

Mayor
NELSON P.
CRABB

City
Administrator
SCOTT
FLORY

COUNCIL
MEMBERS

DANA
BRANT
Ward 1

TONY J.
NELSON
Ward 2

JIM
BOEHNKE
Ward 3

MIKE
CALLANAN
At Large

TERRY
UNSWORTH
At Large

May 4, 2012

HONORABLE MAYOR & CITY COUNCIL MEMBERS:

The next meeting of the Clear Lake City Council is scheduled for Monday, **May 7, 2012**, 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. **Industrial Park 3rd Addition Storm Sewer Project**. At its meeting on April 30th, the City Council awarded the construction contract for the Project to Yohn Excavating of Clear Lake, IA. The amount of the contract is \$123,908. The City has now received the Contract & bonds (performance, payment, & maintenance) and Certificate of Liability Insurance from the contractor. All these submittals have been reviewed for compliance with the contract documents by City staff and the Project consulting engineer and have been determined to be in compliance.

A pre-construction conference is set for May 8th and the "Notice to Proceed" will be issued at that time. The Project is to be substantially complete by June 29th.

ITEM #6B. **Pine Brooke Subdivision Phase #3**. Pine Brooke 3rd Subdivision is a 9-lot residential subdivision located on the north side of 10th Ave N., near its intersection with N. 3rd Street W. This represents the final phase of the Pine Brooke development project. The initial phase resulted in the creation of 32 building lots and the 2nd phase created an additional 15 lots.

The property is zoned RM-12. The proposed lots range in size from roughly 8,000 SF to 13,000 SF. The site itself is roughly 2.6 acres.

The subdivision's infrastructure will include a 28' (B-B) street with "rollover" style curb & gutter cross-section. As a result of the number of proposed driveway approaches, there will be no on-street parking. Sidewalks are included throughout the subdivision.



The developer anticipates letting the project for construction bids in June and completing the project by November 1st of this year. The Planning & Zoning Commission reviewed the proposed Preliminary Plat at its meeting in April and has forwarded its recommendation that the Council approve the Plat.

Please feel free to contact me if you have questions about any of the agenda items.

Scott Flory
City Administrator

Cc: Jennifer Larsen, City Clerk (with attachments)
Joe Weigel, Public Works Director (with attachments)
Linda Nelson, Finance Officer (with attachments)
Greg Peterson, Chief of Police (with attachments)
Charlie Blebesheimer, City Attorney (with attachments)
Tim Coffey, Director CL Chamber (with attachments)

TENTATIVE AGENDA
CLEAR LAKE CITY COUNCIL
CITY HALL – 15 N. 6TH STREET
MONDAY, MAY 7, 2012
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 – April 16th & 30th, 2012.
 - B. Approval of the bills & claims.
 - C. Licenses & Permits:
 - Liquor Licenses: Class C Liquor License (LC) (Commercial) with outdoor service & Sunday sales, Ge-Jo's By the Lake, (renewal).
 - Cigarette Permit: Pilot Travel Center, (renewal).
 - Street Closing Requests: Motorcycle Awareness Group, Motofest II, June 2nd; Twin City F100 Club, June 15 & 16; Clear Lake Area Chamber of Commerce, Thursday's on Main, beginning June 14th through August 6th.
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:
 - **Motion to approve Ordinance #803, "A summary Ordinance approving an Ordinance amending the Code of Ordinances of the City of Clear Lake, 2003, by repealing Chapter 165 Section 53 'Floodplain Management' in its entirety and adopting new 'Floodplain Management' provisions in lieu thereof to be known as Chapter 165 Section 53 'Floodplain Management' (final reading).**
6. New Business:
 - A. Municipal Water System Improvements & Street Right-of-Way Restoration Project – Lincoln Village:
 - Review of request, Scott Flory, City Administrator.

- **Motion to approve Resolution #12-29, “A Resolution approving Contract & bonds – Municipal Water System Improvements & Street Right-of-Way Restoration Project – Lincoln Village.”**
- Discussion and consideration of **Motion** by City Council.
- Pre-construction conference: May 8th at 9:00a.m., Joe Weigel, Public Works Director.

