
McSorely Drain Maintenance

CONTRACT SPECIFICATIONS



Muskegon County Drain Commissioner

Land and Resource Engineering, Inc.

Project No. 14-006

April 2014

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ADVERTISEMENT FOR BID

The Muskegon County Drain Commissioner is soliciting sealed proposals for the McSorely Drain. Major items of work include 5345 linear feet of open channel excavation, 185 square yards of rock riprap, in-stream rock structures, restoration and all related work.

Sealed proposals will be received by Muskegon County Drain Commissioner: Central Services Building, 141 East Apple Avenue, Muskegon, Michigan 49442-3404 until 10:30 a.m., Thursday, May 1, 2014, at which time they will be publicly opened and read aloud.

Contract Documents may be obtained beginning April 18, 2014 at the offices of the Muskegon County Drain Commissioner: Central Services Building, 141 East Apple Avenue, Muskegon, Michigan 49442-3404; Telephone (231) 724-6219. A non-refundable payment of \$30.00 payable to the Muskegon County Drain Commissioner will be required for each set of Contract Documents.

A mandatory pre-bid meeting will be held at 10:30 a.m. on Thursday, April 24, 2014 at the Muskegon County Drain Commissioners Conference Room, 2nd Floor of the Central Services Building, 141 East Apple Avenue, Muskegon, Michigan 49442-3404. The OWNER and ENGINEER will be present to discuss the project. Bidders are required to attend this meeting.

Contract Documents may be examined at the Muskegon County Drain Commissioners office or online by going to the Drain Commissioner's page on the Muskegon County website at <http://www.co.muskegon.mi.us/drain/>

Contractors shall direct all questions to the project engineer, Dan Fredricks, P.E. of Land & Resource Engineering, Inc. at (616) 301-7888 or (616) 862-3305 (cell).

Each proposal shall be accompanied by a certified check or bid bond by a recognized surety in the amount of five percent (5%) of the total of the bid price.

After the time of opening, no bid may be withdrawn for a period of ninety (90) days.

The Muskegon County Drain Commissioner reserves the right to accept any bid, reject any or all bids, to waive informalities and make the award in any manner deemed in the best interest of the Muskegon County Drain Commissioner.

Muskegon County Drain Commissioner
BY ORDER OF:

Brenda Moore
Muskegon County Drain Commissioner

ARTICLE 1 – BASIS OF PROPOSAL

- 1.1 The Bid is based on unit and lump sum prices as stipulated in the Bid Form. The totals of the extensions of unit and lump sum prices will be used as a basis for determining the total bid price.
- 1.2 All work necessary for completion of the Contract, but not specifically listed as a pay item, will be considered to be covered under one or more of the Bid items.
- 1.3 Where the Bid consists of separate sections of work, each section may be awarded separately or together with other section(s), whichever will be in the best interests of the OWNER. BIDDERS may bid any or all sections.

ARTICLE 2 - QUALIFICATIONS OF BIDDERS

Bids are solicited only from responsible BIDDERS skilled and regularly engaged in work of similar character and magnitude.

ARTICLE 3 – EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- 3.1 Before submitting a Bid, each BIDDER shall:
 - A. Examine the Contract Documents thoroughly;
 - B. Visit the Site to become familiar with local conditions that may in any manner affect cost, progress, performance or timely completion of the Work;
 - C. Become familiar with all laws, rules and regulations that may in any manner affect cost, progress, performance or timely completion of the Work; and
 - D. Study and carefully correlate BIDDER's observations with the Contract Documents.
- 3.2 Surveys, investigations, and reports of subsurface or latent physical conditions at the Site which have been relied upon by ENGINEER in preparing the Drawings and Specifications are not guaranteed as to accuracy or completeness. Each BIDDER shall, at his own expense, make additional surveys and investigations as necessary to determine his Bid for the performance of the Work.

ARTICLE 4 - INTERPRETATION

Questions about the meaning or intent of the Contract Documents shall be submitted to the ENGINEER not less than seven (7) days prior to date of opening of Bids. Replies will be issued by Addenda mailed or delivered to Plan holders of Record not less than three (3) days before Bids are due. ENGINEER may issue other Addenda at any time prior to opening of Bids. Only answers given by Addenda shall be binding. Oral and other interpretations or clarifications shall be without legal effect.

ARTICLE 5 – BID SECURITY

- 5.1 The type and amount of Bid Security is stated in the Advertisement (Bid Solicitation). Bid Security from each BIDDER on the Work shall be by a single Surety.
- 5.2 A Bid Bond when used as Bid Security shall be issued by a Surety named in U.S. Treasury Circular 570 licensed to conduct business in the state in which the Work is located.
- 5.3 The Bid Security of the successful BIDDER will be retained until the executed Agreement, Bonds, insurance certificates and other required information is delivered by the BIDDER to the OWNER.
- 5.4 Failure of the successful BIDDER to execute and deliver the Agreement, Bonds, insurance certificates and other required information within ten (10) days of the Notice of Award shall be just cause for OWNER to annul the Notice of Award and declare the Bid and Bid Security forfeited.

SECTION 00200INSTRUCTIONS TO BIDDERS

- 5.5 The Bid Security of any BIDDER whom OWNER believes to have a reasonable chance of receiving the award may be retained by OWNER until either the executed Agreement, Bonds, insurance certificates and other required information are delivered by the successful BIDDER to the OWNER or the expiration of the time limit specified for the Bid Hold Period, whichever occurs first.
- 5.6 Unless specifically requested, Bid Bond will not be returned to BIDDER.

ARTICLE 6 – CONTRACT TIME

The time(s) for completion of the Work shall be as stipulated in the Agreement. If the time requirement(s) cannot be met, the BIDDER is requested to stipulate in the Bid Form his schedule for performance of the Work. Consideration will be given to time in evaluating Bids.

ARTICLE 7 – BID PREPARATION

- 7.1 Submit the Bid on the separate Proposal and Bid Form with Bid Security and other required documents. The bound copy is for BIDDER's records.
- 7.2 No change shall be made in the wording of the form or in any of the items. Bids should be typed or filled out legibly in ink.
- 7.3 All names must be printed or typed below the signature.
- 7.4 The Proposal shall contain an acknowledgement of receipt of all Addenda.
- 7.5 Bid by partnership shall be executed in the partnership name and signed by a partner. Partner's title must appear under signature.
- 7.6 Bid submitted by two or more firms will not be considered (i.e. no joint bids).
- 7.7 Bid by corporation must be executed in the corporate name by a corporate officer accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be listed.
- 7.8 Agreement will be on the basis of material and equipment described in the Contract Documents without consideration of substitute or "or-equal" items; except for alternates which may be offered by the BIDDER in the Bid Form and accepted by the OWNER prior to execution of the Agreement. Applications for substitutions will be considered only after the Agreement has been executed. The procedure for substitutions is set forth in the General Conditions.
- 7.9 On unit price Bids, BIDDERS shall show the unit price for each item listed, the total price for the quantity of each item, and the total price for all items. If ENGINEER finds any errors in the Bidder's computations, ENGINEER reserves the right to make corrections.
- 7.10 Cash Allowances, where stipulated in the Bid Form, are to be included in the total bid price.

ARTICLE 8 – SUBMISSION OF BIDS

- 8.1 Bids, Bid Security and other required documents shall be submitted prior to the time and at the place indicated in the Advertisement.
- 8.2 Submit Bid Documents, in a sealed envelope, properly identified.
- 8.3 If the Bid Documents are sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face thereof.
- 8.4 Bid documents may not be sent by facsimile. Bids must be submitted in a sealed envelope as stated in part 9.2
- 8.5 A mandatory pre-bid meeting will be held at 10:30 a.m. on Thursday, April 24, 2014 at the Muskegon County Drain Commissioners Conference Room, 2nd Floor of the Central Services Building, 141 East Apple Avenue, Muskegon, Michigan 49442-3404. The OWNER and ENGINEER will be present to discuss the project. Bidders are required to attend this meeting.

ARTICLE 9 – MODIFICATION AND WITHDRAWAL OF BIDS

- 9.1 Bids may be modified or withdrawn by an appropriate document duly executed and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.
- 9.2 If, within 24 hours after Bids are opened, any BIDDER files a duly signed notice with OWNER and promptly thereafter demonstrates to the reasonable satisfaction of OWNER that there was a material and substantial mistake in the preparation of Bid, that BIDDER may withdraw its Bid, and the Bid Security will be returned by OWNER.

ARTICLE 10 – OPENING OF BIDS

The Bid opening location and time will be as indicated in the Advertisement (Bid Solicitation).

ARTICLE 11 - BID HOLD PERIOD

All bids shall remain firm, after the day of the Bid opening, for the period stipulated in the Advertisement (Bid Solicitation).

