BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION AWARDING BID FOR CURB RAMP IMPROVEMENTS, PHASE 1, PROJECT C-77 (15-17)
FOR THE
PUBLIC WORKS DEPARTMENT

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2012), 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 2012), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, bids for the curb ramp improvement project 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 *Swain Construction, Inc.* for the *Curb Ramp Improvements, Phase I, Project C-77 (15-17)* for *Five Hundred Sixty Nine Thousand Four Hundred Eighty Nine Dollars and Eighty Cents ($569,489.80)* 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 7th day of April, 2015.

COUNTY CLERK SEAL SARPY COUNTY, NEBRASKA

ATTEST:

Sarpy County Board Chairman

Sarpy County Clerk Chief Deputy

Sarpy County Purchasing Department

SARPY COUNTY COURTHOUSE
1210 GOLDEN GATE DRIVE, SUITE 1220
PAPILLION, NE 68046

Brian Hanson, Purchasing Agent
(402) 593-2349
Debby Peoples, Asst. Purchasing Agent
(402) 593-4164
Beth Garber, Purchasing/Contract Administrator
(402) 593-4476

MEMO

To: Sarpy County Board of Commissioners

From: Beth Garber

Re: Bid Award – Curb Ramp Improvements

On March 31, 2015, one (1) bid was opened for the Curb Ramp Improvements, Phase I, Project C-77 (15-17) for the Public Works Department. After reviewing the bid, it is recommended the bid be awarded to Swain Construction, Inc. for $569,489.80. The engineer's estimate for the project was $551,600.00.

I contacted the two (2) other general contractors who held plans but did not submit a bid to discuss why they choose not to submit a bid. Navarro did not have the bonding capacity as he is just restarting the business. Mackie's schedule became too heavy from the time they picked up plans to the time the bid was opened. Both of these contactors noted the project being bid as lump sum made it challenging because that required them to visit each curb ramp before bidding. According to Michael Kosa, Sarpy County Public Works, the technical specifications were written in a format to limit the number of potential change orders but would lead to a better project in the field. Please see the attached email from Michael Kosa regarding possible reasons that only one bid was received.

The County has worked with Swain on other projects, most recently 168th Street – Harrison to Edna Street. We believe they are fully capable of handling the project within the requested June 15th project completion date.

April 2, 2015

Beth Garber

Beth Garber

cc: Deb Houghtaling
Mark Wayne
Scott Bovick
Brian Hanson
Denny Wilson

Curb Ramp Improvements Phase I, Project C-77 (15-17)
for the
Public Works Department

Bid Opening:
3:00 p.m., Tuesday
March 31, 2015

				Swain Construction, Inc.	
	Item Description	Unit	Quantity	Unit Price	Extended Price
1	Mobilization	LS	1	$33,287.00	$33,287.00
2	Remove and Replace Existing Curb Ramp	EA	111	$3,316.00	$368,076.00
3	Build New Curb Ramp Remove/Grind Existing Curb as Needed	EA	13	$3,397.00	$44,161.00
4	Remove Existing Curb Ramp, Add New Curb as Needed	EA	5	$2,536.00	$12,680.00
5	Obliterate Crosswalk	EA	1	$872.00	$872.00
6	Unsuitable Subgrade Material	CY	300	$27.55	$8,265.00
7	Remove and Replace Concrete Roadway Panel	SY	1248	$81.85	$102,148.80
			Grand Total Bid		**$569,489.80**

SARPY COUNTY

Dennis L. Wilson, P.E., PhD
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

MEMORANDUM

To: Sarpy County Board of Commissioners

From: Dennis L. Wilson, P.E., Ph.D., Sarpy County Engineer

Subject: C-77(15-17): Curb Ramp ADA Improvements – Phase 1

Date: April 1, 2015

On March 31, 2015, one (1) bid was opened during the Sarpy County Board of Commissioners Meeting for the above mentioned project. The bid was from Swain Construction, Inc. of Omaha with a total base bid of $569,489.80. This bid is 3.1% higher than the base bid Engineer's Estimate of $551,600.00.

The Sarpy County Engineer recommends the base bid be awarded to Swain Construction, Inc. at their bid price listed above. Feel free to contact me if you have any questions.

Beth Garber

From: Michael Kosa
Sent: Thursday, April 02, 2015 8:05 AM
To: Beth Garber
Subject: RE: Curb Ramp Improvements

Of course you can call around and find out from Navarro or Mackey, the most likely bidders. They could tell you why they didn't bid.

