

Section 10: AGREEMENT

THIS AGREEMENT, made this 24th day of August, 2020, by and between the City of Milford, hereinafter called "OWNER", and David A. Bramble, doing business as a Corporation, hereinafter called "CONTRACTOR".

WITNESSETH; that for and in consideration of the payments and agreements herein after mentioned:

- A. The CONTRACTOR will commence and complete the **Lovers Lane Paving (CTF) PROJECT, CONTRACT No. 2020-ST-006**
- B. The CONTRACTOR will furnish all of the materials, supplies, tools, equipment, labor and any other services necessary for the construction and completion of the PROJECT described herein.
- C. The CONTRACTOR will commence the WORK required by the CONTRACT DOCUMENTS within 10 calendar days after the date of the NOTICE TO PROCEED and will complete all work within 90 consecutive calendar days thereafter.
- D. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of \$148,075.00, as shown in the BID schedule.
- E. The term " CONTRACT DOCUMENTS " includes the following:
 - 1. INVITATION TO BIDDERS
 - 2. INFORMATION FOR BIDDERS
 - 3. BID FORM
 - 4. BID BOND
 - 5. AGREEMENT
 - 6. NOTICE OF AWARD
 - 7. NOTICE TO PROCEED
 - 8. PERFORMANCE BOND
 - 9. PAYMENT BOND
 - 10. GENERAL CONDITIONS
 - 11. SPECIAL CONDITIONS
 - 12. SUMMARY OF WORK
 - 13. MEASUREMENT AND PAYMENT
 - 14. TECHNICAL SPECIFICATIONS
 - 15. APPENDICES
 - 16. CONSTRUCTION DRAWINGS
 - 17. ADDENDA
- F. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the General Conditions, such amounts as required by the CONTRACT DOCUMENTS.
- G. This AGREEMENT shall be bonding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized official, this Agreement in three (3) copies, each of which shall be deemed an original on the date first above written.

CITY OF MILFORD

BY: _____

Archie Campbell
(Printed Name)

Mayor
(Title)

ATTEST: _____

(Printed Name)

(Title)

(CITY SEAL)

(Business Name)

BY: _____
(Signature)

(Printed Name)

(Title)

State of _____

County of _____

This instrument was acknowledged before me on _____ (date) by
_____ (name(s) of person(s)).

(Seal, if any)

Signature of notarial officer

Title (and Rank)

My Commission expires: _____

Section 11: NOTICE OF AWARD

To: David A. Bramble, Corporation

PROJECT: **LOVERS LANE PAVING (CTF) PROJECT, CONTRACT NO. 2020-ST-006**

The OWNER has considered the BID submitted by you for the above PROJECT in response to its INVITATION TO BIDDERS advertised August 5, 2020, and the INFORMATION FOR BIDDERS.

You are hereby notified that your BID has been accepted for items in the amount of \$148,075.00.

You are required by the INFORMATION FOR BIDDERS to execute the AGREEMENT and furnish the required CONTRACTOR'S PERFORMANCE BOND, PAYMENT BOND and CERTIFICATES OF INSURANCE within Ten (10) calendar days from the date of this NOTICE to you.

If you fail to execute said AGREEMENT and to furnish said BONDS and CERTIFICATES OF INSURANCE within Ten (10) calendar days from the date of this NOTICE, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this 24th day of August, 2020.

OWNER: CITY OF MILFORD
BY: Mark Whitfield
TITLE: City Manager

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by:

(Business Name)

BY: _____
(Signature)

(Printed Name)

(Title)

Section 12: NOTICE TO PROCEED

To: David A. Bramble, Corporation

DATE: August 27, 2020

PROJECT: LOVERS LANE PAVING (CTF) PROJECT, CONTRACT NO. 2020-ST-006

You are hereby notified to commence WORK, in accordance with the AGREEMENT dated 24th day of August, 2020, on or before September 6, 2020 and you are to complete the WORK within Ninety (90) consecutive calendar days thereafter. The date for completion of all WORK is therefore anticipated by November 25, 2020.

OWNER: CITY OF MILFORD
BY: Mark Whitfield
TITLE: City Manager

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by:

(Business Name)

BY: _____
(Signature)

(Printed Name)

(Title)

Section 13: PERFORMANCE BOND

KNOWN ALL PERSONS BY THESE PRESENTS, that David A. Bramble, located at 705 Morgnec Road, PO Box 419, Chestertown, MD 21620, a Corporation, hereinafter PRINCIPAL, and

(NAME OF SURETY)

(ADDRESS OF SURETY)

hereinafter SURETY, are held and firmly bound unto the CITY OF MILFORD, 201 SOUTH WALNUT STREET, MILFORD, DELAWARE 19963, hereinafter called OWNER, in the total aggregate penal sum of

_____ DOLLARS,

(\$148,075.00), in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain CONTRACT with the OWNER, dated the 24th day of August, 2020, a copy of which is hereto attached and made a part hereof for the construction of:

Lovers Lane Paving (CTF) Project, Contract No. 2020-ST-006, AND OTHER APPURTENANT WORK, WHICH CONTRACT AND THE WORK TO BE DONE THEREUNDER AND THE SPECIFICATIONS ACCOMPANYING SAME SHALL BE DEEMED A PART THEREOF TO THE SAME EXTENT AS IF FULLY SET OUT HEREIN.