B. Pine Brooke Residential Subdivision Preliminary Plat - Phase #3:

- Introduction by Scott Flory, City Administrator.
- Recommendation from Planning & Zoning Commission, John Marino, Community Development Official.
- Review of request, Tim Stenberg, Joshua Inc.
- **Motion to approve Resolution #12-30, “A Resolution approving Preliminary Plat for Pine Brooke Residential Subdivision - 3rd Addition”.**
- Discussion and consideration of **Motion** by City Council.

C. Proposed Noise Control Ordinance:

- Review of proposal, Greg Peterson, Chief of Police.
- Opportunity for public comment.
- **Motion to approve Ordinance #804, “A summary Ordinance approving an Ordinance amending the Code of Ordinances of the City of Clear Lake, 2003, by adopting a new Chapter to be known as “Chapter 48 Noise Control” (1st reading)**
- 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 CDBG Sanitary Sewer Collection System Improvement Project (Phase 2).
- Update regarding the 7th Ave N. Storm Sewer Outlet (Willow Creek) Improvement Project.
- Update regarding the Industrial Park 3rd Addition Storm Sewer Improvement Project.
- Update regarding the 10th Avenue N. Street Reconstruction Project.

10. City Administrator’s Report:

- Update regarding employee health insurance premium renewals from Wellmark BC/BS of Iowa.

11. City Attorney's Report:

12. Closed Session: Pursuant to *Code of Iowa* Section 21.5 (1) (j) "To discuss the purchase of particular real estate only when premature disclosure would be reasonably expected to increase the price the governmental body could have to pay for that property".

13. Other Business:

14. Adjournment.

NEXT REGULAR MEETING – MAY 21, 2012

RESOLUTION No. _____

A RESOLUTION APPROVING CONSTRUCTION CONTRACT AND BONDS FOR
THE MUNICIPAL WATER SYSTEM AND STREET RIGHT-OF-WAY
RESTORATION IMPROVEMENT PROJECT – LINCOLN VILLAGE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEAR LAKE, IOWA; that the construction contract and bond executed and insurance coverage for the construction of certain public improvements described in general as construction of the Municipal Water System and Street Right-of-Way Restoration Improvement Project, and as described in detail in the plans and specifications heretofore approved, and which have been signed by the Mayor and Clerk on behalf of the City be and the same are hereby approved as follows:

Contractor: YohnCo., Clear Lake, Iowa

Bond surety: Merchant's Bonding Company

Date of Bond: May 7, 2012

Portion of project: All construction work.

PASSED AND APPROVED, this 7th day of May, 2012.

Nelson P. Crabb, Mayor

ATTEST:

Jennifer Larsen, City Clerk

SECTION 00500

AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the 7th day of May, 2012, by and between

City of Clear Lake, Iowa

(hereinafter called OWNER) and

Yohnco DBA The Excavating Co.

(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 Public Improvement Project, Lincoln School Site, 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 commence within 10 days after Notice to Proceed. Work under the proposed contract shall be substantially completed by June 29, 2012. All work shall be completed and ready for final acceptance by July 13, 2012.

Substantial completion is defined as follows: All work is complete except for finish grading of turf restoration areas, seeding and minor cleanup.

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 Article 12 of 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 \$400 for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

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 paragraph 4.2 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 paragraph 4.3 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 to 2, inclusive).

7.3 Performance, Payment, and other Bonds.

7.4 Notice of Award.

7.5 Standard General Conditions (pages 1 to 42, inclusive).

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 May 7, 2012.

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 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

PERFORMANCE BOND

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

CONTRACTOR (Name and Address):
Yohn Co. DBA The Excavating Company
309 South 20th Street
Clear Lake, IA 50428
OWNER (Name and Address):
City of Clear Lake
15 North 6th Street
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: May 7, 2012
Amount: \$123,908.00 One Hundred Twenty Three Thousand Nine Hundred Eight Dollars and 00/100
Description (Name and Location): Public Improvement Project, Lincoln School Site, Clear Lake, IA

BOND

Bond Number: IAC118623
Date (Not earlier than Effective Date of Agreement): May 7, 2012
Amount: \$123,908.00 One Hundred Twenty Three Thousand Nine Hundred Eight Dollars and 00/100
Modifications to this Bond Form: None

