#7b

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 06/04/19 Weekly Agenda Date: 06/11/2019

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Melissa Thomas

WORDING FOR AGENDA ITEM:

Approve the purchase of Cyber Liability Insurance for FY 19/20.

ACTION REQUIRED:

Approve Ordinance ☐ Approve Resolution ☐ Approve Motion ☑

Public Hearing ☐ Other: Informational ☐ Attachments ☑

EXECUTIVE SUMMARY:

The proposed Cyber Liability policy provides $5,000,000 in coverage with a 10,000 deductible. (attached)

BACKGROUND:

The annual premium of $15,123.00 is identical to last year's cost.

FINANCIAL IMPACT:

$15,123.00

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☐

RECOMMENDATION:

Approve the motion

ACTION REQUIRED / PROPOSED MOTION:

Motion to approve the purchase of Cyber Insurance for FY 19/20

Approved by Board of Supervisors April 5, 2016.

BCS INSURANCE COMPANY
2 Mid America Plaza, Suite 200
Oakbrook Terrace, IL 60181

CYBER LIABILITY AND PRIVACY COVERAGE RENEWAL APPLICATION

94.003 (08/15)

CERTAIN COVERAGES OFFERED ARE LIMITED TO LIABILITY FOR CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED AND NOTIFIED TO US DURING THE POLICY PERIOD AS REQUIRED. CLAIM EXPENSES SHALL REDUCE THE APPLICABLE LIMITS OF LIABILITY AND ARE SUBJECT TO THE APPLICABLE RETENTION(S). PLEASE READ THE POLICY CAREFULLY.

You, Your Company, and Applicant mean all corporations, organizations or other entities, including subsidiaries, proposed for this insurance.

I. GENERAL INFORMATION

Name of **Applicant**	Woodbury County
Mailing Address	620 Douglas Street, Suite #701
City	Sioux City
State	Iowa
ZIP Code	51101
Description of **Applicant's** Operations	Government

II. REVENUES

Indicate the following as it relates to the Applicant's fiscal year end (FYE):	Operating expenditures for the most recent Financial Year End
Most Recent FYE	$55,600,000
Prior FYE	$55,000,000

* With respect to the information required to be disclosed in response to the questions above, the proposed insurance will not afford coverage for any claim arising from any fact, circumstance, situation, event or act about which any executive officer of the **Applicant** had knowledge prior to the issuance of the proposed policy, nor for any person or entity who knew of such fact, circumstance, situation, event or act prior to the issuance of the proposed policy.

FRAUD WARNING
It is a crime to knowingly and intentionally attempt to defraud an insurance company by providing false or misleading information or concealing material information during the application process or when filing a claim. Such conduct could result in your policy being voided and subject you to criminal and civil penalties.

Signature * of **Applicant's** Authorized Representative (President, CEO or Chief Information/Security Officer)

Name (Printed)

Title

Date

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V. PRODUCER INFORMATION (ONLY REQUIRED IN FLORIDA, IOWA AND NEW HAMPSHIRE)

Producer Signature

Producer Name (Printed)

Agency Name

Agency Code

License Numbe

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CYBER DECEPTION SUPPLEMENTAL APPLICATION

1. Does the **Applicant** have dual control when transferring funds in excess of $25,000 to external parties? Yes ☒ No ☐
2. Does the **Applicant** provide training for staff members who transact funds in excess of $25,000 externally? Yes ☒ No ☐
3. Have there been any losses for a "Cyber Deception Event" in the past year in excess of $10,000? Yes ☐ No ☒

"Cyber Deception Event" means:

1. The good faith transfer by "You" of "Your Organization's" funds or the transfer of "Your Goods", in lieu of payment, to a third party as a direct result of a "Cyber Deception", whereby "You" were directed to transfer "Goods" or pay funds to a third party under false pretences; or
2. The theft of "Your Organization's" funds as a result of an unauthorized intrusion into or "Security Compromise" of "Your" "Computer System" directly enabled as a result of a "Cyber Deception".

Signature * of Applicant's Authorized Representative Name (Printed) (President, CEO or Chief Information/Security Officer)

Name (Printed)

Title

Date

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Gallagher

BCS

BCS Insurance Company
Protection, Expanded.

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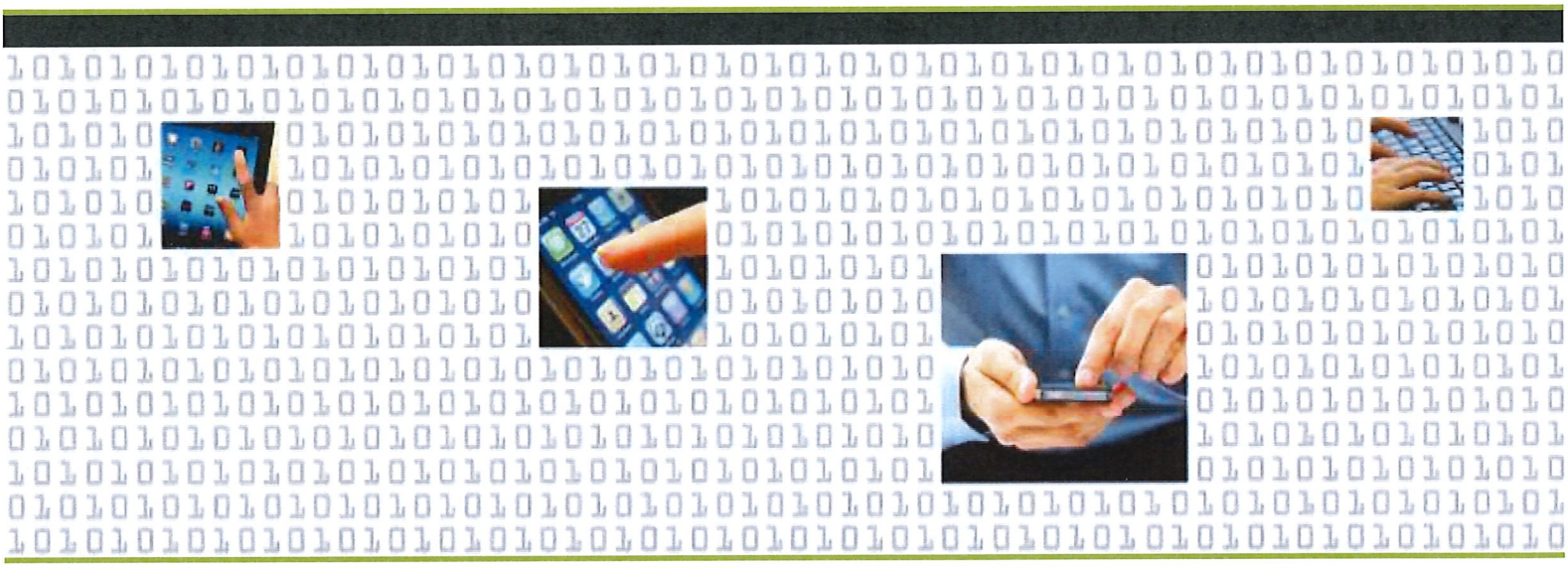
Cyber Insurance Quotation



Frequently Asked Questions

Do you have any questions about your insurance? The frequently asked questions below are here to help you make an informed decision.

What is Cyber Liability Insurance?

"Cyber" Liability is insurance coverage specifically designed to protect a business or organization from a range of threats and incidents relating to a breach event including:

- Liability claims involving the unauthorized release of information for which the organization has a legal obligation to keep private
- Liability claims alleging invasion of privacy and/or copyright/trademark violations in a digital, online or social media environment
- Liability claims alleging failures of computer security that result in deletion/alteration of data, transmission of malicious code, denial of service, etc.
- Defense costs in State or Federal regulatory proceedings that involve violations of privacy law; and
- The provision of expert resources and monetary reimbursement to the Insured for the out-of-pocket (1st Party) expenses associated with the appropriate handling of the types of incidents listed above

The term "Cyber" implies coverage only for incidents that involve electronic hacking or online activities, when in fact this product is much broader, covering private data and communications in many different formats – paper, digital or otherwise.

What does Privacy Liability (including Employee Privacy) cover?

The Privacy Liability aspect of the insuring agreement in our policy goes beyond providing liability protection for the Insured against the unauthorized release of Personally Identifiable Information (PII), Protected Health Information (PHI), and corporate confidential information of third parties and employees, like most popular "Data Breach" policies. Rather, our policy provides true Privacy protection in that the definition of **Privacy Breach** includes violations of a person's right to privacy, etc. Because information lost in every data breach may not fit State or Federal-specific definitions of PII or PHI, our policy broadens coverage to help fill these potentially costly gaps. This is a key provision that truly sets the BCS policy apart from others.

What does Privacy Regulatory Claims Coverage cover?

The Privacy Regulatory Claims Coverage insuring agreement provides coverage for both legal defense and the resulting fines/penalties emanating from a **Regulatory Claim** made against the Insured, alleging a privacy breach or a violation of a Federal, State, local or foreign statute or regulation with respect to privacy regulations.

Does this policy cover regulatory investigations and/or fines related to GDPR privacy violations?

The BCS cyber policy has always provided broad **Regulatory Claim** coverage that would contemplate defense and penalties associated with unintentional violations of domestic and foreign privacy statutes. In accordance with the implementation of the EU's General Data Protection Regulation, BCS added clarifying language to the policy form under the definitions of **Privacy Regulations** and **Private Information** to specifically reference coverage for GDPR by name (subject to policy terms and conditions). It is important to note that fines and penalties may not be insurable by law in certain U.S. States and in certain foreign countries, including some member countries of the European Union.

What does Security Breach Response Coverage cover?

This 1st Party coverage reimburses an Insured for costs incurred in the event of a security breach of personal, non-public information of their customers or employees. Examples include:

- The hiring of a public relations consultant to help avert or mitigate damage to the Insured's brand
- IT forensics, customer notification and 1st Party legal expenses to determine the Insured's obligations under applicable Privacy Regulations
- Credit monitoring expenses for affected customers for up to 12 months, and longer if circumstances require.

Our policy can also extend coverage even in instances where there is no legal duty to notify if the Insured feels that doing so will mitigate potential brand damage (such voluntary notification requires prior written consent).

What does Security Liability cover?

The Security Liability insuring agreement provides coverage for the Insured for allegations of a **Security Wrongful Act**, including:

- The inability of a third-party, who is authorized to do so, to gain access to the Insured's computer systems
- The failure to prevent unauthorized access to or use of a computer system, and/or the failure to prevent false communications such as phishing that results in corruption, deletion of or damage to electronic data, theft of data and denial of service attacks against websites or computer systems of a third party
- Protects against liability associated with the Insured's failure to prevent transmission of malicious code from their **Computer System** to a third party's **Computer System**

What does Multimedia Liability cover?

The Multimedia Liability insuring agreement provides broad coverage against allegations that include:

- Defamation, libel, slander, emotional distress, invasion of the right to privacy, copyright and other forms of intellectual property infringement (patent excluded) in the course of the Insured's communication of **Media Content** in electronic (website, social media, etc.) or non-electronic forms

Other Cyber insurance policies often limit this coverage to content posted to the Insured's website. Our policy extends what types of media are covered as well as the locations where this information resides.

What does Cyber Extortion cover?

The Cyber Extortion insuring agreement provides:

- Expense and payments (including ransom payments if necessary) to a third party to avert potential damage threatened against the Insured such as the introduction of malicious code, system interruption, data corruption or destruction or dissemination of personal or confidential corporate information.
- Ramsomware is among the most reported types of cybersecurity incidents. Verizon's 2018 Data Breach Investigations Report (DBIR) indicated that ransomware is the most common type of malware, found in 39 percent of malware-related data breaches – double of the amount reported in last year's DBIR. Investigation and other expenses associated with ransomware events are contemplated under the **Cyber Extortion** insuring agreement. Additionally, Symantec's 2018 Internet Security Threat Report indicated that 2017 brought a 46% increase in new ransomware variants. Having the proper team in place to help you navigate the intricacies of a ransomware attack is critical and the BCS policy provides this through the **Cyber Extortion** coverage.

What does Business Income and Digital Asset Restoration cover?

The Business Income and Digital Asset Restoration insuring agreement provides for lost earnings and expenses incurred because of a **Network Disruption**, or, an authorized third-party's inability to access a **Computer System** . The policy will also cover for lost business as a result of a loss of reputation caused by any failure or disruption to **Computer Systems**. **Restoration Costs** to restore or recreate digital (not hardware) assets to their pre-loss state are provided for as well. What's more, the definition of **Computer System** is broadened to include not only systems under the Insured's direct control, but also systems under the control of a **Service Provider** with whom the Insured contracts to hold or process their digital assets. Most competing Cyber insurance forms require that a **Security Breach** take place in order for Business Interruption coverage to respond. The BCS form is unique in that the definition of **Network Disruption** is extremely broad and includes any unplanned failure, interruption or degradation of the operation of your **Computer System** or the **Computer System** of a an IT service provider – whether it was caused by a **Security Breach** or otherwise. The BCS policy further differentiates itself by taking this expansion of coverage a step further. In addition to IT service providers, coverage for **Network Disruption** is provided (on a sub-limited basis) to **Outsourced Providers**, that is, any provider, other than an IT **Service Provider**, that provides services (other than IT services) for you, pursuant to a written contract. This expanded coverage is offered without the need for additional underwriting.

What is "PCI-DSS Assessment" coverage?

The Payment Card Industry Data Security Standard (PCI-DSS) was established in 2006 through a collaboration of the major credit card brands as a means of bringing standardized security best practices for the secure processing of credit card transactions. Merchants and service providers must adhere to certain goals and requirements in order to be "PCI Compliant," and certain specific agreements, may subject an Insured to an "assessment" for breach of such agreements. The AJG Cyber Policy responds to **PCI Assessments** as well as claims expenses in the wake of a breach involving cardholder information. Additionally, this coverage provides for expenses associated with a mandatory audit performed by a Qualified Security Assessor (QSA), certified by the PCI Security Standards Council, to show you are PCI DSS compliant, following a **Security Breach**.

What is Cyber Deception coverage?

The **Cyber Deception** extension is purchased for an additional premium if the applicant is eligible. The extension provides coverage for the intentional misleading of the Applicant by means of a dishonest misrepresentation of a material fact contained or conveyed within an electronic or telephonic communication(s) and which is relied upon by the Applicant believing it to be genuine. This is commonly known as spear-phishing or social engineering", and, along with ransomware events, is among the most reported incidents to the BCS Cyber policy. Many Cyber policies offering this coverage require that the insured call back, or, attempt to verify the request's authenticity via a method other than the original means. In other words, if a request to transfer money to a different bank routing number is received via email, other Cyber policies may require that the person receiving the email attempt to verify the request also via telephone before authorizing the transfer of money. While the application process asks a question regarding controls in place for this, the BCS policy differentiates itself further by not requiring this of insureds in the policy wording.

What is Telephone Hacking coverage?

Telephone Hacking coverage is included in the **Electronic Fraud** sub-section of the BCS policy. It provides a sub-limit of coverage for the intentional, unauthorized and fraudulent use of your **Telecommunications Services** (ie: telephone, fax, broadband or other data transmission services that you purchase from third parties) that results in unauthorized calls or unauthorized use of your bandwidth.

What is Funds Transfer Fraud coverage?

Funds Transfer Fraud coverage is available in the **Electronic Fraud** sub-section of the BCS policy for insureds who are NOT classified as Financial Institutions (Financial Institutions includes Community, State or Credit Unions, as well as National financial institutions, banks, etc.) For those organizations who are not in the financial institution classification, the coverage provides coverage for unauthorized electronic funds transfer, theft of your money or other financial assets from your bank by electronic means, theft of your money or other financial assets from your corporate credit cards by electronic means, or any fraudulent manipulation of electronic documentation while stored on your **Computer System**. This should not be confused with **Cyber Deception** coverage which requires a willful release of funds (not theft) based on a fraudulent instruction the insured believes to be true.

How is this policy better than other options in the marketplace?

As with any insurance policy, what sets our coverage apart lies in the definitions and exclusions in the policy. The AJG Cyber Policy offers broader definitions of critical terms such as **Privacy Breach**, **Computer System**, and **Media Content**. These definitions, along with the absence of some industry-standard exclusions and a drastically streamlined application process, make this policy more comprehensive and easier to access than the typical Cyber policy available from traditional sources.

Isn't this already covered under most business insurance plans?

The short answer is "No". While liability coverage for data breach and privacy claims has been found in limited instances through General Liability, Commercial Crime and some D&O policies, these forms were not intended to respond to the modern threats posed in today's 24/7 information environment. Where coverage has been afforded in the past, carriers (and the ISO) are taking great measures to include exclusionary language in form updates that make clear their intentions of not covering these threats. Additionally, even if coverage can be found in rare instances through other policies, they lack the expert resources and critical 1st Party coverages that help mitigate the financial, operational and reputational damages a data breach can inflict on an organization.

Are businesses required to carry this coverage?

While there is presently no law that requires a business or organization to carry Cyber Liability Insurance, there is a national trend in business contracts for proof of this coverage. In addition, the SEC and other regulatory bodies are encouraging disclosure of this coverage as a way of demonstrating sound information security risk management. Laws such as HIPAA-HITECH, GDPR and Gramm-Leach-Bliley and state-specific data breach laws are continually driving demand as requirements for notification in the wake of a data breach become more expensive, and expectations around the level of response by an impacted organization are increased.

Do small businesses need this coverage?

A recent Ponemon Institute report uncovered that 50% of small and medium sized US businesses had suffered a data breach, with 55% suffering a cyber-attack, with the most prevalent attack being non-sophisticated phishing attempts. The US National Cyber Security Alliance has advised that 60% of small companies are out of business within 6 months after being hacked. While breaches involving public corporations and government entities garner the vast majority of headlines, it is the small business that can be most at risk. With lower information security budgets, limited personnel and greater system vulnerabilities, small businesses are increasingly at risk for a data breach. In the past, many small business owners in the SME space were reluctant to purchase Cyber liability insurance coverage because they did not see themselves as data rich targets. Today's trends are showing that much of the data breach and ransomware attacks in today's business environment are indiscriminant of industry or size. Random attacks distributed to thousands of unknown recipients with the hopes of snaring just a limited number have caused business owners of all sizes and descriptions to re-think their approach to this huge risk and purchase insurance to mitigate the effects.

If e-commerce functions such as payment processing or data storage are outsourced, is this coverage still needed?

The responsibility to notify customers of a data breach or legal liabilities associated with protecting customer data, remain the responsibility of the Insured. Generally speaking, business relationships exist between Insureds and their customers, not their customers and the back-office vendors the Insured uses to assist them in their operations. Outsourcing business critical functions such as payment processing, data storage, website hosting, etc. can help insulate Insureds from risk, however, the contractual agreement wording between Insureds, their customers and the vendors with whom they do business will govern the extent to which liability is assigned in specific incidents.

What is the cost of not buying the coverage and self-insuring a data breach?

The Ponemon Institute, a well-known research firm, publishes an annual "Cost of a Data Breach" report. In partnership with IBM, the 2017 report indicated that the average cost paid for each lost or stolen record is $141. These numbers are reflective of both the indirect expenses associated with a breach (time, effort and other organizational resources spent during the data breach resolution, customer churn, etc.), as well as direct expenses (customer notification, credit monitoring, forensics, hiring a law firm, etc.).

While there has been a decrease in the average cost paid for each lost or stolen record since 2016, (down from $158), the average size of a breach has increased to 1.8 times the size of breaches last year. So, despite decreasing average costs per record, more records are being lost which means an increasing cost to businesses. More information can be found in the "2017 Cost of Data Breach Study: Global Overview" at www.ponemon.org.

In addition, the cost of breaches has evolved from just the cost of notification to now include ransom demands, business income loss, theft, and associated liability costs. These additional factors have also contributed to driving up the potential financial impact of a breach incident.

Who is the insurance carrier?

The BCS Cyber and Privacy Liability Policy is underwritten by BCS Insurance Company and powered by and with the backing of certain syndicates at Lloyd's of London. BCS Insurance Company is a licensed, admitted insurance company in all states and the District of Columbia. The BCS Cyber policy is admitted in every state except VT. BCS Insurance Company provides value through a solid foundation of strong governance, national and international capabilities and product and industry expertise and israted A- (Excellent) by A.M. Best. BCS Insurance has been in business for over 60 years. It is a wholly owned subsidiary of BCS Financial Corporation which, in turn, is owned by all Blue Cross Blue Shield primary licensees.BCS Insurance Company's relationship with certain syndicates at Lloyd's of London brings additional strength, stability and industry-leading expertise to the AJG cyber insurance program. BCS was recognized by S&P Global as the #6 underwriter of cybersecurity insurance in 2017, according to direct written premium, and the #3 market for in-force policies.

What is the claims-handling process?

A 24-hour data breach hotline is available to report incidents or even suspected incidents. As soon as you suspect a data breach incident or receive notice of a claim, you should call the hotline listed in your policy. This hotline is manned by Baker Hostetler, a world-wide leading privacy law firm with experience in handling thousands of data breach events. Immediately after calling the hotline, you are required to send notice to Clyde & Co., the designated legal firm that has been contracted to triage initial notices in this regard. This can be done by sending an email with a brief description of the incident, including your contact information, to the claims-reporting email address listed in your policy. Your Gallagher broker will receive notification of the incident (or any third-party claim) as well. It is critical that you immediately report any and all incidents that you believe could give rise to a claim of any kind under this policy.

What if there are questions that are not answered here?

Please contact your preferred Cyber professional who will assist you with any questions you may have.

Not Bound Policy

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BCS Insurance Company

BCS Insurance Company
2 Mid America Plaza, Suite 200
Oakbrook Terrace, IL 60181

(A stock insurance company, herein the "Company")

Policy No. RPS-Q-50150055M/1

Renewal of: RPS-P-50133687M

Cyber and Privacy Liability Insurance Policy

94.111 (06/18)

NOTICE: THE POLICY CONTAINS ONE OR MORE COVERAGES. CERTAIN COVERAGES ARE LIMITED TO LIABILITY FOR CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED AND NOTIFIED TO US DURING THE POLICY PERIOD AS REQUIRED. CLAIM EXPENSES SHALL REDUCE THE APPLICABLE LIMITS OF LIABILITY AND ARE SUBJECT TO THE APPLICABLE RETENTION (S). PLEASE READ THIS POLICY CAREFULLY.

POLICY DECLARATIONS

ITEM 1.	**NAMED INSURED**	Woodbury County
	ADDRESS	620 Douglas Street, Suite #701 , Sioux City, Iowa, 51101
ITEM 2.	**POLICY PERIOD**	FROM: June 30, 2019 TO: June 30, 2020 (12:01 A.M. Standard time at the address shown in Item 1.)
ITEM 3.	**POLICY LIMITS OF LIABILITY AND COVERAGES PURCHASED**	A. Aggregate Limit of Liability: $5,000,000 (Aggregate for Each and Every Claim including Claims Expenses) B. Sublimit of Liability for Individual Coverage(s) Purchased: $5,000,000 "Nil" or "N/A" Sublimit of Liability for any coverage indicates that the coverage was not purchased

COVERAGE	PER CLAIM SUBLIMIT OF LIABILITY INCLUDES CLAIM EXPENSES	AGGREGATE SUBLIMIT OF LIABILITY
A. Privacy Liability (including Employee Privacy)	$5,000,000	$5,000,000
B. Privacy Regulatory Claims Coverage	$5,000,000	$5,000,000
C. Security Breach Response Coverage	$5,000,000	$5,000,000
D. Security Liability	$5,000,000	$5,000,000
E. Multimedia Liability	$5,000,000	$5,000,000
F. Cyber Extortion	$5,000,000	$5,000,000
G. Business Income and Digital Asset Restoration	$5,000,000	$5,000,000
H. PCI DSS Assessment	$5,000,000	$5,000,000

Quotation
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I. Electronic Fraud		
1. Telephone Hacking	$100,000	$100,000
2. Funds Transfer Fraud	$100,000	$100,000

ITEM 4. RETENTION (including Claims Expenses):

COVERAGE	EACH CLAIM
A. Privacy Liability (including Employee Privacy)	$10,000
B. Privacy Regulatory Claims Coverage	$10,000
C. Security Breach Response Coverage	$10,000
D. Security Liability	$10,000
E. Multimedia Liability	$10,000
F. Cyber Extortion	$10,000
G. Business Income and Digital Asset Restoration	$10,000 / 12 hrs waiting period
H. PCI DSS Assessment	$10,000
I. Electronic Fraud	
1. Telephone Hacking	$10,000
2. Funds Transfer Fraud	$10,000

ITEM 5. PREMIUM $14,673.00

CYBER DECEPTION PREMIUM: $450.00 (IF ELECTED)

TOTAL: $15,123.00

ITEM 6. TERRITORIAL LIMITS Worldwide

ITEM 7. RETROACTIVE DATE Full Prior Acts

ITEM 8. NOTICE OF CLAIM

2 Steps:

1. Call Baker Hostetler at the 24 Hour Security Breach Hotline: 1-866-288-1705
2. File your claim with:

rpscyberclaims@clydeco.us
Clyde & Co. US LLP
101 Second Street, 24th Floor
San Francisco CA 94105
USA

ITEM 9. NOTICE OF ELECTION

RPS National Claims
190 New Camellia Blvd.
Covington, LA 70433
USA

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ITEM 10.	**SERVICE OF SUIT**	Risk Situated in California: Eileen Ridley FLWA Service Corp. c/o Foley & Lardner LLP 555 California Street, Suite 1700, San Francisco, CA 94104-1520 Risks Situated in All Other States: Mendes & Mount 750 Seventh Avenue, New York, NY 10019
ITEM 11.	**CHOICE OF LAW**	Iowa
ITEM 12.	**WAITING PERIOD:**	12 hrs waiting period
FORMS AND ENDORSEMENTS EFFECTIVE AT INCEPTION		94.200 (06/17) CYBER AND PRIVACY LIABILITY POLICY FORM 94.510 (09/15) Cyber Deception Endorsement (If elected) 94.102 (01 15) Nuclear Incident Exclusion 94.103 (01 15) Radioactive Contamination Exclusion 94.805 (06/17) Breach Response Team Endorsement 94.801 (01/15) IOWA Amendatory 94.527 (06/18) Coverage Enhancements Endorsement 94.528 (06/18) FTF Coverage Endorsement

Quotation
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BCS INSURANCE COMPANY
2 Mid America Plaza, Suite 200
Oakbrook Terrace, Illinois 60181

NOTICE: THIS POLICY IS LIMITED TO LIABILITY FOR CLAIMS THAT ARE FIRST MADE AGAINST YOU AND NOTIFIED TO US DURING THE POLICY PERIOD (OR EXTENDED REPORTING PERIOD, IF APPLICABLE) AS REQUIRED HEREIN, AND LOSS FROM EVENTS THAT FIRST OCCUR AFTER THE RETROACTIVE DATE AND BEFORE THE END OF THE POLICY PERIOD THAT YOU FIRST LEARN OF AND REPORT TO US DURING THE POLICY PERIOD AS REQUIRED HEREIN. CLAIM EXPENSES SHALL REDUCE THE APPLICABLE LIMITS OF LIABILITY AND ARE SUBJECT TO THE APPLICABLE RETENTION(S). TERMS THAT APPEAR IN "QUOTATIONS" HAVE SPECIAL MEANINGS. SEE THE DEFINITIONS FOR MORE INFORMATION. PLEASE READ THIS POLICY CAREFULLY.

