

12/000650

BOARD OF COMMISSIONERS  
SARPY COUNTY, NEBRASKA

RESOLUTION AWARDING BID FOR VARIOUS ASPHALT OVERLAYS  
2.94 MILES OF BUFFALO ROAD, PROJECT C-77 (11-04)  
FOR THE PUBLIC WORKS DEPARTMENT

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, bids for the various asphalt overlays purchase have been solicited, made, opened and reviewed pursuant to applicable Nebraska State Statutes; and,

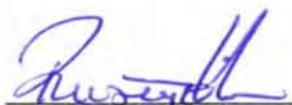
WHEREAS, based on those proceedings, and after a public hearing, this Board has duly deliberated and considered the bids received; and,

WHEREAS, this Board desires to proceed forthwith in order to expedite and facilitate service to the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS THAT:

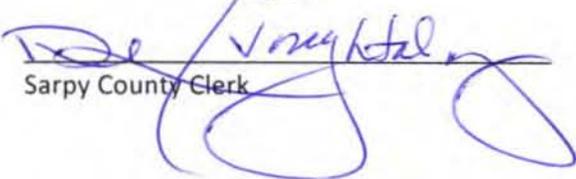
- (1) The low bid of Western Engineering, Inc. for Various Asphalt Overlays 2.94 Miles of Buffalo Road, Project C-77 (11-04) in the amount of Five Hundred Ninety One Thousand Four Hundred Thirty One Dollars and Eighty Six Cents (\$591,431.86) is accepted, ratified, and confirmed.
- (2) This Board's Chairman, Clerk, and Attorney are hereby authorized and directed to execute such ancillary documents as may be required to evidence the contract and take any and all steps necessary or required in order to carry out the terms of such contract after said documents have been reviewed by the Attorney, Fiscal Administrator, and County Administrator.

The above resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 3<sup>rd</sup> day of April, 2012.

  
\_\_\_\_\_  
Sarpy County Board Chairman

ATTEST:



  
\_\_\_\_\_  
Sarpy County Clerk

## CONTRACT AGREEMENT

THIS CONTRACT is made and entered into in TRIPLICATE by and between Sarpy County, Nebraska hereinafter called County, and Western Engineering, Inc. hereinafter called Contractor.

In consideration of the following mutual agreements and covenants, it is understood and agreed by the parties hereto that:

1. **The Contractor does hereby agree to undertake and construct Various Asphalt Overlays, Project C-77 (11-04)**

Also referred to hereinafter as work, in accordance with terms and provisions hereof and subject to the quality provisions in the accepted Proposal of Contractor for the sum of Five Hundred Ninety One Thousand Four Hundred Thirty One Dollars and Eighty Six Cents (written) under penalty of Performance, Payment and Guarantee Bond.

2. The Contractor shall conform with the applicable plans and specifications, applicable Special Provisions and any applicable change order or addenda pertaining thereto or to this Contract, all of which by reference thereto are made a part hereof. Applicable notice to bidders, Instruction to bidders, Bid Proposal of Contractor, Resolution awarding this Contract, the Performance, Payment and Guarantee Bond and all proceedings by the governing body of the County relating to the aforesaid work are made a part hereto by reference thereto.

3. The County agrees to pay the Contractor in accordance with the provisions of the specifications, the accepted Proposal of the Contractor and the provisions of this Contract.

4. All provisions of each document and item referred to in Paragraph 2 above shall be strictly complied with the same as if rewritten herein, and in the event of conflict among the provisions of said documents, the provisions most favorable to the County shall govern, and substitution or change shall be made except upon written direction, the form of which shall be written "Change Order" of the County; and substitution or change shall in no manner be construed to release either party from any specified or implied obligation of this Contract except as specifically provided for in the Change Order.

5. The Contractor warrants that it has neither employed nor retained any company or person, other than bona fide employee working for Contractor to solicit or secure this Contract, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission percentage, brokerage fee, gift

or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, County shall have the right to annul this Contract without liability, or in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

6. County and Contractor promise and agree to comply with all Federal and State laws and County ordinances, and such other rules and regulations as may apply to this Contract, including but not limited to: the Americans with Disabilities Act of 1990 (29 U.S.C.A. 12101, et seq.); the Rehabilitation Act of 1973 (29 U.S.C.A. 701, et seq.); and the Drug Free Workplace Act of 1988 (41 U.S.C.A. 701, et seq.). Furthermore, pursuant to Neb. Rev. Stat. 73-102 Reissue 1990), County and Contractor declare, promise, and warrant that they have and will continue to comply fully with the Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C.A. 1985, et seq.); and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. 48-1101, et seq., (Reissue 1993), in that there shall be no discrimination against any person who is employed in the performance of this Contract, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.
7. The Contractor shall indemnify and save harmless Sarpy County, its officers, employees, agents and representatives from all claims, suits or actions of every kind and character made upon or brought against the said Sarpy County, its officers, employees, agents and representatives for on or account of any injuries or damages received or sustained by any party or parties by or from the acts or omissions of the said Contractor or its servants, agents, representatives and subcontractors, in doing the work herein contracted for or by or in consequence of any negligence in guarding the same or any improper material used in its construction or by or on account of any act or omission of said Contractor or its servants, agents, representatives and subcontractor or its servants, agents, representatives and subcontractors arising out of any manner connected with the performance of this Contract, and also from all claims or damage for infringement of any patent in fulfilling this Contract.
8. The Contractor agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. Sect. 4-108.

