

CONTRACT

THIS CONTRACT, made and entered into at **Ankeny, Iowa** this 20th day of March, 2023, by and between the **City of Ankeny, Iowa** by its **Mayor**, upon order of its **City Council** hereinafter called the "Jurisdiction," and **All Star Concrete, LLC**, hereinafter called the "Contractor."

WITNESSETH:

The Contractor hereby agrees to complete the work comprising the below referenced improvement as specified in the Contract Documents, which are officially on file with the Jurisdiction, in the Ankeny Public Services Building. This Contract includes all Contract Documents. The work under this Contract shall be constructed in accordance with the SUDAS Standard Specifications, Most Recent Edition, and as further modified by the Supplemental Specifications and Special Provisions included in said Contract Documents. The Contractor further agrees to complete the work in strict accordance with said Contract Documents, and to guarantee the work as required by law, for the time required in said Contract Documents, after its acceptance by the Jurisdiction.

This Contract is awarded and executed for completion of the work specified in the Contract Documents for the bid prices shown on the Contract Attachment: Bid Items, Quantities, and Prices, which were proposed by the Contractor in its Proposal submitted in accordance with the Notice to Bidders and Notice of Public Hearing for the following described improvement:

NORTH ANKENY BOULEVARD AND 18TH STREET INTERSECTION IMPROVEMENTS

The North Ankeny Boulevard and 18th Street Intersection Improvements include widening the northbound and southbound left turn lanes to provide positive offset turn lanes, and sidewalk and ramp reconstruction of all quadrants of the intersection. Other associated improvements include textured and colored concrete, raised median beds, irrigation conduit, pavement markings, traffic signal modifications, traffic control, minimal earthwork, pavement removals, and site restoration.

The City will furnish low voltage ATC traffic signal cabinet with controller, conflict monitor, accessories and riser, and 48V LED modules (not heads) for Contractor installation.

The Contractor agrees to perform said work for and in consideration of the Jurisdiction's payment of the bid amount of FOUR HUNDRED THIRTY-NINE THOUSAND SIX HUNDRED TWENTY-FOUR AND 75/100 DOLLARS (\$439,624.75), which amount shall constitute the required amount of the Performance, Payment, and Maintenance Bond. The Contractor hereby agrees to commence work under this Contract on or before a date to be specified in a written Notice to Proceed by the Jurisdiction; and to complete the project as described in the Notice to Bidders and Notice of Public Hearing as noted below:

The Contractor shall fully complete the overall project no later than **August 18, 2023**. Full completion for the overall project shall be defined as all work including punch list items completed, and all improvements ready for final acceptance. Should the Contractor fail to fully complete the work in this timeframe, liquidated damages of **One Thousand Dollars (\$1,000.00) per calendar day** will be assessed for work not fully completed within the designated Contract term(s).

IN WITNESS WHEREOF, the Parties hereto have executed this instrument, in triplicate on the date first shown written.

JURISDICTION:

By _____

(Seal)
ATTEST:

CONTRACTOR:

All Star Concrete, LLC
Contractor

By William P. Mager WILLIAM D. HARGER
Signature

Sr. Project Manager
Title

4989 NW Johnston Drive
Street Address

Johnston, IA 50131
City, State, Zip Code

(515) 224-6394
Telephone

CONTRACTOR PUBLIC REGISTRATION INFORMATION To Be Provided By:

1. All Contractors: The Contractor shall enter its Public Registration Number C 1 2 1 1 - 5 7 issued by the Iowa Commissioner of Labor pursuant to Section 91C.5 of the Iowa Code.
2. Out-of-State Contractors:
 - A. Pursuant to Section 91C.7 of the Iowa Code, an out-of-state contractor, before commencing a contract in excess of five thousand dollars in value in Iowa, shall file a bond with the Division of Labor Services of the Iowa Department of Workforce Development. It is the contractor's responsibility to comply with said Section 91C.7 before commencing this work.
 - B. Prior to entering into contract, the designated low bidder, if it is a corporation organized under the laws of a state other than Iowa, shall file with the Engineer a certificate from the Secretary of the State of Iowa showing that it has complied with all the provisions of Chapter 490 of the Iowa Code, or as amended, governing foreign corporations.

