

CITY OF LE ROY
COUNTY OF MC LEAN
STATE OF ILLINOIS

ORDINANCE NO. 769

AN ORDINANCE APPROVING A CONTRACT WITH STARK EXCAVATING
TO COMPLETE CONSTRUCTION OF THE BOWMAN PARK PAVED DITCH
IN THE CITY OF LE ROY, COUNTY OF MC LEAN, ILLINOIS

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY
THIS 15th DAY OF December, 1997

PRESENTED: December 15, 1997

PASSED: December 15, 1997

APPROVED: December 15, 1997

RECORDED: December 15, 1997

PUBLISHED: December 15, 1997


In Pamphlet Form

Voting "Aye" 4

Voting "Nay" 1

The undersigned being the duly qualified and acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned ordinance and that such ordinance was presented, passed, approved, recorded and published as above stated.

(SEAL)


City Clerk of the City of LeRoy,
McLean County, Illinois

Dated: December 15, 1997.

ORDINANCE NO. 769

AN ORDINANCE APPROVING A CONTRACT WITH STARK EXCAVATING
TO COMPLETE CONSTRUCTION OF THE BOWMAN PARK PAVED DITCH
IN THE CITY OF LE ROY, COUNTY OF MC LEAN, ILLINOIS

WHEREAS, the Mayor and City Council of the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, had previously determined that it would be in the best interest of the City of LeRoy and its residents that certain work including excavation and concrete paving of a drainage ditch or drainage way be done in the City of LeRoy, adjacent to and along the East side of Bowman Park, located North of East Center Street, South of East Cherry Street, and adjacent to and West of Mill Street, all in the City of LeRoy; and

WHEREAS, the Mayor and City Council of the City of LeRoy have determined based on a competitive bidding procedure that Stark Excavating, Inc. is the lowest responsible bidder and capable of doing the work as set forth in the specifications for the bid letting,

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of LeRoy, Illinois, in lawful meeting assembled, as follows:

Section 1. The agreement is approved, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2: The Mayor and City Clerk are hereby directed and authorized to sign the original and as many copies as appropriate of that agreement as set forth in Exhibit "A" attached hereto, being certain to obtain one or more fully signed copies for the records of the city.

Section 3: By motion and vote of the City Council taken at its regular meeting on December 1, 1997, the bid with Stark Excavating, Inc., was approved and the Mayor of the City of LeRoy was directed to execute that agreement set forth in Exhibit "A" in order that no time be lost in getting the work started so it could be completed before bad weather set in for the winter of 1997/98. Therefore, the City Council, by passage of this ordinance, ratifies the action taken at its regular City Council meeting on December 1, 1997, and the action taken by the Mayor on December 2, 1997, in executing the aforesaid contract.

Section 4. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

PASSED by the City Council of the City of LeRoy, Illinois, upon the motion by Ron Litherland, seconded by Dick Oliver, by roll call vote on the 15th day of December, 1997, as follows:

Aldermen elected 6 Aldermen present 5

VOTING AYE:

Ron Litherland, Dave McClelland, W.H. Weber, Dawn Thompson, Dick Oliver.
(full names)

VOTING NAY:

None
(full names)

ABSENT, ABSTAIN, OTHER:

Ryan Miles, absent.
(full names)

and deposited and filed in the office of the City Clerk in said municipality on the 15th day of December, 1997.

X *Sue Marcum*
Sue Marcum, City Clerk of the City of LeRoy, McLean County, Illinois

APPROVED BY the Mayor of the City of LeRoy, Illinois, this 15th day of December, 1997.

X *Robert Rice*
Robert Rice, Mayor of the City of LeRoy, McLean County, Illinois

ATTEST: (SEAL)

X *Sue Marcum*
Sue Marcum, City Clerk of the City of LeRoy, McLean County, Illinois

CERTIFICATE

I, Sue Marcum, certify that I am the duly elected and acting municipal clerk of the City of LeRoy, of McLean County, Illinois.

I further certify that on December 15, 1997, the Corporate Authorities of such municipality passed and approved Ordinance No. 769, entitled:


AN ORDINANCE APPROVING A CONTRACT WITH STARK EXCAVATING TO COMPLETE CONSTRUCTION OF THE BOWMAN PARK PAVED DITCH IN THE CITY OF LE ROY, COUNTY OF MC LEAN, ILLINOIS,

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 769, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on December 15, 1997, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at LeRoy, Illinois, this 15th day of December, 1997.