In our understanding, Navarro and Swain the ones with significant curb ramp construction expertise in the area. So, others may have been concerned that they could not meet the federal standards required when building curb ramps. Thus, we didn't expect a lot of bidders. Additionally, Navarro is being revamped due to the other brother taking over the business, so that may have played a factor in their decision not to bid.

Another factor would be the quick time frame. The contract required the work to be complete by June 15, and completing over 100 curb ramps is a complicated task that could take a long time if the contractor is not an "expert", making mistakes that would require tearing out concrete and redoing work that was done incorrectly (which is expensive

The price was a little higher than I expected, and I thought I had estimated high. But, another reason that this project was difficult for others to bid on was the uncertainty at each ramp location. Our specs are written such that we would pay for any concrete repair work in the street, but any sidewalk repairs are included in the ramp bid item. Because of this, the only way for a contractor to know how much work is needed at each ramp is to do the legwork to see what they are getting into. If lots of work is needed, it's on the contractor's dime. Because of the high level of unknowns, a small and inexperienced contractor may be wary of getting involved in a project of this size/complexity.

Also, we put this project together and bid it quickly when we realized we had budget to complete these improvements this year. If it hadn't come together so quickly, we probably would have bid the project in the fall so that a contractor would have had more of a heads-up to staff the project.

Those are my thoughts. Reviewing your original question, I don't believe anyone was "prevented" from bidding. I believe the project presented challenges that many contractors may have been headwinds regarding a decision to bid. I wrote the specs tight to attempt to limit the potential for change orders, complicating the project but hopefully leading to a better project when it gets to the field.

If this wasn't enough info or if you have questions, feel free to give me a call.

Michael

Michael Kosa, P.E.
Civil Engineer
Sarpy County Public Works
15100 S. 84th Street
Papillion, NE 68046-4627
(402) 537-6900 Office
(402) 537-6924 Direct

From: Beth Garber
Sent: Wednesday, April 01, 2015 3:56 PM

CONTRACT AGREEMENT

THIS CONTRACT is made and entered into in DUPLICATE by and between Sarpy County, Nebraska hereinafter called County, and Swain Construction, 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 Sarpy County Project C-77 (15-17), Curb Ramp Improvements – Phase I

   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 Sixty Nine Thousand Four Hundred Eighty Nine Dollars and Eighty Cents ($569,489.80) 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.

   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. These insurance coverages shall specifically state, or be endorsed to state, that thirty (30) days notice shall be given to the County in the event of cancellation of, or material change in, any of the coverages.

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 in 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. The County shall be named as an additional insured on the insurance coverage required under this section.

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. The County is to be named as an additional insured on the insurance coverage required under this section.

d. Certificate of Insurance

The Contractor shall furnish the County with a certificate(s) of insurance evidencing the coverage required in this section. 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 is 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 affect 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 Board Business Office
1210 Golden Gate Dr. Suite 1250
Papillion, NE 68046

Contractor: Ms. Linda Swain
Swain Construction, Inc.
6002 N. 89th Circle
Omaha, NE 68134

IN WITNESS WHEREOF, the parties hereto have caused these instruments to be executed in THREE original counterparts, this as of this 7th day of April, 2015.

(SEAL)

COUNTY CLERK SEAL SARPY COUNTY, NEBRASKA

County of Sarpy, Nebraska
A Body Politic and Corporate

CHAIRMAN: Pamela Carlisle

ATTEST: _____

CLERK: Renee Larsman Chief Deputy

APPROVED AS TO FORM:

_____
COUNTY ATTORNEY/DEPUTY

CONTRACTOR: Swain Construction, Inc.

ATEST:

_____
SECRETARY/WITNESS

PRESIDENT: Linda Swain, Pres.

CONTRACTOR: Swain Construction, Inc.