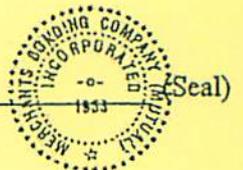
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Yohn Co. DBA The Excavating Company (Seal)
Contractor's Name and Corporate Seal

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



By: [Signature]
Signature

By: [Signature]
Signature (Attach Power of Attorney)

Laura L Yohn
Print Name

Anne Crowner
Print Name

Vice Pres.
Title

Attorney-in-Fact
Title

Attest: [Signature]
Signature

Attest: [Signature]
Signature

office mgr.
Title

Cindy Bennett Account Manager
Title

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

- 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 – <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 party):</i>	Yaggy Colby Associates, 215 North Adams, Mason City, IA 50401 (641) 424-6344	

PAYMENT BOND

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

CONTRACTOR (Name and Address):
Yohn Co. DBA The Excavating Company
309 South 20th Street
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

OWNER (Name and Address):
City of Clear Lake
15 North 6th Street
Clear Lake, IA 50428
CONTRACT

Effective Date of Agreement: May 7, 2012
Amount: \$123,908.00 One Hundred Twenty Three Thousand Nine Hundred Eight Dollars and 00/100
Description (Name and Location): Public Improvement Project, Lincoln School Site, Clear Lake, IA

BOND

Bond Number: IAC118623
Date (Not earlier than Effective Date of Agreement): May 7, 2012
Amount: \$123,908.00 One Hundred Twenty Three Thousand Nine Hundred Eight Dollars and 00/100
Modifications to this Bond Form: None

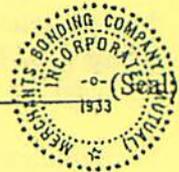
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Yohn Co. DBA The Excavating Company (Seal)
Contractor's Name and Corporate Seal

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



By: [Signature]
Signature

By: [Signature]
Signature (Attach Power of Attorney)

Laura L. Yohn
Print Name

Anne Crowner
Print Name

Vice Pres.
Title

Attorney-in-Fact
Title

Attest: [Signature]
Signature

Attest: [Signature]
Signature

Office Mgr.
Title

Cindy Bennett Account Manager
Title

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

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 – (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): Yaggy Colby Associates, 215 North Adams, Mason City, IA 50401 (641) 424-6344

MAINTENANCE BOND

Bond No. IAC118623

ALL MEN BY THESE PRESENTS:

That, Yohn Co. DBA The Excavating Company 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 One Hundred Twenty Three Thousand Nine Hundred Eight and No/100--- (\$ 123,908.00)

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 Public Improvement Project
Lincoln School Site, Clear Lake, IA
Paving @ \$44,408.00
Underground Utilities @ \$79,500.00
in City of 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 ** years from 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, Iowa

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 ** years from the date of 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 7th
day of May, 2012

** Underground Utilities - 2 Years
** Paving - 4 Years

Yohn Co. DBA The Excavating Company
Principal
By: [Signature]
Merchants Bonding Company (Mutual)
Surety
By: [Signature]
Anne Crowner, 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 #: IAC118623
Principal: Yohn Co. DBA The Excavating Company
Obligee: City of Clear Lake

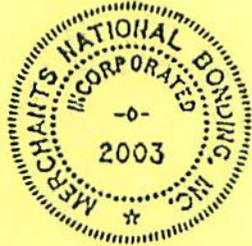
and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

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.



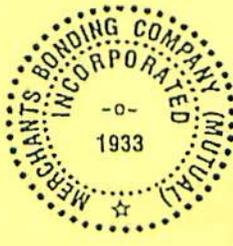
Maranda Greenwalt

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 7th day of May, 2012.