(SEAL)


Municipal Clerk

STATE OF ILLINOIS)
) SS:
COUNTY OF McLEAN)

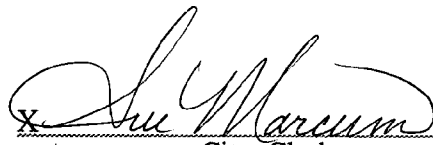
I, Sue Marcum, do hereby certify that I am the duly qualified and acting City Clerk of the City of LeRoy , McLean County, Illinois, and as such City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

AN ORDINANCE APPROVING A CONTRACT WITH STARK EXCAVATING TO COMPLETE CONSTRUCTION OF THE BOWMAN PARK PAVED DITCH IN THE CITY OF LE ROY, COUNTY OF MC LEAN, ILLINOIS.

I do further certify said ordinance was adopted by the City Council of the City of LeRoy at a regular meeting on the 15th day of December , 1997, and prior to the making of this certificate the said ordinance was spread at length upon the permanent records of said City where it now appears and remains as a faithful record of said ordinance in the record books.

Dated this 15th day of December , 1997.



City Clerk

(SEAL)

AGREEMENT

This AGREEMENT, made this 24th day of Dec., 1997 by and between The City of LeRoy, hereinafter called "OWNER" and Stark Excavating, Inc. doing business as (an individual, a Corporation or a partnership,) hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of the Bowman Park Paved Ditch.
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the PROJECT described herein.
3. The CONTRACTOR will commence the WORK required by the CONTRACT DOCUMENTS within ten (10) calendar days after the date of the NOTICE TO PROCEED and will complete the same within 10 working days unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS
4. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of \$ 22,998.75, or as shown in the BID schedule.
5. The term "CONTRACT DOCUMENTS" means and includes the following:
 - (A) ADVERTISEMENT FOR BIDS
 - (B) INFORMATION FOR BIDDERS
 - (C) BID
 - (D) BID BOND
 - (E) AGREEMENT
 - (F) GENERAL CONDITIONS
 - (G) SPECIAL CONDITIONS
 - (H) SUPPLEMENTAL CONDITIONS
 - (I) PAYMENT BOND
 - (J) PERFORMANCE BOND
 - (K) NOTICE OF AWARD
 - (L) NOTICE TO PROCEED
 - (M) CHANGE ORDER
 - (N) DRAWINGS prepared by Lewis, Yockey & Brown, Inc. titled Construction Plans, Bowman Park Paved Ditch, City of LeRoy dated October 31, 1997.
 - (O) SPECIFICATIONS prepared or issued by Lewis, Yockey & Brown, Inc. dated October, 1997.
6. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the General Conditions such amounts as required by the CONTRACT DOCUMENTS.

7. This AGREEMENT shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assign.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this AGREEMENT in triplicate each of which shall be deemed and original on the date first above written.

OWNER: City of LeRoy

By Robert Rice

Name Robert Rice

Title Mayor

(SEAL)

ATTEST:

Name Sue Marcum

Title City Clerk

CONTRACTOR: Stark Excavating, Inc.

By David K. Stark

Name David K Stark

Title President

(SEAL)

ATTEST:

Name Joy Eades

Title SECRETARY

PROPOSAL

To City of LeRoy
LeRoy, Illinois 61752

The undersigned, having become familiar with local conditions, affecting the cost of the work, and with the Contract Documents, including the Notice to Contractors, General Conditions, Supplement to the General Conditions, the form of Proposal and the Plans and Specifications, all on file in the office of Lewis, Yockey & Brown, Inc., 222 E. Center Street, LeRoy, Illinois 61752, hereby proposes to perform the work and provide and furnish all labor, materials, necessary tools, expendable equipment, and all utility and transportation services necessary to perform and complete in a workmanlike manner all of the work required and the work described in the following Bidding Schedule for the City of LeRoy, all in accordance with the Plans and Specifications as prepared by Lewis, Yockey & Brown, Inc., and titled "Bowman Park Paved Ditch."

Bidding Schedule

<u>No.</u>	<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Extension</u>
1.	P.C. Concrete Paved Ditch	3895	S.F.	\$ 5.25	\$20,448.75
2.	Earth Excavation	100	C.Y.	\$ 25.50	\$2,550.00
Total Amount Bid				\$ 22,998.75	

It is understood that the Contractor must execute the Contract and furnish the bond specified within 10 days after the receipt of the Notification of Award.