CYBER AND PRIVACY LIABILITY POLICY FORM

94.200 (06/17)

In consideration of the payment of the premium and reliance upon the statements made by "You" in the "Application" and subject to the Limit of Liability, exclusions, conditions and other terms of this Policy, it is agreed as follows:

I. COVERAGES

A. PRIVACY LIABILITY (INCLUDING EMPLOYEE PRIVACY)

"We" shall pay on "Your" behalf "Damages" and "Claim Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "Claim" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period" arising out of a "Privacy Wrongful Act" occurring after the "Retroactive Date" and before the end of the "Policy Period", harming any third (3rd) party or "Employee".

B. PRIVACY REGULATORY CLAIMS COVERAGE

"We" shall pay on "Your" behalf "Regulatory Fines", "Consumer Redress Funds" and "Claim Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "Regulatory Claim" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period" arising out of a "Privacy Wrongful Act" occurring after the "Retroactive Date" and before the end of the "Policy Period".

C. SECURITY BREACH RESPONSE COVERAGE

"We" shall pay on "Your" behalf any "Breach Response Costs" in excess of the applicable retention that are incurred in the event of a "Security Breach" with respect to "Private Information".

"We" will not make any payment under this Coverage unless the "Security Breach" first occurs after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Breach" during the "Policy Period" and report the "Security Breach" to "Us" as soon as practicable within the "Policy Period".

Quotation
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D. SECURITY LIABILITY

"We" shall pay on "Your" behalf "Damages" and "Claim Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "Claim" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period" arising out of a "Security Wrongful Act" occurring after the "Retroactive Date" and before the end of the "Policy Period".

E. MULTIMEDIA LIABILITY

"We" shall pay on "Your" behalf "Damages" and "Claims Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "Claim" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period" arising out of a "Multimedia Wrongful Act" occurring after the "Retroactive Date" and before the end of the "Policy Period".

F. CYBER EXTORTION

"We" shall reimburse "You" for the "Cyber-Extortion Expenses and Cyber-Extortion Payments" that "You" actually pay in excess of the applicable retention directly resulting from a "Cyber-Extortion Threat" that "You" first receive and report to "Us" as soon as practicable during the "Policy Period".

G. BUSINESS INCOME AND DIGITAL ASSET RESTORATION

1. "We" shall pay the "Business Income Loss" that "You" sustain during a "Period of Restoration" resulting directly from a "Network Disruption" that commences during the "Policy Period", but only if the duration of such "Period of Restoration" exceeds the "Waiting Period" set forth in the Declarations, and such "Network Disruption" results solely and directly from a "Security Compromise" that first occurs after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Compromise" during the "Policy Period" and report the "Security Compromise" to "Us" as soon as practicable within the "Policy Period".

2. "We" shall reimburse "You" for the "Restoration Costs" that " because of the alteration, destruction, damage or loss of "Digital Assets" that commences during the "Policy Period" resulting solely and directly from a "Security Compromise", but only if such "Security Compromise" first occurs on or after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Compromise" during the "Policy Period" and report the "Security Compromise" to "Us" as soon as practicable within the "Policy Period".

3 "We" shall pay the "Reputation Business Income Loss" that "You" sustain following a "Security Breach" or "Network Disruption", but only if such "Security Breach" or "Network Disruption" first occurs on or after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Breach" or "Network Disruption" during the "Policy Period" and report the "Security Breach" or "Network Disruption" to "Us" as soon as practicable within the "Policy Period".

H. PCI DSS ASSESSMENT

"We" shall pay on "Your" behalf "Damages" and "Claims Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "PCI DSS Assessment" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period"

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arising out of a "PCI DSS Wrongful Act" occurring after the "Retroactive Date" and before the end of the "Policy Period".

II. DEFENSE, SETTLEMENT, AND INVESTIGATION OF CLAIMS

A. "We" shall have the right and duty to defend, subject to the "Policy Aggregate Limit" and applicable "Sublimits of Liability", exclusions and other terms and conditions of this Policy, any "Claim" against "You" seeking "Damages" which are potentially payable under the terms of this Policy, even if any of the allegations of the "Claim" are groundless, false, or fraudulent.

"You" and "We" shall mutually agree on counsel to defend "Claims". "You" shall not formally appoint defense counsel without "Our" consent, which shall not be unreasonably withheld. However, in the absence of such agreement, "Our" choice of counsel decision shall control. "We" agree that "You" may settle any "Claim" where the "Damages" and "Claims Expenses" do not exceed fifty percent % (50%) of the applicable retention, provided that the entire "Claim" is resolved and "You" receive a full release from all claimants.

"We" shall have the right to make any investigation We" deem necessary, including without limitation, any investigation with respect to the "Application" and statements made in the "Application" and with respect to potential coverage.

The "Policy Aggregate Limit" and "Sublimits of Liability" available to pay "Damages", "Claims Expenses" and "Loss" shall be reduced and may be completely exhausted by payment of "Damages", "Claims Expenses" and "Loss" and shall be applied against the applicable retention "You" pay.

B. If "You" refuse to consent to a settlement or compromise "We" recommend, which settlement or compromise is acceptable to the claimant, and "You" elect to contest the "Claim", then:

1. Subject to the applicable Limits of Liability, our liability for any "Damages" and "Claims Expenses" shall not exceed:
   a. the amount for which the "Claim" could have been settled, plus the "Claims Expenses" incurred up to the date of such refusal; and
   b. fifty percent (50%) of the "Damages" and "Claims Expenses" in excess of the amount in a. above incurred for such "Claim"; provided that "You" bear the remaining fifty percent (50%) of the "Damages" and "Claims Expenses" in excess of the amount in a. above as uninsured and at "Your" own risk; and
2. "We" shall have the right to withdraw from the further defense of such "Claim" by tendering control of the defense to "You".

This clause shall not apply to any settlement where the total of the proposed settlement and incurred "Claims Expenses" do not exceed all applicable retentions.

C. "We" shall not be obligated to pay any "Damages", "Claims Expenses" or "Loss" or to undertake or continue any defense of any "Claim", after the "Policy Aggregate Limit" or applicable "Sublimit(s) of Liability" have been exhausted by payment of "Damages", "Claims Expenses" and/or "Loss" or after deposit of the "Policy Aggregate Limit" or applicable "Sublimit(s) of Liability" in a court of competent jurisdiction, and that upon such payment or deposit, "We" shall have the right to withdraw from the further defense thereof by tendering control of said defense to "You".

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III. TERRITORY

This insurance applies to "Events" occurring, "Claims" made and "Wrongful Acts", acts, errors or omissions committed or alleged to have been committed anywhere in the world.

IV. EXCLUSIONS

The coverage under this Policy shall not apply to any "Damages", Claims Expenses", "Loss" or other amounts, arising out of or resulting, directly or indirectly, from:

A. "Bodily Injury" or "Property Damage";

B. "Your" employment practices or any alleged or actual discrimination against any person or entity on any basis, including without limitation, race, creed, color, religion, ethnic background, national origin, age, handicap, disability, sex, sexual orientation, or pregnancy; provided, however, this exclusion shall not apply to any "Claim" alleging a "Privacy Wrongful Act" or "Security Wrongful Act" in connection with an "Employee's" or prospective employee's employment;

C. The failure, malfunction or inadequacy of any satellite; any electrical or mechanical failure and/or interruption, including but not limited to electrical disturbance, spike, brownout or blackout; or any outage to gas, water, telephone, cable, telecommunications or other infrastructure, unless such infrastructure is under "Your" operational control; provided, however this exclusion shall not apply to any "Privacy Wrongful Act" that is caused by such electrical or mechanical failure or that is caused by such failure of telephone lines, data transmission lines or other infrastructure comprising or supporting the "Internet";

D. Fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God or any other physical event, however caused;

E. Breach of any express, implied, actual or constructive contract, agreement, warranty, guarantee or promise, provided, however, this exclusion shall not apply to:
   1. any liability or obligation "You" would have in the absence of such contract or agreement;
   2. any breach of "Your" privacy statement; or
   3. any indemnity by "You" in a written contract or agreement with "Your" client regarding any "Privacy Wrongful Act" or "Security Wrongful Act" by "You" in failing to preserve the confidentiality or privacy of "Private Information";

F. Any of the following:
   1. Any presence of pollutants or contamination of any kind;
   2. Any actual, alleged or threatened discharge, dispersal, release, or escape of pollutants or contamination of any kind;
   3. Any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize pollutants or in any way respond to or assess the effects of pollutants or contamination of any kind;
   4. Manufacturing, mining, use, sale, installation, removal, distribution of or exposure to asbestos, materials, or products containing asbestos, asbestos fibers or dust;
   5. Ionizing radiation or contamination by radioactivity from any nuclear fuel or any nuclear waste from the combustion of nuclear fuel;
   6. Actual, potential or alleged presence of mold, mildew or fungi of any kind;
   7. The radioactive, toxic, or explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or

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8. The existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment or that affects the value, marketability, condition or use of any property;

G. Any of the following:
   1. the purchase, sale, offer of or solicitation of an offer to purchase or sell securities, or alleged or actual violation of any securities law, including but not limited to the provisions of the Securities Act of 1933 or the Securities Exchange Act of 1934, as amended, the Sarbanes-Oxley Act of 2002, or any regulation promulgated under the foregoing statutes, or any federal, state, local or foreign laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law. However, this exclusion G.1. does not apply to any "Claim" alleging or arising out of a violation of Regulation S-P (17 C.F.R. §248) or any failure to disclose a "Security Breach" or violation of any "Privacy Regulation";
   2. alleged or actual violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act or RICO), as amended, or any regulation promulgated thereunder, or any federal, state, local or foreign law similar to the foregoing statute, whether such law is statutory, regulatory or common law;
   3. alleged or actual violation of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974, as amended; or
   4. alleged or actual anti-trust violations, restraint of trade or unfair competition, including without limitation, violations of the Sherman Act, the Clayton Act or the Robinson-Patman Act, or any other federal, state, local, or foreign laws regulating the same or similar conduct; provided, however, this exclusion G.4 shall not apply to a "Claim" for a "Multimedia Wrongful Act" or a "Regulatory Claim";

H. Any "Act Of Terrorism"; strike or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular uprising, military rising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions; including all amounts, "Damages", "Claims Expenses" or "Loss" of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing, or in any way relating to the above; provided, however, if "We" allege that by reason of this exclusion any "Damages", "Claims Expenses" or "Loss" are not covered by this Policy, the burden of proving the contrary shall be upon "You". However, this exclusion does not apply to acts perpetrated electronically;

I. Any of the following:
   1. any circumstance or "Event" occurring, or "Wrongful Act", act, error, or omission committed, prior to the inception date of this Policy or, if this is a renewal, prior to the first date of this type of insurance granted by "Us" or any other insurer, that a member of the "Control Group" knew, or could have reasonably foreseen that such circumstance, "Event", "Wrongful Act", act, error, or omission a "Claim" or lead to an "Event";
   2. any "Claim", "Event" or circumstance of which notice was provided to "Us" or another insurer prior to the "Policy Period" that was, could reasonably be expected to be, or lead to, the type of "Claim" or "Event" potentially covered by this Policy; or
   3. any circumstance occurring or "Event" commencing, or "Wrongful Act", act, error, or omission committed prior to the "Retroactive Date";

J. Any criminal conduct, dishonest act, intentional violation of the law, unfair or deceptive business practice, fraudulent or malicious act, or error or omission committed by "You" with actual criminal, dishonest, fraudulent or malicious purpose or intent; provided, however, this exclusion shall not apply to:
   1. "Claims Expenses" incurred in defending any such "Claim" until there is a final adjudication, judgment, binding arbitration decision or conviction against "You" in such "Claim" or an

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admission by "You" establishing such conduct, or a plea of nolo contendere or no contest by "You" regarding such conduct, in which event "You" shall reimburse "Us" for all "Claims Expenses" that "We" have paid and "We" shall have no further liability for "Claims Expenses" from such "Claim"; and

2. any of "You" who did not personally commit, personally participate in committing or personally acquiesce in such conduct, except that this exclusion shall apply with respect to "Your Organization" if an admission, final adjudication, or finding in a proceeding separate or collateral to the "Claim" establishes that a current member of the "Control Group" in fact engaged in such conduct;

K. Any "Claim" made by or on behalf of:
   1. any person or entity within the definition of "You" against any other Insured person or entity within the definition of "You"; provided, however, this exclusion shall not apply to an otherwise potentially covered "Claim" under Coverage A made by a current or former "Employee" of "Your Organization"; or
   2. any entity which:
      a. is operated, managed, or controlled by "You" or in which "You" have an ownership interest in excess of fifteen percent (15%) or in which "You" are an officer or director; or
      b. operates, controls, or manages "Your Organization", or has an ownership interest of more than fifteen percent (15%) in "Your Organization";

L. "Your" activities as a trustee, partner, officer, director, or "Employee" of any employee trust, charitable organization, corporation, company or business other than "Your Organization";

M. Any alleged or actual:
   1. infringement or violation of patent rights; or
   2. misappropriation, theft, copying, display or publication of any trade secret;

N. Any trading losses or trading liabilities; the monetary value of any electronic fund transfers or transactions by or on behalf of "You" which is lost, diminished, or damaged during transfer from, into or between accounts; or the face value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount; provided, however, this exclusion will not apply to any "Breach Response Costs" incurred due to a "Security Breach".

With respect to Insuring Coverage G only, this Policy does not apply to any "Damages", "Claims Expenses", Loss" or other amounts arising out of, or resulting, directly or indirectly from:

O. Any failure of:
   1. telephone lines;
   2. data transmission lines or wireless communications connection; or
   3. other telecommunications equipment, facilities or electronic infrastructure, including equipment, facilities or infrastructure that supports the operation of computer networks, including the "Internet", which are used to transmit or receive voice or data communications and which are not under "Your" direct operational control or, if applicable, not under the direct operational control of "Your" "Service Provider";

P. Any seizure, confiscation, nationalization, or destruction of, or damage to or loss of use of any "Digital Asset" or "Your" "Computer Systems" by order of any governmental authority;

Q. Ordinary wear and tear or gradual deterioration of "Digital Assets" or "Computer Systems" on which "Digital Assets" are processed or stored, whether owned by "You" or others; or

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R. The physical loss of, damage to or destruction of tangible property, including the loss of use thereof; however, "tangible property" does not include "Digital Assets", but does include all computer hardware;

NOTE: Exclusions O through R apply to Coverage G only.

V. DEFINITIONS

A. "Acquiring Bank" means a bank or financial institution that accepts credit and/or debit payments (including credit cards, debit cards, stored value cards and pre-paid cards) for products or services on behalf of a merchant, including processing and crediting those payments to a merchant.

B. "Act Of Terrorism" means:

1. any act certified an "Act Of Terrorism" pursuant to the federal Terrorism Risk Insurance Act of 2002 or otherwise declared an "Act Of Terrorism" by any government;
2. any act committed by any person or group of persons designated by any government as a terrorist or terrorist group or any act committed by any person or group of persons acting on behalf of or in connection with any organization designated by any government as a terrorist organization; or
3. the use of force or violence and/or the threat thereof by any person or group of persons, whether acting alone or on behalf of or in connection with any organization or government, committed for political, religious, ideological, or similar purposes, including the intention to influence any government and/or put the public, or any section of the public, in fear.

C. "Application" means all applications, including any attachments thereto, and all other information and materials submitted by "You" or on "Your" behalf to "Us" in connection with the underwriting of this Policy.

D. "Bodily Injury" means injury to the body, sickness, or disease sustained by any person, and where resulting from such injuries, mental anguish, mental injury, shock, humiliation, emotional distress, loss of consortium, or death.

E. "Breach Response Costs" means the following fees, costs, charges or expenses, if reasonable and necessary, that our "Breach Response Team" incurs in responding to a "Security Breach" during the period of twelve (12) months after "You" first learn of such "Security Breach":

1. forensic professional fees and expenses to determine the cause and extent of such "Security Breach" and terminate the "Security Breach" (however, betterment of the "Computer System" is not covered or included within this definition), including restoration, recreation or recollection of "Digital Assets";
2. "Breach Response Counsel" fees and expenses to: determine whether "You" are obligated under applicable "Privacy Regulations" to notify applicable regulatory agencies or individuals affected or reasonably believed to be affected by such "Security Breach"; effect compliance with any applicable "Privacy Regulations"; draft the text of privacy notifications to individuals affected or reasonably believed to be affected by such "Security Breach"; and, coordinate the investigation of such "Security Breach";
3. costs to notify individuals affected or reasonably believed to be affected by such "Security Breach", including printing costs, publishing costs, postage expenses, call center costs or costs of notification via phone or e-mail, including "voluntary notification" where "You" have no legal obligation to provide notification, but wish to do so to protect "Your" brand and reputation;
4. "Credit Monitoring Expenses"; and
5. public relations expenses.

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"Breach Response Costs" do not include "Your" overhead expenses or any salaries, wages, fees, or benefits of "Your" "Employees".

F. "Breach Response Counsel" means the vendors approved in the Breach Response Team Endorsement and vendors as appointed by "Us".

G. "Breach Response Team" means the vendors approved in the Breach Response Team Endorsement and vendors approved by "Us".

H. "Business Income Loss" means:
1. "Earnings Loss"; and/or
2. "Expenses Loss".

"Business Income Loss" does not include:

1) any contractual penalties;
2) any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve any "Computer System" to a level beyond that which existed prior to a "Network Disruption";
3.) any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any "Computer System";
4) any legal costs or expenses or other amounts arising out of liability to any third (3rd) party;
5) any amounts incurred as a result of unfavorable business conditions; or
6) any other consequential amounts, loss or damage.

I. "Claim" means:
1. A written demand received by "You" for money or services, including the service of a civil suit or institution of arbitration proceedings;
2. Initiation of a civil suit against "You" seeking injunctive relief;
3. Solely with respect to Coverage B., a "Regulatory Claim" made against "You"; or
4. Solely with respect to Coverage H., a "PCI DSS Assessment".

Multiple "Claims" arising from the same or a series of related or repeated "Wrongful Acts", acts, errors, or omissions or from any continuing "Wrongful Acts", acts, errors or omissions shall be considered a single "Claim" for the purposes of this Policy, irrespective of the number of claimants or "You" involved therein. All such related "Claims" shall be deemed to have been first made at the time the earliest such "Claim" was made or deemed made under Section IX.A.

J. "Claims Expenses" means:

1. reasonable and necessary fees charged in the defense or settlement of a "Claim" by an attorney whom "We" designate or whom "You" designate with "Our" prior written consent, such consent not to be unreasonably withheld; and
2. all other legal costs and expenses resulting from the investigation, adjustment, defense and appeal of a "Claim", if incurred by "Us" or by "You" with "Our" prior written consent; however, "Claims Expenses" do not include "Your" overhead expenses or any salaries, wages, fees, or benefits of "Your" "Employees" for any time spent in cooperating in the defense or investigation of any "Claim" or circumstance that might lead to a "Claim".

K. "Computer System" means electronic, wireless, web or similar systems (including all hardware and software) used to process data or information in an analog, digital, electronic or wireless format, including computer programs, electronic data, operating systems, and components thereof, including but not limited to laptops, personal digital assistants, cellular phones, media storage and peripheral devices, media libraries, associated input and output devices, networking equipment, and

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electronic backup equipment. With respect to Coverage G only, "Computer System" means a "Computer System" over which "You" have direct operational control or that is under the direct operation control of a "Service Provider" used to process, maintain or store "Your" "Digital Assets".

L. "Consumer Redress Funds" means any sums of money "You" are legally required to deposit in a fund for the payment of consumers due to a settlement of, or an adverse judgment in, a "Regulatory Claim".

M. "Control Group" means the board members, executive officers, Chief Technology Officer, Chief Information Officer, Risk Manager and General Counsel or their functional equivalents of "Your Organization". This does not include any administrative staff who work in the offices of these named positions.

N. "Credit Monitoring Expenses" means the reasonable and necessary expense of providing free credit report, identity theft protection services, credit monitoring services, credit freezes, healthcare fraud monitoring services, fraud alerts or call center services for customers affected or reasonably believed to be affected by a "Security Breach". However, "We" shall not be obligated to pay for more than twelve (12) months from the date of enrollment in such services, unless there is a statute, rule, regulation, court ruling or requirement by a regulator requiring otherwise, or in the opinion of "Breach Response Counsel", offering more than 12 months will justifiably reduce "Your" potential liability, "Damages" or "Loss".

O. "Cyber-Extortion Threat" means a credible threat or connected series of threats made by someone other than a member of the "Control Group":
1. to introduce "Malicious Code" into "Your" "Computer System";
2. to interrupt "Your" "Computer System" or interrupt access to "Your" "Computer System", such as through a "Denial of Service Attack";
3. to corrupt, damage or destroy "Your" "Computer System"; or
4. to disseminate, divulge, or improperly utilize any "Private Information" on "Your" "Computer Systems" taken as a result of a "Network Disruption".

P. "Cyber-Extortion Payment" means any sum paid to or at the direction of any third (3rd) party that "You" reasonably believe to be responsible for a "Cyber-Extortion Threat"; provided that:
1. "You" obtain "Our" written consent prior to making such "Cyber-Extortion Payment";
2. "You" make such "Cyber-Extortion Payment" to terminate the "Cyber-Extortion Threat"; and
3. the "Cyber-Extortion Payment" does not exceed the amounts "We" reasonably believe would have been incurred had such "Cyber-Extortion Payment" not been made.

Q. "Cyber-Extortion Expenses" means the reasonable and necessary expenses "You" incur with "Our" approval in evaluating and responding to a "Cyber-Extortion Threat". However, "Cyber-Extortion Expenses" do not include "Your" overhead expenses or any salaries, wages, fees, or benefits of "Your" "Employees".

R. "Damages" means:
1. Solely with respect to Coverages A, D, E and H, a monetary judgment, award or settlement, including:
   a. Pre-judgment interest;
   b. Post-judgment interest that accrues after entry of the judgment or award and before "We" have paid, offered to pay or deposited in court that part of the judgment or award within the applicable Limits of Liability; and
   c. subject to this Policy's terms, conditions, and exclusions, punitive or exemplary "Damages" (where insurable by the applicable law that most favors coverage for such "Damages"); and
2. Solely with respect to Coverage B, "Regulatory Fines" and "Consumer Redress Funds".

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"Damages" shall not include or mean:

1. "Your" future profits, restitution, or disgorgement of profits; or "Your" cost to comply with any order granting injunctive or non-monetary relief, including specific performance, or any agreement to provide such relief;
2. "Your" return or offset of fees, charges, royalties, or commissions for goods or services already provided or contracted to be provided;
3. fines or penalties of any nature, except those that are part of "Regulatory Fines" and "Consumer Redress Funds" as identified above, or sought in a "PCI DSS Assessment";
4. any amount "You" are not financially or legally obligated to pay;
5. the portion of multiplied "Damages" awarded in excess of actual or compensatory damages;
6. any donations or contributions to any charitable organization;
7. charge backs, interchange fees, discount fees or prospective services fees sought, awarded or agreed to as part of a settlement in a "PCI DSS Assessment"; or
8. matters that may be deemed uninsurable under law. "We" shall apply the most favorable state law to "You" in determining insurability.

S. "Denial of Service Attack" means unauthorized attacks or deliberate overloading of bandwidth connections and/or web servers by means of the sending of substantial quantities of repeat or irrelevant communication or data with the intent of blocking access to "Your" "Computer System" through the "Internet" by third (3rd) parties.

T. "Digital Assets" means any electronic data, including personally identifiable, non-public information, or computer software over which "You" have direct control or for which such control has been contractually assigned by "Your Organization" to a "Service Provider". "Digital Assets" do not include computer hardware of any kind.

U. "Earnings Loss" means the difference between the revenue that "Your Organization" would have earned, based on reasonable projections and the variable costs that would have been incurred, but which "Your Organization" would have saved as a result of not earning that revenue.

V. "Employee" means any individual in "Your Organization's" service, including any part-time, seasonal, and temporary employee, who is compensated by salary, wages, fees or commissions, or unpaid intern or volunteer over whom "You" have the right to direct and control, but excluding any partner or director of "Your Organization".

W. "Event" means a "Security Breach" to which Coverages C or G potentially apply, a "Cyber-Extortion Threat", or a "Security Compromise" or "Network Disruption" to which Coverage G potentially applies.

Multiple "Events" arising from the same or a series of related or repeated "Events", acts, errors, or omissions, or from any continuing "Events", acts, errors, or omissions shall be considered a single "Event" for the purposes of this Policy. All such related "Events" shall be deemed to have first occurred at the time the earliest such "Event" first occurred or commenced.

X. "Expenses Loss" means the additional expenses "Your Organization" incurred to minimize the suspension of business and to continue operations that are over and above the expenses that "Your Organization" reasonably and necessarily would have incurred to conduct "Your" business had no "Network Disruption" occurred. These additional expenses do not include any "Restoration Costs" or any actual, reasonable and necessary expenses "You" incur in response to a "Network Disruption" in order to prevent, minimize or mitigate any further damage to "Your" "Digital Assets", minimize the duration of a "Network Disruption" or preserve critical evidence of any wrongdoing.

Y. "Extended Reporting Period" means the period of time after the end of the "Policy Period" for reporting "Claims" as provided in Section VIII. of this Policy.

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Z. "Intranet" means a private computer network inside a company or organization that uses the same kinds of software found on the "Internet", but only for internal use.

AA. "Internet" means the worldwide public network of computer networks which enables the transmission of electronic data between different users, commonly referred to as the "Internet", including a private communications network existing within a shared or public network platform.

BB. "Loss(es)" means:

1. "Business Income Loss";
2. "Breach Response Costs";
3. "Reputation Business Income Loss";
4. "Restoration Costs"; and
5. "Cyber-Extortion Payments" and "Cyber-Extortion Expenses".

CC. "Malicious Code" means any unauthorized and corrupting or harmful computer code, including but not limited to computer viruses, spyware, Trojan horses, worms, logic bombs, and mutations of any of the proceeding.

DD. "Media Content" means data, digital code, images, graphics, sounds, text or any other similar material regardless of the method or medium of communication of such content or the purpose of the communication.

EE. "Multimedia Wrongful Act" means any of the following acts committed in the ordinary course of "Your Organization's" business in gathering, communicating, reproducing, publishing, disseminating, displaying, releasing, transmitting or disclosing "Media Content" via any "Computer System" that "You" own or operate or is operated on "Your" behalf by a third (3rd) party, including any web-based social media authorized or operated by "Your Organization" or any "Internet" or "Intranet" website, or via any non-electronic media:

1. defamation, libel, slander, product disparagement, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
2. invasion of or interference with the right to privacy or publicity;
3. false arrest, detention or imprisonment or malicious prosecution;
4. infringement of any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping;
5. infringement of copyright, domain name, trade dress, title or slogan, or the dilution or infringement of trademark, service mark, service name or trade name;
6. plagiarism, piracy or misappropriation of ideas; or
7. other conduct causing liability regarding any" Media Content" for which "You" are responsible;

provided always that any "Multimedia Wrongful Act" was committed or alleged to have been committed by "You", or any person for whom or entity for which "You" are legally responsible, including an independent contractor or outsourcing organization.

FF. "Network Disruption" means any of the following incidents:
a failure, interruption or degradation of the operation of "Your" "Computer System"; or
the denial, restriction or hindrance of access to or use of "Your" "Computer System" or "Your" "Digital Assets" by any party who is otherwise authorized to have access.

