture and model of product bidding.

Please include the quantity of each amp your bidding along with the amount of the that size amp.

Please list out here and total your amps, then put that total amount into the actual bid line number 2.

(3) Linea Research -LR88C10 Amp- 8 Channel 1250 Watt @ 8 Ohm, (2) Linea Research -LR88C06 Amp- 8 Channel 750 Watt @ 8 Ohm, (2) Linea Research -LR88C20 Amp- 8 Channel 1500 Watt @ 8 Ohm, for a total of 56 amp channels.

3 Amp Components (See bid line item attribute for the breakdown and information to complete this line item)

Quantity: 1 UOM: Lump Sum Unit Price: \$4,683.80 Total: \$4,683.80

Item Notes: Per Specifications Section 2, 2.3

Item Attributes

1. Manufacturer, Model, Quantity, and Amount

Please provide manufacture and model of product bidding.

Please include the quantity of each component your bidding along with the amount and size supplying.

Please list out here the total components required to complete the job and then put that total amount into the actual bid line number.

This could be cabling, connectors, and etc.

(1) Versitron -FVRM4AC3A-CO -Media Converter- Receiver Multi Mode Fiber Converter, (1) Versitron -FVTM4AC3A-CO -Media Converter- Transmitter Multi Mode Fiber Converter, (1) Pakedge -MS-2400 -Switch-Computer 24 Port 1 Gigabit Managed Layer 3 No PoE (2) 10G SFP+, (200ft) Liberty -24-L6A-BLK -Wire-CAT6A U/UTP EN; 23 AWG/4 Pair; Black, (200ft) Liberty 22-1P-EZ-BLK -Wire- Mic; 22 AWG/1 Pair Shielded; Black, (1 Lot) Connectors, (1Lot) Mileage, Insurance Rider, (1) Bond.

4 10-Year Warranty Plan for Amplifiers

Quantity: 1 UOM: Each Unit Price: Total:

Item Notes: Total amount the 10 year warranty

Item Attributes

1. Attribute deleted as part of an Addendum

5 Labor for Project Installation

Quantity: 1 UOM: Lump Sum Unit Price: Total:

Item Notes:

Item Attributes

1. Attribute deleted as part of an Addendum

Response Total: \$61,980.50

QUOTE



o 402.592.5522
f 402.592.0094
e tms@tmsomaha.com
@ tmsomaha
a 7510 Burlington St.
Omaha, NE 68127

QUOTE:
DATE:
PREPARED BY:

6754
4/7/2022
Paul Jonas

TO:

Pinnacle Bank Arena

Attn:

400 Pinnacle Arena Drive

Lincoln, Nebraska 68508 USA

Phone: (402) 904-4444

Email:

NOTES:

QUOTE VALID FOR 30 DAYS

PAYMENT TERMS

NET

SHIPPING TERMS

N/A

SOUND AMPLIFIER FOR PINNACLE BANK ARENA

BID No. 22-099

QTY | ITEM / DESCRIPTION

1	<u>Biamp Tesira FORTÉ AI</u> DSP- 12 inputs x 8 outputs & Up To 8 Ch. Of USB Audio	Tesira FORTÉ AI
3	<u>Linea Research LR-88C10</u> Amp- 8 Channel 1250 Watt @ 8 Ohm	LR-88C10
2	<u>Linea Research LR-88C06</u> Amp- 8 Channel 750 Watt @ 8 Ohm	LR-88C06
2	<u>Linea Research LR-88C20</u> Amp- 8 Channel 1500 Watt @ 8 Ohm	LR-88C20
1	<u>Versitron FVRM4AC3A-C0</u> Media Converter- Receiver Multi Mode Fiber To 4 Video, 2 Audio & 4 Contact Closure	FVRM4AC3A-C0
1	<u>Versitron FVTM4AC3A-C0</u> Media Converter- Transmitter Multi Mode Fiber To 4 Video, 2 Audio & 4 Contact Closure	FVTM4AC3A-C0
1	<u>Pakedge MS-2400</u> Switch- Computer 24 Port 1 Gigabit Managed Layer 3 No PoE (2) 10G SFP+	MS-2400
200 ft	<u>Liberty AV Solutions 24-4P-L6A-BLK</u> Wire- CAT6A U/UTP EN; 23 AWG/4 Pair; Black	24-4P-L6A-BLK
200 ft	<u>Liberty AV Solutions 22-1P-EZ-BLK</u> Wire- Mic; 22 AWG/1 Pair Shielded; Black	22-1P-EZ-BLK
1	<u>TMS Connectors</u> Connector- Equipment Hookup Supplies (Bulk/Lot)	TMS-CONN

QUOTE

LBR-MPG

- 1 **TMS Mileage**
Labor- Vehicle Mileage (Per Mile)

LBR-INST

- 1 **TMS Installation**
Labor- Project Installation

- 1 **TMS Extended Warranty**
Extended Warranty- Additional 5 year Warranty on Linea Rasea

Extended Warranty

- 1 **TMS Insurance Waiver**
Insurance Waiver

Insurance Waiver

- 1 **Gene Lilly Surety Bonds BOND**
Bond-

BOND

Equipment & Labor

\$61,980.50

PROJECT SUMMARY

Equipment & Total \$61,980.50

Tax \$0.00

TOTAL \$61,980.50

*

*****ORDERS OVER \$500.00 WILL INCUR A 3% PROCESSING FEE IF PAYING BY CREDIT CARD*****

SALES TAX: The Buyer agrees to pay the Seller any taxes or additional costs arising from any federal, state, or local tax laws. The sales tax (if any) that is applied to this quote is an estimate and be can changed at invoicing according to the governing body(s) in which the job site resides OR where the Buyer takes possession of the equipment purchased. The sales tax on this quote may be removed if proper documentation is received by TMS, Inc.