In submitting this bid, it is understood that the right is reserved by the Owner to reject any and all bids. It is agreed that this bid may not be withdrawn for a period of 30 days from the opening thereof.

It is further understood and agreed by the undersigned that if awarded a contract on the basis of this proposal, work will be started within 10 days after the receipt of the formal "Notice to Proceed" and will be completed within 10 working days. It is anticipated that this work can be completed during the Fall of 1997. Due to the time of year and uncertainty of the weather, an extension of time may be granted. Every effort must be made to complete this project in the allotted time, weather permitting.

AFFIDAVIT: I (We) certify and affirm that my (our) proposal was prepared independently on this work, that it contains no fees or amounts other than for the legitimate execution of the work as specified and that it includes no understandings or agreements in restraint of trade.

(If an individual)
Signature of Bidder:

Business Address:

(If a Corporation)
Corporation Name:

Stark Excavating, Inc.

By: President

David K. Stark

Business Address:

1805 W. Washington St.

Bloomington, IL 61701

Names President

David K. Stark

of Secretary

Faye Eades

Officers Treasurer

Faye Eades

Corporate Seal Attest:

Faye Eades

(If a Co-Partnership)
Firm Name:

By: Partner

Business Address:

Names and Addresses

of all Members

of the Firm

PERFORMANCE BOND

#11141624202

KNOW ALL MEN BY THESE PRESENTS: that

Stark Excavating, Inc.

(Name of Contractor)

1805 West Washington Street, Bloomington, IL 61701

(Address of Contractor)

a

Corporation

(Corporation, Partnership, or individual)

hereinafter called Principal, an

The American Insurance Company

(Name of Surety)

727 Craig Road, St. Louis, MO 63141

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

City of LeRoy

(Name of owner)

LeRoy, Illinois 61752

(Address of Owner)

hereinafter called OWNER, in the penal sum of Twenty Two Thousand Nine Hundred

Ninety Eight & 75/100 -----Dollars, \$(22,998.75****)

in lawful money of the United States, for the payment of which sum well and truly be made, we bind ourselves, successors, and assigns, jointly and severally, firmly to these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal enters into a certain contract with the OWNER, dated the 18th day of November 1997, a copy of which is hereto attached and made a part hereof for the construction of:

Bowman Park Paved Ditch

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the Surety and during the one year guaranty period and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which may suffer by reason of failure to do so, and shall reimburse and repay the OWNER a outlay and expense which the OWNER may incur in making good any default, then the obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in three counterparts, each one of which shall be deemed an original, this the 20th day of November 1997.

ATTEST:

Jaye Eades
(Principal Secretary)

SEAL) Karin Delt
(Witness as to Principal)

1805 West Washington Street
(Address)
Bloomington, IL 61701

STARK EXCAVATING, INC.
By Wesley K. Stark President (1)

1805 West Washington Street
(Address)
Bloomington, IL 61701
The American Insurance Company
Surety

ATTEST:

Ruth M. Hargis
(Surety Secretary)

SEAL) Ruth M. Hargis
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 12/31/00
Witness as to Surety

101 South Towanda Avenue
(Address)
Normal, IL 61761

By Robney L. Brent
Attorney-in-Fact
101 South Towanda Avenue
(Address)
Normal, IL 61761

NOTE: Date of BOND must not be prior to date of Contract.
If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the PROJECT is located.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in three counterparts, each one of which shall be deemed an original, this the 20th day of November 19 97.

ATTEST:

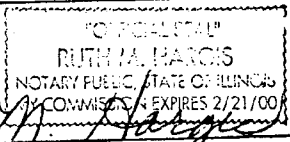
Jayce E. Odas
(Principal Secretary)
(SEAL)

Stark Excavating, Inc.
(Principal)
By Paul K. Stark President (s)
1805 West Washington Street
(Address)
Bloomington, IL 61701

Karrie Hilt
Witness as to Principal
1805 West Washington Street
(Address)
Bloomington, IL 61701

The American Insurance Company
Surety
By Robyn L. Brent
Attorney-in-Fact
101 South Towanda Avenue
(Address)
Normal, IL 61761

ATTEST:
Ruth A. Harris
Witness as to Surety
101 South Towanda Avenue
(Address)
Normal, IL 61761



NOTE: Date of BOND must not be prior to date of Contract.
If CONTRACTOR is Partnership, all partners should execute BOND.