More than one such incident that results from the same or related underlying facts, circumstances, situations, transactions or "Security Compromises" shall be considered a single "Network Disruption" which first occurs on the date of the earliest of such events.

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GG. "PCI DSS Assessment(s)" means a written demand received by "You" from "Your" "Acquiring Bank" or a card association (MasterCard, VISA, Discover, American Express or JCB) for monetary fines, penalties, reimbursements, PFI fees/expenses, or fraud recoveries or assessments, but not including any charge backs, interchange fees, discount fees or prospective services fees.

HH. "PCI Data Security Standards" (known as PCI DSS) means the published data security standard in effect now or as hereafter amended that all merchants and processors must follow when storing, processing and transmitting cardholder data.

II. "PCI DSS Wrongful Act" means "Your" actual or alleged non-compliance with "PCI Data Security Standards".

JJ. "Period of Restoration" means the time period from the commencement of a "Network Disruption" to the date that "Your" "Computer System" is, or with reasonable diligence could have been, restored to the condition and functionality that existed immediately prior to the "Network Disruption".

KK. "Policy Period" means the period of time from the effective date to the expiration date specified in the Policy, or any earlier cancellation date.

LL. "Privacy Breach" means a common law breach of confidence, infringement, or violation of any rights to privacy, including but not limited to breach of "Your" privacy statement, breach of a person's right of publicity, wrongful collection, false light, intrusion upon a person's seclusion, public disclosure of "Private Information", or misappropriation of a person's picture or name for commercial gain.

MM. "Privacy Regulations" means any federal, state, local or foreign statute or regulation requiring "You" to limit or control the collection, use of, or access to, "Private Information" in "Your" possession or under "Your" control, or obligating "You" to inform customers of the "Unauthorized Access" or disclosure of such personally identifiable, non-public information, including the following statutes and regulations:

1. the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), including Title II requiring protection of confidentiality and security of electronic protected health information, and as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH), any rules and regulations promulgated thereunder as they currently exist and as amended, and any related state medical privacy laws as they currently exist and as amended;
2. the Gramm-Leach-Bliley Act of 1999, also known as the Financial Services Modernization Act of 1999, including sections concerning security protection and standards for customer records maintained by financial services companies, and the rules and regulations promulgated thereunder as they currently exist and as amended;
3. Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a), but solely with respect to alleged unfair or deceptive acts or practices in or affecting commerce;
4. federal, state or local privacy protection regulations or laws, such as the California Database Protection Act of 2003 (previously called SB 1386), as they currently exist now or may be amended, associated with the control and use of, or limiting "Unauthorized Access" to, personal information, including but not limited to requirements to post privacy policies, adopt specific privacy controls, or inform customers of breaches of security that has or may impact their personal information;
5. federal, state or local data breach regulations or laws, as they currently exist now or in the future, imposing liability for failure to take reasonable care to guard against "Unauthorized Access" to credit or debit account information that is in "Your" possession or under "Your" control;
6. Identity Theft Red Flags under the Fair and Accurate Credit Transactions Act of 2003;
7. federal and state consumer credit reporting laws, such as the Federal Fair Credit Reporting Act (FCRA) and the California Consumer Credit Reporting Agencies Act (CCCRAA);
8. the Children's Online Privacy Protection Act of 1998; and
9. privacy protection regulations or laws adopted by countries outside of the United States, such as the EU Data Protection Directive and the Canadian Personal Information Protection and

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Electronic Documents Act, as they currently exist now or may be amended, associated with the collection, control and use of, or limiting "Unauthorized Access" to, personal information.

NN. "Privacy Wrongful Act" means any "Privacy Breach" or breach of "Privacy Regulations" actually or allegedly committed by "You" or by any person or entity for which "You" are legally responsible, including an independent contractor or outsourcing organization.

OO. "Private Information" means any:

1. proprietary or confidential information owned by a third party or "You";
2. information that can be used to determine, distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual.

PP. "Property Damage" means physical injury to or destruction of any tangible property, including the loss of use thereof. Electronic data is not considered tangible property.

QQ. "Regulatory Claim" means:

1. any request for information, civil investigative demand or formal investigation of "You" by an administrative or regulatory agency or similar governmental body concerning a "Privacy Breach" or possible breach of "Privacy Regulations"; or
2. any administrative or civil proceeding against "You" by an administrative or regulatory agency or similar governmental body for a breach of "Privacy Regulations".

RR. "Regulatory Fines" means fines, penalties, or sanctions awarded for a violation of any "Privacy Regulation".

SS. "Reputation Business Income Loss" means:

1. "Earnings Loss" and/or
2. "Expenses Loss";

solely due to the loss of current or future customers during a 12 month period following a notification to "Us" in accordance with Section IX.A of a "Security Breach" or "Network Disruption" and where such customer loss arises directly from a "Security Breach" or "Network Disruption".

"Reputation Business Income Loss" does not include or mean:

1. any contractual penalties;
2. any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve any "Computer System" to a level beyond that which existed prior to a "Network Disruption";
3. any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any "Computer System";
4. any legal costs, expenses or other amounts arising out of liability to any third party;
5. any amounts incurred as a result of unfavorable business conditions; or
6. any other consequential amounts, loss or damage.

TT. "Restoration Costs" means the actual, reasonable and necessary costs "You" incur to replace, restore, or re-create "Your" "Digital Assets" to the level or condition at which they existed prior to sustaining any alteration, destruction, damage or loss thereof. If such "Digital Assets" cannot be replaced, restored or re-created, then "Restoration Costs" will be limited to the actual, reasonable and necessary costs "You" incur to reach this determination. "Restoration Costs" do not include:

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1. any costs "You" incur to replace, restore or re-create any of "Your" "Digital Assets" that were not subject to regular network back-up procedures at the time of the alteration, destruction, damage or loss;
2. any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve "Your" "Digital Assets" to a level beyond that which existed prior to sustaining any alteration destruction, damage or loss thereof;
3. any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any "Computer System"; or
4. the economic or market value of any "Digital Assets", including trade secrets.

UU. "Retroactive Date" means the date specified in ITEM 7. of the Declarations.

VV. "Security Breach" means:

1. the loss or disclosure of "Private Information" in "Your" care, custody or control, including such information stored on paper or on a "Computer System" operated by "You" or on "Your" behalf; or
2. "Theft of Data", "Unauthorized Access" to or "Unauthorized Use" of "Private Information" in "Your" care, custody or control, including such information stored on paper or on a "Computer System" operated by "You" or on "Your" behalf;

that results in or may result in the compromise of the privacy or confidentiality of "Private Information".

More than one "Security Breach" arising from the same or a series of continuous, repeated or related acts, errors, or omissions shall be considered a single "Security Breach", which shall be deemed to have first occurred at the time of the first such "Security Breach".

WW. "Security Compromise" means:

1. the "Unauthorized Access" or "Unauthorized Use" of "Your" "Computer System" or "Your" "Digital Assets";
2. the unauthorized transmission of computer code into "Your" "Computer System" that causes loss or damage to "Your" "Digital Assets"; or
3. a "Denial of Service Attack" on "Your" "Computer System" that causes loss or damage to "Your" "Digital Assets".

XX. "Security Wrongful Act" means any act, error, or omission committed by "You" or a person or entity for which "You" are legally responsible, including an independent contractor or outsourcing organization, in the conduct of " Computer Systems" security and the protection of the security and confidentiality of "Private Information", that results in:

1. the inability of a third (3rd) party, who is authorized to do so, to gain access to "Your" "Computer Systems";
2. the failure to prevent or hinder "Unauthorized Access" to or "Unauthorized Use" of a "Computer System" operated by "You" or on "Your" behalf, the failure to prevent physical theft of hardware or firmware "You" control, the failure to prevent people or processes security failures, or the failure to prevent false communications designed to trick the user into surrendering "Private Information" (such as phishing, pharming or vishing), any of which results in:
   a. The alteration, copying, corruption, destruction or deletion of, or damage to, electronic data on a "Computer System" operated by "You" or on "Your" behalf;
   b. Unauthorized disclosure of "Private Information";
   c. "Theft of Data" (including identity theft); or
   d. Denial of service attacks against "Internet" sites or "Computer Systems" of a third (3rd) party; or

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3. the failure to prevent transmission of "Malicious Code" from a "Computer System" operated by "You" or on "Your" behalf to a third (3rd) party's "Computer System".

YY. "Service Provider" means any third (3rd) party that is responsible for the processing, maintenance, protection or storage of "Digital Assets" pursuant to a written contract directly with "Your Organization". A "Service Provider" does not include any provider of telecommunications services, including "Internet" access, to "You".

ZZ. "Subsidiary" means any corporation of which more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of such corporation's directors are owned by the "Named Insured" directly or indirectly, if such corporation was so owned on the inception date of this Policy; or

1. becomes so owned after the inception date of this Policy, provided the revenues of the newly acquired corporation do not exceed fifteen percent (15%) of "Your Organization's" annual revenues as set forth in its most recent audited financial statement; or
2. becomes so owned after the inception date of this Policy, provided that if the revenues of the newly acquired corporation exceed fifteen percent (15%) of "Your Organization's" annual revenues as set forth in its most recent audited financial statement, the provisions of Section IX. I. must be fulfilled.

AAA. "Theft Of Data" means the unauthorized taking, misuse or disclosure of information on "Computer Systems", including but not limited to charge, debit, or credit information, banking, financial and investment services account information, proprietary information, and "Private Information".

BBB. "Unauthorized Access" means the gaining of access to a "Computer System" by an unauthorized person or an authorized person in an unauthorized manner.

CCC. "Unauthorized Use" means the use of a "Computer System" by an unauthorized person or an authorized person in an unauthorized manner.

DDD. "Waiting Period" means the date specified in ITEM 12. of the Declarations.

EEE. "We", "Us" or "Our" means the underwriters providing this insurance.

FFF. "Wrongful Act" means a "Privacy Wrongful Act", "Security Wrongful Act", "Multimedia Wrongful Act", or "PCI DSS Wrongful Act".

GGG. "You" or "Your" or "Yours" means:

1. the entity named in ITEM 1. of the Declarations ("Named Insured") and its "Subsidiaries" (together "Your Organization");
2. any present or future director, officer, or trustee of "Your Organization", but only with respect to the performance of his or her duties as such on behalf of "Your Organization";
3. any present or future "Employee" of "Your Organization" but only with respect to work done while acting within the scope of his or her employment and related to the conduct of "Your Organization's" business;
4. in the event that the "Named Insured" is a partnership, limited liability partnership, or limited liability company, then any general or managing partner, principal, or owner thereof, but only while acting within the scope of his or her duties as such;
5. any person who previously qualified as "You" under 2, 3, or 4 above prior to the termination of the required relationship with "Your Organization", but only with respect to the performance of his or her duties as such on behalf of "Your Organization";
6. the estate, heirs, executors, administrators, assigns and legal representatives of any of "You" in the event of "Your" death, incapacity, insolvency or bankruptcy, but only to the extent that "You" would otherwise be provided coverage under this insurance;

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7. any agent or independent contractor, including any distributor, licensee or sub-licensee, but only while acting on "Your" behalf, at "Your" direction, and under "Your" control; and
8. any third (3rd) party entity (including a HIPAA Covered Entity) required by contract to be named as an insured under this Policy, but only in respect of sums which they become legally obligated to pay (including liability for claimants' costs and expenses) as a result of a "Claim" arising solely out of an act, error or omission committed by "You", provided that:
   a) "You" contracted in writing to indemnify the third (3rd) party for such a "Claim" prior to it first being made against them; and
   b) had the "Claim" been made against "You", then "You" would be entitled to indemnity under this Policy.

As a condition to "Our" indemnification of any third (3rd) party they shall prove to "Our" satisfaction that the "Claim" arose solely out of a "Wrongful Act", act, error or omission committed by "You"; and where a third (3rd) party is indemnified as an additional insured as a result, it is understood and agreed that any "Claim" made by that third (3rd) party against "You" shall be treated by "Us" as if they were a third (3rd) party, not an additional insured.

VI. LIMITS OF LIABILITY

A. The amount stated in the Policy as stated in ITEM 3.A of the Declarations (herein the "Policy Aggregate Limit") is the most "We" will pay in the aggregate under this Policy, under all Coverages combined, for:
   1. all "Damages";
   2. all "Claims Expenses"; and
   3. all "Loss";

regardless of the number of "Claims", "Events", "Wrongful Acts", acts, errors, or omissions, insured persons, insured entities or claimants involved, or Coverages triggered.

B. For any Coverage purchased as indicated in ITEM 3.B of the Declarations, any Per Single "Claim", Per Single "Event" or Aggregate Per Coverage "Sublimit(s) of Liability" shall be part of, and not in addition to, the "Policy Aggregate Limit".

C. If any single "Claim", single "Event", or single "Event" combined with a single "Claim" directly arising therefrom ("Combined Matter") is covered under more than one Coverage, the highest applicable Per Single "Claim" or Per Single "Event" "Sublimit of Liability" shall be the most "We" shall pay as to such single "Claim", single "Event" or "Combined Matter", and such single "Claim", single "Event" or "Combined Matter" shall be subject to the highest applicable retention.

D. Any Aggregate Per Coverage "Sublimit of Liability" as stated in ITEM 3.B of the Declarations shall be the most "We" will pay in the aggregate for any given Coverage, for:

   1. all "Damages";
   2. all "Claims Expenses"; and
   3. all "Loss";

   regardless of the number of "Claims", "Events", "Wrongful Acts", acts, errors, or omissions, insured persons, insured entities or claimants to which such given Coverage applies.

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VII. RETENTIONS

The retention for each Coverage is stated in ITEM 4 of the Declarations. The applicable retention shall be first applied to "Damages", "Claims Expenses" and "Loss" covered by this Policy and "You" shall make direct payments within the retention to appropriate other parties designated by "Us". "We" shall be liable only for the amounts in excess of the retention, not to exceed the applicable "Sublimit(s) of Liability" or "Policy Aggregate Limit". Each single "Claim", single "Event" or "Combined Matter" shall be deemed to be one single potentially covered matter, and only one retention shall apply thereto. Where multiple Coverages potentially apply to a single "Claim", single "Event" or "Combined Matter"; only one retention shall apply and this shall be the highest retention applicable to such Coverages.

No retention is applicable to "Breach Response Counsel" fees and expenses.

With respect to Coverage G. 1, the applicable retention amount set forth in the Declarations applies once the "Period of Restoration" resulting from a "Network Disruption" has exceeded the "Waiting Period" in hours set forth in the Declarations; then the "Business Income Loss" to which such retention amount applies shall be computed as of the commencement of such "Network Disruption".

At "Our" sole and absolute discretion, "We" may pay all or part of the applicable retention, in which case "You" agree to repay "Us" immediately after "We" notify "You" of the payment; and such payment or repayment of any amount within the retention shall be first applied to "Damages", "Claims Expenses" and "Loss" covered by this Policy.

VIII. EXTENDED REPORTING PERIOD

A. Basic "Extended Reporting Period": In the event of cancellation or non-renewal of this Policy by "You" or "Us", an "Extended Reporting Period" of sixty (60) days immediately following such cancellation or non-renewal shall be automatically granted hereunder at no additional premium. Such "Extended Reporting Period" shall cover "Claims" first made and reported to "Us" during such sixty (60) day "Extended Reporting Period" but only in respect of any act, error, or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions, and exclusions of this Policy. No "Claim" in such sixty (60) day extended reported period shall be covered under this Policy if "You" are entitled to indemnity under any other insurance or would have been entitled to indemnity under such insurance but for the exhaustion thereof.

B. Optional "Extended Reporting Period": In the event of cancellation or non-renewal of this Policy by "You" or "Us", "You" shall have the right, upon payment in full and not proportionally or otherwise in part, of hundred percent (100%) of the annual premium shown in the Policy, to have issued an endorsement providing a twelve (12) month optional "Extended Reporting Period" after the end of the "Policy Period".

   1. Such optional "Extended Reporting Period" shall cover "Claims" made and reported to "Us" during this optional "Extended Reporting Period", but only in respect of any "Claim" arising out of any act, error, or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions, and exclusions of the Policy.

   2. In order for "You" to invoke the optional "Extended Reporting Period", the payment of additional premium as stated in this provision must be paid to "Us" within thirty (30) days after the end of the "Policy Period".

   3. At the commencement of the optional "Extended Reporting Period", the entire premium shall be deemed fully earned, and in the event "You" terminate the optional "Extended

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Reporting Period" for whatever reason prior to its natural expiration, "We" will not be liable to return any premium paid for the optional "Extended Reporting Period".

C. Terms and conditions of basic and optional "Extended Reporting Period"

1. At renewal of this Policy, "Our" quotation of different premium, retention or limit of indemnity or changes in policy language shall not constitute non-renewal by "Us" for the purposes of granting the optional "Extended Reporting Period".
2. The right to the "Extended Reporting Period" shall not be available to "You" where "We" cancel or non-renew due to non-payment of premium.
3. The limit of liability for the "Extended Reporting Period" shall be part of, and not in addition to, the limit of liability for the "Policy Period".
4. All notices and premium payments with respect to the "Extended Reporting Period" shall be directed to "Us" through the entity named in the Policy.

IX. TERMS AND CONDITIONS

A. NOTICE OF CLAIM OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM

1. If any "Claim" is made against "You" during the "Policy Period" (or an "Extended Reporting Period", if applicable), or an "Event" first occurs during the "Policy Period", then as soon as practicable after a member of the "Control Group" becomes aware of such "Claim" or "Event", "You" must provide notice thereof to "Us" through the person identified in ITEM 8. in the Declarations, during the "Policy Period" (or an "Extended Reporting Period", if applicable), including every demand, notice, summons or other process "You" or "Your" representative receive.

2. If during the "Policy Period" a member of the "Control Group" becomes aware of any situation, circumstance, "Wrongful Act", act, error or omission that might reasonably give rise to a "Claim", and if "You" give written notice to "Us" through the person identified in ITEM 8. in the Declarations, as soon as practicable during the "Policy Period", of:

   a. The specific details of the situation, circumstance, "Wrongful Act", act, error or omission that might reasonably give rise to a "Claim";
   b. The possible damage which may result or has resulted from the situation, circumstance, "Wrongful Act", act, error or omission;
   c. A description of how "You" first became aware of the situation, circumstance, "Wrongful Act", act, error or omission; and
   d. Any "Computer System" security and event logs which provide evidence of the situation, circumstance, "Wrongful Act", act, error or omission,

then any subsequent "Claim" made against "You" arising out of such situation, circumstance, "Wrongful Act", act, error or omission which is the subject of the written notice will be deemed to have been first made at the time written notice complying with the above requirements was first given to "Us".

3. A "Claim" shall be considered to be reported to "Us" when notice is first given to "Us" through the person identified in ITEM 8. in the Declarations or when notice of a situation, circumstance, "Wrongful Act", act, error or omission which might reasonably give rise to a "Claim" is first provided in compliance with Section IX.A.2 above. An "Event" shall be considered reported to "Us" when notice is first given to "Us" through the person identified in ITEM 8. in the Declarations.
4. Whenever coverage under this Policy would be lost due to non-compliance of Section IX.A.1.'s notice requirements because of the failure to give such notice, or concealment of such failure,

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by one or more "You" responsible for causing the "Damage", "Loss" or other amounts potentially insured hereunder, then "We" agree that such insurance as would otherwise be afforded under this Policy shall remain available with respect to those of "You" who did not personally commit, personally participate in committing or personally acquiesce in such failure to give notice, provided that those of "You" entitled to the benefit of this provision provide notice of a "Claim" or "Event" during the "Policy Period" (or "Extended Reporting Period", if applicable), promptly after obtaining knowledge of such failure of any others of "You" to comply with Section IX.A.1.

However, such insurance as afforded by this provision shall not cover a "Claim" against "Your Organization", or an "Event", if a member of the "Control Group" failed to give notice as required by Section IX.A.1.if such "Claim" or "Event" arises from "Wrongful Acts", acts, errors or omissions that were also known to another then current member of the "Control Group".

B. ASSISTANCE AND COOPERATION

1. "You" shall cooperate with "Us" in all investigations. "You" shall execute or cause to be executed all papers and render all assistance as requested by "Us". Part of this assistance may require "You" to provide soft copies of "Your" system security and event logs.

2. Upon "Our" request, "You" shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to "You" because of "Wrongful Acts", acts, errors, or omissions with respect to which insurance is afforded under this Policy; and "You" shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

3. "You" shall not admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any "Claim" without "Our" written consent, unless otherwise provided under Section II.

4. As soon as practicable after "You" give "Us" notice of any "Claim", "Event", or circumstance, "You" must also give "Us" copies of reports, photographs, investigations, pleadings and all other papers in connection therewith, including allowing "Us" to question "You" under oath at such times as may be reasonably required regarding "Your Organization's" books, records, and any other information relating to such matters.

5. In the event of a "Privacy Breach", "Security Breach" or other "Event", "You" must take all reasonable steps to protect "Computer Systems" and "Private Information" from further access, disclosure, loss or damage.

C. DUTIES FOLLOWING NOTICE OF AN EVENT (applicable to Coverages C, F and G only)

"You" must see that the following are done if "You" send "Us" notice of an "Event" to which Coverages C, F or G potentially apply:

1. at "Our" request, notify the police, FBI, CERT or other applicable law enforcement authority, central reporting or investigative organization that "We" may designate, if it appears that a law may have been broken;
2. immediately take all reasonable steps and measures necessary to limit or mitigate the "Loss";
3. send "Us" copies of every demand, notice, summons, or any other applicable information "You" receive;
4. if requested, permit "Us" to question "You" under oath at such times and places as may be reasonably required about matters relating to this insurance, including "Your" books and records;

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5. send "Us" a sworn statement of "Loss" or other amounts incurred containing the information "We" request to resolve, settle or otherwise handle the "Event". "We" will provide "You" with the necessary forms;
6. cooperate with "Us" and counsel "We" may appoint in the investigation of any "Event" covered by this Policy;
7. assist "Us" and counsel "We" may appoint in the investigation or settlement of "Loss";
8. assist "Us" in protecting and enforcing any right of subrogation, contribution or indemnity against any person, organization or other entity that may be liable to "You", including attending depositions, hearings and trials; and
9. otherwise assist in securing and giving documentation and evidence, and obtaining the attendance of witnesses.

D. SUBROGATION

In the event of any payment under this Policy, "You" agree to give "Us" the right to any subrogation and recovery to the extent of "Our" payments. "You" agree to execute all papers required and will do everything that is reasonably necessary to secure these rights to enable "Us" to bring suit in "Your" name. "You" agree to fully cooperate in "Our" prosecution of that suit. "You" agree not to take any action that could impair "Our" right of subrogation without "Our" written consent, whether or not "You" have incurred any unreimbursed amounts. Any recoveries shall be applied first to subrogation expenses, second to "Damages", "Claims Expenses" and "Loss" paid by "Us", and third to the Retention. Any additional amounts recovered shall be paid to "You".

E. INSPECTIONS AND SURVEYS

"We" may choose to perform inspections or surveys of "Your" operations, conduct interviews and review documents as part of our underwriting, our decision whether to provide continued or modified coverage, or our processing of any "Claim" or "Event". If "We" make recommendations as a result of these inspections, "You" should not assume that every possible recommendation has been made or that "Your" implementation of a recommendation will prevent a "Claim" or "Event". "We" do not indicate by making an inspection or by providing "You" with a report that "You" are complying with or violating any laws, regulations, codes or standards.

F. OTHER INSURANCE

This insurance shall apply in excess of any other valid and collectible insurance available to "You", including any retention or deductible portion thereof, unless such other insurance is written only as specific excess insurance over this Policy. However, this insurance shall apply as primary in respect of any professional liability, errors & omissions, medical malpractice or professional service liability policy purchased by "You".

G. ACTION AGAINST US

No action shall lie against "Us" or "Our" representatives unless, as a condition precedent thereto: (1) there shall have been full compliance with all terms of this insurance; and (2) until the amount of "Your" obligation to pay shall have been finally determined by judgment or award against "You" after trial, regulatory proceeding, or arbitration or by written agreement between "You", the claimant, and "Us".

"Your" bankruptcy or insolvency shall not relieve "Us" of our obligations hereunder.

H. ENTIRE AGREEMENT

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By acceptance of the Policy, "You" agree that this Policy embodies all agreements between "You" and "Us" relating to this insurance. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or stop "Us" from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy signed by "Us".

I. NEW SUBSIDIARIES/CHANGES IN NAMED INSURED OR YOUR ORGANIZATION

1. During the "Policy Period", if "You" acquire another corporation whose annual revenues are more than fifteen percent (15%) of "Your Organization's" annual revenues as set forth in its most recent audited financial statements there shall be no coverage under this Policy for "Wrongful Acts", acts, errors, or omissions committed or allegedly committed by the newly acquired "Subsidiary" or any persons who may become insureds therewith, unless "You" give "Us" written notice of the acquisition containing full details thereof, and "We" have agreed to add coverage for the newly acquired "Subsidiary" upon such terms, conditions, and limitations of coverage and such additional premium as "We", in "Our" sole discretion, may require.

2. During the "Policy Period", if the "Named Insured" consolidates or merges with or is acquired by another entity, or sells substantially all of its assets to another entity, or a receiver, conservator, trustee, liquidator, or rehabilitator, or any similar official is appointed for or with respect to the "Named Insured", then all coverage under this Policy shall continue for post-transaction "Claims" first made prior to the expiration of the "Policy Period" but only for "Wrongful Acts", acts, errors or omissions that occurred prior to the date of such consolidation, merger or appointment. Coverage under this Policy shall not continue for "Events" that first commence post-transaction but prior to the expiration of the "Policy Period", unless coverage for such "Events" is specifically agreed to by "Us" and provided by endorsement hereto.

3. Should an entity cease to be a "Subsidiary" after the inception date of this Policy, coverage with respect to such entity and its insured persons shall continue as if it was still a "Subsidiary" until the expiration date of this Policy, but only with respect to a "Claim" that arises out of any "Wrongful Act", act, error, or omission committed prior to the date that it ceased to be a "Subsidiary".

4. All notices and premium payments made under this paragraph shall be directed to "Us" through the "Named Insured".

J. ASSIGNMENT

"Your" interest under this Policy may not be assigned to any other person or organization, whether by operation of law or otherwise, without "Our" written consent. If "You" shall die or be adjudged incompetent, such insurance shall cover "Your" legal representative as "You" would be covered under this Policy.

K. CANCELLATION AND NON-RENEWAL

This Policy may be cancelled or non-renewed by "You" at any time on request by sending a prior written notice to "Us" stating when thereafter the cancellation will be effective.

1. "We" may not cancel this Policy, except for nonpayment of Premium. If "We" cancel this Policy for non-payment of Premium, "We" will provide "You" with at least twenty (20) days advance written notice.

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2. If this Policy is cancelled by "You", "We" shall refund the unearned Premium computed in accordance with the customary short rate table. If this Policy is cancelled by "Us", the refund of paid Premium shall be computed pro-rata. Payment or tender of any unearned Premium by "Us" shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable. No Premium will be refunded where any "Claims" or circumstances have been notified under this Policy.