9. Insurance Requirements

The Contractor shall not begin work under this Agreement until all insurance certificates have been filed with the Sarpy County Clerk.

The following insurance coverages shall be kept in force during the life of the Agreement and shall be primary with respect to any insurance or self-insurance programs covering the County, its commissioners/supervisors, officials, agents, representatives and employees.

a. Worker's Compensation and Employers Liability Insurance

The minimal acceptable limits shall be the statutory limits as required by the State of Nebraska for Coverage A, Workers' Compensation and \$500,000 each accident for Coverage B, Employers Liability.

b. Commercial General Liability Insurance

Coverage should include broad form coverage written on a commercial general liability form and written on an occurrence basis. The coverage must protect against claims for damages resulting from bodily injury, including death, personal injury and property damage.

The minimum acceptable limits of liability shall be \$1,000,000 each occurrence. If the coverage contains a general aggregate, such limit shall not be less than

\$2,000,000. The products/completed operations limit shall not be less than \$2,000,000.

c. Automobile Liability Insurance

Coverage shall be against claims for damages resulting from bodily injury, including death and property damage, which may arise from the operations of any owned, hired or non-owned automobile. The minimum acceptable limit of liability shall be \$1,000,000 Combined Single Limit for each accident.

d. Certificate of Insurance

The Contractor shall furnish the County with a certificate(s) of insurance evidencing the coverage required in this section. Such certificate(s) shall specifically state that the insurance company or companies underwriting these insurance coverages shall give the County at least thirty (30) days written notice in the event of cancellation of, or material change in, any of the coverages. If the certificate(s) is shown to expire prior to completion of all the terms of this Agreement, the Contractor shall furnish a certificate(s) of insurance evidencing renewal of its coverage to the County. The County is to be included as an additional insured on the insurance coverage required under this section.

The Contractor shall require each and every Subcontractor performing work under this Agreement to maintain the same coverages required of the Contractor in this Section, and upon the request of the County, shall furnish the County with a certificate(s) of insurance evidencing the Subcontractor's insurance coverages required in this section.

e. Property Insurance

During the term of the Contract all responsibility for maintenance of property insurance on the work remains solely with the Contractor who shall as a minimum requirement obtain a builders risk "all risk" or equivalent policy form with sufficient limits to cover the total value of the Project including all the cost of the material, equipment and/or machinery involved under this Contract. This property insurance shall cover portions of the work and materials stored off-site, on-site and in transit.

f. Insurance Company

All insurance coverages herein required of the Contractor shall be written by an

insurance company or companies transacting business as an admitted insurer in the State of Nebraska or under the Nebraska Surplus Lines Insurance Act. All insurance companies must possess a minimum A.M. Best Insurance Company rating of A-. Upon request by the County, the Contractor shall furnish evidence that the insurance company or companies being used by the Contractor meet the minimum requirements listed in this section.

Upon request by the County, the Contractor shall furnish the County with complete and accurate copies of the insurance policies required within this section. If at anytime during the life of this Contract, the Contractor's insurance coverages and limits do not meet or exceed the minimum insurance requirements presented in this section, the Contractor is required to notify the County of any deviations from the minimum requirements presented in this section.

10. The Contractor shall pay to the Unemployment Compensation Fund of the State of Nebraska unemployment contributions and interest due under the laws of the State of Nebraska on wages paid to individuals employed in the performance of this Contract, and shall submit to Sarpy County written clearance from the Commissioner of Labor of the State of Nebraska certifying that all payments due of contributions and interest which may have arisen under this Contract have been paid by the Contractor or his subcontractor, to the State of Nebraska Unemployment Compensation Fund. Payment of the final five percent (5%) of the total amount of the Contract shall be withheld until this provision have been complied with as required by Section 48-657 R.R.S. 1943, as amended.
11. The Contractor shall not, in performance of this Agreement, discriminate or permit discrimination against any person because of race, sex, age or political or religious options or affiliations in violation of federal or state laws or local ordinances and further the Contractor shall comply with Sarpy County ordinances pertaining to civil rights and human relations.
12. The Contractor shall procure a policy or policies of insurance which shall guarantee payment of compensation according to the Workmen's Compensation Laws of Nebraska for all workmen injured in the scope of employment; and further agrees to keep said policy or policies in full force by the Contractor throughout the term of this Contract. Certificates of insurance or copies of policies if required by any department of the County, shall be filed by the Contractor with Sarpy County.
13. Except as may otherwise be required by applicable law payment of any balance due to the Contractor under this Contract shall be made by the County to the Contractor upon completion of the Contractor's work and obligations in accordance with the Contract,

upon acceptance thereof by the County, and upon submission of certificate by the Contractor in accordance with Paragraph 11 above. No payment by the County shall in any way constitute any waiver of any rights of Sarpy County.

