

Notice of Award

Project: 6 th Street Underpass Pump Station	Owner: City of Minot	Owner's Contract No.: 3236.1
Contract: 6 th Street Underpass Pump Station, City of Minot		Engineer's Project No.: 06-006.02
Bidder:	Mattson Construction Company	
Bidder's Address:	4321 East Burdick Expressway	
	Box 1327	
	Minot, North Dakota 58702	

You are notified that your Bid dated 12-13-2013, for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for construction of improvements related to 6th Street Underpass Pump Station installation.

The Contract Price of your Contract is estimated to be \$ 4,292,192.00.

3 copies of each of the proposed Contract Documents accompany this Notice of Award.

3 copies of the Drawings and 3 copies of the Project Manual also accompany this Notice of Award.

You must comply with the following conditions precedent within 15 days of the date you receive this Notice of Award.

1. Deliver to the Owner 3 fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the required Performance and Payment Bonds as specified in the Instructions to Bidders.
3. Deliver with the executed Contract Documents the required certificates of insurance as specified in the Instructions to Bidders and Supplementary Conditions.

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

City of Minot, North Dakota

By: 

Title: Mayor

Date: 2/3/14

State of North Dakota

SECRETARY OF STATE



CONTRACTORS LICENSE RENEWAL

NO: 68 CLASS A

I, Alvin A. Jaeger, Secretary of State of the State of North Dakota, and as Registrar of Contractors, certify that **MATTSON CONSTRUCTION CO.** whose address is Minot, ND has filed in this office proper application for Renewal of Class A Contractor's License valid to March 1, 2014, and has paid the required fee, and has complied with all requirements of Chapter 43-07, North Dakota Century Code.

MATTSON CONSTRUCTION CO. therefore, is entitled to bid on and accept contracts as authorized by law, under this license, without limit as to value of any single contract.

Dated January 30, 2013.

A handwritten signature in cursive script, reading "Alvin A. Jaeger".

Alvin A. Jaeger
Secretary of State

SECTION 3 BUSINESS CERTIFICATION

Name of Business MATTSON CONSTRUCTION CO
Address of Business P.O. BOX 1327 - MINOT, N.D. 58702
Contact Person _____ Title _____
Telephone 701-852-3293

The bidder certifies that it is a Section 3 Business Concern based on:

- _____ Status as a Section 3 resident-owned enterprise (at least 51% owned by Section 3 residents):
- Provide copy of resident lease, evidence of participation in a public assistance program, or signed certification of Section 3 resident
 - Provide documentation of business ownership, such as copy of articles of incorporation, partnership agreement, list of owners/stockholders and percentage ownership of each, organization chart with names and titles

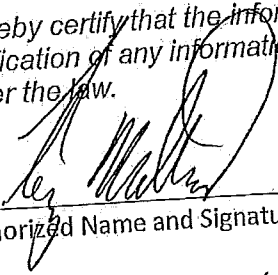
_____ At least 30% of permanent, full-time employees are currently Section 3 Residents or were Section 3 residents within the past 3 years:

- Provide complete list of all permanent, full-time employees
- Provide list of employees claiming Section 3 status
- Provide documentation of Section 3 status for all applicable employees such as PHA residential lease or signed certification of Section 3 resident

☒ Commitment to subcontract 25% of the dollar awarded to qualified Section 3 business (only applicable to prime contractors):

- Provide list of subcontracted Section 3 business(es) and subcontract amount
- Provide documentation of Section 3 status for applicable businesses

I hereby certify that the information provided here is true and correct and understand that any falsification of any information provided could subject me to disqualification and punishment under the law.


Authorized Name and Signature Date

11, DEC. 2013, TERRY MATTSON

GLENN MOEN
Witness Name and Signature Date

12/11/13

ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

City of Minot, North Dakota
515 2nd Avenue SW
Minot, North Dakota 58701

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 30 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

2.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of its failure to complete the Work in accordance with the schedule set forth in the Agreement.

ARTICLE 3 – BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

<u>Addendum No.</u>	<u>Addendum Date</u>
<u>1</u>	<u>12/9/13</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
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<u> </u>	<u> </u>

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in SC-4.02, and (2) reports and drawings of Hazardous Environmental Conditions that have been identified in SC-4.06.

E. Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required

by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- K. Bidder will submit written evidence of its authority to do business in the state where the Project is located not later than the date of its execution of the Agreement.