NOTE:

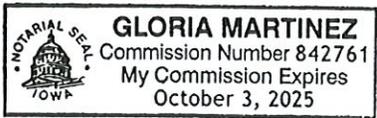
1. **All signatures on this Contract must be original signatures in ink; copies, facsimiles, or electronic signatures will not be accepted.**

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

State of Iowa)
) SS
Polk County)

On this 15th day of March, 2023, before me a Notary Public in and for said county, personally appeared William Harger, to me personally known, who being by me duly sworn did say that person is Sr. Project Manager of said All Star Concrete, LLC, that (the seal affixed to said instrument is the seal of said OR no seal has been procured by the said) All Star Concrete, LLC, and that said instrument was signed and sealed on behalf of the said All Star Concrete, LLC, by authority of its managers and the said William Harger acknowledged the execution of said instrument to be the voluntary act and deed of said All Star Concrete, LLC, by it voluntarily executed.

Gloria Martinez
Notary Public in and for the State of Iowa
My commission expires October 3rd, 2025



CONTRACT ATTACHMENT: BID ITEMS, QUANTITIES, AND PRICES

This Contract is awarded and executed for completion of the work specified in the Contract Documents for the bid prices tabulated below as proposed by the Contractor in its Proposal submitted in accordance with the Notice to Bidders and Notice of Public Hearing. All quantities are subject to revision by the Jurisdiction. Quantity changes that amount to 20% or less of the amount bid shall not affect the unit bid price.

ITEM NO.	ITEM	UNIT	TOTAL	UNIT PRICE	TOTAL PRICE
	EARTHWORK				
2.01	Topsoil, Off-site	CY	65	\$45.00	\$2,925.00
2.02	Excavation, Class 10, Waste	CY	150	\$28.00	\$4,200.00
2.03	Subgrade Preparation, 6-inch Depth	SY	575	\$7.00	\$4,025.00
2.04	Subbase, Modified, 6-inch Depth	SY	575	\$12.00	\$6,900.00
2.05	Removal of Structure, Retaining Wall	LS	1	\$2,500.00	\$2,500.00
2.06	Removal of Structure, Brick Medians and Irrigation	LS	1	\$3,800.00	\$3,800.00
2.07	Compaction Testing	LS	1	\$4,200.00	\$4,200.00
	WATER MAIN AND APPURTENANCES				
5.01	Irrigation Sleeving, Trenchless HDPE, 3-inch Dia.	LF	334	\$105.00	\$35,070.00
5.02	12-inch by 2-inch Service Saddle Tab and Corporation Valve	EA	1	\$4,800.00	\$4,800.00
5.03	Valve Box Extension	EA	6	\$642.00	\$3,852.00
5.04	12-Inch Ground Box	EA	6	\$530.00	\$3,180.00
	STRUCTURES FOR SANITARY AND STORM				
6.01	Manhole Adjustment, Minor	EA	3	\$2,000.00	\$6,000.00
	STREETS AND RELATED WORK				
7.01	Pavement, PCC, Class C-SUD, 9-inch Depth	SY	572	\$92.00	\$52,624.00
7.02	Curb and Gutter, 2.5-foot Width, 9-inch Depth	LF	233	\$55.00	\$12,815.00
7.03	PCC Beam Curb	LF	508	\$48.00	\$24,384.00
7.04	Concrete Median, 6-inch Depth, PCC, Colored	SY	52	\$150.00	\$7,800.00
7.05	Removal of Sidewalk	SY	322	\$15.00	\$4,830.00
7.06	Sidewalk, PCC, 5-inch Depth	SY	58	\$70.00	\$4,060.00
7.07	Sidewalk, PCC, 6-inch Depth	SY	80	\$80.00	\$6,400.00
7.08	Sidewalk, PCC, 5-inch Depth, Textured Concrete	SY	191	\$100.00	\$19,100.00