14. Pursuant to Neb. Rev. Stat. 23-3113 (Reissue 1991), the Parties hereto declare and affirm that no officer, member, or other employee of the County, and no member of its governing body, and no other public official of the County who exercises any functions so responsibilities in the review or approval of the undertaking described in this Contract, or in the performing of services pursuant to this Contract which effects his or her personal interest, or any corporation, partnership, or association in which he or she is directly or indirectly interested; nor shall any employee of the County, nor indirect, in this Contract or the proceeds thereof.
15. Neither County nor Contractor shall engage the services of any person or persons presently in the employ of the other for work covered by this Contract without the express written consent of the employer of such person or persons.
16. Each party declares, represents, warrants and acknowledges that it is not an agent for the other now, nor will it be in the future. Each party is an independent Contractor, and neither party is or will become the employee of the other as a result of the relationship created by this Contract.
17. It is understood and agreed by the parties to hereto that if any part, term, condition or provision of this Contract is held to be illegal or in conflict with any law of this State or of the United States, the validity of the remaining parts, terms, conditions, or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular part, term, condition, or provisions held to be invalid.
18. This Contract and documents incorporated herein by reference contain the entire Contract between the Parties, and there are no other written or oral promises, agreement or warrants which may effect it.
19. The Contractor acknowledges that it is, and will, remain fully obligated under the provisions of this Contract, regardless of any delegation of duties or assignment or benefits hereunder. Contractor further acknowledges and promises that the provisions of this Contract shall be made binding on any Subcontractor(s) it may retain. Contractor shall require that all Subcontractors hold County harmless from any and all claims and causes of action resulting from actions or activities of Subcontractor. Contractor shall require that all Subcontractors comply with any and all applicable State and Federal laws and that Subcontractor(s) obtain any and all necessary permits or licenses necessary to conduct work under this Contract.

20. Contractor **may not** subcontract or assign any portion of Contract without prior written approval from the County.
21. Contractor expressly guarantees all work and materials as described herein.

This Contract cannot be amended except by written agreement of both parties. Notice to the Parties shall be given in writing to the agents of each party named below:

County: Ms. Deb Houghtaling  
Sarpy County Clerk's Office  
1210 Golden Gate Dr Ste  
Papillion, NE 68046

Contractor: Western Engineering, Inc.  
3403 S. 11th Street  
Council Bluffs, IA 51501

IN WITNESS WHEREOF, the parties hereto have caused these instruments to be executed in THREE original counterparts, this as of this 3rd day of April, 2012.

(SEAL)



County of Sarpy, Nebraska  
A Body Politic and Corporate

CHAIRMAN: *Russell* 4/3/12

ATTEST: *Debra L. Houghtaling*

CLERK: \_\_\_\_\_

APPROVED AS TO FORM:

*[Signature]*  
COUNTY ATTORNEY/DEPUTY

WESTERN ENGINEERING COMPANY, INC.  
CONTRACTOR: \_\_\_\_\_

ATTEST:

*[Signature]*  
SECRETARY/WITNESS

PRESIDENT: *[Signature]*

## AIA Document A312 - Electronic Format

**Performance Bond**

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES: CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

Any singular reference to Contract, Surety, Owner or Other Party Shall be considered plural where applicable.

CONTRACTOR (Name and Address):  
Western Engineering Company, Inc.  
P. O. Box 350  
Harlan, Iowa 51357-0350  
OWNER (Name and Address)  
Sarpy County, Nebraska  
1210 Golden Gate Dr Ste  
Papillion, NE 68046

SURETY (Name and Principal Place of Business)

Hartford Fire Insurance Company  
690 Asylum Avenue  
Hartford, Connecticut 06115

CONSTRUCTION CONTRACT

Date: April 3, 2012

Amount: \$591,431.86

Description (Name and Location): Various Asphalt Overlays, Project C-77 (11-04)

BOND

Date (Not earlier than Construction Contract Date): April 6, 2012

Amount: \$591,431.86

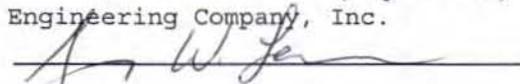
Modifications to this Bond:

None

See Page

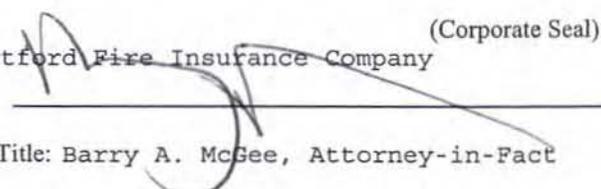
CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)  
Western Engineering Company, Inc.

Signature:   
Name and Title: Gary W. Lemons, President  
(Any additional signatures appear on the last page)

SURETY

Company: (Corporate Seal)  
Hartford Fire Insurance Company

Signature:   
Name and Title: Barry A. McGee, Attorney-in-Fact

(FOR INFORMATION ONLY - Name, Address and Telephone)

AGENT or BROKER: Ahrold Fay Rosenberg Inc  
604 Locust St., Ste 800,  
Des Moines IA 50309-3713

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

1 The Contractor and the 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.

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

2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction

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Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

**3.2** The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Sub-paragraph 3.1; and

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

**4** 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:

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

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

**4.3** 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 the contractor selected with the Owner's 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 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

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

- .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, tender payment therefor to the Owner; or
- .2** Deny liability in whole or in part and notify the Owner citing reasons therefor.

**5** If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen 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 Subparagraph 4.4, and the Owner refuses the payment tendered 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.

**6** After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, 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. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

**6.1** The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

**6.2** 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 4; and

**6.3** 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.

**7** 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 or successors.

**8** 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.

**9** 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 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 period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**10** Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

**11** 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 here from and provisions conforming to such statutory or other legal 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.

## 12 DEFINITIONS

**12.1** 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 to the Contractor of 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.

