

DATE June 22, 2020

APPROVING PRIVATE CONSTRUCTION CONTRACT BETWEEN  
STERNQUIST CONSTRUCTION INC. AND  
HRC GROVER WOODS, LLC  
FOR PAVING IMPROVEMENTS IN GROVER WOODS PLAT 1  
\$199,636.00

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 \$199,636.00 between Sternquist Construction Inc., Britt Sternquist, President, 1110 N. 14th Street, Indianola, IA, 50125 - as Contractor, and HRC Grover Woods, LLC, 6900 Westown Parkway, West Des Moines, IA - as Owner, for construction of paving Improvements described as paving improvements to serve Grover Woods Plat 1, as shown on Plan File Numbers 618-153/176., 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**

**Agenda Item Number**

11 A

DATE June 22, 2020

Activity ID: 06-2020-100

Moved by \_\_\_\_\_ to adopt.

FORM APPROVED:

*s/Kathleen Vanderpool*

Kathleen Vanderpool  
Deputy City Attorney

*SLW* Funding Source: All project costs are to be paid by the Owner(s), HRC Grover Woods, LLC

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

MOTION CARRIED APPROVED

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.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



**PRIVATE CONSTRUCTION CONTRACT**

THIS PRIVATE CONSTRUCTION CONTRACT (hereinafter "Contract"), made and entered into on the 15th day of May 2020, by and between Sternquist Construction, Inc, (hereinafter called the "Contractor"), and HRC Grover Woods, 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 Contactor 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 Grover Woods Plat 1, located at E. 44th and Hubbell Avenue as shown on Plat File Numbers 618-153/176.

In accordance with Plan File Numbers 618-153/176

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 20-0737<sup>1</sup>, as further revised by the City of Des Moines General Supplemental Specifications<sup>2</sup> to the SUDAS Standard Specification, 2020 Edition, all special provisions included in said Contract Documents and all applicable laws, regulations and codes.

<sup>1</sup> 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/>.

<sup>2</sup> [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](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 July 1st, 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 December 15th, 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 One Hundred Ninety Nine Thousand, Six Hundred Thirty Six Dollars and 00/100 dollars (\$ 199,636.00 ), 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 \$ 199,636.00

Administrative Fee: \$900.00 \$ 900.00

Inspection and Testing Fee:

- 6% of first \$30,000 of paving construction cost \$ 1800.00

- 2% of the remaining paving construction cost over \$30,000 \$ 3392.72

**Total Paving Fee:** \$ 6092.72

**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.

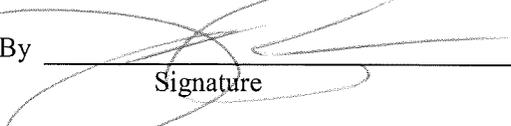
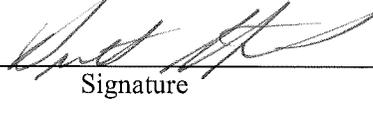
#### **I. NPDES PERMIT AND STORM WATER POLLUTION PREVENTION PLAN REQUIREMENTS**

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:
- C. [https://www.dsm.city/document\\_center/Engineering%20and%20Traffic%20Forms%20and%20Documents/ENG-Regulations/Tree%20Protection%20SS%2003-24-2017%20Current%20Version.pdf?pdf=Tree%20Protection%20Specification&t=1578589324911](https://www.dsm.city/document_center/Engineering%20and%20Traffic%20Forms%20and%20Documents/ENG-Regulations/Tree%20Protection%20SS%2003-24-2017%20Current%20Version.pdf?pdf=Tree%20Protection%20Specification&t=1578589324911).

IN WITNESS WHEREOF, the Parties hereto have caused this Instrument to be executed in four (4) original counterparts as of the day and year first above written.

OWNER	CONTRACTOR
HRC Grover Woods, LLC Owner's Name	Sternquist Construction, Inc. Contractor's Name
By  Signature	By  Signature
Joe Pietruszynski Printed Name	Britt Sternquist Printed Name
Vice President Title	Owner Title
6900 Westown Parkway Address	1110 N 14th Street Address
West Des Moines, IA 50266 City, State, Zip Code	Indianola, IA 50125 City, State, Zip Code
515-243-3228 Telephone Number	515-961-8127 Telephone Number
joe@hubbellrealty.com Email Address	bsternquist@sternquistconstruction.com Email Address
Type or print the name and title of the company's owner, president, CEO, etc. if a different person than entered above.	Type or print the name and title of the company's owner, president, CEO, etc. if a different person than entered above.
Rick Tollakson Name	 Name
CEO Title	 Title

**CONTRACTOR IDENTIFICATION INFORMATION To Be Provided By:**

1. All Contractors: Contractor's public registration number issued by the Iowa Commissioner of Labor pursuant to Section 91C.5 of the Iowa Code: CO94671.
2. Out-of-State Contractors: Contractor's Bond (State of Iowa, Division of Labor, Out-of-State Contractor Project Bond) pursuant to Section 91C.7 of the Iowa Code  
 Bond No: \_\_\_\_\_  
 Name of Surety: \_\_\_\_\_

**NOTE:** All signatures on this contract must be original signatures in ink; copies or facsimile of any signature will not be accepted.

