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WOODBURY COUNTY, IOWA

CONTRACT

Kind of Work HMA and PCC Crushing

Project No. Crushing 2020 County Woodbury

THIS AGREEMENT made and entered by and between Woodbury County, Iowa, by its Board of Supervisors consisting of the following members: Matthew Ung, Marty Pottebaum, Keith Radig, Rocky De Witt and Justin Wright Contracting Authority, and Schmillen Construction of Marcus, Iowa, Contractor.

WITNESSETH: That the Contractor, for and in consideration of _____
One Hundred Seventy Seven Thousand Six Hundred Fifty Four and 00/100 (\$177,654.00)

payable as set forth in the specifications constituting a part of this contract, hereby agrees to construct in accordance with the plans and specifications therefore, and in the locations designated in the notice to bidders, the various items of work as follows:

Item No.	Item	Quantity	Unit Price	Amount
Project: Pavement Marking 2019				
Group 1				
1.	Crush and Stock Pile PCC (Luton)	8,700 Ton	4.99	43,413.00
2.	Crush and Stock Pile PCC (250 th St.)	3,000 Ton	4.99	14,970.00
3.	Crush and Stock Pile HMA (250 th St.)	3,000 Ton	4.99	14,970.00
4.	Crush and Stock Pile PCC (Hancock Ave.)	9,200 Ton	4.99	45,908.00
5.	Crush and Stock Pile HMA (Hancock Ave.)	2,000 Ton	4.99	9,980.00
6.	Crush and Stock Pile PCC (Preston Blvd)	8,300 Ton	4.99	41,417.00
7.	Crush and Stock Pile HMA (Preston Blvd)	400 Ton	4.99	1,996.00
8.	Mobilization	1 LS	5,000.00	5,000.00
TOTAL BID				177,654.00

Said specifications and plans are hereby made part of and the basis of this agreement and a true copy of said plans and specifications are now on file in the office of the County Engineer under the date of June 19 2020

That in consideration of the foregoing, the Contracting Authority hereby agrees to pay the Contractor, promptly and according to the requirements of the specifications the amounts set forth, subject to the conditions as set forth in the specifications.

That it is mutually understood and agreed by the parties hereto that the notice to bidders, the proposal, the specifications for Project No. Crushing 2020 in Woodbury County, Iowa, the within contract, the contractor's bond, and the general and detailed plans are and constitute the basis of contract between the parties hereto.

That it is further understood and agreed by the parties of this contract that the above work shall be commenced and completed on or before:

Approximate Starting Date	Specified Starting Date	Late Start Date	Number of Working Days
		September 14, 2020	35

That time is the essence of this contract and that said contract contains all of the terms and conditions agreed upon by the parties hereto.

It is further understood that the Contractor consents to the jurisdiction of the courts of Iowa to hear, determine, and render judgment as to any controversy arising hereunder.

IN WITNESS WHEREOF the parties hereto have set their hands for the purposes herein expressed to this and three other instruments of like tenor, as the

_____ day of _____, 20_____

Approved:
By Steen Schmillen Vice President
Contractor: Schmillen Construction

By [Signature]
Contracting Authority: Woodbury County Board Chairperson

Date 8-11-2020

Date _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/04/2020

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.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER: Stille Pierce & Pertzborn, 112 East 5th Street, Storm Lake, IA 50588. INSURED: Schmillen Construction, Inc., 4772 C Ave., PO Box 488, Marcus, IA 51035. CONTACT NAME: Summer Meisheid, PHONE: 712-732-3747, FAX: 712-732-2808, E-MAIL ADDRESS: summer@sppinsurance.com. INSURER A: United Fire & Casualty, INSURER B: AM Best: "A", NAIC #: 13021.

COVERAGES CERTIFICATE NUMBER: 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.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liability, and Workers Compensation.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Woodbury County listed as additional insured on the general liability as their interests apply.

CERTIFICATE HOLDER: Woodbury County, 754 E. Frontage Rd, Merville, IA 51039. 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: Michael Pertzborn

PERFORMANCE BOND

CONTRACTOR (name and address):
Schmillen Construction, Inc.

PO Box 448
Marcus, IA 51035

SURETY (name and address of principal place of business):

Merchants Bonding Company (Mutual)
6700 Westown Parkway
West Des Moines Iowa 50266

OWNER (name and address): Woodbury County, IA
759 E Frontage Road
Merville, IA 51039

CONSTRUCTION CONTRACT

Effective Date of the Agreement: July 21, 2020
Amount: \$177,654.00
Description (name and location): HMA and PCC Crushing

BOND

Bond Number: IAC591006
Date (not earlier than the Effective Date of the Agreement of the Construction Contract): August 4, 2020
Amount: \$177,654.00
Modifications to this Bond Form: None See Paragraph 16

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

Schmillen Construction, Inc. (seal)

Contractor's Name and Corporate Seal

By: Steven Schmillen
Signature

Steven Schmillen
Print Name

Vice President
Title

Attest: Lisa Alesch
Signature

Secretary
Title

Merchants Bonding Company (Mutual) (seal)

Surety's Name and Corporate Seal

By: Summer Meisheid
Signature (attach power of attorney)

Summer Meisheid
Print Name

Attorney-in-Fact
Title

Attest: Kelli Julich-Turnquist
Signature

Agent
Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

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

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of

the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction 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 the Owner or its heirs, executors, administrators, successors, and assigns.

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

11. 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 a declaration of Contractor Default or within

two years after the Contractor ceased working or within two years after the 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 periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

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

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

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 of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Summer Meisheid

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"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 connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 4th day of August, 2020.