7.09	Sidewalk, PCC, 5-inch Depth, Colored and Textured Concrete	SY	257	\$125.00	\$32,125.00
7.10	Detectable Warning, Galvanized Steel	SF	144	\$60.00	\$8,640.00
7.11	Pavement Removal	SY	145	\$32.00	\$4,640.00
7.12	Curb and Gutter Removal	LF	1,018	\$14.00	\$14,252.00
	TRAFFIC CONTROL				
8.01	Traffic Signal Modifications	LS	1	\$69,734.00	\$69,734.00
8.02	Painted Pavement Markings, Durable	STA	53.25	\$195.00	\$10,383.75
8.03	Painted Symbols and Legends	EA	6	\$150.00	\$900.00
8.04	Pavement Markings Removed	STA	27.00	\$100.00	\$2,700.00
8.05	Symbols and Legends Removed	EA	2	\$200.00	\$400.00
8.06	Grooves Cut for Pavement Markings	STA	53.25	\$100.00	\$5,325.00
8.07	Grooves Cut for Symbols and Legends	EA	6	\$150.00	\$900.00
8.08	Temporary Traffic Control	LS	1	\$12,700.00	\$12,700.00
8.09	Portable Dynamic Message Sign (PDMS)	CDAY	10	\$150.00	\$1,500.00
	SITE WORK AND LANDSCAPING				
9.01	Conventional Seeding and Fertilizing, Type 6	AC	0.2	\$5,000.00	\$1,000.00
9.02	Hydraulic Mulching, Bonded Fiber Matrix	AC	0.2	\$10,000.00	\$2,000.00
	MISCELLANEOUS				
11.01	Mobilization	LS	1	\$55,750.00	\$55,750.00
11.02	Concrete Washout	LS	1	\$1,200.00	\$1,200.00
11.03	Remove and Reinstall of Type 'A' Sign	EA	3	\$670.00	\$2,010.00

TOTAL CONTRACT AMOUNT =

\$ 439,624.75

PERFORMANCE, PAYMENT, AND MAINTENANCE BOND

KNOW ALL BY THESE PRESENTS:

That we, All Star Concrete, LLC, as Principal (hereinafter the “Contractor” or “Principal”) and Merchants National Bonding, Inc., as Surety, are held and firmly bound unto the **City of Ankeny, Iowa**, as Obligee, (hereinafter referred to as the “Jurisdiction”), and to all persons who may be injured by any breach of any of the conditions of this Bond in the penal sum of **FOUR HUNDRED THIRTY-NINE THOUSAND SIX HUNDRED TWENTY-FOUR AND 75/100 DOLLARS DOLLARS (\$439,624.75)**, lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, legal representatives, and assigns, jointly or severally, firmly by these presents.

The conditions of the above obligations are such that whereas said Contractor entered into a contract with the Jurisdiction, bearing date the 20th day of March 2023, (hereinafter the “Contract”) wherein said Contractor undertakes and agrees to construct the following described improvement:

NORTH ANKENY BOULEVARD AND 18TH STREET INTERSECTION IMPROVEMENTS

The North Ankeny Boulevard and 18th Street Intersection Improvements include widening the northbound and southbound left turn lanes to provide positive offset turn lanes, and sidewalk and ramp reconstruction of all quadrants of the intersection. Other associated improvements include textured and colored concrete, raised median beds, irrigation conduit, pavement markings, traffic signal modifications, traffic control, minimal earthwork, pavement removals, and site restoration.

The City will furnish low voltage ATC traffic signal cabinet with controller, conflict monitor, accessories and riser, and 48V LED modules (not heads) for Contractor installation.

and to faithfully perform all the terms and requirements of said Contract within the time therein specified, in a good and workmanlike manner, and in accordance with the Contract Documents.

