



"We're working to keep New Hampshire working"

ADMINISTRATIVE OFFICE
 45 SOUTH FRUIT STREET
 CONCORD, NH 03301-4857



GEORGE N. COPADIS, COMMISSIONER
 RICHARD J. LAVERS, DEPUTY COMMISSIONER

February 26, 2021

His Excellency, Governor Christopher T. Sununu
 and the Honorable Council
 State House
 Concord, NH 03301

REQUESTED ACTION

Authorize New Hampshire Employment Security (NHES) to enter into a three-year contract with USI Insurance Services, LLC (Vendor #286651-B001) in an amount not to exceed \$175,890 to purchase commercial property and general liability coverage effective April 1, 2021 through April 1, 2024. 100% Federal Funds.

Federal funds are available in the account for Fiscal Years 2021, 2022 and 2023 as follows contingent upon availability and continued appropriations with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified:

DEPARTMENT OF EMPLOYMENT SECURITY				
02-27-27-270010-8040		SFY 2021	SFY 2022	SFY 2023
10-02700-80400000-020-500250	Base Premium	\$53,630		
	Contingency	\$5,000		
10-02700-80400000-211-501530	Base Premium		\$53,630	\$53,630
	Contingency		\$5,000	\$5,000

EXPLANATION

NHES is requesting approval of the attached three-year contract for commercial property and general liability insurance coverage for NHES property at fourteen (14) NHES locations statewide and any additional properties that may come under NHES control during the contract period. USI Insurance Services arranged for this purchase in accordance with its contract with the State for *Producer Services*, approved by the Governor and Executive Council on May 16, 2018 (item #73). The State's Division of Risk and Benefits Unit (DRB) coordinated with NHES to secure the same material coverage terms and conditions as in the previous policy year.

USI marketed this policy extensively and received responses from four insurance companies. Philadelphia Indemnity Insurance Company (Philadelphia) and Cincinnati Insurance both submitted quotes providing coverage for all requested buildings and coverages. Cincinnati offered the most competitive annual premium of \$53,630 with comprehensive terms. Philadelphia provided a quote of \$58,199 for a one-year contract. Two insurance companies reviewed the application but declined to quote.

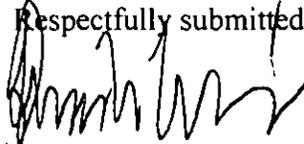
USI marketed this policy extensively and received responses from four insurance companies. Philadelphia Indemnity Insurance Company (Philadelphia) and Cincinnati Insurance both submitted quotes providing coverage for all requested buildings and coverages. Cincinnati offered the most competitive annual premium of \$53,630 with comprehensive terms. Philadelphia provided a quote of \$58,199 for a one-year contract. Two insurance companies reviewed the application but declined to quote.

USI recommends securing coverage through Cincinnati to best meet the needs of the agency. The policy covers a combined agreed upon value of \$39,029,564 for scheduled buildings and business personal property value and liability exposure in the amount of \$1,000,000 per occurrence and \$2,000,000 in aggregate for claims NHES could potentially become legally liable to pay. The policy also provides business income and extra expense coverage with a \$300,000 per occurrence limit, cyber insurance with a \$100,000 limit, boiler and machinery coverage, and terrorism coverage.

The total contract price of \$175,890 includes an annual base premium of \$53,630 plus an annual contingency of \$5,000 to address potential fluctuations based on changes to building and/or contents ownership. The quoted premium is void of agency fee or commission.

NHES respectfully recommends approval of the contract as submitted.

Respectfully submitted,



George N. Copadis
Commissioner

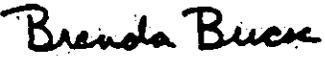
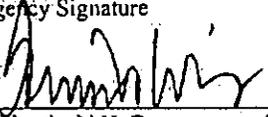
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name New Hampshire Employment Security		1.2 State Agency Address 45 So. Fruit Street, Concord, NH 03301	
1.3 Contractor Name USI Insurance Services, LLC		1.4 Contractor Address 3 Executive Park Drive, Suite 300 Bedford, NH 03110	
1.5 Contractor Phone Number (603) 665-6119	1.6 Account Number 010-027-80400000-020-500250 for FY 21 and 10-02700-80400000-211-501530 for FY 22/23	1.7 Completion Date April 1, 2024	1.8 Price Limitation \$175,890
1.9 Contracting Officer for State Agency George N. Copadis, Commissioner		1.10 State Agency Telephone Number (603) 228-4000	
1.11 Contractor Signature  Date: 2/19/21		1.12 Name and Title of Contractor Signatory Brenda Buck, Account Executive USI Insurance Services LLC	
1.13 State Agency Signature  Date: 2/23/21		1.14 Name and Title of State Agency Signatory George N. Copadis, Commissioner	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: /s/ Stacie M. Moeser On: February 25, 2021			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete

compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
 - 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
 - 8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
 - 8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.
- 8.3. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor Initials bb
Date 2/19/21

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

17. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

18. **CHOICE OF LAW AND FORUM.** This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. **CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

20. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. **SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

23. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

**Insurance Coverage for
New Hampshire Employment Security
Contract Agreement Between
New Hampshire Employment Security
and USI Insurance Services, LLC.**

EXHIBIT A – Special Provisions

Form P-37, section 14 Insurance, is amended per the attached certificate of insurance from USI Insurance Services, LLC to include the following coverage enhancements:

1. General Liability coverage with limits of \$1,000,000 per occurrence/\$2,000,000 in the aggregate
2. Automobile Insurance coverage with combined single limits of \$1,000,000 per accident
3. Excess/umbrella insurance coverage with limits of \$25,000,000 per occurrence and in the aggregate
4. Workers compensation coverage with statutory limits and Employers' Liability with limits of \$1,000,000 per accident and \$1,000,000 policy limit
5. Errors and Omissions liability insurance coverage with limits of \$15,000,000 and in the aggregate

There are no other special provisions in this contract.

**Insurance Coverage for
The Department of Employment Security
Contract Agreement Between
The Department of Employment Security
and USI Insurance Services, LLC.**

Exhibit B –Scope of Services

USI Insurance Services, LLC, hereinafter called Contractor, agrees to provide general liability, property, business income, boiler and machinery and terrorism coverage for New Hampshire Employment Security from April 1, 2021 through April 1, 2024.

Coverage for fourteen scheduled buildings consists of (1) general liability coverage of \$1,000,000 per occurrence and \$2,000,000 aggregate for an annual premium of \$14,889; (2) real property insurance coverage for a total agreed upon building and contents limit of \$39,029,565 (subject to a \$5,000 deductible) for an annual premium of \$38,741, which includes the following additional coverages; (3) boiler and machinery (aka equipment breakdown coverage); (4) business income and extra expense coverage with a \$300,000 per occurrence limit; (5) cyber security liability with a \$100,000 per occurrence limit; and, (6) Terrorism Risk Insurance Act (TIA) coverage with statutory limits

The rates above are based upon current values and square footage provided by New Hampshire Employment Security at policy inception not withstanding any changes during the policy term that would adjust the underwritten exposure. Contractor will provide coverage through a policy issued by the Cincinnati Insurance Company.

**Insurance Coverage for
The Department of Employment Security
Contract Agreement between
The Department of Employment Security
and USI Insurance Services, LLC.**

Exhibit C –Price and Method of Payment

The annual premium effective April 1, 2021 through April 1, 2024 is \$53,630.00 with an additional amount of \$5,000 in contingency funds per year to address the potential for changes in scheduled property or additional premium necessary for changes to building or contents ownership.

The annual premium of \$53,630.00 is made up of comprehensive policy coverage applicable to 14 scheduled properties.

The initial premium payment of \$53,630.00 is due within thirty days from the date of contract approval by Governor and Council. The second and third year renewal premium are due within thirty days of renewal effective date.

The appropriate account number for the P-37 form, section 1.6 is 10-027-80400000-020-500250 for FY 2021 and 10-02700-80400000-211-501530 for FY 2022 and FY 2023.

FY2021 \$53,630.00 and \$ 5,000 for contingency, only if needed for endorsements to the policy

FY2022 \$53,630.00 and \$ 5,000 for contingency, only if needed for endorsements to the policy

FY 2023 \$53,630.00 and \$ 5,000 for contingency, only if needed for endorsements to the policy

100% Federal Funds

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that USI INSURANCE SERVICES LLC is a Delaware Limited Liability Company registered to transact business in New Hampshire on September 24, 2007. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 584972

Certificate Number: 0004890345



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 13th day of April A.D. 2020.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

USI INSURANCE SERVICES LLC

(A Delaware Limited Liability Company)

**Written Consent of the Manager
Pursuant to the Delaware Limited Liability Company Act**

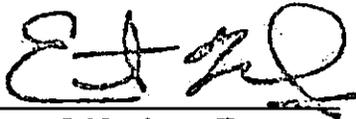
The undersigned, as the sole Manager (the "**Manager**") of USI Insurance Services LLC, a Delaware Limited Liability Company (the "**Company**"), does hereby take the following actions and adopts the following resolutions by written consent pursuant to the Delaware Limited Liability Company Act, and hereby waives notice and the holding of a meeting and hereby agrees that such resolutions shall have the same force and effect as if unanimously adopted at a duly convened meeting:

RESOLVED, that it is advisable and in the best interests of the Company that the following individuals be appointed as an authorized signatory empowered and authorized to execute contracts related to the State of New Hampshire Producer Services Contract on behalf of the Company to serve in such capacity until he or she has been removed or their respective successor shall have been duly appointed:

Brenda Buck – USI Insurance Services – New England Region

RESOLVED, that all actions previously taken by any officer, employee or agent of the Company in connection with or related to the matters set forth in or reasonably contemplated or implied by the foregoing resolutions be, and each of them hereby is, adopted, ratified, confirmed and approved in all respects as the acts and deeds of the Company.

IN WITNESS WHEREOF, the undersigned Manager has executed this consent as of the 19th day of February 2021.



Ernest J. Newborn, II
Manager

DESCRIPTIONS (Continued from Page 1)