**12.2** Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

**12.3** Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

**12.4** Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

## MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

None

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: \_\_\_\_\_

Name and Title:

Address:

Signature: \_\_\_\_\_

Name and Title:

Address:

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## Payment Bond

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Any singular reference to Contract, Surety, Owner or Other Party Shall be considered plural where applicable.

CONTRACTOR (Name and Address):  
Western Engineering Company, Inc.  
P. O. Box 350  
Harlan, Iowa 51357-0350  
OWNER (Name and Address)  
Sarpy County, Nebraska  
1210 Golden Gate Dr Ste  
Papillion, NE 68046

SURETY (Name and Principal Place of Business)  
Hartford Fire Insurance Company  
690 Asylum Avenue  
Hartford, Connecticut 06115

### CONSTRUCTION CONTRACT

Date: April 3, 2012

Amount: \$591,431.86

Description (Name and Location): Various Asphalt Overlays, Project C-77(11-04)

### BOND

Date (Not earlier than Construction Contract Date): April 6, 2012

Amount: \$591,431.86

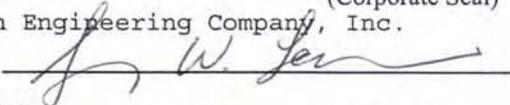
Modifications to this Bond:

None

See Page 4

### CONTRACTOR AS PRINCIPAL

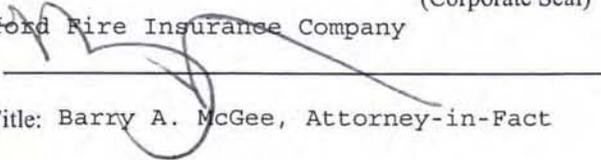
Company: (Corporate Seal)  
Western Engineering Company, Inc.

Signature: 

Name and Title: Gary W. Lemons, President  
(Any additional signatures appear on the last page)

### SURETY

Company: (Corporate Seal)  
Hartford Fire Insurance Company

Signature: 

Name and Title: Barry A. McGee, Attorney-in-Fact

(FOR INFORMATION ONLY - Name, Address and Telephone)

AGENT or BROKER: Ahrold Fay Rosenberg Inc  
604 Locust St., Ste 800,  
Des Moines IA 50309-3713

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

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

2 With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

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**3** With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

**4** The Surety shall have no obligation to Claimants under this Bond until:

**4.1** Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

**4.2** Claimants who do not have a direct contract with the Contractor:

- .1** Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
- .2** Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
- .3** Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

**5** If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

**6** When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

**6.1** Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

**6.2** Pay or arrange for payment of any undisputed amounts.

**7** The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

**8** Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

**9** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

**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** 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 Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last

AIA DOCUMENT A312 • PERFORMANCE BOND AND PAYMENT BOND • DECEMBER 1984 ED. • AIA ® • THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C., 20006-5292 • THIRD PRINTING • MARCH 1987. WARNING; Unlicensed photocopying violates U.S. copyright laws and is subject to legal prosecution.

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materials or equipment were furnished by anyone under the Construction 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 the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the 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 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. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**14** Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the 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 the Contractor or with a subcontractor of the 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 Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the 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** Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

**15.3** Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

**MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:**

This Bond is modified in accordance with the Rider below  
(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL		SURETY	
Company:	(Corporate Seal)	Company:	(Corporate Seal)
_____ Signature:		_____ Signature:	
Name and Title:		Name and Title:	
Address:		Address:	

## A 312 PAYMENT BOND RIDER

This rider amends the provisions of the A312 Payment Bond as follows:

Paragraph 5 is deleted in its entirety.

Paragraph 6 is deleted in its entirety and replaced with the following:

6. When the Surety has received Notice as required in Paragraph 4 above, the Surety shall take the following action;
  - 6.1) Send an acknowledgment letter to the claimant, with a copy to the Owner, requesting information and documentation necessary to investigate the claim.
  - 6.2) As soon as reasonably practical under all circumstances, and after having received the requested documentation from the claimant, including a properly executed Affidavit of Claim, advise the claimant of the status of the claim.

No provision of this bond shall be interpreted to waive or discharge any right or defense of the Surety or the Contractor. No action or failure to act by the Surety or the Contractor shall be considered to be an admission of liability or a waiver of the Contractor or Surety's right to dispute a claim in whole or in part.

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KNOW ALL MEN BY THESE PRESENTS, that we Western Engineering Company, Inc.

as Principal, and Hartford Fire Insurance Company, a Connecticut corporation, as Surety, are held and firmly bound unto Sarpy County, Nebraska

as Oblige, in the full and just sum of---Five Hundred Ninety One Thousand Four Hundred Thirty One & 86/100---

Dollars (\$ ---591,431.86--- ), for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal entered into a contract with dated April 3, 2012 for Various Asphalt Overlays, Project C-77 (11-04)

WHEREAS, said contract provides that the Principal will furnish a bond conditioned to guarantee for the period of two (2) year(s) after approval of the final estimate on said job, by the owner, against all defects in workmanship and materials which may become apparent during said period, and

WHEREAS, the said contract has been completed, and was approved on

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if within two (2) year(s) from the date of approval of the said contract, the work done under the terms of said contract shall disclose poor workmanship in the execution of said work, and the carrying out of the terms of said contract, or it shall appear that defective materials were furnished thereunder, then this obligation shall remain in full force and virtue, otherwise this instrument shall be void.

Signed and sealed this 6th day of April, 2012

Witness: [Signature]

Western Engineering Company, Inc.