3. "We" may non-renew this Policy by providing "You" with at least sixty (60) days written notice before the expiration date. If the notice is given less than sixty (60) days before expiration, Coverage will remain in effect until sixty (60) days after notice is mailed. The Premium due for any period of Coverage that extends beyond the expiration date will be determined pro-rata based upon this Policy's total Premium for the expiring Policy Period.

4. Any offer to renew this Policy on terms involving a change in Retentions, Limit of Liability, Premium or other terms or conditions will not constitute a refusal to renew this Policy.

L. WORDS AND TITLES OF PARAGRAPHS

The titles of paragraphs, section, provisions, or endorsements of or to this Policy are intended solely for convenience and reference, and are not deemed in any way to limit or expand the provisions to which they relate and are not part of the Policy. Whenever the singular form of a word is used herein, the same shall include the plural when required by context.

M. NAMED INSURED AUTHORIZATION

The "Named Insured" has the right and duty to act on "Your" behalf for:

1. the giving and receiving of notice of cancellation;
2. the payment of premiums, including additional premiums;
3. the receiving of any return premiums;
4. the acceptance of any endorsements added after the effective date of coverage;
5. the payment of any retentions;
6. the receiving of any amounts paid hereunder; and
7. otherwise corresponding with "Us".

N. REPRESENTATIONS BY YOU

By acceptance of this Policy, "You" agree that the statements contained in the "Application", any application for coverage of which this Policy is a renewal, and any supplemental materials submitted therewith, are "Your" agreements and representations, that they shall be deemed material to the risk assumed by "Us", and that this Policy is issued in reliance upon the truth thereof.

The misrepresentation or non-disclosure of any matter by "You" or "Your" agent in the "Application", any application for coverage of which this Policy is a renewal, or any supplemental materials submitted therewith will render the Policy null and void and relieve "Us" from all liability under the Policy.

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O. SERVICE OF SUIT CLAUSE (U.S.A.)

1. It is agreed that in the event of "Our" failure to pay any amount claimed to be due under this Policy, at "Your" request "We" will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this clause constitutes or should be understood to constitute a waiver of "Our" rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or seek a transfer of a case to another court as permitted by the laws of the United States or any state in the United States. It is further agreed that service of process in such suit may be made upon "Our" representative, designated in the Policy, and that in any suit instituted against any one of "Us" upon this contract, "We" will abide by the final decision of such court or of any appellate court, in the event of an appeal.

2. "Our" representative designated in the Policy is authorized and directed to accept service of process on "Our" behalf in any such suit and/or upon "Your" request to give a written undertaking to "You" that they will enter a general appearance upon "Our" behalf in the event such a suit shall be instituted.

3. Pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, "We" hereby designate the Superintendent, Commissioner, or Director of Insurance or other officer specified for that purpose in the statute, or his successor in office, as "Our" true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of "You" or any beneficiary hereunder arising out of this Policy, and hereby designate "Our" representative listed in the Policy as the person to whom the said officer is authorized to mail such process or a true copy thereof.

P. CHOICE OF LAW

Any disputes involving this Policy shall be resolved applying the laws of the state identified in ITEM 11. of the Declarations.

Q. ARBITRATION

Any controversy arising out of or relating to this policy or the breach, termination or invalidity thereof shall be settled by binding arbitration in accordance with the commercial arbitration rules, but not the authority or jurisdiction, of the American Arbitration Association (herein "AAA") then in effect. "We" and the Named Insured shall each appoint an arbitrator. Each arbitrator must be disinterested other than the Named Insured or any present or former officers or directors of the Insured. As soon as one party notifies the other of its demand for arbitration and names its arbitrator, the other party agrees to name its arbitrator within thirty (30) days of said notice. Within thirty (30) days of the naming of the second arbitrator, the two arbitrators will select a third arbitrator to be chairman of the panel, other than the Named Insured or any present or former officers or directors of the Insured. Should the two arbitrators not be able to agree on a choice of the third, then the Chief Judge of the chosen competent jurisdiction will make the appointment of such third arbitrator. None of the arbitrators may be current or former officers, directors, or employees of the Named Insured or "Us." The three arbitrators will comprise the arbitration panel for the purposes of this Policy.

Each party to this policy will submit its case with supporting documents to the arbitration panel within thirty (30) days after appointment of the third arbitrator. However, the panel may agree to extend this period for a reasonable time. Unless extended by the consent of the parties, the

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majority of the three arbitrators will issue a written decision resolving the controversy before them within thirty (30) days of the time the parties are required to submit their cases and related documentation. The arbitrators' written decision will state the facts reviewed, conclusions reached and the reasons for these conclusions. That decision will be final and binding upon the parties in any court of competent jurisdiction.

Each party will pay the fees and expenses of its arbitrator, unless otherwise agreed by the parties. The remaining costs of arbitration will be shared equally by the parties.

Arbitration will take place in a competent jurisdiction agreed to by the parties.

Any disputes involving this Policy shall be resolved applying the substantive law as designated in Item 11. of the Declarations.

In witness whereof, the company has caused this policy to be signed by its Secretary and its President at Oakbrook Terrace, Illinois.

SECRETARY

HF Buchanan, III
PRESIDENT

This is a valid policy

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BCS Insurance Company

BCS Insurance Company
2 Mid America Plaza, Suite 200
Oakbrook Terrace, IL 60181

IOWA AMENDATORY ENDORSEMENT

94.801 IA (01/15)

This Endorsement, effective at 12:01 a.m. CST, on 06/30/2019 forms part of:

Policy No.: RPS-Q-50150055M/1

Issued to: Woodbury County

This endorsement modifies insurance provided under the following:

CYBER AND PRIVACY LIABILITY POLICY

The following changes are made to the policy:

I. Section **IX. TERMS AND CONDITIONS**, paragraph **K. CANCELLATION AND NON-RENEWAL** is replaced by the following:

K. **CANCELLATION AND NON-RENEWAL**

1. This Policy may be cancelled or non-renewed by "You" at any time on request by sending a prior written notice to "Us" stating when thereafter the cancellation will be effective.
2. "We" may not cancel this Policy, except for nonpayment of premium. If "We" cancel this Policy for non-payment of premium, "We" will mail or deliver written notice to "You" and any applicable loss payee at least twenty (20) days before the effective date of cancellation. The notice shall state the effective date of and the reason for cancellation and be mailed or delivered to "You" at "Your" address shown in the Policy.
3. If this Policy is cancelled by "You", "We" shall refund the unearned premium computed in accordance with the customary short rate table. If this Policy is cancelled by "Us", the refund of paid premium shall be computed pro-rata. Payment or tender of any unearned premium by "Us" shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable. No premium will be refunded where any "Claims" or circumstances have been notified under this Policy.
4. "We" may non-renew this Policy by mailing or delivering written notice to "You" and any applicable loss payee at least forty-five (45) days before the expiration date of this Policy. If the notice is given less than forty-five (45) days before expiration of this Policy, coverage will remain in effect until forty- five (45) days after notice is mailed or delivered, plus an additional thirty (30) days. The premium due for any period of coverage that extends beyond the expiration date will be determined pro-rata based upon this Policy's total premium for the expiring Policy Period. Notice will be mailed or delivered to "You" at "Your" address shown in the Policy. If notice is mailed, a post office department certificate of mailing is proof of receipt of the mailing.

   "We" need not mail or deliver notice of non-renewal if "We" have offered to renew this Policy or if "You" fail to pay a premium due or any advance premium required by "Us" for renewal.
5. Any offer to renew this Policy on terms involving a change in Retentions, Limit of Liability, Premium or other terms or conditions will not constitute a refusal to renew this Policy.

II. Section **IX. TERMS AND CONDITIONS**, paragraph **Q. ARBITRATION** is deleted.

All other terms and conditions of this Policy shall remain unchanged.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

Quotation Not a Binder or Policy

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BCS Insurance Company
2 Mid America Plaza, Suite 200
Oakbrook Terrace, IL 60181

CYBER DECEPTION ENDORSEMENT

CYBER AND PRIVACY LIABILITY POLICY

94.510 (09/15)

This Endorsement, effective at 12:01 a.m. CST, on June 30, 2019 forms part of:

Policy No.: RPS-Q-50150055M/1

Issued to: Woodbury County

Issued by: BCS Insurance Company

Item I: **Retention:** $25,000 for each "Cyber Deception Event"
A single retention shall apply to all "Cyber Deception Event" arising out of the same, related, or continuing acts, facts, or circumstances

Item II: **Sub-Limit:** $100,000 in the aggregate for all "Cyber Deception Event"
Such sub-limit shall be part of and not in addition to the "Policy Aggregate Limit"

For the avoidance of doubt, in the event a "Claim" and "Cyber Deception Event" arises from the same or a series of related or repeated acts, errors, or omissions or from any continuing acts, errors, or omissions then this shall be considered a single "Claim" for the purposes of this policy and furthermore each corresponding "Retention" shall apply separately to the applicable portion of such single "Claim", and in no event shall the corresponding "Retentions" be combined to create a larger retention amount than that exists for each corresponding "Retention".

This endorsement modifies insurance provided under the following:

CYBER AND PRIVACY LIABILITY POLICY

In consideration of the premium required for the Cyber Deception Endorsement, and subject to all of the terms, conditions and exclusions in the Policy referenced above, (except as amended by this Endorsement), the Company hereby agrees to extend coverage to the Insured as follows:

I. CYBER DECEPTION

We shall reimburse "Your Organization" for the "Loss of Funds" or for the "Value of Goods" transferred which occur as a direct result of a "Cyber Deception Event" (which follows the "Retroactive Date" on the declarations page) which is notified to "Us" during the "Policy Period".

A. DEFINITIONS:

1. **"Account"** means any bank account held in the name of "Your Organization";
2. **"Client"** means any individual or entity to whom "You" are contracted to perform services or supply goods;
3. **"Cyber Deception"** means the intentional misleading of "You" by means of a dishonest misrepresentation of a material fact contained or conveyed within an electronic or telephonic communication(s) and which relied upon by "You" believing it to be genuine.

Quotation
This is not a valid Policy

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4. **"Cyber Deception Event"** means:

   a. The good faith transfer by "You" of "Your Organization's" funds or the transfer of "Your Goods", in lieu of payment, to a third party as a direct result of a "Cyber Deception", whereby "You" were directed to transfer "Goods" or pay funds to a third party under false pretences; or

   b. The theft of "Your Organization's" funds as a result of an unauthorized intrusion into or "Security Compromise" of "Your" "Computer System" directly enabled as a result of a "Cyber Deception".

5. **"Goods"** means those products supplied by "You" to a "Client" under a contract.

6. **"Loss of Funds"** means the loss of "Your Organization's" money from "Your" account. "Loss of Funds" shall not include:

   a. Any fees, fines or charges assessed against "You" or any expenses "You" incur as a result of any "Cyber Deception Event";

   b. Any monies held by "You" on behalf of "Client"; or

   c. The cost of "Your" time in identifying and rectifying the "Cyber Deception Event".

7. **"Value of Goods"** means the cost price of those "Goods" excluding:

   a. Any element of profit to "Your Organization"; or

   b. Any tax which "You" may be able to recover as a result of "Goods" being misappropriated by way of the "Cyber Deception Event".

B. NOTICE OF CYBER DECEPTION EVENT

If any "Cyber Deception Event" occurs, then as soon as reasonably practicable after "Your" Chief Executive Office, Finance Director, General Counsel, or Risk Manager or their functional equivalents becomes aware of such "Cyber Deception Event", "You" shall notify "Us" by forwarding notice to the persons named in Item 8. of the Declarations and giving as much details as possible of the following:

1. Specific details of the acts, facts, or circumstances that gave rise to the "Cyber Deception Event";

2. Possible amounts potentially covered under this policy that may result or have resulted from the acts, facts or circumstances;

3. Details regarding how "You" first became aware of the acts, facts, or circumstances; and

4. The "Computer Network" security and event logs, which provide evidence of the alleged incident.

Any subsequent "Cyber Deception Event" arising out of such acts, facts, or circumstances which is the subject of the written notice will be deemed to be a "Cyber Deception Event" at the time written notice complying with the above requirements was first given to "Us".

C. EXCLUSIONS

"We" shall not be liable for any "Cyber Deception Event" arising out of:

1. Any "Cyber Deception Event", which was first committed or occurred prior to the "Retroactive Date";

2. Any "Cyber Deception Event" notified to and accepted by a previous insurer under an insurance policy of which this policy is a renewal or replacement;

Quotation
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3. Any "Loss of Funds" or "Value of Goods" arising out of or caused by:

   a. The wear and tear, drop in performance, progressive or gradual deterioration, or aging of electronic equipment and other property or "Hardware" used by "You";

   b. Failure by "You" or those acting on "Your" behalf to maintain any computer, computer network or network, computer software, or any other equipment;

   c. Failure or gradual deterioration of overhead transmission, distribution lines or subterranean insulation or cabling;

   d. "Your" knowing use of illegal or unlicensed programs that are in violation of provisions or laws referring to software protection; or

   e. The existence, emission, or discharge of any electromagnetic field, electromagnetic radiation, or electromagnetism that actually or allegedly affects the health, safety, or condition of any person or the environment or that affects the value, marketability, condition, or use of any property.

4. Gambling, pornography, prizes, awards, coupons, or the sale or provision of prohibited, restricted, or regulated items including, but not limited to, alcoholic beverages, tobacco, or drugs.

Quotation
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BCS Insurance Company
2 Mid America Plaza, Suite 200
Oakbrook Terrace, IL 60181

NUCLEAR INCIDENT EXCLUSION CLAUSE-LIABILITY-DIRECT (BROAD) (U.S.A.)

94.102 (01/15)

This Endorsement, effective at 12:01 a.m. CST, on June 30, 2019 forms part of:

Policy No.: RPS-Q-50150055M/1

Issued to: Woodbury County

Issued by: BCS Insurance Company

For attachment to insurances of the following classifications in the U.S.A., its Territories and Possessions, Puerto Rico and the Canal Zone:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability),

not being insurances of the classifications to which the Nuclear Incident Exclusion Clause-Liability-Direct (Limited) applies.

This Policy* does not apply:

I. Under any Liability Coverage, to injury, sickness, disease, death or destruction:

(a) with respect to which an insured under the Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:

(a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;

(b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or

(c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the ning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.

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IV. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or by-product material; "source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "nuclear facility" means:

(a) any nuclear reactor,
(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

NOTE: As respects policies which afford liability coverages and other forms of coverage in addition, the words underlined should be amended to designate the liability coverage to which this clause is to apply.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

Quotation
Not a valid Policy

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BCS Insurance Company
2 Mid America Plaza, Suite 200
Oakbrook Terrace, IL 60181

RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE-LIABILITY DIRECT (U.S.A.)

94.103 01/15

This Endorsement, effective at 12:01 a.m. CST, on June 30, 2019 forms part of:

Policy No.: RPS-Q-50150055M/1

Issued to: Woodbury County

Issued by: BCS Insurance Company

When attached to the Policy, (in addition to the appropriate Nuclear Incident Exclusion Clause-Liability-Direct) provides worldwide coverage.

In relation to liability arising outside the U.S.A., its Territories or Possessions, Puerto Rico or the Canal Zone, this Policy does not cover any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

All other terms and conditions of this Policy shall remain unchanged.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

Quotation
This is not a valid Policy

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BCS Insurance Company
2 Mid America Plaza, Suite 200
Oakbrook Terrace, IL 60181

BREACH RESPONSE TEAM ENDORSEMENT

94.805 (06/17)

The following vendors have been approved to support "You" in the event of a "Security Breach". "You" do not require "our" prior written consent to contact these vendors:

"Breach Response Counsel":

Baker & Hostetler LLP

24/7 Breach Response hotline - **1-866-288-1705**

"Breach Response Team":

Kroll

Data Breach Hotline - **1-877-300-6816**
CyberResponse@kroll.com

Quotation
This is not a valid Policy

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COVERAGE ENHANCEMENTS ENDORSEMENT

94.527 (06/18)

Quotation Only
This is not a binding policy

CYBER AND PRIVACY LIABILITY

THIS ENDORSEMENT CHANGES THE CYBER AND PRIVACY LIABILITY POLICY.
PLEASE READ IT CAREFULLY

This Endorsement, effective at 12:01 a.m. CST, on June 30, 2019 forms part of:

Policy No.: RPS-Q-50150055M/1

Issued to: Woodbury County

Issued by: **BCS Insurance Company**

This endorsement modifies the policy as follows:

I. Under Section **I. COVERAGES; G. BUSINESS INCOME AND DIGITAL ASSET RESTORATION** is deleted in its entirety and replaced with the following:

G. BUSINESS INCOME AND DIGITAL ASSET RESTORATION

1. "We" shall pay "Your Organization" for the "Business Income Loss" in excess of the applicable retention that "You" sustain during a "Period of Restoration" resulting directly from a "Network Disruption" that commences during the "Policy Period", but only if the duration of such "Period of Restoration" exceeds the "Waiting Period" set forth in the Declarations, and such "Network Disruption" first occurs after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the ""Network Disruption" during the "Policy Period" and report the "Network Disruption" to "Us" as soon as practicable within the "Policy Period".

2. "We" shall reimburse "Your Organization" for the "Restoration Costs" in excess of the applicable retention that "You" incur because of the alteration, destruction, damage or loss of "Digital Assets" that commences during the "Policy Period" resulting solely and directly from a "Security Compromise", but only if such "Security Compromise" first occurs on or after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Compromise" during the "Policy Period" and report the "Security Compromise" to "Us" as soon as practicable within the "Policy Period".

3. "We" shall pay "Your Organization" for the "Reputation Business Income Loss" in excess of the applicable retention that "You" sustain following a "Security Breach" or "Network Disruption", but only if such "Security Breach" or "Network Disruption" first occurs on or after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Breach" or "Network Disruption" during the "Policy Period" and report the "Security Breach" or "Network Disruption" to "Us" as soon as practicable within the "Policy Period".

II. Under Section **I. COVERAGES** the following is added:

I. ELECTRONIC FRAUD

1. **Telephone Hacking**

"We" shall reimburse "Your Organization" for "Telephone Hacking Loss" in excess of the applicable retention arising from a "Telephone Hacking Event" first discovered by "You" during the "Policy Period" as a direct result of "Your" "Telecommunications Services" being subject to a "Telephone Hacking Event" arising from unauthorized calls or unauthorized use of "Your" bandwidth, but only if "You" first learn of the "Telephone

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Hacking Event" during the "Policy Period" and report the "Telephone Hacking Event" to "Us" as soon as practicable within the "Policy Period."

III. Under Section **V. DEFINITIONS**, paragraph **H.** is deleted in its entirety and replaced with the following:

H. "Business Income Loss" means:
1. "Earnings Loss"; and/or
2. "Expenses Loss."

The most "We" will pay for "Business Income Loss" that "You" sustain resulting directly from a "Network Disruption" involving an "Outsourced Provider" "Computer System" (as defined in part 2. of the Definition of "Network Disruption") is $250,000. This Sub-Limit of Liability is part of, and not in addition to, the Sub- Limit of Liability stated in ITEM 3.G. of the Declarations.

"Business Income Loss" does not include:
1. any contractual penalties;
2. any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve any "Computer System" to a level beyond that which existed prior to a "Network Disruption";
3. any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any "Computer System";
4. any legal costs or expenses or other amounts arising out of liability to any third (3rd) party;
5. any amounts incurred as a result of unfavorable business conditions; or
6. any other consequential amounts, loss or damage.

IV. Under Section **V., DEFINITIONS**, paragraph **W.** is deleted in its entirety and replaced with the following:

W. "Event" means a "Security Breach", "Cyber- Extortion Threat", "Security Compromise", "Network Disruption, or "Telephone Hacking Event".

Multiple "Events" arising from the same or a series of related or repeated "Events", acts, errors, or omissions, or from any continuing "Events", acts, errors, or omissions shall be considered a single "Event" for the purposes of this Policy. All such related "Events" shall be deemed to have first occurred at the time the earliest such "Event" first occurred or commenced.

V. Under Section **V., DEFINITIONS**, paragraph **BB.** is deleted in its entirety and replaced with the following:

BB. "Loss(es)" means:

1. "Business Income Loss";
2. "Breach Response Costs";
3. "Reputation Business Income Loss";
4. "Restoration Costs";
5. "Cyber-Extortion Payments" and "Cyber-Extortion Expenses;" and
6. "Telephone Hacking Loss."

VI. Under Section **V. DEFINITIONS**, paragraph **FF.** is deleted in its entirety and replaced with the following:

FF. "Network Disruption" means any of the following incidents:

1. an unplanned failure, interruption or degradation of the operation of "Your" "Computer System" or an "Outsourced Provider" "Computer System"; or the denial, restriction or hindrance of access to or use of "Your" "Computer System", an "Outsourced Provider" "Computer System" or "Your" "Digital Assets" by any party who is otherwise authorized to have access; and

Quotation
Terrorism Endorsement Policy

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2. with respect to Coverage G.1 only, "Network Disruption" also means an unplanned failure, interruption or degradation of the operation of "an "Outsourced Provider" "Computer System"; or the denial, restriction or hindrance of access to or use of an "Outsourced Provider" "Computer System" by any party who is otherwise authorized to have access.

More than one such incident that results from the same or related underlying facts, circumstances, situations, transactions or "Security Compromises" shall be considered a single "Network Disruption" which first occurs on the date of the earliest of such events.

VII. Under Section **V., DEFINITIONS**, paragraph **GG.** is deleted in its entirety and replaced with the following:

GG. "PCI DSS Assessment(s)" means:

1. a written demand received by "You" from "Your" Acquiring Bank or a card association (MasterCard, VISA, Discover, American Express or JCB) for monetary fines, penalties, reimbursements, PCI Forensic Investigator (PFI) fees/expenses, and fraud recoveries or assessments, due to "Your" actual or alleged non-compliance with PCI Data Security Standards further to the terms of a Merchant Services Agreement, but not including any charge backs, interchange fees, discount fees or prospective service fees; and

2. reasonable and necessary fees for a mandatory audit by a Qualified Security Assessor (QSA) to show "You" are PCI Data Security Standards compliant following a "Security Breach."

Merchant Services Agreement means any written agreement between "You" and a card association (MasterCard, VISA, Discover, American Express or JCB), which allows "You" to accept payment by credit, debit or prepaid card.

VIII. Under Section **V. DEFINITIONS**, paragraph **JJ.** is deleted in its entirety and replaced with the following:

JJ. "Period of Restoration" means the time period from the commencement of a "Network Disruption" to the earlier of the following dates:

1. the date "Your" "Computer System", "Outsourced Provider" "Computer System" or "Your" "Digital Assets" are restored to the condition and functionality that existed immediately prior to the "Network Disruption;" or

2. the date "Your" "Computer System", "Outsourced Provider" "Computer System" or "Your" "Digital Assets" with reasonable diligence, could have been restored to the condition and functionality that existed immediately prior to the "Network Disruption."

IX. Under Section **V. DEFINITIONS**, item 9. under paragraph **MM.** is deleted and replaced with the following:

9. privacy protection regulations or laws adopted by countries outside of the United States, such as the General Data Protection Regulation (Regulation (EU) 2016/679 (GDPR) and the Canadian Personal Information Protection and Electronic Documents Act (PIPEDA), as they currently exist now or may be amended, associated with the collection, control and use of, or limiting "Unauthorized Access" to, personal information.

X. Under Section **V. DEFINITIONS**, paragraphs **OO.** and **QQ.** are deleted in their entirety and replaced with the following:

OO. "Private Information" means any:

1. proprietary or confidential information owned by a third party or "You";
2. information that can be used to determine, distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual; or,
3. information concerning an individual that would be considered personal data or sensitive personal data within the meaning of the General Data Protection Regulation (Regulation (EU) 2016/679 (GDPR) and any amendments thereto.

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QQ. "Regulatory Claim" means:

1. any request for information, civil investigative demand or formal investigation of "You" by an administrative or regulatory agency or similar governmental body concerning a "Privacy Breach" or possible breach of "Privacy Regulations"; or
2. any administrative or civil proceeding against "You" by an administrative or regulatory agency, supervisory authority, authorized data protection authority or similar governmental body for a breach of "Privacy Regulations".

XI. Under Section **V. DEFINITIONS** the following are added:

"Outsourced Provider" means any provider, other than a "Service Provider", that "You" do not own, operate, or control, that performs services, other than IT services, for "You" pursuant to a written contract. An "Outsourced Provider" does not include any provider of "Telecommunications Services" including "Internet" access to "You".

"Telephone Hacking Loss" means "Your" monetary or other financial asset loss as a result of a "Telephone Hacking Event" under Coverage I.1.

"Telephone Hacking Event" means a third party's intentional, unauthorized and fraudulent use of "Your" "Telecommunications Services" that results in unauthorized calls or unauthorized use of "Your" bandwidth.

"Telecommunications Services" means telephone, fax, broadband, or other data transmission services that "Your Organization" purchases from third parties.

XII. Under Section **IX., TERMS AND CONDITIONS**, paragraph **C.**, the following changes are made:

1. The title is revised to read:
   DUTIES FOLLOWING NOTICE OF AN EVENT (applicable to Coverages C, F, G and I only).
2. The first sentence is revised to read:
   "You" must see that the following are done if "You" send "Us" notice of an "Event" to which Coverages C, F, G or I potentially apply:
3. The following sub-paragraphs are added to the end of paragraph C.: Assist "Us" when a "Telephone Hacking Event" occurs.

"Telephone Hacking Event" will be deemed to occur when "You" first discover that a "Telephone Hacking Event" has occurred, or "You" have a reasonable basis to know that a "Telephone Hacking Event" has occurred, including the receipt of any notice, invoice, or billing evidencing unauthorized use of "Telecommunications Services". If any related "Telephone Hacking Events" subsequently occur, and are reported to "Us," all such related "Telephone Hacking Events" will be considered a single "Telephone Hacking Event" and will be deemed to have occurred on the date the first of those "Telephone Hacking Events" occurred.

As soon as a "Telephone Hacking Event" first occurs, "You" must notify us in accordance with Section **IX., TERMS AND CONDITIONS**, paragraph **A. NOTICE OF CLAIM OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM.**

XIII. Under Section **IX., TERMS AND CONDITIONS**, paragraph **I., NEW SUBSIDIARIES/CHANGES IN NAMED INSURED OR YOUR ORGANIZATION**, sub-paragraph 1. is deleted in its entirety and replaced with the following:

1. During the "Policy Period", if "You" acquire another corporation whose annual revenues are more than twenty-five percent (25%) of "Your Organization's" annual revenues as set forth in its most recent audited financial statements, "You" shall give "Us" written notice of the acquisition containing full details thereof, no later than sixty (60) days after the effective date of such acquisition or creation. Coverage under this Policy for "Wrongful Acts", acts, errors, or omissions committed or allegedly committed by the newly acquired "Subsidiary" or any persons who may become

Quotation
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insureds therewith shall be automatic for ninety (90) days after such acquisition or creation or, until the end of the 'Policy Period,' whichever is earlier; after the end of this ninety (90) day period, "We" may agree to add coverage for the newly acquired "Subsidiary" upon such terms, conditions, and limitations of coverage and such additional premium as "We", in "Our" sole discretion, may require.

