

RESOLUTION 88869-0903

APPROVING CONTRACT AND BOND
FOR 2003 CBD STREETScape IMPROVEMENT PROJECT

WHEREAS, this Council has awarded the contract for the 2003 CBD Streetscape Improvement Project to 3D Concrete, Inc. dated the 18th day of September, 2003, in the amount of \$97,376.50; and

WHEREAS, this Council has authorized and directed the Mayor and City Clerk to enter into a written contract for this project with said contractor, subject to final approval by this Council; and

WHEREAS, the contract and bond has been examined by this Council;

NOW, THEREFORE, IT IS RESOLVED that:

1. The above contract between the City of Muscatine, Iowa and 3D Concrete, Inc. dated the 18th day of September 2003, in the amount of \$97,376.50 is approved.
2. The performance bond accompanying such contract, wherein 3D Concrete, Inc. appears as principal and Developers Surety and Indemnity Company appears as surety, is approved.

The original executed contract and performance bond shall be placed on file in the office of the City Clerk.

PASSED, APPROVED AND ADOPTED THIS 18th DAY OF SEPTEMBER 2003.



IN WITNESS:


A. J. Johnson, City Clerk


Richard W. O'Brien, Mayor

CONTRACT

THIS AGREEMENT, made and entered into this 18th day of September, 2003, by and between the City of Muscatine, Iowa, party of the first part, hereinafter referred to as the "City" and 3-D Concrete Inc. party of the second part, hereinafter referred to as the "Contractor".

WITNESSETH

That the Contractor and the City for the consideration stated herein mutually agree as follows:

ARTICLE 1: Statement of work. The Contractor shall furnish all supervision, technical, personnel, labor, materials, machinery, tools, equipment, and services, including utility and transportation services and perform all work required 2003 CBD Streetscape Improvement Project, Muscatine, Iowa, all in strict accordance with the Contract Documents prepared by the City of Muscatine, Department of Public Works.

ARTICLE 2. The City will pay the Contractor for the performance of the contract, from funds legally available for that purpose. Payment will be made on the basis of an estimate equal to ninety-five (95) percent of the contract price, including materials, subject to approval of the City. The balance of the five (5) percent due to the Contractor will be made not earlier than thirty (30) days from the final acceptance of said work by the City.

The Contractor shall provide surety bond in the amount of 100% of the contract and shall guarantee the maintenance of the improvement for a period of two (2) years after its completion and acceptance by the City.

The contract shall be completed by November 22, 2003.

The contract amount is \$97,376.50.

ARTICLE 3. Contract: The executed contract documents shall consist of the following:

- | | |
|---------------------------|----------------------------|
| a. This Agreement | f. Signed Copy of Proposal |
| b. Addenda Numbers –0- | g. Special Conditions |
| c. Plans | h. Detailed Specifications |
| d. Notice to Bidders | i. Standard Specifications |
| e. Instruction to Bidders | j. General Conditions |

THIS AGREEMENT, together with other documents enumerated in this ARTICLE 3,

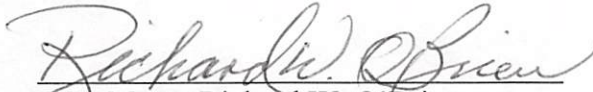
with said other documents are as fully a part of the contract as if hereto attached or herein repeated, forms the contract between the parties hereto. In the event that any provision in any component part of this contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties thereto have caused this AGREEMENT to be executed in triplicate original copies on the date and year first above written.

CITY OF MUSCATINE, IOWA

3-D Concrete, Inc.