By: [Signature]

Gary W. Lemons, President

Principal

Hartford Fire Insurance Company

By: [Signature]

Barry A. McGee Attorney-in-Fact

# POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD  
BOND, T-4

P.O. BOX 2103, 690 ASYLUM AVENUE  
HARTFORD, CONNECTICUT 06115

call: 888-266-3488 or fax: 860-757-5835

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Code: 91-823035

- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of unlimited:**

*Barry A. McGee, Dione R. Young, John W. Ahrold, II, John R. Fay, Karlene Kentner, Jennifer Stark, Matt Fay*  
of  
*Des Moines, IA*

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , 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.

**In Witness Whereof**, and as authorized by a Resolution of the Board of Directors of the Companies on January 22, 2004 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*Scott Sadowsky*

Scott Sadowsky, Assistant Secretary

*M. Ross Fisher*

M. Ross Fisher, Assistant Vice President

STATE OF CONNECTICUT }  
COUNTY OF HARTFORD } ss. Hartford

On this 3<sup>rd</sup> day of March, 2008, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Scott E. Paseka*

Scott E. Paseka  
Notary Public

My Commission Expires October 31, 2012

I, the undersigned, Assistant Vice President of the Companies, 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 effective as of April 6, 2012.  
Signed and sealed at the City of Hartford.



*Gary W. Stumper*

Gary W. Stumper, Assistant Vice President



# CERTIFICATE OF LIABILITY INSURANCE

WESTE-1

OP ID: LM

DATE (MM/DD/YYYY)

04/06/12

. 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 <b>AHROLD FAY ROSENBERG, INC.</b> 604 Locust St., Ste. 800 Des Moines, IA 50309-3713 John R. Fay	515-309-6200	CONTACT NAME:	
	515-309-6225	PHONE (A/C, No, Ext):	FAX (A/C, No):
		E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A : <b>Travelers</b>	
		INSURER B : <b>Cincinnati Insurance Company</b>	<b>10677</b>
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

INSURED **Western Engineering Company, Inc.**  
P. O. Box 350  
Harlan, IA 51537-0350

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

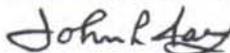
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE 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.

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	X		DTCO6466R387PHX11	10/31/11	10/31/12	EACH OCCURRENCE \$ <b>1,000,000</b>
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU Included <input checked="" type="checkbox"/> Contractual Liab						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>300,000</b>
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						MED EXP (Any one person) \$ <b>5,000</b>
							PERSONAL & ADV INJURY \$ <b>1,000,000</b>
A	AUTOMOBILE LIABILITY	X		DT8106466R387COF11	10/31/11	10/31/12	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b>
	<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> Contr Liab						BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
B	UMBRELLA LIAB	X		EUP0045204	10/31/11	10/31/12	EACH OCCURRENCE \$ <b>10,000,000</b>
	<input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> RETENTION \$ <b>None</b>						AGGREGATE \$ <b>10,000,000</b>
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N	N/A	DTVYBNUB6466R3811	10/31/11	10/31/12	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	<input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$ <b>500,000</b>
							E.L. DISEASE - EA EMPLOYEE \$ <b>500,000</b>
							E.L. DISEASE - POLICY LIMIT \$ <b>500,000</b>

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

Re: Sarpy County Project C-77(11-04), Various Asphalt Overlays; Certificate holder is included as additional insured on the general and auto liability as respects the operations of the named insured. 30 Days Notice of Cancellation Applies.

**CERTIFICATE HOLDER****CANCELLATION**

<b>SARPY-2</b>  Sarpy County, Nebraska Sarpy County Clerks Office 1210 Golden Gate Dr Ste 1129 Papillion, NE 68046-2896	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 

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CONTRACTOR WESTERN ENGINEERING & INC.

Sarpy County, Nebraska  
 Various Asphalt Overlays 2.94 Miles of Buffalo Road,  
 Project C-77 (11-04)  
 Bid Form

The undersigned, having carefully examined the Plans and Specifications, and having examined the site, hereby submit our proposal.

Attached hereto is a Bid Bond in the amount of 5% of the amount bid made payable to the Sarpy County Treasurer, which is agreed shall be forfeited should the undersigned fail to perform or fail to furnish bond and securities in accordance with the proposal.

For furnishing all materials, labor, equipment, tools, together with appurtenances and accessories required to prepare, construct, erect and install the proposed improvements, complete and ready for operation, our bid as follows:

	Description	Qty	Unit	Unit Price	Ext. Price
01.	Barricades	JOB	LUMP	\$ 1,500.00	\$ 1,500.00
02.	1" Cold Milling	37,992	S.Y.	\$ 0.50	\$ 18,996.00
03.	3" Asphalt Surfacing (Type SP-4)	38,438	S.Y.	\$ 12.85	\$ 493,728.30
04.	Full Depth Base Repair	219	TONS	\$ 98.80	\$ 21,677.20
05.	4" Drive Asphalt Surfacing (Type SP-4)	199	S.Y.	\$ 23.20	\$ 4,616.80
06.	9" Intersection Asphalt Surfacing (Type SP-4)	202	S.Y.	\$ 54.70	\$ 11,049.40
07.	Tack Coat	5,740	GAL	\$ 2.50	\$ 14,350.00
08.	Leveler Layer Coarse	25	TONS	\$ 105.00	\$ 2,625.00
09.	Striping (Yellow Centerline)	21,250	L.F.	\$ 0.17	\$ 3,612.50
10.	Striping (White Edgelines)	31,084	L.F.	\$ 0.17	\$ 5,284.28
11.	Earthwork Shoulders	155.42	STA	\$ 89.00	\$ 13,832.38
Total Base Bid					\$ 591,431.86