All other terms, conditions, limitations and exclusions of the Policy remain unchanged.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

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BCS Insurance Company

BCS Insurance Company
2 Mid America Plaza, Suite 200
Oakbrook Terrace, IL 60181

FUNDS TRANSFER FRAUD ENDORSEMENT

94.528 (06/18)

CYBER AND PRIVACY LIABILITY

THIS ENDORSEMENT CHANGES THE CYBER AND PRIVACY LIABILITY POLICY.
PLEASE READ IT CAREFULLY

This Endorsement, effective at 12:01 a.m. CST, on June 30, 2019 forms part of:

Policy No.: RPS-Q-50150055M/1

Issued to: Woodbury County

Issued by: **BCS Insurance Company**

I. Under Section **I. COVERAGES**, item 2. is added to include the following:

I. ELECTRONIC FRAUD

2. Funds Transfer Fraud

"We" shall reimburse "Your Organization" for "Direct Financial Loss" in excess of the applicable retention as a direct result of any third party committing a "Funds Transfer Fraud", but only if "You" first learn of the "Funds Transfer Fraud" during the "Policy Period" (or an "Extended Reporting Period", if applicable) and report the "Funds Transfer Fraud" to "Us" as soon as practicable within the "Policy Period" (or an "Extended Reporting Period", if applicable).

II. Under Section **V. DEFINITIONS**, paragraph **W.** is amended to include the following:

"Event" also means "Funds Transfer Fraud".

III. Under Section **V. DEFINITIONS**, paragraph **BB.** is amended to include the following:

"Loss(es)" also means "Direct Financial Loss."

IV. Under Section **V. DEFINITIONS** the following are added:

"Direct Financial Loss" means "Your" monetary or other financial asset loss as a result of a "Funds Transfer Fraud" under Coverage I.2. The most "We" will pay for any "Direct Financial Loss" arising from all "Funds Transfer Fraud" is $100,000.

"Funds Transfer Fraud" means any:

a. unauthorized electronic funds transfer;
b. theft of "Your" money or other financial assets from your bank by electronic means;
c. theft of money or other financial assets from "Your" corporate credit cards by electronic means; or
d. fraudulent manipulation of electronic documentation while stored on "Your" "Computer system".

V. Under Section **IX.**, **TERMS AND CONDITIONS**, paragraph **C.**, the following changes are made: The following sub-paragraphs are added to the end of paragraph C.:

Assist "Us" when a "Funds Transfer Fraud" Occurs.

"Funds Transfer Fraud" will be deemed to occur when "You" first know that a "Funds Transfer Fraud" has occurred, or "You" have a reasonable basis to know that a "Funds Transfer Fraud" has occurred, including any unauthorized electronic funds transfer; theft of money or other financial assets from "Your" bank by electronic means; theft of money

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or other financial assets from "Your" corporate credit cards by electronic means; or any fraudulent manipulation of electronic documentation while stored on "Your" "Computer System". If related "Funds Transfer Fraud" events subsequently occur, and are reported to "Us," all such related "Funds Transfer Fraud" events will be considered a single "Funds Transfer Fraud" event and will be deemed to have occurred on the date the first of those "Funds Transfer Fraud" events occurred.

As soon as a "Funds Transfer Fraud" event first occurs, "You" must notify us in accordance with Section **IX., TERMS AND CONDITIONS**, paragraph **A. NOTICE OF CLAIM OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM.**

All other terms, conditions, limitations and exclusions of the Policy remain unchanged.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

Quotation
This is not a valid Policy

#8a

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 5/28/19 Weekly Agenda Date: 6/11/19

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: David Gleiser, CED Director

WORDING FOR AGENDA ITEM:

Update on SIMPCO Membership Activity with Rural Cities

ACTION REQUIRED:

Approve Ordinance ☐ Approve Resolution ☐ Approve Motion ☑

Public Hearing ☐ Other: Informational ☐ Attachments ☑

EXECUTIVE SUMMARY:

This item provides the Board with the 3rd quarterly progress reports from SIMPCO on their work with rural cities that accepted the county's offer to pay for half of their membership dues to SIMPCO during FY18-19.

BACKGROUND:

This is the 3rd year the Board has agreed to pay for 50% of the membership dues for rural cities to receive SIMPCO services. $7,293 in Local Option Sales Tax (LOST) funds were allocated for all 14 cities. 10 cities accepted the offer so the county's actual cost was $5,753.

FINANCIAL IMPACT:

$5,753 (LOST funds) FY18-19

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☐

RECOMMENDATION:

Receive the 3rd quarter report.

ACTION REQUIRED / PROPOSED MOTION:

Motion to receive the 3rd quarter report from SIMPCO for fiscal year 18-19.

Approved by Board of Supervisors April 5, 2016.

simpco
Siouxland Interstate Metropolitan Planning Council

1122 PIERCE STREET • SIOUX CITY IOWA • 51105 • PHONE 712.279.6286 • FAX 712.279.6920 • EMAIL SIMPCO@SIMPCO.ORG

MEMORANDUM

TO: David Gleiser, Woodbury County Community and Economic Development Director

FROM: Michelle Bostinelos, SIMPCO Executive Director MB

DATE: May 23, 2019

RE: SIMPCO Progress Report Qtr. 3 | January 1 – March 31, 2019

The Woodbury County Board of Supervisors agreed to pay for one half of rural Woodbury County communities' membership dues to SIMPCO for FY 2019 (July 1, 2018 – June 30, 2019). The goal of the partnership is for rural Woodbury County communities to utilize the Siouxland Interstate Metropolitan Planning Council (SIMPCO) in providing tools, research, technical assistance and regional collaboration to help grow community and economic development project across Woodbury County.

For FY 2019, the following communities signed-up for a SIMPCO Membership: Anthon, Bronson, Cushing, Correctionville, Hornick, Lawton, Moville, Oto, Salix and Sergeant Bluff. Information in this report demonstrates project(s)/information requested, total time, and estimated value of services offered directly to each of the communities as well as the indirect value of SIMPCO membership and regional collaboration.

During the 3rd quarter, SIMPCO spent approximately 85 direct hours which equals an estimated value of $5,780 assisting member communities in Woodbury County. Indirect time working on projects, committees, regional projects, and outreach that indirectly benefits Woodbury County communities is estimated at 298 hours or an estimated value of $20,264. The net benefit of SIMPCO membership for rural Woodbury County communities in the third quarter is equaled $26,044.

Third Quarter Notes:

- Unlike the other rural Woodbury County communities, Sergeant Bluff is part of the SIMPCO Metropolitan Planning Organization (MPO) and the urban area of Sioux City. MPO work may not be specifically directed to Sergeant Bluff but pertains to metropolitan transportation planning as a whole and Sergeant Bluff's placement in the MPO. Twenty percent of MPO funds are from MPO members' dues used as local match to complete the necessary work required to ensure federal transportation funds continue to flow into the metropolitan region.

- Woodbury County communities received the following electronic newsletters and information sent out by SIMPCO:
    - Success Story Highway 20 Study – January
    - Membership Workshop Invite – January, February

Equal Housing Opportunity

- Passenger Transportation Plan - January
- Newsletter – January, March
- Regional Policy and Legislative Affairs Committee – January, February, March
- Staff Spotlight – January , February, March
- TIP Amendment – January, March
- Success Story City of Arthur GIS – February
- SIMPCO Updates – February
- Water Resource Committee Invite – February, March
- Success Story Membership Workshop – March
- Save the Date Regional Economic Development Summit – March
- Disaster Assistance Information – March

- Staff is currently working with communities collecting information and input for the region-wide Hazard Mitigation plans.

- SIMPCO held a Membership Workshop on March 1. This workshop not only allowed members and partners to find out more about the SIMPCO organization, but also to hear from area speakers on key topics to our region. Presentations included: Gross-Wen Technologies, Marketing Home Town American, Rural Housing Readiness Assessment, and Employment Law.

- SIMPCO with U.S. Economic Development Administration (EDA) is planning a Regional Economic Diversification Summit on June 12. Speakers include local, state and Federal representative who will discuss programs and project ideas to inspire economic growth in the area. All SIMPCO members are invited!

- SIMPCO is planning its annual meeting and awards banquet on June 12 in Marcus, Iowa. Pam Miller from Siouxland Ethanol and Jacob Bossman, Iowa House Representative and Regional Representative for Senator Grassley, will be the guest speakers. All members are invited to attend this event.

- SIMPCO reached out to member communities during the major flood event in March 2019. SIMPCO provided resources and offered support to communities as requested. SIMPCO created a disaster recovery page on its website to list resources. This page will be updated as new information is available or if another disaster occurs.

- SIMPCO staff assisted Moville and Anthon on Community Catalyst grants through Iowa Economic Development Authority. The funds will be used to redevelop or rehabilitate buildings to stimulate economic growth and reinvestment.

- Staff is currently working with Correctionville Community Development Block Grant application for Home Owner Occupied Rehab projects. The application is due to IEDA in early May.

- SIMPCO leads or participates in several groups and committees that benefit Woodbury County rural communities through regional cooperation. During the third quarter, SIMPCO lead or participated in the following committees/boards/organizations/groups:

    - Grow Siouxland Taskforce
    - SIMPCO MPO Transportation Advisory Committee and Policy Board
    - Siouxland Regional Transportation Planning Association (SRTPA) Technical Advisory Committee and Policy Board
    - Siouxland Regional Transit System (SRTS)
    - Siouxland Economic Development Corporation Board Meeting
    - Tri-State Incident Management Team
    - Local Emergency Planning Committee (LEPC)
    - Western Iowa Community Improvement Regional Housing Trust Fund
    - Iowa Association of Councils of Governments (ICOG)
    - Siouxland Chamber of Commerce Transportation Committee
    - Siouxland Chamber Government Relations Committee
    - Siouxland Chamber Transportation Committee
    - SIMPCO's Comprehensive Economic Development Strategies (CEDs) Committee
    - Iowa DOT meetings including MPO/RPA Directors meetings
    - SIMPCO's Water Resource Committee Meeting
    - SIMPCO Board meetings
    - Tri-State GIS Group
    - Iowa DOT Transportation Modeler meeting(s)
    - SIMPCO's Regional Policy and Legislative Affairs Committee meetings
    - SIMPCO MPO Bicycle/Pedestrian Roundtable
    - State Interagency Missouri River Authority

Anticipated work in 4th Quarter:

- SIMPCO staff will continue to meet with communities to develop projects and to work on specific tasks as requested

- Metropolitan Planning Organization work will continue which will affect Sergeant Bluff including MPO meetings, Transportation Improvement Program (TIP) management, Safe Routes to School, Long Range Transportation Plan, Passenger Transportation Plan, Tri-State Incident Management Team, and MPO Bicycle/Pedestrian Roundtable.

- SIMPCO will continue to work with Siouxland District Health Department on projects related to Safe Routes to School and bicycle/pedestrian improvements in Sergeant Bluff, Lawton and Moville.

- SIMPCO will respond to data requests, grant writing and general requests for information from member communities

- SIMPCO will continue to work with the County and region on the update to the Hazard Mitigation Plan

- SIMPCO will continue to distribute electronic newsletters and grant blasts about upcoming activities/events/trainings/grants.

- SIMPCO will continue to work with communities recovering from flooding and encourage communities to update their flood management plans and policies.

- During the fourth quarter, SIMPCO will lead or participated in the following committees/boards/organizations/groups which benefit Woodbury County Communities:
    - Grow Siouxland Task Force
    - Iowa West Coast Initiative
    - Iowa Association of Councils of Government (ICOG)
    - MPO Bicycle/Pedestrian Roundtable
    - Siouxland Economic Development Cooperation
    - Tri-State Incident Management Team
    - SIMPCO MPO Transportation Advisory Committee and Policy Board
    - Siouxland Chamber Government Relations Committee and Transportation Committee
    - Siouxland Regional Transit System Board
    - Siouxland Regional Transportation Planning Association (SIMPCO-RPA)
    - SIMPCO Regional Policy and Legislative Committee
    - Iowa DOT Travel Demand Modeling Meetings
    - SIMPCO Water Resource Committee
    - MPO TTC and Policy Board
    - Siouxland Regional Transit System Board meeting
    - Comprehensive Economic Development Strategy Committee meetings

Opportunities:

- Regional Economic Development Summit (REDS) June 12
- Annual Meeting in Marcus Iowa June 20
- Members are encouraged to participate in SIMPCO Committees and Boards, including SIMPCO Board of Directors, Water Resource Committee, and the Regional Policy and Legislative Affairs Committee
- There are plenty of grant opportunities listed on the SIMPCO website. Members should prioritize projects and contact SIMPCO to begin working applications.
- Members should utilize SIMPCO GIS services to update and digitize city maps

Siouxland Interstate Metropolitan Planning Council

Progress Report: January 1 – March 31, 2019

Community	Community Goals/Priorities	Work During 3rd Qtr.	Total Time (hours)	Estimated Value	Additional Member Fee
Anthon Total Dues: $786 Woodbury County Portion: $393	Grant Writing *Staff contact: Michelle Bostinelos & Jake Heil*	No direct work during this quarter	Qtr. 1: 1 Qtr. 2: 10 Qtr. 3: 0	Qtr 1: $68 Qtr 2: $680 Qtr. 3: $0	None
Bronson Total Dues: $636 Woodbury County Portion: $318	Grant Writing/Research *Staff contact: Michelle Bostinelos & Joe Surdam*	No direct work during this quarter	Qtr. 1: 2 Qtr. 2: 2 Qtr. 3: 0	Qtr. 1: $136 Qtr. 2: $136 Qtr. 3: $0	None
Cushing Total Dues: $514 Woodbury County Portion: $257	Grant Writing – City Hall, Downtown Contributed to Hwy 20 Study *Staff contact: Michelle Bostinelos, Dawn Kimmel, Nicole Peterson*	No direct work during this quarter	Qtr. 1: 0 Qtr. 2: 0 Qtr. 3: 0	Qtr. 1: $0 Qtr. 2: $0 Qtr. 3: $0	None

Community	Community Goals/Priorities	Work During 3rd Qtr.	Total Time (hours)	Estimated Value	Additional Member Fee
Hornick Total Dues: $520 Woodbury County Portion: $260	Grant writing, ordinance update, implementing comprehensive plan, Flood recovery, budget, TIF *Staff contact: Michelle Bostinelos, Dawn Kimmel, Sharon Burton*	Assistance with budget, TIF, and flood resources, Housing Trust Fund application	Qtr. 1: 1 Qtr. 2: 0 Qtr. 3: 13	Qtr. 1: $68 Qtr. 2: $0 Qtr. 3: $884	none
Lawton Total Dues: $1,113 Woodbury County Portion: $557	Downtown Revitalization, Trails, Safe Routes to Schools/ Contributed to the Hwy 20 Economic Development Study *Staff contact: Michelle Bostinelos, Jake Heil, Nicole Peterson*	Trails – Safe Routes to schools Mayor is participating in SIMPCO Board of Directors meetings and Regional Policy and Legislative Affairs Committee . Attended Membership Workshop	Qtr. 1: 5 Qtr. 2: 0 Qtr. 3: 1	Qtr. 1: $340 Qtr. 2: $0 Qtr.3: $68	none

Correctionville Total Dues: $1,030 Woodbury County Portion: $515	Grant Writing/Hwy 20 Economic Development Study *Staff contact: Amanda Harper*	CDBG- Housing , Housing Trust Fund application	Qtr. 1: 0 Qtr. 2: 10 Qtr. 3: 8	Qtr. 1: $0 Qtr. 2: $680 Qtr. 3: $544	

Moville Total Dues: $1,787 Woodbury County Portion: $894	Grants – Community Catalyst/ Downtown Revitalization, Trails, Contributed to the Hwy 20 Economic Development Study *Staff contact: Jake Heil,*	Safe Routes to School planning meeting and assistance with trail grants/ vision Iowa project Attended Membership Workshop	Qtr. 1: 4 Qtr. 2: 15 Qtr. 3: 2	Qtr. 1: $272 Qtr. 2: $1,020 Qtr. 3: $1,787	none
Oto Total Dues: $380 Woodbury County Portion: $190	Annual Financial Report, Budget Assistance, Code Update, Grants, Trails *Staff contact: Michelle Bostinelos, Sharon Burton, Ellen Dirks,*	Budget	Qtr. 1: 0 Qtr. 2: 0 Qtr. 3: 3	Qtr. 1: $0 Qtr. 2: $0 Qtr. 3: $204	none

Salix Total Dues: $685 Woodbury County Portion: $342	Cost/Benefit Analysis for Water/Sewar/ Annexation/ Grants *Staff contact: Michelle Bostinelos, Gabriel Appiah,*	Resources for questions related to city govt. and planning	Qtr. 1: 1 Qtr. 2: 40 Qtr. 3: 2	Qtr. 1: $68 Qtr. 2: $2,720 Qtr. 3: $136	
Sergeant Bluff Total Dues: $4,054 Woodbury County Portion: $2,027	Safe Routes to Schools, Street Analysis, Traffic Counts, GIS mapping, Grants, Regional Issues/ Contributed to the Hwy 20 Economic Development Study *Staff contact: Michelle Bostinelos, Gabreil Appiah, Jake Heil, Nicole Peterson*	MPO Work/Documents (TIP, passenger transportation plan), update to transportation model, Safe Routes to School activities (mapping and plan) Highway 20 Study Steering Committee Attended Membership Workshop	Qtr. 1: 22 Qtr. 2: 7 Qtr. 3: 56	Qtr. 1: $1,496 Qtr. 2: $476 Qtr. 3: $3,808	none

Direct Totals: This includes time directly working with Woodbury County communities on projects, data collection and technical assistance.

Totals Dues	Woodbury County Portion
$11,505	$5,753

Time Period	Total Time (hours)	Estimated Value
Quarter 1: July 1 – September 30	36	$2,448
Quarter 2: October 1 – December 31	84	$5,712
Quarter 3: January 1 – March 31	85	$5,780

Indirect Totals: This includes time working on projects, committees, outreach that indirectly benefits Woodbury County communities.

Program/Project	Total Time (hours) Qtr. 1	Estimated Value Qtr. 1	Total Time (hours) Qtr. 2	Estimated Value Qtr. 2
Newsletter/Grant Blasts/Notification of Events/	8	$544	10	$680
Committees/Meetings/Boards	34	$2,312	49	$3,332
Regional Work (RPA, HAZ Mat, CEDS)	221	$15,028	228	$15,504
Totals:	**263**	**$17,884**	**287**	**$19,516**
	Total Time (hours) Qtr. 3	**Estimated Value Qtr. 3**	**Total Time (hours) Qtr. 4**	**Estimated Value Qtr. 4**
Newsletter/Grant Blasts/Notification of Events	22	$1,496		
Committee/Meetings/Boards	54	$3,672		
Regional Work (RPA, HAZ Mat, CEDS)	222	$15,096		
Totals:	**298**	**$20,264**		

Total Net Benefit:

	Qtr. 1	Qtr. 2	Qtr. 3
Direct Total Estimated Value	$2,448	$5,712	$5,780
Indirect Total Estimated Value	$17,884	$19,516	$20,264
Total:	**$20,332**	**$25,228**	**$26,044**
Additional Grant Awards			
Anthon Community Catalyst			$100,000
Moville Community Catalyst			$100,000

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

#8b

Date: 5/28/19 Weekly Agenda Date: 6/11/19

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: David Gleiser, CED Director

WORDING FOR AGENDA ITEM:

Update on Rural Comprehensive Planning Project

ACTION REQUIRED:

Approve Ordinance ☐ Approve Resolution ☐ Approve Motion ☑

Public Hearing ☐ Other: Informational ☐ Attachments ☑

EXECUTIVE SUMMARY:

This items provides the Board of Supervisors with a quarterly report from Simmering Cory, Inc. (SCI) on their work with the 11 rural cities participating in our comprehensive planning project.

BACKGROUND:

In July 2016, the Board awarded a contract to SCI to provide 11 rural cities with a new or updated comprehensive plan over the course of 3 years. $112,530 (LOST Funds) was budgeted for this project. In January 2019, the Board approved an amendment to the SCI contract and extended the project completion date out an additional 12 months to 7/12/20.

FINANCIAL IMPACT:

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☐

RECOMMENDATION:

Receive the 3rd quarter report.

ACTION REQUIRED / PROPOSED MOTION:

Motion to receive the 3rd quarter report from Simmering Cory, Inc. for FY18-19.

Approved by Board of Supervisors April 5, 2016.

04.30.2019

Memo

To
David Gleiser

From
Justin Yarosevich

CC
Jennifer Movall

Re
Woodbury County Rural Cities Comp Plan Update

Comments:

David,

Over the past quarter we have been focusing on getting some meetings with the City's on goals and objectives handled. The next quarter our focus will be on getting additional plans done.

As always, I am happy to answer any questions that you may have.

Hornick, Iowa

The plan has been adopted and is now complete. We are planning for a February 2020 one-year review meeting with the City.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	Sept. 2016	Nov. 2016	March 2017	Not Planned	Not Planned	March 2017
Revised	Completed	Completed	Completed	Completed	Completed	Completed
Billed				Feb-18	Feb-18	Apr-19

Correctionville, Iowa

The plan has been adopted and is now complete. We are planning for a February 2020 one-year review meeting with the City.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	April 2018	June 2018	October 2018	Not Planned	Not Planned	October 2018
Revised	Completed	Completed	Completed	Completed	Completed	Completed
Billed				Jan-19	Jan-19	Apr-19

Simmering-Cory, Inc.

Tel 641-355-4072
Fax 515-724-7868

114 East 5th Street
Storm Lake, IA 50588

www.simmeringcory.com
info@sc-ic.com

Bronson, Iowa

Work continues on the development of their plan. We did fall a bit behind on this as we worked toward getting meetings set and handled for the others. This will be one of the top priorities moving forward.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	Jan. 2017	March 2017	July 2017	Not Planned	Not Planned	July 2017
Revised	Completed	Completed	Completed	Completed	Completed	July 2019
Billed				Feb-18	Jan-19	

Sloan, Iowa

The City and their P&Z are reviewing priorities and then we can schedule the second public input session.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	Sept. 2016	Nov. 2016	March 2017	July 2018	August 2018	October 2018
Revised	Completed	Completed	Completed	April 2019	June 2019	September 2019
Billed						

Anthon, Iowa

Council prioritized their objectives and we are working on getting the second public input session scheduled for them.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	Sept. 2016	Nov. 2016	March 2017	Not Planned	Not Planned	March 2018
Revised	Completed	Completed	Completed	Completed	May – June 2019	July – August 2019
Billed			Feb-18	Apr-19		

Pierson, Iowa

We have completed the prioritization of the objectives and held the second public input session. We are working on the draft of the plan along with Bronson.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	June 2017	August 2017	Dec. 2017	Not Planned	Not Planned	Dec. 2017
Revised	Completed	Completed	Completed	Completed	Completed	August 2019
Billed		Feb-18	Feb-18	Jan-19	Apr-19	

Smithland, Iowa

Council had a very good session where we went over some concepts and ideas that we developed based on the feedback that we had with citizens and Council. There is still a desire to keep things simple here and that major new initiatives are not a priority until they can accomplish needed improvements to sustain the community. Council is meeting on May 2nd to review objectives and prioritize.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	Oct. 2017	Jan. 2018	May 2018	Not Planned	Not Planned	May 2018
Revised	Completed	Completed	Completed	May 2019	July 2019	November 2019
Billed	Feb-18	Jan-19	Jan-19			

Oto, Iowa

The Council finished up their prioritization of the objectives in April and we are setting a date for the second public input session which we anticipate being in June 2019.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	Oct. 2017	Dec. 2018	April 2018	Not Planned	Not Planned	April 2018
Revised	Completed	Completed	Completed	Completed	June 2019	September 2019
Billed	Feb-18	Jan-19	Jan-19	April-19		

Danbury, Iowa

We held the second Public Visioning Session and are now working on the drafting of the plan.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	Oct. 2017	Jan. 2018	May 2018	Not Planned	Not Planned	May 2018
Revised	Completed	Completed	Completed	Completed	Completed	May/June 2019
Billed	Feb-18	Feb-18	Jan-19	Jan-19	April-19	

Lawton, Iowa

After getting through some challenges due to availability, weather, and holidays we have met with the Council to go over some concepts and work on ideas for some future objectives and goals. We are scheduled to go back in June and work on objectives and prioritization of the objectives.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	Jan. 2017	March 2017	July 2017	Not Planned	Not Planned	July 2017
Revised	Completed	Completed	Completed	June 2019	August 2019	November 2019
Billed	Jan-19	Jan-19	Jan-19			

Cushing, Iowa

At the Council visioning session, the Council wanted to move forward with gathering some additional community input which was done by collecting surveys from citizens. We have received the surveys and are in the process of using them to see if they change any of the other observations and comments that we have at this point. We are in the process of scheduling a meeting with Council to discuss potential concepts and objectives.

	Kick Off MTG	Public Meeting	Council Visioning	Council Priority Setting	Public Presentation of Plan	Council Adoption
Original	April 2018	June 2018	Oct. 2018	Not Planned	Not Planned	Oct. 2018
Revised Nov. 2017	Completed	Completed	Completed	June / July 2019	September 2019	December 2019
Billed	Jan-19	Jan-19	Jan-19			

#9a

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 06/06/2019 Weekly Agenda Date: 06/11/2019

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Mark J. Nahra, County Engineer

WORDING FOR AGENDA ITEM:

Consideration of a utility permit for installation of fiber optic cable in county rights of way for SDN Communications

ACTION REQUIRED:

Approve Ordinance ☐ Approve Resolution ☐ Approve Motion ☑

Public Hearing ☐ Other: Informational ☐ Attachments ☑

EXECUTIVE SUMMARY:

SDN Communications has applied for a permit to allow the installation of fiber optic cables in county rights of way.

BACKGROUND:

Work in county ROW requires a permit approved by the Board of Supervisors per section 318.8 of the Code of Iowa. The county engineer has reviewed the locations and recommends that the work be allowed.

FINANCIAL IMPACT:

No financial impact to the county.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☐

RECOMMENDATION:

Recommend approval of the permit for SDN Communcations.

ACTION REQUIRED / PROPOSED MOTION:

Motion to approve the underground utility permit for SDN Communications and to direct the chair to sign the permit.

Approved by Board of Supervisors April 5, 2016.

Woodbury County Permit No._____

PERMIT FOR USE OF COUNTY ROAD/HIGHWAY RIGHT-OF-WAY FOR OVERHEAD AND/OR BURIED UTILITIES ACCOMMODATION

REQUEST BY APPLICANT:

Name South Dakota Network, LLC dba SDN Communications, Inc.

Address 2900 West 10th St., Sioux Falls, South Dakota 57104

Highway 330th St & Fayette Ave.

Township Lakeport & Sloan

City of _____

Office Phone (605) 978-7119 **Local Phone** (605) 770-3797

Section: ¼ of ¼ Sec

Type of Utility Installation buried Fiber & equipment

T N, **R** W

Plans Prepared By Finley Engr. Co., Inc.

Copy Enclosed X **Yes** ____ **No**

Map Showing Location Enclosed X **Yes** ____ **No**

Utility Location is X **cross right-of-way** X **parallel to right-of-way**

____ **overhead** X **underground**

Proposed Method of Installation

____ **tunnel** ____ **suspend on poles** on bores **cased**

X **jack & bore** ____ **suspend on towers** X **trench**

____ **open cut** X **plow** for Handholes & Bore Pits only

Estimated Starting Date as soon as possible **Estimated Restoration Date** Dec. 31, 2019

The Applicant understands and agrees that the permitted work shall comply with all permit provisions and conditions listed on the reverse side hereof, and special provisions listed below or attached hereto, and any and all plans, details, or notes attached hereto and made a part thereof. Applicant is to complete in triplicate and send all copies including plans and maps to Woodbury County Engineer, 759 E. Frontage Road, Moville, IA 51039. One executed copy will be returned to the Applicant.