Sarpy County, Nebraska
Bid Form
Curb Ramp ADA Improvements - Phase I
Project C-77 (15-17)

The undersigned, having carefully examined the Plans and Specifications, and having examined the project areas, 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:

#	ITEM	UNIT	QUANTITY	UNIT PRICE	EXTENDED PRICE
1	MOBILIZATION	LS	1	$ 33,287.00	$ 33,287.00
2	REMOVE AND REPLACE EXISTING CURB RAMP	EA	111	$ 3316.00	$ 368076.00
BID	BUILD NEW CURB RAMP, REMOVE/GRIND EXISTING CURB AS NEEDED	EA	13	$ 3397.00	$ 44161.00
4	REMOVE EXISTING CURB RAMP, ADD CURB AS NEEDED	EA	5	$ 2536.00	$ 12680.00
5	OBLITERATE CROSSWALK	EA	1	$ 872.00	$ 872.00
6	UNSUITABLE SUBGRADE MATERIAL	CY	300	$ 27.55	$ 8265.00
7	REMOVE AND REPLACE CONCRETE PANEL	SY	1248	$ 81.85	$ 102148.80
				GRAND TOTAL	$569,489.80

***Prices are to be F.O.B. - Sarpy County, Nebraska**

CONTRACTOR START DATE: APRIL 8, 2015

CONTRACTOR: Swain Construction, Inc.

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 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. **Substantial Completion must be on or before Wednesday, July 1, 2015 to avoid accrual of liquidated damages. Final Completion shall be complete within thirty (30) calendar days of Substantial Completion.**

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 one thousand dollars ($1000.00) per calendar day from the sum due under the Contract for each calendar day that the Contract remains uncompleted after Wednesday, July 1, 2015.

Company Information:

Years in business:	28 Years
# of employees	75
Total sales last 3 years	$16,000,000
	$14,000,000
	$13,000,000

CONTRACTOR: Swain Construction, Inc.

References:

Company Name: Ready Mixed Concrete
Address: 4315 Cuming Street, Omaha, NE 68131
Contact Name: Mark Dietz Phone Number: 402-556-3600
Fax Number: 402-556-5171 Date of Purchase: Ongoing Annually

Company Name: Concrete Supply Inc.
Address: PO Box #926, Gretna, NE 68028
Contact Name: Chris Rogers Phone Number: 402-932-8467
Fax Number: 402-932-6070 Date of Purchase: Ongoing Annually

Company Name: Central States Petroleum
Address: 7020 North 102nd Circle, Omaha, NE 68122
Contact Name: Jennifer Harms Phone Number: 402-991-5020
Fax Number: 402-991-5063 Date of Purchase: Ongoing Annually

I certify that this bid is submitted in accordance with the specifications issued by Sarpy County. I affirm that the original Specifications have not been altered in any way. Any alteration of the original Specifications, outside of an alternate bid, may be considered grounds for refusal of the bid.

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

Addendum #1 –
Addendum #2 –

Swain Construction, Inc.	Linda Swain
Company Name	Company Representative (Please print)
Linda Swain, Pres.	402-571-1110
Authorized Signature	Telephone Number
6002 North 89th Circle	402-571-3667
Address	Fax Number
Omaha, NE 68134	linda@swain.omhcoxmail.com
City, State & Zip	E-Mail Address

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

EXCEPTIONS/CLARIFICATIONS/COMMENTS

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

BID BOND

Deb Houghtaling – Sarpy County Clerk

C-77 (15-17) Curb Ramp ADA Improvements – Phase I

Bid Date: March 31, 2015 @ 3:00 pm

Swain Construction, Inc.

6002 No. 89th Circle

Omaha, NE 68134

RECEIVED

MAR 31 2015

DEBRA J. HOUGHTALING
SARPY COUNTY CLERK

2:34

SM

PROPOSAL

Deb Houghtaling – Sarpy County Clerk

C-77 (15-17) Curb Ramp ADA Improvements – Phase I

Bid Date: March 31, 2015 @ 3:00 pm

Swain Construction, Inc.

6002 No. 89th Circle

Omaha, NE 68134

MERCHANTS
BONDING COMPANY™
MERCHANTS BONDING COMPANY (MUTUAL) • MERCHANTS NATIONAL BONDING, INC.
2100 FLEUR DRIVE • DES MOINES, IOWA 50321-1158 • (800) 678-8171 • (515) 243-3854 FAX

Bid Bond

Bond Number: Bid Bond

CONTRACTOR:
(Name, legal status and address)

Swain Construction, Inc.
6002 North 89th Circle
Omaha, NE 68134

SURETY:
(Name, legal status and principal place of business)
Merchants National Bonding, Inc.
A Corporation
2100 Fleur Drive, Des Moines, IA 50321-1158

OWNER:
(Name, legal status and address)