\*Prices are to be F.O.B. - Various Asphalt Overlays, Sarpy County, Nebraska

CONTRACTOR START DATE:

APRIL 16, 2012

If notified of acceptance of this proposal and Contract award within sixty (60) days after date stated for receipt of bids, the undersigned agrees to execute a Contract, provide insurance certificates and performance bonds for the above named work and the above stated

CONTRACTOR WESTERN ENGINEERING Co., Inc.

consideration in the form required within ten (10) days of such proposal acceptance notification; to commence the work within five (5) days of the Contractor's Notice to Proceed and to complete the Contract within **18 working days**.

Total base bid shall be the basis for establishing the amount of the Performance Bond in this Contract. The Total Base Bid is based on the quantities shown in the Proposal Form and on the dimensions shown in the Plans where specific quantities are not itemized, and is subject to additions or reductions according to the actual construction quantities as determined by the Engineer. Any such change orders shall be made by and become a part of the Engineers Certified Progress Statement(s) of work in progress as well as final completed construction (Project Completion Report(s)).

The undersigned has carefully checked the bid blank quantities against the Plans and Specifications before preparing this Proposal and accepts the said quantities and amounts, as correctly listing the complete work to be done in accordance with the Plans and Specifications.

The County Board reserves the right to waive informalities and irregularities and to award bids which furnish the material and construction that, in their opinion, will serve in the best interest of the County or to reject any/or all bids.

The undersigned also agrees that the time of commencement, rate of progress and time of completion of the work of the Contract are ESSENTIAL CONDITIONS of the Contract and that the Owner may retain a sum of three hundred dollars (\$300.000) per calendar day from the sum due under the Contract for each calendar day that the Contract remains uncompleted after the period of time stipulated.

**Company Information:**

Years in business:

89 YEARS

# of employees

175

Total sales last 3 years

\$ 96,000,000.00  
\$ 52,000,000.00  
\$ 47,000,000.00

**References:**

Company Name: \_\_\_\_\_

CONTRACTOR WESTERN ENGINEERING Co., Inc.

Address: 218 <sup>50</sup> 30 16<sup>th</sup> St City of Blair, NE  
Contact Name: Lowel Kubic Phone Number: 402-426-4191  
Fax Number: 402-426-4195 Date of Purchase: \_\_\_\_\_  
Email: \_\_\_\_\_

Company Name: Washington County  
Address: P.O. Box 130 Blair, NE 68008  
Contact Name: Cheryl Parson Phone Number: 402-426-6844  
Fax Number: 402-426-6846 Date of Purchase: \_\_\_\_\_  
Email: \_\_\_\_\_

Company Name: Burt County  
Address: 111 N 13<sup>th</sup> Tekamah, NE 68061  
Contact Name: Peggy Smith Phone Number: 402-374-2944  
Fax Number: \_\_\_\_\_ Date of Purchase: \_\_\_\_\_  
Email: \_\_\_\_\_

I certify that this bid is submitted in accordance with the specifications issued by Sarpy County.

The undersigned acknowledged receipt of the following addenda (if applicable):

Addendum #1 ✓  
Addendum #2 ✓

Attachments: Literature  
Warranty Information

WESTERN ENGINEERING Co., Inc.  
Company Name

ROBERT E. LEHMEISTER  
Company Representative (Please print)

Robert E. Lomenzo

Authorized Signature

3403 S. 11<sup>th</sup> STREET

Address

COUNCIL BLUFFS, IA. 51501

City, State & Zip

CONTRACTOR WESTERN ENGINEERING CO., INC.

712-366-1039

Telephone Number

712-366-1065

Fax Number

ROBERT L @ WESTERN - ENG. COM

E-Mail Address

*\*NOTE: Sarpy County is tax exempt and will provide the proper form upon request.*

# Sarpy County Purchasing Department

SARPY COUNTY COURTHOUSE  
1210 GOLDEN GATE DRIVE  
PAPILLION, NE 68046



Brian Hanson, Purchasing Agent  
(402) 593-2349  
Debby Peoples, Asst. Purchasing Agent  
(402) 593-4164  
Beth Garber, Senior Buyer/Contract Administrator  
(402) 593-4476  
Lois Spethman, Supply Clerk/Purchaser  
(402) 593-2102

## Memo

To: Sarpy County Board of Commissioners

From: Beth Garber

Re: Various Asphalt Overlays

On March 27, 2012, four (4) bids were opened for Various Asphalt Overlays 2.94 Miles of Buffalo Road, Project C-77 (11-04) for the Public Works Department. After reviewing the bids, it is recommended the bid be awarded to the low bidder, Western Engineering Inc. for \$591,431.86 with a start date of approximately April 16, 2012. There are 18 working days for this project which had an engineer's estimate of \$631,351.50.

This has been placed on the April 3, 2012 Board agenda for recommended approval. Should you have any questions, please feel free to contact me at [bgarber@sarpy.com](mailto:bgarber@sarpy.com).