ARTICLE 12 – AWARD OF CONTRACT(S)

- 12.1 BIDDER will be required to complete Bid documentation and correct irregularities as a condition of award. OWNER reserves the right to reject any and all Bids and waive any and all irregularities. OWNER further reserves the right to accept or reject nonconforming, qualified, alternate or conditional Bids.
- 12.2 In evaluating Bids, OWNER will consider the qualifications of the BIDDERS, whether or not the Bids comply with the prescribed requirements and include completed alternates and unit prices if requested in the Bid Form. OWNER may conduct investigations to establish the responsibility, qualifications and financial ability of the BIDDERS and proposed Subcontractors to do the Work within the prescribed time. OWNER reserves the right to reject the Bid of any BIDDER who does not pass such evaluation to OWNER's satisfaction.
- 12.3 Subject to the rights reserved by the OWNER, it is intended that a contract will be awarded to a responsible, responsive BIDDER whose evaluation indicates to OWNER that such award will be in the best interests of the OWNER.
- 12.4 Prior to the Notice of Award, ENGINEER will notify the apparent successful BIDDER if OWNER, after due investigation, has reasonable objection to any listed Subcontractor(s), where such listing is requested in the Bid Form. Failure of OWNER to make objection prior to Notice of Award will constitute acceptance of the listed Subcontractor(s), but not a waiver of any right of OWNER to reject defective work, material or equipment, or material and equipment not in conformance with the requirements of the Contract Documents.
- 12.5 If, prior to the Notice of Award, OWNER refuses to accept any listed Subcontractor(s), the apparent successful BIDDER may:
 - A. Submit an acceptable substitute without an increase in bid price; or
 - B. Withdraw Bid and Bid Security.
- 12.6 If, after Notice of Award, OWNER refuses to accept any Subcontractor, CONTRACTOR shall submit an acceptable substitute and the Contract Price will be adjusted by the difference in cost occasioned by such substitution.
- 12.7 Concurrently with execution and delivery of Agreement, CONTRACTOR shall deliver to OWNER the Bonds, insurance certificates and other information as required by the Contract Documents.
- 12.8 If Bidder is a business entity (i.e., corporation, partnership, joint venture, etc.) organized under the laws of a state other than the state of the location of the Work, Bidder must provide evidence of proper registration to do business in the state of the location of the Work as a condition to execution of the Agreement.
- 12.9 The Agreement and such other documents as required will be signed by OWNER and CONTRACTOR within 25 days of the Notice of Award. OWNER will sign Agreement within 10 days of receipt of required Bonds, insurance certificates, other required information, and CONTRACTOR executed Agreement. OWNER, CONTRACTOR, SURETY and ENGINEER will each receive an executed copy of the Agreement.

Muskegon County Drain Commissioner
141 East Apple Avenue
Muskegon, MI 49442-3404

ARTICLE 1-CONTRACT PRICE

Having carefully examined the site of the proposed Work; being fully informed of the conditions to be met in the prosecution and completion of the Work; having read and examined the Contract Documents applicable to this Work and agreeing to be bound thereby; the undersigned proposes to perform all services, and furnish all necessary labor, materials, tools, and equipment to complete the Work described in the Contract Documents for the amounts set forth in the accompanying Bid Form.

ARTICLE 2-CONTRACT TIME

If awarded a Contract, undersigned agrees to prosecute the Work regularly and diligently to ensure full completion within the Contract Time(s) indicated in the Agreement.

ARTICLE 3-LIQUIDATED DAMAGES

The undersigned agrees that liquidated damages, in the amount stipulated in the Agreement, shall be assessed for each day that expires after the completion time(s), stipulated in the Agreement, until the Work is complete.

ARTICLE 4 -BIDDER'S QUALIFICATIONS

The undersigned agrees to furnish, upon request, a list of projects of a similar nature completed in the last 3 years.

ARTICLE 5-WAIVER

The undersigned certifies the price(s) entered in the Bid Form are correct and complete and that all information given or furnished in connection therewith is correct, complete and submitted as intended. The undersigned waives any right to:

- 5.1 Claims he may now have or which may accrue to him,
- 5.2 Refuse to execute the Contract if awarded to him,
- 5.3 Demand the return of the Bid Security,
- 5.4 Be relieved from any obligation by reason of any errors, mistakes or omissions, subject to right of withdrawal of Bid as provided in the Instructions to Bidders.

ARTICLE 6-BID NON-COLLUSIVE

The undersigned certifies that this Proposal is fair, genuine and not collusive or sham, and has not in any manner, directly or indirectly, agreed or colluded with any other person, firm or association to submit a sham Bid, to refrain from bidding, or in any way to fix the amount of this Bid or that of any other BIDDER, or to secure any advantage against the OWNER. The undersigned further certifies that no officer or employee of the OWNER is personally or financially interested, directly or indirectly, in this Bid or in the undersigned.

ARTICLE 7-BID SECURITY

The undersigned encloses a Bid Security in the form and amount stipulated in the Instructions to Bidders. The undersigned agrees to contract for the Work and to furnish the necessary Bonds, Insurance Certificates and other information, as stipulated in the Instructions to Bidders. If this Proposal shall be accepted by the OWNER and the undersigned shall fail to contract as aforesaid and to furnish the required Bonds, Insurance Certificates and other information, then the undersigned shall be considered to have abandoned the Contract and the Bid Security accompanying this Proposal shall become due and payable to the OWNER.

ARTICLE 8-OWNERS' RIGHTS

In submitting this Bid, it is understood that the right is reserved by the OWNER to accept any Bid, or reject any or all Bids, or to waive irregularities and/or informalities in any Bid and to make the award in any manner deemed in the best interest of the OWNER. By submission of this bid, undersigned agrees to provide sufficient additional information to allow the OWNER to deduce the qualifications and capabilities of the undersigned to perform the WORK and to waive any claim that it has, or may have, against the OWNER, any of its agents, or employees, arising out of, or in connection with, the administration, evaluation or recommendation of any PROPOSAL.

ARTICLE 9-RECEIPT OF ADDENDA

Receipt of Addenda _____ through _____ is acknowledged.

SIGNED THIS _____ DAY OF _____, 2014.

_____	_____
(Firm Name)	(Signature)
_____	_____
(Street Address)	(Name Printed)
_____	_____
(City, State and Zip)	(Title)

(Telephone No.)	

LEGAL STATUS OF BIDDER: (Fill out appropriate form and cross out others.)

*A Corporation, duly organized in good standing and doing business under the laws of the state of _____, for whom _____ bearing the office title of _____ whose signature is affixed to this proposal, is duly authorized to execute contracts. If a foreign corporation, the BIDDER states this corporation is qualified to and will register in state in which project Work is located.

*A Partnership, all members of which with address are:

_____	_____
_____	_____
_____	_____
_____	_____

*An Individual whose name with address is:

_____	_____
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ARTICLE 1-SCHEDULE OF PRICES

Having reviewed the site and being fully informed of conditions to be met pursuant to county drain work as defined under chapter 8 of Public Act 40, commonly known as the Michigan Drain Code, and having fully and thoroughly examined the plans and specifications pertaining to this work, the undersigned proposes to furnish all labor, materials (unless otherwise noted), tools and equipment for the specified work within the Contract Time and accepts the provisions for Liquidated Damages as described in Article 3 of the Agreement for the McSorely Drain Maintenance.

McSorely Drain Maintenance

<u>ITEM</u>	<u>UNIT</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>TOTAL</u>
1 Woody Debris Management	LS	1	_____	_____
2 Open Channel Excavation	LF	5345	_____	_____
3 Rock Riffle	EA	5	_____	_____
4 Riprap	SY	185	_____	_____
5 Riprap Spillway	EA	2	_____	_____
6 Mulch Blanket	SY	5000	_____	_____
7 Open Channel Seeding	LF	5345	_____	_____
			Total	_____

This Agreement is dated the _____ day of _____ 2014, by and between the Muskegon County Drain Commissioner, hereinafter called OWNER, and _____, hereinafter called CONTRACTOR.

OWNER and CONTRACTOR, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1-WORK

CONTRACTOR shall complete the Work as specified or indicated in the Contract Documents, generally described as follows: McSorely Drain Maintenance.

ARTICLE 2-ENGINEER

The Work has been designed by the firm of Land & Resource Engineering, Inc., who will act as ENGINEER on the Work, unless Notice is otherwise given by the OWNER.

ARTICLE 3-CONTRACT TIME

- 3.1 The Work to be completed under this Contract shall be commenced immediately after receipt of a fully executed Contract and Notice to Proceed.
- 3.2 The Work under this Contract shall be substantially complete on or before May 30, 2014 and completed and set for final payment in accordance with the General Conditions on or before June 20, 2014 which shall be the Contract Time.
- 3.3 Liquidated Damages
 - A. OWNER and CONTRACTOR recognize that time is of the essence of this Contract and that OWNER will suffer financial loss if the Work is not completed within the Contract Time(s) plus any extensions as provided for in the General Conditions. They recognize that the financial loss suffered by OWNER in the event that CONTRACTOR fails to complete the Work within the Contract Time(s) would be most difficult to determine accurately in any legal or arbitration proceedings. Instead of requiring such proof, OWNER and CONTRACTOR agree that as liquidated damages, but not as a penalty, CONTRACTOR shall pay OWNER Two Hundred Fifty Dollars (\$250) for each day of delay after the time specified in paragraph 3.2 for Substantial Completion until the Work is substantially complete. Substantial Completion shall include all the work items except for final restoration and vegetative establishment.
 - B. 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 Two Hundred Fifty Dollars (\$250) for each day of delay after the time specified in paragraph 3.2 for completion and readiness for final payment until the Work is completed and ready for final payment. Liquidated damages for failure to meet the specified Substantial Completion date and for failure to meet the specified Final Completion date will not be assessed simultaneously.
 - C. CONTRACTOR agrees to pay, in addition to liquidated damages, expenses arising from failure to complete the Work within the Contract Time including expenses for engineering services, attorney's fees, technical services and administration costs.

