



CITY OF CLEAR LAKE

15 North 6th Street • P.O. Box 185 • Clear Lake, IA 50428
Phone (641) 357-5267 • Fax (641) 357-8711
www.cityofclearlake.com

Mayor
NELSON P.
CRABB

City
Administrator
SCOTT
FLORY

March 30, 2013

HONORABLE MAYOR & CITY COUNCIL MEMBERS:

COUNCIL MEMBERS

DANA
BRANT
Ward 1

TONY J.
NELSON
Ward 2

JIM
BOEHNKE
Ward 3

MIKE
CALLANAN
At Large

TERRY
UNSWORTH
At Large

The next meeting of the Clear Lake City Council is scheduled for Monday, **April 1, 2013**, at 6:30 p.m., in the Council Chambers, at City Hall. Please refer to the enclosed agenda for the items discussed below.

ITEM #6A. **Cemetery Expansion Area Site Grading Project**. At the February 18th regular City Council meeting, the Council set the dates for both a bid letting and public hearing on the proposed project for March 13th and 18th, respectively. Notice of such was published in the newspaper, as required by law.

The proposed Project was one of the major capital improvement projects budgeted for in FY 13. The City budgeted \$90,000 for the project. The overall site is roughly 5 acres. Over the years, the City has accumulated and stockpiled, on-site, approximately 11,000 cubic yards of excavated fill material. This was done in anticipation of the need to increase the elevation of the site for future development and expansion of the City's municipal cemetery. Essentially, there is enough excavated fill material to elevate the site approximately 18".

Basically, the scope of work involves the removal of the existing top soil and stockpiling it on-site; distribution and grading of the on-site excavated fill material; re-distribution of the stockpiled top soil; and seeding.

On March 13th, the Project bid letting was conducted, as advertised, and a total of 12 bids were received. The lowest responsive responsible bid was submitted by Charlson Excavating of Clear Lake, in the amount of \$37,775. The next lowest bid submitted was in the amount of \$45,620. The bids ranged to a high of \$106,000 from Vieth Construction of Cedar Falls. The engineer's final estimate of the probable cost of construction was \$75,000. The bid from Charlson Excavating is 49.6% below the estimate.



The Project is anticipated to begin in early- April. The required completion date is not later than June 7th.

ITEM #6B. **12th Ave S. Outdoor Rec Area Trail Project.** At the February 4th regular City Council meeting, the Council set the dates for both a bid letting and public hearing on the proposed project for March 13th and 18th, respectively. Notice of such was published in the newspaper, as required by law.

The proposed Project was one of the major capital improvement projects budgeted for in FY 13. The City budgeted \$100,000 for the project. Basically, the Project entails the construction of and 8' wide, $\frac{3}{4}$ mile in length, asphalt trail that would loop around the entire site.

On March 13th, the Project bid letting was conducted, as advertised, and a total of 1 bid was received. The lowest responsive responsible bid was submitted by Heartland Asphalt of Mason City, in the amount of \$105,525.25. The engineer's final estimate of the probable cost of construction was \$99,675. The bid from Heartland Asphalt is 5.8% in excess the estimate. The required completion date is June 7th.

ITEM #6D. **City Council compensation.** At the Council's most recent annual Strategic Planning & Goal Setting Session, interest was expressed by the elected officials in ensuring that the compensation for City Council Members was in-line with peer communities. The last time the compensation for City Council Members was adjusted was in 1999. At that time it was increased from \$25/meeting to \$50/meeting. Generally speaking, there are about 30 Council meetings in a year (regular and special).

In a survey conducted in-house by City staff, it was determined that many peer communities compensate their elected officials on an "annual" basis, as opposed to a "per meeting" basis. Because Clear Lake's population is something of an anomaly - fluctuating so much throughout the year - the best measure in determining a peer community is to look at the size of their respective tax base and budget. Clear Lake has a tax base of more than \$800 million and a budget in excess of \$15 million.

The following are comparable communities and what they compensate their City Council members:

City	tax base	budget	compensation
1. Oskaloosa	\$497,000,000	\$15.9M	\$100/meeting
2. Boone	\$609,210,191	\$19.5M	\$2,700/year
3. Ft. Madison	\$404,550,191	\$8M	\$3,000/year
4. Keokuk	\$513,355,921	\$25M	\$2,400/year
5. Carroll	\$646,979,868	\$17.5M	\$2,400/year
6. LeMars	\$695,586,087	\$17.5M	\$6,000/year
7. Norwalk	\$577,743,967	\$12.6M	\$2,500/year
8. Pleasant Hill	\$1.020B	\$20M	\$3,000/year
9. Mt. Pleasant	\$405,479,979	\$11.4M	\$2,400/year

Among this group of 9 cities, Clear Lake has the second highest tax base and the 6th largest budget. A total of 27 cities were queried, but these are the most relevant.

It should be noted that, by law, no increase in compensation can occur until January 1, 2014, following the upcoming November, 2013 regular municipal election. Enclosed in your packet is an Ordinance setting the compensation for City Council Members at \$2,500/year.

