



Roll Call Number

Agenda Item Number

14C

DATE June 8, 2020

APPROVING PRIVATE CONSTRUCTION CONTRACT BETWEEN
LEGACY EXCAVATION, LLC AND
KENYON HILL RIDGE, LLC
FOR PAVING IMPROVEMENTS IN RUBY ROSE RIDGE
\$300,000.00

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the attached contract documents for a Private Construction Contract in the amount of \$300,000.00 between Legacy Excavation, LLC, John Larson, Managing Partner, 10604 N.W. 75th Place, Johnston, IA, 50131 - as Contractor, and Kenyon Hill Ridge, LLC, Dean Quirk, Managing Partner, 33459 Berns Shore Drive, Adel, IA, 50003 - as Owner, for construction of Paving Improvements described as paving improvements to serve Ruby Rose Ridge development located at 5066 N.E. 23rd Avenue, as shown on Plan File Numbers 600-224/254, be and the same are hereby approved, subject to receipt of contract and bond approved as to form by the Legal Department, and certificate of insurance acceptable to the Engineering Department.

BE IT FURTHER RESOLVED: That permission be and is hereby granted to the parties of said contract to construct said Paving Improvements in accordance with said contract documents and subject to receipt of contract and bond approved as to form by the Legal Department and certificate of insurance acceptable to the Engineering Department, subject to inspection and approval of the Des Moines City Engineer.



Roll Call Number

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DATE June 8, 2020

Activity ID: 06-2019-108

Moved by _____ to adopt.

FORM APPROVED:

s/Kathleen Vanderpool

Kathleen Vanderpool
Deputy City Attorney

SLN Funding Source: All project costs are to be paid by the Owner(s), Kenyon Hill Ridge, LLC

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

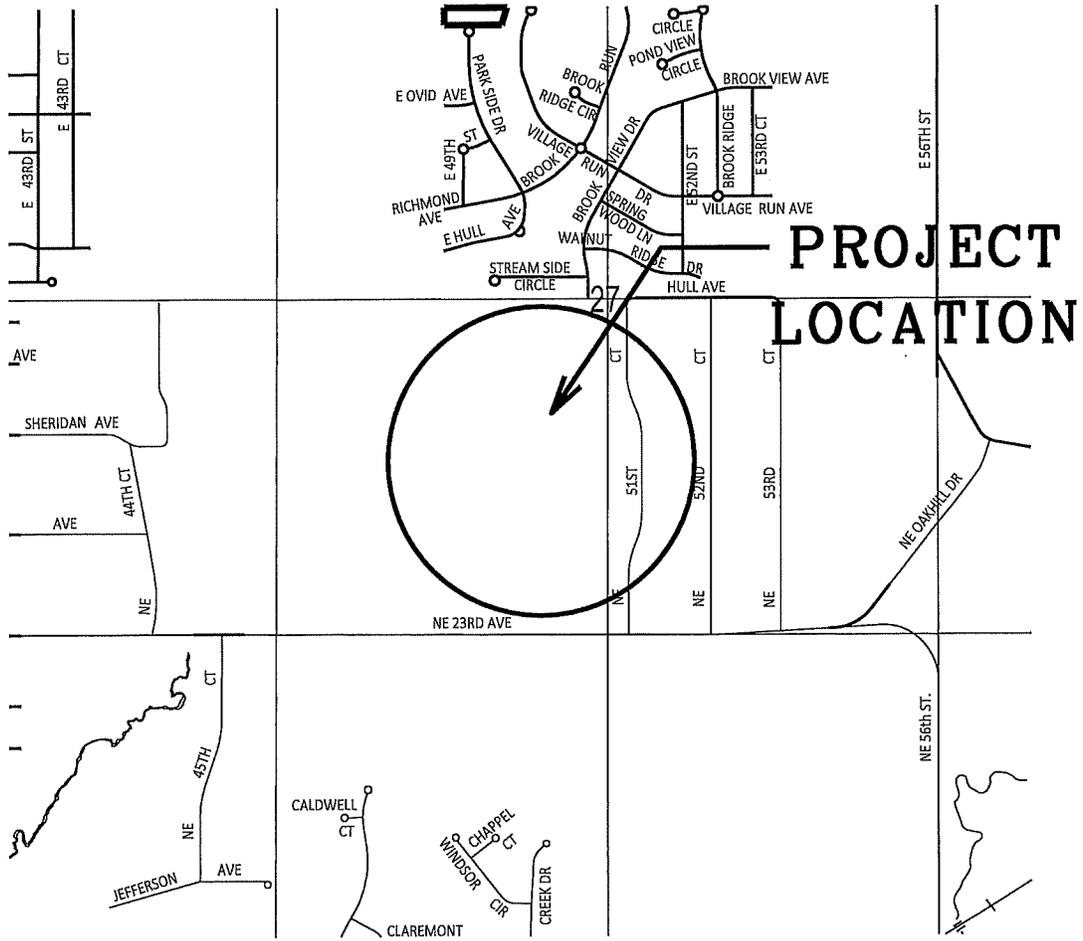
Mayor

I, P. Kay Cmelik, City Clerk of said City Council, hereby certify that at a meeting of the City Council, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

19C



RUBY ROSE RIDGE ACTIVITY ID 06-2019-108





PRIVATE CONSTRUCTION CONTRACT

THIS PRIVATE CONSTRUCTION CONTRACT (hereinafter "Contract"), made and entered into on the 14th day of, May 2020, by and between Legacy Excavation, LLC, (hereinafter called the "Contractor"), and Kenyon Hill Ridge, LLC, (hereinafter called the "Owner").

WHEREAS, the Owner owns property in the City of Des Moines (hereinafter called the "City" or "Jurisdiction") which requires improvements, as described herein, be constructed for development of the property; and

WHEREAS, the improvements are being constructed at Owner's sole cost and expense; and

WHEREAS, the Contractor is responsible for constructing the improvements as set forth in this Contract; and

WHEREAS, this Contract is to set forth the responsibilities of the Owner and Contractor for construction of the improvements and the conditions and requirements that are to be met before the acceptance of the improvements by the City.

WITNESSETH: That the Contractor and Owner, for the consideration stated herein, agree as follows:

ARTICLE I: DESIGN

Owner represents and agrees that the improvements have been designed in accordance with the current edition of SUDAS (Statewide Urban Standard Design and Specifications) and all other applicable laws, regulations, codes, ordinances and City approved design references.

ARTICLE II: SCOPE OF WORK

The Contractor hereby agrees to complete the work comprising the below referenced improvements as specified in the Contract Documents, which are officially on file in the office of the City Engineer. This Contract includes all Contract Documents, as defined in the SUDAS Standard Specifications, 2020 Edition for the construction of the following improvements:

Paving Improvements to serve Ruby Rose Ridge development located at 5066 NE 23rd Avenue, as shown on Plan File Numbers 600-224/254.