Signature Approval:

Print Name

Authorized Signature

Date

PRODUCT DETAILS



Biamp Tesira FORTÉ AI

DSP- 12 Inputs x 8 outputs & Up To 8 Ch. Of USB Audio

The TesiraFORTÉ AI is a digital audio server with 12 analog inputs and 8 analog outputs, and includes up to 8 channels of configurable USB audio. Gigabit Ethernet port. RS-232 serial port. 4-pin GPIO. 2-line OLED display with capacitive-touch navigation. Rack mountable (1RU). System configuration and control via Ethernet. Internal universal power supply. Signal processing via intuitive software allows configuration and control for signal routing, mixing, equalization, filtering, and delay CE marked, UL listed, and RoHS compliant. Covered by Biamp Systems' five-year warranty



Linea Research LR-88C10

Amp- 8 Channel 1250 Watt @ 8 Ohm

Linea's 88C Series of eight channel amplifiers are optimised for use in installations. Combining massive power and peerless audio performance with unique DSP, the 88C Series also incorporates many features that ease it's integration on to both new and legacy systems, the 88C Series represents an unmatched advancement in amplifier technology.



Linea Research LR-88C06

Amp- 8 Channel 750 Watt @ 8 Ohm

Linea's 88C Series of eight channel amplifiers are optimised for use in installations. Combining massive power and peerless audio performance with unique DSP, the 88C Series also incorporates many features that ease it's integration on to both new and legacy systems, the 88C Series represents an unmatched advancement in amplifier technology.



Linea Research LR-88C20

Amp- 8 Channel 1500 Watt @ 8 Ohm

Linea's 88C Series of eight channel amplifiers are optimised for use in installations. Combining massive power and peerless audio performance with unique DSP, the 88C Series also incorporates many features that ease it's integration on to both new and legacy systems, the 88C Series represents an unmatched advancement in amplifier technology.



Versitron FVRM4AC3A-C0

Media Converter- Receiver Multi Mode Fiber To 4 Video, 2 Audio & 4 Contact Closure

The VERSITRON VersiVision Series video transmitters and receivers support 4-channels of 8-bit digitally encoded broadcast quality video + 1-channel of bi-directional data + 4-channels of bi-directional audio + 4-channels of bi-directional contact closure over one multi-mode or single-mode optical fiber. The devices are directly compatible with NTSC, PAL, and SECAM camera systems. Plug and Play design ensures adjustment-free installation and operation, and optical adjustments are never required. LED indicators are provided to instantly monitor the system operating status.

Installation utilizes a transmitter unit at the camera end of the link, connected via a single fiber optic



Versitron FVTM4AC3A-C0

Media Converter- Transmitter Multi Mode Fiber To 4 Video, 2 Audio & 4 Contact Closure

The VERSITRON VersiVision Series video transmitters and receivers support 4-channels of 8-bit digitally encoded broadcast quality video + 1-channel of bi-directional data + 4-channels of bi-directional audio + 4-channels of bi-directional contact closure over one multi-mode or single-mode optical fiber. The devices are directly compatible with NTSC, PAL, and SECAM camera systems. Plug and Play design ensures adjustment-free installation and operation, and optical adjustments are never required. LED indicators are provided to instantly monitor the system operating status.

Installation utilizes a transmitter unit at the camera end of the link, connected via a single fiber optic

PRODUCT DETAILS



Pakedge MS-2400

Switch- Computer 24 Port 1 Gigabit Managed Layer 3 No PoE (2) 10G SFP+

Pakedge MS Series Layer 3 Managed Switches are ideal for your most performance-demanding luxury residential, commercial, and pro-AV projects. When your clients require flawless video streaming, synchronized media distribution, and uninterrupted productivity, MS Series switches deliver with commercial-grade performance and convenient versatility. The MS Series was designed based on extensive dealer feedback with features including rear-facing ports, PoE+ power budgeting, and the option for either plug-and-play setup for basic installs or advanced Layer 3 functionality for more complex projects. With five 12-, 24-, and 44-port models in a variety of PoE+ configurations.