Scott Flory
City Administrator

SmartQuote: "If we were all given by magic the power to read each other's thoughts, I suppose the first effect would be to dissolve all friendships."

-- Bertrand Russell, British philosopher, mathematician, and historian

TENTATIVE AGENDA
CLEAR LAKE CITY COUNCIL
CITY HALL – 15 N. 6TH STREET
MONDAY, APRIL 1, 2013
CITY HALL – COUNCIL CHAMBERS
6:30 P.M.

1. Call To Order by Mayor Nelson P. Crabb.
2. Approval of Agenda.
3. Consent Agenda:
 - A. Minutes – March 18, 2013.
 - B. Approval of the bills & claims.
 - C. Licenses & Permits:
 - **Liquor License:** Class B Wine Permit (Carryout Wine) & Class B Beer Permit (BC) with Sunday Sales, *Pitstop Convenience Store*; Class B Wine Permit (Carryout Wine), Class C Beer Permit (Carryout Beer), & Class E Liquor License (LE) with Sunday Sales, *Lake Liquors Wine & Spirits*; Class B Liquor License (LB) (Hotel/Motel) with Catering Privilege & Sunday Sales, *Best Western Holiday Lodge*; (renewals).
 - **Tree Trimmer's License:** S&S Malek Brothers, Garner, (renewal).
 - **Excavator's License:** JIREH, LLC, Clear Lake, (renewal).
4. Citizen's opportunity to address the Council on items not on the agenda:
 - In conformance with the City Council's Rules of Procedure, no action can occur on items presented during the Citizens Forum.
 - Please walk to the lectern, state your name (spell last name), address, and subject of your discussion.
 - Speakers are limited to a maximum of five (5) minutes per person.
5. Unfinished Business:
6. New Business:
 - A. Future Cemetery Expansion Area & Site Grading Project:
 - Review by Scott Flory, City Administrator.
 - **Motion** to approve **Resolution #13-30**, A "Resolution approving Contract & bonds."
 - Discussion and consideration of **Motion** by City Council.

B. 12th Avenue S. Outdoor Recreation Area Trail Project:

- Review by Scott Flory, City Administrator.
- **Motion** to approve **Resolution #13-31**, A “Resolution Approving Contract & bonds.”
- Discussion and consideration of **Motion** by City Council.
- **Motion** to approve **Resolution #13-32**, A “Resolution authorizing the reimbursement of funds from the General Fund from the proceeds of the Tax Increment Fund for purposes of the 12th Ave S. Outdoor Recreation Area Trail Capital Improvement Project incident and related to this Resolution.”
- Discussion and consideration of **Motion** by City Council.

C. Preliminary Engineering Report for the proposed Northwest Water Tower Project:

- Introduction by Scott Flory, City Administrator.
- Review of Preliminary Engineering Report, Tim Moreau, P.E., Veenstra & Kimm.
- **Motion** to approve Preliminary Engineering Report and authorize submittal to the Iowa DNR.”
- Discussion and consideration of **Motion** by City Council.

D. City Council compensation for the term(s) beginning January 1, 2014 and forward:

- Review of proposal, Scott Flory, City Administrator.
- Opportunity for public comment.
- **Motion** to approve **Ordinance #807** (1st reading) by City Council.
- Discussion and consideration of **Motion** by City Council.

7. Chief of Police’s Report:

8. Mayor’s Report:

9. Public Works Director’s Report:

- Update regarding pre-construction conference: HWY 18 (N. 3rd St W. – N. 9th St W.) Water Main Improvement Project.

10. City Administrator’s Report:

11. City Attorney’s Report:

12. Other Business:

13. Adjournment.

NEXT REGULAR MEETING – APRIL 15, 2013

SECTION 00500

AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the 1st day of April, 2013, by and between

City of Clear Lake, Iowa

(hereinafter called OWNER) and

Charlson Excavating Co., Inc.

(hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as the Clear Lake Municipal Cemetery Addition, Phase I Site Grading, Clear Lake, Iowa.

Article 2. ENGINEER.

The Project has been designed by Yaggy Colby Associates who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME.

3.1 Work under the proposed contract shall be completed and ready for final acceptance by June 7, 2013.

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER \$300 for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

4.1 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows: Unit Price.

4.2 The OWNER agrees to pay and the CONTRACTOR agrees to accept payment in accordance with the prices bid for the unit items as submitted in the CONTRACTOR'S Proposal as shown on attached Exhibit A, the aggregate of which prices, based on the approximate schedule of quantities, is estimated to be Thirty Seven Thousand, Seven Hundred Seventy-five Dollars (\$37,775.00). Quantities shown are approximate only and are solely for the purpose of facilitating the comparison of bids. CONTRACTOR's compensation will be computed upon the basis of the actual quantities in the completed Work, whether they be more or less than those shown. OWNER reserves the right to change quantities to be furnished. Unit prices bid control, regardless of actual quantities required.

Article 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1 Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the 1st day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by schedule of values established in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1 Prior to Substantial Completion, progress payments will be made in amounts equal to payment to CONTRACTOR of 95% of the Contract Price, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with the General Conditions.