In accordance with Plan File Numbers 600-224/254

The Quantity of work to be done is estimated as shown on Attachment A. The Contractor further agrees to complete the work in strict accordance with said Contract and Contract Documents, and to guarantee the work and improvements as required by law and for the time required in said Contract and Contract Documents, after its acknowledgment of completion and acceptance by the City of Des Moines, Iowa, hereinafter called the "Jurisdiction".

The improvements shall be constructed in accordance with the SUDAS Standard Specifications, 2020 Edition, which were adopted by the City of Des Moines on May 4, 2020 under Roll Call Number 20-0737¹, as further revised by the City of Des Moines General Supplemental Specifications² to the SUDAS Standard Specification, 2020 Edition, all special provisions included in said Contract Documents and all applicable laws, regulations and codes.

¹ The SUDAS Standard Specification may be viewed at the Iowa SUDAS website: <https://iowasudas.org/manuals/specifications-manual/> or can be purchased online at the Iowa SUDAS website at <https://iowasudas.org/order-the-manuals/>.

² https://www.dsm.city/document_center/Engineering%20and%20Traffic%20Forms%20and%20Documents/ENG-Publications/Notice%20to%20Contractors%20and%20Consultants%202020%20Edition.pdf?pdf=Notice%20to%20Consultants%20and%20Contractors-2020%20SUDAS&t=1588708706725

ARTICLE III: CITY IS THIRD PARTY BENEFICIARY

The Owner and Contractor expressly agree that the City is a third-party beneficiary of this Contract. Owner and Contractor acknowledge and agree that the improvements to be constructed under this Contract are intended to be conveyed to the City. As such, Owner and Contractor expressly agree that services are being indirectly provided to the City under this Contract, that the City is a third party beneficiary of this Contract with respect to the improvements which it is constructing and that the provisions of this Contract shall inure to the benefit of and shall be enforceable by the City as if it were the Owner hereunder. Owner and Contractor acknowledge and agree that they are contractually obligated to the City pursuant to this provision. All cost of construction of the improvements shall be at the sole cost and expense of the Owner and at no expense to the City.

ARTICLE IV: COMMENCEMENT AND COMPLETION OF WORK

The Contractor hereby agrees to commence the work not later than 08/01/2020, and to fully complete the work and improvements, all punch list items and final clean up and provide applicable as built plans not later than 12/01/2020.

ARTICLE V: APPROVAL OF PLANS AND SPECIFICATIONS

The Owner must obtain written approval of the City Engineer of the plans and specifications for the improvements. Any changes to those plans and specifications or Contract Documents once approved by the City Engineer must also be approved in writing by the City Engineer.

ARTICLE VI: MAINTENANCE REQUIREMENTS

The Contractor hereby agree, at their own expense:

- A. To remedy any and all defects that may develop in or result from work to be performed under the Contract within the period of four (4) years from the date of acceptance of the work under the Contract, by reason of defects in workmanship or materials used in construction of said work;
- B. To keep all work in continuous good repair; and
- C. To pay the Jurisdiction's reasonable costs of monitoring and inspecting to assure that any defects are remedied, and to repay the Jurisdiction all outlay and expense incurred as a result of Contractor's and Surety's failure to remedy any defect as required by this section.

Contractor's agreement herein made extends to defects in workmanship or materials not discovered or known to the Jurisdiction at the time such work was accepted.

ARTICLE VII: THE CONTRACT SUM

Upon performance of this Contract by the Contractor, the Owner shall pay to the Contractor the lump sum of Three Hundred Thousand Dollars dollars (\$ 300,000.00), or the total amount based upon the actual quantities constructed and the unit prices listed on Attachment A, which payment shall be in full compensation and settlement for the work. Except as hereafter provided, the details regarding actual payment by the Owner to the Contractor for compensation for work completed shall be between the Owner and the Contractor. The City shall hold the Owner and Contractor responsible for the completion of the work and improvements, until final acceptance is made. Said final acceptance means a certificate of completion of the project, submitted by the Des Moines City Engineer to the Des Moines City Council with written acceptance by the Des Moines City Council by approval of a resolution accepting the improvements. Such certification, approval and acceptance shall not constitute an acceptance of any unauthorized work, and no approval, acceptance or payment shall constitute an acceptance of unauthorized or defective work or improper material.

ARTICLE VIII: GENERAL

A. ENGINEERING SERVICES AND INSPECTIONS

The Contractor agrees to comply with all procedures required by the Jurisdiction to include, but not limited to: plan check, testing, and construction inspection(s). The Jurisdiction reserves the right to inspect all work on said improvements to the same standard as if the improvement was a Jurisdiction-funded public improvement. The Owner shall hire a licensed surveyor to do all survey work needed for this Contract including an as-built survey. The surveyor shall contact the Jurisdiction regarding format and information required on the as-built survey.

B. INSPECTION COORDINATION

The Contractor shall contact the Des Moines Engineering Department at 515-283-4177 (or cellular 515-208-4177), 24-hours before beginning construction and coordinate with Des Moines Engineering Department for inspection. The Contractor shall make arrangements and accommodate inspections by the Jurisdiction. **Failure to have inspections as required may result in the City requiring the Contractor to remove and replace some or all of the work or may result in the City not accepting the improvements.** The Contractor shall notify the Owner and the City Engineer in writing when all construction work, including the punch list and final cleanup, is completed; so that the City Engineer can make a final inspection of the work, and the Owner can order the as-built survey if required and have the surveyor file a monument preservation certification in accordance with Iowa Code 355.11 (if applicable).

C. FEES PAID BY THE OWNER AND/OR CONTRACTOR

The Owner and/or Contractor agree to obtain all federal, state, and local permits and pay all fees necessary for the Contract work including, but not limited to, Grading and NPDES permits. The Owner agrees to pay the City's administrative, inspection, and testing fees in accordance with Section 94-321 of the Des Moines City Code, at the time the private construction Contract is submitted to the City Engineer for review and prior to presentation to City Council for approval and permission to construct the improvement. Said fees were established by the City Council on December 18, 2002, under Roll Call No. 02-3007 as follows:

Description of Service/Permit	Fee
Administrative Fee for private construction contracts	\$900.00 per contract
Inspection and Testing Fee for private Paving construction contracts	6% of the first \$30,000 of construction contract cost and 2% thereafter
Inspection and Testing Fee for private Sanitary Sewer construction contracts	8% of the first \$30,000 of construction contract cost and 3% thereafter
Inspection and Testing Fee for private Storm Sewer construction contracts	8% of the first \$30,000 of construction contract cost and 2% thereafter

Payment should be made payable to the City of Des Moines and presented with this contract

FEE CALCULATION

Enter data for this contract and calculate fees below, which is the sum of the \$900.00 administrative fee plus the inspection and testing fees based upon the contract costs. (See instructions for example calculations.)