Sarpy County Treasurer
1210 Golden Gate Drive
Papillion, NE 68046

BOND AMOUNT:
5% Five Percent of Amount Bid

PROJECT:
(Name, location or address, and Project number, if any)

Sarpy County, Nebraska Curb Ramp ADA Improvements - Phase 1
Project No. C-77(15-17)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner 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. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

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

Signed and sealed this 31st day of March, 2015

(Witness)

Swain Construction, Inc.
(Principal) (Seal)
By:
(Title)

(Witness) Sunny Bartenhagen

Merchants National Bonding, Inc.
(Surety) (Seal)
By:
(Title) Dione R. Young / Attorney-In-Fact

CON 0657 (6/12) Printed in cooperation with American Institute of Architects (AIA). The language in this document conforms exactly to the language used in AIA Document A310-Bid Bond-2010

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 duly organized under the laws of the State of Iowa (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint, individually,

Dione R. Young

its true and lawful Attorney-In-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following surety bond:

Surety Bond #: Bid Bond
Principal: Swain Construction, Inc.
Obligee: Sarpy County Treasurer

and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-In-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following By-Laws adopted by the Board of Directors of the Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

"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 Witness Whereof, the Companies have caused this instrument to be signed and sealed this 23rd day of July, 2014.

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

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

By Larry Taylor
President

STATE OF IOWA
COUNTY OF POLK ss.

On this 23rd day of July, 2014, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument is 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.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.

NOTARIAL SEAL IOWA
WENDY WOODY
Commission Number 784654
My Commission Expires
June 20, 2017

Wendy Woody
Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the 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 31st day of March, 2015.

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.
Secretary

POA 0007 (7/14)

MERCHANTS BONDING COMPANY™
MERCHANTS BONDING COMPANY (MUTUAL) • MERCHANTS NATIONAL BONDING, INC.
2100 FLEUR DRIVE • DES MOINES, IOWA 50321-1158 • (800) 678-8171 • (515) 243-3854 FAX

Performance Bond

Bond No. NNE1118

CONTRACTOR:
(Name, legal status and address)
Swain Construction, Inc.
6002 North 89th Circle
Omaha, NE 68134

SURETY:
(Name, legal status and principal place of business)
Merchants National Bonding, Inc.
2100 Fleur Drive, Des Moines, IA 50321-1158

OWNER:
(Name, legal status and address)
Sarpy County Treasurer
1210 Golden Gate Drive
Papillion, NE 68046

CONSTRUCTION CONTRACT
Date:

Amount: $569,489.80 Five Hundred Sixty Nine Thousand Four Hundred Eighty Nine Dollars and 80/100

Description:
(Name and location)
Sarpy County Project C-77 (15-17), Curb Ramp Improvements - Phase I

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

This document combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

BOND
Date:
(Not earlier than Construction Contract Date)

Amount: $569,489.80 Five Hundred Sixty Nine Thousand Four Hundred Eighty Nine Dollars and 80/100

Modifications to this Bond: ☒ None ☐ See Section 16

CONTRACTOR AS PRINCIPAL
Company: *(Corporate Seal)*
Swain Construction, Inc.
Signature: Linda Swain, Pres
Name and Title:

SURETY
Company: *(Corporate Seal)*
Merchants National Bonding, Inc.
Signature: Shirley S. Bartenhagen
Name and Title: Shirley S. Bartenhagen, Attorney-In-Fact

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY— Name, address and telephone)
AGENT or BROKER:

Holmes, Murphy and Associates, LLC
3001 Westown Parkway
West Des Moines, IA 50266
515 223-6800

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

Printed in cooperation with American Institute of Architects (AIA). The language in this document conforms exactly to the language used in AIA Document A312-Performance Bond-2010 edition.

CON 0656 (6/12)

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

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

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

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

.2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

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

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

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

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

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

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the 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 Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

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

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

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

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

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

.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract:
.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 Section 5: and
.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

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

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

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

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum 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 page on which their signature appears.

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

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance 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.