It is expressly understood and agreed by the Contractor and Surety in this Bond that the following provisions are a part of this Bond and are binding upon said Contractor and Surety, to-wit:

1. **PERFORMANCE:** The Contractor shall well and faithfully observe, perform, fulfill, and abide by each and every covenant, condition, and part of said Contract and Contract Documents, by reference made a part hereof, for the above referenced improvement, and shall indemnify and save harmless the Jurisdiction from all outlay and expense incurred by the Jurisdiction by reason of the Contractor’s default or failure to perform as required. The Contractor shall also be responsible for the default or failure to perform as required under the Contract and Contract Documents by all its subcontractors, suppliers, agents, or employees furnishing materials or providing labor in the performance of the Contract.

2. PAYMENT: The Contractor and the Surety on this Bond are hereby agreed to pay all just claims submitted by persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the performance of the Contract on account of which this Bond is given, including but not limited to claims for all amounts due for labor, materials, lubricants, oil, gasoline, repairs on machinery, equipment, and tools, consumed or used by the Contractor or any subcontractor, wherein the same are not satisfied out of the portion of the contract price the Jurisdiction is required to retain until completion of the improvement, but the Contractor and Surety shall not be liable to said persons, firms, or corporations unless the claims of said claimants against said portion of the contract price shall have been established as provided by law. The Contractor and Surety hereby bind themselves to the obligations and conditions set forth in Chapter 573 of the Iowa Code, which by this reference is made a part hereof as though fully set out herein.
3. MAINTENANCE: The Contractor and the Surety on this Bond hereby agree, at their own expense:
 - A. To remedy any and all defects that may develop in or result from work to be performed under the Contract within the period of **four (4)** years from the date of acceptance of the work under the Contract, by reason of defects in workmanship or materials used in construction of said work;
 - B. To keep all work in continuous good repair; and
 - C. To pay the Jurisdiction's reasonable costs of monitoring and inspecting to assure that any defects are remedied, and to repair the Jurisdiction all outlay and expense incurred as a result of Contractor's and Surety's failure to remedy any defect as required by this section.
4. GENERAL: Every Surety on this Bond shall be deemed and held bound, any contract to the contrary notwithstanding, to the following provisions:
 - A. To consent without notice to any extension of time to the Contractor in which to perform the Contract;
 - B. To consent without notice to any change in the Contract or Contract Documents, which thereby increases the total contract price and the penal sum of this bond, provided that all such changes do not, in the aggregate, involve an increase of more than 20% of the total contract price, and that this Bond shall then be released as to such excess increase; and
 - C. To consent without notice that this Bond shall remain in full force and effect until the Contract is completed, whether completed within the specified contract period, within an extension thereof, or within a period of time after the contract period has elapsed and the liquidated damage penalty is being charged against the Contractor.
 - D. That no provision of this Bond or of any other contract shall be valid which limits to less than five years after the acceptance of the work under the Contract the right to sue on this Bond.

- E. That as used herein, the phrase “all outlay and expense” is not to be limited in any way, but shall include the actual and reasonable costs and expenses incurred by the Jurisdiction including interest, benefits, and overhead where applicable. Accordingly, “all outlay and expense” would include but not be limited to all contract or employee expense, all equipment usage or rental, materials, testing, outside experts, attorneys’ fees (including overhead expenses of the Jurisdiction’s staff attorneys), and all costs and expenses of litigation as they are incurred by the Jurisdiction. It is intended the Contractor and Surety will defend and indemnify the Jurisdiction on all claims made against the Jurisdiction on account of Contractor’s failure to perform as required in the Contract and Contract Documents, that all agreements and promises set forth in the Contract and Contract Documents, in approved change orders, and in this Bond will be fulfilled, and that the Jurisdiction will be fully indemnified so that it will be put into the position it would have been in had the Contract been performed in the first instance as required.

In the event the Jurisdiction incurs any “outlay and expense” in defending itself against any claim as to which the Contractor or Surety should have provided the defense, or in the enforcement of the promises given by the Contractor in the Contract, Contract Documents, or approved change orders, or in the enforcement of the promises given by the Contractor and Surety in this Bond, the Contractor and Surety agree that they will make the Jurisdiction whole for all such outlay and expense, provided that the Surety’s obligation under this Bond shall not exceed 125% of the penal sum of this Bond.