Paving Fee: Construction Amount \$ 300,000.00

Administrative Fee: \$900.00 \$ 900.00

Inspection and Testing Fee:

- 6% of first \$30,000 of paving construction cost \$ 1,800.00

- 2% of the remaining paving construction cost over \$30,000 \$ 5,400.00

Total Paving Fee: \$ 8,100.00

Sanitary Sewer Fee: Construction Amount \$ _____

Administrative Fee: \$900.00 \$ _____

Inspection and Testing Fee:

- 8% of first \$30,000 of sanitary sewer construction cost \$ _____

- 3% of the remaining sanitary sewer construction cost over \$30,000 \$ _____

Total Sanitary Sewer Fee: \$ _____

Storm Sewer Fee: Construction Amount \$ _____

Administrative Fee: \$900.00 \$ _____

Inspection and Testing Fee:

- 8% of first \$30,000 of storm sewer construction cost \$ _____

- 2% of the remaining storm sewer construction cost over \$30,000 \$ _____

Total Storm Sewer Fee : \$ _____

D. BONDS, INSURANCE AND INDEMNITY

The Contractor agrees to provide the insurance required by Section 1070, Part 3 – Bonds and Insurance, of said Standard Specifications through the period of operations covered by this Contract until acknowledgment of completion and/or acceptance by the Des Moines City Council; and the Contractor shall defend, indemnify, and hold harmless the Jurisdiction and its officers, agents, and employees in accordance with Section 1070, 3.03 Contractor's Indemnity - Contractual Liability Insurance. The Contractor agrees to provide, on the form provided, a Performance, Payment and Maintenance Bond in the full amount of this Contract with the maintenance period of four years.

E. NON-DISCRIMINATION

The Contractor hereby acknowledges and agrees to comply with any and all applicable provisions of the Des Moines Human Rights Ordinance, Chapter 62 of the Des Moines Municipal Code. The Contractor specifically agrees not to discriminate against any employees or applicants for employment on the basis of age, race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry, disability or familial status. The Contractor further agrees to include this provision in all subcontracts for this project.

F. PUNCH LIST ITEMS AND FINAL COMPLETION

The Contractor is responsible for timely completion of the improvements in accordance with Article III, including construction of the improvements, completion of all punch list items, final cleanup and providing the as-built survey to the City that also indicates whether the surveyor was required to file a monument preservation certification in accordance with Iowa Code 355.11. **All those items must be completed by the dates set forth in Article IV, or the Contractor will be in violation of this Contract.**

G. CITY'S STANDARD FORM CONTRACT CONTROLS

The Owner and the Contractor acknowledge that this Contract has been prepared utilizing a standard City of Des Moines contract form provided by the City or downloaded from the City's website in PDF (Portable Document Format). The Owner and Contractor represent that no changes have been made to the form of this Contract other than to insert required information and text in text boxes provided for that purpose, and they agree that unauthorized changes made to the form of the contract shall not be binding on them or on the City and that the form of the contract as it appears on the City's website shall govern and be binding on the parties to this Contract.

H. SURVEY MONUMENT PRESERVATION

The Owner and Contractor are responsible to fully comply with Section 355.6A of the Iowa Code and shall hire or cause to be hired a licensed professional surveyor to determine if a monument (such as a property corner, section corner, survey control) is likely to be disturbed or removed prior to construction and provide that information to the City before construction begins. The surveyor shall locate and preserve the monuments likely to be disturbed or removed, in the manner provided in section 355.6A. In accordance with Iowa Code 355.11, United States Public Land Survey Corner Monuments shall be preserved and/or replaced.

I. NPDES PERMIT AND STORM WATER POLLUTION PREVENTION PLAN REQUIREMENTS

If the work under this Contract disturbs one or more total acres, this Contract is subject to Section 402(b) of the Clean Water Act and Iowa Code Section 455B.174 and Iowa Administrative Code 567-64.4 (projects disturbing one or more total acres) and requires inclusion in the National Pollution Discharge Elimination System (NPDES) General Permit No. 2, or an individual NPDES Permit for stormwater (also storm water) discharge associated with industrial activity for construction activities. All work shall be in accordance with Section 9040 – Erosion and Sediment Control of the SUDAS Standard Specifications. The revisions to Section 9040 – Erosion and Sediment Control that are included in the City of Des Moines General Supplemental Specifications to the current SUDAS Standard Specification, as referenced above, shall not apply. The Owner, and its Contractor, shall be totally responsible for all Erosion and Sediment Control work including preparing the storm water pollution prevention plan, publications, notices, fees, fines, and all stormwater pollution prevention work.

J. TREE PROTECTION SUPPLEMENTAL SPECIFICATIONS

- A. **WORK ON PRIVATE PROPERTY:** Chapter 42, Article X, Tree Removal and mitigation, of the Municipal Code of the City of Des Moines shall apply.
- B. **WORK ON PUBLIC RIGHT OF WAY:** The City of Des Moines Supplemental Specification for Tree Protection shall apply to this private Construction Contract. The Supplemental Specification for Tree Protection is available from the City Engineer's Office and is also available at the following link:
[http://www.dmgov.org/Departments/Engineering/PDF/Tree%20Protection%20SS%2004-09-2012%20\(current\).pdf](http://www.dmgov.org/Departments/Engineering/PDF/Tree%20Protection%20SS%2004-09-2012%20(current).pdf).

OWNER'S CORPORATE ACKNOWLEDGEMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known, who, being by me duly sworn, did say that they are the _____, and _____, respectively, of the corporation executing the foregoing instrument; that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation; that said instrument was signed (and sealed) on behalf of the corporation by authority of this Board of Directors; that _____ and _____ acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____

OWNER'S PARTNERSHIP ACKNOWLEDGMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ to me personally known, who being by me duly sworn, did say that the person is one of the partners of _____, a partnership, and that the instrument was signed on behalf of the partnership by authority of the partners and the partner acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____

OWNER'S INDIVIDUAL ACKNOWLEDGEMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that (he) (she) (they) executed the instrument as (his) (her) (their) voluntary act and deed.

Notary Public in and for the State of _____
My commission expires _____

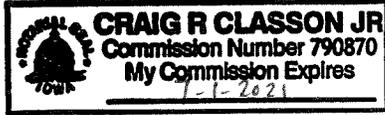
OWNER'S LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

State of Iowa)
) SS
Polk County)

On this 14th day of May, 20²⁰, before me a Notary Public in and for said county, personally appeared Dean Quirk, to me personally know, who being by me duly sworn did say that person is Managing Partner of said Kenyon Hill Ridge, LLC, that ~~(the seal affixed to said instrument is the seal of~~ said OR no seal has been procured by the said) Kenyon Hill Ridge, LLC, and that said instrument was signed and sealed on behalf of the said Kenyon Hill Ridge, LLC, by authority of its managers and the said Dean Quirk acknowledged the execution of said instrument to be the voluntary act and deed of said Kenyon Hill, Ridge, LLC, by it voluntarily executed.