ARTICLE 4 – FURTHER REPRESENTATIONS

4.01 Bidder further represents that:

- A. this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

ARTICLE 5 – BASIS OF BID

5.01 Base Bid.

Bidder will complete the Work in accordance with the Contract Documents for the following prices:

Combined Prime (General, Mechanical & Electrical) Construction:	\$ <u>4,292,192.00</u>
General Construction:	\$ <u>NO BID</u>
Mechanical Construction:	\$ <u>NO BID</u>
Electrical Construction:	\$ <u>NO BID</u>

ARTICLE 6 – TIMES OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete on or before December 1, 2014, and completed and ready for final payment in accordance with Paragraph 14.07.B of the General Conditions on or before May 1, 2015, subject to revisions in the Contract Time in accordance with the General Conditions.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the Contract Times specified in Paragraph 6.01.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are attached to and made a condition of this Bid:
- A. Required Bid security, in an amount of five percent of the Bidder's base Bid price, in the form of a certified or bank check or a Bid Bond issued by a surety meeting the requirements of Article 5 of the General Conditions.

ARTICLE 8 – DEFINED TERMS

- 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL

9.01 This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____ (SEAL)
(Individual's signature)

Doing business as: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

A Corporation

Corporation Name: MATTSON CONSTRUCTION CO (SEAL)

State of Incorporation: N.D.

Type (General Business, Professional, Service, Limited Liability): GENERAL BUSINESS

By: Terry Mattson
(Signature -- attach evidence of authority to sign)

Name (typed or printed): TERRY MATTSON

Title: VICE PRESIDENT (CORPORATE SEAL)

Attest: Marilyn Mattson

Date of Authorization to do business in North Dakota is 1 / 30 / 13

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Second Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Third Joint Venturer Name: _____ (SEAL)

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business Address: MATTSON CONSTRUCTION CO
P.O. BOX 1327
MINOT, N.D. 58701

Phone Number: 701-852-3298 Fax Number: 701-852-3295

SUBMITTED on 12/13, 2013

North Dakota Contractor License No. 68A

BID BOND

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

BIDDER (Name and Address):
Mattson Construction Company
P.O. Box 1327
Minot, ND 58702-1327

SURETY (Name and Address of Principal Place of Business):
Western Surety Company
333 S. Wabash Avenue
41st Floor
Chicago, IL 60604

OWNER (Name and Address):

City of Minot, North Dakota
515 2nd Avenue Southwest
Minot, North Dakota 58701

BID

Bid Due Date: December 13, 2013
Project:

City of Minot, North Dakota
6th Street Underpass Pump Station

BOND

Bond Number: N/A

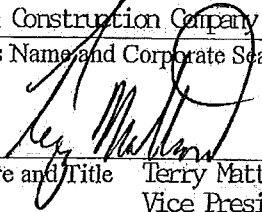
Date (Not later than Bid due date): November 25, 2013

Penal sum	Five Percent of Amount of Bid	5%
	(Words)	(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER


Mattson Construction Company (Seal)
Bidder's Name and Corporate Seal

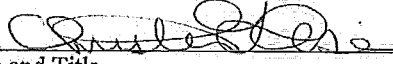
By: 
Signature and Title Terry Mattson
Vice President

Attest: 
Signature and Title Anita Shipley Controller

SURETY

Western Surety Company (Seal)
Surety's Name and Corporate Seal

By: 
Signature and Title Kristi A. Bertsch, Attorney-in-Fact
(Attach Power of Attorney)

Attest: 
Signature and Title

Note: Above addresses are to be used for giving required notice.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Surety's liability.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

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

Loretta F Routledge, Douglas J Rued, James P Montgomery, Kristi A Bertsch, Marilyn D Turner, Karla Henson, Individually

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

- In Unlimited Amounts -

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

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

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 6th day of September, 2013.

WESTERN SURETY COMPANY



Paul T. Bruflat

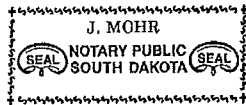
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 6th day of September, 2013, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2015



J. Mohr

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 25th day of November, 2013.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

ACKNOWLEDGMENT OF PRINCIPAL (INDIVIDUAL)

STATE OF _____
COUNTY OF _____

On this _____ day of _____, in the year 20____, before me personally appeared _____, known to me to be the person who is described in _____ and who executed the foregoing instrument and acknowledged to me that he executed the same.

(SEAL)

(Notary Public)

ACKNOWLEDGMENT OF PRINCIPAL (PARTNERSHIP)

STATE OF _____
COUNTY OF _____

On this _____ day of _____, in the year 20____, before me personally appeared _____, a member of the co-partnership of _____, known to me to be the person who is described in and who executed the foregoing instrument and acknowledged to me that he executed the same as and for the act and deed of the said co-partnership.