**ATTACHMENT A**

In accordance with Article II: Scope of Work, the Quantity of work to be done is estimated on this Private Construction Contract Attachment A as listed below.

In accordance with Article IV: The Contract Sum is the compensation to be paid by the Owner to the Contractor.

- If the Contractor is to be paid based upon a lump sum price, this amount should be entered on the Contract and only the Item Number, Description, and Quantity of the work as shown on the construction plans need to be listed below.
- If the Contractor is to be paid based upon the total amount of the actual quantities constructed instead of based upon a lump sum price, then the Item Number, Description, and Estimated Quantities of work as shown on the construction plans as well as the Unit Prices, and Total Prices are to be listed below, and the total contract sum should be entered in the space provided for the contract sum on the Contract.

Item No.	Description	Quantity	Unit Price	Total Price
1	7" PCC Pavement	4252	43.00	182,836.00
2	4" PCC Sidewalk	175	42.00	7,350.00
3	6" PCC Ramp	65	90.00	5,850.00
4	Detectable Warning Panels	90	50.00	3,600.00
<b>TOTAL CONTRACT SUM:</b>				<b>199,636.00</b>

OWNER'S CORPORATE ACKNOWLEDGEMENT

State of \_\_\_\_\_ )

) SS

\_\_\_\_\_ County )

On this \_\_\_\_ day of May \_\_\_\_\_, 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

Dallas County )

On this 15th day of May, 20<sup>20</sup>, before me a Notary Public in and for said county, personally appeared Joe Pietruszynski, to me personally know, who being by me duly sworn did say that person is Vice President of said HRC Grover Woods, LLC, that (the seal affixed to said instrument is the seal of said OR no seal has been procured by the said) HRC Grover Woods, LLC, and that said instrument was signed and sealed on behalf of the said HRC Grover Woods, LLC, by authority of its managers and the said Joe Pietruszynski acknowledged the execution of said instrument to be the voluntary act and deed of said HRC Grover Woods, LLC, by it voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_  
My commission expires \_\_\_\_\_

CONTRACTOR'S CORPORATE ACKNOWLEDGEMENT

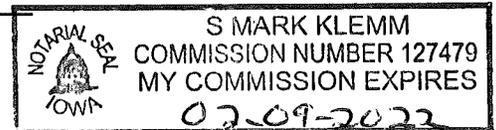
State of IA )

) SS

POLK County )

On this 15th day of May, 2020, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Britt Sternquist and \_\_\_\_\_, to me known, who, being by me duly sworn, did say that they are the Owner \_\_\_\_\_, 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 Britt Sternquist and \_\_\_\_\_ acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

S. Mark Klemm  
Notary Public in and for the State of Iowa  
My commission expires 02-09-2022



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 \_\_\_\_\_ )

) SS

\_\_\_\_\_ County )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me a Notary Public in and for said county, personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn did say that person is \_\_\_\_\_ of said \_\_\_\_\_, that (the seal affixed to said instrument is the seal of said OR no seal has been procured by the said) \_\_\_\_\_, and that said instrument was signed and sealed on behalf of the said \_\_\_\_\_, by authority of its managers and the said \_\_\_\_\_ acknowledged the execution of said instrument to be the voluntary act and deed of said \_\_\_\_\_, by it voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_  
My commission expires \_\_\_\_\_



**PERFORMANCE, PAYMENT & MAINTENANCE BOND**  
**FOR PRIVATE CONSTRUCTION CONTRACTS**

KNOW ALL MEN BY THESE PRESENTS:

That we, Sternquist Construction, Inc., as Principal (hereinafter the "Contractor" or "Principal") and Merchants Bonding Company (Mutual), 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 One Hundred Ninety-nine Thousand Six Hundred Thirty-six And No/100 dollars (\$ \$199,636.00), 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 HRC Grover Woods, LLC (hereinafter the "Owner"), bearing date the 15th day of May, 2020, (hereinafter the "Contract") wherein said Contractor undertakes and agrees to construct the following described improvements:

**Paving Improvements to serve Grover Woods Plat 1, located at E. 44th and Hubbell Avenue as shown on Plat File Numbers 618-153/176**

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 20th day of May, 2020.

**PRINCIPAL:**

Sternquist Construction, Inc.  
Contractor

By *[Signature]*  
Signature

*PRESIDENT*  
Title

**FORM APPROVED BY:**

---

Attorney for Jurisdiction

**SURETY:**

Merchants Bonding Company (Mutual)  
Surety Company

*[Signature]*  
Signature Attorney-in-Fact/Officer

Dione R. Young, Attorney-in-Fact  
Name of Attorney-in-Fact/Officer

Holmes, Murphy and Associates, LLC  
Company Name

2727 Grand Prairie Parkway  
Company Address

Waukee, IA 50263  
City, State, Zip Code

(515) 223-6800  
Company Telephone Number

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.