Notary Public in and for the State of Iowa
My commission expires 7-1-2021





CONTRACTOR'S CORPORATE ACKNOWLEDGEMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known, who, being by me duly sworn, did say that they are the _____, and _____, respectively, of the corporation executing the foregoing instrument; that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation; that said instrument was signed (and sealed) on behalf of the corporation by authority of this Board of Directors; that _____ and _____ acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____

CONTRACTOR'S PARTNERSHIP ACKNOWLEDGMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ to me personally known, who being by me duly sworn, did say that the person is one of the partners of _____, a partnership, and that the instrument was signed on behalf of the partnership by authority of the partners and the partner acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____

CONTRACTOR'S INDIVIDUAL ACKNOWLEDGEMENT

State of _____)
) SS
_____ County)

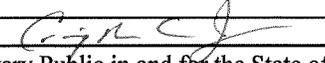
On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that (he) (she) (they) executed the instrument as (his) (her) (their) voluntary act and deed.

Notary Public in and for the State of _____
My commission expires _____

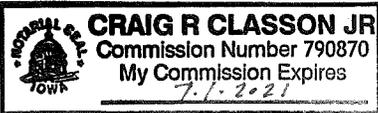
CONTRACTOR'S LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

State of Iowa)
) SS
Polk County)

On this 14th day of May, 2020, before me a Notary Public in and for said county, personally appeared John Larson, to me personally known, who being by me duly sworn did say that person is Managing Partner of said Legacy Excavation, LLC, that ~~(the seal affixed to said instrument is the seal of said OR no seal has been procured by the said)~~ Legacy Excavation, LLC, and that said instrument was signed and sealed on behalf of the said Legacy Excavation, LLC, by authority of its managers and the said John Larson acknowledged the execution of said instrument to be the voluntary act and deed of said Legacy Excavation, LLC, by it voluntarily executed.



Notary Public in and for the State of Iowa
My commission expires 7.1.2021





PERFORMANCE, PAYMENT & MAINTENANCE BOND
FOR PRIVATE CONSTRUCTION CONTRACTS

KNOW ALL MEN BY THESE PRESENTS:

That we, Legacy Excavation, LLC, as Principal (hereinafter the "Contractor" or "Principal") and Old Republic Surety Company, as Surety are held and firmly bound unto the City of Des Moines, Iowa, as Obligee (hereinafter referred to as the "Jurisdiction"), and to all persons who may be injured by any breach of any of the conditions of this Bond in the penal sum of Three Hundred Thousand dollars (\$ 300,000.00), lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, legal representative and assigns, jointly or severally, firmly by these presents.

The conditions of the above obligations are such that whereas said Contractor entered into a Private Construction Contract with Kenyon Hill Ridge, LLC (hereinafter the "Owner"), bearing date the 14th day of May, 2020, (hereinafter the "Contract") wherein said Contractor undertakes and agrees to construct the following described improvements:

Paving Improvements to serve Ruby Rose Ridge development located at 5066 NE 23rd Avenue, as shown on Plan File Numbers 600-224/254.

with the work further described in the Contract Attachment A, and to faithfully perform all the terms and requirements of said Contract within the time therein specified, in a good and workmanlike manner, and in accordance with the Contract Documents. Principal and Surety agree that the Obligee is a third party beneficiary under the Contract and the provisions of the Contract shall inure to the benefit of and shall be enforceable by the Obligee.

It is expressly understood and agreed by the Contractor and Surety in this Bond that the following provisions are a part of this Bond and are binding upon said Contractor and Surety, to-wit:

1. **PERFORMANCE:** The Contractor shall well and faithfully observe, perform, fulfill and abide by each and every covenant, condition and part of said Contract and Contract Documents, by reference made a part hereof, for the above referenced improvements, and shall indemnify and save harmless the Jurisdiction from all outlay and expense incurred by the Jurisdiction by reason of the Contractor's default or failure to perform as required. The Contractor shall also be responsible for the default or failure to perform as required under the Contract and Contract Documents by all its subcontractors, suppliers, agents, or employees furnishing materials or providing labor in the performance of the Contract.
2. **PAYMENT:** The Contractor and Surety on this Bond are hereby agreed to pay all just claims submitted by persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the performance of the Contract on account of which this Bond is given, including but not limited to claims for all amounts due for labor, materials, lubricants, oil, gasoline, repairs on machinery, equipment and tools, consumed or used by the Contractor or any subcontractor, wherein the same are not satisfied out of the portion of the Contract price which the Owner retains until completion of the improvements.
3. **MAINTENANCE:** The Contractor and the Surety on this Bond hereby agree, at their own expense:
 - A. To remedy any and all defects that may develop in or result from work to be performed under the contract within the period of four (4) years from the date of acceptance of the work under the Contract, by reason of defects in workmanship or materials used in construction of said work;
 - B. To keep all work in continuous good repair; and
 - C. To pay the Jurisdiction's reasonable costs of monitoring and inspecting to assure that any defects are remedied, and to repay the Jurisdiction all outlay and expense incurred as a result of Contractor's and Surety's failure to remedy any defect as required by this section.

Contractor's and Surety's agreement herein made extends to defects in workmanship or materials not discovered or known to the Jurisdiction at the time such work was accepted.

4. **GENERAL:** Every Surety on this Bond shall be deemed and held, any contract to the contrary notwithstanding, to the following provisions:
 - A. To consent without notice to any extension of time to the Contractor in which to perform the Contract;
 - B. To consent without notice to any change in the Contract or Contract Documents, which thereby increases the total contract price and the penal sum of this bond, provided that all such changes do not, in the aggregate, involve an increase of more than twenty percent of the total contract price, and that this bond shall then be released as to such excess increase; and
 - C. To consent without notice that this Bond shall remain in full force and effect until the Contract is completed; whether completed within the specified contract period, within an extension thereof, or within a period of time after the contract period has elapsed and the liquidated damages are being charged against the Contractor.

The Contractor and every Surety on this Bond shall be deemed and held bound, any contract to the contrary notwithstanding, to the following provisions:

- A. That no provision of this Bond or of any other contract shall be valid which limits to less than five years after the acceptance of the work under the Contract the right to sue on this Bond.
- B. That as used herein, the phrase "all outlay and expense" is not to be limited in any way, but shall include the actual and reasonable costs and expenses incurred by the Jurisdiction including interest, benefits and overhead where applicable. Accordingly, "all outlay and expense" would include but not be limited to all contract or employee expense, all equipment usage or rental, materials, testing, outside experts, attorneys fees (including overhead expenses of the Jurisdiction's staff attorneys), and all cost and expenses of litigation as they are incurred by the Jurisdiction. It is intended the Contractor and Surety will defend and indemnify the Jurisdiction on all claims made against the Jurisdiction on account of Contractor's failure to perform as required in the Contract and Contract Documents, that all agreements and promises set forth in the Contract and Contract Documents, in approved change orders, and in this Bond will be fulfilled, and that the Jurisdiction will be fully indemnified so that it will be put into the position it would have been in had the Contract been performed in the first instance as required.
- C. In the event the jurisdiction incurs any "outlay and expense" in defending itself with respect to any claim as to which the Contractor or Surety should have provided the defense, or in the enforcement of the promises given by the Contractor in the Contract, Contract Documents, or approved change orders, or in the enforcement of the promises given by the Contractor and Surety in this Bond, the Contractor and Surety agree that they will make the Jurisdiction whole for all such outlay and expense, provided that the Surety's obligation under this bond shall not exceed 125% of the penal sum of this bond.