William Warner Jr.
Secretary

EXHIBIT A
PUBLIC IMPROVEMENT PROJECT
LINCOLN SCHOOL SITE
CLEAR LAKE, IOWA
11676-12

BASE BID

ITEM

<u>ITEM NO.</u>	<u>ITEM</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
1	Clear & Grub Tree	97.0	UNIT	\$ <u>21.50</u>	\$ <u>2085.50</u>
2	Remove Sidewalk	310	SY	\$ <u>4.00</u>	\$ <u>1240.00</u>
3	Remove Pavement	850	SY	\$ <u>4.00</u>	\$ <u>3400.00</u>
4	PCC Sidewalk, 4"	2050	SF	\$ <u>4.00</u>	\$ <u>8200.00</u>
5	PCC Sidewalk, 6" (Driveway)	760	SF	\$ <u>4.50</u>	\$ <u>3420.00</u>
6	Detectable Warning Panel	40	SF	\$ <u>35.00</u>	\$ <u>1400.00</u>
7	PCC Curb and Gutter	450	LF	\$ <u>22.25</u>	\$ <u>10,012.50</u>
8	Pavement Restoration, PCC	50	SY	\$ <u>44.50</u>	\$ <u>2225.00</u>
9	Pavement Restoration, HMA	50	SY	\$ <u>42.50</u>	\$ <u>2125.00</u>
10	Abandon Water Main	4	EA	\$ <u>500.00</u>	\$ <u>2000.00</u>
11	Connect to Existing Water Main	6	EA	\$ <u>500.00</u>	\$ <u>3000.00</u>
12	Remove and Salvage Existing Flushing Hydrant	1	EA	\$ <u>450.00</u>	\$ <u>450.00</u>
13	Remove and Salvage Existing Valve	2	EA	\$ <u>250.00</u>	\$ <u>500.00</u>
14	6" Water Main	60	LF	\$ <u>35.00</u>	\$ <u>2100.00</u>
15	8" Water Main	325	LF	\$ <u>40.00</u>	\$ <u>13,000.00</u>
16	10" Raw Water Main	240	LF	\$ <u>35.00</u>	\$ <u>8400.00</u>
17	16" Raw Water Main	155	LF	\$ <u>40.00</u>	\$ <u>6200.00</u>
18	6" Gate Valve & Box	2	EA	\$ <u>750.00</u>	\$ <u>1500.00</u>
19	8" Gate Valve & Box	4	EA	\$ <u>1100.00</u>	\$ <u>4400.00</u>
20	10" Gate Valve & Box	2	EA	\$ <u>1600.00</u>	\$ <u>3200.00</u>
21	16" Gate Valve & Box	1	EA	\$ <u>5600.00</u>	\$ <u>5600.00</u>
22	Hydrant	3	EA	\$ <u>2200.00</u>	\$ <u>6600.00</u>
23	Flushing Hydrant	1	EA	\$ <u>2200.00</u>	\$ <u>2200.00</u>
24	Water Main Fittings	1500	LBS	\$ <u>9.50</u>	\$ <u>14,250.00</u>
25	Remove Storm Intake	1	EA	\$ <u>500.00</u>	\$ <u>500.00</u>
26	Storm Sewer Intake	1	EA	\$ <u>1200.00</u>	\$ <u>1200.00</u>
27	Turf Restoration (Seeding)	60	SQ	\$ <u>15.00</u>	\$ <u>900.00</u>
28	General Excavation and Backfill	1	LS	\$ <u>250.00</u>	\$ <u>250.00</u>
29	Special Backfill Material, Trench	100	TON	\$ <u>5.00</u>	\$ <u>500.00</u>
30	Traffic Control	1	LS	\$ <u>1250.00</u>	\$ <u>1250.00</u>
31	Mobilization	1	LS	\$ <u>1500.00</u>	\$ <u>1500.00</u>
TOTAL BASE BID					\$ <u>113,608.00</u>

