

RESOLUTION NO. _____

APPROVING CONTRACT AND BOND FOR THE HOUSER STREET PARKING
EXPANSION AND ATHLETIC FIELD GRADING PROJECT

WHEREAS, this Council has awarded the contract for the Houser Street Parking Expansion and Athletic Field Grading Project to Needham Excavating, Inc. dated the 20th day of July, 2018, in the amount of \$641,983.61; and

WHEREAS, this Council has authorized and directed the Mayor and City Clerk to enter into a written contract for this project with said contractor, subject to final approval by this Council; and

WHEREAS, the contract and bond has been examined by this Council:

NOW, THEREFORE, IT IS RESOLVED THAT:

1. The above contract between the City of Muscatine, Iowa and Needham Excavating, Inc., dated the 20th day of July, 2018, in the amount of \$641,983.61 is approved.
2. The performance bond accompanying such contract, wherein Needham Excavating, Inc. appears as principal and Holmes Murphy, appears as surety, is approved.

The original executed contract and performance bond shall be placed on file in the office of the City Clerk.

PASSED, APPROVED AND ADOPTED THIS 2nd DAY OF AUGUST, 2018.

Diana Broderson, Mayor

ATTEST:

Gregg Mandsager, City Clerk

MEMORANDUM

TO: Gregg Mandsager, City Administrator
FROM: Richard Klimes, Director of Parks and Recreation
DATE: July 23, 2018
RE: Proposed Resolution Approving Contract and Bond – Houser Street Parking Expansion and Athletic Field Grading Project.

INTRODUCTION:

Please accept this memo and the attached information as a request for the City Council to approve the contract and bond for the Houser Street Parking Expansion and Athletic Field Grading Project.

BACKGROUND:

At the July 20, 2018 regular City Council Meeting approval was given to award the Houser Street Parking Expansion and Athletic Field Grading Project to Needham Excavating, Inc. in the amount of \$641,983.61.

Attached is a resolution approving the contract and bond for \$641,983.61 to Needham Excavating, Inc. for the Houser Street Parking Expansion and Athletic Field Grading Project.

RECOMMENDATION:

At this time, it is the City Staff's recommendation for the Muscatine City Council to approve the Resolution Approving the Contract and Bond to Needham Excavating, Inc. for the Houser Street Parking Expansion and Athletic Field Grading Project in the amount of \$641,983.61.

BACKGROUND INFORMATION:

1. Form of Contract
2. Performance and Payment Bond

Thank you for your time and attention to this matter. Please contact me if you have any questions or concerns.

FORM OF CONTRACT

THIS AGREEMENT, made and entered into this 2nd day of August, 2018, by and between the City of Muscatine, Iowa, party of the first part, hereinafter referred to as the "City" and Needham Excavating, Inc., party of the second part, hereinafter referred to as the "Contractor".

WITNESSETH

That the Contractor and the City for the consideration stated herein mutually agree as follows:

ARTICLE 1: Statement of work. The Contractor shall furnish all supervision, technical, personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services and perform all work required for the construction of the Houser Street Parking Expansion and Athletic Field Grading Project, Muscatine, Iowa, all in strict accordance with the Contract Documents prepared by the City of Muscatine.

ARTICLE 2. The City will pay the Contractor for the performance of the contract, from funds legally available for that purpose. Payment will be made on the basis of an estimate equal to ninety-five (95) percent of the contract price, including materials, subject to approval of the City. The balance of the five (5) percent due to the Contractor will be made no earlier than thirty (30) days from the final acceptance of said work by the City.

The Contractor shall provide surety bond in the amount of 100% of the contract and shall guarantee the maintenance of the improvement for a period of two (2) years after its completion and acceptance by the City.

Completion Dates: All work shall be completed in accordance with the special provisions.

The contract amount is \$ 641,983.61.

ARTICLE 3. Contract: The executed contract documents shall consist of the following:

- | | |
|---------------------------|---------------------------------------|
| a. This Agreement | f. Signed Copy of Proposal |
| b. Addenda Numbers _____ | g. Special Provisions |
| c. Plans | h. Detailed Specifications Referenced |
| d. Notice to Bidders | i. Standard Specifications Referenced |
| e. Instruction to Bidders | j. General Conditions |

THIS AGREEMENT, together with other documents enumerated in this ARTICLE 3, with said other documents are as fully a part of the contract as if hereto attached or herein repeated, forms the contract between the parties hereto. In the event that any provision in any component part of this contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties thereto have caused this AGREEMENT to be executed in triplicate original copies on the date and year first above written.

CITY OF MUSCATINE, IOWA

Needham Excavating Inc.