In the event that any actions or proceedings are initiated with respect to this Bond, the parties agree that the venue thereof shall be Polk County, State of Iowa. If legal action is required by the Jurisdiction to enforce the provisions of this Bond or to collect the monetary obligation incurring to the benefit of the Jurisdiction, the Contractor and the Surety agree, jointly and severally, to pay the Jurisdiction all outlay and expense incurred therefor by the Jurisdiction. All rights, powers, and remedies of the Jurisdiction hereunder shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to the Jurisdiction, by law. The Jurisdiction may proceed against Surety for any amount guaranteed hereunder whether action is brought against the Contractor or whether Contractor is joined in any such action or actions or not.

5. **CITY'S STANDARD BOND FORM CONTROLS:** The Contractor and Surety acknowledge that this bond has been prepared utilizing a standard City of Des Moines bond form provided by the City or downloaded from the City's website in PDF (Portable Document Format). The Contractor and Surety represent that no changes have been made to the form of the Bond other than to insert required information and text in text boxes provided for that purpose, and they agree that unauthorized changes made to the standard bond form shall not be binding on them or on the City and that the standard bond form as it appears on the City's website shall govern and be binding on the parties to this Bond.

NOW THEREFORE, the condition of this obligation is such that if said Principal shall faithfully perform all of the promises of the Principal, as set forth and provided in the Contract, in the Contract Documents, and in this Bond, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

When a word, term, or phrase is used in this Bond, it shall be interpreted or construed first as defined in this Bond, the Contract, or the Contract Documents; second, if not defined in the Bond, Contract, or Contract Documents, it shall be interpreted or construed as defined in applicable provisions of the Iowa Code; third, if not defined in the Iowa Code, it shall be interpreted or construed according to its generally accepted meaning in the construction industry; and fourth, if it has no generally accepted meaning in the construction industry, it shall be interpreted or construed according to its common or customary usage.

Failure to specify or particularize shall not exclude terms or provisions not mentioned and shall not limit liability hereunder. The Contract and Contract Documents are hereby made a part of this Bond.

Witness our hands, in quadruplicate, this 14th day of May, 2020.

PRINCIPAL:

Legacy Excavation, LLC
Contractor's Name

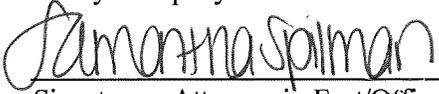
By 
Signature

JOHN LARSON
Printed Name

MANAGERIAL PARTNER
Title

SURETY:

Old Republic Surety Company
Surety Company


Signature Attorney-in-Fact/Officer

Samantha Spilman
Name of Attorney-in-Fact/Officer

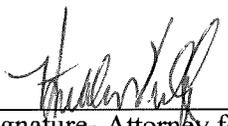
TrueNorth Companies LC
Company Name

500 1st Street SE
Company Address

Cedar Rapids, IA 52401
City, State, Zip Code

319-364-5193
Company Telephone Number

FORM APPROVED BY:


Signature- Attorney for Jurisdiction

NOTE:

1. All signatures on this performance, maintenance & payment bond must be original signatures in ink; copies or facsimile of any signature will not be accepted.
2. This bond must be sealed with the Surety's raised, embossing seal.
3. The Certificate of Power of Attorney accompanying this bond must be valid on its face and sealed with the Surety's raised, embossing seal.
4. The name and signature of the Surety's Attorney-in-Fact/Officer entered on this bond must be exactly as listed on the Certificate or Power of Attorney accompanying this bond.

OLD REPUBLIC SURETY COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

ROBERT L. KOLLSMITH, JACQUELINE K. PETERS, DEBORAH D. HAHN, M LYNN KIMBLE, TIMOTHY J FOLEY, JASON D. SMITH, SAMANTHA SPILMAN, DAVID M. OWEN, JENNIFER LUSE, JAMES M. SMITH, LUKAS SCHRODER, AARON COLLINS, LAURI A MENEUGH, OF CEDAR RAPIDS, IA

its true and lawful Attorney(s)-in-Fact, with full power and authority, for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, asbestos abatement contract bonds, waste management bonds, hazardous waste remediation bonds or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982. This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that, the president, any vice-president, or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER, that the signature of any authorized officer and the seal of the company may be affixed by facsimile to any Power of Attorney or certification there of authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 3RD day of MARCH, 2020.

OLD REPUBLIC SURETY COMPANY

Karen J. Haffner

Assistant Secretary



Alan Pavlic

President

STATE OF WISCONSIN, COUNTY OF WAUKESHA-SS

On this 3RD day of MARCH, 2020, personally came before me, Alan Pavlic and Karen J. Haffner, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say; that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



Kathryn R. Pearson
Notary Public

My commission expires: 9/28/2022

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.

(Expiration of notary commission does not invalidate this instrument)

40-5006

Signed and sealed at the City of Brookfield, WI this 14th day of May, 2020.



Karen J. Haffner

Assistant Secretary

TRUENORTH COMPANIES, L.C.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/14/2020

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

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

PRODUCER Van Gorp Edwards Insurance, LLC 723 Main Street Pella IA 50219		CONTACT NAME: Beth Williams PHONE (A/C, No, Ext): (641) 628-4100 E-MAIL ADDRESS: bwilliams@vangorpins.com FAX (A/C, No): (641) 628-4161	
INSURED LEGACY EXCAVATION, LLC PO BOX 267 JOHNSTON IA 50131		INSURER(S) AFFORDING COVERAGE INSURER A: Secura Insurance INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** CL2042200946 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	TC3322269	04/24/2020	04/24/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRE AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	Y	Y	A3322270	04/24/2020	04/24/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CU3322272	04/24/2020	04/24/2021	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	WC3322271	04/24/2020	04/24/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Leased/Rented Equipment Installation Floater			TC3322269	04/24/2020	04/24/2021	Limit \$300,000 Limit \$500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: RUBY ROSE RIDGE FILE #600-224/254. CITY OF DES MOINES. IT'S ELECTED OFFICIALS, EMPLOYEES, AGENTS &/OR ASSIGNS ARE AN ADDITIONAL INSURED ON A PRIMARY NON-CONTRIBUTORY BASIS; INCLUDING GOVERNMENTAL IMMUNITY ENDORSEMENT; 30 DAY NOTICE OF CANCELLATION; FELLOW EMPLOYEE COVERAGE; WAIVER OF SUBROGATION. PER ATTACHED FORMS- CGE1037, ILE1401, ILE0550, AGL1222 CAE0131, ILE0550, CAT1000, WC000313.

APPROVED

CERTIFICATE HOLDER ENGINEERING DEPARTMENT, CITY OF DES MOINES 400 ROBERT D RAY DR DES MOINES IA 50309		CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 	
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

ADDITIONAL INSURED WRAP

This Endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

A. Additional Insured When Required By Written Agreement

1. Operations Performed For An Additional Insured

WHO IS AN INSURED is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in a written agreement prior to a loss, that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under this provision ends at the earlier of when your operations for that additional insured are completed; or the end of the policy period.