EXHIBIT A
PUBLIC IMPROVEMENT PROJECT
LINCOLN SCHOOL SITE
CLEAR LAKE, IOWA
11676-12

BASE BID

ITEM

<u>NO.</u>	<u>ITEM</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
ADD ALTERNATE BID 1 - PCC SIDEWALK (4TH AVENUE S.)					
1	Remove Sidwalk	150	SY	\$ <u>4.00</u>	\$ <u>600.00</u>
2	PCC Sidwalk, 4"	2300	SF	\$ <u>4.00</u>	\$ <u>9200.00</u>
3	Turf Restoration (Seeding)	20	SQ	\$ <u>15.00</u>	\$ <u>300.00</u>
4	General Excavation and Backfill	1	LS	\$ <u>200.00</u>	\$ <u>200.00</u>
TOTAL ADD ALTERNATE BID 1					\$ <u>10,300.00</u>
ADD ALTERNATE BID 2 - SANITARY SEWER SERVICE (NEW ADDITION REMODEL)					
1	Remove Pavement	10	SY	\$ <u>5.00</u>	\$ <u>50.00</u>
2	Pavement Restoration, HMA	10	SY	\$ <u>42.50</u>	\$ <u>425.00</u>
3	Abandon Sanitary Sewer Service in Manhole	1	EA	\$ <u>250.00</u>	\$ <u>250.00</u>
4	Sanitary Sewer Service Wye, 8" X 6" or 6" X 6"	2	EA	\$ <u>1000.00</u>	\$ <u>2000.00</u>
5	Sanitary Sewer Service Pipe, 6"	70	LF	\$ <u>75.00</u>	\$ <u>5250.00</u>
6	Sanitary Sewer Cleanout	2	EA	\$ <u>120.00</u>	\$ <u>240.00</u>
7	Special Backfill Material, Trench	15	TON	\$ <u>5.00</u>	\$ <u>75.00</u>
TOTAL ADD ALTERNATE BID 2					\$ <u>8290.00</u>
TOTAL PROJECT					\$ <u>132,198.00</u>



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/04/2012

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 Holmes Murphy & Assoc - WDM PO Box 9207 Des Moines, IA 50306-9207 Steve Probst	1-800-247-7756	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):
INSURED Yohn Enterprises, Inc. P.O. Box 246 309 S. 20th Street Clear Lake, IA 50428		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Acuity	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES CERTIFICATE NUMBER: 27034308 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 <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU Included GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC			L43008	07/01/11	07/01/12	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COM/POP AGG \$ 3,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			L43008	07/01/11	07/01/12	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			L43008	07/01/11	07/01/12	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	L43008	07/01/11	07/01/12	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

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

CERTIFICATE HOLDER

Yohn Co
309 S 20th Street
Clear Lake, IA 50428
USA

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

Steve J. Probst



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/04/2012

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 Holmes Murphy & Assoc - WDM PO Box 9207 Des Moines, IA 50306-9207 Steve Probst	1-800-247-7756	CONTACT NAME:	
		PHONE (A/C, No, Ext):	FAX (A/C, No):
		E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: Acuity	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES CERTIFICATE NUMBER: 27034418 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 <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU Included GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC			L43008	07/01/11	07/01/12	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			L43008	07/01/11	07/01/12	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			L43008	07/01/11	07/01/12	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			L43008	07/01/11	07/01/12	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Additional insured when required by written contract with respects general liability: Yaggy Colby Associates

CERTIFICATE HOLDER Yaggy Colby Associates 215 N Adams Mason City , IA 50401 USA	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 

RESOLUTION No. _____

A RESOLUTION APPROVING THE PRELIMINARY PLAT OF PINE BROOKE 3RD
SUBDIVISION IN THE CITY OF CLEAR LAKE, IOWA

WHEREAS, the owner and developer, Joshua Homes Inc., has filed with the City Clerk a preliminary plat for the property described in Exhibit A, which is attached hereto and made a part hereof, and

WHEREAS, said real estate is owned by the above-named party and the subdivision is being made with the free consent and in accordance with the desires of the owner, and

WHEREAS, said preliminary plat has been examined by the Clear Lake Planning and Zoning Commission, which did recommend that the preliminary plat of property described as Pine Brooke 3rd Subdivision be accepted and approved, and

WHEREAS, said preliminary plat is found to conform with Chapter 354 of the Code of Iowa and ordinances of the City of Clear Lake, and

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clear Lake, Iowa, does hereby approve the preliminary plat of Pine Brooke 3rd Subdivision.

PASSED AND APPROVED this 7th day of May, 2012.