**MERCHANTS**  
**BONDING COMPANY™**  
**POWER OF ATTORNEY**

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

**Dione R. Young**

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof 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 fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 5th day of March, 2020.

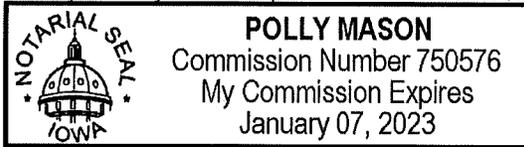


MERCHANTS BONDING COMPANY (MUTUAL)  
MERCHANTS NATIONAL BONDING, INC.

By *Larry Taylor*  
President

STATE OF IOWA  
COUNTY OF DALLAS ss.

On this 5th day of March, 2020, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



*Polly Mason*

Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 20th day of May, 2020.



*William Warner Jr.*

Secretary



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/21/2020

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 Holmes Murphy & Assoc - WDM PO Box 9207 Des Moines, IA 50306-9207	1-800-247-7756	CONTACT NAME: Lisa Johnson PHONE (A/C No. Ext): E-MAIL ADDRESS: ljohnson@holmesmurphy.com	FAX (A/C No): 515-221-8765
INSURED Sternquist Construction, Inc 1110 N 14th Street Indianola, IA 50125		INSURER(S) AFFORDING COVERAGE	
		INSURER A: UNITED FIRE & CAS CO	NAIC # 13021
		INSURER B: LAFAYETTE INS CO	18295
		INSURER C: NAVIGATORS SPECIALTY INS CO	36056
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES CERTIFICATE NUMBER: 59295381 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"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:			60429025	04/01/20	04/01/21	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			60429025	04/01/20	04/01/21	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			60429025	04/01/20	04/01/21	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	30303590	04/01/20	04/01/21	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Inland Marine			60429025	04/01/20	04/01/21	Leased/Rented Equi 175,000
A	Property			60429025	04/01/20	04/01/21	Building & PP 1,337,800
C	Pollution			SF20ECEPU00028NC	04/01/20	04/01/21	Limit Liability 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Paving Improvements to serve Grover Woods Plate 1, located at E. 44th and Hubbell Avenue as shown on Plat File Numbers 618-153/176. Governmental Immunities Endorsement applies in favor of the city of the City of Des Moines on the General Liability and Automobile policies if required by written contract. Additional insured status is provided on a primary and non-contributory basis if required by written contract.

Waiver of subrogation applies in favor of the additional insureds on the general liability, automobile, and workers comp policies if required by written contract. Umbrella is follow form for additional insured and waiver of subrogation.

CERTIFICATE HOLDER	APPROVED	CANCELLATION
City of Des Moines 400 Robert D. Ray Drive Des Moines, IA 50309 USA	MAY 21 2020 CITY OF DES MOINES ENGINEERING DEPARTMENT	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 <i>Steven J. P... ..</i>

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CITY OF DES MOINES, IOWA  
ADDITIONAL INSURED ENDORSEMENT**

This endorsement modifies insurance provided under the following:

- BUSINESS AUTO COVERAGE FORM
- GARAGE COVERAGE FORM

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

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

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

The City of Des Moines, Iowa, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees, and volunteers, are included as "insureds" for Liability Coverage, but only to the extent that such person(s) or organizations(s) qualifies as an "insured" under the Who Is An Insured Provision contained in Section II of the Coverage Form.

**CITY OF DES MOINES, IOWA  
GOVERNMENTAL IMMUNITIES ENDORSEMENT**

*(For use when including the City as an Additional Insured)*

1. Nonwaiver of Government Immunity. The insurance carrier expressly agrees and states that the purchase of this policy and the including of the City of Des Moines, Iowa as an Additional Insured does not waive any of the defenses of governmental immunity available to the City of Des Moines, Iowa under Code of Iowa Section 670 as it now exists and as it may be amended from time to time.
2. Claims Coverage. The insurance carrier further agrees 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 as it now exists and as it may be amended from time to time.
3. Assertion of Government Immunity. The City of Des Moines, Iowa 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 of the insurance carrier. Nothing contained in this endorsement shall prevent the carrier from asserting the defense of governmental immunity on behalf of the City of Des Moines, Iowa.



0201

04-01-2018

POLICY NUMBER:

30303590

WORKERS COMPENSATION AND EMPLOYERS LIABILITY SUPPLEMENTAL DECLARATIONS

Premium Basis Total Estimated Annual Remuneration	Rate Per \$100 of Remuneration	Estimated Annual Premium
---	--------------------------------------	--------------------------------

CONTINUED

4. THE PREMIUM FOR THIS POLICY WILL BE DETERMINED BY OUR MANUALS OF RULES, CLASSIFICATIONS, RATES AND RATING PLANS. ALL INFORMATION REQUIRED BELOW IS SUBJECT TO VERIFICATION AND CHANGE BY AUDIT.

