



## Town of West Seneca

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# MEMO

To: The Honorable Town Board

From: Tina M. Hawthorne, Town Attorney

Date: January 20, 2021

Subject: Renewal of Excess Workers' Compensation Insurance Policy

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Our current policy for excess workers' compensation insurance expires on January 31, 2021. There is a limited number of carriers that provide this coverage. USI has provided proposals from the three known providers of this insurance. Safety National Insurance was the lowest quote despite a significant premium increase from last year. I have attached the insurance proposal from USI and the information provided regarding the state of the market to explain the premium increase.

Kindly accept the proposal for Safety National Insurance excess workers' compensation policy and authorize the Supervisor to bind the insurance.

### **Market Capacity Shrinking:**

- In 2010, AIG exited the monoline excess WC market due to extreme loss development. At the time AIG was the 3<sup>rd</sup> largest writer of excess WC.
- In late 2018, the purchase of Midlands Management by Safety National in late 2018 effectively removed one competitor (New York Marine and General Insurance) from the marketplace. At the time, Midlands was the 4th largest writer of excess WC.
- In 2019, Star Insurance began non-renewing all municipal accounts.
- In 2020, Star Insurance completely exited the excess WC market in the state of NY.
- There have been no new entrants into this line of business in the state of NY in many, many years.

### **Interest Rates / Investment Income:**

Because excess WC is a very long tail line of business, it is highly affected by the carrier's ability to generate investment income. A carrier's investment income is highly affected by fixed income investments. Most excess WC carriers will tell you to look at the 10 year Treasury Rate to gauge the investment environment. Prior to 2020, the 10 year Treasury Rate had been hovering near all-time lows in the 1.5 to 2.5 range for several years. At this level, the carriers were feeling extreme pressure to improve underwriting results due to lack of investment income. The only way to improve underwriting results is to raise SIRs and/or raise premiums. As a result of COVID -19 and the subsequent economic conditions, the 10 Year Treasury Rate dropped to around .5 and stayed in that range much of 2020. It only recently surpassed 1.0 earlier this year. (<https://www.treasury.gov/resource-center/data-chart-center/interest-rates/pages/TextView.aspx?data=yieldYear&year=2020>)

### **Excess Loss Cost Trends:**

There are several areas to examine in this area. In general, industry frequency and severity of claims has been rising in the excess space for years. Here are some of the major drivers of those trends:

- Medical Inflation – The cost of medical treatment within WC has been rising at higher levels than CPI and the CPI - medical rate. This trend is pushing claims costs higher resulting in a trend of higher frequency of claims in the excess WC layer as well.
- Opioid Epidemic – This is another issue faced by the general population that is exacerbated in the WC space. At Midwest Employers, 40% + of our total medical spend was in the prescription drug arena and this was highly influenced by the opioid epidemic.
- Presumptive laws – Most states, including NY, have implemented laws that provided expanded benefits to first responders. Most of these are aimed at policemen and/or firemen. Last I heard, over 35 states have some form of Presumptive Statutes. These statutes effectively make a claim compensable when the affected employee has a heart, lung, cancer, and/or Post Traumatic Stress Disorder (PTSD) type claims. It flips the burden of proof to the carrier to prove that the claim was not work related. This has resulted in hundreds of millions of dollars of WC benefits to be paid that likely would have not been compensable without the Presumptive Laws.

- Trends of Social Unrest – As we saw at the Capitol last week, we live in times when demonstrations, protests, and similar events are much more common. In some cases, police officers have been ambushed and attacked. As a result, our first responders and being placed in harm's way and being injured at much higher rates than in the past. This is driving costs higher for those carriers covering the first responders. Last I heard, there were over 50 officers injured and 2 killed in the raid on the Capitol. From an excess WC perspective, that is one occurrence meaning one SIR for the client. That would be a significant claim for an excess WC carrier.
- PTSD – In addition to first responders, these claims are commonly being accepted by courts for all classes and a wide variety of injuries. Historically, a person needed to have a physical injury to file a mental injury. That is no longer the case in many states and PTSD claims are becoming more common, thus driving up claim costs.
- COVID-19 – Overlaying all of the other issues with the pandemic, costs are higher in 2020. In a recent presentation I co-presented with Safety National (SNCC), we presented data showing over 84,000 claims SNCC is tracking due to COVID-19. While most of these resolve without significant impact, a small percentage become very large and very complex. To make matters worse, several states have enacted new Presumptive Laws expanding WC benefits to those with COVID-19 to Healthcare and other essential workers.