(SEAL)

(Notary Public)

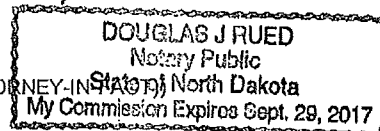
ACKNOWLEDGMENT OF PRINCIPAL (CORPORATION)

STATE OF North Dakota
COUNTY OF Ward

On this 25th day of November, in the year 2013, before me personally appeared Terry Mattson, known to me to be the Vice President of Mattson Construction Company, the corporation described in and which executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

(SEAL)

(Notary Public)

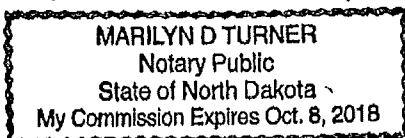


ACKNOWLEDGMENT OF SURETY (ATTORNEY-IN-FACT)

STATE OF North Dakota
COUNTY OF Ward

On this 25th day of November, in the year 2013, before me personally appeared Kristi A. Bertsch, known to me to be the Attorney-in-Fact of Western Surety Company, the company described in and which executed the foregoing instrument; and acknowledged to me that he signed said instrument as Attorney-in-Fact of the said company and subscribed the name of Western Surety Company thereof as surety, and his own name as Attorney-in-Fact.

(SEAL)



(Notary Public)

AGREEMENT

TABLE OF ARTICLES

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AGREEMENT

THIS AGREEMENT is between

City of Minot, North Dakota
515 2nd Avenue Southwest
Minot, North Dakota 58701

hereafter called "Owner" and

Mattson Construction Company
4321 East Burdick Expressway
Box 1327
Minot, ND 58702-1327

hereafter called "Contractor."

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 - WORK

1. Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: The Work includes the construction of a storm water pump station near the intersection of 6th Street Southwest and Western Avenue in Minot, North Dakota.

ARTICLE 2 - THE PROJECT

- 2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

City of Minot, North Dakota
6th Street Underpass Pump Station

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by:

Ackerman-Estvold Engineering & Management Consulting, Inc.
1907 17th Street Southeast
Minot, North Dakota 58701
Ph: (701) 837-8737

(Engineer), who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence

- A. All time limits for Milestones, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Dates for Substantial Completion and Final Payment

- A. All Work shall be substantially completed on or before April 15, 2015. All Work shall be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before May 1, 2015.

4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$1,000.00 for each day that expires after the times specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$1,000.00 for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 5.01.A below:

- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Engineer will process Applications for Payment in accordance with Article 14 of the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 15th day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:
 - a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, Owner, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, the amount retained will be reduced to 5 percent; and
 - b. 80 percent of cost of materials and equipment not incorporated in the Work, but stored in a location completely accessible to the Owner (with the balance being retainage); and
2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 99 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 12 percent per annum.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.
- E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.
- F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 8, inclusive).
2. Performance bond (pages 1 to 4, inclusive).
3. Payment bond (pages 1 to 4, inclusive).
4. General Conditions (pages 1 to 44, inclusive).
5. Supplementary Conditions (pages 1 to 4, inclusive).
6. Specifications as listed in the table of contents of the Project Manual.
7. Drawings consisting of 59 sheets with each sheet bearing the following general title: City of Minot, North Dakota 6th Street Underpass Pump Station.
8. Addenda (numbers 1 to 1, inclusive).
9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 1 to 11, inclusive).
 - b. Contractor's North Dakota Contractor's License Renewal (pages 1 to 1, inclusive).
10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (pages 1 to 1, inclusive).
 - b. Work Change Directives.
 - c. Change Order(s).

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in triplicate. One counterpart each has been delivered to Owner, Contractor and Engineer. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____, 2014 (which is the Effective Date of the Agreement).

OWNER:

City of Minot, North Dakota

By: _____

Title: _____

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

515 2nd Avenue Southwest

Minot, North Dakota 58701

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement.)

CONTRACTOR:

Mattson Construction Company

By: _____

Title: Terry Mattson, Vice President

[CORPORATE SEAL]

Attest: _____

Title: Glenn Moen, Chief Estimator

Address for giving notices:

4321 East Burdick Expressway

Box 1327

Minot, North Dakota 58702-1327

License No.: 68 Class A

Agent for service or process: _____

(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)

CNA SURETY

Performance Bond

Bond No. 929587340

CONTRACTOR:

(Name, legal status and address)

Mattson Construction Company
P.O. Box 1327
Minot, North Dakota 58702-1327

SURETY: Select a Surety from the drop-down list.