BLANKET WAIVER OF SUBROGATION - FORM WC000313

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 ANY PERSON OR ORGANIZATION WITH WHOM THE INSURED HAS AGREED, IN A WRITTEN CONTRACT OR AGREEMENT EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT THIS RIGHT WILL BE WAIVED FOR WORK PERFORMED BY YOU FOR THAT PERSON OR ORGANIZATION.

THIS AGREEMENT SHALL NOT OPERATE DIRECTLY OR INDIRECTLY TO BENEFIT ANY ONE NOT SPECIFICALLY IDENTIFIED IN A QUALIFYING CONTRACT OR AGREEMENT.

CONTINUED ON WC-25



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## BUSINESS AUTO ULTRA ENDORSEMENT

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

### COVERAGE INDEX

DESCRIPTION	PAGE
Temporary Substitute Auto Physical Damage	2
Broad Form Insured	2
Employee as Insureds	2
Additional Insured Status by Contract, Agreement or Permit	2
Bail Bond Coverage	3
Loss of Earnings Coverage	3
Amended Fellow Employee Coverage	3
Towing and Labor	3
Physical Damage Additional Transportation Expense Coverage	3
Extra Expense - Theft	3
Rental Reimbursement and Additional Transportation Expense	4
Personal Effects Coverage	4
Personal Property of Others	4
Locksmith Coverage	4
Vehicle Wrap Coverage	5
Airbag Accidental Discharge	5
Audio, Visual and Data Electronic Equipment Coverage	5
Auto Loan/Lease Total Loss Protection	5
Glass Repair - Deductible Amendment	5
Amended Duties in the Event of Accident, Claim, Suit or Loss	6
Waiver of Subrogation Required by Contract	6
Unintentional Failure to Disclose	6
Hired, Leased, Rented or Borrowed Auto Physical Damage	6
Mental Anguish	7
Extended Cancellation Condition	7

The COVERAGE INDEX set forth above is informational only and grants no coverage.

Terms set forth in *(Bold Italics)* are likewise for information only and by themselves shall be deemed to grant no coverage.

**C. BROADENED SUPPLEMENTARY PAYMENTS**

**SECTION II. LIABILITY A. Coverage 2. Coverage Extensions a. Supplementary Payments (2) and (4) are replaced by the following:**

**(Bail Bond Coverage)**

- (2) Up to \$5,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.

**(Loss of Earnings Coverage)**

- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earning up to \$500 a day because of time off from work.

**(Amended Fellow Employee Exclusion)**

**D. AMENDED FELLOW EMPLOYEE EXCLUSION**

Only with respect to your "employees" who occupy positions which are supervisory in nature, **SECTION II. LIABILITY B. Exclusion 5: Fellow Employee** is replaced by:

**5. Fellow Employee**

"Bodily Injury":

- a. To you, or your partners or members (if you are a partnership or joint venture), or to your members (if you are a limited liability company);
- b. To your "executive officers" and directors (if you are an organization other than a partnership, joint venture, or limited liability company) but only with respect to performance of their duties as your officers or directors;
- c. For which there is an obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph a and b above; or
- d. Arising out of his or her providing or failing to provide professional health care services.

For purposes of this endorsement, a position is deemed to be supervisory in nature if that person performs principle work which is substantially different from that of his or her subordinates and has authority to hire, transfer, direct, discipline or discharge.

**E. BROADENED PHYSICAL DAMAGE COVERAGES**

**SECTION III - PHYSICAL DAMAGE COVERAGE A. Coverage is amended as follows:**

**(Towing and Labor)**

**2. Towing** is deleted and replaced with the following:

**2. Towing and Labor**

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" is disabled:

- a. For private passenger type vehicles we will pay up to \$100 per disablement.
- b. For all other covered "auto's" we will pay up to \$500 per disablement.

However, the labor must be performed at the place of disablement.

**(Physical Damage Additional Transportation Expense Coverage)**

**4. Coverage Extensions**

- a. **Transportation Expenses** is amended to provide the following limits:

We will pay up to \$60 per day to a maximum of \$1,800. All other terms and provisions of this section remain applicable.

The following language is added to **4. Coverage Extensions**:

**(Extra Expense - Theft)**

- c. **Theft Recovery Expense**

If you have purchased Comprehensive Coverage on an "auto" that is stolen, we will pay the expense of returning that stolen auto to you. The limit for this coverage extension is \$5,000.

*(Vehicle Wrap Coverage)*

**h. Vehicle Wrap Coverage:**

If you have Comprehensive or Collision coverage on an "auto" that is a total loss, in addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

*(Airbag Accidental Discharge)*

**F. SECTION III – PHYSICAL DAMAGE COVERAGE – B. Exclusions** is amended at 3. to include the following language:

If you have purchased Comprehensive or Collision Coverage under this policy, this exclusion does not apply to mechanical breakdown relating to the accidental discharge of an air bag. This coverage applies only to a covered auto you own and is in excess of any other collectible insurance or warranty. No deductible applies to this coverage.