# Insurance Proposal

January 6, 2021

*This is a coverage summary, not a legal contract. This summary is provided to assist in your understanding of your insurance program. Please refer to the actual policies for specific terms, conditions, limitations and exclusions that will govern in the event of a loss. Specimen copies of all policies are available for review prior to the binding of coverage.*

*Higher limits and additional coverage may be available. Please contact us if you are interested in additional quotes.*

Client Name	Town of West Seneca	USI Account Executive:	Tim Wroblewski
Mailing Address	1250 Union Road West Seneca, NY 14224	Phone Number:	716 314-2017
		Email:	Timothy.Wroblewski@usi.com

Named Insured: Town of West Seneca

Policy Type: Excess Workers Compensation

Proposed Policy Term: 02/01/2021 To: 02/01/2022

Insurance Carrier: Safety National Insurance Company

Carrier Financial Rating: A++ XV  Carrier Admitted

Policy Subject to Audit

Terrorism included

Signed Application

Payment in full or completed premium finance agreement

Requirements to Effect Coverage

Make check payable to: USI Insurance Services LLC

Authorization to order coverage

## Other Information

*Other exclusions and policy limitations may apply. Please refer to the actual policies for specific terms, conditions, limitations and exclusions that will govern in the event of a loss. We can provide coverage for such items such as, but not limited to: flood, earthquake, wind, crime and cyber liability.*

*In evaluating your exposure to loss, we have been dependent upon information provided by you. If there are other areas that need to be evaluated prior to binding of coverage, please bring these areas to our attention. Should any of your exposures change after coverage is bound, such as your beginning new operation, hiring employees in new states, buying additional property, etc., please let us know so proper coverage(s) can be discussed.*



## 2021 Excess Workers Compensation Options

Policy Terms	Midwest Employers Casualty	Midwest Employers Casualty	ARCH*	Safety National Insurance
Policy Limit Coverage A	Statutory	Statutory	Statutory	Statutory
Employers Liability Coverage B	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Specific Retention	\$1,000,000	\$1,250,000	\$1,000,000	Police \$650,000 Presumptive Loss \$750,000 All other \$600,000
Estimated Annual Payroll	\$17,497,853	\$17,497,853	\$17,497,853	\$17,497,853
Rate Per \$100/Payroll	1.49	1.39	1.257	1.075
Total Estimated Policy Premium Including Terrorism				
Total Deposit Due	\$260,000	\$243,220	\$220,000	\$188,102

\*Arch offered 3 alternate quotes:

SIR of \$600,000/Rate 1.571/Premium \$275,000

SIR of \$750,000/Rate 1.457/Premium \$255,000

SIR of \$1,250,000/Rate 1.114/Premium \$195,000

Chubb Indication - \$200,000 Minimum Premium

National Safety is already at their Minimum Rates



## Important Provisions

The premium quoted is the minimum and deposit premium and is a fully earned premium. The policy is auditable at expiration and there may be charges for additional exposures however, the premium will never fall below the minimum and deposit premium shown above.

Premiums are calculated based on the insurance company's rules and rates. Premiums shown as advance or deposit premiums are subject to audit and adjustment at the close of each audit period. If the advance premium is less than the earned premium as determined by the audit, the insured pays the difference. If the advance premium is more than the earned premium as determined by the audit, the insurance company returns the difference to the insured. The insured must keep records of the information needed for the audit and the premium calculations and send copies to the insurance company when it requests them.