(Name, legal status and principal place of business)

333 S. Wabash Avenue
41st Floor
Chicago, IL 60604

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.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

OWNER:

(Name, legal status and address)

City of Minot, North Dakota
515 2nd Avenue SW
Minot, North Dakota 58701

CONSTRUCTION CONTRACT

Date: February 17, 2014

Amount: Four Million, Two Hundred Ninety Two Thousand, One Hundred Ninety Two & No/100----- (\$4,292,192.00)

Description:

(Name and location)

6th Street Underpass Pump Station
City of Minot

BOND

Date: February 17, 2014

(Not earlier than Construction Contract Date)

Amount: Four Million, Two Hundred Ninety Two Thousand, One Hundred Ninety Two & No/100----- (\$4,292,192.00)

Modifications to this Bond: ☒ None

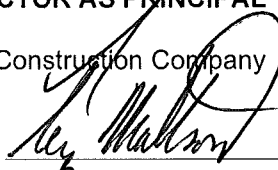
☐ See Section 16

CONTRACTOR AS PRINCIPAL

Company:

Mattson Construction Company

(Corporate Seal)

Signature: 

Name Terry Mattson

and Title: Vice President

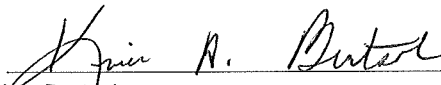
(Any additional signatures appear on the last page of this Performance Bond.)

SURETY

Company:

Western Surety Company

(Corporate Seal)

Signature: 

Name Kristi A. Bertsch

and Title: Attorney-in-Fact

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

First Western Insurance
P.O. Box 320
Minot, ND 58702
(701)852-5246

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

Ackerman-Estvold Engineering &
Management Consulting, Inc.
1907 17th Street Southeast
Minot, ND 58701
(701)837-8737

§ 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 obligation 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 the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this 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: _____

Name and Title:

Address

Signature: _____

Name and Title:

Address

CNA SURETY

Payment Bond

Bond No. 929587340

CONTRACTOR:

(Name, legal status and address)

Mattson Construction Company
P.O. Box 1327
Minot, North Dakota 58702-1327

SURETY: Western Surety Company: South Dakota Corporation

(Name, legal status and principal place of business)

333 S. Wabash Avenue
41st Floor
Chicago, IL 60604

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.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

OWNER:

(Name, legal status and address)

City of Minot, North Dakota
515 2nd Avenue SW
Minot, North Dakota 58701

CONSTRUCTION CONTRACT

Date: February 17, 2014

Amount: Four Million, Two Hundred Ninety Two Thousand, One Hundred Ninety Two & No/100----- (\$4,292,192.00)

Description:

(Name and location)

6th Street Underpass Pump Station
City of Minot

BOND

Date: February 17, 2014

(Not earlier than Construction Contract Date)

Amount: Four Million, Two Hundred Ninety Two Thousand, One Hundred Ninety Two & No/100--- (\$4,292,192.00)

Modifications to this Bond: ☒ None

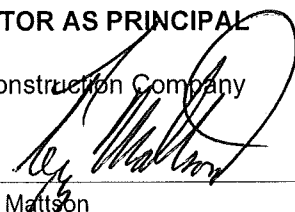
☐ See Section 18

CONTRACTOR AS PRINCIPAL

Company:

Mattson Construction Company

(Corporate Seal)

Signature: 

Name Terry Mattson

and Title: Vice President

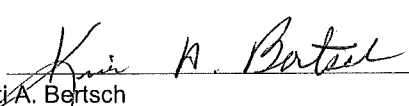
(Any additional signatures appear on the last page of this Payment Bond.)

SURETY

Company:

Western Surety Company

(Corporate Seal)

Signature: 

Name Kristi A. Bertsch

and Title: Attorney-in-Fact

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

First Western Insurance
P.O. Box 320
Minot, ND 58702
(701)852-5246

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

Ackerman-Estvold Engineering &
Management Consulting, Inc.
1907 17th Street Southeast
Minot, ND 58701
(701)837-8737

§ 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: _____

Name and Title:

Address

Signature: _____

Name and Title:

Address

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

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

Loretta F Routledge, Douglas J Rued, James P Montgomery, Kristi A Bertsch, Marilyn D Turner, Karla Henson, Individually

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

- In Unlimited Amounts -

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

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

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 23rd day of December, 2013.



WESTERN SURETY COMPANY

A handwritten signature in black ink, appearing to read "Paul T. Bruflat".

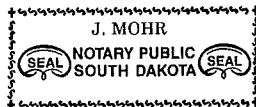
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 23rd day of December, 2013, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2015



A handwritten signature in black ink, appearing to read "J. Mohr".

