

Resolution No. 15-0212

**A RESOLUTION APPROVING CONSTRUCTION
CONTRACT AND BOND - 2014 PHASE 2 PAVING**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDSOR
HEIGHTS, STATE OF IOWA:

That the construction contract, bond executed and insurance coverage for the construction of certain public improvements described in general as 2014 Phase 2 Paving Project Improvements, 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:	Grimes Asphalt and Paving Company	of	Des Moines, Iowa
Amount of bid:	\$555,433.25		
Bond surety:	Western Surety Company - \$555,433.25		
Date of bond:	February 2, 2015		
Portion of project:	All construction work		

Passed and Approved this 2nd Day of February, 2015.

Diana Willits, Mayor

Attest:

Brett Klein, City Administrator

BOND

KNOW ALL MEN: That we, GRIMES ASPHALT & PAVING
of Des Moines, Iowa, hereinafter called the Principal, and
Western Surety Company, 333 South Wabash Avenue, Chicago, IL 60604,
hereinafter called the surety, are held and firmly bound unto the City of Windsor Heights,
Iowa, hereinafter called the Owner in the sum of
Five Hundred Fifty-five Thousand Four Hundred Thirty-three and 25/100
Dollars (\$555,433.25), for the payment whereof the Principal and Surety bind
themselves, their heirs, executors, administrators, successors and assigns, jointly and
severally, firmly, by these presents.

WHEREAS, the principal has, by means of a written Agreement dated February 2,
2015, entered into a Contract with the Owner for 2014 Paving Program, Phase 2, which
Agreement includes a guarantee of all work against defective workmanship and materials
for a period of four (4) years from the date of final acceptance of the work by the Owner, a
copy of which Agreement is by reference made a part hereof;

NOW, THEREFORE, the condition of this Obligation is such that, if the Principal shall
faithfully perform the Contract on his part and shall fully indemnify and save harmless the
Owner from all costs and damage which he may suffer by reason of failure so to do and
shall fully reimburse and repay the Owner all outlay and expense which the Owner may
incur in making good any such default,

And Further, that if the Principal shall pay all persons who have contracts directly with the
Principal for labor or materials, failing which such persons shall have a direct right of
action against the Principal and Surety under this Obligation, subject to the Owner's
priority,

Then this Obligation shall be null and void, otherwise it shall remain in full force and
effect.

Provided, however, that no suit, action or proceeding by reason of any default whatever
shall be brought on this Bond after five (5) years from the date of final acceptance of the
work.

And Provided, that any alterations which may be made in the terms of the Contract, or in
the work to be done under it, or the giving by the Owner of any extension of time for the
performance of the Contract, or any other forbearance on the part of either the Owner or
the Principal to the other shall not in any way release the Principal and the Surety, or
either of them, their heirs, executors, administrators, successors or assigns from their
liability hereunder, notice to the Surety of any such alteration, extension or forbearance
being hereby waived.

And Further Provided, the Principal and Surety on this Bond hereby agree to pay all
persons, firms, or corporations having contracts directly with the Principal or with
subcontractors all just claims due them for labor performed or material furnished, in the
performance of the Contract on account of which this Bond is given, when the same are
not satisfied out of the portion of the contract price which the Owner shall retain until
completion of the improvements, but the Principal and Surety shall not be liable to said
persons, firms, or corporations unless the claims of said claimants against said portions of
the contract price shall have been established as provided by law.

Bond

The Surety on this Bond shall be deemed and held, any contract to the contrary notwithstanding, to consent without notice:

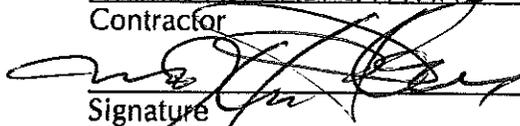
- a. To the extension of time to the Principal in which to perform the Contract.
- b. To changes in the plans, specifications, or Contract, when such changes do not involve an increase of more than twenty percent (20%) of the total contract price, and shall then be released only as to such excess increase.
- c. That no provision of this Bond or of any other contract shall be valid which limits to less than five (5) years from the date of final acceptance of the work the right to sue on this Bond for defects in workmanship or materials not discovered or known to the Owner at the time such work was accepted.

The Bond is executed in triplicate.

Signed and Sealed this 2nd day of February, 2015.

PRINCIPAL:

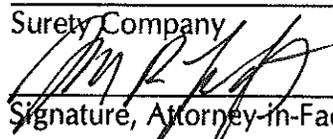
GRIMES ASPHALT & PAVING
Contractor


Signature

Michael J. Yonker, General Manager
Title

SURETY:

Western Surety Company
Surety Company


Signature, Attorney-in-Fact

Joshua R. Loftis
Name of Attorney-in-Fact

Cobb Strecker Dunphy & Zimmermann, Inc.
Company Name

150 South 5th Street, Suite 2800, Minneapolis, MN 55402
Company Address (Including Zip Code)

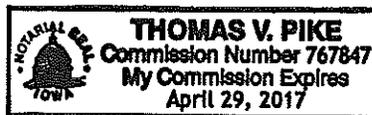
612-349-2400
Company Telephone Number

CORPORATE ACKNOWLEDGMENT

State of Iowa)
County of Polk) ss

On this 2nd day of February, 2015, before me appeared Michael J. Yonker, to me personally known, who, being by me duly sworn, did say that he/she is the General Manager of Grimes Asphalt and Paving Corp., a corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was executed in behalf of said corporation by authority of its Board of Directors, and that said Michael J. Yonker acknowledged said instrument to be the free act and deed of said corporation.