In the event that any actions or proceedings are initiated regarding this Bond, the parties agree that the venue thereof shall be **Polk** County, State of Iowa. If legal action is required by the Jurisdiction to enforce the provisions of this Bond or to collect the monetary obligation incurring to the benefit of the Jurisdiction, the Contractor and the Surety agree, jointly and severally, to pay the Jurisdiction all outlay and expense incurred therefor by the Jurisdiction. All rights, powers, and remedies of the Jurisdiction hereunder shall be cumulative and not alternative and shall be in addition to all rights, powers, and remedies given to the Jurisdiction, by law. The Jurisdiction may proceed against Surety for any amount guaranteed hereunder whether action is brought against the Contractor or whether Contractor is joined in any such action(s) or not.

NOW THEREFORE, the condition of this obligation is such that if said Principal shall faithfully perform all of the promises of the Principal, as set forth and provided in the Contract, in the Contract Documents, and in this Bond, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

When a word, term, or phrase is used in this Bond, it shall be interpreted or construed first as defined in this Bond, the Contract, or the Contract Documents; second, if not defined in the Bond, Contract, or Contract Documents, it shall be interpreted or construed as defined in applicable provisions of the Iowa Code; third, if not defined in the Iowa Code, it shall be interpreted or construed according to its generally accepted meaning in the construction industry; and fourth, if it has no generally accepted meaning in the construction industry, it shall be interpreted or construed according to its common or customary usage.

Failure to specify or particularize shall not exclude terms or provisions not mentioned and shall not limit liability hereunder. The Contract and Contract Documents are hereby made a part of this Bond.

Witness our hands, in triplicate, this 20th day of March, 2023.

PRINCIPAL:

All Star Concrete, LLC
Contractor

By Walter D. Morgan
Signature

SR. PROJECT MANAGER
Title

SURETY:

Merchants National Bonding, Inc.
Surety Company

By Cindy Bennett
Signature Attorney-in-Fact Officer

Cindy Bennett, Attorney-in-fact
Printed Name of Attorney-in-Fact Officer

Holmes, Murphy and Associates LLC
Company Name

2727 Grand Prairie Parkway
Company Address

Waukee, IA 50263
City, State, Zip Code

515-223-6800
Company Telephone Number

NOTE:

1. All signatures on this Performance, Payment, and Maintenance Bond must be original signatures in ink; copies, facsimiles, or electronic signatures will not be accepted.
2. This Bond must be sealed with the Surety's raised, embossing seal.
3. The Certificate or Power of Attorney accompanying this Bond must be valid on its face and sealed with the Surety's raised, embossing seal.
4. The name and signature of the Surety's Attorney-in-Fact/Officer entered on this Bond must be exactly as listed on the Certificate or Power of Attorney accompanying this Bond.

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, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Anne Crowner; Ben Williams; Brian M Deimerly; Cameron M Burt; Cindy Bennett; Craig E Hansen; D Gregory Stitts; Dione R Young; Donald E Appleby; Douglas Muth; Ginger Hoke; Grace Rasmussen; Greg Krier; James A Holter; Jay D Freiermuth; Jennifer Marino; Jessica Jean Rini; Jessie Allen; Joe Tieman; John Cord; Kate Zanders; Mark R DeWitt; Mark Sweigart; Michelle R Gruis; Sara Huston; Sarah C Brown; Seth D Rooker; Stacy Venn; Tim McCulloh; Todd Bengford; W R Withrow

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 24th day of January, 2023.

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

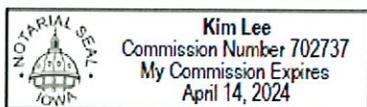
By

Larry Taylor
President



STATE OF IOWA
COUNTY OF DALLAS ss.

On this 24th day of January, 2023, 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.



Kim Lee

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 20th day of March, 2023.



William Warner Jr.
Secretary