By John Mingo JH

(Signature of Authorized Utility Representative)

(605) 978-7119 or Cell: (605) 770-3797

Title John Mingo, OSP Engineer
John.mingo@sdncommunications.com

Date 5-31-19

PERMIT APPROVAL BY PERMITTING AUTHORITY

The forgoing application is hereby approved and permit issued by the Permitting Authority subject to full compliance by the Applicant with all provisions and conditions stated herein and on the reverse side hereof and all attachments hereto.

By _____

(Signature of Woodbury County Board Chairman)

Title _____

Date _____

By _____

(Signature of Woodbury County Engineer)

Title _____

Date _____

Other Special Provisions:

Permit Provisions and Conditions of Issuance

1. **The County and/or the County Board of Supervisors will not be charged with any responsibility for damages to the Applicant's property occasioned by any construction or maintenance operations on said county roads, including new or additional right-of-way acquired in connection therewith, subsequent to the building of the Applicant's facilities. The Board will endeavor to give the Applicant sufficient notice of any proposed construction or maintenance work, on either existing or newly acquired right-of-way that is likely to expose, cover up, or disturb any facilities belonging to the Applicant, in order that the Applicant may arrange to protect the facilities. The Board will inform contractors, and others working on the job of the location of the facilities so that reasonable care may be taken to avoid damaging the facilities, however the County and the Board of Supervisors will assume no responsibility for failure to give such notice.**

Approved 1/19/99

2. The Applicant shall take all reasonable precaution during the construction of said facilities to protect and safeguard the lives and property of the adjacent property owners and the traveling public and shall save the County and the Board of Supervisors harmless of any damages or losses that may be sustained by adjacent property owners and the traveling public on account of such construction operations.

3. Operations in the construction and maintenance of said facilities shall be carried on in such a way as to not interfere with, or interrupt traffic on said roads. However, should the performance of work called for in this permit in any way interfere with or obstruct traffic on said roads, the Applicant shall provide the necessary flagmen as required by the Statutes when one-way traffic is involved and/or otherwise mark said work so as to protect the traveling public.

4. The Applicant shall hold the County and the Board of Supervisors harmless from any damages that may result to said highway because of the construction or maintenance of said facilities and shall reimburse the County or the Board of Supervisors for any expenditures that the County or the Board of Supervisors may have to make on said roads on account of replacement of surfacing gravel and bridge and culvert repairs.

5. Applicant shall lay, construct, operate and maintain said facilities so as not to interfere with natural drainage of the road and so as not to interfere with the construction or maintenance of said roads. When buried cable or wire lines are to be placed lengthwise with the roadway, they shall be placed in the County road shoulder or ditch near the toe of the fore-slope and parallel to centerline of roadbed at a depth of three (3) to four (4) feet by using specially designed plows or by trenching, whichever is appropriate. Plow slots and trenches shall be repacked as necessary to restore the disturbed area to its original condition. For buried line crossings of roadways not paved, an open trench may be dug and the lines placed therein, and the trench back-filled over the lines. Buried line crossings on paved roadways, lines may be placed through the sub-grade by jacking, or by boring a hole just large enough to take the lines; or if the County Engineer approves, a tunnel may be dug through and the cable or wire lines placed therein. All backfill of tunnels and trenches shall be thoroughly compacted in layers of 6" or less in depth. Back-filling of trenches within the right-of-way by not under the traveled roadway shall be tamped sufficiently to avoid settlement. When crossing an existing roadway, all buried facilities shall be placed a minimum of three (3) to four (4) below the bottom of the existing adjacent ditches. Overhead lines, where practical, shall be placed adjacent to and with two (2) feet of the Road/Highway Right-of-Way Line.

6. The Applicant will at any time subsequent to placing the facilities, and at the Applicant's expense, relay, replace, alter, change, reconstruct, or relocate its overhead and/or buried facilities and appurtenances thereto as may become necessary to conform to new grades, alignment, or widening right-of-way, resulting from maintenance or construction operations by the County Board of Supervisors irrespective of whether or not additional right-of-way is acquired in connection with such road improvements. The Applicant agrees to do this within ninety (90) days written notice from the Board of Supervisors, and without cost to the County. If the Applicant is unable to comply within said ninety (90) days, the Board of Supervisors may cause the work to be done and the Applicant will pay the cost thereof upon receipt of statement.

7. All work shall be done in a workmanlike manner; the surrounding ground, slopes, and ditch bottoms shall be reshaped to conform to the area and left in a neat condition satisfactory to the County Engineer. All areas where sod has been damaged or destroyed shall be re-seeded.

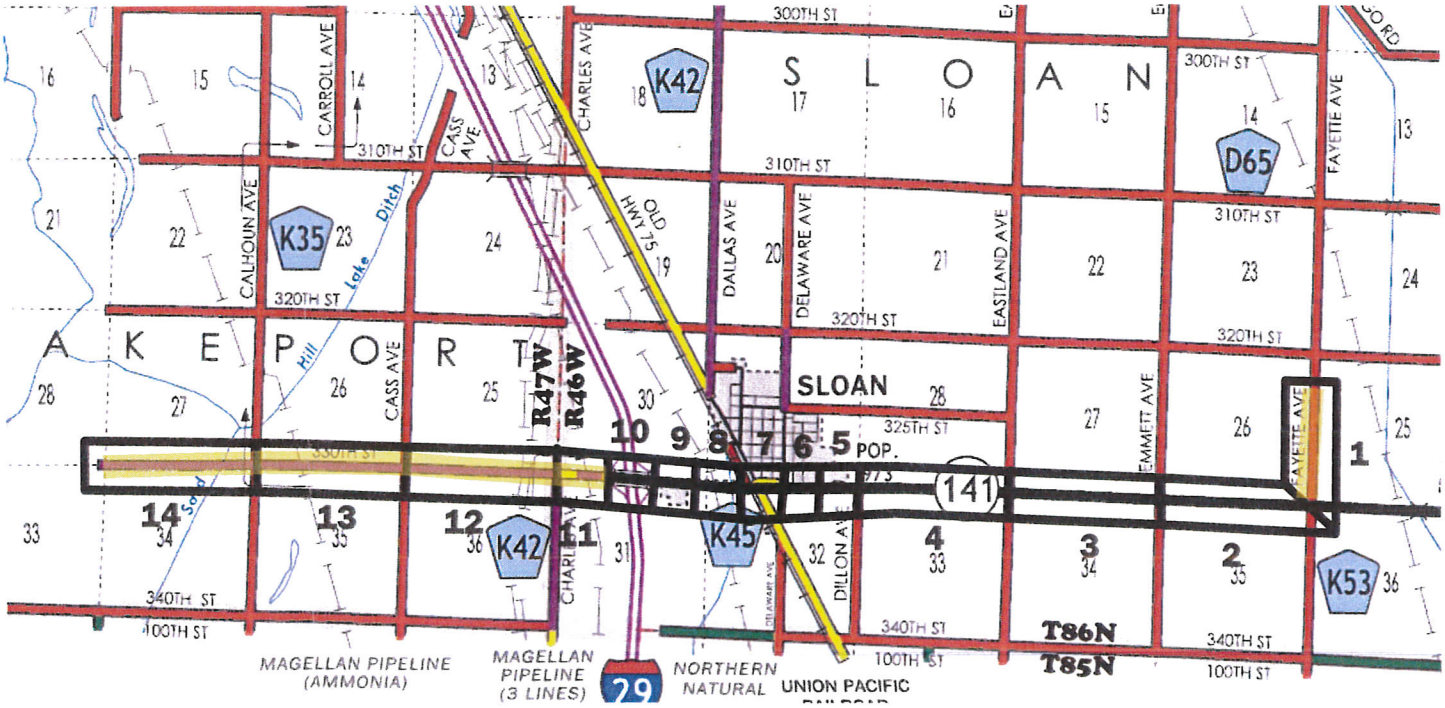
8. The Applicant shall notify the County Board of Supervisors at least forty-eight (48) hours in advance of the Applicant's intention of starting work covered by this permit on the road right-of-way. Said notice shall be in writing to the County Engineer.

9. Applicant, its' successors, grantees and assigns shall and hereby agrees to assume all responsibility, risks and liabilities for all accidents and damages that may occur to persons and/or property on account of the work done under this permit, and to this end, indemnify and hold the County and all authorized representatives thereof harmless from any and all claims, damages, losses, and expense including judgements, costs and including attorney's fees, for personal injuries (including death) or property damage arising or resulting from the activities of the Applicant in connection herewith, now and at all times in the future.

10. It is understood that this permit is issued only insofar as Woodbury County has jurisdiction and does not presume to release the Applicant from fulfilling any existing statutes relating to the installation, construction and operation of said facilities.

11. It is further understood that the facilities covered by this permit shall be constructed or installed within one (1) year after the date of approval of this permit, unless otherwise extended in writing by Woodbury County.

12. Engagement in the operations as herein applied for by the Applicant shall be considered and constitute an acceptance of all the terms and conditions herein set forth.



Woodbury County
Sloan, IA

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

#9b

Date: 06/06/2019 Weekly Agenda Date: 06/11/2019

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Mark J. Nahra, County Engineer

WORDING FOR AGENDA ITEM:

Consideration of a utility permit for installation of fiber optic cable in county rights of way for MidAmerican Energy

ACTION REQUIRED:

Approve Ordinance ☐ Approve Resolution ☐ Approve Motion ☑

Public Hearing ☐ Other: Informational ☐ Attachments ☑

EXECUTIVE SUMMARY:

MidAmerican Energy has applied for a permit to allow the installation of fiber optic cables in county rights of way.

BACKGROUND:

Work in county ROW requires a permit approved by the Board of Supervisors per section 318.8 of the Code of Iowa. The county engineer has reviewed the locations and recommends that the work be allowed.

FINANCIAL IMPACT:

No financial impact to the county.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☐

RECOMMENDATION:

Recommend approval of the permit for MidAmerican Energy.

ACTION REQUIRED / PROPOSED MOTION:

Motion to approve the underground utility permit for MidAmerican Energy and to direct the chair to sign the permits.

Approved by Board of Supervisors April 5, 2016.

Woodbury County Permit No._____

PERMIT FOR USE OF COUNTY ROAD/HIGHWAY RIGHT-OF-WAY FOR OVERHEAD AND/OR BURIED UTILITIES ACCOMMODATION

REQUEST BY APPLICANT:

Name Sean Kelly, agent for MidAmerican Energy

Address 10510 Douglas Ave, Urbandale, IA 50322

Office Phone 515-633-1510 **Local Phone** 515-633-1510

Type of Utility Installation Fiber Optic

Plans Prepared By NewCom Technologies

Map Showing Location Enclosed X **Yes** ____ **No**

Highway 290th St, Emmett Ave, IA 141

Township Liberty

City of _____

Section: N ½ of N ½ Sec 8,9 10, W ½ of W ½ Sec 11, 14, E ½ of E ½ Sec 15, 22, 27, NE ¼ of NE ¼ Sec 34, N ½ of NW ¼ Sec 35

T 86 **N, R** 46 **W**

Copy Enclosed X **Yes** ____ **No**

Utility Location is X **cross right-of-way** X **parallel to right-of-way**
____ **overhead** X **underground**

Proposed Method of Installation

____ **tunnel** ____ **suspend on poles** ____ **cased**
X **jack & bore** ____ **suspend on towers** ____ **trench**
____ **open cut** X **plow**

Estimated Starting Date 06/10/2019 **Estimated Restoration Date** 07/30/2019

The Applicant understands and agrees that the permitted work shall comply with all permit provisions and conditions listed on the reverse side hereof, and special provisions listed below or attached hereto, and any and all plans, details, or notes attached hereto and made a part thereof. Applicant is to complete in triplicate and send all copies including plans and maps to Woodbury County Engineer, 759 E. Frontage Road, Moville, IA 51039. One executed copy will be returned to the Applicant.

By [signature]
(Signature of Authorized Utility Representative)

Title Sr OPS Design Specialist/GIS analyst

Date 05/08/2019

PERMIT APPROVAL BY PERMITTING AUTHORITY

The forgoing application is hereby approved and permit issued by the Permitting Authority subject to full compliance by the Applicant with all provisions and conditions stated herein and on the reverse side hereof and all attachments hereto.

By _____
(Signature of Woodbury County Board Chairman)

Title _____

Date _____

By [signature]
(Signature of Woodbury County Engineer)

Title County Engineer

Date 6/6/2019

Other Special Provisions: Permittee shall plow around or bore under all county road culverts encountered on permitted routes. Fiber optic lines may not be plowed above county structures.

Permit Provisions and Conditions of Issuance

1. The County and/or the County Board of Supervisors will not be charged with any responsibility for damages to the Applicant's property occasioned by any construction or maintenance operations on said county roads, including new or additional right-of-way acquired in connection therewith, subsequent to the building of the Applicant's facilities. The Board will endeavor to give the Applicant sufficient notice of any proposed construction or maintenance work, on either existing or newly acquired right-of-way that is likely to expose, cover up, or disturb any facilities belonging to the Applicant, in order that the Applicant may arrange to protect the facilities. The Board will inform contractors, and others working on the job of the location of the facilities so that reasonable care may be taken to avoid damaging the facilities, however the County and the Board of Supervisors will assume no responsibility for failure to give such notice.

Approved 1/19/99

2. The Applicant shall take all reasonable precaution during the construction of said facilities to protect and safeguard the lives and property of the adjacent property owners and the traveling public and shall save the County and the Board of Supervisors harmless of any damages or losses that may be sustained by adjacent property owners and the traveling public on account of such construction operations.

3. Operations in the construction and maintenance of said facilities shall be carried on in such a way as to not interfere with, or interrupt traffic on said roads. However, should the performance of work called for in this permit in any way interfere with or obstruct traffic on said roads, the Applicant shall provide the necessary flagmen as required by the Statutes when one-way traffic is involved and/or otherwise mark said work so as to protect the traveling public.

4. The Applicant shall hold the County and the Board of Supervisors harmless from any damages that may result to said highway because of the construction or maintenance of said facilities and shall reimburse the County or the Board of Supervisors for any expenditures that the County or the Board of Supervisors may have to make on said roads on account of replacement of surfacing gravel and bridge and culvert repairs.

5. Applicant shall lay, construct, operate and maintain said facilities so as not to interfere with natural drainage of the road and so as not to interfere with the construction or maintenance of said roads. When buried cable or wire lines are to be placed lengthwise with the roadway, they shall be placed in the County road shoulder or ditch near the toe of the fore-slope and parallel to centerline of roadbed at a depth of three (3) to four (4) feet by using specially designed plows or by trenching, whichever is appropriate. Plow slots and trenches shall be repacked as necessary to restore the disturbed area to its original condition. For buried line crossings of roadways not paved, an open trench may be dug and the lines placed therein, and the trench back-filled over the lines. Buried line crossings on paved roadways, lines may be placed through the sub-grade by jacking, or by boring a hole just large enough to take the lines; or if the County Engineer approves, a tunnel may be dug through and the cable or wire lines placed therein. All backfill of tunnels and trenches shall be thoroughly compacted in layers of 6" or less in depth. Back-filling of trenches within the right-of-way by not under the traveled roadway shall be tamped sufficiently to avoid settlement. When crossing an existing roadway, all buried facilities shall be placed a minimum of three (3) to four (4) below the bottom of the existing adjacent ditches. Overhead lines, where practical, shall be placed adjacent to and with two (2) feet of the Road/Highway Right-of-Way Line.

6. The Applicant will at any time subsequent to placing the facilities, and at the Applicant's expense, relay, replace, alter, change, reconstruct, or relocate its overhead and/or buried facilities and appurtenances thereto as may become necessary to conform to new grades, alignment, or widening right-of-way, resulting from maintenance or construction operations by the County Board of Supervisors irrespective of whether or not additional right-of-way is acquired in connection with such road improvements. The Applicant agrees to do this within ninety (90) days written notice from the Board of Supervisors, and without cost to the County. If the Applicant is unable to comply within said ninety (90) days, the Board of Supervisors may cause the work to be done and the Applicant will pay the cost thereof upon receipt of statement.

7. All work shall be done in a workmanlike manner; the surrounding ground, slopes, and ditch bottoms shall be reshaped to conform to the area and left in a neat condition satisfactory to the County Engineer. All areas where sod has been damaged or destroyed shall be re-seeded.

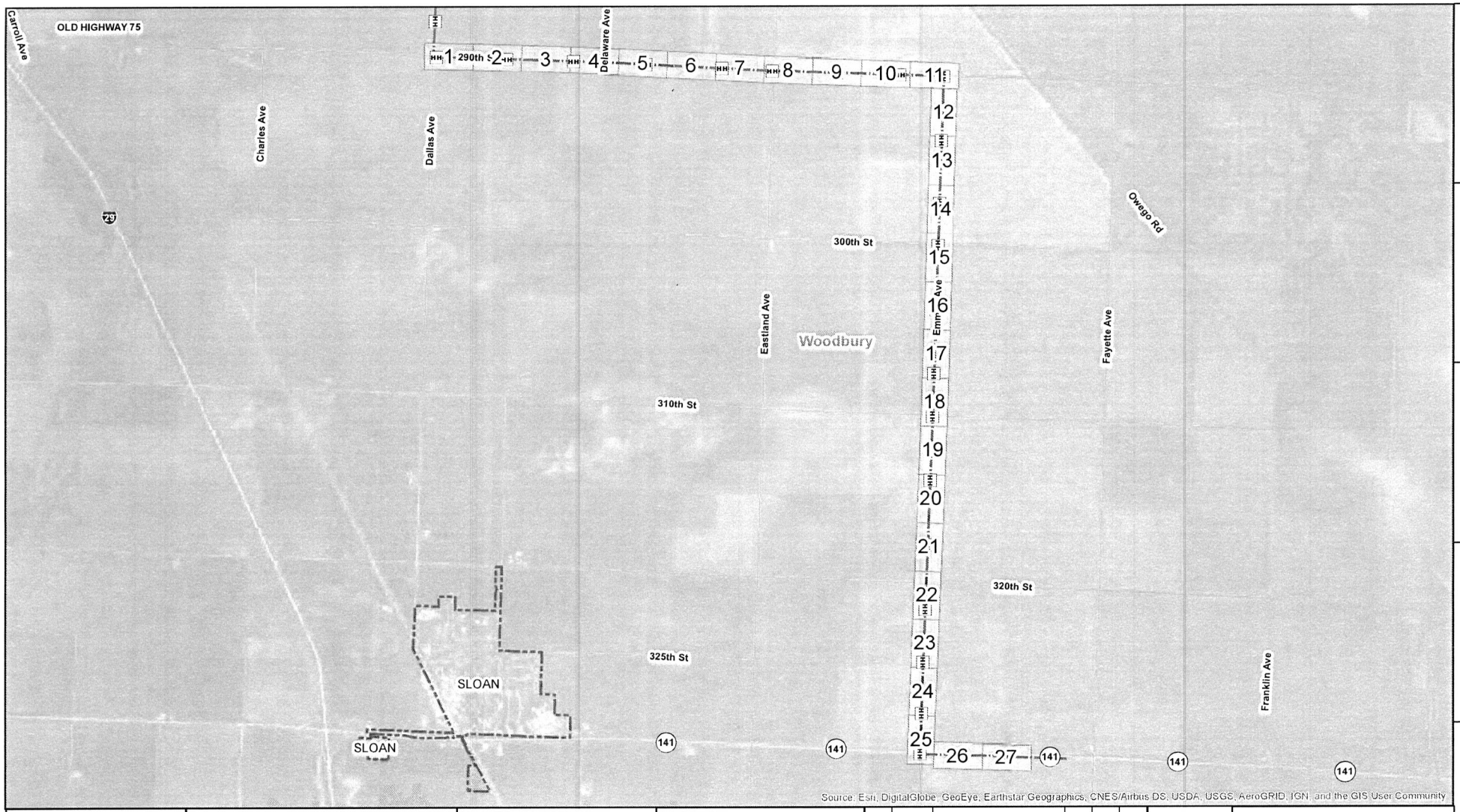
8. The Applicant shall notify the County Board of Supervisors at least forty-eight (48) hours in advance of the Applicant's intention of starting work covered by this permit on the road right-of-way. Said notice shall be in writing to the County Engineer.

9. Applicant, its' successors, grantees and assigns shall and hereby agrees to assume all responsibility, risks and liabilities for all accidents and damages that may occur to persons and/or property on account of the work done under this permit, and to this end, indemnify and hold the County and all authorized representatives thereof harmless from any and all claims, damages, losses, and expense including judgements, costs and including attorney's fees, for personal injuries (including death) or property damage arising or resulting from the activities of the Applicant in connection herewith, now and at all times in the future.

10. It is understood that this permit is issued only insofar as Woodbury County has jurisdiction and does not presume to release the Applicant from fulfilling any existing statutes relating to the installation, construction and operation of said facilities.

11. It is further understood that the facilities covered by this permit shall be constructed or installed within one (1) year after the date of approval of this permit, unless otherwise extended in writing by Woodbury County.

12. Engagement in the operations as herein applied for by the Applicant shall be considered and constitute an acceptance of all the terms and conditions herein set forth.



MidAmerican ENERGY
3500 104TH STREET
URBANDALE, IA 50322
(515) 281-2394

BDC GROUP INC
1936 51ST STREET, NE
CEDAR RAPIDS, IA 52402
(319) 389-3282

NewCom Technologies
6000 GRAND AVENUE
DES MOINES, IA 50312
(515) 274-9611

Woodbury County
MidAmerican Energy
4 - Sloan Sub to
Whiting Sub

NO.	DATE	REVISIONS	BY	CHK	APP'D
A	05-6-2019	ISSUED FOR REVIEW	SMK	SMK	SMK

SCALE 1" = 2,787' DESIGNED BY S. KELLY DRAWN BY S. KELLY

N W E S

1,609 800 0 1,600 3,200 Feet

SLOAN SUB TO WHITING SUB

OVERVIEW

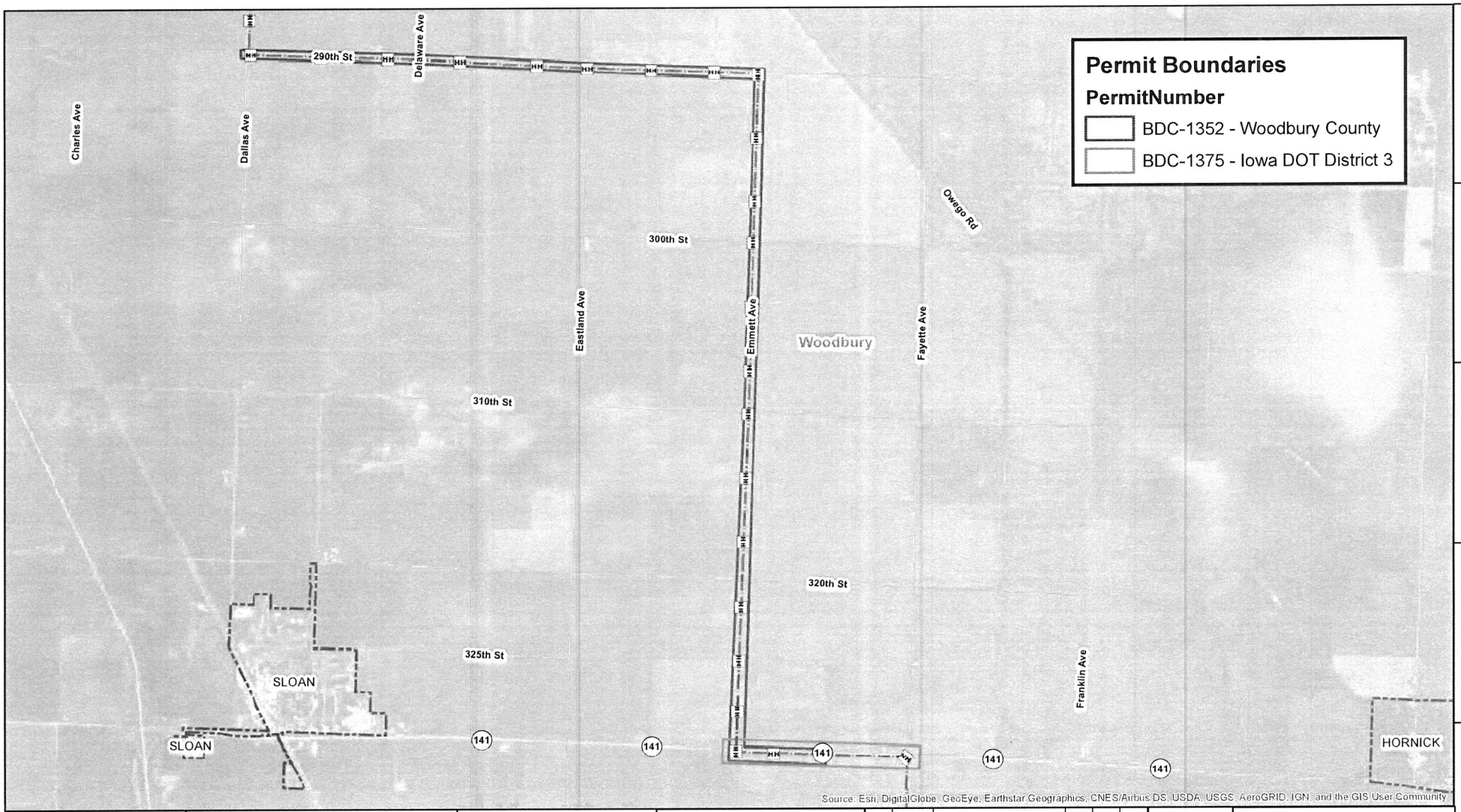
PRINTED	SHEET NUMBER	REV
5/6/2019	OV-4	A

1 in = 2,787 ft

11 X 17 "ANSI B" SIZE

1 2 3 4 5 6 7 8

E D C B A



MidAmerican ENERGY
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(515) 274-9611

Woodbury County
MidAmerican Energy
4 - Sloan Sub to Whiting Sub

NO.	DATE	REVISIONS	BY	CHK	APP'D
A	05-06-2019	ISSUED FOR REVIEW	SMK	SMK	SMK

SCALE 1" = 2,787' DESIGNED BY S. KELLY DRAWN BY S. KELLY

SLOAN SUB TO WHITING SUB
PERMIT BOUNDARY

PRINTED	SHEET NUMBER	REV
5/7/2019	PB-4	A

1 in = 2,787 ft

11 X 17 "ANSI B" SIZE

#10

AHLERS COONEY
ATTORNEYS

Ahlers & Cooney, P.C.
Attorneys at Law
100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231
Phone: 515-243-7611
Fax: 515-243-2149
www.ahlerslaw.com

Jason L. Comisky
515.246.0337
jcomisky@ahlerslaw.com

June 5, 2019

Via email and overnight delivery

Mr. Michael Clayton
Woodbury County Treasurer
Trosper Hoyt
822 Douglas St. Room 102
Sioux City, Iowa 51101

Re: Woodbury County, Iowa - $787,559 General Obligation Capital Loan Note, Series 2019

Dear Michael:

Enclosed are documents to complete Board action in connection with the authorization for the issuance of the above Note.

1. The Board procedure consists of the following:

(a) Resolution authorizing the issuance of the Note.

The resolution also incorporates by reference the form of the Tax Exemption Certificate.