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KNOW ALL MEN BY THESE PRESENTS: that

Stark Excavating, Inc.

(Name of Contractor)

1805 West Washington Street, Bloomington, IL 61701

(Address of Contractor)

a Corporation

(Corporation, Partnership or Individual)

hereinafter called Principal.

and The American Insurance Company

(Name of Surety)

727 Craig Road, St. Louis, MO 63141

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

City of LeRoy

(Name of Owner)

LeRoy, IL 61752

(Address of Owner)

hereinafter called OWNER, in the penal sum of Twenty Two Thousand Nine Hundred Ninety Eight & 75/100 Dollars, \$ 22,998.75

in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the 18th day of November 19 97, a copy of which is hereto attached and made a part hereof for the construction of:

Bowman Park Paved Ditch

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, SUBCONTRACTORS, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and all insurance premiums on said WORK, and for all labor performed in such WORK whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

THE AMERICAN INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That THE AMERICAN INSURANCE COMPANY, a Corporation incorporated under the laws of the State of New Jersey on February 20, 1846, and redomesticated to the State of Nebraska on June 1, 1990, and having its principal office in the County of Marin, State of California, has made, constituted and appointed, and does by these presents make, constitute and appoint **RODNEY L. BRENT, RONALD TIMMERMAN, DAVID MCGREW, JOHN LENAHAN, MICHAEL McNEELY**, jointly or severally

NORMAL, IL
its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, seal, acknowledge and deliver any and all bonds, undertakings, recognizances or other written obligations in the nature thereof -----

and to bind the Corporation thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the Corporation and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises.

This power of attorney is granted pursuant to Article VII, Sections 45 and 46 of By-laws of THE AMERICAN INSURANCE COMPANY now in full force and effect.

"Article VII. Appointment and Authority of Resident Secretaries, Attorneys-in-Fact and Agents to accept Legal Process and Make Appearances.

Section 45. Appointment. The Chairman of the Board of Directors, the President, any Vice-President or any other person authorized by the Board of Directors, the Chairman of the Board of Directors, the President or any Vice-President may, from time to time, appoint Resident Assistant Secretaries and Attorneys-in-Fact to represent and act for and on behalf of the Corporation and Agents to accept legal process and make appearances for and on behalf of the Corporation.

Section 46. Authority. The authority of such Resident Assistant Secretaries, Attorneys-in-Fact and Agents shall be as prescribed in the instrument evidencing their appointment. Any such appointment and all authority granted thereby may be revoked at any time by the Board of Directors or by any person empowered to make such appointment."

This power of attorney is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of THE AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 31st day of July, 1984, and said Resolution has not been amended or repealed:

"RESOLVED, that the signature of any Vice-President, Assistant Secretary, and Resident Assistant Secretary of this Corporation, and the seal of this Corporation may be affixed or printed on any power of attorney, on any revocation of any power of attorney, or on any certificate relating thereto, by facsimile, and any power of attorney, any revocation of any power of attorney, or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Corporation."

IN WITNESS WHEREOF, THE AMERICAN INSURANCE COMPANY has caused these presents to be signed by its Vice-President, and its corporate seal to

be hereunto affixed this 24th day of May, 19 95.



THE AMERICAN INSURANCE COMPANY

By [Signature]
Vice-President

STATE OF CALIFORNIA
COUNTY OF MARIN

} ss.

On this 24th day of May, 19 95, before me personally came M. A. Mallonee, to me known, who, being by me duly sworn, did depose and say: that he is Vice-President of THE AMERICAN INSURANCE COMPANY, the Corporation described in and which executed the above instrument; that he knows the seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation and that he signed his name thereto by like order.

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



[Signature]
Notary Public

CERTIFICATE

STATE OF CALIFORNIA
COUNTY OF MARIN

} ss.

I, the undersigned, Resident Assistant Secretary of THE AMERICAN INSURANCE COMPANY, a NEBRASKA Corporation, DO HEREBY CERTIFY that the foregoing and attached POWER OF ATTORNEY remains in full force and has not been revoked; and furthermore that Article VII, Sections 45 and 46 of the By-laws of the Corporation, and the Resolution of the Board of Directors; set forth in the Power of Attorney, are now in force.

Signed and sealed at the County of Marin. Dated the 20th day of November, 19 97.



[Signature]
Resident Assistant Secretary