ARTICLE 4-CONTRACT PRICE

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds as follows: _____ Dollars (\$_____).
- 4.2 The amount paid shall be equitably adjusted to cover changes in the Work ordered by the ENGINEER but not required by the specifications. Such increases or decreases in the Contract Price shall be determined by agreement between the OWNER and CONTRACTOR.

ARTICLE 5-PAYMENTS

- 5.1 CONTRACTOR will prepare and submit monthly and final payment requests in accordance with the General Conditions.
- 5.2 OWNER will make monthly and final payments in accordance with the GENERAL CONDITIONS.
- 5.3 All monies not paid when due shall bear interest at the greater of the rate of 7% per annum, or the highest rate allowed by law.

ARTICLE 6-CONTRACT DOCUMENTS

- 6.1 The complete Contract between OWNER and CONTRACTOR consists of the following Contract Documents:

Advertisement	General Conditions
Instruction to Bidders	Supplemental Conditions
Proposal	Specifications
Bid Form	Drawings
Bonds	Agreement
Modifications	Addenda (numbers ___ thru ___ inclusive)

- 6.2 In resolving conflicts, errors and discrepancies, the Contract Documents shall be given precedence in the following order: Modifications, Agreement, Addenda Supplemental Conditions, General Conditions, Specifications, Drawings, Advertisement, Instructions to Bidders, Proposal/Bid Form, and Bonds.

ARTICLE 7-CONTRACTOR'S REPRESENTATION

- 7.1 By executing the Agreement, CONTRACTOR represents that CONTRACTOR has visited the Site and assumes full responsibility for being familiar with the nature and extent of the Contract Documents, Work, locality, local conditions and availability of manpower, materials and machinery that may in any manner affect the Work to be done, the Contract Price or the Contract Time.
- 7.2 Contractor is familiar with all federal, state and local laws and regulations that pertain to completion of the Work as specified in the contract documents.
- 7.3 CONTRACTOR has carefully studied and compared the Contract Documents and checked and verified all figures shown thereon and all field measurements. CONTRACTOR has reported to ENGINEER any conflict, error or discrepancy which CONTRACTOR has discovered.

ARTICLE 8-MISCELLANEOUS

- 8.1 Terms used in this Agreement are defined in the General Conditions.
- 8.2 Neither party shall assign, in whole or in part, any of its rights or obligations, including any monies due, or to become due, under the terms of the Contract Documents without the written prior consent of the other party. This paragraph shall not be construed to limit the powers vested in the OWNER under the General Conditions.
- 8.3 The OWNER and CONTRACTOR each binds itself, successors and assigns to the other party hereto in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- 8.4 The Contract Documents may only be altered, amended, or repealed by a Modification.

IN TESTIMONY WHEREOF, the parties hereto have executed this contract in at least three (3) counterparts, each of which shall be deemed an original, the day and year first above written.

WITNESS

CONTRACTOR

(Contractor)

By _____
(Signature)

Title _____

WITNESS

OWNER

(Owner)

By _____
(Signature)

Title _____

LEGAL STATUS OF CONTRACTOR: (Fill out appropriate form and cross out others.)

*A Corporation: The same officer shall not execute both the Agreement and this certificate, unless only one person occupies all corporation offices.

I, _____, certify that I am the _____ of the corporation named as CONTRACTOR herein; that _____, who signed this Agreement on behalf of the corporation, was then _____ of the corporation that the Agreement was duly signed for and in behalf of the corporation by authority of its board of directors, and is within the scope of its corporate powers. If a foreign corporation, this corporation is qualified to and will register in state in which project Work is located.

(Date) _____ LS
(Signature)

*A Partnership: The same officer shall not execute both the Agreement and this certificate, unless only one person occupies all partnership offices.

I, _____, certify that I am the _____ of the partnership named as CONTRACTOR herein; that _____, who signed this Agreement on behalf of the partnership, was then _____ of the partnership, that the Agreement was duly signed for and in behalf of the partnership by authority of its partners, and is within the scope of its partnership powers. If a foreign partnership, this partnership is qualified to and will register in state in which project Work is located.

(Date) _____ L.S.
(Signature)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that _____, as Principal, and _____, a Corporation, organized and existing under the laws of the State of _____, and duly authorized to transact business in the State of Michigan, as Surety, are held and firmly bound unto the _____, as obligee, and hereinafter called OWNER, in the just and full sum of _____ Dollars (\$_____) lawful money of the United States of America, for the payment whereof the Principal and Surety bind themselves, their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above Principal has entered into a written Contract with the OWNER, dated the _____ day of _____, 20____, for _____ in accordance with plans and specifications prepared by Land & Resource Engineering, Inc. , 3800 W. River Drive Suite A, Comstock Park, Michigan 49321 which Contract is hereby referred to and made a part hereof as fully and to the same extent as if the same were entirely written herein.

NOW, THEREFORE, the conditions of this obligation are such, that if the said Principal shall in all respects well and truly keep and perform the said Contract, and shall pay all sums of money due or to become due, for any labor, materials, apparatus, fixtures or equipment furnished for the purpose of constructing the work provided in said Contract, and shall defend, indemnify and save harmless the OWNER against any and all liens, incumbrances, damages, demands, expenses, costs and charges of every kind except as otherwise provided in said Contract Documents, arising out of or in relation to the performance of said Work and the provisions of said Contract, and shall remove and replace any defects in workmanship or materials which may be apparent or may develop within a period for one year from the date of final acceptance, then this obligation shall be null and void; otherwise it shall remain in full force and effect;

AND PROVIDED, that any alterations which may be made in the terms of said Contract, or in the Work to be done under it, or any extension of time for the performance of said Contract, or any forbearance on the part of either party to the other, or the placing of an inspector or resident engineer thereon by the OWNER, shall not in any way release the Principal and Surety or either of them, their heirs, executors, administrators, successors or assigns from any liability hereunder; notice to the surety of any such alteration, extension or forbearance being hereby waived.

Signed and sealed this _____ day of _____ A.D., 2014.

WITNESS:

PRINCIPAL:

By _____ (Seal)
By _____

WITNESS:

SURETY:

By _____ (Seal)
Title _____

LOCAL ADDRESS OF AGENT FOR SURETY:

Street City State Zip Code

PAYMENT BOND

(under Act 213 of 1963)

KNOW ALL MEN BY THESE PRESENTS, that _____, as Principal, and _____, a Corporation, organized and existing under the laws of the State of _____, and duly authorized to transact business in the State of Michigan, as Surety, are held and firmly bound unto the (City/Village/Township) of _____, as obligee, and hereinafter called OWNER, in the just and full sum of (\$_____) lawful money of the United States of America, or the payment whereof the Principal and Surety bind themselves, their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above Principal has entered into a written Contract with the OWNER, dated the ____ day of _____, 20__ for _____ in accordance with plans and specifications prepared by Land & Resource Engineering, Inc., 3800 West River Drive, Suite A, Comstock Park, Michigan 49321 which Contract is hereby referred to and made a part hereof as fully and to the same extent as if the same were entirely written herein;

AND WHEREAS, this bond is given in compliance with subject to the provisions of Act. No. 213 of the Public Acts of Michigan, for the year 1963, as amended by subsequent acts to date.

NOW, THEREFORE, the condition of this obligation is that if the Principal and his Subcontractors shall make all payments as they become due and payable of all amounts owing to Subcontractors and to parties supplying labor or materials to the Principal or to his Subcontractors in the prosecution of the Work provided for in said Contract (intending to include herein all claimants as defined in Section 6 of Act 213 of 1963, as amended), then this obligation shall be void, otherwise the same shall be in full force and effect;

AND PROVIDED, that any alterations which may be made in the terms of said Contract, or in the Work to be done under it, or the giving by the party of the first part of said Contract, any extension of time for the performance of said Contract or any other forbearance on the part of either party to the other, shall not in any way release the Principal and the Surety or either of them, their heirs, executors, administrators, successors or assigns from any liability hereunder; notice to the Surety of any alterations, extensions of or of any forbearance being hereby waived.

Signed and sealed this _____ day of _____ A.D., 20__.