There are blank spaces appearing in the form of Note set out in the resolution. These need not be completed but may be left blank as a guide since different amounts, dates and percents will be inserted within the blank spaces.

The resolution must be adopted by an affirmative vote equal to a majority of the full Board membership.

(b) Tax Exemption Certificate. The Tax Exemption Certificate sets out in detail a number of facts, promises and obligations which must be met and agreed to by the County in order to maintain the Note as tax exempt. This Certificate should be SIGNED BUT NOT DATED. Please execute and return all copies to us prior to closing. An executed copy will be provided to you after closing.

2. Closing Certificates and Documents:

(a) Loan Agreement. Please execute all copies and return the same to our office. We will obtain the Purchaser's signature and send you a fully executed copy after closing.

(b) Original Note. The Note is enclosed to be executed by the Chairperson and the Auditor in the spaces provided and impressed with the County's seal. The Date of Authentication will be the date of closing. Tags are attached to the Note showing where signatures, seals and dates should appear. Please have the executed Note returned to us as soon as possible so that it can be forwarded to the Purchaser prior to closing.

(c) Delivery Certificate. This certificate also should be signed, BUT NOT DATED. Please complete and confirm the financial data on page 2, execute and return all copies to us. An executed copy will be provided to you after closing.

(d) Transcript Certificate. This certificate is to be executed and sealed in the manner indicated on the second page and may be dated at the time of completion. A notary attestation for all official signatures is required. Please execute and return all copies to us. An executed copy will be provided to you after closing.

(e) County Auditor's Certificate. A true copy of the authorizing resolution as adopted is to be certified and filed with the Auditor of Woodbury County. The Auditor is asked to certify to such filing on the lower portion of the certificate. Please return the "Complete and Return" copy to my attention prior to closing.

(f) Form 8038-G -- Information Return for Tax Exempt Governmental Obligations. Please sign, BUT DO NOT DATE, and return the form to us prior to closing. We will file this with the IRS and provide a copy at the closing.

Tax Exemption

The Tax Exemption Certificate is an important document and contains important information concerning the calculated yield on the Note and a number of covenants and obligations on the part of the County. This certificate should be retained along with all of your records regarding the use of proceeds, expenditure dates and investment information needed to comply with IRS guidelines. I will not attempt to summarize all of the matters which are included in this certificate but I do want to point out some important ones.

Tax exemption is based in part upon the fact that the use of the facilities to be acquired by the County with the proceeds will be for the benefit of the public and will not be used in the private trade or business of any business or non-tax-exempt entity. The properties acquired with the Note proceeds must not be sold or diverted to any private or nonpublic use unless the significance of that action is reviewed by bond counsel.

The Tax Exemption Certificate sets forth the best knowledge and belief which you have as of today concerning the timely expenditure of the proceeds as the County reasonably expects expenditures to occur. If for any reason the County finds it will be prevented from expending the Note proceeds fully within three years, that matter should be referred to us.

The Note is issued under the expectation that you will be exempt from the requirement to rebate arbitrage earnings to the United States Government, because you will issue $5,000,000 or less of Notes or any similar obligations for public purposes during the calendar year. (This excludes Industrial Development Revenue Notes.) If for any reason you should need to exceed that amount of Note issuance, the matter should be brought to our attention immediately. For this purpose, "Note" generally includes any debt obligation including warrants, lease-purchase contracts, contracts to purchase, bonds and others.

The Note is also issued under the expectation that the County will be exempt from the requirement to rebate arbitrage earnings to the United States Government since you intend to spend the proceeds of the Note within 18 months of issuance in accordance with the schedule described in Section 3.3 of the Tax Exemption Certificate.

The Note is also issued under the expectation that you will be exempt from the requirement to rebate arbitrage earnings to the United States Government, because you will spend the gross proceeds of the Note within six months of the date of issue. If for any reason it appears you will not meet this spending requirement, the matter should be brought to our attention immediately.

Also, the Note is designated as a qualified tax-exempt obligation, making it desirable for certain banks as investments and making possible a more favorable interest rate. For this designation to be proper, it is necessary that the County reasonably expects to issue $10,000,000 or less of Notes or other obligations in the course of this calendar year. If that amount should be exceeded, it would be necessary to review the situation immediately.

There are a number of other general promises and commitments by the County to take or refrain from action, which are necessary to maintain the tax exemption of these Note. You should recognize that these promises and commitments are required of the County on an ongoing basis and that the possibility of some additional future action does exist.

Closing Matters.

As you know, closing of this issue is scheduled to occur on or about June 28, 2019. At the time of closing, the "Purchaser's" copies of the above items and the original Note will be delivered to the Purchaser of the Note in exchange for the agreed purchase price. Our legal opinion also will be delivered to the Purchaser at that time.

Should you have any questions, or if we can be of any assistance in completing the enclosed items, please don't hesitate to contact me.

Ahlers & Cooney, P.C.

Sincerely,

By:
Jason L. Comisky
FOR THE FIRM

JLC:dc
Encl.

cc: Dennis Butler
Karen James

01600491-1\18799-027

ITEMS TO INCLUDE ON AGENDA

WOODBURY COUNTY, IOWA

$787,559 General Obligation Capital Loan Note, Series 2019

- Resolution approving and authorizing a form of Loan Agreement and authorizing and providing for the issuance, and levying a tax to pay the Note; Approval of the Tax Exemption Certificate.

NOTICE MUST BE GIVEN PURSUANT TO IOWA CODE CHAPTER 21 AND THE LOCAL RULES OF THE COUNTY.

June 11, 2019

The Board of Supervisors of Woodbury County, Iowa, met in _____ session, in the Board Room, Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, at _____ _____.M., on the above date. There were present Chairperson _____, in the chair, and the following named Board Members:

_____

Absent: _____

Vacant: _____

* * * * * * *

Board Member _____ introduced the following Resolution entitled "RESOLUTION APPROVING AND AUTHORIZING A FORM OF LOAN AGREEMENT AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF $787,559 GENERAL OBLIGATION CAPITAL LOAN NOTE, SERIES 2019, AND LEVYING A TAX TO PAY SAID NOTE; APPROVAL OF THE TAX EXEMPTION CERTIFICATE" and moved that it be adopted. Board Member _____ seconded the motion to adopt, and the roll being called thereon, the vote was as follows:

AYES: _____

_____

NAYS: _____

Whereupon, the Chairperson declared said Resolution duly adopted as follows:

RESOLUTION APPROVING AND AUTHORIZING A FORM OF LOAN AGREEMENT AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF $787,559 GENERAL OBLIGATION CAPITAL LOAN NOTE, SERIES 2019, AND LEVYING A TAX TO PAY SAID NOTE; APPROVAL OF THE TAX EXEMPTION CERTIFICATE

WHEREAS, the Issuer is a political subdivision, organized and exists under and by virtue of the laws and Constitution of the State of Iowa; and

WHEREAS, the Issuer is in need of funds to pay costs of the erection, equipment, remodeling, or reconstruction of, and additions or extensions to public buildings, including the site or grounds thereof and including, but not limited to, the acquisition and installation of computer system upgrades and improvements at the Courthouse, Trosper Hoyt Building, Siouxland District Health Building, Anthon Courthouse, and Law Enforcement Center, essential corporate purpose(s), and it is deemed necessary and advisable that General Obligation Capital Loan Note, to the amount of not to exceed $787,559 be authorized for said purpose(s); and

WHEREAS, pursuant to notice published as required by Sections 331.402 and 331.443 of the Code of Iowa, this Board has held a public meeting and hearing upon the proposal to institute proceedings for the issuance of the Note, and the Board is therefore now authorized to proceed with the issuance of said Note for such purpose(s); and

WHEREAS, the above-mentioned Note was heretofore sold at private sale and action should now be taken to issue said Note conforming to the terms and conditions of the proposal now accepted by the County from the Purchaser.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF WOODBURY COUNTY, STATE OF IOWA:

Section 1. Definitions. The following terms shall have the following meanings in this Resolution unless the text expressly or by necessary implication requires otherwise:

- "Issuer" and "County" shall mean Woodbury County, State of Iowa.

- "Loan Agreement" shall mean a Loan Agreement between the Issuer and Purchaser in substantially the form attached to and approved by this Resolution.

- "Note Fund" shall mean the fund created in Section 3 of this Resolution.

- "Note" shall mean $787,559 General Obligation Capital Loan Note, Series 2019, authorized to be issued by this Resolution.

- "Paying Agent" shall mean the County Treasurer, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein as Issuer's agent to provide for the payment of principal of and interest on the Note as the same shall become due.

- "Project" shall mean the costs of the erection, equipment, remodeling, or reconstruction of, and additions or extensions to public buildings, including the site or grounds thereof and including, but not limited to, the acquisition and installation of computer system upgrades and improvements at the Courthouse, Trosper Hoyt Building, Siouxland District Health Building, Anthon Courthouse, and Law Enforcement Center.

- "Project Fund" shall mean the fund required to be established by this Resolution for the deposit of the proceeds of the Note.

- "Purchaser" shall mean Security National Bank of Sioux City, Iowa.

- "Rebate Fund" shall mean the fund so defined in and established pursuant to the Tax Exemption Certificate.

- "Registrar" shall mean the County Treasurer of Woodbury County, Iowa, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein with respect to maintaining a register of the owners of the Note. Unless otherwise specified, the Registrar shall also act as Transfer Agent for the Note.

- "Resolution" shall mean this resolution authorizing the Note.

- "Tax Exemption Certificate" shall mean the Tax Exemption Certificate approved under the terms of this Resolution and to be executed by the Treasurer and delivered at the time of issuance and delivery of the Note.

• "Treasurer" shall mean the County Treasurer or such other officer as shall succeed to the same duties and responsibilities with respect to the recording and payment of the Note issued hereunder.

Section 2. Levy and Certification of Annual Tax; Other Funds to be Used.

a) Levy of Annual Tax. That for the purpose of providing funds to pay the principal and interest of the Note hereinafter authorized to be issued, there is hereby levied for each future year the following direct annual tax on all of the taxable property in Woodbury County, State of Iowa, to-wit:

AMOUNT	FISCAL YEAR (JULY 1 TO JUNE 30) YEAR OF COLLECTION
$175,287.01*	2019/2020
$172,884.96	2020/2021
$169,041.66	2021/2022
$165,198.38	2022/2023
$161,355.08	2023/2024

* The County expects to use available cash on hand to pay principal and interest on the Note coming due in fiscal year 2019/2020.

(NOTE: For example the levy to be made and certified against the taxable valuations of January 1, 2019 will be collected during the fiscal year commencing July 1, 2020.)

b) Resolution to be Filed With County Auditor. A certified copy of this Resolution shall be filed with the Auditor of Woodbury County, Iowa and the Auditor is hereby instructed in and for each of the years as provided, to levy and assess the tax hereby authorized in Section 2 of this Resolution, in like manner as other taxes are levied and assessed, and such taxes so levied in and for each of the years aforesaid be collected in like manner as other taxes of the County are collected, and when collected be used for the purpose of paying principal and interest on said Note issued in anticipation of the tax, and for no other purpose whatsoever.

c) Additional County Funds Available. Principal and interest coming due at any time when the proceeds of said tax on hand shall be insufficient to pay the same shall be promptly paid when due from current funds of the County available for that purpose and reimbursement shall be made from such special fund in the amounts thus advanced.

Section 3. Note Fund. Said tax shall be assessed and collected each year at the same time and in the same manner as, and in addition to, all other taxes in and for the County, and when collected they shall be converted into a special fund within the Debt Service Fund to be known as the "2019 GENERAL OBLIGATION CAPITAL LOAN NOTE FUND NO. 1" (the "Note Fund"), which is hereby pledged for and shall be used only for the payment of the principal of and interest on the Note hereinafter authorized to be issued; and also there shall be apportioned

to said fund its proportion of taxes received by the County from property that is centrally assessed by the State of Iowa.

Section 4. Application of Note Proceeds. Proceeds of the Note, other than accrued interest except as may be provided below, shall be credited to the Project Fund and expended therefrom for the purposes of issuance. Any amounts on hand in the Project Fund shall be available for the payment of the principal of or interest on the Note at any time that other funds shall be insufficient to the purpose, in which event such funds shall be repaid to the Project Fund at the earliest opportunity. Any balance on hand in the Project Fund and not immediately required for its purposes may be invested not inconsistent with limitations provided by law or this Resolution.

Section 5. Investment of Note Fund Proceeds. All moneys held in the Note Fund, provided for by Section 3 of this Resolution shall be invested in investments permitted by Chapter 12B, Code of Iowa, as amended, or deposited in financial institutions which are members of the Federal Deposit Insurance Corporation and the deposits in which are insured thereby and all such deposits exceeding the maximum amount insured from time to time by FDIC or its equivalent successor in any one financial institution shall be continuously secured in compliance with Chapter 12C of the Code of Iowa, as amended, or otherwise by a valid pledge of direct obligations of the United States Government having an equivalent market value. All such interim investments shall mature before the date on which the moneys are required for payment of principal of or interest on the Note as herein provided.

Section 6. Note Details, Execution and Redemption.

a) Note Details. General Obligation Capital Loan Note of the County in the amount of $787,559, shall be issued to evidence the obligations of the Issuer under the Loan Agreement pursuant to the provisions of Sections 331.402 and 331.443 of the Code of Iowa for the aforesaid purposes. The Note shall be issued in one or more series and shall be secured equally and ratably from the sources provided in Section 3 of this Resolution. The Note shall be designated "GENERAL OBLIGATION CAPITAL LOAN NOTE, SERIES 2019", be dated June 28, 2019, and bear interest from the date thereof at the rate of 2.44%, until payment thereof, at the office of the Paying Agent. Principal of and interest on the Note shall be payable as set forth in the Amortization Schedule attached to the Note and incorporated herein by this reference. At the request of the original Purchaser of the Note, the Note shall be issued as a single Note in the total authorized amount of $787,599.

The Note shall be executed by the manual or facsimile signature of the Chairperson and attested by the manual or facsimile signature of the Auditor, and impressed or printed with the seal of the County and shall be fully registered as to both principal and interest as provided in this Resolution; principal, interest and premium, if any, shall be payable at the office of the Paying Agent by mailing of a check to the registered owner of the Note.

Redemption.

i. Optional Redemption. The Note may be called for optional redemption by the Issuer at any time, from any funds regardless of source, in whole or from time to time in part, in any order of maturity and within an annual maturity by lot. The terms of redemption shall be par, plus accrued interest to date of call.

Ten days' written notice of redemption shall be given to the registered owner of the Note. Failure to give written notice to any registered owner of the Note or any defect therein shall not affect the validity of any proceedings for the redemption of the Note. The Note or portions thereof called for redemption will cease to bear interest after the specified redemption date, provided funds for their redemption are on deposit at the place of payment. Written notice will be deemed completed upon transmission to the owner of record.

If selection by lot within a maturity is required, the Registrar shall designate the Note to be redeemed by random selection of the names of the registered owners of the entire annual maturity until the total amount of Note to be called has been reached.

Section 7. Registration of the Note; Appointment of Registrar; Transfer; Ownership; Delivery; and Cancellation.

a) Registration. The ownership of the Note may be transferred only by the making of an entry upon the books kept for the registration and transfer of ownership of the Note, and in no other way. The County Treasurer is hereby appointed as Note Registrar under the terms of this Resolution. Registrar shall maintain the books of the Issuer for the registration of ownership of the Note for the payment of principal of and interest on the Note as provided in this Resolution. The Note shall be negotiable as provided in Article 8 of the Uniform Commercial Code and Section 331.446 of the Code of Iowa, subject to the provisions for registration and transfer contained in the Note and in this Resolution.

b) Transfer. The ownership of any Note may be transferred only upon the Registration Books kept for the registration and transfer of the Note and only upon surrender thereof at the office of the Registrar together with an assignment duly executed by the holder or his duly authorized attorney in fact in such form as shall be satisfactory to the Registrar, along with the address and social security number or federal employer identification number of such transferee (or, if registration is to be made in the name of multiple individuals, of all such transferees). In the event that the address of the registered owner of a Note (other than a registered owner which is the nominee of the broker or dealer in question) is that of a broker or dealer, there must be disclosed on the Registration Books the information pertaining to the registered owner required above. Upon the transfer of any such Note, a new fully registered Note, of any denomination or denominations permitted by this Resolution in aggregate principal amount equal to the unmatured and unredeemed principal amount of such transferred fully registered Note,

and bearing interest at the same rate and maturing on the same date or dates shall be delivered by the Registrar.

c) Registration of Transferred Note. In all cases of the transfer of the Note, the Registrar shall register, at the earliest practicable time, on the Registration Books, the Note, in accordance with the provisions of this Resolution.

d) Ownership. As to any Note, the person in whose name the ownership of the same shall be registered on the Registration Books of the Registrar shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Note and the premium, if any, and interest thereon shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

e) Cancellation. The Note which has been redeemed shall not be reissued but shall be cancelled by the Registrar. The Note which is cancelled by the Registrar shall be destroyed and a certificate of the destruction thereof shall be furnished promptly to the Issuer; provided that if the Issuer shall so direct, the Registrar shall forward the cancelled Note to the Issuer.

f) Non-Presentment of Notes. In the event any payment check representing payment of principal of or interest on the Note is returned to the Paying Agent or if any note is not presented for payment of principal at the maturity or redemption date, if funds sufficient to pay such principal of or interest on Note shall have been made available to the Paying Agent for the benefit of the owner thereof, all liability of the Issuer to the owner thereof for such interest or payment of such Note shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the owner of such Note who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Resolution or on, or with respect to, such interest or Note. The Paying Agent's obligation to hold such funds shall continue for a period equal to two years and six months following the date on which such interest or principal became due, whether at maturity, or at the date fixed for redemption thereof, or otherwise, at which time the Paying Agent, shall surrender any remaining funds so held to the Issuer, whereupon any claim under this Resolution by the Owners of such interest or Notes of whatever nature shall be made upon the Issuer.

g) Registration and Transfer Fees. The Registrar may furnish to each owner, at the Issuer's expense, one note for each annual maturity. The Registrar shall furnish additional Notes in lesser denominations (but not less than the minimum denomination) to an owner who so requests.

Section 8. Reissuance of Mutilated, Destroyed, Stolen or Lost Notes. In case any outstanding Note shall become mutilated or be destroyed, stolen or lost, the Issuer shall at the request of Registrar authenticate and deliver a new Note of like tenor and amount as the Note so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Note to

Registrar, upon surrender of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, upon filing with the Registrar evidence satisfactory to the Registrar and Issuer that such Note has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing the Registrar and Issuer with satisfactory indemnity and complying with such other reasonable regulations as the Issuer or its agent may prescribe and paying such expenses as the Issuer may incur in connection therewith.

Section 9. Record Date. Payments of principal and interest, otherwise than upon full redemption, made in respect of any Note, shall be made to the registered holder thereof or to their designated agent as the same appear on the books of the Registrar on the 15th day of the month preceding the payment date. All such payments shall fully discharge the obligations of the Issuer in respect of such Note to the extent of the payments so made. Upon receipt of the final payment of principal, the holder of the Note shall surrender the Note to the Paying Agent.

Section 10. Execution, Authentication and Delivery of the Note. Upon the adoption of this Resolution, the Chairperson and Auditor shall execute the Note by their manual or authorized signature and deliver the Note to the Registrar, who shall authenticate the Note and deliver the same to or upon order of the Purchaser. No Note shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder unless the Registrar shall duly endorse and execute on such Note a Certificate of Authentication substantially in the form of the Certificate herein set forth. Such Certificate upon any Note executed on behalf of the Issuer shall be conclusive evidence that the Note so authenticated has been duly issued under this Resolution and that the holder thereof is entitled to the benefits of this Resolution.

Section 11. Right to Name Substitute Paying Agent or Registrar. Issuer reserves the right to name a substitute, successor Registrar or Paying Agent upon giving prompt written notice to each registered noteholder.

Section 12. Form of Note. The Note shall be printed substantially in the form as follows:

"STATE OF IOWA"
"COUNTY OF WOODBURY"
"GENERAL OBLIGATION CAPITAL LOAN NOTE"
"SERIES 2019"
ESSENTIAL COUNTY PURPOSE

Rate: 2.44%
Maturity: June 1, 2024
Note Date: June 28, 2019
"Registered"
Certificate No. 1
Principal Amount: $787,559

Woodbury County, State of Iowa, a political subdivision organized and existing under and by virtue of the Constitution and laws of the State of Iowa (the "Issuer"), for value received,

promises to pay from the source and as hereinafter provided, on the maturity date indicated above, to

(Registration panel to be completed by Registrar or Printer with name of Registered Owner).

or registered assigns, the principal sum of (enter principal amount in long form) THOUSAND DOLLARS in lawful money of the United States of America, on the maturity date shown above, only upon presentation and surrender hereof at the office of the County Treasurer, Paying Agent of this issue, or its successor, with interest on the sum from the date hereof until paid at the rate per annum specified above, payable on December 1, 2019, and semiannually thereafter on the 1st day of June and December in each year.

Interest and principal shall be paid to the registered holder of the Note as shown on the records of ownership maintained by the Registrar as of the 15th day of the month preceding such interest payment date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

This Note is issued pursuant to the provisions of Sections 331.402 and 331.443 of the Code of Iowa, for the purpose of paying costs of the erection, equipment, remodeling, or reconstruction of, and additions or extensions to public buildings, including the site or grounds thereof and including, but not limited to, the acquisition and installation of computer system upgrades and improvements at the Courthouse, Trosper Hoyt Building, Siouxland District Health Building, Anthon Courthouse, and Law Enforcement Center, and in order to evidence the obligations of the Issuer under a certain Loan Agreement dated the date hereof, in conformity to a Resolution of the Board of said County duly passed and approved. For a complete statement of the funds from which and the conditions under which this Note is payable, and the general covenants and provisions pursuant to which this Note is issued, reference is made to the above described Loan Agreement and Resolution.

The Note may be called for optional redemption by the Issuer and paid before maturity on said date or any date thereafter, from any funds regardless of source, in whole or from time to time in part, in any order of maturity and within an annual maturity by lot. The terms of redemption shall be par, plus accrued interest to date of call.

Ten days' written notice of redemption shall be given to the registered owner of the Note. Failure to give written notice to any registered owner of the Note or any defect therein shall not affect the validity of any proceedings for the redemption of the Note. All notes or portions thereof called for redemption will cease to bear interest after the specified redemption date, provided funds for their redemption are on deposit at the place of payment. Written notice will be deemed completed upon transmission to the owner of record.

If selection by lot within a maturity is required, the Registrar shall designate the Note to be redeemed by random selection of the names of the registered owners of the entire annual maturity until the total amount of Note to be called has been reached.

Ownership of this Note may be transferred only by transfer upon the books kept for such purpose by the County Treasurer, the Registrar. Such transfer on the books shall occur only upon presentation and surrender of this Note at the office of the Registrar as designated below, together with an assignment duly executed by the owner hereof or his duly authorized attorney in the form as shall be satisfactory to the Registrar. Issuer reserves the right to substitute the Registrar and Paying Agent but shall, however, promptly give notice to registered Noteholders of such change. The Note shall be negotiable as provided in Article 8 of the Uniform Commercial Code and Section 331.446 of the Code of Iowa, subject to the provisions for registration and transfer contained in the Note Resolution.

This Note is a "qualified tax-exempt obligation" designated by the County for purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986.

And it is hereby represented and certified that all acts, conditions and things requisite, according to the laws and Constitution of the State of Iowa, to exist, to be had, to be done, or to be performed precedent to the lawful issue of this Note, have been existent, had, done and performed as required by law; that provision has been made for the levy of a sufficient continuing annual tax on all the taxable property within the territory of the Issuer for the payment of the principal and interest of this Note as the same will respectively become due; that such taxes have been irrevocably pledged for the prompt payment hereof, both principal and interest; and the total indebtedness of the Issuer including this Note, does not exceed the constitutional or statutory limitations.

IN TESTIMONY WHEREOF, the Issuer by its Board, has caused this Note to be signed by the manual or facsimile signature of its Chairperson and attested by the manual or facsimile signature of its County Auditor, with the seal of the County printed or impressed hereon, and to be authenticated by the manual signature of an authorized representative of the Registrar, the County Treasurer, Sioux City, Iowa.

Date of authentication:_____
This is one of the Note described in the within mentioned Resolution, as registered by the County Treasurer.

COUNTY TREASURER, Registrar

By: _____
Authorized Signature

Registrar and Transfer Agent:	County Treasurer
Paying Agent:	County Treasurer

SEE REVERSE FOR CERTAIN DEFINITIONS

(Seal)
(Signature Block)

WOODBURY COUNTY, STATE OF IOWA

By: _____(manual or facsimile signature)_____
Chairperson

ATTEST:

By: _____(manual or facsimile signature)_____
County Auditor

(Information Required for Registration)

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ (Social Security or Tax Identification No. _____) the within Note and does hereby irrevocably constitute and appoint _____ attorney in fact to transfer the said Note on the books kept for registration of the within Note, with full power of substitution in the premises.

Dated: _____

_____

_____
(Person(s) executing this Assignment sign(s) here)

SIGNATURE)
GUARANTEED)_____

IMPORTANT - READ CAREFULLY

The signature(s) to this Power must correspond with the name(s) as written upon the face of the certificate(s) or note(s) in every particular without alteration or enlargement or any change whatever. Signature guarantee must be provided in accordance with the prevailing standards and procedures of the Registrar and Transfer Agent. Such standards and procedures may require signature to be guaranteed by certain eligible guarantor institutions that participate in a recognized signature guarantee program.

INFORMATION REQUIRED FOR REGISTRATION OF TRANSFER

Name of Transferee(s) _____
Address of Transferee(s) _____
Social Security or Tax Identification
Number of Transferee(s) _____
Transferee is a(n):
Individual* _____ Corporation _____
Partnership _____ Trust _____

*If the Note is to be registered in the names of multiple individual owners, the names of all such owners and one address and social security number must be provided.

The following abbreviations, when used in the inscription on the face of this Note, shall be construed as though written out in full according to applicable laws or regulations:

TEN COM - as tenants in common
TEN ENT - as tenants by the entireties
JT TEN - as joint tenants with rights of survivorship and not as tenants in common
IA UNIF TRANS MIN ACT - ..... Custodian .....
(Cust) (Minor)
Under Iowa Uniform Transfers to Minors Act.....
(State)

ADDITIONAL ABBREVIATIONS MAY
ALSO BE USED THOUGH NOT IN THE ABOVE LIST

(End of form of Note)

Section 13. Loan Agreement and Closing Documents. The form of Loan Agreement in substantially the form attached to this Resolution is hereby approved and is authorized to be executed and issued on behalf of the Issuer by the Chairperson and attested by the County Auditor. The Chairperson and County Auditor are authorized and directed to execute, attest, seal and deliver for and on behalf of the County any other additional certificates, documents, or other papers and perform all other acts, including without limitation the execution of all closing documents, as they may deem necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

Section 14. Contract Between Issuer and Purchaser. This Resolution constitutes a contract between said County and the Purchaser of the Note.

Section 15. Non-Arbitrage Covenants. The Issuer reasonably expects and covenants that no use will be made of the proceeds from the issuance and sale of the Note issued hereunder which will cause any of the Note to be classified as arbitrage notes within the meaning of Sections 148(a) and (b) of the Internal Revenue Code of the United States, as amended, and that

throughout the term of the Note it will comply with the requirements of statutes and regulations issued thereunder.