Liberty AV Solutions 24-4P-L6A-BLK

Wire- CAT6A U/UTP EN; 23 AWG/4 Pair; Black

23 AWG Solid Bare Copper Conductors • HDPE, High Density Polyethylene Insulation • Varying lay twisted pairs cabled on a common axis • Separator with each pair in its own interstice • FR-PVC, Flame rated Polyvinyl Chloride Jacket • Jacket includes spacing feature • Third Party (UL, ETL) certified to Category 6A performance • Fully Certified to 500 MHz • NEC Rated CMR, CEC Rated CMG FT4, RoHS Compliant • Non-Plenum LAN 10/100/1000/10GBaseT Networking • Balun Infrastructure, Voice, Voice over IP cabling • Video, Audio, InfraRed, IP Control, Modulated RF Video • PoE, PoE+



Liberty AV Solutions 22-1P-EZ-BLK

Wire- Mic; 22 AWG/1 Pair Shielded; Black

Black High Performance EZ-Strip Broadcast Audio 22 AWG 1 Pair Shielded Cable Reel 7-strand annealed tinned copper conductors • Cellular polyethylene dielectric insulation • Tightly twisted and shielded • Semi-pressure extruded PVC jacket • Shield bonded to the jacket for EZ-Stripping • NEC CM, CEC CMG FT4, RoHS compliant • 1000 foot spools



TMS Connectors

Connector- Equipment Hookup Supplies (Bulk/Lot)



Gene Lilly Surety Bonds BOND

Bond-



THEAMED-01

LONEAL

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/16/2022

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

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

PRODUCER Fee Insurance Group, Inc. 2920 N. Plum St Hutchinson, KS 67502	CONTACT NAME:	
	PHONE (A/C, No, Ext): (620) 662-2381	FAX (A/C, No): (620) 662-5415
	E-MAIL ADDRESS: Certs@feeinsurance.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: CINCINNATI INSURANCE COMPANIES	NAIC # 10677
INSURED Theatrical Media Services, Inc. 7510 Burlington St. Omaha, NE 68127	INSURER B: Accident Fund General Insurance Company	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	X	X	EPP 0125110	2/27/2022	2/27/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	EPP 0125110	2/27/2022	2/27/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			EPP 0125110	2/27/2022	2/27/2023	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
B	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	AF WCP 100010378	2/27/2022	2/27/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
As required by written contract, certificate holder is primary & noncontributory additional insured on the general liability (including completed operations) & auto liability. As required by written contract & to the extent permitted by applicable law, subrogation shall be waived on the general liability, auto liability & workers' compensation. Umbrella is excess over & follow form on the general liability, auto liability & workers' compensation, subject to policy terms & conditions.

CERTIFICATE HOLDER

CANCELLATION

West Haymarket Joint Public Agency 555 S 10th St Lincoln, NE 68508	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS' COMMERCIAL GENERAL LIABILITY BROADENED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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• Lessor Of Leased Equipment;	
• Vendors;	
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B. Limits Of Insurance:

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

1. Employee Benefit Liability Coverage

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

3. Damage To Premises Rented To You

The lesser of:

- a. The Each Occurrence Limit shown in the Declarations; or
- b. \$500,000 unless otherwise stated \$ _____

4. Supplementary Payments

- a. Bail Bonds: \$2,500

b. Loss Of Earnings: \$ 500

5. Medical Payments

Medical Expense Limit: \$ 10,000

9. Property Damage To Borrowed Equipment

Each Occurrence Limit: \$10,000

Deductible Amount: \$ 250

16. Voluntary Property Damage Coverage (Coverage a.) And Care, Custody Or Control Liability Coverage (Coverage b.)

Limits Of Insurance

Coverage a.

\$1,000 Each Occurrence

\$5,000 Aggregate

Coverage b. \$5,000 Each Occurrence unless otherwise stated \$ _____

Deductible Amount (Each Occurrence)

Coverage a. \$250

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

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

C. Coverages

1. Employee Benefit Liability Coverage

- a. The following is added to **Section I - Coverages**:

Employee Benefit Liability Coverage

(1) Insuring Agreement

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

- 1) The amount we will pay for damages is limited as described in **Section III - Limits Of Insurance**; and
- 2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

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

- (b) This insurance applies to damages only if the act, error or omission, is negligently committed in the "administration" of your "employee benefit program"; and
- 1) Occurs during the policy period; or
 - 2) Occurred prior to the "first effective date" of

this endorsement provided:

- a) You did not have knowledge of a claim or "suit" on or before the "first effective date" of this endorsement.

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

- i) Reports all, or any part, of the act, error or omission to us or any other insurer;
- ii) Receives a written or verbal demand or claim for damages because of the act, error or omission; and

- b) There is no other applicable insurance.

(2) Exclusions

This insurance does not apply to:

- (a) **Bodily Injury, Property Damage Or Personal And Advertising Injury**

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

- (b) **Dishonest, Fraudulent, Criminal Or Malicious Act**

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

- (c) **Failure To Perform A Contract**

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

(d) Insufficiency Of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

(e) Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation

Any claim based upon:

- 1) Failure of any investment to perform;
- 2) Errors in providing information on past performance of investment vehicles; or
- 3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

(f) Workers' Compensation And Similar Laws

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

(g) ERISA

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

(h) Available Benefits

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

(i) Taxes, Fines Or Penalties

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

(j) Employment-Related Practices

Any liability arising out of any:

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

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

(3) Supplementary Payments

Section I - Coverages, Supplementary Payments - Coverages A And B also apply to this Coverage.

b. Who Is An Insured

As respects **Employee Benefit Liability Coverage, Section II - Who Is An Insured** is replaced by the following:

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

ners, and their spouses are also insureds but only with respect to the conduct of your business.