WITNESS:

PRINCIPAL:

By _____ (Seal)
By _____

WITNESS:

SURETY:

By _____ (Seal)
Title _____

LOCAL ADDRESS OF AGENT FOR SURETY:

Street City State Zip Code

ARTICLE 1-DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof:

Act of God	Unpredictable phenomenon of nature such as earthquake, flood or cyclone.
Addendum	A document issued by ENGINEER prior to the receipt of bids which sets forth additional provisions, changes or clarifications of the Contract Documents.
Advertisement	The notice published by OWNER to solicit Bids.
Affidavit of Completion	A document which includes the CONTRACTOR's sworn statement that the Work has been completed in accordance with the Contract Documents and that labor and material men have been paid and the Surety's consent to final payment.
Agreement	An instrument, signed by OWNER and CONTRACTOR covering the Work to be performed and setting forth the Contract Time, the Contract Price and other matters.
Allowance	A fixed sum stipulated in the Contract Documents, to be used in total or in part, as determined by the OWNER, for a specific service, product or group of products to be furnished by CONTRACTOR. All cash allowances shall be included in the Contract Price.
Bid	The offer of the BIDDER submitted on the prescribed forms setting forth the conditions under and prices for which the Work will be performed.
Bid Documents	The Bid and additional documents required to be submitted with the Bid as set forth in the Instructions to Bidders.
BIDDER	Any person, firm, joint venture or corporation submitting a Bid for the Work.
Bid Security	Bid Bond or other instrument of security furnished by BIDDER.
Bonds	Bid, Performance and Payment Bonds furnished by CONTRACTOR.
Bulletin	A document issued by ENGINEER which clarifies and interprets the Contract Documents or which directs minor changes or alterations in the Work not involving extra cost.
Certificate of Completion	Notice from ENGINEER to OWNER that the Work has been completed and establishing a one year bonded correction period.
Change Order	An order to CONTRACTOR signed by OWNER authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time or both, issued after execution of the Agreement.
Construction Schedule	The timetable outline of CONTRACTOR's sequence of operations.
Contract	The agreement between OWNER and CONTRACTOR set forth in the Contract Documents.
Contract Documents	The Agreement and all related documents as identified in the Agreement.
Contract Price	The total moneys payable to CONTRACTOR for the Work.
Contract Time	The stated date or number of days for the completion of the Work.
CONTRACTOR	The person, firm, joint venture or corporation with whom OWNER has executed the Contract.
Day	Calendar day of 24 hours from midnight to the next midnight.
Defective Work	Work that does not conform to the requirements of the Contract Documents and damaged Work.
Drawings	The Drawings prepared or approved by ENGINEER and approved by OWNER, which show the character and scope of the Work to be performed.
Effective Date of Contract	The date shown in the Agreement.

ENGINEER	The designated representative of the OWNER.
General Requirements	The Sections of Division 1 of the Specifications.
Inspect, Inspection, Inspector	Observe the work of the CONTRACTOR as it relates to implementing CONSULTANT's plans, specifications, reports, and other instruments of professional service. An inspector has no authority or responsibility to direct any construction workers, and may not stop the work. An inspector is not responsible for the means, methods, sequences, or operations of construction, or safety procedures attendant thereto.
Insurance Certificate	The documents issued by CONTRACTOR's insurer listing policies and extent of coverage applicable to the Work.
Liens	Claims, security interests, and encumbrances.
Modification	(a) An amendment of the Contract Documents signed by both parties, (b) a Change Order, or (c) Bulletin. A Modification may only be issued after the Effective Date of the Contract.
Notice	A written communication between the parties specifically called for by the Contract Documents.
Notice of Award	The Notice by OWNER to BIDDER that BIDDER has been awarded the Contract.
Notice of Termination	Notice from OWNER to CONTRACTOR terminating services of the CONTRACTOR.
Notice to Proceed	A Notice by ENGINEER to CONTRACTOR fixing the date on which the Contract Time will commence and on which CONTRACTOR shall start the Work.
OWNER	The public body or authority, corporation, association, partnership, or individual with whom CONTRACTOR has entered into the Contract and for whom the Work is to be performed.
Partial Completion	For the Work that is being constructed in phases, Partial Completion is Substantial Completion of a defined portion of the Work. Partial Completion is reached whenever the defined portion of the Work is ready for use by OWNER. To be considered partially complete, use must not be prevented by other activities of CONTRACTOR. When use is delayed by factors that are beyond CONTRACTOR's control, the designated portion of the Work shall be considered partially complete.
Partial Utilization	Partial Utilization is placing a portion of the Work or facility in service for the purpose for which it was intended or for a related use before reaching Partial Completion or Substantial Completion.
Planholders of Record	Parties recorded by ENGINEER as having received a copy of Contract Documents and a separate set of Bid Documents and as making required deposit therefor, under their own name.
Product	Materials, systems, and equipment incorporated or to be incorporated in the Work.
Product Data	Catalog data, illustrations, standard schedules, performance charts, instructions, and other information prepared by manufacturer or supplier.
Project	Work and other related facilities of the OWNER.
Project Manual	The volume or volumes containing the bidding information, schedules, equipment uses, page-size details, and the Contract Documents for the Work except large drawings and modifications.
Proposal	The document which forms a portion of the Bid.
Provide	Furnish and install.
Resident Project Representative	The authorized representative of ENGINEER who is assigned to the Work site or any part thereof.

Schedule of Values	The breakdown of the Bid into component parts aggregating the total Bid.
Shop Drawings	All drawings, diagrams, illustrations, schedules and other data specifically prepared by CONTRACTOR, a Subcontractor, manufacturer, fabricator, supplier or distributor to illustrate the equipment, material or some portion of the Work.
Site	The location(s) where the Work is to be performed.
Specifications	Those portions of the Contract Documents consisting of technical descriptions of materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative details applicable thereto, specifically Divisions 1 through 16.
Subcontractor	An individual, firm, joint venture or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the Site.
Substantial Completion	The stage in construction when the Work can be utilized for the purposes for which it was intended. This includes the completion of all contract items in accordance with the plans and specifications with the exception of restoration.
Supplier	Firm providing products to CONTRACTOR.
Surety	A company which provides a Bond.
Work	The entire completed construction and the various separately identified parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor, and furnishing and incorporating Products into the construction as required by the Contract Documents.

ARTICLE 2-PRELIMINARY MATTERS

COPIES OF DOCUMENTS

- 2.1 OWNER will furnish CONTRACTOR up to 10 copies of the Contract Documents. Additional copies will be furnished, upon request, as ENGINEER determines are necessary for execution of the Work. Copies requested beyond these limits are available at the cost of reproduction.

CONTRACTOR'S REPRESENTATION:

- 2.2 By executing the Agreement, CONTRACTOR represents that CONTRACTOR has visited the Site and assumes full responsibility for being familiar with the nature and extent of the Contract Documents, Work, locality, local conditions and availability of manpower, materials and machinery that may in any manner affect the Work to be done, the Contract Price or the Contract Time.

CONTRACT TIME

- 2.3 The Contract Time will commence on the day indicated in the Notice to Proceed; but in no event shall the Contract Time commence later than the later of 30 days after the time stipulated for Bids to remain firm or 30 days after the Effective Date of Contract.
- 2.4 The date of beginning and the Contract Time for completion of the Work are essential conditions of the Contract Documents. Time requirements are for the benefit of OWNER, CONTRACTOR and other Project Contractors.
- 2.5 CONTRACTOR shall proceed with the Work at a rate of progress to ensure completion within the stipulated Contract Time. It is expressly agreed by CONTRACTOR that the Contract Time is reasonable, taking into consideration the average climatic and economic conditions and the availability of manpower, products, and construction machinery prevailing at the locality of the Work.

BEFORE STARTING THE WORK

- 2.6 CONTRACTOR shall carefully study and compare the Contract Documents and check and verify all figures shown thereon and all field measurements. CONTRACTOR shall, within 48 hours, report to ENGINEER any conflict, error or discrepancy which CONTRACTOR may discover before proceeding with the Work.
- 2.7 CONTRACTOR shall submit to the ENGINEER:
Construction Schedules;
Schedule of Values;
Schedule of Shop Drawings,
Product Data and samples.
- 2.8 A preconstruction meeting will be held to review the Construction Schedules, to establish procedures for handling Shop Drawings and other submissions and for processing payments, and to establish working relationships between the parties.

STARTING THE WORK

- 2.9 CONTRACTOR shall start to perform the Work on the date when the Contract Time commences.
- 2.10 CONTRACTOR shall attend a progress meeting a minimum of once each month at a time and place designated by the ENGINEER.

ARTICLE 3-CONTRACT DOCUMENTS INTENT

GENERAL:

- 3.1 It is the intent that the Contract Documents comprise the entire agreement between OWNER and CONTRACTOR and may be altered only by a Modification.
- 3.2 All communications between OWNER, CONTRACTOR, and ENGINEER intended to affect or modify any of the terms or obligations contained in the Contract Documents shall be in writing in order to be valid. Communications intended to affect or modify the Contract Documents include the following terms: claim, submission, notice, request, acceptance, report, objection, order, consent, advise, communicate, communications, certify, authorize, authorization, issue, or like terms.
- 3.3 No oral order, objection, claim or notice by OWNER, CONTRACTOR or ENGINEER shall affect or modify any of the terms or obligations contained in the Contract Documents.
- 3.4 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. In resolving conflicts, errors and discrepancies, the documents shall be given precedence in the order stipulated in the Agreement. Detailed drawings shall govern over general drawings. Any Work that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which, so applied, have a well-known technical or trade meaning shall be deemed to refer to such recognized standards or meanings.
- 3.5 The Contract Documents shall be governed by the law of the place of the Work.

REUSE OF DOCUMENTS

- 3.6 Neither CONTRACTOR nor any Subcontractor, manufacturer, fabricator, supplier or distributor shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents or copies thereof prepared by or bearing the seal of ENGINEER; and they shall not reuse any of them on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaptation by ENGINEER.