5.2 Final Payment. No sooner than 30 days following final completion and acceptance of the Work in accordance with the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in the General Conditions.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

6.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

6.2 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

6.3 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions.

6.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents.

6.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

Article 7. CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

7.1 This Agreement (pages 1 to 7, inclusive).

7.2 Exhibits to this Agreement (page 1, inclusive).

7.3 Performance, Payment, and other Bonds.

7.4 Notice of Award.

7.5 Standard General Conditions (pages 1 to 62, inclusive).

7.6 Modifications to General Conditions (pages 1 to 6, inclusive).

7.7 Specifications bearing the title "Clear Lake Municipal Cemetery Addition, Phase I Site Grading, Clear Lake, Iowa" and consisting of divisions as listed in Construction Documents table of contents.

7.8 Drawings, consisting of Drawings as listed in Drawing list.

7.9 Addenda number 1, inclusive.

7.10 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

Article 8. MISCELLANEOUS.

8.1 Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.

8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement will be effective on April 1, 2013.

OWNER City of Clear Lake, Iowa

BY _____
(CORPORATE SEAL)

Attest _____

Address for giving notices

City Hall, 15 N. 6th Street, P.O. Box 185

Clear Lake, Iowa 50428

(If OWNER is a public body attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

Signature entities shall match entities on Bid Form.

If CONTRACTOR is:

An Individual

By _____
(Individual's Name) (SEAL)

doing business as _____

Business address: _____

Phone No.: _____

A Partnership

By _____
(Firm Name) (SEAL)

By _____
(general partner)

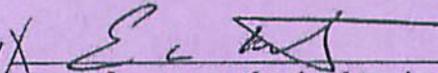
Business address: _____

Phone No.: _____

A Corporation

By Charlson Excavating Co., Inc
(Corporation Name)

Iowa
(state of incorporation)

By 
(name of person authorized to sign)

Project Manager/Estimator
(title)

(Corporate Seal)

Attest _____
(Secretary)

Business address: 4111 7th Avenue North

Clear Lake, IA 50428

Phone No.: 641-357-5601

A Joint Venture

By _____
(Name)

(Address)

By _____
(Name)

(Address)

Each joint venturer must sign. Manner of signing for each individual, partnership, and corporation that is a party to joint venture should be in manner indicated.

License No. _____

Agent for service of process: _____

END OF SECTION

EXHIBIT A
 CLEAR LAKE MUNICIPAL CEMETERY ADDITION
 PHASE 1 - SITE GRADING
 CLEAR LAKE, IOWA
 11934-13

<u>ITEM NO.</u>	<u>ITEM</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1	Excavation, Cl. 10	11,000	CY	\$ 1.60	\$ 17,600.00
2	Topsoil, Strip & Stockpile	7,000	CY	\$ 1.10	\$ 7,700.00
3	Topsoil Spread	3,000	CY	\$ 1.50	\$ 4,500.00
4	Seed and Mulch - Urban	5	ACRE	\$ 1,495.00	\$ 7,475.00
5	Silt Fence	500	LF	\$ 1.00	\$ 500.00
6	Mobilization	1	LS	\$.00	\$.00
TOTAL PROJECT					\$ 37,775.00

PERFORMANCE AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, Charlson Excavating Company of Clear Lake of Clear Lake, IA (hereinafter called the Principal), and Merchants Bonding Company (Mutual) of Des Moines, IA (hereinafter called the Surety), are held and firmly bound unto City of Clear Lake, IA (hereinafter called the Obligee), in the penal sum of Thirty Seven Thousand Seven Hundred Seventy Five Dollars and 00/100 Dollars (\$ 37,775.00), lawful money of the United States, to payment of which sum, well and truly be made, the Principal here firmly binds himself/themselves, his/their heirs, executors and administrators, and the said Surety binds himself, his successors, assigns, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that, WHEREAS the above bounden Principal did, on the 1st day of April, 2013, Enter into a written Contract with the City of Clear Lake for the Clear Lake Municipal Cemetery Addition, Phase I Site Grading, Clear Lake, IA

copy of which Contract, together with all of its terms, covenants, conditions, and stipulations, is incorporated herein and made a part hereof as full and completely as if said Contract were recited at length herein; and

WHEREAS, the Principal and Surety on this bond hereby agree to pay to all persons, firms or corporations having Contracts directly with the Principal or with the Subcontractors, all just claims due them for labor performed or materials furnished in the performance of the Contract on account of which bond is given when the same are not satisfied out of the portion of the Contract price which the public corporation is required to retain until completion of the public improvement but the Principal and Surety shall not be liable to said persons, firms or corporations unless the claims of said claimants against said portion of the Contract price shall have been established as provided by law.

Now, if the Principal shall in all respects fulfill his said Contract according to the terms and tenor thereof, and shall satisfy all claims and demands incurred for the same and shall fully indemnify and save harmless the Obligee from all costs and damages which it may suffer by reason of failure to do so, and shall fully reimburse and repay the Obligee all outlays and expenses which it may incur in making good any such default, then the obligation is to be void and of no effect, otherwise to remain in full force and effect.