CONTRACTOR


By: Mayor Richard W. O'Brien

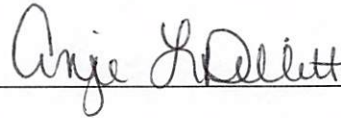

BY



ATTEST: 
By: City Clerk A. J. Johnson

Director of Operations

TITLE

ATTEST: 

Office Manager

TITLE

PERFORMANCE AND PAYMENT BOND

BOND NO #888683P

KNOW ALL MEN BY THESE PRESENTS THAT , a Principal, hereinafter called the Contractor and

DEVELOPERS SURETY AND INDEMNITY COMPANY

(Here insert the legal title of Surety)

as Surety, hereinafter called the Surety, are held and firmly bound unto City of Muscatine, Muscatine County, Iowa as obligee, hereinafter called the Owner, in the amount of Ninety-seven thousand three hundred seventy-six and 50/100 DOLLARS (\$97,376.50) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated September 18, 2003, entered into a Contract with Owner for the

2003 CBD STREETSCAPE IMPROVEMENT PROJECT

in accordance with drawings and specifications prepared by the Department of Public Works, City of Muscatine, Iowa, which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then the obligation of this bond shall be null and void; otherwise it shall remain in full force and effect.

A. The Surety hereby waives notice of any alteration by Owner to be, in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for submission to Owner for completing the Contract in accordance with its terms and conditions, and upon determination by Owner and Surety of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a succession or defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price", as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the

Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

- B. The Contractor and his surety shall be obligated to remedy any defects in workmanship or materials that may develop in the improvements covered by this bond for a period of two (2) years from the date of acceptance of the improvements by the owner.
- C. Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the contract falls due.
- D. No right of action shall accrue to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.

IT IS A FURTHER CONDITION OF THIS OBLIGATION that the principal and surety shall, in accordance with the provisions of Chapter 573 of the Code of Iowa, pay to all persons, firms or corporations having contracts directly with the principal or with subcontractors all just claims due them for labor performed or materials furnished in the performance of the contract on account of which this bond is given.

The provisions of Chapter 573, Code of Iowa, are a part of this bond to the same extent as if they were expressly set out herein.

SIGNED AND SEALED THIS 18TH DAY OF SEPTEMBER,

A.D. 2003.

IN THE PRESENCE OF:

Angie L. Bellitt
WITNESS

3-D CONCRETE, INC.
John W Kelly
PRINCIPAL
President
TITLE
DEVELOPERS SURETY AND INDEMNITY COMPANY
Deanna L Schwab
SURETY
DEANNA L. SCHWAB ATTORNEY-IN-FACT



DISCLOSURE RIDER

Terrorism Risk Insurance Act of 2002

The Terrorism Risk Insurance Act of 2002 created a three-year program under which the Federal Government will share in the payment of covered losses caused by certain events of international terrorism. The Act requires that we notify you of certain components of the Act, and the effect, if any, the Act will have on the premium charged for this bond.

Under this program, the Federal Government will cover 90% of the amount of covered losses caused by certified acts of terrorism, as defined by the Act. The coverage is available only when aggregate losses resulting from a certified act of terrorism exceed \$5,000,000.00. Insurance carriers must also meet a variable deductible established by the Act. The Act also establishes a cap of \$1,000,000,000.00 for which the Federal Government or an insurer can be responsible.

Participation in the program is mandatory for specified lines of property and casualty insurance, including surety insurance. The Act does not, however, create coverage in excess of the amount of the bond, nor does it provide coverage for any losses that are otherwise excluded by the terms of the bond, or by operation of law.

No additional premium has been charged for the terrorism coverage required by the Act.

INTEROFFICE MEMO

CITY OF MUSCATINE

TO: A. J. Johnson, City Administrator

FROM: Randy Hill, Public Works Director

DATE: September 17, 2003

SUBJECT: 2003 CBD Streetscape Improvement Project

The City of Muscatine awarded the contract for the 2003 CBD Streetscape Improvement Project to 3-D Concrete, Inc. for \$97,376.50 at the City Council meeting September 4, 2003. The scope of work defined for this project includes the removal of sidewalks, benches, planters and curbing. These will be replaced with new sidewalks and curbing. The area impacted is Second Street in the Central Business District between Iowa and Cedar and Alleys #1 and #2.

Please find attached the signed contracts and bonds for Council approval. If you have any questions, do not hesitate to contact me.