Audit based on:          Payroll



## USI Disclosures

**COMMISSION DISCLOSURE POLICY:** As a licensed insurance producer, USI is authorized to confer with or advise our clients and prospective clients concerning substantive benefits, terms or conditions of insurance contracts, to sell insurance and to obtain insurance coverages for our clients. Our compensation for placement of insurance coverage, unless otherwise specifically negotiated and agreed to with our client, is customarily based on commission calculated as a percentage of the premium collected by the insurer and is paid to us by the insurer. We may also receive from insurers and insurance intermediaries (which may include USI affiliated companies) additional compensation (monetary and non-monetary) based in whole or in part on the insurance contract we sell, which is contingent on volume of business and/or profitability of insurance contracts we supply to them and/or other factors pursuant to agreements we may have with them relating to all or part of the business we place with those insurers or through those intermediaries. Some of these agreements with insurers and/or intermediaries include financial incentives for USI to grow its business or otherwise strengthen the distribution relationship with the insurer or intermediary. Such agreements may be in effect with one or more of the insurers with whom your insurance is placed, or with the insurance intermediary we use to place your insurance. You may obtain information about the nature and source of such compensation expected to be received by us, and, if applicable, compensation expected to be received on any alternative quotes pertinent to your placement upon your request.

**PREMIUM FINANCING DISCLAIMER:** You may request financing from a premium finance company to pay the premiums for insurance placed on your behalf by USI. Premium finance companies which USI recommends will generally be either USI affiliates or pay compensation to USI for helping to arrange the premium financing. It is USI's practice to seek premium financing either through a company affiliated with USI or an independent vendor with which USI has an existing relationship and experience. You may wish to investigate other premium finance arrangements and companies yourself. Unless you instruct us to the contrary, USI will arrange premium financing as described above. If you wish to know further details of any compensation which USI may receive in connection with arranging for your premium financing, we will be pleased to supply the information.



## Insurance Carrier Ratings

As a service to our clients, USI is furnishing an assessment by a financial rating service of the insurance companies included in our proposal. We are including the legends used by this service.

All ratings are subject to periodic review, therefore, it is important to obtain updated ratings from each service. Should you desire further information concerning the financial statements of any of the insurance companies being proposed, so that you can make your own assessment of the financial strength of the companies being offered, it is available from USI at your request.

USI has made no attempt to determine independently the financial capacity of the insurance companies that we are including in our proposal as we believe the nationally recognized services are better equipped to comment.

### A. M. BEST RATINGS

<b>A++ and A+</b>	Superior	<b>B and B-</b>	Fair
<b>A and A-</b>	Excellent	<b>C++, C+</b>	Marginal
<b>B++, B+</b>	Very Good	<b>C and C-</b>	Weak
<b>D</b>	Poor	<b>F</b>	In Liquidation
<b>E</b>	Under Regulatory Supervision	<b>S</b>	Rating Suspended

### FINANCIAL SIZE CATEGORY

*(In \$ Thousands)*

Class	I	Less than	1,000
Class	II	1,000	to 2,000
Class	III	2,000	to 5,000
Class	IV	5,000	to 10,000
Class	V	10,000	to 25,000
Class	VI	25,000	to 50,000
Class	VII	50,000	to 100,000
Class	VIII	100,000	to 250,000
Class	IX	250,000	to 500,000
Class	X	500,000	to 750,000
Class	XI	750,000	to 1,000,000
Class	XII	1,000,000	to 1,250,000
Class	XIII	1,250,000	to 1,500,000
Class	XIV	1,500,000	to 2,000,000
Class	XV	2,000,000	to or greater

### RATING "NOT ASSIGNED" CLASSIFICATIONS

<b>NR-1</b>	Insufficient Data	<b>NR-2</b>	Insufficient Size and/or Operating Experience
<b>NR-3</b>	Rating Procedure Inapplicable	<b>NR-4</b>	Company Request
<b>NR-5</b>	Not Formally Followed		





## Client Authorization to Bind

We are not in a position to make monthly reminders or verify that your payment was received. Please take the necessary action to avoid possible cancellation of your insurance policy(s) which you are paying directly to the insurance company.

After careful consideration of your proposal dated January 6, 2021 we accept your insurance program as presented with the following exceptions, changes, and/or recommendations:


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**Client Signature**

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**Date Signed**