ARTICLE 4-LANDS AND CONTROLS

GENERAL

- 4.1 OWNER will, upon request, furnish to CONTRACTOR copies of all available boundary surveys and subsurface tests.

AVAILABILITY OF LANDS

- 4.2 OWNER will furnish, not later than CONTRACTOR's Construction Schedule starting date, the lands or rights-of-way upon which or within which the Work is to be performed, rights-of-way for access thereto, and lands designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained by OWNER. CONTRACTOR shall obtain all additional lands and access required for temporary construction facilities and storage of materials and equipment.

UNFORESEEN SUBSURFACE CONDITIONS

- 4.3 The underground conditions indicated in the Contract Documents represent the information available at the time of preparation and are not guaranteed as to accuracy or completeness. CONTRACTOR shall within 48 hours after discovery notify OWNER and ENGINEER of any subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents. ENGINEER will investigate within 72 hours after Notice and, if warranted, advise OWNER to obtain additional investigations and tests. If said additional investigations and tests show subsurface or latent physical conditions to be materially different and which could not have reasonably been anticipated by CONTRACTOR, a Change Order will be issued incorporating the necessary revision.

REFERENCE POINTS

- 4.4 CONTRACTOR shall be responsible for the preservation of established property corners, monuments, bench marks and similar reference points outside of the normal working area. CONTRACTOR shall report to ENGINEER whenever any reference point is lost, destroyed or requires relocation.
- 4.5 Replacement of reference points within the normal working area are the responsibility of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point is in danger of being lost or destroyed or requires relocation.
- 4.6 Construction stakes will be provided by the OWNER to the extent as may be set forth in the Specifications.

ARTICLE 5 - BONDS AND INSURANCE

PERFORMANCE AND PAYMENT BONDS:

- 5.1 CONTRACTOR shall furnish separate Bonds as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. Each of these Bonds shall be in amounts at least equal to the Contract Price and in such form and with such Sureties as are acceptable to OWNER. Bond forms for the aforementioned securities are a part of the Contract Documents and CONTRACTOR shall ensure that each executed copy of the Bond form is complete and sealed.
- A. Bonds shall be issued by a Surety named in U.S. Treasury Circular 570 licensed to conduct business in the state where the Work is located.
- B. If the Surety on any Bond is declared bankrupt or becomes insolvent or its right to do business is terminated in the state where the Work is located, or it ceases to be listed as an acceptable Surety in U.S. Treasury Circular 570, CONTRACTOR shall, within 5 days thereafter, substitute another Bond from an acceptable Surety.

CONTRACTOR'S LIABILITY INSURANCE

5.2 CONTRACTOR shall purchase and maintain such comprehensive general liability and other insurance from an insurance company authorized to write casualty insurance in the state where the Work is located and shall provide protection from claims set forth below which may arise out of, or result from, CONTRACTOR's performance of the Work and CONTRACTOR's other obligations under the Contract Documents, whether such performance is by CONTRACTOR, by any Subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

- A. Claims under worker's compensation, disability benefits, and other similar employee benefits.
- B. Claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees.
- C. Claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees.
- D. Claims for damages insured by personal injury liability coverage which are sustained by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR or by any other person for any other reason.
- E. Claims for damages because of injury to, or destruction of, tangible property, including loss of use resulting therefrom.
- F. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

5.3 This insurance shall be written for the following minimum limits of liability and shall have an endorsement covering all CONTRACTOR'S obligations under the Contract Documents:

A. Worker's Compensation & Employer's Liability Insurance:

Worker's Compensation	Statutory
Employer's Liability	\$500,000

B. Comprehensive General Liability (personal injury, bodily injury and property damage) - covering premises; underground, explosion and collapse hazard; products completed operations; independent contractors' property damage; personal injury and blanket broad form contractual liability.

General Aggregate	\$2,000,000
Each Occurrence	\$1,000,000

This Policy must include coverage for the liability assumed by the CONTRACTOR under the indemnity provisions of the Contract.

C. Automobile Liability Insurance (bodily injury and property damage) - covering all owned, hired and non-owned automobile equipment.

Combined Single Limit	\$1,000,000
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Coverage will also comply with all applicable automobile statutes and no-fault laws.

Comprehensive General Liability and Comprehensive Automobile Liability Insurance may be arranged under a single policy for the full limits required or a combination of underlying policies with the balance provided by an Excess or Umbrella Liability Policy.

OWNER'S LIABILITY INSURANCE

5.4 CONTRACTOR shall obtain Owner's Protective liability insurance in the name of OWNER and ENGINEER as agent for OWNER, with such provisions as will protect OWNER and ENGINEER from contingent liability under this Contract, and shall maintain and pay the premiums of such insurance. The amounts of coverage shall be the same as CONTRACTOR's liability insurance requirements in this Article.

CERTIFICATE OF INSURANCE:

- 5.5 Before commencing performance of Contract, CONTRACTOR shall furnish the OWNER with Certificates of Insurance evidencing:
- A. Owner (Muskegon County Drain Commissioner) shall be listed as Certificate Holder.
 - B. The following shall be listed as additional insured:
 - 1. Muskegon County Drain Commissioner
 - 2. Land and Resource Engineering, Inc.
 - 3. Muskegon County Road Commission
 - 4. Moorland Township
 - 5. McSorely Drain Drainage District
 - 6. People of the State of Michigan
 - C. Insurer(s) affording coverage, acceptable to the OWNER.
 - D. Effective and expiration dates of policies.
 - E. That the OWNER will be given 30 days written notice of any cancellation, non-renewal or material change in any policy.
 - F. That the Contractual Liability Endorsement has been included in Comprehensive General Liability policy.
 - G. Any deductibles and/or self-insured retentions.
 - H. Any exclusions to policies which are not part of the standard form.

ARTICLE 6-CONTRACTOR'S RESPONSIBILITIES

GENERAL

- 6.1 CONTRACTOR will issue communications relative to the Work, to OWNER through ENGINEER.
- 6.2 CONTRACTOR shall supervise and direct the Work competently, efficiently and with skill and attention required to complete the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. CONTRACTOR shall be responsible for accurate compliance of the finished Work with the Contract Documents.
- 6.3 CONTRACTOR shall keep on the Work, at all times the Work is in progress, a competent superintendent who shall be replaced only under extraordinary circumstances with Notice to OWNER and ENGINEER. The superintendent shall have authority to act on behalf of CONTRACTOR. All communications given to the superintendent shall be binding on CONTRACTOR.
- 6.4 CONTRACTOR shall provide notice to allow all utilities to locate their facilities prior to the performance of Work. The form and time of notice, the person(s) notified and all other issues related to notice to utilities which may be affected by the Work shall be in accordance with the laws and regulations of the state in which the Work is to be performed.
- 6.5 Unless otherwise specified, restricted work times shall be as follows, except in the event of an emergency as defined in this Article: Sunday or holiday work will not be permitted; and, work will not be permitted from 8:00 p.m. to 7:00 a.m.

LABOR, MATERIALS AND EQUIPMENT

- 6.6 CONTRACTOR shall provide competent, suitably qualified personnel to execute and complete the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the Site. ENGINEER may judge the competency and qualifications of personnel and, upon his written request to the CONTRACTOR, the CONTRACTOR shall cause the immediate dismissal from the Work of any personnel considered by ENGINEER to be incompetent and/or unqualified.
- 6.7 CONTRACTOR shall guarantee that he has available the quantities and quality of labor and supervision necessary to fulfill the CONTRACTOR'S obligations under the Contract Documents.
- 6.8 CONTRACTOR shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, and all other facilities and incidentals necessary for the execution, testing, initial operation, and completion of the Work.
- 6.9 All Products shall be of good quality and new. When required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials and installed equipment. CONTRACTOR shall submit to the ENGINEER Shop Drawings, Product Data and samples of Products to be incorporated in the Work.

SUBCONTRACTORS

- 6.10 CONTRACTOR shall be fully responsible for all acts and omissions of Subcontractors and of persons directly or indirectly employed by them and persons for whose acts any of them may be liable to the same extent that CONTRACTOR is responsible for the acts and omissions of persons directly employed by CONTRACTOR. Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor and OWNER or ENGINEER or any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any Subcontractor, except as may otherwise be required by law. OWNER or ENGINEER may furnish to any Subcontractor, to the extent practicable, evidence of amounts paid to CONTRACTOR for specific work done.
- 6.11 The Divisions and Sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or delineating work to be performed by any specific trade.
- 6.12 All work performed for CONTRACTOR by a Subcontractor shall be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor, subject to the applicable terms and conditions of the Contract Documents.