Nelson P. Crabb, Mayor

ATTEST:

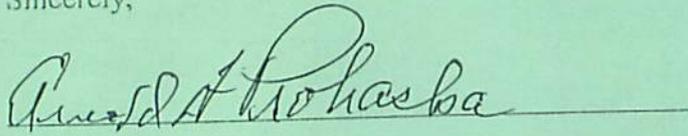
Jennifer Larsen, City Clerk

Honorable Mayor and City Council

The Planning and Zoning Commission at its meeting of April 24th, 2012, met and reviewed the Preliminary Plat of Pine Brooke 3rd Addition. Tim Stenberg introduced and outlined his submitted plan, a nine- lot proposal with twin homes on each lot. Monte Applegate, consulting engineer, went over his review. Concerns were answered by Andy Smith, project engineer with Veenstra and Kimm. All requirements were met and after the discussion, a motion was made to recommend approval of this Preliminary Plat to the City Council. The vote was 4-1 with Bervig casting the dissenting vote due to concerns regarding the density of the development.

This being said, the Planning and Zoning Commission forwards this Preliminary Plat with its recommendation to accept.

Sincerely,

A handwritten signature in cursive script, reading "Arnold Prohaska", written over a horizontal line.

Arnold Prohaska Chairman Pro Tem Planning and Zoning

ORDINANCE #804

AN ORDINANCE AMENDING THE “CODE OF ORDINANCES OF THE CITY OF CLEAR LAKE, IOWA, 2003”, BY ADDING A NEW CHAPTER TO BE KNOWN AS “CHAPTER 48 NOISE CONTROL”

PURPOSE

The purpose of this chapter is to establish standards for the control of excessive noise in the City in furtherance of protecting the public’s health, safety, and general welfare, including quality of life.

SCOPE OF REGULATIONS

This chapter applies to the control of all noise originating within the City, except in the following cases:

- A State or Federal Agency has adopted a different standard or rule than prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable.
- The Council has determined that, by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to the residents of the City.

DEFINITIONS:

The following words and phrases, when used in this ordinance, shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in this section, unless otherwise defined in the text of the section.

Commercial Area – property zoned commercial, as identified on the Official Zoning Map of the City of Clear Lake, Iowa, as amended.

Residential Area – property zoned residential, as identified on the Official Zoning Map of the City of Clear Lake, Iowa, as amended.

Industrial Area - property zoned industrial, as identified on the Official Zoning Map of the City of Clear Lake, Iowa, as amended.

Motor Vehicle - means any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on a public highways. This includes trucks cars and motorcycles.

Recreational Vehicles - recreational vehicle include those that are motor-powered but not of the type typically licensed for use on the public highways, although their use on a public highway may be permitted under limited conditions. They are vehicles used primarily for recreation, not basic transportation and include ATV's, snowmobiles and dirt bikes.

Decibel (dB) - means a logarithmic and dimensionless unit of measure often used in describing the amplitude of sound equal to twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals. The sound pressure level is denoted as SPL and is expressed in decibels.

Sound Level Meter - means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averaging device, output or display meter and weighting networks used to measure sound pressure levels.

Powered Model Vehicles - means any self propelled, airborne, water borne or land borne vessel or vehicle which is not designed to carry people, including but not limited to model airplanes, rockets, boats and cars.

MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING LAND USE:

The following are the maximum permissible sound levels allowed at or within the real property boundary of a receiving land use as measured by a sound level meter (decibel meter):

Residential-	7:30 a.m. to 9:30 p.m.	60 dB
	9:30 p.m. to 7:30 a.m.	50 dB
Commercial-	At All Times	65 dB
Industrial-	At All Times	75 dB

NOISE DISTURBANCE PROHIBITED:

It is unlawful for any person to willfully make, continue, cause, or allow any Noise Disturbance within the City of Clear Lake. The property owner, tenant, or other such person with control, occupancy, or possession of property, shall be responsible for abatement of the Noise Disturbances occurring on that property and failure to do so shall be a violation of this section.

A Noise Disturbance shall include any or all of the following:

1. Alarm Testing - The sound emitted by the intentional sounding of any privately owned fire alarm, burglar alarm, siren, whistle or similar stationary emergency signaling device that can be heard outdoors when sounded for the essential

purpose of testing such device, when conducted between the hours of 5:00 pm and 8:00 am.