**G. BROADENED LIMITS OF INSURANCE**

*(Audio, Visual and Data Electronic Equipment Coverage)*

**SECTION III – PHYSICAL DAMAGE COVERAGE – C. Limit of Insurance** at 1.b. is amended to provide the following limits:

b. Limits of \$1,000 per "loss" is increased to \$5,000 per "loss". All other terms and provisions of this section remain applicable.

*(Auto Loan/Lease Total Loss Protection)*

**SECTION III – PHYSICAL DAMAGE COVERAGE – C. Limit of Insurance** is amended by adding the following language:

4. In the event of a total "loss" to a covered "auto" shown in the Schedule pages, subject at the time of the "loss" to a loan or lease, we will pay any unpaid amount due including, up to a maximum of \$500 for early termination fees or penalties on the lease or loan for 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 at the time of the "loss";

(2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;

(3) Security deposits not returned by the lessor;

(4) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and

(5) Carry-over balances from previous loans or leases.

*(Glass Repair – Deductible Amendment)*

**H. GLASS REPAIR – DEDUCTIBLE**

**SECTION III – PHYSICAL DAMAGE COVERAGE – D. Deductible** is amended by adding the following:

Any deductible shown in the Declarations as applicable to the covered "auto" will not apply to glass breakage if the damaged glass is repaired, rather than replaced.

Minus a \$500 deductible. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss. No deductible applies to "loss" caused by fire or lightning.

(3) This Hired Auto Physical Damage coverage is excess over any other collectible insurance.

(4) Definitions For This Section

- (a) Comprehensive Coverage: from any cause except the covered "auto's" collision with another object or the covered "auto's" overturn. We will pay glass breakage, "loss" caused by hitting a bird or animal and, "loss" caused by falling objects or missiles.
- (b) Collision Coverage: caused by the covered "auto's" collision with another object or by the covered "auto's" overturn.

*(Mental Anguish)*

**M. MENTAL ANGUISH.**

Under SECTION V - DEFINITIONS, C. is replaced by the following:

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including mental anguish or death resulting from bodily injury, sickness, or disease.

*(Extended Cancellation Condition)*

**N. EXTENDED CANCELLATION CONDITION.**

Under CANCELLATION, of the COMMON POLICY CONDITIONS form, item 2.b. is replaced by the following:

- b. 60 days before the effective date of cancellation if we cancel for any other reason.

60#29025

## ENDORSEMENT

SPEC END P  
(0000)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY:  
ADDITIONAL INSURED PRIMARY & NONCONTRIBUTORY COVERAGE

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:  
BUSINESS AUTO COVERAGE FORM, GARAGE COVERAGE FORM, MOTOR CARRIER COVERAGE

UNDER SECTION 11 LIABILITY COVERAGE, WHO IS AN INSURED IS CHANGED TO  
INCLUDE AS AN "INSURED" THE PERSON OR ORGANIZATION NAMED BELOW. THIS  
ADDITIONAL INSURED ENDORSEMENT ONLY APPLIES WHEN THE PERSON OR ORGANIZATION  
SHOWN BELOW IS HELD LIABLE FOR THE CONDUCT OF THE "INSURED" AND THEN ONLY  
TO THE EXTENT OF THAT LIABILITY.

FOR ANY COVERED "AUTO" YOU OWN THIS COVERAGE FORM PROVIDES PRIMARY COVERAGE  
AND IS NOT CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY THE ADDITIONAL  
INSURED IF YOU AGREED IN WRITING IN A CONTRACT OR AGREEMENT THAT SUCH  
PERSON OR ORGANIZATION BE ADDED AS ADDITIONAL INSURED ON YOUR POLICY.  
THIS ENDORSEMENT DOES NOT EXTEND OR ALTER ANY OTHER CONDITION OR LIMIT  
UNDER THIS POLICY.

CITY OF DES MOINES  
400 ROBERT D RAY DR DES MOINES IA 50309

All other terms, conditions, limitations and agreements of the policy remain unchanged.

SPEC END P  
(0000)

\*45024570\*



0101 60429025  
STERNQUIST CONSTRUCTION INC

UW 17 30 02 11  
16-3024  
MOLMES MURPHY & ASSOCS

**NOTIFICATION ENDORSEMENT  
FOR  
CANCELLATION/NON-RENEWAL OF  
MATERIAL CHANGE IN COVERAGE**

THIS ENDORSEMENT SUPPLEMENTS THE TERMS OF THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTO  
GENERAL LIABILITY

1. If the Schedule below indicates "Cancellation/Non-Renewal Notification", we agree to provide written notice to the person(s) or organization(s) shown in the Schedule due to a cancellation or non-renewal of the policy to which this form is endorsed. The number of days' notice we will provide is indicated in the Schedule.
2. If the Schedule below indicates "Material Change in Coverage Notification", we agree to provide written notice to the person(s) or organization(s) shown in the Schedule due to a material change in the policy to which this form is endorsed. For purposes of this endorsement a material change is a change:
  - a. that is initiated by us; and
  - b. in which the First Named Insured is provided written notification by us.