March 29, 2012

---

Beth Garber

Cc: Deb Houghtaling  
Mark Wayne  
Scott Bovick  
Brian Hanson  
Denny Wilson  
Bill Herr  
Pat Dowse

# THE AMERICAN INSTITUTE OF ARCHITECTS



AIA Document A310

## Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we Western Engineering Company, Inc.,  
P. O. Box 350, Harlan, Iowa 51537 (Here insert full name and address or legal title of Contractor)

as Principal, hereinafter called the Principal, and Hartford Fire Insurance Company,  
690 Asylum Avenue, Hartford, Connecticut 06115 (Here insert full name and address or legal title of Surety)

a corporation duly organized under the laws of the State of Connecticut  
as Surety, hereinafter called the Surety, are held and firmly bound unto  
Sarpy County Treasurer (Here insert full name and address or legal title of Owner)  
Sarpy County, 1210 Golden Gate Drive, Papillion, NE 68046

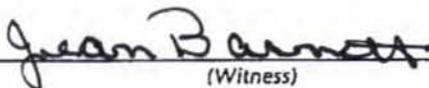
as Obligee, hereinafter called the Obligee, in the sum of

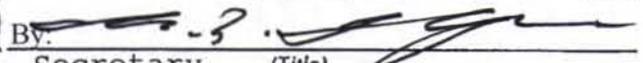
Five Percent of Amount of Bid Dollars (\$ 5% ),  
for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind  
ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by  
these presents.

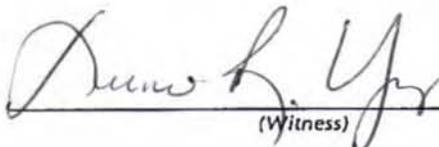
WHEREAS, the Principal has submitted a bid for  
Various asphalt overlays 2.94 miles of Buffalo Rd., (Here insert full name, address and description of project)  
Project C-77(11-04) for the Sarpy County, Nebraska Public  
Works Department.

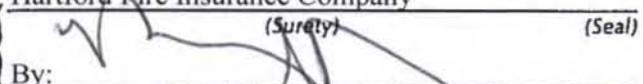
NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract  
with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding  
or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt  
payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter  
such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty  
hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract  
with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain  
in full force and effect.

Signed and sealed this 27th day of March 19 2012

  
(Witness)

Western Engineering Company, Inc.  
(Principal) (Seal)  
By:   
Secretary (Title)

  
(Witness)

Hartford Fire Insurance Company  
(Surety) (Seal)  
By:   
Barry A. McGee (Title) Attorney-in-Fact



# INSTRUCTION SHEET

## FOR AIA DOCUMENT A310, BID BOND—1970 EDITION

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### A. GENERAL INFORMATION

#### 1. Purpose

AIA Document A310 establishes the maximum penal amount that may be due the Owner if the Bidder fails to execute the contract and to provide the required performance and payment bonds, if any. It provides assurance that, if a bidder is offered a contract based on its tendered proposal but fails to enter into the contract, then the Owner will be paid the difference in cost to award the contract to the next qualified bidder, so long as the difference does not exceed the maximum penal amount of the bond.

#### 2. Related Documents

The A310 is not incorporated by reference into other AIA documents. For further reference on bonding procedures, see Construction Bonds and Insurance Guide, 2nd Edition, by Bernard B. Rothschild, FALA, published by the AIA. See also AIA Document A501, Recommended Guide for Competitive Bidding Procedures; AIA Document 701, Instructions to Bidders; AIA Document A771, Instructions to Interiors Bidders; and AIA Document G612, Owner's Instructions Regarding Construction Contract, Insurance and Bonds, and Bidding Procedures.

#### 3. Use of Non-AIA Forms

AIA Document A310 may be used with any appropriate AIA or non-AIA document. CAUTION SHOULD BE EXERCISED BEFORE ITS USE TO VERIFY ITS COMPLIANCE WITH CURRENT LAWS AND REGULATIONS BY CONSULTING WITH AN ATTORNEY OR A BOND SPECIALIST.

### B. COMPLETING THE A310 FORM

#### 1. Modifications

Users are encouraged to consult with an attorney or a bond specialist before completing the A310, particularly concerning the effect of federal, state, and local laws on the terms of this document.

#### 2. Identification of the Parties

The Contractor, the Surety, and the Owner should be identified using their respective full names and addresses or legal titles under which the bond is to be executed. The state in which the Surety is incorporated also should be identified in the space provided.

#### 3. Bond Amount

The dollar amount of the bond should be provided in both written and numerical form.

#### 4. Project Description

The proposed project should be described in sufficient detail to identify (1) the official name or title of the facility, (2) the location of the site, and (3) the proposed building type, size, scope, or usage.

### C. EXECUTION OF THE BOND

The bond must be signed by both the Contractor and the Surety. The parties executing (signing) the bond should print their title and impress their corporate seal, if any. Where appropriate, attach a copy of the resolution or bylaw authorizing the individual to act on behalf of the firm or entity. As to the Surety, this usually takes the form of a power of attorney issued by the Surety company to the bond producer (agent) who signs on its behalf.

# POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD  
BOND, T-4

P.O. BOX 2103, 690 ASYLUM AVENUE  
HARTFORD, CONNECTICUT 06115

call: 888-266-3488 or fax: 860-757-5835

Agency Code: 91-823035

KNOW ALL PERSONS BY THESE PRESENTS THAT:

- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of unlimited:**

*Barry A. McGee, Dione R. Young, John W. Ahrold, II, John R. Fay, Karlene Kentner, Jennifer Stark, Matt Fay*  
of  
*Des Moines, IA*

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , 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.