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

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

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

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

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

§ **16** Modifications to this bond are as follows:

(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:	

MERCHANTS BONDING COMPANY™
MERCHANTS BONDING COMPANY (MUTUAL) • MERCHANTS NATIONAL BONDING, INC.
2100 FLEUR DRIVE • DES MOINES, IOWA 50321-1158 • (800) 678-8171 • (515) 243-3854 FAX

Payment Bond

Bond No. NNE1118

CONTRACTOR:
(Name, legal status and address)
Swain Construction, Inc.
6002 North 89th Circle
Omaha, NE 68134

SURETY:
(Name, legal status and principal place of business)
Merchants National Bonding, Inc.
2100 Fleur Drive, Des Moines, IA 50321-1158

OWNER:
(Name, legal status and address)
Sarpy County Treasurer
1210 Golden Gate Drive
Papillion, NE 68046

CONSTRUCTION CONTRACT
Date:

Amount: $569,489.80 Five Hundred Sixty Nine Thousand Four Hundred Eighty Nine Dollars and 80/100

Description:
(Name and location)
Sarpy County Project C-77 (15-17), Curb Ramp Improvements - Phase I

BOND
Date:
(Not earlier than Construction Contract Date)

Amount: $569,489.80 Five Hundred Sixty Nine Thousand Four Hundred Eighty Nine Dollars and 80/100

Modifications to this Bond: ☒ None ☐ See Section 18

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

This document combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

CONTRACTOR AS PRINCIPAL
Company: *(Corporate Seal)*
Swain Construction, Inc.
Signature:
Name and Title:

SURETY
Company: *(Corporate Seal)*
Merchants National Bonding, Inc.
Signature:
Name and Title: Shirley S. Bartenhagen
Attorney-In-Fact

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:
Holmes, Murphy and Associates, LLC
3001 Westown Parkway
West Des Moines, IA 50266
515 223-6800

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

Printed in cooperation with American Institute of Architects (AIA). The language in this document conforms exactly to the language used in AIA Document A312-Payment Bond-2010 edition.

§ 1 The Contractor and 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, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3., the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed: and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 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 Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 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 the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 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.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2. or (2) on which the last labor or service was performed by anyone or the last 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.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

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

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract:
- .4 a brief description of the labor, materials or equipment furnished:
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract:
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim:
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 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 Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. 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.

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

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

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

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

§ 18 Modifications to this bond are as follows:

(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:	

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 duly organized under the laws of the State of Iowa (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint, individually,

Shirley S. Bartenhagen

its true and lawful Attorney-In-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following surety bond:

Surety Bond #: NNE1118
Principal: Swain Construction, Inc.
Obligee: Sarpy County Treasurer

and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-In-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following By-Laws adopted by the Board of Directors of the Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

"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 Witness Whereof, the Companies have caused this instrument to be signed and sealed this 23rd day of July, 2014.

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

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

By Larry Taylor
President

STATE OF IOWA
COUNTY OF POLK ss.

On this 23rd day of July, 2014, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument is 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.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.

NOTARIAL SEAL IOWA
WENDY WOODY
Commission Number 784654
My Commission Expires
June 20, 2017

Wendy Woody
Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the 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 2nd day of April, 2015.

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.
Secretary

POA 0007 (7/14)

Client#: 33350 SWAIN

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/02/2015

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
INSPRO Insurance
P.O. Box 336
Wahoo, NE 68066
402 443-3742

CONTACT NAME: Dee Kabourek
PHONE (A/C, No, Ext): 402 443 3742 FAX (A/C, No): 402 443 3571
E-MAIL ADDRESS: dkabourek@insproins.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Employers Mutual Insurance	21415
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Swain Construction, Inc.
A&S Concrete Recycling, Inc.
6002 N 89th Circle
Omaha NE 68134

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			5D23618	01/15/2015	01/15/2016	EACH OCCURRENCE	$1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$300,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$5,000
	X PD Ded:2,500						PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
								$
A	AUTOMOBILE LIABILITY			5E23618	01/15/2015	01/15/2016	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			5J23618	01/15/2015	01/15/2016	EACH OCCURRENCE	$3,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$3,000,000
	DED X RETENTION $10000							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			5H23618	01/01/2015	01/01/2016	X WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					E.L. EACH ACCIDENT	$500,000
							E.L. DISEASE - EA EMPLOYEE	$500,000
							E.L. DISEASE - POLICY LIMIT	$500,000

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

Sarpy County Project C-77(15-17) Curb Ramp Improvements Phase I
Sarpy County is an additional insured as required by written contract.

CERTIFICATE HOLDER

Sarpy County, Nebraska
1210 Golden Gate Drive
Papillion, NE 68046

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Michael J. Chmelak

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