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

zation. However, coverage under this provision:

- (a) Is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and
- (b) Does not apply to any act, error or omission that was committed before you acquired or formed the organization.

c. Limits Of Insurance

As respects **Employee Benefit Liability Coverage, Section III - Limits Of Insurance** is replaced by the following:

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

- (b) A series of related acts, errors or omissions, regardless of the amount of time that lapses between such acts, errors or omissions;

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

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

(4) Deductible Amount

- (a) Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the Deductible Amount stated in the Declarations as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.
- (b) The Deductible Amount stated in the Declarations applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.
- (c) The terms of this insurance, including those with respect to:
- 1) Our right and duty to defend the insured against any "suits" seeking those damages; and
 - 2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or claim;
- apply irrespective of the application of the Deductible Amount.
- (d) We may pay any part or all of the Deductible Amount to effect settlement of any claim or "suit" and, upon no-

tification of the action taken, you shall promptly reimburse us for such part of the Deductible Amount as we have paid.

d. Additional Conditions

As respects **Employee Benefit Liability Coverage, Section IV - Commercial General Liability Conditions** is amended as follows:

- (1) Item 2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit** is replaced by the following:

2. Duties In The Event Of An Act, Error Or Omission, Or Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a claim. To the extent possible, notice should include:
- (1) What the act, error or omission was and when it occurred; and
 - (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.
- b. If a claim is made or "suit" is brought against any insured, you must:
- (1) Immediately record the specifics of the claim or "suit" and the date received; and
 - (2) Notify us as soon as practicable.
- You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
- (1) Immediately send us copies of any demands, notices, summonses or legal papers re-

ceived in connection with the claim or "suit";

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

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

- (2) Item 5. **Other Insurance** is replaced by the following:

5. Other Insurance

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

a. Primary Insurance

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

b. Method Of Sharing

If all of the other insurance permits contribu-

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

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

c. No Coverage

This insurance shall not cover any loss for which the insured is entitled to recovery under any other insurance in force previous to the effective date of this Coverage Part.

e. Additional Definitions

As respects **Employee Benefit Liability Coverage, Section V - Definitions** is amended as follows:

- (1) The following definitions are added:

1. "Administration" means:

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

any benefit included in the "employee benefit program".

However, "administration" does not include:

- a. Handling payroll deductions; or
 - b. The failure to effect or maintain any insurance or adequate limits of coverage of insurance, including but not limited to unemployment insurance, social security benefits, workers' compensation and disability benefits.
2. "Cafeteria plans" means plans authorized by applicable law to allow "employees" to elect to pay for certain benefits with pre-tax dollars.
3. "Employee benefit programs" means a program providing some of all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:
- a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
 - b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;

c. Unemployment insurance, social security benefits, workers' compensation and disability benefits; and

d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.

4. "First effective date" means the date upon which coverage was first effected in a series of uninterrupted renewals of insurance coverage.

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

8. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

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

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent;

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent; or

c. An appeal of a civil proceeding.

2. Unintentional Failure To Disclose Hazards

Section IV - Commercial General Liability Conditions, 7. Representations is amended by the addition of the following:

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

3. Damage To Premises Rented To You

- a. The last Paragraph of **2. Exclusions** under **Section I - Coverage A - Bodily Injury And Property Damage Liability** is replaced by the following:

Exclusions c. through q. do not apply to "property damage" by fire, explosion, lightning, smoke or soot to premises while rented to you or temporarily occupied by you with permission of the owner, for which the amount we will pay is limited to the **Damage To Premises Rented To You Limit** as described in **Section III - Limits Of Insurance**.

- b. The insurance provided under **Section I - Coverage A - Bodily Injury And Property Damage Liability** applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

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

The exclusions under **Section I - Coverage A - Bodily Injury And Property Damage Liability, 2. Exclusions**, other than i. War and the **Nuclear Energy Liability Exclusion (Broad Form)**, are deleted and the following are added:

This insurance does not apply to:

- (a) "Property damage":
- (i) Assumed in any contract or agreement; or
 - (ii) Caused by or resulting from any of the following:
 - 1) Wear and tear;

- 2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;

- 3) Smog;

- 4) Mechanical breakdown, including rupture or bursting caused by centrifugal force;

- 5) Settling, cracking, shrinking or expansion;

- 6) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals; or

- 7) Presence, growth, proliferation, spread or any activity of fungus, including mold or mildew, and any mycotoxins, spores, scents or byproducts produced or released by fungi.

- (b) "Property damage" caused directly or indirectly by any of the following:

- (i) Earthquake, volcanic eruption, landslide or any other earth movement;

- (ii) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;

- (iii) Water under the ground surface pressing on, or flowing or seeping through:

- 1) Foundations, walls, floors or paved surfaces;

2) Basements, whether paved or not; or

3) Doors, windows or other openings.