2. Limitations

The Operations Performed For An Additional Insured coverage is limited as follows:

- a. This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.
- b. This insurance does not apply to "bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- c. The Limits of Insurance applicable to the additional insured are those specified in the written agreement or in the Declarations for this policy, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations. If other insurance available to you and written by us is applicable to this additional insured, the maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit under any one coverage form or policy providing coverage on either a primary or excess basis.
- d. This insurance does not apply if the person or organization required to be added as an additional insured is specifically named as an additional insured under any other provision of, or endorsement added to this policy.

B. Additional Insured When Required By Written Agreement – Completed Operations

1. Additional Insured – Completed Operations

WHO IS AN INSURED is amended to include as an additional insured any person or organization, when you and such person or organization have agreed in a written agreement prior to a loss, that such person or organization be added as an additional insured on your policy, but only with respect to "bodily injury" or "property damage" caused, in whole or in part, by "your work" performed for that additional insured and included in the "products-completed operations hazard".

2. Limitations

The Additional Insured - Completed Operations coverage is limited as follows:

- a. This insurance does not apply to "bodily injury" or "property damage" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.
- b. A person or organization's status as an insured under Additional Insured - Completed Operations continues only until the earlier of the end of the policy period; or the period of time required by the written agreement. If no time period is required by the written agreement, a person or organization's status as an additional insured under this endorsement will not apply beyond the lesser of the end of the policy period; or five years from the completion of "your work" on the project which is the subject of the written agreement.
- c. The insurance as provided to the additional insured does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of "your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor-project manager or owner of the construction project in which you are involved.
- d. The Limits of Insurance applicable to the additional insured are those specified in the written agreement or in the Declarations for this policy, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations. If other insurance available to you and written by us is applicable to this additional insured, the maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit under any one coverage form or policy providing coverage on either a primary or excess basis.
- e. The coverage provided to the additional insured by this endorsement and by paragraph f. of the definition of "insured contract" under DEFINITIONS do not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written agreement.
- f. This insurance does not apply if the person or organization required to be added as an additional insured is specifically named as an additional insured under any other provision of, or endorsement added to this policy.

C. Primary And Noncontributory

As respects the coverage provided under this endorsement, the Other Insurance Condition is amended as follows:

The paragraph regarding Excess Insurance is deleted and replaced with the following:

Excess Insurance

This insurance is excess over any other insurance available to the additional insured whether primary, excess, contingent or on any other basis unless the written agreement described in A. and B. above specifically requires that this insurance be either primary or primary and noncontributory. Then this insurance is primary and not contributing with any insurance available to the additional insured which covers that person or organization as a named insured.

D. Waiver Of Transfer Of Rights Of Recovery Against Others To Us

As respects the coverage provided under this endorsement, the Transfer Of Rights Of Recovery Against Others To Us Condition is amended by adding the following:

We waive any right to recover all or part of any payment we have made under this Coverage Part arising out of your ongoing operations or "your work" done under a written agreement requiring such waiver with that person or organization. However, our rights may only be waived prior to the "occurrence" for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

E. Amendment – Aggregate Limits Of Insurance (Per Project)

Under LIMITS OF INSURANCE shown on the Declarations, the General Aggregate Limit applies separately to each of your projects away from the premises owned by you or rented to you. This extension does not apply to the "products-completed operations hazard".

F. Additional Condition

The following condition is added:

Additional Insured Duty To Notify

The additional insured described in A. or B. above must give written notice of loss, including a demand for defense and indemnity, to any other insurer having coverage for the loss under its policies. Such notice must demand full coverage available and the additional insured shall not waive or limit such other available coverage.

This additional condition does not apply to the insurance available to the additional insured which covers that person or organization as a named insured.

All other terms and conditions of this policy not in conflict with the terms and conditions of this Endorsement shall continue to apply.

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.
IOWA GOVERNMENTAL IMMUNITIES ENDORSEMENT

This Endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
GARAGE COVERAGE PART
MOTOR CARRIER COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART

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

SCHEDULE

Governmental Entity:

**Governmental Entity
Address:**

See supplemental form for Schedule

Project:

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

The following Conditions are added with respects to the Governmental Entity and Project shown in the Schedule:

Non-waiver of Government Immunity

We expressly agree and state that the purchase of this policy and the including of the Governmental Entity shown in the Schedule as an Additional Insured do not waive any of the defenses of governmental immunity available to the Governmental Entity shown in the Schedule under Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.

Claims Coverage

We further agree that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.

Assertion of Government Immunity

The Governmental Entity shown in the Schedule shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request by us. Nothing contained in this endorsement shall prevent us from asserting the defense of governmental immunity on behalf of the Governmental Entity shown in the Schedule.

Non-Denial of Coverage

We shall not deny coverage under this policy and we shall not deny any of the rights and benefits accruing to the Governmental Entity shown in the Schedule under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the Governmental Entity shown in the Schedule.

No Other Change in Policy

We and the Governmental Entity shown in the Schedule agree that the above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

All other terms and conditions of this policy not in conflict with the terms and conditions of this endorsement shall continue to apply.

SUPPLEMENTAL FORM DECLARATION FOR ILE 1401 1301

IOWA GOVERNMENTAL IMMUNITIES ENDORSEMENT

SCHEDULE

Governmental Entity:	Governmental Entity Address:	Project:
City of Des Moines Procurement Admin City Hall	400 Robert D Ray Dr, Des Moines, IA 50309	Three Lakes Estates Plat 7

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION ENDORSEMENT

This Endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY
COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

SCHEDULE

Name and address/contact information of Person(s) or Organization(s):

See supplemental form for Schedule

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

The following Condition is added:

Notice Of Cancellation – Scheduled Person(s) or Organization(s)

- a. If we do not renew or cancel this policy, we will send advance written notice to the person(s) or organization(s) as shown in the SCHEDULE. The notice will be delivered by any method we choose, in the applicable timeframe specified in the policy's Cancellation Condition, any amendment to that Condition, or any other statutory timeframe requirements.
- b. Notice provided on this policy shall also apply as notice for any other Commercial Lines insurance policy or coverage part issued to the Named Insured by us.
- c. The notice is intended only to inform the person(s) or organization(s) named in the SCHEDULE in the event of a pending cancellation or non-renewal of coverage. Our failure to provide such advance notification will not:
 - (1) Change any policy cancellation or non-renewal effective date;
 - (2) Negate any cancellation or non-renewal of the policy; or
 - (e) Grant, alter, or extend any rights or obligations under any policy issued by us.

All other terms and conditions of this policy not in conflict with the terms and conditions of this Endorsement shall continue to apply.

SUPPLEMENTAL FORM DECLARATION FOR ILE0550 1101

NOTICE OF CANCELLATION ENDORSEMENT

SCHEDULE

Name of Person(s) or Organization(s)	Address/contact information of Person(s) or Organization(s)
City of Des Moines Procurement Admin City Hall	400 Robert D Ray Dr, Des Moines, IA 50309

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

FELLOW EMPLOYEE COVERAGE

This Endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

SECTION II -- WHO IS AN INSURED is amended as follows:

Paragraphs 2. and 3. are amended to include your "employees", as insureds, while acting within the scope of their employment by you, or performing duties related to the conduct of your business, for "bodily injury" to you or to a fellow "employee" while in the course of his or her employment.