Every Surety on this bond shall be deemed and held, any Contract to the contrary notwithstanding, to consent without notice:

1. To any extension of time to the Contract in which to perform the Contract.
2. To any change in the Plans, Specifications, or Contract when such change does not involve an increase of more than twenty (20%) of the total Contract price, and shall then be released only as to such excess increase.
3. That no provision of this bond or of any other Contract shall be valid which limits to less than one (1) year from the time of the acceptance of the work the right to sue on this bond for defect in workmanship or material not discovered or known to the Obligee at the time such work was accepted.

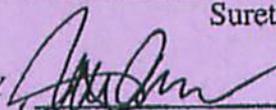
IN WITNESS WHEREOF, we have hereunto set our hands and seals this

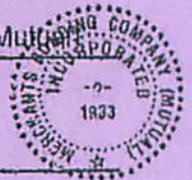
1st day of April, 2013.

Charlson Excavating Company of Clear Lake
Principal

BY 

Merchants Bonding Company (Michigan)
Surety

BY 
Attorney-in-fact
Anne Crowner



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 duly organized under the laws of the State of Iowa (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint, individually,

Anne Crowner

its true and lawful Attorney-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following surety bond:

Surety Bond #: IAC582234
Principal: Charlson Excavating Company of Clear Lake
Obligee: City of Clear Lake, IA

and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following By-Laws adopted by the Board of Directors of the Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

"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 Witness Whereof, the Companies have caused this instrument to be signed and sealed this 1st day of January, 2012.



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

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF POLK ss.

On this 1st day of January, 2012, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument is 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.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.



Maranda Greenwalt

Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the 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 1st day of April, 2013.



William Warner Jr.
Secretary

MAINTENANCE BOND

Bond No. IAC582234

KNOW ALL MEN BY THESE PRESENTS:

That, Charlson Excavating Company of Clear Lake of Clear Lake, IA as Principal, and the Merchants Bonding Company (Mutual) as Surety, are held and firmly bound unto City of Clear Lake, IA in the penal sum of Thirty Seven Thousand Seven Hundred Seventy Five Dollars and 00/100 (\$ 37,775.00)

Dollars, lawful money of the United States of America, for the payment of which, well and truly to be made, the Principal and Surety bind themselves, their and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the said Principal entered into a certain contract, with City of Clear Lake, IA

To furnish all the material and labor necessary for the construction of the Clear Lake Municipal Cemetery Addition, Phase I Site Grading

in Clear Lake, IA In conformity with certain specifications; and

Whereas, a further condition of said contract is that the said Principal should furnish a bond in indemnity, guaranteeing to remedy any defects in workmanship or materials that may develop in said work within a period of Two (2) years from the date of acceptance of the work under said contract; and

Whereas, the said Merchants Bonding Company (Mutual) for a valuable consideration, has agreed to join with said Principal in such bond or guarantee, indemnifying said City of Clear Lake, IA

Now, therefore, the condition of this obligation is such, that if the said Principal shall, at his own cost and expense, remedy any and all defects that may develop in said work within the period of Two (2) years from the date of acceptance of the work under said contract, by reason of bad workmanship or poor material used in the construction of said work, and shall keep all work in continuous good repair during said period, and shall in all other respects, comply with all the terms and conditions of said contract with respect to maintenance and repair of said work, then this obligation to be null and void; otherwise to be and remain in full force and virtue in law.

In Witness whereof, we have hereunto set our hands and seals this 1st day of April, 2015,

Charlson Excavating Company of Clear Lake
Principal

By: _____

Merchants Bonding Company (Mutual)
Surety

By: [Signature]
Attorney-in-Fact

Attorney-in-Fact



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 duly organized under the laws of the State of Iowa (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint, individually,

Anne Crowner

its true and lawful Attorney-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following surety bond:

Surety Bond #: IAC582234
Principal: Charison Excavating Company of Clear Lake
Obligee: City of Clear Lake, IA

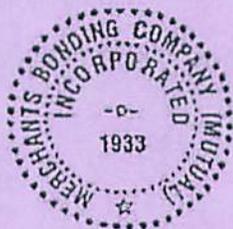
and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following By-Laws adopted by the Board of Directors of the Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

"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 Witness Whereof, the Companies have caused this instrument to be signed and sealed this 1st day of January, 2012.



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

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF POLK ss.

On this 1st day of January, 2012, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument is 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.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.



Maranda Greenwalt

Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the 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 1st day of April, 2013.