(c) "Property damage" caused by or resulting from water that leaks or flows from plumbing, heating, air conditioning, fire protection systems, or other equipment, caused by or resulting from freezing, unless:

(i) You did your best to maintain heat in the building or structure; or

(ii) You drained the equipment and shut off the water supply if the heat was not maintained.

(d) "Property damage" to:

(i) Plumbing, heating, air conditioning, fire protection systems, or other equipment or appliances; or

(ii) The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet or ice, whether driven by wind or not.

c. Limit Of Insurance

With respect to the insurance afforded in Paragraphs 3.a. and 3.b. above, the **Damage To Premises Rented To You** Limit as shown in the Declarations is amended as follows:

(1) Paragraph 6. of **Section III - Limits Of Insurance** is replaced by the following:

6. Subject to Paragraph 5. above, the **Damage To Premises Rented To You** Limit is the most we will pay under **Coverage A - Bodily Injury And Property Damage Liability** for damages because of "property damage" to any one premises:

a. While rented to you, or temporarily occupied by

you with permission of the owner;

b. In the case of damage by fire, explosion, lightning, smoke or soot, while rented to you; or

c. In the case of damage by water, while rented to and occupied by you.

(2) The most we will pay is limited as described in **Section B. Limits Of Insurance, 3. Damage To Premises Rented To You** of this endorsement.

4. Supplementary Payments

Under **Section I - Supplementary Payments - Coverages A And B:**

a. Paragraph 2. is replaced by the following:

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

b. Paragraph 4. is replaced by the following:

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

5. Medical Payments

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

6. 180 Day Coverage For Newly Formed Or Acquired Organizations

Section II - Who Is An Insured is amended as follows:

Subparagraph a. of Paragraph 3. is replaced by the following:

a. Insurance under this provision is afforded only until the 180th day after

you acquire or form the organization or the end of the policy period, whichever is earlier;

7. Waiver Of Subrogation

Section IV - Commercial General Liability Conditions, 9. Transfer Of Rights Of Recovery Against Others To Us is amended by the addition of the following:

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

8. Automatic Additional Insured - Specified Relationships

a. The following is added to **Section II - Who Is An Insured**:

- (1) Any person(s) or organization(s) described in Paragraph **8.a.(2)** of this endorsement (hereinafter referred to as additional insured) whom you are required to add as an additional insured under this Coverage Part by reason of a written contract, written agreement, written permit or written authorization.
- (2) Only the following persons or organizations are additional insureds under this endorsement, and insurance coverage provided to such additional insureds is limited as provided herein:

(a) Managers Or Lessors Of Premises

The manager or lessor of a premises leased to you with whom you have agreed per Paragraph **8.a.(1)** of this endorsement to provide insurance, but only with respect to liability arising out of the ownership, maintenance or

use of that part of the premises leased to you, subject to the following additional exclusions:

This insurance does not apply to:

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

(b) Lessor Of Leased Equipment

Any person or organization from whom you lease equipment when you and such person(s) or organization(s) have agreed per Paragraph **8.a.(1)** of this endorsement to provide insurance. Such person(s) or organization(s) are insureds only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s). A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends. However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

(c) Vendors

Any person or organization (referred to below as vendor) with whom you have agreed per Paragraph **8.a.(1)** of this endorsement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the

vendor's business, subject to the following additional exclusions:

(i) The insurance afforded the vendor does not apply to:

- 1) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- 2) Any express warranty unauthorized by you;
- 3) Any physical or chemical change in the product made intentionally by the vendor;
- 4) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- 5) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- 6) Demonstration, installation, servicing

or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

7) Products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

8) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

a) The exceptions contained in Paragraphs (c) (i) 4) or 6) of this endorsement; or

b) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(ii) This insurance does not apply to any insured person or organization:

1) From whom you have acquired such products, or any ingredient, part

or container, entering into, accompanying or containing such products; or

- 2) When liability included within the "products-completed operations hazard" has been excluded under this Coverage Part with respect to such products.

(d) State Or Governmental Agency Or Subdivision Or Political Subdivision - Permits Or Authorizations Relating To Premises

Any state or governmental agency or subdivision or political subdivision with which you have agreed per Paragraph **8.a.(1)** of this endorsement to provide insurance, subject to the following additional provision:

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

- (i) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures; or
- (ii) The construction, erection or removal of elevators; or
- (iii) The ownership, maintenance or use of any elevators covered by this insurance.

(e) Mortgagee, Assignee Or Receiver

Any person or organization with whom you have agreed per Paragraph **8.a.(1)** of this endorsement to provide insurance, but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of the premises by you. However, this insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

- (3) The insurance afforded to additional insureds described in Paragraph **8.a.(1)** of this endorsement:

- (a) Only applies to the extent permitted by law; and
- (b) Will not be broader than that which you are required by the written contract, written agreement, written permit or written authorization to provide for such additional insured; and
- (c) Does not apply to any person, organization, vendor, state, governmental agency or subdivision or political subdivision, specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part, provided such other provision or endorsement covers the injury or damage for which this insurance applies.