All other terms and conditions of this policy not in conflict with the terms and conditions of this Endorsement shall continue to apply.

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

AUTO ADDITIONAL INSURED WRAP

This endorsement modifies insurance provided under the following:
BUSINESS AUTO COVERAGE FORM

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

A. AUTOMATIC ADDITIONAL INSURED – PRIMARY AND NONCONTRIBUTORY

SECTION II – COVERED AUTOS LIABILITY COVERAGE, subsection A. Coverage, paragraph 1. Who Is An Insured is amended to add:

d. (1) Automatic Additional Insured – Primary And Noncontributory

Any person or organization is an additional insured when you and such person or organization have agreed in writing prior to a loss that such person or organization be added as additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury" or "property damage" resulting from the ownership, maintenance or use of a covered "auto", provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. This insurance is primary and is not contributing with any other insurance carried by the additional insured.

(2) Blanket Lessor Additional Insured Provisions

If the additional Insured is a lessor of a "leased auto";

(a) Coverage

- i. Any "leased auto" that is a covered "auto" will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.

For a covered "auto" that is a "leased auto" Who Is An Insured is changed to include as an "Insured" the lessor.

- ii. The coverages provided under this endorsement apply to any "leased auto" until the policy expiration date, or when the lessor or his or her agent takes possession of the "leased auto", whichever occurs first.

(b) Loss Payable Clause

- i. We will pay, as interest may appear, you and the lessor for "loss" to a "leased auto".
- ii. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.
- iii. If we make any payment to the lessor, we will obtain his or her rights against any other party.

(c) The lessor is not liable for payment of your premiums.

(d) Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that required you to provide direct primary insurance for the lessor.

B. WAIVER -- TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

SECTION IV – BUSINESS AUTO CONDITIONS, subsection A. Loss Conditions, paragraph 5. Transfer Of Rights Of Recovery Against Others To Us is amended to add:

We waive any right of recovery we may have against any person or organization when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be waived from recovery because of payments we make for injury or damage arising out of an "accident" and resulting from the ownership, maintenance or use of a covered "auto". However, our rights may only be waived prior to the "accident" for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION ENDORSEMENT

This Endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE PART
BUSINESS AUTO COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
MOTOR CARRIER COVERAGE PART

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

SCHEDULE

Name and address/contact information of Person(s) or Organization(s):

City of Des Moines
Procurement Admin
City Hall
400 Robert D Ray Dr
Des Moines, IA 50309

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

The following Condition is added:

Notice Of Cancellation – Scheduled Person(s) or Organization(s)

- a. If we do not renew or cancel this policy, we will send advance written notice to the person(s) or organization(s) as shown in the SCHEDULE. The notice will be delivered by any method we choose, in the applicable timeframe specified in the policy's Cancellation Condition, any amendment to that Condition, or any other statutory timeframe requirements.
- b. Notice provided on this policy shall also apply as notice for any other Commercial Lines insurance policy or coverage part issued to the Named Insured by us.
- c. The notice is intended only to inform the person(s) or organization(s) named in the SCHEDULE in the event of a pending cancellation or non-renewal of coverage. Our failure to provide such advance notification will not:
 - (1) Change any policy cancellation or non-renewal effective date;
 - (2) Negate any cancellation or non-renewal of the policy; or
 - (3) Grant, alter, or extend any rights or obligations under any policy issued by us.

All other terms and conditions of this policy not in conflict with the terms and conditions of this Endorsement shall continue to apply.

THIS ENDORSEMENT CHANGES YOUR POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO WRAP

This Endorsement modifies insurance provided under the following:
BUSINESS AUTO COVERAGE FORM

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

COORDINATION OF LIMITS FOR PHYSICAL DAMAGE COVERAGES – The following Condition applies in addition to the Common Policy Conditions.

If other specific insurance is written by us covering the same loss or damage provided by Items G, H, I, J, M, or N of this Endorsement, we will pay only for the amount of covered loss or damage in excess of the limits provided by that other specific insurance. We will not pay more than the actual loss, or applicable combined limits of insurance, whichever is less.

A. NON-OWNED LIGHT "TRAILERS"

SECTION I - COVERED AUTOS; C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos is amended by adding:

Any "trailers" with a load capacity of 5,000 pounds or less, you do not own; and use with the permission of the owner; while towed by a covered "auto".

B. BROAD FORM INSURED

SECTION II – LIABILITY COVERGE; A. Coverage; 1. Who Is An Insured is amended to add:

Any subsidiary company as formed or constituted as of the effective date of this policy, and any other company over which the first Named Insured has active control so long as the first Named Insured or any subsidiary company owns in excess of 50 percent of the stock of such company.

Any organization that is acquired or formed by you and over which you maintain majority ownership. However, "insured" does not include any newly formed or acquired organization:

- (1) That is a joint venture or partnership;
- (2) That is an "insured" under any other policy;
- (3) That has exhausted its Limits of Insurance under any other policy; or
- (4) 180 days or more after its acquisition or formation by you, unless you have given us notice.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

C. EMPLOYEE HIRED AUTOS

SECTION II – LIABILITY COVERGE; A. Coverage; 1. Who Is An Insured is amended to add:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

SECTION IV – BUSINESS AUTO CONDITIONS; B. General Conditions; 5. Other Insurance; paragraph b. is deleted and replaced with the following:

- b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:
- (1) Any covered "auto" you lease, hire, rent or borrow; and
 - (2) Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

SECTION II – LIABILITY COVERAGE; A. Coverage; 1. Who Is An Insured is amended by adding:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS INCREASED LIMITS

SECTION II – LIABILITY COVERAGE; A. Coverage; 2.; Coverage Extensions; a. Supplementary Payments; paragraphs (2) and (4) are amended as follows:

(2) The limit for cost of bail bonds is increased to \$2,500

(4) The limit for loss of earnings is increased to \$500 a day.

F. LIMITED FELLOW EMPLOYEE COVERAGE

SECTION II – LIABILITY COVERAGE; B. Exclusions; 5. Fellow Employee is amended by adding the following:

This exclusion does not apply if:

(1) the "bodily injury" results from the use of a covered "auto" you own or hire, and

(2) the fellow "employee" is not immune from "suit" or civil liability for the "bodily injury".

Coverage is excess over any other collectible insurance.

G. TRANSPORTATION EXPENSES

SECTION III – PHYSICAL DAMAGE COVERAGE; A. Coverage; 4. Coverage Extensions; a. Transportation Expenses is amended to provide a limit of up to \$100 per day to a maximum limit of \$ 2,500 for temporary transportation expense.