William Warner Jr.
Secretary

City of Clear Lake
15 North 6th Street
Clear Lake, IA 50428

Clear Lake Municipal Cemetery Addition
Phase I Grading

Company Profile:

Charlson Excavating Company of Clear Lake
DBA Charlson Excavating Co., Inc
4111 7th Avenue North
P.O. Box 601
Clear Lake, IA 50428
Phone: 641-357-5601
Fax: 641-357-3541
Established December 1st, 1984
Federal ID #42-1070547
Contractor Registration Certificate No. C094489

Organizational Structure:

Steve Molstad Owner
Cell: 641-425-0246
smolstad@netins.net

Erick Molstad Project Manager
Cell: 641-425-4296
emolstad_cec@netins.net

Construction Schedule of Work

Week of 04/22/13 thru 04/26/13	Mobilization, Place Silt Fence, Strip Black & Grading
Week of 04/29/13 thru 05/03/13	Finish Stripping & Grading
Week of 05/06/13 thru 05/10/13	Clean up & Site Seeding

Subcontractors

Holland Contracting
Artisan Landscaping

Equipment Rates

Excavators:

Cat 312	\$135.00
Bobcat 325	\$90.00

Skid Loader

Case 445	\$85.00
Case 90XT	\$90.00

Scrapers:

Cat 623	\$150.00
Cat D9 w/Pan	\$225.00

Rollers

Cat CS433E	\$135.00
Tractor w/Sheepfoot	\$125.00

Dozers:

Cat D5	\$120.00
Cat D6N	\$135.00
Cat D6R	\$145.00

Trucks:

Tandem	\$80.00
Side Dump	\$100.00
Belly Dump	\$95.00

Labor:

Foreman w/truck	\$75.00
General	\$50.00



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/21/2013

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 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 Edwards Brandt & Associates Inc. 2007 - 4th Street SW Mason City IA 50401	CONTACT NAME: Debbie Cook	
	PHONE (A/C No. Ext): (641) 423-0675	FAX (A/C No.): (641) 423-2441
	E-MAIL ADDRESS: debbie@edwards-brandt.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Cincinnati Insurance	10677
	INSURER B: Cincinnati Indemnity	23280
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: 12-13 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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			EPP/EBA 007 16 17	4/1/2011	4/1/2014	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 10,000
	<input checked="" type="checkbox"/> XCU Coverage Included						PERSONAL & ADV INJURY \$ 1,000,000
	GENL AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 2,000,000
	<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PROJECT	<input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY			EPP/EBA 007 16 17	4/1/2011	4/1/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS						BODILY INJURY (Per person) \$
	<input checked="" type="checkbox"/> HIRED AUTOS	<input checked="" type="checkbox"/> SCHEDULED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							Uninsured motorist BI-single \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR		EPP/EBA 007 16 17	4/1/2011	4/1/2014	EACH OCCURRENCE \$ 7,000,000
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE \$ 7,000,000
	<input type="checkbox"/> DED	<input type="checkbox"/> RETENTION \$					
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC 1861720-00	4/1/2012	4/1/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
A	Equipment Floater (Included Rented/Leased)			EPP/EBA 007 16 17	4/1/2011	4/1/2014	\$1,885,000 \$2,500 deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
The City of Clear Lake, Iowa, Yaggy Colby Associates, its employees, and agents are named as additional insured for the Clear Lake Municipal Cemetery Addition Phase 1 Site Grading Clear Lake, IA 50428. Form GA101 12 04; GA233 02 07, GA4315 06 09 is attached.

CERTIFICATE HOLDER charlson@netins.net City of Clear Lake Attn: Scott Flory PO Box 185 15 North 6th Street Clear Lake, IA 50428	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Mark Ebeling/DEBBIE

SECTION 00500

AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the 1st day of April, 2013, by and between

City of Clear Lake, Iowa

(hereinafter called OWNER) and

Heartland Asphalt, Inc.

(hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as the 12th Avenue South Recreation Area Trail Improvement Project, Clear Lake, Iowa.

Article 2. ENGINEER.

The Project has been designed by Yaggy Colby Associates who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME.

3.1 Work under the proposed contract shall be completed and ready for final acceptance by June 7, 2013.

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER \$300 for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

4.1 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows: Unit Price.

4.2 The OWNER agrees to pay and the CONTRACTOR agrees to accept payment in accordance with the prices bid for the unit items as submitted in the CONTRACTOR'S Proposal as shown on attached Exhibit A, the aggregate of which prices, based on the approximate schedule of quantities, is estimated to be One Hundred Five Thousand, Five Hundred Twenty-Five Dollars and Twenty-Five Cents (\$105,525.25). Quantities shown are approximate only and are solely for the purpose of facilitating the comparison of bids. CONTRACTOR's compensation will be computed upon the basis of the actual quantities in the completed Work, whether they be more or less than those shown. OWNER reserves the right to change quantities to be furnished. Unit prices bid control, regardless of actual quantities required.

Article 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1 Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the 1st day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by schedule of values established in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1 Prior to Substantial Completion, progress payments will be made in amounts equal to payment to CONTRACTOR of 95% of the Contract Price, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with the General Conditions.

5.2 Final Payment. No sooner than 30 days following final completion and acceptance of the Work in accordance with the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in the General Conditions.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

6.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

6.2 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

6.3 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions.

6.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents.

6.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

Article 7. CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

7.1 This Agreement (pages 1 to 7, inclusive).

7.2 Exhibits to this Agreement (page 1, inclusive).

7.3 Performance, Payment, and other Bonds.

7.4 Notice of Award.

7.5 Standard General Conditions (pages 1 to 62, inclusive).

7.6 Modifications to General Conditions (pages 1 to 6, inclusive).

7.7 Specifications bearing the title "12th Avenue South Recreation Area Trail Improvement Project, Clear Lake, Iowa" and consisting of divisions as listed in Construction Documents table of contents.