- b. With respect to the insurance afforded to the additional insureds described in Paragraph **8.a.(1)** of this endorsement, the following is added to **Section III - Limits Of Insurance**:

The most we will pay on behalf of the additional insured is the amount of insurance:

- (1) Required by the written contract, written agreement, written permit or written authorization described

in Paragraph **8.a.(1)** of this endorsement; or

- (2) Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

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

- c. **Section IV - Commercial General Liability Conditions** is amended to include the following:

Automatic Additional Insured Provision

This insurance applies only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

- (1) During the policy period; and
- (2) Subsequent to your execution of the written contract or written agreement, or the issuance of a written permit or written authorization, described in Paragraph **8.a.(1)**.

- d. **Section IV - Commercial General Liability Conditions** is amended as follows:

Condition **5. Other Insurance** is amended to include:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured per Paragraph **8.a.(1)** of this endorsement provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in writing in a contract, agreement, permit or authorization described in **8.a.(2)** of this endorsement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

9. Property Damage To Borrowed Equipment

- a. The following is added to **Exclusion 2.j. Damage To Property** under **Sec-**

tion I - Coverage A - Bodily Injury And Property Damage Liability:

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

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

- (1) The Limits of Insurance shown in the Declarations are replaced by the limits designated in **Section B. Limits Of Insurance, 9. Property Damage To Borrowed Equipment** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in **Section B. Limits Of Insurance, 9. Property Damage To Borrowed Equipment** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

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

(2) Deductible Clause

- (a) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the Deductible Amount stated in **Section B. Limits Of Insurance, 9. Property Damage To Borrowed Equipment** of this endorsement. The limits of insurance will not be reduced by the application of such deductible amount.
- (b) **Section IV - Commercial General Liability Conditions, 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**, applies to each claim or "suit" irrespective of the amount.

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

10. Employees As Insureds - Specified Health Care Services And Good Samaritan Services

Paragraph 2.a.(1)(d) under **Section II - Who Is An Insured** does not apply to:

- a. Your "employees" who provide professional health care services on your behalf as a duly licensed nurse, emergency medical technician or paramedic in the jurisdiction where an "occurrence" or offense to which this insurance applies takes place; or
- b. Your "employees" or "volunteer workers", other than an employed or volunteer doctor, providing first aid or good samaritan services during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

11. Broadened Notice Of Occurrence

Paragraph a. of Condition 2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit** under **Section IV - Commercial General Liability Conditions** is replaced by the following:

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

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

12. Nonowned Aircraft

The following is added to **Exclusion 2.g. Aircraft, Auto Or Watercraft** under **Section I - Coverage A - Bodily Injury And Property Damage Liability**:

This exclusion does not apply to an aircraft you do not own, provided that:

- a. The pilot in command holds a current effective certificate, issued by a duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
- b. The aircraft is rented with a trained, paid crew; and
- c. The aircraft does not transport persons or cargo for a charge.

13. Bodily Injury Redefined

Section V - Definitions, 4. "Bodily injury" is replaced by the following:

- 4. "Bodily injury" means bodily harm or injury, sickness, disease, disability, humiliation, shock, fright, mental anguish or mental injury, including care, loss of services or death resulting from any of these at any time.

14. Expected Or Intended Injury Redefined

The last sentence of **Exclusion 2.a. Expected Or Intended Injury** under **Section I - Coverage A - Bodily Injury And Property Damage Liability** is replaced by the following:

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

15. Former Employees As Insureds

The following is added to Paragraph 2. under **Section II - Who Is An Insured**:

- 2. Each of the following is also an insured:

Any of your former "employees", directors, managers, members, partners or "executive officers", including but not limited to retired, disabled or those on leave of absence, but only for acts within the scope of their employment by you or for duties related to the conduct of your business.

16. Voluntary Property Damage Coverage

a. Coverage D - Voluntary Property Damage Coverage

Section I - Coverages is amended to include the following:

(1) Insuring Agreement

- (a) We will pay the cost to repair or replace "property damage" to property of others arising out of operations incidental to your business when:

- 1) Damage is caused by you; or
- 2) Damage occurs while in your possession.

At your written request, we will make this payment regardless of whether you are at fault for the "property damage".

If you, at our request, replace, or make any repairs to, damaged property of others, the amount we will pay under **Voluntary Property Damage Coverage** will be determined by your actual cost to replace or repair the damaged property, excluding any profit or overhead.

Any payment we make under **Voluntary Property Damage Coverage** shall not be interpreted as an admission of liability by you or by us.

It shall be your duty, not our duty, to defend any claim or "suit" to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered.

- (b) This insurance applies to "property damage" only if:

- 1) The "property damage" takes place in the "coverage territory"; and
- 2) The "property damage" occurs during the policy period.

(2) Exclusions

This insurance does not apply to "property damage" that would be excluded by **Coverage A - Bodily Injury And Property Damage Liability, 2. Exclusions**, except for **j. Damage To Property**, paragraphs (3), (4), (5) and (6), **k. Damage To Your Product**, and **l. Damage To Your Work**.

(3) Definitions

For purposes of **Voluntary Property Damage Coverage** only, the following definitions under **Section V - Definitions** are replaced by the following:

16. "Occurrence" means an incident, including continuous or repeated exposure to substantially the same general harmful conditions that result in "property damage".