Thomas V. Pike
Notary Public Polk County, Iowa
My commission expires 4-29-2017

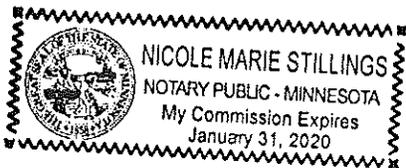


SURETY ACKNOWLEDGMENT

State of Minnesota)
County of Hennepin) ss

On this 2nd day of February, 2015, before me appeared Joshua R. Loftis, to me personally know, who being by me duly sworn, did say that (s)he is the Attorney-in-Fact of Western Surety Company, a corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was executed in behalf of said corporation by authority of its Board of Directors; and that said Joshua R. Loftis acknowledged said instrument to be the free act and deed of said corporation.

Nicole Marie Stillings
Notary Public Dakota County, Minnesota
My commission expires 1/31/2020



Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Bruce N Telander, Donald R Olson, R Scott Egginton, John E Tauer, Linda K French, D R Dougherty, Jack Cedarleaf II, Kurt C Lundblad, Craig Remick, Jerome T Ouimet, Roger W Frank, Nicole Stillings, Rachel Thomas, Joshua R Loftis, Brian J Oestreich, Melinda C Blodgett, Sandra M Doze, Lin Ulven, Individually

of Minneapolis, MN, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 23rd day of May, 2014.



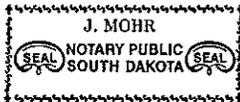
WESTERN SURETY COMPANY

Paul T. Bruflat
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 23rd day of May, 2014, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
June 23, 2015



J. Mohr
J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this **2nd** day of **February**, 2015.



WESTERN SURETY COMPANY

L. Nelson
L. Nelson, Assistant Secretary

CONTRACT

THIS AGREEMENT, made and entered into this 2nd day of February, 2015, by and between the City of Windsor Heights, Iowa, party of the first part, hereinafter referred to as the "Owner", and
GRIMES ASPHALT & PAVING,
party of the second part, hereinafter referred to as the "Contractor".

WITNESSETH: THAT WHEREAS, the Owner has heretofore caused to be prepared certain specifications and proposal blanks, dated the 22nd day of December, 2014, for 2014 Paving Program, Phase 2, under the terms and conditions therein fully stated and set forth, and,

WHEREAS, said specifications and proposal blanks accurately and fully describe the terms and conditions upon which the Contractor is willing to perform the work specified:

NOW, THEREFORE, IT IS AGREED:

1. That the Owner hereby accepts the proposal of the Contractor for the work, as follows:

2014 PAVING PROGRAM, PHASE 2

Base Bid

Construct 2014 Paving Program, Phase 2 including all labor, materials and equipment necessary for approximately 19,985 square yards of milling by use of a small mill, 2,530 tons of HMA overlay, manhole, intake and valve adjustments, nominal amounts of curb and gutter replacement as well as full depth patching and traffic control for the sum of Five Hundred Fifty-five Thousand Four Hundred Thirty-three and 25/100 Dollars (\$555,433.25) based on the unit and lump sum prices as shown on the Proposal.

2. That this contract consists of the following component parts which are made a part of this agreement and contract as fully and absolutely as if they were set out in detail in this contract:

2.1 Contract Documents, including:

- 2.1.1 Notice of Hearing and Letting
- 2.1.2 Instructions to Bidders
- 2.1.3 Proposal
- 2.1.4 Bond
- 2.1.5 General Conditions
- 2.1.6 Special Conditions
- 2.1.7 Plans List
- 2.1.8 Detailed Specifications
- 2.1.9 Plans listed in the specifications
- 2.1.10 Numbered addenda issued to the foregoing.

2.2 This Instrument.

2.3 The above components are complementary and what is called for by one shall be as binding as if called for by all.

3. That payments are to be made to the Contractor in accordance with and subject to the provisions embodied in the documents made a part of this contract.

4. That this contract is executed in triplicate.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hand and seals the date first written above.

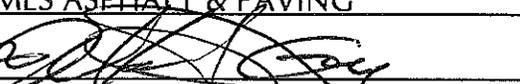
CONTRACTOR

CITY OF WINDSOR HEIGHTS, IOWA

GRIMES ASPHALT & PAVING

By

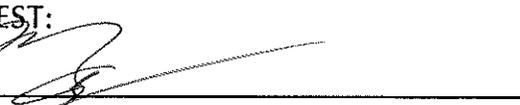
Title


Contract Manager

Mayor

ATTEST:

Title


Project Manager

ATTEST:

City Administrator