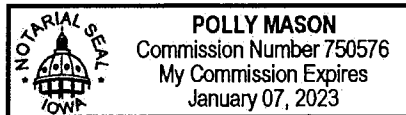


MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 4th day of August, 2020, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are 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.



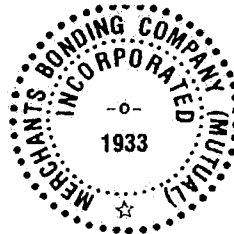
Polly Mason

Notary Public

(Expiration of notary's commission does not invalidate this instrument)

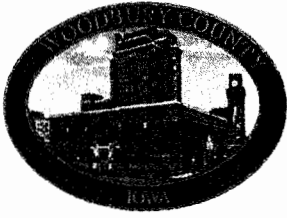
I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 4th day of August, 2020.



William Warner Jr.

Secretary



Woodbury County Secondary Roads Department

759 E. Frontage Road • Merville, Iowa 51039
Telephone (712) 279-6484 • (712) 873-3215 • Fax (712) 873-3235

COUNTY ENGINEER

Mark J. Nahra, P.E.

mnahra@woodburycountyiowa.gov

ASSISTANT TO THE COUNTY ENGINEER

Benjamin T. Kusler, E.I.T.

bkusler@woodburycountyiowa.gov

SECRETARY

Tish Brice

tbrice@woodburycountyiowa.gov

August 18, 2020

Re: Quote Results Woodbury County
Crushing of PCC Concrete and HMA materials (4) Sites

Dear CAP:

Woodbury County accepted a contract with Schmillen Construction of Marcus Iowa, who supplied the low quote for the referenced work. We have enclosed the voided check which you sent along with your quote. We do appreciate your quote and will keep you in mind for any additional projects we have.

Please call this office if you have any questions.

Sincerely,

Ben Kusler

Woodbury County

TABULATION OF BIDS
Crushing

PROJECT NO. Crushing 2020
LETTING: TUESDAY, July 14 2020

NOTE: IN CASE OF MATHEMATICAL ERROR, UNIT PRICE SHALL GOVERN

Various Locations in Woodbury County

ITEM NO.	ITEM	QUANTITIES	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1	Crush and Stockpile PCC (Luton)	8,700.00 Ton	\$ 5.50	\$ 47,850.00	\$ 4.99	\$ 43,413.00	\$ 5.50	\$ 47,850.00	\$ 10.70	\$ 93,090.00	\$ -	\$ -
2	Crush and Stockpile PCC	3,000.00 Ton	\$ 5.50	\$ 16,500.00	\$ 4.99	\$ 14,970.00	\$ 5.50	\$ 16,500.00	\$ 10.70	\$ 32,100.00	\$ -	\$ -
3	Crush and Stockpile Asphalt (250th Street 1000' East of IA 31)	3,000.00 Ton	\$ 5.50	\$ 16,500.00	\$ 4.99	\$ 14,970.00	\$ 4.50	\$ 13,500.00	\$ 6.00	\$ 18,000.00	\$ -	\$ -
4	Crush and Stockpile PCC	9,200.00 Ton	\$ 5.50	\$ 50,600.00	\$ 4.99	\$ 45,908.00	\$ 5.50	\$ 50,600.00	\$ 10.70	\$ 98,440.00	\$ -	\$ -
5	Crush and Stockpile Asphalt (Hancock Ave.)	2,000.00 Ton	\$ 5.50	\$ 11,000.00	\$ 4.99	\$ 9,980.00	\$ 4.50	\$ 9,000.00	\$ 6.00	\$ 12,000.00	\$ -	\$ -
6	Crush and Stockpile PCC	8,300.00 Ton	\$ 5.50	\$ 45,650.00	\$ 4.99	\$ 41,417.00	\$ 5.50	\$ 45,650.00	\$ 10.70	\$ 88,810.00	\$ -	\$ -
7	Crush and Stockpile Asphalt (Preston Blvd.)	400.00 Ton	\$ 5.50	\$ 2,200.00	\$ 4.99	\$ 1,996.00	\$ 4.50	\$ 1,800.00	\$ 6.00	\$ 2,400.00	\$ -	\$ -
8	Mobilization	1 L.S.	\$ 7,000.00	\$ 7,000.00	\$ 5,000.00	\$ 5,000.00	\$ 10,000.00	\$ 10,000.00	\$ 19,000.00	\$ 19,000.00	\$ -	\$ -
TOTAL				\$ 197,300.00		\$ 177,654.00		\$ 194,900.00		\$ 363,840.00		\$ -

* Schmillen Construction
* PO Box 488
* Marcus, IA 51035

CAP Recycling
3150 Rustin St.
Sioux City, IA 51105

* Peterson Contractors, Inc
* PO Box A
* Reinbeck, IA 50669

SUMMARY OF BIDS

- 1) Schmillen Construction \$ 177,654.00
- 2) CAP Recycling \$ 194,900.00
- 3) Peterson Contractors, Inc \$ 363,840.00

ENGINEER'S ESTIMATE \$ 197,300.00

Returned
8-17-20

72-338/1049 1316

CAP, LLC
3150 RUSTIN STREET
SIOUX CITY, IA 51105

July 10 2020

Pay To The Order Of Woodbury Ct \$2000.00

Two Thousand and 00/100 Dollars

MIDSTATES BANK
WWW.MIDSTATEBANK.COM

For Bid Bond C. Crater MP

1049033881 0620022517 1316