20. "Property damage" means physical injury to tangible property. "Electronic data" is not tangible property, and "property damage" does not include disappearance, abstraction or theft.

b. Care, Custody Or Control Liability Coverage

For purposes of the coverage provided by **Care, Custody Or Control Liability Coverage** in this endorsement only:

- (1) **Section I - Coverage A - Bodily Injury And Property Damage Liability, 2. Exclusions, j. Damage To Property**, Subparagraphs (3), (4) and (5) do not apply to "property damage" to the property of others described therein.

- (2) It shall be your duty, not our duty, to defend any claim or "suit" to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered.

This Paragraph (2) supersedes any provision in the Coverage Part to the contrary.

- (3) "Property damage" for which **Care, Custody Or Control Liability Coverage** provides cover-

age shall be deemed to be caused by an "occurrence" but shall not serve to limit or restrict the applicability of any exclusion for "property damage" under this Coverage Part.

c. Limits Of Insurance And Deductibles

For purposes of the coverage provided by **Voluntary Property Damage Coverage and Care, Custody Or Control Liability Coverage, Section III - Limits Of Insurance** is amended to include the following:

- (1) The Limits of Insurance shown in the Declarations are replaced by the limits designated in **Section B. Limits Of Insurance, 16. Voluntary Property Damage Coverage And Care, Custody Or Control Liability Coverage**, in this endorsement. These limits are inclusive of, and not in addition to, the limits being replaced. The Limits of Insurance shown in the Schedule fix the most we will pay regardless of the number of:

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

- (2) (a) Subject to (3) below, the **Voluntary Property Damage Coverage**, Each Occurrence Limit Of Insurance is the most we will pay for the sum of damages under **Voluntary Property Damage Coverage**;

- (b) The **Care, Custody Or Control Liability Coverage**, Each Occurrence Limit Of Insurance is the most we will pay for the sum of damages under **Care, Custody Or Control Liability Coverage**;

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

- (3) The **Voluntary Property Damage Coverage**, Aggregate Limit Of Insurance is the most we will pay for the sum of all damages under **Voluntary Property Damage Coverage**. This limit applies separately to each "coverage term".

(4) Deductible Clause

- (a) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the Deductible Amount stated for the applicable coverage in the Schedule. The limits of insurance will not be reduced by the application of such Deductible Amount.

- (b) **Section IV - Commercial General Liability Conditions, 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**, applies to each claim or "suit" irrespective of the amount.

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

17. Broadened Contractual Liability - Work Within 50' Of Railroad Property

Section V - Definitions, 12. "Insured contract" is amended as follows:

- a. Paragraph c. is replaced by the following:
 - c. Any easement or license agreement;
- b. Paragraph f.(1) is deleted in its entirety.

18. Alienated Premises

Exclusion 2.j. Damage to Property, Paragraph (2) under **Section I - Coverage A - Bodily Injury And Property Damage Liability** does not apply if the premises are "your work".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS ADDITIONAL INSURED - AUTOMATIC STATUS AND AUTOMATIC WAIVER OF SUBROGATION WHEN REQUIRED IN WRITTEN CONTRACT, AGREEMENT, PERMIT OR AUTHORIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Additional Insured - Owners, Lessees Or Contractors - Automatic Status For Other Parties When Required In Written Contract Or Agreement With You

1. **Section II - Who Is An Insured** is amended to include as an additional insured any person or organization you have agreed in writing in a contract or agreement to add as an additional insured on this Coverage Part. Such person(s) or organization(s) is an additional insured only with respect to liability for:

a. "Bodily injury", "property damage" or "personal and advertising injury" *caused, in whole or in part, by* the performance of your ongoing operations by you or on your behalf, under that written contract or written agreement. Ongoing operations does not apply to "bodily injury" or "property damage" occurring after:

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

(2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project; and

b. "Bodily injury" or "property damage" *caused, in whole or in part, by* "your work" performed under that written contract or written agreement and in-

cluded in the "products-completed operations hazard", but only if:

(1) The Coverage Part to which this endorsement is attached provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard"; and

(2) The written contract or written agreement requires you to provide additional insured coverage included within the "products-completed operations hazard" for that person or organization.

If the written contract or written agreement requires you to provide additional insured coverage included within the "products-completed operations hazard" for a specified length of time for that person or organization, the "bodily injury" or "property damage" must occur prior to the expiration of that period of time in order for this insurance to apply.

If the written contract or written agreement requires you to provide additional insured coverage for a person or organization per only ISO additional insured endorsement form number **CG 20 10**, without specifying an edition date, and without specifically requiring additional insured coverage included within the "products-completed operations hazard", this Paragraph **b.** does not apply to that person or organization.

2. If the written contract or written agreement described in Paragraph 1. above specifically requires you to provide additional insured coverage to that person or organization:

a. *Arising out of* your ongoing operations or *arising out of* "your work"; or

- b. By way of an edition of an ISO additional insured endorsement that includes *arising out of* your ongoing operations or *arising out of* "your work";

then the phrase *caused, in whole or in part, by* in Paragraph **A.1.a.** and/or Paragraph **A.1.b.** above, whichever applies, is replaced by the phrase *arising out of*.