2. Noisy Exhaust System - The sound made by a motor vehicle, or recreational vehicle, whose exhaust system is defective, or has been modified, to produce noise that does not blend the exhaust noise into the overall vehicle noise. The exhaust shall not produce a sharp popping or crackling sound that disturbs a reasonable person of normal sensitivities at all times.
3. Motor Vehicle Sound / Entertainment Equipment - The sound emitted, produced or amplified by a motor vehicle entertainment system, including but not limited to radio, tape deck, compact disc player, MP3 player, video player, CD player, amplifiers and any and all such equipment used and intended for the use and enjoyment of such vehicles occupant, if the sound emitted therefrom is audible at a distance of 50 feet or greater, at all times.
4. Screeching Tires - The sound made by the intentional screeching or squealing of the tires of a motor vehicle, at all times.
5. Racing - The sound made by a motor vehicle or recreational vehicle on private property or public right of way during any racing event or time trial, at all times when such sound disturbs a reasonable person of normal sensibilities except events with an approved license or permit, as defined under the exceptions to this chapter.
6. Chain Saw, Lawn Mowers, Weed Whips - The sound emitted by chain saws, tree trimming equipment, lawn mowers, weed whips, and other motor powered equipment used to maintains lawns and other outdoor property operated between the hours of 9:30 pm and 7:30 am. Between the hours of 7:30 a.m. and 9:30 p.m., this activity shall not be subject to the time, area, and dB limits set forth herein.
7. Construction Noise - The sound resulting from the erecting, constructing, excavating, demolishing, altering, or repairing of any structure, or operating, or permitting the operation of any tools or equipment used in construction, drilling, or demolition work in such a manner as to cause a sound in excess of that herein defined across any property boundary line between the hours of 9:30 p.m. and 7:30 a.m. on weekdays and between the hours of 8:30 pm and 8:30 am on weekends.
8. Engine Brake Noise - The sound made by an engine brake devise of a diesel engine truck, at all times.
9. Engine Repairs and Testing - The sound made by repairing, rebuilding, modifying or testing a motor vehicle, boat, motorcycle, or recreational vehicle between the hours of 9:30 pm and 7:30 am.

10. Power Snow Removal Equipment - The sound of powered snow-removal equipment like snow blowers and snow throwers in residential areas between the hours of 12:00 midnight and 4:30 am.
11. Powered Model Vehicles - The sound made by a powered model vehicle between the hours of 9:30 pm and 7:30 am.
12. Sound Equipment and Sound Amplifying Equipment - The sound made by the playing or operation of any radio, television, record player, tape deck, CD or DVD player, computer or other sound amplifying equipment that creates a Noise Disturbance to a reasonable person of normal sensibilities across a residential boundary between the hours of 9:30 p.m. and 7:30 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 8:30 a.m. on Friday and Saturday.
13. Animal Sounds – To include but not be limited to: howls, barks or other audible sounds, emitted by an animal without provocation by the complainant, that are unreasonably loud or disturbing, which are of such character, intensity, and duration as to disturb the peace and quiet of a reasonable person in the neighborhood, or to be detrimental to the life and health of any individual. The owning, keeping, or harboring of any such animal is prohibited.

EXCEPTIONS TO THIS CHAPTER:

1. The emission of sound for the purpose of alerting people to an emergency, including, but not limited, to: outdoor warning sirens, police and fire vehicle sirens, snow clearing equipment, and public address systems.
2. Rail, air, and public mass transportation vehicles.
3. The sound from church bells, carillons or chimes, or electronic reproductions of these sounds by a church, or the emission of sounds in conjunction with a religious celebration.
4. The sound made by students, employees, or the general public while in attendance at any school sponsored event, or the sound made practicing for such events, including, but not limited to: sports and band practice.
5. The sound at any event with an approved license or permit, which specifically allows sound levels in excess of those set forth in this ordinance, from any department, board, or commission of the City authorized to issue such license or permit.
6. The sound made by any federal, state, county, school district or city-owned equipment used to conduct official business, including equipment rented or hired.

7. Sounds emitted from business establishments in the City which possess a valid City issued amusement license and which provide live musical entertainment during their regular hours of operation.

PENALTIES:

Any violation of this Ordinance shall be a simple misdemeanor and shall be subject to the penalties for simple misdemeanors as provided in the Iowa Code.

CONFLICT:

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SEVERABILITY:

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

EFFECTIVE DATE:

The effective date of this Ordinance shall be following its passage, approval, and publication, as required by law.

PASSED and APPROVED this _____ day of _____, 2012.

Mayor

Attest:

City Clerk