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MICHELLE "MICKI" UTSLER, COUNTY RECORDER
MADISON IOWA

Prepared By: Todd R. Hagan, P.E., Madison County Engineer, 1105 E. Court Ave., Winterset, Iowa 50273, Telephone: (515) 462-1136

RESOLUTION SR-305

WHEREAS, Chapter 306 of the Code of Iowa provides that the Board of Supervisors has the authority to establish, alter, permanently close, temporarily close, or vacate any highway under its jurisdiction and;

WHEREAS, a public hearing was held in the office of the Madison County Board of Supervisors at **10:00 O'CLOCK A.M., on MARCH 29, 2005** , pursuant to notice, in regards to the temporary closing of the following described road(s):

MADISON TOWNSHIP, SECTIONS 16 AND 17

That part of a county highway platted September 13, 1858, in Road Record Book A, page 153, on file in the Madison County Engineer's Office, Madison County, located in Section 16 and Section 17, Township 77 North, Range 28 West of the Fifth Principal Meridian, Madison County, Iowa, to the temporary closing of county highway centerline described as follows:

Commencing at the southeast corner of the Northwest Quarter of said Section 16;
thence West along the centerline of said highway 148 feet to the point of beginning;
thence West along the centerline of said highway to the southwest corner of the Northeast Quarter of said Section 17;
thence West along the centerline of said highway 1167 feet to the termination of said county highway centerline.

WHEREAS, written and oral objections or claims for damages were received and reviewed, see attached;
NOW, THEREFORE BE IT RESOLVED, that the aforesaid road, as described, to be temporarily closed.
BE IT FURTHER RESOLVED, that upon completion of the work, the temporary closing shall be terminated without further action.

Supervisors ✓ **MADISON COUNTY BOARD OF SUPERVISORS**

AYE	NAY

ATTEST: Joan Welch
Madison County Auditor

DATE: MARCH 29, 2005

Prepared By: Todd R. Hagan, P.E., Madison County Engineer, 1105 E. Court Ave., Winterset, Iowa 50273, Telephone: (515) 462-1136

RESOLUTION

ATTACHMENT

WHEREAS, Chapter 306 of the Code of Iowa provides that the Board of Supervisors has the authority to establish, alter, permanently close, temporarily close or vacate any highway under its jurisdiction and;

WHEREAS, written and oral objections or claims for damages were received and reviewed, as follows or see attached:

NAME	ADDRESS

NO, WRITTEN AND ORAL OBJECTIONS OR CLAIMS FOR DAMAGES WERE RECEIVED.

Motion by Supervisor Bob Weeks and seconded by Supervisor Steven B Raymond to approve the following Resolution:

RESOLUTION SR-3-05A

The Purpose of this Resolution is to approve, and authorize the execution of, a License Agreement and related Consents to such License Agreement, with regard to the temporary closing of a portion of a portion of 120th Street right-of-way and the licensing of same to Martin Marietta Materials, Inc., for a term of ten years.

WHEREAS, a sixty-six (66) foot wide strip of land currently is being used and maintained by the County as an open road constituting a portion of 120th Street right-of-way, which strip of land is legally described as follows:

> The South thirty-three (33) feet of the Northeast Quarter (NE ¼) of Section 17; the South thirty-three (33) feet of the Northwest Quarter (NW ¼) of Section 16, except the East 716 feet thereof; the North thirty-three (33) feet of the Southeast Quarter (SE ¼) of Section 17; and the North thirty-three (33) feet of the Southwest Quarter of Section 16, except the East 716 feet thereof; all of the foregoing being located in Township 77 North Range West of the fifth P.M., Madison Township, Madison County, Iowa

(hereinafter referred to as the "Subject Property"); and

WHEREAS, the Subject Property is contained within the middle of the area contained within the boundaries set forth in two Special Use Permits previously granted to Martin Marietta Materials, Inc. ("Martin Marietta") by the Madison County Board of Adjustment, which Permits are identified as Permit No. 1119 granted on October 20, 1988, and Permit No. 2448 granted on April 17, 2001; and

WHEREAS, the two Special Use Permits authorize Martin Marietta to conduct limestone quarrying operations within the areas described in the Permits; and

WHEREAS, Martin Marietta has requested the County to temporarily close the Subject Property as a public road for a period of up to ten (10) years and to grant Martin Marietta a license to use the Subject Property for limestone quarrying purposes under the terms of the said two Special Use Permits during the said ten (10) year period; and

WHEREAS, pursuant to Resolution SR-2-05, dated February 23, 2005, the Board of Supervisors directed the County Engineer to study the proposed road closing and make recommendations to the Board on the issue of whether the Subject Property is not necessary for public use during the proposed term of the Martin Marietta license; and

WHEREAS, the County Engineer has recommended to the Board that the Subject Property is not necessary for public use during the proposed term of the Martin Marietta license, and the

Board has acted upon the County Engineer's recommendation by the adoption of Resolution _____, dated March 29, 2005, providing for the temporary closure of the Subject Property to facilitate the licensing of the same for use by Martin Marietta; and

WHEREAS, pursuant to Resolution SR-2-05, dated February 23, 2005, the Board directed its legal counsel to negotiate with Martin Marietta for the development of a proposed license agreement setting forth the terms and conditions for the licensing of the Subject Property for use by Martin Marietta; and

WHEREAS, a license agreement has been negotiated with Martin Marietta in the form of a document entitled "License Agreement," a copy of which is attached hereto; and

WHEREAS, Ronald E. Mason and Alice Mason (the "Masons") own land immediately south of and adjoining the Subject Property, and Wayne E. Thrailkill and Ardith E. Thrailkill (the "Thrailkills") own land immediately north of and adjoining the Subject Property; and

WHEREAS, the Masons and the Thrailkills have agreed to execute separate Consents to said License Agreement, in the form attached hereto, whereby each of them consents to the passage by the Board of Supervisors of a resolution temporarily closing the Subject Property as a public road and right-of-way for the proposed ten (10) year period and to the execution of the License Agreement; and

WHEREAS, the License Agreement, Mason Consent to License Agreement and Thrailkill Consent to License Agreement are each approved by the Board as to form and content, and the same should be duly executed on behalf of Madison County; and

WHEREAS, pursuant to Section 5 of the License Agreement, Martin Marietta is required to pay an initial annual license fee in the amount of $7,654.18 to the County in advance of the commencement of the License term, and said fee has been paid to the County and the Board hereby acknowledges receipt of such payment.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors that the License Agreement, Mason Consent to License Agreement and Thrailkill Consent to License Agreement are each approved for execution on behalf of Madison County, and the Chairperson of the Board is authorized and directed to sign and execute each of the three agreements and the County Auditor to attest to the Chairperson's signature.

IT IS HEREBY FURTHER RESOLVED that, upon full execution, each of the three documents shall be filed of record by the County in the office of the County Recorder.

AYE

NAY

Dated this 29th day of March, 2005

ATTEST:

Attachments:

License Agreement
Consent to License Agreement (Ronald E. Mason and Alice Mason)
Consent to License Agreement (Wayne E. Thrailkill and Ardith E. Thrailkill)

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