The number of days' notice we will provide is indicated in the Schedule.

**SCHEDULE**

**Name of Person(s) or Organization(s) and Mailing Address:**

CITY OF DES MOINES  
400 ROBERT D RAY DR  
DES MOINES IA 50309-1813

Cancellation/Non-renewal Notification, Number of Days: 30

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

UW 17 30 02 11 /ACL

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****CITY OF DES MOINES, IOWA  
ADDITIONAL INSURED ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

The City of Des Moines, Iowa, including all its elected and appointed officials, all its employees and volunteers; all its boards, commissions and/or authorities and their board members, employees, and volunteers; are included as Additional Insureds with respect to liability arising out of the Insured's work and/or services performed for the City of Des Moines, Iowa. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage be primary, contributing or excess.

**CITY OF DES MOINES, IOWA****GOVERNMENTAL IMMUNITIES ENDORSEMENT  
(For use when including the City as an Additional Insured)**

1. Nonwaiver of Government Immunity. The insurance carrier expressly agrees and states that the purchase of this policy and the including of the City of Des Moines, Iowa as an Additional Insured does not waive any of the defenses of governmental immunity available to the City of Des Moines, Iowa under Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.
2. Claims Coverage. The insurance carrier further agrees 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.
3. Assertion of Government Immunity. The City of Des Moines, Iowa 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 of the insurance carrier. Nothing contained in this endorsement shall prevent the carrier from asserting the defense of governmental immunity on behalf of the City of Des Moines, Iowa.
4. Non-Denial of Coverage. The insurance carrier shall not deny coverage under this policy and the insurance carrier shall not deny any of the rights and benefits accruing to the City of Des Moines, Iowa 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 City of Des Moines, Iowa.



**EXTENDED ULTRA LIABILITY PLUS ENDORSEMENT  
COMMERCIAL GENERAL LIABILITY EXTENSION ENDORSEMENT SUMMARY OF COVERAGES**

This is a summary of the various additional coverages and coverage modifications provided by this endorsement. No coverage is provided by this summary.

- \* Extended Property Damage
- \* Expanded Fire Legal Liability to include Explosion, Lightning and Sprinkler Leakage
- \* Coverage for non-owned watercraft is extended to 51 feet in length
- \* Property Damage - Borrowed Equipment
- \* Property Damage Liability - Elevators
- \* Coverage D - Voluntary Property Damage Coverage  
\$5,000 Occurrence with a \$10,000 Aggregate
- \* Coverage E - Care, Custody and Control Property Damage Coverage  
\$25,000 Occurrence with a \$100,000 Aggregate - \$500 Deductible
- \* Coverage F - Electronic Data Liability Coverage - \$50,000
- \* Coverage G - Product Recall Expense  
\$25,000 Each Recall Limit with a \$50,000 Aggregate - \$1,000 Deductible
- \* Coverage H - Water Damage Legal Liability - \$25,000
- \* Coverage I - Designated Operations Covered by a Consolidated (Wrap-Up) Insurance Program - Limited Coverage
- \* Increase in Supplementary Payments: Bail Bonds to \$1,000
- \* Increase in Supplementary Payments: Loss of Earnings to \$500
- \* For newly formed or acquired organizations, - extend the reporting requirement to 180 days
- \* Broadened Named Insured
- \* Automatic Additional Insured - Owners, Lessees or Contractors - Automatic Status When Required in Construction Agreement With You - Including Upstream Parties
- \* Contractors Blanket Additional Insured - Products - Completed Operations Coverage - Including Upstream Parties
- \* Automatic Additional Insured - Vendors
- \* Automatic Additional Insured - Lessor of Leased Equipment Automatic Status When Required in Lease Agreement With You
- \* Automatic Additional Insured - Managers or Lessor of Premises
- \* Additional Insured - Engineers, Architects or Surveyors Not Engaged by the Named Insured
- \* Additional Insured - State or Governmental Agency or Subdivision of Political Subdivision - Permits or Authorizations
- \* Additional Insured - Consolidated Insurance Program (Wrap-Up) Off-Premises Operations Only - Owners, Lessees or Contractors Automatic Status When Required in Construction Agreement With You
- \* Additional Insured - Employee Injury to Another Employee
- \* Automatically included - Aggregate Limits of Insurance (per location)
- \* Automatically included - Aggregate Limits of Insurance (per project)
- \* Knowledge of occurrence - Knowledge of an "occurrence", "claim or suit" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee
- \* Blanket Waiver of Subrogation
- \* Liberalization Condition
- \* Unintentional failure to disclose all hazards. If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.
- \* "Insured Contract" redefined for Limited Railroad Contractual Liability
- \* Mobile equipment to include snow removal, road maintenance and street cleaning equipment less than 1,000 lbs GVW.
- \* Bodily Injury Redefined

**REFER TO THE ACTUAL ENDORSEMENT FOLLOWING ON PAGES 2 THROUGH 13 FOR CHANGES AFFECTING YOUR INSURANCE PROTECTION**



(2) Property transported by or damage caused by any "automobile", "watercraft" or "aircraft" you own, hire or lease;

