

ARNOLD, NEWBOLD, WINTER & JACKSON, P.C.

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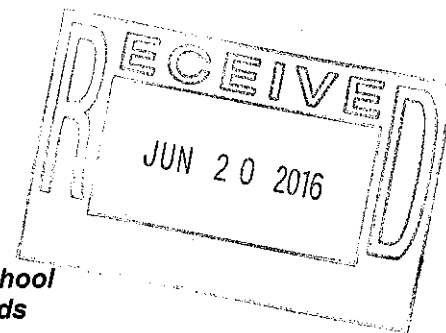
● ALSO ADMITTED IN WISCONSIN AND D.C.

★ ALSO ADMITTED IN KANSAS

‡ ALSO ADMITTED IN KANSAS, IOWA and NEW YORK

June 15, 2016

Dr. John Jungmann
Superintendent
Springfield Public Schools
1359 E. St. Louis
Springfield, MO 65802



Re: Missouri Sunshine Act Request/Fremont Elementary School
Our Client: BAC Local 15 Fringe Benefit Funds
Project: Fremont Elementary School
General Contractor: Branco Enterprises, Inc.
Subcontractor: Hardt Enterprises
Our File No.: B16-166

Dear Dr. Jungmann:

Please be advised the undersigned represents the BAC Local 15 Fringe Benefit Funds.

Pursuant to the Missouri Sunshine Law, please provide the undersigned with a copy of the payment, performance and/or surety bond(s) posted by Hardt Enterprises and/or Branco Enterprises that covers labor costs on the Fremont Elementary School construction project with the Springfield R-12 School District.

If this request is misdirected, please direct the undersigned to the proper city office to which this request should be made. If there are any fees for searching for and/or copying the requested documents, please enclose your statement with the documents for prompt payment. If all or part of this request is denied, please cite the specific exemptions which support the denial of said request.

Thank you for your immediate attention to this request. If you have any questions, please do not hesitate to contact me.

Very truly yours,

ARNOLD, NEWBOLD, WINTER & JACKSON, P.C.

Bradley J. Sollars

BJS:dp



Helping today's kids fill tomorrow's promise.

John E. Jungmann, Ed.D.
Superintendent

June 22, 2016

Mr. Bradley J. Sollars
Arnold, Newbold, Winter & Jackson, P.C.
1100 Maine Street, Suite 2001
Kansas City, MO 64105-5178

Dear Mr. Sollars:

This letter will respond to your letter dated June 15, 2016 and received in my office on June 20, 2016. Your letter requests certain public records pursuant to the Missouri Sunshine Statute. More specifically, your letter requests the following:

“...please provide the undersigned with a copy of the payment, performance and/or surety bond(s) posted by Hardt Enterprises and/or Branco Enterprises that covers labor costs on the Fremont Elementary School construction project and the Springfield R-12 School District.

Initially, in order to be subject to disclosure under the Missouri Sunshine Law, documents must constitute “public records” of the “public governmental body.” In this case, the “public governmental body” is the Board of Education for the School District of Springfield, R-12. The term “public records” is defined in Section 610.010(6) RSMo. as follows:

(6) “Public record” -- *any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service paid for in whole or in part by public funds; including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term “public record” shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting.”*

Thus, the term "public record" includes only those records, either written or electronic, that are already in existence that the public governmental body is "holding" or "retaining" in its possession. *Jones v Jackson County Circuit Court*, 162 S.W.3d 53, 59 (Mo App 2005).

The District will not provide you with public documents which may be encompassed by your request that are closed records. Included in these closed public documents are the following:

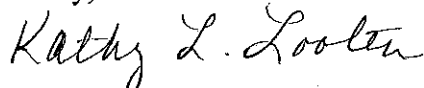
- The minutes of closed meetings of the Board of Education which were closed pursuant to Section 610.021 RSMo, and not otherwise required to be revealed;
- Privileged communications between the Board of Education or its representatives and its attorneys pursuant to Section 610.021(1) RSMo;
- Records involving the hiring, firing, disciplining or promoting of particular employees by the Board of Education when personal information about the employee is discussed or recorded, except those public records which have been made public pursuant to Section 610.021(3) RSMo;
- Records involving software codes for electronic data processing and documentation thereof pursuant to Section 610.021(10) RSMo;
- Documents related to a negotiated contract until a contract is executed, pursuant to Section 610.021(12) RSMo;
- Documents which constitute individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, pursuant to Section 610.021(13) RSMo;
- Records which are protected from disclosure by law pursuant to Section 610.021(14) RSMo;
- Confidential or privileged communications between a public governmental body and its auditors, including all auditor work product pursuant to Section 610.021(17) RSMo;
- Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of the District pursuant to Section 610.021(20) RSMo;
- Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between the Board of Education and a person or entity doing business with the Board pursuant to Section 610.021(21) RSMo.

With this explanation in mind, the Board responds as follows to your request:

Following a review of our records, you will find the documentation related to Branco Enterprises attached. We found no documents that match your request related to Hardt Enterprises.

Thank you for your request.

Sincerely,



Kathy L. Lobten
Executive Office Liaison/Records Custodian

attachment

cc: Ransom Ellis, III

Document A310™ - 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Branco Enterprises, Inc.
12033 E Highway 86
Neosho, MO 64850

SURETY:

(Name, legal status and principal place of business)

Western Surety Company
5901 College Blvd., #400
Overland Park, KS. 66211 (800) 888-3269
Mailing Address for Notices

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.

OWNER:

(Name, legal status and address)

Springfield R-12 School District

BOND AMOUNT: Five Percent (5%) of Amount Bid ***

PROJECT:

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


Fremont Elementary Gym & Kitchen Addition/Remodel
Springfield, Missouri

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

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

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

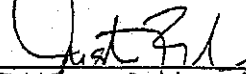
Signed and sealed this 2nd day of June, 2015



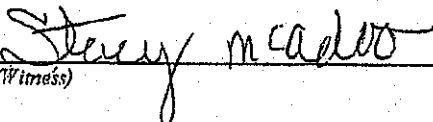
(Witness)

Branco Enterprises, Inc.

(Principal) (Seal)



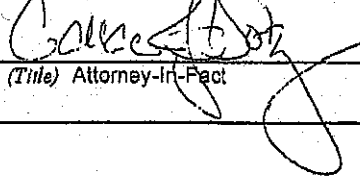
(Title) Justin Branham, Exec. V.P.



(Witness)

Western Surety Company

(Surety) (Seal)



(Title) Attorney-in-Fact

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

Geneva E Dugger, William L Southworth Jr, Gary L Yost, Lori Ann Dobkins, Callae J Doty, S Christine Townsend, Thomas A Montileone, Daniel A Cavender, Brandi Jo Bradley, Sherry R Feeler, Individually

of Springfield, MO, 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 26th day of February, 2015.

WESTERN SURETY COMPANY



Paul T. Bruflat

Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 26th day of February, 2015, 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 02nd day of June, 2015.

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.