7.8 Drawings, consisting of Drawings as listed in Drawing list.

7.9 Addenda numbers: none.

7.10 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

Article 8. MISCELLANEOUS.

8.1 Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.

8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement will be effective on April 1, 2013.

OWNER City of Clear Lake, Iowa

BY _____
(CORPORATE SEAL)

Attest _____

Address for giving notices

City Hall, 15 N. 6th Street, P.O. Box 185

Clear Lake, Iowa 50428

(If OWNER is a public body attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

Signature entities shall match entities on Bid Form.

If CONTRACTOR is:

An Individual

By _____
(Individual's Name) (SEAL)

doing business as _____

Business address: _____

Phone No.: _____

A Partnership

By _____
(Firm Name) (SEAL)

By _____
(general partner)

Business address: _____

Phone No.: _____

A Corporation

By HEARTLAND ASPHALT, INC
(Corporation Name)

IOWA
(state of incorporation)

By Daniel Ricken
(name of person authorized to sign)

V. Pres.
(title)

(Corporate Seal)

Attest Kelly Diaz
(Secretary)

Business address: 2601 S. Federal Ave
Mason City IA. 50401

Phone No.: 641-424-1733

A Joint Venture

By _____
(Name)

(Address)

By _____
(Name)

(Address)

Each joint venturer must sign. Manner of signing for each individual, partnership, and corporation that is a party to joint venture should be in manner indicated.

License No. _____

Agent for service of process: _____

END OF SECTION

EXHIBIT A
 12TH AVENUE SOUTH RECREATION AREA
 TRAIL IMPROVEMENT PROJECT
 CLEAR LAKE, IOWA
 11905-12

<u>ITEM NO.</u>	<u>ITEM</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1	Excavation, Cl. 10	1,125	CY	\$ 12.95	\$ 14,568.75
2	Recreational Trail, HMA, 4"	3,230	SY	\$ 18.15	\$ 58,624.50
3	Recreational Trail, HMA, 6"	30	SY	\$ 26.80	\$ 804.00
4	Modified Subbase	1,075	TON	\$ 17.40	\$ 18,705.00
5	PCC Sidewalk, 6"	80	SF	\$ 11.90	\$ 952.00
6	Detectable Warning Panel	16	SF	\$ 35.00	\$ 560.00
7	Turf Restoration	0.30	ACRE	\$ 24,800.00	\$ 7,440.00
8	Culvert Extension, 18", HDPE	20	LF	\$ 43.55	\$ 871.00
9	Mobilization	1	LS	\$ 3,000.00	\$ 3,000.00
TOTAL PROJECT					\$ 105,525.25

PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Heartland Asphalt, Inc.
2601 South Federal Avenue
Mason City, IA 50401

SURETY (Name, and Address of Principal Place of Business):

Merchants Bonding Company (Mutual)
2100 Fleur Drive
Des Moines, IA 50321-1158

OWNER (Name and Address):

City of Clear Lake
P.O. Box 185
Clear Lake, IA 50428

CONTRACT

Effective Date of Agreement: April 1, 2013
Amount: \$105,525.25 One Hundred Five Thousand Five Hundred Twenty Five Dollars and 25/100
Description (Name and Location): 12th Avenue South Recreation Area Trail Improvement Project, Clear Lake, Iowa

BOND

Bond Number: IAC582231
Date (Not earlier than Effective Date of Agreement): April 1, 2013
Amount: \$105,525.25 One Hundred Five Thousand Five Hundred Twenty Five Dollars and 25/100
Modifications to this Bond Form: None

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Heartland Asphalt, Inc. _____ (Seal)
Contractor's Name and Corporate Seal

Merchants Bonding Company (Mutual) _____ (Seal)
Surety's Name and Corporate Seal

By: David Ricker
Signature

By: Cindy Bennett
Signature (Attach Power of Attorney)

David Ricker
Print Name

Cindy Bennett
Print Name

V. Pres.
Title

Attorney-in-Fact
Title

Attest: Kelly Naz
Signature

Attest: Sunny Bartenhagen
Signature

Secretary
Title

Sunny Bartenhagen Account Manager
Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.
2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
 - 2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor, and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
 - 2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and
 - 2.3 Owner has agreed to pay the Balance of the Contract Price to:
 1. Surety in accordance with the terms of the Contract; or
 2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.
3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:
 - 3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
 - 3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
 - 3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
 - 3.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefor to Owner; or
 2. Deny liability in whole or in part and notify Owner citing reasons therefor.
4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2, or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:

- 5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
- 5.2 Additional legal, design professional, and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 3; and
- 5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.

6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators, or successors.

7. Surety hereby waives notice of any change, including changes of time, to Contract or to related subcontracts, purchase orders, and other obligations.

8. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located, and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

9. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the address shown on the signature page.

10. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

11. Definitions.

- 11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
- 11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- 11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (Name, Address and Telephone)		Holmes Murphy & Associates, Inc.
Surety Agency or Broker:	3001 Westown Parkway, West Des Moines, IA 50266	515 223-6800
Owner's Representative (Engineer or other party):	Yaggy Colby Associates, 215 N. Adams Avenue, Mason City, IA 50401	

PAYMENT BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Heartland Asphalt, Inc.
2601 South Federal Avenue
Mason City, IA 50401

OWNER (Name and Address):

City of Clear Lake
P.O. Box 185
Clear Lake, IA 50428

SURETY (Name, and Address of Principal Place of Business):

Merchants Bonding Company (Mutual)
2100 Fleur Drive
Des Moines, IA 50321-1158

CONTRACT

Effective Date of Agreement: April 1, 2013

Amount: \$105,525.25 One Hundred Five Thousand Five Hundred Twenty Five Dollars and 25/100

Description (Name and Location): 12th Avenue South Recreation Area Trail Improvement Project, Clear Lake, Iowa

BOND

Bond Number: IAC582231

Date (Not earlier than Effective Date of Agreement): April 1, 2013

Amount: \$105,525.25 One Hundred Five Thousand Five Hundred Twenty Five Dollars and 25/100

Modifications to this Bond Form: None

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Heartland Asphalt, Inc. (Seal)
Contractor's Name and Corporate Seal

Merchants Bonding Company (Mutual) (Seal)
Surety's Name and Corporate Seal

By:

David Ricken
Signature

By:

Cindy Bennett
Signature (Attach Power of Attorney)

David Ricken
Print Name

Cindy Bennett
Print Name

V. Pres.
Title

Attorney-in-Fact
Title

Attest:

Kelly Diaz
Signature

Attest:

Sunny Bartenhagen
Signature

Secretary
Title

Sunny Bartenhagen Account Manager
Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with Contractor:
 1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. Reserved.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions

15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – <i>(Name, Address, and Telephone)</i> Holmes Murphy & Associates, Inc.		
Surety Agency or Broker:	3001 Westown Parkway, West Des Moines, IA 50266	515 223-6800
Owner's Representative (<i>Engineer or other</i>):	Yaggy Colby Associates, 215 N. Adams Avenue, Mason City, IA 50401	

MAINTENANCE BOND

Bond No. IAC582231

KNOW ALL MEN BY THESE PRESENTS:

That, Heartland Asphalt, Inc. of Mason City, Iowa
as Principal, and the Merchants Bonding Company (Mutual) as Surety,
are held and firmly bound unto the City of Clear Lake, Iowa in the

penal sum of One Hundred Five Thousand Five Hundred Twenty Five and 25/100 (\$ 105,525.25)

Dollars, lawful money of the United States of America, for the payment of which, well and truly to be made,
the Principal and Surety bind themselves, their and each of their heirs, executors, administrators, successors
and assigns, jointly and severally, firmly by these presents.

Whereas, the said Principal entered into a certain contract, with the City of Clear Lake, Iowa.

To furnish all the material and labor necessary for the construction of _____
12th Avenue South Recreation Area Trail Improvement Project

in Clear Lake, Iowa In conformity with certain specifications; and

Whereas, a further condition of said contract is that the said Principal should furnish a bond in
indemnity, guaranteeing to remedy any defects in workmanship or materials that may develop in
said work within a period of Four (4) years from the date of acceptance of the work
under said contract; and

Whereas, the said Merchants Bonding Company (Mutual) for a valuable consideration,
has agreed to join with said Principal in such bond or guarantee, indemnifying said
Heartland Asphalt, Inc.

Now, therefore, the condition of this obligation is such, that if the said Principal shall, at his own cost
and expense, remedy any and all defects that may develop in said work within the period
of Four (4) years from the date of acceptance of the work under said contract, by
reason of bad workmanship or poor material used in the construction of said work, and shall keep all work
in continuous good repair during said period, and shall in all other respects, comply with all the terms and
conditions of said contract with respect to maintenance and repair of said work, then this obligation to be
null and void; otherwise to be and remain in full force and virtue in law.

In Witness whereof, we have hereunto set our hands and seals this 1st
day of April, 2013.

Heartland Asphalt, Inc.
Principal
By: David Reichen

Merchants Bonding Company (Mutual)
Surety
By: Cindy Bennett
Cindy Bennett Attorney-in-Fact

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 duly organized under the laws of the State of Iowa (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint, individually,

Cindy Bennett

its true and lawful Attorney-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following surety bond:

Surety Bond #: IAC582231
Principal: Heartland Asphalt, Inc.
Obligee: City of Clear Lake

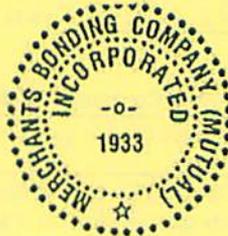
and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following By-Laws adopted by the Board of Directors of the Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

"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 Witness Whereof, the Companies have caused this instrument to be signed and sealed this 1st day of January, 2012.



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

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF POLK ss.

On this 1st day of January, 2012, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument is 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.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.



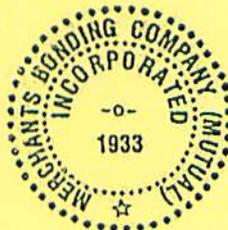
Maranda Greenwalt

Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the 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 1st day of April, 2013.