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 17th day of February, 2014.



WESTERN SURETY COMPANY

A handwritten signature in black ink, appearing to read "L. Nelson".

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

ACKNOWLEDGMENT OF PRINCIPAL (INDIVIDUAL)

STATE OF _____
COUNTY OF _____

On this _____ day of _____, in the year 20____, before me personally appeared _____, known to me to be the person who is described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

(SEAL)

(Notary Public)

ACKNOWLEDGMENT OF PRINCIPAL (PARTNERSHIP)

STATE OF _____
COUNTY OF _____

On this _____ day of _____, in the year 20____, before me personally appeared _____, a member of the co-partnership of _____, known to me to be the person who is described in and who executed the foregoing instrument and acknowledged to me that he executed the same as and for the act and deed of the said co-partnership.

(SEAL)

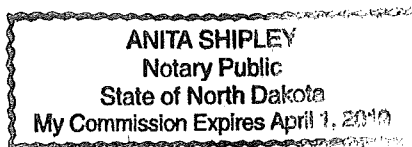
(Notary Public)

ACKNOWLEDGMENT OF PRINCIPAL (CORPORATION)

STATE OF North Dakota
COUNTY OF Ward

On this 17th day of February, in the year 2014, before me personally appeared Terry Mattson, known to me to be the Vice President of Mattson Construction Company, the corporation described in and which executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

(SEAL)



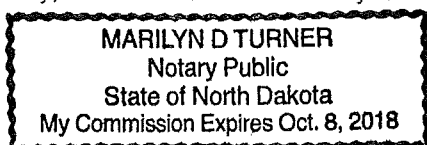
Anita Shipley
(Notary Public)

ACKNOWLEDGMENT OF SURETY (ATTORNEY-IN-FACT)

STATE OF North Dakota
COUNTY OF Ward

On this 17th day of February, in the year 2014, before me personally appeared Kristi A. Bertsch, known to me to be the Attorney-in-Fact of Western Surety Company, the company described in and which executed the foregoing instrument; and acknowledged to me that he signed said instrument as Attorney-in-Fact of the said company and subscribed the name of Western Surety Company thereof as surety, and his own name as Attorney-in-Fact.

(SEAL)



Marilyn D. Turner
(Notary Public)



MATTS-1

OP ID: MT

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/17/2014

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 First Western Insurance PO Box 320 Minot, ND 58702-0320 Douglas Rued		Phone: 701-852-5246 Fax: 701-420-7301	CONTACT NAME: Marilyn Turner PHONE (A/C, No, Ext): 701-852-5246 E-MAIL ADDRESS: marilyn.turner@fwbt.com FAX (A/C, No): 701-420-7301
INSURED MATTSON CONSTRUCTION COMPANY P.O. Box 1327 Minot, ND 58702-1327		INSURER(S) AFFORDING COVERAGE INSURER A: General Casualty Co of WI INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

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	<input checked="" type="checkbox"/> GENERAL LIABILITY			CCI0389274	01/01/2014	01/01/2015	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY			CBA0389274	01/01/2014	01/01/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$
							\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB			CCU0389274	01/01/2014	01/01/2015	EACH OCCURRENCE \$ 5,000,000
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE \$ 5,000,000
	<input type="checkbox"/> DED	<input checked="" type="checkbox"/> RETENTION \$ 10,000					\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			CCI0389274 *EMPLOYERS LIAB ONLY*	01/01/2014	01/01/2015	WC STATUTORY LIMITS OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

Project: 6th Street Underpass Pump Station - City of Minot

CERTIFICATE HOLDER

CANCELLATION

CITY OF MINOT 515 2ND AVE SW MINOT, ND 58701	MINOT-2	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 <i>Marilyn D. Turner</i>

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Notice to Proceed

Project: 6 th Street Underpass Pump Station	Owner: City of Minot	Owner's Contract No.: 3236.1
Contract: 6 th Street Underpass Pump Station, City of Minot		Engineer's Project No.: 06-006.02
Contractor: Mattson Construction Company		
Contractor's Address: 4321 East Burdick Expressway		
Box 1327		
Minot, North Dakota 58702		

You are notified that the Contract Times under the above contract will commence to run on March 15, 2014. On or before that date, you are to start performing your obligations under the Contract Documents.

Before you may start any construction at the Site, you and Owner must each deliver to the other (with copies to Engineer and other identified additional insured) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Please schedule a Pre-Construction meeting at your earliest convenience.

City of Minot, North Dakota

By: 

Title: Mayor

Date: 3/14/14