**In Witness Whereof**, and as authorized by a Resolution of the Board of Directors of the Companies on January 22, 2004 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*Scott Sadowsky*

Scott Sadowsky, Assistant Secretary

*M. Ross Fisher*

M. Ross Fisher, Assistant Vice President

STATE OF CONNECTICUT }  
COUNTY OF HARTFORD } ss. Hartford

On this 3<sup>rd</sup> day of March, 2008, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Scott E. Paseka*

Scott E. Paseka  
Notary Public

My Commission Expires October 31, 2012

I, the undersigned, Assistant Vice President of the Companies, 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 effective as of **March 27, 2012**  
Signed and sealed at the City of Hartford.



*Gary W. Stumper*

Gary W. Stumper, Assistant Vice President



**ENGINEERING**

westernengineering.biz

P.O. Box 350  
Harlan, IA 51537



**Bid Bond For: Sarpy County, Papillion, NE**

**Proposal for the Construction of: Project C-77(11-04)**  
**Various Asphalt Overlays 2.94 Miles of Buffalo Rd**  
**Sarpy County Public Works Department**

**Sealed Bid**

**FROM: Western Engineering Company, Inc.**  
P.O. Box 350  
Harlan, IA 51537

**TO: Deb Houghtaling**  
Sarpy County Clerk's Office  
1210 Golden Gate Drive  
Papillion, NE 68046

**FOR: Sarpy County, Papillion, NE**

**PROPOSAL FOR THE CONSTRUCTION OF: Project C-77(11-04)**  
**Various Asphalt Overlays 2.94Miles of Buffalo Rd**  
**Sarpy County Public Works Department**

**BID CLOSING DATE: March 27, 2012**  
**UNTIL: 3:00 P.M.**



## SARPY COUNTY

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*Dennis L. Wilson P.E.*  
Sarpy County Engineer

**PUBLIC WORKS DEPARTMENT**  
15100 South 84th Street • Papillion, Ne 68046-2895  
Phone (402) 537-6900 • FAX (402) 537-6955 • www.sarpy.com

# Memo

To: Sarpy County Board of Commissioners  
From: Bill Herr, Project Administrator *BH*  
Date: 03/28/2012  
Re: Asphalt overlays bid recommendation

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I recommend approval of the bid received from Western Engineering, Inc. for various asphalt overlays project C-77(11-04); in the amount of \$591,431.86. Start date of project will be April, 16, 2012.

If you have any questions, please feel free to contact me.

Bid Tab  
 Various Asphalt Overlays  
 Project C-77 (11-04)

Bid Opening:  
 3:00 p.m.  
 June 28, 2011

	Qty	Unit	OMG Midwest, Inc.		Constructors, Inc.		Henningsen Construction, Inc.		Western Engineering, Inc.	
			Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1 Barricades	Job	Lump	\$2,550.72	\$2,550.72	\$9,450.00	\$9,450.00	\$22,650.00	\$22,650.00	\$1,500.00	\$1,500.00
2 1" Cold Miling	37,992	S.Y.	\$0.65	\$24,694.80	\$0.60	\$22,795.20	\$1.00	\$37,992.00	\$0.50	\$18,996.00
3 3" Asphalt Surfacing (Type SP-4)	38,438	S.Y.	\$14.26	\$548,125.88	\$13.35	\$513,147.30	\$14.22	\$546,588.36	\$12.85	\$493,928.30
4 Full Depth Base Repair	219	Tons	\$88.90	\$19,469.10	\$111.25	\$24,363.75	\$165.00	\$36,135.00	\$98.80	\$21,637.20
5 4" Drive Asphalt Surfacing (Type SP-4)	199	S.Y.	\$19.95	\$3,970.05	\$30.00	\$5,970.00	\$21.50	\$4,278.50	\$23.20	\$4,616.80
6 9" Intersection Asphalt Surfacing	202	S.Y.	\$46.11	\$9,314.22	\$65.00	\$13,130.00	\$70.00	\$14,140.00	\$54.70	\$11,049.40
7 Tack Coat	5,740	Gal	\$2.19	\$12,570.60	\$1.25	\$7,175.00	\$2.50	\$14,350.00	\$2.50	\$14,350.00
8 Level Layer Coarse	25	Tons	\$100.34	\$2,508.50	\$90.00	\$2,250.00	\$220.00	\$5,500.00	\$105.00	\$2,625.00
9 Striping (Yellow Centerline)	21,250	L.F.	\$0.09	\$1,912.50	\$0.10	\$2,125.00	\$0.10	\$2,125.00	\$0.17	\$3,612.50
10 Striping (White Edgelines)	31,084	L.F.	\$0.09	\$2,797.56	\$0.15	\$4,662.60	\$0.10	\$3,108.40	\$0.17	\$5,284.28
11 Earthwork Shoulders	155.42	Sta	\$105.19	\$16,348.63	\$90.00	\$13,987.80	\$87.00	\$13,521.54	\$89.00	\$13,832.38
<b>Total Base Bid</b>				<b>\$644,262.56</b>		<b>\$619,056.65</b>		<b>\$700,388.80</b>		<b>\$591,431.86</b>