H. LOSS OF USE EXPENSES

SECTION III – PHYSICAL DAMAGE COVERAGE; A. Coverage; 4. Coverage Extensions; b. Loss Of Use Expenses is amended to provide a limit of \$50 per day to a maximum limit of \$ 1,000.

I. RENTAL REIMBURSEMENT

SECTION III – PHYSICAL DAMAGE COVERAGE; A. Coverage; 4. Coverage Extensions is amended to add:

Rental Reimbursement Coverage

(1) This provision applies only to a covered "auto" described or designated in the Schedule for which you carry either Collision or Comprehensive Coverages.

(2) We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto". No deductibles apply to this coverage.

(3) We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:

(a) The number of days reasonably required to repair or replace the covered "auto".

(b) Thirty (30) days.

(4) Our payment is limited to the lesser of the following amounts:

(a) Necessary and actual expenses incurred.

(b) \$50 to "any one day" or \$1,500 to "any one period."

(5) This coverage does not apply while there are spare or reserve "autos" available to you for your operations.

(6) If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under the Transportation Expenses Coverage Extension.

Theft – Extra Expense

We will pay for the expense of returning a stolen covered "auto" to you.

J. HIRED AUTO PHYSICAL DAMAGE

SECTION III – PHYSICAL DAMAGE COVERAGE; A. Coverage; 4. Coverage Extensions is amended to add:

Hired Auto Physical Damage

If Comprehensive or Collision coverages are provided under this policy for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you lease, hire, rent or borrow without a driver. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

The most we will pay for any one "accident" or "loss" is \$50,000 or the Actual Cash Value or Cost of Repair, whichever is less. Subject to the above limit and SECTION IV – BUSINESS AUTO CONDITIONS; B. General Conditions; 5. Other Insurance, we will provide coverage equal to the broadest coverage applicable to any covered "auto" shown in the Declarations.

For each hired "auto", the limit above shall be reduced by a \$500 deductible.

K. PERSONAL EFFECTS FROM STOLEN COVERED AUTO

SECTION III – PHYSICAL DAMAGE COVERAGE; A. Coverage; 4. Extensions Of Coverage is amended to add:

Personal Effects From Stolen Covered Auto

We will pay up to \$500 in any one occurrence for "loss" to wearing apparel and other "personal effects" which are:

- a. Owned by an "insured", and
- b. In or on your covered "auto".

For purpose of this additional coverage, "personal effects" refers to property that is ordinarily worn or carried by the person, but does not include GPS navigation devices.

This coverage applies only in the event of a total theft of your covered "auto" to which Comprehensive coverage applies. No deductible applies to this coverage.

L. AIRBAG DISCHARGE COVERAGE

SECTION III – PHYSICAL DAMAGE COVERAGE; B. Exclusions; paragraph 3. is deleted and replaced with the following:

3. We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:
 - a. Wear and tear, freezing, mechanical or electrical breakdown. This exclusion does not apply to the accidental discharge of an airbag.
 - b. Blowouts, punctures or other road damage to tires.

M. MOBILE RADIOS, TELEPHONES, DATA, VIDEO AND SOUND RECEIVING EQUIPMENT

SECTION III – PHYSICAL DAMAGE COVERAGE; B. Exclusions; paragraph 4.c. is amended by adding:

This exclusion does not apply to any equipment that is permanently installed in a covered "auto" up to an aggregate limit of \$10,000.

N. AUTO LOAN OR LEASE GAP COVERAGE

SECTION III – PHYSICAL DAMAGE COVERAGE; C. Limit Of Insurance is amended to add:

Auto Loan or Lease Gap Coverage

In the event of a total "loss" to a covered "auto" of the private passenger type, including pick-up trucks or vans up to 10,000 pounds gross vehicle weight, we will pay any unpaid amount due on the lease or loan for the original purchase of a covered "auto", less:

- a. The amount paid under the Physical Damage Coverage Section of the policy; and

b. Any:

- (1) Overdue lease/loan payments and financial penalties associated with those payments at the time of the "loss";
- (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (3) Nonrefundable security deposits;
- (4) All refunds paid or payable to you as a result of the early termination of the lease agreements;
- (5) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (6) Carry-over balances from previous loans or leases.

This coverage will only apply when no provision for this or similar coverage is included in the original lease or loan agreement written on the covered "auto".

O. DEDUCTIBLE AMENDMENT

SECTION III – PHYSICAL DAMAGE COVERAGE; D. Deductible is amended to add:

Glass Repair

No deductible applies to glass damage if the glass is repaired instead of replaced.

Two Or More Deductibles

If two or more policies or coverage forms written by us apply to the same "accident", the following applies:

- (1) If the total of the deductible(s) applied under SECTION III – PHYSICAL DAMAGE COVERAGE of this Business Auto Coverage Form is the smaller (or smallest) deductible, we will not apply any deductible to Physical Damage Coverage under this Business Auto Coverage Form.
- (2) If the total of the deductible(s) applied under SECTION III – PHYSICAL DAMAGE COVERAGE of this Business Auto Coverage Form is not the smaller (or smallest) applicable deductible, we will reduce the total of the deductible(s) applied under SECTION III – PHYSICAL DAMAGE COVERAGE by the amount of the smaller (or smallest) deductible.

This provision does not apply if both policies or coverage forms are automobile policies or automobile coverage forms written by us.

P. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

SECTION IV – BUSINESS AUTO CONDITIONS; A. Loss Conditions; 2. Duties In The Event Of Accident, Claim, Suit Or Loss; paragraph a. is amended to add:

This applies only when the "accident", "claim", "suit", or "loss" is known to:

- (1) You, if you are an individual;
- (2) Any partner or insurance manager if you are a partnership;
- (3) An executive officer or insurance manager, if you are a corporation;
- (4) Your members, managers or insurance manager, if you are a limited liability company; or
- (5) Your officials, trustees, board members, or insurance manager, if you are a not-for-profit organization.

Q. UNINTENTIONAL FAILURE TO DISCLOSE

SECTION IV – BUSINESS AUTO CONDITIONS; A. Loss Conditions is amended to add:

Unintentional Failure To Disclose

Any unintentional error or omission in the description of, or failure to completely describe, any exposures or hazards intended to be covered by this Business Auto Coverage Form will not invalidate or affect coverage for those exposures or hazards. However, you must report such error or omission to us as soon as practicable after its discovery.

All other terms and conditions of this policy not in conflict with the terms and conditions of this Endorsement shall continue to apply.

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WC 00 03 13

(Ed. 4-84)

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

State	Entity Name	Contract or Project Number	Description of Work	Waiver Premium	Waiver Type
IA	Engineering Department, City of Des Moines, City Hall 400 Robert D Ray Dr Des Moines, IA 50309			\$100	SPECIFIC

This endorsement changes the policy to which it is attached effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

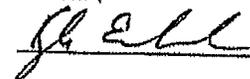
Endorsement Effective 04/24/2020 Policy No. 20-WC-003322271-0 Endorsement No. 000

Insured Legacy Excavation LLC

Premium \$

Insurance Company

Countersigned by



SECURA INSURANCE, A Mutual Company

WC 00 03 13

(Ed. 4-84)

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