SUBSTITUTE PRODUCTS

- 6.13 Whenever Products are specified or described in the Drawings or Specifications by using the name of a proprietary item or the name of a particular manufacturer, fabricator, supplier or distributor, it is intended to establish the type, function and quality required. Unless the substitution is specifically prohibited, substitute items may be accepted by ENGINEER. ENGINEER will be the sole judge of the acceptability of proposed substitutions. No substitution shall be ordered or installed without ENGINEER's prior acceptance. OWNER may require CONTRACTOR to furnish a special performance guarantee or other surety with respect to any substitute.
 - A. During the bidding period, requests for substitutions may be given consideration by the ENGINEER, and if approved, an Addendum will be issued to incorporate the approved Product into the Contract Documents. Such requests must be received by the ENGINEER in ample time, not later than 10 days before bid due date, so that any necessary Addendum can be issued to all prospective BIDDERS before submission of the Bids.
 - B. A request for substitution after award of the Contract shall be accepted from the CONTRACTOR only, shall be accompanied by manufacturer's data or other detailed description of the proposed Product and will be considered for one of the following reasons only:
 - 1. Increased value to the OWNER.
 - 2. Decreased cost to the OWNER.
 - 3. Specified item not procurable.

- C. A request for a substitution constitutes a representation that the CONTRACTOR has investigated and determined that the proposed Product is equal to or superior in all respects to that specified.
- D. CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's consultants for evaluating accepted or rejected substitutes and for resulting changes in Drawings and Specifications.

OWNER FURNISHED PRODUCTS:

- 6.14 When the Contract Documents stipulate that the OWNER will furnish Products to be incorporated in the Work, the CONTRACTOR'S responsibilities will be:
- A. Coordinate the delivery of each product with the OWNER. OWNER'S requirements for notification for each product will be determined at the pre-construction meeting but under no circumstance shall the notification period be less than 3 business days.
 - B. Review the Shop Drawings, Product Data and samples.
 - C. Submit to ENGINEER Notice of any discrepancies or problems anticipated in the use of the Product.
 - D. Receive and unload the Products at the Site.
 - E. Promptly inspect Products jointly with the OWNER, record shortages, and damaged or defective items.
 - F. Handle Products at the Site, including uncrating and storage.
 - G. Protect the Products from exposure to the elements and from damage.
 - H. Assemble, install, connect, and adjust the Products as stipulated in the Specifications.
 - I. Repair or replace items damaged by the CONTRACTOR.

PERMITS

- 6.15 CONTRACTOR shall obtain all temporary permits required to complete the Work. Application and inspection fees associated with temporary permits shall be paid by the CONTRACTOR.

USE OF PREMISES

- 6.16 CONTRACTOR shall confine Work operations to the Site and other designated areas. All disturbed areas shall be restored to equal to or better than original condition.
- 6.17 Material and equipment storage areas on Site shall be established and maintained in a manner that will not disrupt or impair the use of the Site.

PATENT FEES AND ROYALTIES

- 6.18 CONTRACTOR shall pay license fees, royalties and costs incident to the use of any invention, design, process or device which is the subject of patent rights or copyrights in connection with the Work. OWNER will pay for processes involved in the operation of the completed facilities.

SAFETY AND PROTECTION

- 6.19 CONTRACTOR shall be responsible for initiating, maintaining and supervising safety programs in connection with the Work. CONTRACTOR shall take precautions and provide protection to prevent damage, injury or loss to:
- A. Employees on the Work and other persons who may be affected thereby;
 - B. The Work and Products to be incorporated therein, whether in storage on or off the site; and

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- C. Other property at the Site or adjacent thereto, both above and below ground, not designated for removal, relocation or replacement. CONTRACTOR shall erect and maintain necessary safeguards for safety and protection of property and shall notify owners of adjacent utilities when prosecution of the Work may affect them. CONTRACTOR shall be responsible for costs associated with all damage, injury or loss.
- 6.20 CONTRACTOR shall designate a superintendent at the site as safety officer, whose duty shall be the prevention of accidents.
- 6.21 Damage, injury or loss to property referred to in this Article caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor and anyone directly or indirectly employed by any of them and anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR at CONTRACTOR'S cost. CONTRACTOR's duties and responsibilities for the safety and protection of the Work shall continue until the Work is completed and ENGINEER has issued the Certificate of Completion.

LAWS AND REGULATIONS

- 6.22 CONTRACTOR shall comply with all laws, ordinances, rules, regulations and orders of public bodies applicable to the Work.
- 6.23 When the CONTRACTOR becomes aware that the Contract Documents, or any requirements thereof, are at variance to laws and regulations, CONTRACTOR shall promptly serve written Notice to the ENGINEER. Any alterations required to bring the Work in compliance will be made by Modification.
- 6.24 When the CONTRACTOR is aware that the Contract Documents, or any requirements thereof, are at variance to laws and regulations and performs any of the Work contrary to laws and regulations without Notice to the ENGINEER, all costs incurred in correcting the Work shall be borne by the CONTRACTOR.

HAZARDOUS MATERIALS

- 6.25 In the event CONTRACTOR discovers on the Site unexpected regulated hazardous materials, including without limitation, inorganics, organics and asbestos, CONTRACTOR shall immediately give Notice to ENGINEER and request a determination of how to proceed. In the event CONTRACTOR releases, under any circumstances, regulated hazardous materials on the Site, CONTRACTOR shall immediately give Notice to ENGINEER, take emergency action as appropriate and, following approval by ENGINEER of CONTRACTOR'S proposed plan of remediation, CONTRACTOR shall remediate said release at CONTRACTOR'S expense, all in compliance with all applicable laws and regulations.

EMERGENCIES

- 6.26 In emergencies affecting the safety of persons, the Work or adjacent property, CONTRACTOR, without authorization from ENGINEER or OWNER, is obligated to act, at CONTRACTOR's discretion, to prevent threatened damage, injury or loss. CONTRACTOR shall give ENGINEER prompt Notice of the emergency action taken, and any significant changes in the Work or deviations from the Contract Documents caused thereby.

INDEMNIFICATION

- 6.27 CONTRACTOR shall indemnify, defend and hold harmless OWNER and ENGINEER, their consultants, agents and employees, from and against claims, damages, losses, attorney's fees, and expenses arising out of, or resulting from, the performance of the Work, provided that any such claim, damage, loss or expense:
- A. is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property other than the Work itself, including the loss of use resulting therefrom; and
- B. is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

- 6.28 In all claims against OWNER or ENGINEER or their agents or employees, by any employee of CONTRACTOR or Subcontractors or anyone for whose acts they may be liable, the indemnification obligation shall not be limited by the amount or type of damages, compensation or benefits under workmen's compensation acts, disability benefit acts, or other employee benefit acts.
- 6.29 The indemnification obligation of CONTRACTOR shall not extend to the liability of ENGINEER, agents or employees arising out of the preparation or approval of maps, Drawings, reports, surveys, Change Orders, designs or Specifications.

ARTICLE 7-WORK BY OTHERS

- 7.1 OWNER may perform or may contract with others to do additional work related to the Project. CONTRACTOR shall afford others a reasonable opportunity to perform work as well as to store materials and equipment on Site and shall properly integrate and coordinate CONTRACTOR's work with others. CONTRACTOR shall coordinate and cooperate with contractors working in the area for other owners or jurisdictions.
- 7.2 If any part of CONTRACTOR's work depends for proper execution or results upon the work of other contractors, other owners, or OWNER, CONTRACTOR shall inspect and promptly report to ENGINEER any defects or deficiencies in such work. CONTRACTOR's failure to so report shall constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR's work.
- 7.3 Additional Work resulting from other contracts, or work by OWNER not noted in the Contract Documents will be added by Change Order.

ARTICLE 8-OWNER'S RESPONSIBILITIES

GENERAL

- 8.1 In case of termination of the employment of ENGINEER, OWNER will appoint an engineer against whom CONTRACTOR makes no substantial objections, whose status under the Contract Documents will be that of the former ENGINEER.
- 8.2 OWNER will furnish the data required under the Contract Documents promptly and will make payments to CONTRACTOR promptly.

OWNER FURNISHED PRODUCTS

- 8.3 When the Contract Documents stipulate that the OWNER will furnish Products to be incorporated in the Work, the OWNER'S responsibilities will be:
- A. Arrange for and deliver the necessary Shop Drawings, Product Data, and samples to the CONTRACTOR.
 - B. Arrange and pay for delivery of the Products to the Site in accordance with the Construction Schedule.
 - C. Deliver supplier's bill of materials to the CONTRACTOR.
 - D. Inspect deliveries jointly with the CONTRACTOR.
 - E. Submit claims for transportation damage.

CONSTRUCTION INSPECTION

- 8.4 OWNER shall provide construction inspection for the duration of the project.

ARTICLE 9-ENGINEER'S STATUS

OWNER'S REPRESENTATIVE

- 9.1 ENGINEER will be OWNER'S representative during the bidding and construction period. Communications between the OWNER and the CONTRACTOR, or claimant, will be directed through the ENGINEER. The duties, responsibilities and limitations of authority of ENGINEER as OWNER's representative during the bidding and construction are set forth in these Contract Documents and shall be modified only with consent of OWNER and ENGINEER.
- 9.2 ENGINEER will not be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions and programs incident thereto, and ENGINEER will not be responsible for the CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.
- 9.3. ENGINEER will not be responsible for the acts or omissions of the CONTRACTOR, or any Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.

VISITS TO SITE

- 9.4 ENGINEER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER'S efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site observations as an experienced and qualified professional, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defects and deficiencies in the Work.