CONTRACTOR

By: Mayor Diana Broderson

Robert D. Smith
BY

Project Manager

TITLE

ATTEST: _____
By: Gregg Mandsager, City Administrator

ATTEST: *Chanin Jewell*

Project Coordinator

TITLE



1/10/2019

Handwritten signature or scribble

Handwritten signature or scribble

CHANNI M JEWELL
Commission Number T62522
My Commission Expires
April 19, 2019



PERFORMANCE AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS THAT, a Principal, hereinafter called the **Needham Excavating Inc.** Contractor and

North American Specialty Insurance Company

(Here insert the legal title of Surety)

as Surety, hereinafter called the Surety, are held and firmly bound unto City of Muscatine, Muscatine County, Iowa as obligee, hereinafter called the Owner, in the amount of

Six Hundred Forty One Thousand Nine Hundred Eighty Three and 61/100

DOLLARS (\$641,983.61) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated August 2, 2018, entered into a Contract with Owner for the

Houser Street Parking Expansion and Athletic Field Grading Project

in accordance with drawings and specifications prepared by the City of Muscatine, Iowa, which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then the obligation of this bond shall be null and void; otherwise it shall remain in full force and effect.

A. The Surety hereby waives notice of any alteration by Owner to be, in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for submission to Owner for completing the Contract in accordance with its terms and conditions, and upon determination by Owner and Surety of the lowest responsible Bidder, arrange for a contract between such Bidder and Owner, and make available as work progresses (even though there should be a default or a succession or defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price", as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

B. The Contractor and his surety shall be obligated to remedy any defects in workmanship or materials that may develop in the improvements covered by this bond for a period of two

(2) years from the date of acceptance of the improvements by the owner.

C. Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the contract falls due.

D. No right of action shall accrue to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.

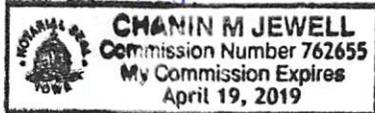
IT IS A FURTHER CONDITION OF THIS OBLIGATION that the principal and surety shall, in accordance with the provisions of Chapter 573 of the Code of Iowa, pay to all persons, firms or corporations having contracts directly with the principal or with subcontractors all just claims due them for labor performed or materials furnished in the performance of the contract on account of which this bond is given.

The provisions of Chapter 573, Code of Iowa, are a part of this bond to the same extent as if they were expressly set out herein.

SIGNED AND SEALED THIS 2nd DAY OF August,
A.D. 2018.

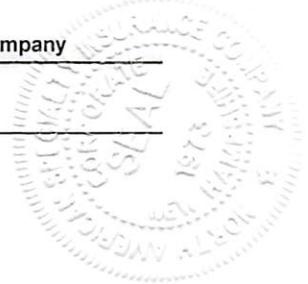
IN THE PRESENCE OF:

Chanin M. Jewell
WITNESS Project Coordinator



Needham Excavating Inc.
PRINCIPAL
[Signature]
TITLE

North American Specialty Insurance Company
SURETY
[Signature]
Anne Crowner, Attorney-in-Fact



STATE OF NEW YORK

IN SENATE

January 19, 1919

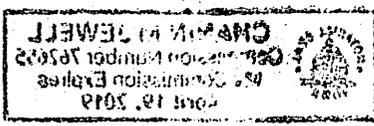
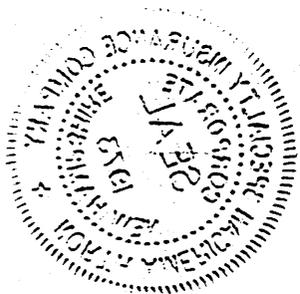
REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE

ON APRIL 11, 1917



SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY
WESTPORT INSURANCE CORPORATION

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Overland Park, Kansas and Washington International Insurance Company a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Overland Park, Kansas, and Westport Insurance Corporation, organized under the laws of the State of Missouri, and having its principal office in the City of Overland Park, Kansas each does hereby make, constitute and appoint:

JAY D. FREIERMUTH, CRAIG E. HANSEN, BRIAN M. DEIMERLY, SHIRLEY S. BARTENHAGEN, CINDY BENNETT, ANNE CROWNER,

TIM McCULLOH,, STACY VENN, DIONE R. YOUNG, and WENDY ANN CASEY JOINTLY OR SEVERALLY

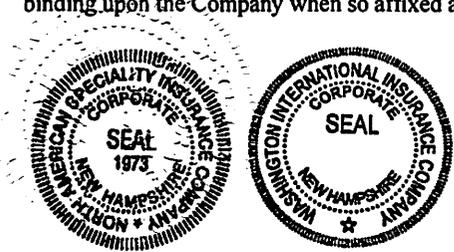
Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

ONE HUNDRED TWENTY FIVE MILLION (\$125,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on March 24, 2000 and Westport Insurance Corporation by written consent of its Executive Committee dated July 18, 2011.

RESOLVED, that any two of the President, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.



By Steven P. Anderson, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company & Senior Vice President of Westport Insurance Corporation

By Mike A. Ito, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company & Senior Vice President of Westport Insurance Corporation



IN WITNESS WHEREOF, North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 3rd day of November, 2017.

North American Specialty Insurance Company
Washington International Insurance Company
Westport Insurance Corporation

State of Illinois
County of Cook ss:

On this 3rd day of November, 2017, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of

Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation and Michael A. Ito Senior Vice President of Washington International Insurance Company and Senior Vice President

of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



M. Kenny, Notary Public

I, Jeffrey Goldberg, the duly elected Vice President and Assistant Secretary of North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 2nd day of August, 2018.

Jeffrey Goldberg