(3) Property you own, rent, lease, borrow or use.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE

For the purposes of this Voluntary Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

## 2. COVERAGE E - CARE, CUSTODY AND CONTROL PROPERTY DAMAGE COVERAGE

For the purpose of this Care, Custody and Control Property Damage Coverage only:

a. Item (4) of exclusion j. does not apply.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE

For the purposes of this Care, Custody and Control Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

## 3. COVERAGE F - ELECTRONIC DATA LIABILITY COVERAGE

For the purposes of this Electronic Data Liability Coverage only:

a. Exclusion p. of Coverage A - Bodily Injury And Property Damage Liability in Section I - Coverages is replaced by the following:

### 2. Exclusions

This insurance does not apply to:

#### p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

However, this exclusion does not apply to liability for damages because of "bodily injury".

b. "Property damage" means:

- (1) Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- (2) Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it; or
- (3) Loss of, loss of use of, damage to, corruption of, inability to access or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this Electronic Data Liability Coverage, "electronic data" is not tangible property.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE

## 4. COVERAGE G - PRODUCT RECALL EXPENSE

### a. Insuring Agreement

(1) We will pay 90% of "product recall expense" you incur as a result of a "product recall" you initiate during the coverage period.

(2) We will only pay for "product recall expense" arising out of "your products" which have been physically relinquished to others.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE



**D. SUPPLEMENTARY PAYMENTS - COVERAGES A AND B is amended:****1. To read SUPPLEMENTARY PAYMENTS:****2. Bail Bonds**

Item 1.b. is amended as follows:

b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

**3. Loss of Earnings**

Item 1.d. is amended as follows:

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

**4. The following language is added to Item 1.**

However, we shall have none of the duties set forth above when this insurance applies only for Voluntary Property Damage Coverage and/or Care, Custody or Control Property Damage Coverage and we have paid the Limit of Liability or the Aggregate Limit for these coverages.

**SECTION II - WHO IS AN INSURED****A. The following change is made:****Extended Reporting Requirements**

Item 3.a. is deleted and replaced by the following:

a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

**B. The following provisions are added:****4. BROAD FORM NAMED INSURED**

Item 1.f. is added as follows:

f. Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period only if there is no other similar insurance available to that entity. However:

(1) Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired more than 50 percent of the voting stock; and

(2) Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired more than 50 percent of the voting stock.

**5. Additional Insured - Owners, Lessees or Contractors - Automatic Status When Required in Construction or Service Agreement With You - Including Upstream Parties**

a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy;

b. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph a. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" which may be imputed to that person or organization directly arising out of:

1. Your acts or omissions; or

2. The acts or omissions of those acting on your behalf;

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

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and

2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.



**7. Additional Insured - Vendors**

a. Any person(s) or organization(s) (referred to throughout this additional coverage as vendor), but only with respect to "bodily injury" or "property damage," which may be imputed to that person(s) or organization(s) arising out of "your products" shown with the Schedule which are distributed or sold in the regular course of the vendor's business is an insured.

However:

- (1) The insurance afforded to such vendor only applies to the extent permitted by law; and
- (2) If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.

b. With respect to the insurance afforded to these vendors, the following additional exclusions apply:

(1) This insurance afforded the vendor does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor;
- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
  - i. The exceptions contained in Sub-paragraphs d. or f.; or
  - ii. Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

**8. Additional Insured -- Lessor of Leased Equipment -- Automatic Status When Required in Lease Agreement With You**

a. Any person(s) or organization(s) from whom you lease equipment when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such person(s) or organization(s) is an insured only with respect to your liability for "bodily injury", "property damage" or "personal and advertising injury" directly arising out of the maintenance, operation or use of equipment leased to you, which may be imputed to such person or organization as the lessor of equipment.

However, the insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law; and
- (2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.



However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

b. This insurance does not apply to:

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

**12. Additional Insured Consolidated Insurance Program (Wrap-Up) Off-Premises Operations Only - Owners, Lessees or Contractors.**

a. Any persons or organizations for whom you are performing operations, for which you have elected to seek coverage under a Consolidated Insurance Program, when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy is an insured. Such person or organization is an additional insured only with respect to your liability which may be imputed to that person or organization directly arising out of your ongoing operations performed for that person or organization at a premises other than any project or location that is designated as covered under a Consolidated Insurance Program. A person's or organization's status as an insured under this endorsement ends when your operations for that insured are completed.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies.

This insurance does not apply to:

"Bodily injury", "property damage", or "personal and advertising injury" arising out of the rendering of, or 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; and
- (2) Supervisory, inspection

**13. Additional Insured - Employee Injury to Another Employee**

With respect to your "employees" who occupy positions which are supervisory in nature:

Paragraph 2.a.(1) of SECTION II - WHO IS AN INSURED is amended to read:

a. "Bodily injury" or "personal and advertising injury"

- (1) To you, to your partners or members (if you are a partnership or joint venture), or to your members (if you are a limited liability company);
- (2) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph (1)(a) above; or
- (3) Arising out of his or her providing or failing to provide professional healthcare services. Paragraph 3.a. is deleted.