3. With respect to the insurance afforded to the additional insureds described in Paragraph **A.1.**, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- a. The preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

4. This Paragraph **A.** does not apply to additional insureds described in Paragraph **B.**

B. Additional Insured - State Or Governmental Agency Or Subdivision Or Political Subdivision - Automatic Status When Required In Written Permits Or Authorizations

1. **Section II - Who Is An Insured** is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision you have agreed in writing in a permit or authorization to add as an additional insured on this Coverage Part. Such state or governmental agency or subdivision or political subdivision is an additional insured only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued, in writing, a permit or authorization.

2. With respect to the insurance afforded to the additional insureds described in Paragraph **B.1.**, the following additional exclusions apply:

This insurance does not apply to:

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

- C. The insurance afforded to additional insureds described in Paragraphs **A.** and **B.**:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the written contract, written agreement, written permit or written authorization to provide for such additional insured; and
3. Does not apply to any person, organization, state, governmental agency or subdivision or political subdivision specifically named as an additional insured for the same project in the schedule of an endorsement added to this Coverage Part.

- D. With respect to the insurance afforded to the additional insureds described in Paragraphs **A.** and **B.**, the following is added to **Section III - Limits Of Insurance**:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract, written agreement, written permit or written authorization described in Paragraphs **A.** and **B.** For the purpose of determining the required amount of insurance only, we will include the minimum amount of any Umbrella Liability or Excess Liability coverage required for that additional insured in that written contract, written agreement, written permit or written authorization; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

- E. **Section IV - Commercial General Liability Conditions** is amended to add the following:

Automatic Additional Insured Provision

This insurance applies only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

1. During the policy period; and
2. Subsequent to your execution of the written contract or written agreement, or the issuance of a written permit or written authorization, described in Paragraphs **A.** and **B.**

- F. Except when **G.** below applies, the following is added to **Section IV - Commercial General Liability Conditions, Other Insurance**, and supersedes any provision to the contrary:

When Other Additional Insured Coverage Applies On An Excess Basis

This insurance is primary to other insurance available to the additional insured described in Paragraphs **A.** and **B.** except:

1. As otherwise provided in **Section IV - Commercial General Liability Conditions, Other Insurance, b. Excess Insurance**; or
2. For any other valid and collectible insurance available to the additional insured as an additional insured on another insurance policy that is written on an excess basis. In such case, this insurance is also excess.

- G. The following is added to **Section IV - Commercial General Liability Conditions, Other Insurance**, and supersedes any provision to the contrary:

Primary Insurance When Required By Written Contract, Agreement, Permit Or Authorization

Except when wrap-up insurance applies to the claim or "suit" on behalf of the additional insured, this insurance is primary to any other insurance available to the additional insured described in Paragraphs **A.** and **B.** provided that:

1. The additional insured is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract, agreement, permit or authorization de-

scribed in Paragraph **A.** or **B.** that this insurance would be primary to any other insurance available to the additional insured.

As used in this endorsement, wrap-up insurance means a centralized insurance program under which one party has secured either insurance or self-insurance covering some or all of the contractors or subcontractors performing work on one or more specific project(s).

Primary And Noncontributory Insurance When Required By Written Contract, Agreement, Permit Or Authorization

Except when wrap-up insurance applies to the claim or "suit" on behalf of the additional insured, this insurance is primary to and will not seek contribution from any other insurance available to the additional insured described in Paragraphs **A.** and **B.** provided that:

1. The additional insured is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract, agreement, permit or authorization described in Paragraph **A.** or **B.** that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

As used in this endorsement, wrap-up insurance means a centralized insurance program under which one party has secured either insurance or self-insurance covering some or all of the contractors or subcontractors performing work on one or more specific project(s).

- H. **Section IV - Commercial General Liability Conditions, Transfer Of Rights Of Recovery Against Others To Us** is amended by the addition of the following:

Waiver of Subrogation

We waive any right of recovery against any additional insured under this endorsement, because of any payment we make under this endorsement, to whom the insured has waived its right of recovery in a written contract, written agreement, written permit or written authorization. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such additional insured prior to loss.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED BY CONTRACT

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM**

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

Endorsement Effective: 02-27-2022	Policy Number: EBA 012 51 10
Named Insured: THEATRICAL MEDIA SERVICES INC, BURLINGTON INVESTMENTS LLC	
Countersigned by:	

(Authorized Representative)

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

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

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET WAIVER OF SUBROGATION - AUTO

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

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

Endorsement Effective: 02-27-2022	Policy Number: EBA 012 51 10
Named Insured: THEATRICAL MEDIA SERVICES INC, BURLINGTON INVESTMENTS LLC	
Countersigned by:	

(Authorized Representative)

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

1. Blanket Waiver of Subrogation

SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer of Rights of Recovery Against Others to Us is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of

payments we make for "bodily injury" or "property damage" arising out of the operation of a covered "auto" when you have assumed liability for such "bodily injury" or "property damage" under an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the "insured contract".