William Warner Jr.
Secretary

POA 0007 (1/12)



2601 South Federal Ave.
Mason City, IA 50401
Phone (641) 424-1733
Fax (641) 424-0334

SCHEDULE OF 2013 EQUIPMENT RENTAL RATES

LAST UPDATE: January 4, 2013

<u>EQUIPMENT DESCRIPTION</u>	<u>\$/HOUR WITH OPERATOR</u>
BLADE	125.00
BASE ROLLER	110.00
WATER TRUCK	115.00
UNI-LOADER 1845	105.00
TRACTOR-TRAILER	125.00
PICK-UP	70.00
POWER BROOM	95.00
DISTRIBUTOR	115.00
LARGE PAVER	230.00
LARGE STEEL VIBRATORY ROLLER	110.00
SMALL STEEL VIBRATORY ROLLER	95.00
RUBBER TIRE ROLLER	110.00
SINGLE AXLE DUMP TRUCK	90.00
TANDEM AXLE DUMP TRUCK	93.00
PORTABLE AIR COMPRESSOR	80.00
UNI-LOADER WITH GRINDER	165.00
TRAXCAVATOR - 2.0 C.Y.	105.00
WHEEL LOADER - 4.0 C.Y.	125.00
ASPHALT/CONCRETE SAW WITH WATER	125.00
PLATE COMPACTOR	45.00
BACKHOE	110.00
VAC-ALL STREET CLEANER	160.00
MILLING MACHINE	600.00



2601 South Federal Ave.
Mason City, IA 50401
Phone (641) 424-1733
Fax (641) 424-0334

Date: March 20, 2013

LIST OF SUBCONTRACTORS

PROJECT: 12th Avenue South Recreation Trail Improvement Project

Federal Tax I.D. #

1.) Lakeside Construction
137 Industrial Drive
Forest City, IA 50436

Seeding Contractor 39-1903338

Contact: Greg Hrubes 641-581-5500

(Heartland Federal Tax I.D. #42-1367534)

PROJECT SCHEDULE

DATE 3/22/13

LOCATION Clear Lake

PROJECT 18th Ave S Recreation Area TRAIL

No.	DESCRIPTION	MAY 20	MAY 21	MAY 22	MAY 23	MAY 24	MAY 28	MAY 29	MAY 30	MAY 31	JUNE 3	JUNE 4	COMMENTS
1	Excavation C10												Disk/Excavate Material
2	Rec Trail 4" HMA												Place Base then Surface
3	Rec Trail 6" HMA												"
4	Modified Subbase												Place Rock/Fine Grade
5	PCC Sidewalk												form & Pour Sidewalk
6	Detectable Warning Panel												Install w/ sidewalk work
7	Turf Restoration												Backfill & Seed
8	Culvert Extension												Install Culvert Ext



2601 South Federal Ave.
Mason City, IA 50401
Phone (641) 424-1733
Fax (641) 424-0334
www.HeartlandAsphalt.com

MEMO

To: Mike Danburg, P.E.
Yaggy Colby Associates
215 North Adams
Mason City, Iowa 50401

Date: March 25, 2013

From: Travis Tarr

Re: 12th Avenue South Recreation Area Trail Improvement Project

Attached with this memo are:

- 1.) 3 signed copies of Contract
- 2.) 3 Signed Copies of Performance and Payment and Maintenance Bond
- 3.) Certificate of Insurance will be sent directly from our Insurance carrier.
- 4.) Schedule of Equipment Rental Rates
- 5.) List of Subcontractors, with their Federal I.D. #
- 6.) Heartland Asphalt, Inc. Federal I.D. # is 42-1367534
- 7.) Schedule of Work

If you have any questions Please, Call. We look forward to working with you on this project. Let me know when you want to schedule a Pre-Construction Conference for this Project.

Thank you.

Travis Tarr
Project Manager

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE SALARY FOR THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF CLEAR LAKE, IOWA, FOR THE TERM(S) BEGINNING JANUARY 1, 2014 FORWARD

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEAR LAKE, IOWA, AS FOLLOWS:

Section 1. That the salary of the members of the City Council of the City of Clear Lake, Iowa, shall be and the same is hereby fixed at the sum of \$2,500 per annum.

Section 2. That in the event of absence unrelated to illness or disability from more than 25% of the total number of regularly scheduled meetings per quarter, the compensation for said quarter shall be adjusted and pro-rated accordingly.

Section 3. Effective Date. This ordinance shall become effective on January 1, 2014, and shall continue in force and effect until repealed by action of the City Council.

Section 4. Repealer. All ordinances, or parts of ordinances, heretofore adopted by the City Council of the City of Clear Lake, Iowa, which are inconsistent with the provisions of this ordinance are hereby expressly repealed to the extent of such conflict.

Section 5. Severability. The provisions of this ordinance are hereby declared severable; if any portion of this ordinance shall be held unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not affect the remaining portions of this ordinance

ADOPTED this _____ day of _____, 2013.

Nelson P. Crabb, Mayor

Attest:

Jennifer Larsen, City Clerk