For the purpose of this item 13 only, a position is deemed to be supervisory in nature if that person performs principle work which is substantially different from that of his or her subordinates and has authority to hire, direct, discipline or discharge.

**SECTION III - LIMITS OF INSURANCE**

A. The following items are deleted and replaced by the following:

2. The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and



14. Subject to 5. of SECTION III - LIMITS OF INSURANCE, a \$25,000 "occurrence" limit and a \$100,000 "aggregate" limit is the most we will pay under Coverage E - Care, Custody and Control Coverage regardless of the number of:

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

Deductible - Our obligation to pay damages on your behalf applies only to the amount of damages in excess of \$500.

This deductible applies to all damages because of "property damage" as the result of any one "occurrence" regardless of the number of persons or organizations who sustain damages because of that "occurrence".

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

As respects this coverage "Aggregate" is the maximum amount we will pay for all covered "occurrences" during one policy period.

For the purposes of this Care, Custody and Control Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

15. Subject to 5. of SECTION III - LIMITS OF INSURANCE, the most we will pay for "property damage" under Coverage F - Electronic Data Liability Coverage for loss of "electronic data" is \$50,000 without regard to the number of "occurrences".

## SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

A. The following conditions are amended:

### 1. Knowledge of Occurrence

a. Condition 2, items a. and b. are deleted and replaced by the following:

#### (1) Duties In The Event Of Occurrence, Offense, Claim Or Suit

(a) You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. Knowledge of an "occurrence" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee. To the extent possible, notice should include:

- i. How, when and where the "occurrence" took place;
- ii. The names and addresses of any injured persons and witnesses, and
- iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.

(b) If a claim is made or "suit" is brought against any insured, you must:

- i. Immediately record the specifics of the claim or "suit" and the date received; and
- ii. Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable. Knowledge of a claim or "suit" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee.

2. Where Broad Form Named Insured Is added in SECTION II - WHO IS AN INSURED of this endorsement, Condition 4. Other Insurance b. Excess Insurance (1)(a) is replaced by the following:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to an insured solely by reason of ownership by you of more than 50 percent of the voting stock, and not withstanding any other language in any other policy. This provision does not apply to a policy written to apply specifically in excess of this policy.



**SECTION V - DEFINITIONS**

- A. At Item 12. "Mobile equipment" the wording at F.(1) is deleted and replaced by the following:
- f.(1) Equipment designed primarily for:
    - (a) Snow removal;
    - (b) Road maintenance, but not construction or resurfacing; or
    - (c) Street cleaning;
 except for such vehicles that have a gross vehicle weight less than 1,000 lbs which are not designed for highway use.
- B. Item 3: "Bodily Injury" is deleted and replaced with the following:
3. "Bodily Injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.
- C. Item 9: "Insured contract" is deleted and replaced with the following:
- a. Any easement or license agreement;
- D. Item 9: "Insured Contract" F.(1) is deleted
- E. The following definitions are added for this endorsement only:
23. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tape drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
  24. "Product recall" means a withdrawal or removal from the market of "your product" based on the determination by you or any regulatory or governmental agency that:
    - a. The use or consumption of "your product" has caused or will cause actual or alleged "bodily injury" or "property damage"; and
    - b. Such determination requires you to recover possession or control of "your product" from any distributor, purchaser or user, to repair or replace "your product", but only if "your product" is unfit for use or consumption, or is hazardous as a result of:
      - (1) An error or omission by an insured in the design, manufacturing, processing, labeling, storage, or transportation of "your product"; or
      - (2) Actual or alleged intentional, malicious or wrongful alteration or contamination of "your product" by someone other than you.
  25. "Product recall expense" means reasonable and necessary expenses for:
    - a. Telephone, radio and television communication and printed advertisements, including stationery, envelopes and postage.
    - b. Transporting recalled products from any purchaser, distributor or user, to locations designated by you.
    - c. Remuneration paid to your employees for overtime, as well as remuneration paid to additional employees or independent contractors you hire.
    - d. Transportation and accommodation expense incurred by your employees.
    - e. Rental expense incurred for temporary locations used to store recalled products.
    - f. Expense incurred to properly dispose of recalled products, including packaging that cannot be reused.
    - g. Transportation expenses incurred to replace recalled products.
    - h. Repairing, redistributing or replacing covered recalled products with like products or substitutes, not to exceed your original cost of manufacturing, processing, acquisition and/or distribution.
 These expenses must be incurred as a result of a "product recall".
  26. "Written Contract" means a written contract or written agreement that requires you to make a person or organization an additional insured on this Coverage Part, provided the contract or agreement:
    - a. Is currently in effect or becoming effective during the term of this policy; and
    - b. Was executed prior to:
      - (1) The "bodily injury" or "property damage"; or
      - (2) The offense that caused the "personal and advertising injury",
 for which the additional insured seeks coverage under this coverage part.