CLARIFICATIONS AND INTERPRETATIONS

- 9.5 ENGINEER may issue clarifications or interpretations consistent with, or inferable from, the intent of the Contract Documents.

SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- 9.6 ENGINEER shall review Shop Drawings, Product Data and samples of Products submitted by the CONTRACTOR.

REJECTING DEFECTIVE WORK

- 9.7 ENGINEER will have authority to disapprove of or reject Defective Work. ENGINEER will also have authority to require special inspection or testing of Work whether or not the Work is fabricated, installed or completed.

SITE REPRESENTATIVE

- 9.8 ENGINEER will furnish a Resident Project Representative, who may have one or more assistants, to aid OWNER and ENGINEER in carrying out their responsibilities at the Site. The duties, responsibilities and authority of the Resident Project Representative are set forth in Article 18 of these General Conditions.

DECISIONS ON DISAGREEMENT

- 9.9 ENGINEER will be initial interpreter of the requirements of Contract Documents and judge of acceptability of the Work. Claims, disputes, and other matters pertaining to bidding, execution and progress of the Work shall be referred initially to ENGINEER with a request for an informal meeting and a formal decision. Notice of each such claim, dispute and other matter shall be delivered by claimant to ENGINEER and other party within 15 days of occurrence of the event giving rise thereto. Additional supporting data shall be supplied within 30 days of occurrence. ENGINEER's written decision will be rendered within 40 days after the occurrence. In ENGINEER's capacity as interpreter and judge, ENGINEER will be impartial to OWNER, CONTRACTOR or claimant and will not be liable for any decision rendered in good faith.

- 9.10 The rendering of a decision by ENGINEER with respect to any such claim, dispute or other matter, will be a condition precedent to arbitration under these General Conditions. The ENGINEER's decision shall become final and binding on the parties 30 days after the decision is rendered unless deferred by an arbitration request, litigation or administrative appeal (if applicable) is filed by either party within the 30-day period. Lawsuits shall be brought in Kent County.
- 9.11 No decision made by ENGINEER in good faith, either to exercise or not to exercise authority under this Article shall give rise to any duty, liability or responsibility of ENGINEER to claimant, CONTRACTOR, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.

ARTICLE 10-CHANGES IN THE WORK

- 10.1 Without invalidating the Contract, OWNER may, at any time, order additions, deletions or revisions in the Work by Change Orders. Upon receipt of an executed Change Order, CONTRACTOR shall proceed with the Work involved.
- 10.2 ENGINEER may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These changes will be authorized by a Bulletin and will be binding upon OWNER and CONTRACTOR.
- 10.3 Additional work performed by CONTRACTOR without authorization of a Change Order will not entitle CONTRACTOR to an increase in the Contract Price or an extension of the Contract Time, except as set forth in these General Conditions.
- 10.4 OWNER shall execute appropriate Change Orders recommended by ENGINEER as set forth in these General Conditions.
- 10.5 It shall be CONTRACTOR's responsibility to notify Surety of any changes affecting the general scope of the Work or change in the Contract Price or Time. The amount of the applicable Bonds shall be adjusted accordingly.

ARTICLE 11-CHANGE OF CONTRACT PRICE

GENERAL

- 11.1 The Contract Price constitutes the total compensation payable for performing all duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR, and includes all taxes payable by CONTRACTOR as a result of the Work.
- 11.2 The Contract Price shall only be changed by a Change Order. Claims for a change in the Contract Price shall be submitted, with supporting data, to ENGINEER within 15 days of the occurrence of the event giving rise to the claim.
- 11.3 Claims for extra compensation shall not be made by CONTRACTOR for reasonable delays:
 - A. caused by the work of other Project contractors or subcontractors.
 - B. due to the failure of OWNER to perform any obligations required of OWNER under these Contract Documents.
- 11.4 Value of the Work covered by a Change Order shall be determined by one of the following methods:
 - A. where the Work is covered by Contract unit prices by application of unit prices to the items involved.
 - B. by mutual acceptance of a lump sum.
 - C. on the basis of the cost of the Work, plus overhead and profit, but only in the event OWNER and CONTRACTOR cannot agree on one of the above methods.

COST-PLUS WORK

- 11.5 Cost-plus work means cost of the Work plus a fee. Cost of the Work means the sum of all costs incurred and paid by CONTRACTOR in the performance of cost-plus work. Such costs shall be in amounts no higher than those prevailing in the locality of the Work. Cost of the Work shall only include:
- A. payroll costs for employees including superintendents and foremen at the Site in the direct employ of CONTRACTOR under schedules of job classifications. Payroll costs shall include, but not be limited to, salaries and wages, social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay.
 - B. cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation, storage and manufacturers' field services.
 - C. rentals of all construction equipment, machinery and accessories, and costs of transportation, loading, unloading, installation, dismantling and removal. Rental rates shall not exceed rates listed in the "Rental Rate Blue Book for Construction Equipment" published by Equipment Guide Book Company. Rates allowed will be based on the most economical time unit. The rental determined by multiplying the rate (e.g., hourly, daily, weekly, etc.) by the period of use shall not exceed the rental determined by applying the next highest rate (e.g., for this purpose the daily rate would be "higher" than the hourly rate, etc.) to the corresponding period of use.
 - D. fees of special consultants.
 - E. cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, hand tools, office and temporary facilities at the Site.
 - F. transportation, travel and subsistence expenses.
 - G. sales, use or similar taxes imposed by any governmental authority.
 - H. unavoidable deposit losses, royalty payments, and fees for permits and licenses, and losses and damages to the Work not compensated by insurance.
 - I. the cost of utilities, fuel, telegrams, long distance telephone calls, and expressage.
- 11.6 Cost of the Work shall not include:
- A. compensation for CONTRACTOR's officers, executives, principals, managers, professionals, clerks and other personnel, whether at the Site or office.
 - B. any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.
 - C. cost due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of Defective Work or damage to the property, disposal of materials or equipment wrongly supplied.
 - D. other overhead or general expense costs.
- 11.7 The fee allowed to the CONTRACTOR for overhead and profit shall be 10 percent of the cost of the Work; except for payments to Subcontractors in which case the fee shall be 5 percent.
- 11.8 Payments to Subcontractors will be determined in the same manner as CONTRACTOR's cost of the Work. The fee allowed to the Subcontractors for overhead and profit shall be 10 percent.
- 11.9 The amount of credit to OWNER for any change which results in a net decrease in cost will be the amount of the actual net decrease, exclusive of any fee for overhead and profit. When both additions and credits are involved in any one change, the overhead and profit shall be based on the net increase in the Work.
- 11.10 CONTRACTOR shall submit daily cost reports of cost-plus work to the ENGINEER.

ARTICLE 12-CHANGE OF THE CONTRACT TIME

- 12.1 The Contract Time may only be altered by a Change Order. Claim for a change of Contract Time shall be delivered to OWNER and ENGINEER within 15 days of the event giving rise to the claim. Adjustment in the Contract Time will be determined by ENGINEER.
- 12.2 The Contract Time will be extended in an amount equal to time lost due to unreasonable time delays beyond control of CONTRACTOR. Reasons for such delays shall be restricted to fires, labor disputes, epidemics, abnormal weather conditions, and Acts of God. In addition Contract Time may be extended for unreasonable time delays:
- A. caused solely by work of other Project contractors or subcontractors directly contracted by the OWNER
 - B. due to failure of OWNER to perform any obligations required of OWNER under these Contract Documents.

ARTICLE 13-WARRANTY, TESTS AND DEFECTIVE WORK

WARRANTY AND GUARANTEE

- 13.1 CONTRACTOR warrants and guarantees to OWNER and ENGINEER that materials and equipment shall be new and that Work shall be of good quality and free from faults or defects and in accordance with requirements of the Contract Documents. Prompt Notice of any defects will be given to CONTRACTOR.
- 13.2 CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by monthly estimates, passes automatically to OWNER at the time of payment, free and clear of all liens.

TESTS AND INSPECTIONS

- 13.3 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved by someone other than CONTRACTOR, CONTRACTOR shall give ENGINEER timely notice of readiness therefore. Such tests shall be in accordance with the methods prescribed by the applicable organization or the Contract Documents. All certification fees, testing laboratory fees, and inspection fees of said public authorities will be paid by CONTRACTOR. Inspection coordination is the responsibility of the CONTRACTOR, unless otherwise indicated in the Contract Documents.
- 13.4 Neither observations by ENGINEER nor inspections, tests or approvals by persons other than CONTRACTOR shall relieve CONTRACTOR from obligations to perform the Work required by the Contract Documents, laws, ordinances, rules, regulations or orders of public authority having jurisdiction.
- 13.5 When inspection readiness is declared by the CONTRACTOR and the inspection proves unsuccessful, all costs for the inspection shall be borne by the CONTRACTOR.

ACCESS TO THE WORK

- 13.6 ENGINEER, his representatives, and representatives of OWNER shall at all times have access to the Work. CONTRACTOR shall provide proper facilities for access, observation of the Work, and for any inspection or testing by manufacturers, suppliers, material men, and other parties as authorized by OWNER.

UNCOVERING WORK

- 13.7 If Work requiring inspection, testing or approval is covered either without ENGINEER's written approval where required, or contrary to ENGINEER's specific request, the Work shall, if requested by ENGINEER, be uncovered for observation and replaced at CONTRACTOR's expense.