To the best knowledge and belief of the Issuer, there are no facts or circumstances that would materially change the foregoing statements or the conclusion that it is not expected that the proceeds of the Note will be used in a manner that would cause the Note to be arbitrage notes.

Section 16. Approval of Tax Exemption Certificate. Attached hereto is a form of Tax Exemption Certificate stating the Issuer's reasonable expectations as to the use of the proceeds of the Note. The form of Tax Exemption Certificate is approved. The Issuer hereby agrees to comply with the provisions of the Tax Exemption Certificate and the provisions of the Tax Exemption Certificate are hereby incorporated by reference as part of this Resolution. The County Treasurer is hereby directed to make and insert all calculations and determinations necessary to complete the Tax Exemption Certificate at issuance of the Note to certify as to the reasonable expectations and covenants of the Issuer at that date.

Section 17. Additional Covenants, Representations and Warranties of the Issuer. The Issuer certifies and covenants with the purchasers and holders of the Note from time to time outstanding that the Issuer through its officers, (a) will make such further specific covenants, representations and assurances as may be necessary or advisable; (b) comply with all representations, covenants and assurances contained in the Tax Exemption Certificate, which Tax Exemption Certificate shall constitute a part of the contract between the Issuer and the owners of the Note;(c) consult with Bond Counsel (as defined in the Tax Exemption Certificate); (d) pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Note;(e) file such forms, statements and supporting documents as may be required and in a timely manner; and (f) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the Issuer in such compliance.

Section 18. Amendment of Resolution to Maintain Tax Exemption. This Resolution may be amended without the consent of any owner of the Note if, in the opinion of Bond Counsel, such amendment is necessary to maintain tax exemption with respect to the Note under applicable Federal law or regulations.

Section 19. Qualified Tax-Exempt Obligations. For the sole purpose of qualifying the Note as a "Qualified Tax-Exempt Obligation" pursuant to Section 265(b)(3)(B) of the Internal Revenue Code of the United States, the Issuer hereby designates the Note as qualified tax-exempt obligations and represents that the reasonably anticipated amount of tax-exempt governmental and qualified 501(c)(3) obligations which will be issued during the current calendar year will not exceed Ten (10) Million Dollars.

Section 20. Repeal of Conflicting Resolutions or Ordinances. All ordinances and resolutions and parts of ordinances and resolutions in conflict herewith are hereby repealed.

Section 21. Severability Clause. If any section, paragraph, clause or provision of this Resolution be held invalid, such invalidity shall not affect any of the remaining provisions hereof, and this Resolution shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this 11th day of June, 2019.

_____
Chairperson

ATTEST:

_____
County Auditor

CERTIFICATE

STATE OF IOWA	)
	) SS
COUNTY OF WOODBURY	)

I, the undersigned County Auditor of Woodbury County, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the records of the County showing proceedings of the Board, and the same is a true and complete copy of the action taken by the Board with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Board and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Board pursuant to the local rules of the Board and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective County offices as indicated therein, that no Board vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the County or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Board hereto affixed this _____ day of _____, 2019.

_____
County Auditor, Woodbury County, State of Iowa

(SEAL)

01600511-1\18799-027

#11a

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 06/06/2019 Weekly Agenda Date: 06/11/2019

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Mark J. Nahra, County Engineer

WORDING FOR AGENDA ITEM:

Set time public hearing, 4:40 PM: Consider vacating six county road segments

ACTION REQUIRED:

Approve Ordinance ☐ Approve Resolution ☐ Approve Motion ☑

Public Hearing ☐ Other: Informational ☐ Attachments ☑

EXECUTIVE SUMMARY:

The county road department is recommending the closing and vacating of six county roads. Four have been requested by adjacent landowners. Two vacations are staff recommendations.

BACKGROUND:

Six road segments are presented for consideration of permanent closure and vacation of the county rights of way.

FINANCIAL IMPACT:

The county is responsible for the cost of publication of the hearing notice. No damages are recommended for the vacations. Adjacent landowners may present claims for damage for board consideration at or before the scheduled hearing.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☐

RECOMMENDATION:

Based on comments and requests for damages received, the board may consider the permanent closure and vacation of any of the six county roads and rights of way. The board may also table any or all of the roads for further consideration and action at a later meeting.

ACTION REQUIRED / PROPOSED MOTION:

Individual motions should be made for each road segment for completing permanent closure and vacation of any or all of the six county roads and rights of way.

Approved by Board of Supervisors April 5, 2016.

LEGAL NOTICE

Public Hearing for vacation of Woodbury County Right of Way

WHEREAS, the Woodbury County Board of Supervisors in accordance with Section 306.11, (Code of Iowa), as amended, seeks to set a date for public hearing to vacate platted roads and alleys, and

WHEREAS the Board of Supervisors no longer believes the county needs to maintain easement or ownership of right of way on the following road and streets,

NOW THEREFORE, BE IT RESOLVED by the Woodbury County Board of Supervisors that on Tuesday, Jun 11, 2019 at 4:40 P.M CDT, at the Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, the County Board will hold a Public Hearing to vacate the right-of-way described as follows:

1) That portion of 145th Street (Road No. 481) lying easterly of the NE Corner of the NW¼ of the SW¼ to a point 33' west of the East ¼ Corner, in Section 26 T89N, R42W, Union Township of the 5th P.M. Woodbury County, Iowa
2) That portion of Sidney Avenue (Road No. 94) lying north of the SE Corner of the NE¼ of the NW¼ thence north to the south ROW line of 190th Street in Section 21 T88N, R42W, Rock Township of the 5th P.M. Woodbury County, Iowa
3) That portion of 260th Street (Road No. 744) lying easterly of the east ROW line of Jasper Avenue to a point 33' west of the SE Corner of the NE¼ of the NW¼ in Section 29 T87N, R44W, Grant Township of the 5th P.M. Woodbury County, Iowa
4) A portion of 280th Street ROW in the SE¼ SE¼ Section 31, T87N, R45W, West Fork Township of the 5th P.M. Woodbury County, Iowa. more particularly described as follows:
   Commencing at the SE Corner Section 31-87-45 thence N87°20'58"W (an assumed bearing) along the south line of the SE¼ 816.71 feet to the centerline of county road D25; thence N46°40'41"W 571.41 feet along the centerline of said D25; thence N60°12'18"E 62.70 feet to the ROW line and point of beginning; thence N60°12'18"E 360.37 feet; thence along a curve concave southerly with an arc length of 146.28 feet, a radius of 782.80 feet, with a chord of N65°33'30"E 146.07 feet; thence N19°05'18"W 66.00 feet to the northerly ROW line of 280th Street; thence along a curve concave southerly with an arc length of 158.62 feet, a radius of 848.80 feet, with a chord of S65°33'30"W 158.38 feet; thence S60°12'18"W 380.40 feet; thence S46°40'41"E 68.97 feet to the point of beginning.
   Said description contains 0.792 acres more or less.
5) That portion of 150th Street (Road No. 436) lying east of the east ROW line of Dallas Avenue and west of the northwest ROW line of Correctionville Road in Sections 25,36 T89N, R46W, Concord Township of the 5th P.M. Woodbury County, Iowa
6) That portion of Garner Avenue (Road No. 798) lying south of the south ROW line of Deer Run Trail and north of the north ROW line of 260th Street in Sections 17,18,19,20 T87N, R45W, West Fork Township of the 5th P.M. Woodbury County, Iowa

SO RESOLVED this 7th day of May, 2019. Woodbury County Board of Supervisors.

Further information on all right of way vacations are available at the office of the Woodbury County Engineer, 759 E. Frontage Road, Moville, Iowa, phone no. 712-873-3215 fax no. 712-873-3325 email: mnahra@woodburycountyiowa.gov.

At said Public Hearing, any person present, and so wishing will be given the opportunity to be heard, for or against, the proposed right of way vacations. Any person so wishing may file a document with the Woodbury County Auditor's Office prior to the time of the hearing, should the person wish the document to be read for them at the time of the hearing.

Patrick Gill
Woodbury County Auditor

Please publish as a legal notice the week of May 27, 2019. Proof-of-publishing to be provided. Thank you.

Please bill to:

Woodbury County Engineer
759 E. Frontage Road
Moville, Iowa 51039

Thank you.

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

#11c

Date: 5/16/2019 Weekly Agenda Date: 6/11/19

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Mark J. Nahra, County Engineer

WORDING FOR AGENDA ITEM:

Award quote for one new track mounted excavator for the secondary road department

ACTION REQUIRED:

Approve Ordinance ☐ Approve Resolution ☐ Approve Motion ☑

Public Hearing ☐ Other: Informational ☐ Attachments ☑

EXECUTIVE SUMMARY:

The county annually takes bids for new equipment to maintain its road maintenance vehicles. The county has received quotations for one new track mounted hydraulic excavator for purchase on 5/21/19.

BACKGROUND:

The county owns 4 excavators, one in each district. This year the excavator will replace an aging machine in the Oto district.

FINANCIAL IMPACT:

The purchases are paid for with Woodbury County local secondary road funds.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☑

RECOMMENDATION:

Recommend that the board award the excavator quote from Transource Truck and Equipment for $162,350.

ACTION REQUIRED / PROPOSED MOTION:

Motion that the board award the excavator quote from Transource Truck and Equipment for $162,350.

Approved by Board of Supervisors April 5, 2016.

TRACKED HYDRAULIC EXCAVATOR

May 21, 2019

	TranSource Truck & Equipment Inc. 901 E. 60th Street North Sioux Falls, SD 57104	Road Machnery & Supplies Co. 1400 N. Hwy 75 Sioux City, IA 51105	Murphy Tractor & Equipment 4900 Harbor Drive Sioux City, IA 51111	Titan Machinery 5601 Harbor Drive Sioux City, IA 51111
Trade In Machine	#420-2002 John Deere 200CLC	#420-2002 John Deere 200CLC	#420-2002 John Deere 200CLC	#420-2002 John Deere 200CLC
Brand Name & Model	Volvo EC220EL	2019 Komatsu PC210LC-11	2019 John Deere 210GLC	Case CX210D
Purchase Price of Machine	$197,350.00	$ 226,874.00	$237,300.00	$ 246,599.00
Less Trade #420	$35,000.00	$ 30,000.00	$30,000.00	$ 30,000.00
Net Price Of Machine	$162,350.00	$ 196,874.00	$207,300.00	$ 216,599.00

	Ziegler Caterpillar 5300 Harbor Drive Sioux City, IA 51111-1114	Rueter's 4730 S. York St. Sioux City, IA 51106	Mid Country Machinery 106 8th St. Sgt. Bluff, IA 51054
Trade In Machine	#420-2002 John Deere 200CLC	#420-2002 John Deere 200CLC	#420-2002 John Deere 200CLC
Brand Name & Model	Cat 320	2019 Hyundai HX220	Kobelco SK210-10
Purchase Price of Machine	$255,883.00	$219,900.00	$201,000.00
Less Trade #420	$26,000.00	$40,000.00	$30,000.00
Net Price Of Machine	$229,883.00	$179,900.00	$171,000.00

#11d

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 6/6/2019 Weekly Agenda Date: 6/11/2019

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Mark J. Nahra, County Engineer

WORDING FOR AGENDA ITEM:

Approve contract and bond for project number L-B(C160)--73-97 - Haskell Avenue Bridge

ACTION REQUIRED:

Approve Ordinance ☐ Approve Resolution ☐ Approve Motion ☑

Public Hearing ☐ Other: Informational ☐ Attachments ☑

EXECUTIVE SUMMARY:

Bids were received on May 7, 2019 for construction of a new pretensioned prestressed concrete beam bridge to replace the bridge Haskell Ave. near Moville. The bid was awarded to Graves Construction.

BACKGROUND:

The county programmed bridge C160 for replacement in fiscal year 2019. The existing bridge was damaged by flash flooding and closed in 2016 and removed in 2017. A new bridge was designed, required permits have been received and bids were solicited and received. The Board awarded the contract to Graves Construction. Contracts and performance bond have been returned for approval.

FINANCIAL IMPACT:

This bridge is paid for with local secondary road funds.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☑

RECOMMENDATION:

I recommend approval of the contract and bond with Graves Construction.

ACTION REQUIRED / PROPOSED MOTION:

Motion to approval of the contract and bond with Graves Construction of Spencer, Iowa for $620,679.97.

Approved by Board of Supervisors April 5, 2016.

WOODBURY COUNTY, IOWA
CONTRACT

Kind of Work Bridge Replacement
Project No. L-B(C160)--73-97 County Woodbury

THIS AGREEMENT made and entered by and between Woodbury County, Iowa, by its Board of Supervisors consisting of the following members: Keith Radig, Rocky De Witt, Marty Pottebaum, Jeremy Taylor and Matthew Ung, Contracting Authority, and Graves Construction Spencer, IA , Contractor.

WITNESSETH: That the Contractor, for and in consideration of ---------- Six Hundred Twenty Thousand Six Hundred Seventy-Nine and 97/100 ($620,679.97) payable as set forth in the specifications constituting a part of this contract, hereby agrees to construct in accordance with the plans and specifications therefore, and in the locations designated in the notice to bidders, the various items of work as follows:

Item No.	Item	Quantity	Unit Price	Amount
	Project: L-B(J9)—73-97 Group 1			
1.	Clear and Grubb	0.75 Acres	$3,000.00	$ 2,250.00
2.	Excavation Class 10 Roadway & Borrow	1,497.00 C.Y.	12.00	17,964.00
3.	Excavation Class 10 Channel	1,110.00 C.Y.	5.00	5,550.00
4.	Modified Subbase	114 C.Y	72.85	8,275.76
5.	Granular Shoulders	182 Ton	48.00	8,736.00
6.	Bridge Approach, Two Lane	306.72 S.Y.	140.00	42,940.80
7.	Standard or Slip form PCC Pavement, Class C Class 3, 9"	692.02 S.Y.	51.75	35,812.04
8.	Removal of Existing Bridge	1 L.S.	4,000.00	4,000.00
9.	Excavation Class 20	455.00 C.Y.	20.00	9,100.00
10.	Structural Concrete Bridge	185.20 C.Y.	545.00	100,934.00
11.	Reinforcing Steel Epoxy Coated	44,874 Lbs.	1.10	49,361.40
12.	Beams Pretensioned Prestressed Concrete D100	5 Each	21,365	106,825.00
13.	Structural Steel	1,265 Lbs	3.00	3,795.00
14.	Concrete Open Railing, TL-4	254.2 L.F.	75.00	19,065.00
15.	Aprons, Safety Slope, 24" Dia	1 Each	522.00	522.00
16.	Culvert Corrugated Metal Roadway Pipe, 24" Dia.	190 L.F.	30.00	5,700.00
17.	Pile, Steel HP 10x57	1,650 L.F.	42.00	69,300.00
18.	Gate Outlet Control Flap	1 Each	1,794.00	1,794.00
19.	Steel Beam Guardrail Trans Section	4 Each	1,000.00	4,000.00
20.	Steel Beam Guardrail End Anchor Bolted	4 Each	300.00	1,200.00
21.	Steel Beam Guardrail End Terminal	4 Each	2,563.50	10,254.00
22.	Engineering Fabric	765 S.Y.	3.00	2,295.00
23.	Revetment Class E	640 Ton	50.00	32,000.00
24.	Removal of Pavement	970.74 S.Y.	8.00	7,765.92
25.	Safety Closure	2 Each	125.00	250.00
26.	Fence, Field	600 L.F.	7.00	4,200.00
27.	Field Fence Brace Panels	6 Each	400.00	2,400.00
28.	Painted Pavement Marking, Waterborne or Solvent	17.23 Sta	85.00	1,464.55
29.	Traffic Control	1 L.S.	2,100.00	2,100.00
30.	Mobilization	1 L.S.	56,000.00	56,000.00
31.	Mulching	0.75 Acre	1,100.00	825.00
32.	Seeding and Fertilizing (Rural)	0.75 Acre	1,750.00	1,312.50
33.	Silt Fence	800 L.F.	3.00	2,400.00
34.	Silt Fence for Ditch Checks	72 L.F.	4.00	288.00
	TOTAL BID			**$620,679.97**

Said specifications and plans are hereby made part of and the basis of this agreement and a true copy of said plans and specifications are now on file in the office of the County Engineer under the date of May 6, 2019

That in consideration of the foregoing, the Contracting Authority hereby agrees to pay the Contractor, promptly and according to the requirements of the specifications the amounts set forth, subject to the conditions as set forth in the specifications.

That it is mutually understood and agreed by the parties hereto that the notice to bidders, the proposal, the specifications for Project No. L-B(C160)—73-97 in Woodbury County, Iowa, the within contract, the contractor's bond, and the general and detailed plans are and constitute the basis of contract between the parties hereto.

That it is further understood and agreed by the parties of this contract that the above work shall be commenced and completed on or before:

Approximate Starting Date	Specified Starting Date	Late Start Date	Number of Working Days
		September 03, 2019	80

That time is the essence of this contract and that said contract contains all of the terms and conditions agreed upon by the parties hereto.

It is further understood that the Contractor consents to the jurisdiction of the courts of Iowa to hear, determine, and render judgment as to any controversy arising hereunder.

IN WITNESS WHEREOF the parties hereto have set their hands for the purposes herein expressed to this and three other instruments of like tenor, as the _____ day of _____, 20_____

Approved:

By Dan Graves
Contractor: Graves Construction

Date 5/29/19

By _____
Contracting Authority: Woodbury County Board Chairperson

Date _____

#12

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 06/04/19 Weekly Agenda Date: 06/11/19

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Michelle Skaff, Deputy Auditor

WORDING FOR AGENDA ITEM:

Approve motion to purchase up to 13 scanners that are compatible with Tyler software.

ACTION REQUIRED:

Approve Ordinance ☐ Approve Resolution ☐ Approve Motion ☑

Public Hearing ☐ Other: Informational ☐ Attachments ☐

EXECUTIVE SUMMARY:

In an effort to go paperless there are 13 scanners needed for claims scanning at the department level.

BACKGROUND:

In order to provide each department with a scanner that can efficiently scan documents into the Tyler finance software, there are 13 scanners needed.

FINANCIAL IMPACT:

13 scanners at $700.00 each = $9,100.00. Proposed from FY20 CIP.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☑

RECOMMENDATION:

Approve motion to purchase up to 13 scanners that are compatible with Tyler software.

ACTION REQUIRED / PROPOSED MOTION:

Approve motion to purchase up to 13 scanners that are compatible with Tyler software.

Approved by Board of Supervisors April 5, 2016.

Woodbury County Secondary Roads Department

759 E. Frontage Road • Moville, Iowa 51039
Telephone (712) 279-6484 • (712) 873-3215 • Fax (712) 873-3235

COUNTY ENGINEER
Mark J. Nahra, P.E.
mnahra@woodburycountyiowa.gov

ASSISTANT TO THE COUNTY ENGINEER
Benjamin T. Kusler, E.I.T.
bkusler@woodburycountyiowa.gov

SECRETARY
Tish Brice
tbrice@woodburycountyiowa.gov

To: Board Members

From: Mark Nahra, County Engineer

Date: June 3, 2019

RE: Weekly Work Report

Construction Project Report

To be let:

FM-CO97(136)—55-97, D38 HMA resurfacing project between Bronson and the Moville Blacktop. Letting date: July 16, 2019. Late start date: June 1, 2020. The project involves cold in place recycling of existing pavement followed by an overlay of the pavement with new hot mix asphalt pavement.

Under Contract:

L-B(C160)—73-97, County Bridge C160 is on Haskell Avenue between 140th Street and Iowa Hwy 141. Letting date: May 7, 2019. Late start date: September 3, 2019. Contractor: Graves Construction of Spencer, IA. Contract price: $620,679.27.

This bridge was programmed for replacement in FY 2019. The existing bridge was destroyed in flooding during a June 2016 storm event. Letting was held May 7, 2019, the apparent low bid was awarded to Graves Construction on May 14, 2019. Contracts have been prepared, mailed to the contractor, and we are awaiting their return for board approval. Bridge construction is scheduled for the 2019 construction season.

FM-CO97(137)—55-97, K49 HMA resurfacing project between Plymouth County line and county route D12. Letting date: February 19, 2019. Late start date: to be determined. Contractor: Knife River. Woodbury County share of contract price: $286,297.37.

This project is being done in coordination with a Plymouth County project on county route K49 in both counties. The project involves cold in place recycling of the existing pavement followed by an overlay of high performance asphalt surfacing. The high-performance surface provides a thinner overlay on top of the recycled pavement than standard hot mix asphalt. This is Woodbury County's first project using this material. Work will be done in 2019.

L-B(U51)—73-97, 320th Street Bridge replacement. Letting date: October 30, 2018. Late start date: April 15, 2019. Contractor: Graves Construction, Spencer, IA. Contract price: $475,343.66. Working days: 65. This bridge has been closed since 2014 due to a failed substructure piling.

The project allowed winter work at the contractor's option and some work was completed. The contractor moved on site in January and removed the old bridge. Work on the project has been delayed by spring flooding. The road was under water for the three weeks during the recent floods. East pier piling are driven and pile encasements are poured. East abutment piling are driven and the abutment has been poured. Falsework piling have been driven on the east side of the ditch. Work has shifted to the west side of the ditch. We expect the bridge to be done late summer/early fall 2019.

BROS-CO97(133)—55-97, Hancock Avenue Bridge replacement. Letting date: October 16, 2018 (IDOT Letting) Late start date: June 17, 2019. Working days: 85. Contractor: Dixon Construction. Bid Price: $567,393.30. This project replaces an aging truss bridge on Hancock Avenue near the 200th Street intersection. The current bridge is posted 3 tons.

Dixon Construction has driven the south abutment piling and poured the abutment. North abutment piling have also been driven and the abutment poured. The contractor is awaiting delivery of the bridge beams. We are anticipating a late summer/early fall 2019 project completion.

STP-S-CO97(134)—55-97, D50 PCC Resurfacing near Oto. Letting date: April 17, 2018. Late start date: July 23, 2018. Working days: 60. Contractor: Cedar Valley Corporation, Waterloo, IA. Contract price: $2,354,844.71.

All work is complete.

BROS-CO97(132)—55-97, 150th Street Bridge replacement near Lawton. Letting date: June 19, 2018 (IDOT Letting). Late start date: May 1, 2019. Working days: 105. Contractor: Dixon Construction, Correctionville, IA. Contract price: $1,019,550.42. This project replaced an aging bridge on 150th Street (Old Highway 20) north of Lawton.

Substantial work was completed during the winter and the deck was poured on Friday, April 5th. All concrete work is done on the bridge. Grading work is complete and the approaches are staked for paving. We are waiting for the paving subcontractor to move on site. He has been delayed by weather. We expect the bridge to be open early summer 2019.

L-B(J9)—73-97, County Bridge J9 is on 170th Street between Jasper and Jewell Avenues. Letting date: August 21, 2018. Late start date: April 15, 2019. Contractor: Dixon Construction, Correctionville, IA. Contract price: $544,821.40. This bridge was one of the flood damaged structures from the June 18, 2016 storm event. The bridge has been closed to traffic since it was damaged in the flood.

The bridge deck is poured and form material is being stripped. Bridge rail will be poured on Tuesday, June 4th. Once the rail is poured, the bridge work is complete and the contractor will shape the approach roadway for guardrail installation. We anticipate late June 2019 project completion.

L-C(D156)—73-97, County Bridge D156 is on Franklin Avenue between 140th Street and 150th Street. Letting date: February 26, 2019. Late start date: July 8 2019. Contractor: Midwest Contracting, Marshall, MN. Contract price: $146,739.00. This bridge was programmed for replacement in FY 2019. The existing bridge was deteriorating and nearing the end of its service life.

The contract has been signed by the board. My office is waiting to hear from the contractor with a proposed start date for the project.

Work Under Design:

Design work is underway on the following projects for letting in 2019.

1) 250th Street Grading Project - 2.25-mile grade for paving project south of Anthon. Right of way will be necessary to allow construction of this road. Final design is complete. Plats for right of way acquisition are complete and acquisition has started. We completed right of way negotiations

with landowners, but we are awaiting one signature on the agreement. We are working toward a July 2019 letting. This project is funded with the $1.3 million per year special project levy funds.

2) The Mason Avenue bridge was severely damaged by flooding on the Little Sioux River in July 2018. The bridge has been closed to traffic due to damage caused by the bridge being struck by a large tree. The county engineer's office was notified that FEMA has determined that the damage is eligible for repair/replacement assistance. The county road department has filed required documentation requesting assistance from FEMA with eligible costs and has started work on design of a new bridge at this location. We expect that work to be completed in 2020 at this time.

3) The county engineer is reviewing the cost to improve Benton Avenue south of 120th Street. The engineer will report estimated upgrade/improvement costs to the board ahead of their June 11, 2019 meeting. Benton Avenue is a dead-end gravel road with several residences on either side of the road. For the second time in 10 years, the road suffered from severe instability during spring thaw. Options for improving the road to assure access are being explored by the Board and county engineer.

Woodbury County Sheriff's Office

DAVID A. DREW, SHERIFF

WOODBURY COUNTY JAIL WEEKLY POPULATION REPORT AT 0600 HRS.

DATE	DAILY TOTAL	LEC	ELECTRONIC MONITORING	JUVENILE	FEDERAL PRISONERS	RELEASED
5/1/19	229	208	21	0	14	21
5/2/19	229	207	22	0	14	19
5/3/19	229	210	19	0	20	16
5/4/19	229	210	19	0	14	27
5/5/19	220	201	19	0	14	18
5/6/19	224	205	19	0	14	8
5/7/19	228	212	16	0	14	36
5/8/19	221	205	16	0	9	28
5/9/19	215	201	14	0	10	25
5/10/19	220	206	14	0	15	17
5/11/19	221	214	7	0	17	21
5/12/19	230	223	7	0	17	13
5/13/19	232	218	14	0	13	16
5/14/19	223	211	12	0	12	30
5/15/19	220	208	12	0	12	21
5/16/19	219	207	12	0	15	22
5/17/19	222	208	14	0	13	17
5/18/19	234	219	15	0	13	9
5/19/19	247	232	15	0	13	9
5/20/19	244	229	15	0	13	19
5/21/19	238	222	16	0	11	23
5/22/19	228	212	16	0	8	30
5/23/19	224	208	16	0	5	32
5/24/19	220	204	16	0	5	24
5/25/19	220	203	17	0	5	26
5/26/19	231	214	17	0	5	12
5/27/19	230	213	17	0	5	26
5/28/19	223	206	17	0	5	21
5/29/19	230	212	18	0	5	21
5/30/19	234	214	20	0	6	27
5/31/19	228	209	19	0	10	25
	7042	**6551**	**491**	**0**	**346**	**659**

LEC 24 HOUR DAILY COUNT

TOTAL	MALE	FEMALE
229	189	40
226	183	43
226	180	46
237	190	47
219	179	40
213	179	34
248	208	40
233	191	42
226	175	51
223	171	52
235	187	48
236	196	40
234	189	45
241	198	43
229	183	46
229	182	47
225	180	45
228	174	54
241	187	54
248	190	58
245	187	58
242	187	55
240	185	55
228	174	54
229	176	53
226	173	53
239	178	61
227	170	57
233	175	58
241	179	62
234	176	58
7210	**5671**	**1539**

*Highest population count each day

LEC TOTAL AVG:	**232**
TOTAL INMATE AVG:	**248**