NOW, THEREFORE, if the PRINCIPAL shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and AGREEMENTS of said CONTRACT during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the SURETY and during the one year guaranty period and if the PRINCIPAL shall satisfy all claims and demands incurred under such CONTRACT, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said SURETY, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the CONTRACT or to the WORK to be performed thereunder, or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the CONTRACT or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the CONTRACT not increasing the CONTRACT price more than 20 percent, so as to bind the PRINCIPAL and SURETY to the full and faithful performance of the CONTRACT as so amended. The term "Amendment",

wherever used in this BOND, and whether referring to this BOND, the CONTRACT or the Loan Documents shall include any alteration, addition, extension, or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER and the PRINCIPAL shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The OWNER is the only beneficiaries hereunder.

In WITNESS WHEREOF, this instrument is executed in three (3) counterparts, each of which shall be deemed an original, this ____ day of _____, 2020.

Principal: _____
(PRINCIPAL)

(PRINTED NAME)

(Witness as to Principle)

(TITLE)

(SEAL)

ADDRESS: _____

ATTEST: _____
(SURETY)

(PRINTED NAME)

(Witness as to SURETY)

(TITLE)

(SEAL)

ADDRESS: _____

NOTE – Date of BOND must not be prior to date of CONTRACT (8/24/2020).

If CONTRACTOR is partnership, all partners should execute the BOND.

IMPORTANT – SURETY companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the PROJECT is located.

Section 14: PAYMENT BOND

KNOWN ALL PERSONS BY THESE PRESENTS, that David A. Bramble, located at 705 Morgnec Road, PO Box 419, Chestertown, MD 21620, a Corporation, hereinafter PRINCIPAL, and

(NAME OF SURETY)

(ADDRESS OF SURETY)

hereinafter SURETY, are held and firmly bound unto the CITY OF MILFORD, 201 SOUTH WALNUT STREET, MILFORD, DELAWARE 19963, hereinafter OWNER, and unto all persons, firms and corporations who or which may furnish labor, or who furnish materials to perform, as described under the CONTRACT and to their successors and assigns in the total aggregate penal sum of

_____ DOLLARS,

(\$148,075.00), in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain CONTRACT with the OWNER, dated the _____ day of _____, 2020, a copy of which is hereto attached and made a part hereof for the construction of:

LOVERS LANE PAVING (CTF) PROJECT, CONTRACT No. 2020-ST-006, and other appurtenant work, which CONTRACT and the WORK to be done thereunder and the SPECIFICATIONS accompanying same shall be deemed a part thereof to the same extent as if fully set out herein.

NOW THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such CONTRACT, and any authorized extensions or modifications thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and for all labor cost incurred in such WORK including that by a SUBCONTRACTOR, and to any mechanic or materialman lienholder whether it acquires its lien by operation of State or Federal law; then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to SUBCONTRACTORS and persons, firms and corporations having a direct CONTRACT with the PRINCIPAL or its SUBCONTRACTORS.

PROVIDED, FURTHER, that the said SURETY, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the CONTRACT or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the CONTRACT or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no suit or action shall be commenced hereunder by any claimant:

(a) Unless claimant, other than one having a direct CONTRACT with the PRINCIPAL, shall have given written notice to any two of the following: The PRINCIPAL, the OWNER, or the SURETY above named within ninety (90) days after such claimant did or performed the last of the WORK or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the WORK or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the PRINCIPAL, OWNER, or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

(b) After the expiration of 1 Year following the date of which PRINCIPAL ceased WORK on said CONTRACT, it being understood, however, that if any limitation embodied in the BOND is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the CONTRACT not increasing the CONTRACT price more than 20 percent, so as to bind the PRINCIPAL and SURETY to the full and faithful performance of the CONTRACT as so amended. The term "Amendment", wherever used in this BOND, and whether referring to this BOND, the CONTRACT or the Loan Documents shall include any alteration, addition, extension, or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER and the PRINCIPAL shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The OWNER is the only beneficiaries hereunder.

In WITNESS WHEREOF, this instrument is executed in three (3) counterparts, each of which shall be deemed an original, this _____ day of _____, 2020.

Principal: _____
(PRINCIPAL)

(PRINTED NAME)

(TITLE)

(Witness as to Principle)

(SEAL)

ADDRESS: _____

ATTEST: _____
(SURETY)

(PRINTED NAME)

(TITLE)

(Witness as to SURETY)

(SEAL)

ADDRESS: _____

NOTE – Date of BOND must not be prior to date of CONTRACT.
If CONTRACTOR is partnership, all partners should execute the BOND.
IMPORTANT – SURETY companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the PROJECT is located.