- 13.8 If ENGINEER considers it necessary or advisable that covered Work be inspected or tested, other than as outlined under the previous paragraph, CONTRACTOR, at ENGINEER's request, shall uncover and expose that portion of the Work. If the Work is defective, CONTRACTOR shall bear all the expenses of satisfactory repair and reconstruction, including compensation for additional engineering services resulting therefrom. If such Work is not found to be defective, CONTRACTOR shall be allowed an increase in Contract Price, an extension of Contract Time, or both, directly attributable to such uncovering and reconstruction.

CUTTING AND PATCHING

- 13.9 CONTRACTOR shall be responsible for all cutting, fitting and patching required to complete the Work, to make its several parts fit together properly, or to uncover portions of the Work to provide for installation of ill-timed Work. CONTRACTOR shall not cut or alter any part of the Work or the work of another Contractor or Subcontractor without written approval of the ENGINEER. In no case shall the CONTRACTOR endanger any portion of the Work by cutting or altering any part of it.

CORRECTION OR REMOVAL OF DEFECTIVE WORK

- 13.10 CONTRACTOR shall promptly, as specified by ENGINEER, either correct any Defective Work or remove it from the Site and replace it with acceptable Work. If CONTRACTOR does not correct or remove and replace such Defective Work within a reasonable time, OWNER may have the deficiency corrected or the Defective Work removed and replaced by others. All direct and indirect costs of such correction or removal, and replacement, including compensation for additional engineering services, shall be paid by CONTRACTOR in an amount as verified by ENGINEER. CONTRACTOR shall also repair all Work of others destroyed or damaged by replacement of CONTRACTOR's Defective Work.

ONE YEAR CORRECTION PERIOD

- 13.11 Prior to the expiration of one year after the date of Acceptance or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, CONTRACTOR shall promptly correct identified Defective Work or remove it from the Site and replace it with acceptable Work. If CONTRACTOR does not promptly comply, OWNER's rights to correction will be the same as for Defective Work in this Article. Repairs and replacements made under this paragraph shall bear an additional 12-month correction period dated from the acceptance of repair and replacement.

ACCEPTANCE OF DEFECTIVE WORK

- 13.12 If OWNER prefers to accept Defective Work, an appropriate reduction in the Contract Price will be made. If the acceptance occurs after final payment, an appropriate amount, as determined by ENGINEER, shall be paid by CONTRACTOR to OWNER.

OWNER'S RIGHT TO DO WORK:

- 13.13 If CONTRACTOR should neglect to prosecute the Work properly and diligently, or fail to perform any provision of this Contract, including requirements of the Construction Schedule, OWNER, after three (3) days Notice to CONTRACTOR and his Surety may, without prejudice to any other remedy that OWNER may have, correct and remedy any such deficiency. Direct and indirect costs of OWNER, including compensation for additional engineering services, shall be verified by ENGINEER and an appropriate reduction in the Contract Price will be made. If the payments due CONTRACTOR are not sufficient to cover such amount, CONTRACTOR shall pay the difference to OWNER.

ARTICLE 14-PAYMENTS AND COMPLETION

PROGRESS PAYMENTS AND RETAINAGES

- 14.1 As a condition precedent to the first progress payment, CONTRACTOR shall submit a Construction Schedule and Schedule of Values.
- 14.2 CONTRACTOR will prepare a monthly payment request, supported by such data as ENGINEER may reasonably request from CONTRACTOR.

- 14.3 The payment requests shall not include Products not incorporated in the Work unless specifically requested by CONTRACTOR and approved by OWNER subject to the following mandatory conditions:
- A. the Products have been specifically manufactured for the Work;
 - B. the Products have been delivered and suitably stored at the Site or at another location agreed to; and
 - C. CONTRACTOR has furnished supporting data, satisfactory to OWNER that establishes OWNER's title to the Products, free of any Liens or other encumbrances, and protects OWNER's interest therein, including applicable insurance.
- 14.4 Progress payments and retainage shall conform to the following, provided CONTRACTOR'S progress is in accordance with the approved Construction Schedule and the conditions for payment as set forth in this Article.
- A. Progress payments covering the first 50 percent of the Work shall be 90 percent of the progress period Work completed and 75 percent of the Products furnished and not incorporated in the Work, but specifically authorized by the OWNER.
 - B. Progress payments covering the final 50 percent of the Work, at the discretion of the OWNER, may be increased to 100 percent of the progress period Work completed and 75 percent of Products furnished and not incorporated in the Work, but specifically authorized by the OWNER.
 - C. All payments to the CONTRACTOR by the OWNER, including retainage, shall be in accordance with all laws and regulations applicable to these activities in the state in which the Work is performed.

APPROVAL OF PAYMENT

- 14.5 CONTRACTOR will prepare monthly payment requests and present them to ENGINEER for recommendation to the OWNER. ENGINEER shall complete review of such requests, make adjustments as deemed appropriate, and forward to the OWNER within ten (10) days of receipt from the CONTRACTOR.
- 14.6 ENGINEER'S submittal and recommendation of any payment request shall constitute a representation by ENGINEER to OWNER, based on ENGINEER's on-site observations of Work in progress as an experienced qualified professional, that the Work has progressed to the point indicated; that, to the best of ENGINEER's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents; and that CONTRACTOR is entitled to payment. However, by recommending payment, ENGINEER shall not thereby be deemed to have represented that ENGINEER made exhaustive or continuous on-site inspections to check the quality or the quantity of the Work, or that ENGINEER has reviewed the means, methods, techniques, sequences, and procedures of construction or that ENGINEER has made any examination to ascertain how or for what purpose CONTRACTOR has used the moneys paid or to be paid to CONTRACTOR or that title to any Work, materials, or equipment has passed to OWNER free and clear of any liens.
- 14.7 OWNER will make payment to CONTRACTOR on monthly requests within 30 days of ENGINEER'S presentation to OWNER.

PAYMENT WITHHELD

- 14.8 ENGINEER may not recommend any payment or may nullify any payment previously recommended, to such extent as may be necessary to protect OWNER from loss because:
- A. Work is defective or completed Work has been damaged requiring correction or replacement.
 - B. Written claims have been made against OWNER or liens have been filed in connection with the Work.
 - C. Contract Price has been reduced by Modifications.

- D. CONTRACTOR has failed to file receipts for payment of equipment and materials not incorporated in the Work.
- E. OWNER has been required to correct Defective Work or complete neglected Work.
- F. Unsatisfactory prosecution of the Work, including failure to clean-up or failure to perform testing as required by the Contract Documents.

PARTIAL UTILIZATION

- 14.9 OWNER shall have the right to take possession of, and use any completed or partially completed portions of the Work prior to completion. The OWNER's possession and use shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents. Unless otherwise called for in the Contract Documents, CONTRACTOR will be reimbursed for any extra costs or provide an extension of Contract Time for any delays or both which result from Partial Utilization of Work. Special insurance coverage, if required, shall be provided by the OWNER. Upon receipt of a request from OWNER to utilize a portion of the Work, ENGINEER shall:
- A. make an inspection and shall prepare a list of items of incomplete and Defective Work remaining for the portion of the Work to be utilized.
 - B. determine if any extra compensation or time extension is due the CONTRACTOR due to the OWNER'S Partial Utilization of the Work.

SUBSTANTIAL COMPLETION

- 14.10 When ENGINEER considers that the Work has been substantially but not entirely completed and full completion thereof is materially delayed through no fault of CONTRACTOR, ENGINEER will issue a Certification of Substantial Completion. Liquidated damages for that portion of Work will not be assessed beyond the date of Substantial Completion.

PAYMENT FOR SUBSTANTIAL COMPLETION

- 14.11 OWNER will, upon Certificate of Substantial Completion by ENGINEER and without terminating the Contract, make payment of the balance due for Work fully completed and accepted. Consent of the Surety shall be submitted by CONTRACTOR to ENGINEER prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

NOTIFICATION OF COMPLETION

- 14.12 When CONTRACTOR considers the Work required in the performance of this Contract to be complete and ready for final inspection, CONTRACTOR shall provide Notice to the ENGINEER.

FINAL INSPECTION

- 14.13 CONTRACTOR shall serve Notice of completion on ENGINEER who will, within 7 days, schedule the final inspection with OWNER and CONTRACTOR, and will notify CONTRACTOR of incomplete and Defective Work. CONTRACTOR shall remedy such defects immediately and again submit a Notice of completion. Questions regarding quantities for payment will be measured jointly by the CONTRACTOR and ENGINEER.

FINAL PAYMENT

- 14.14 After CONTRACTOR has remedied all incomplete and Defective Work and delivered documents required by the Contract Documents, CONTRACTOR will prepare a request for final payment. CONTRACTOR shall furnish an executed Affidavit of Completion, in the form set forth in Article 19 of these General Conditions, including consent of the Surety to final payment. In lieu thereof, CONTRACTOR may furnish a Bond satisfactory to OWNER to indemnify OWNER against any lien.

APPROVAL OF FINAL PAYMENT

- 14.15 If ENGINEER is satisfied that the Work has been completed, and has received CONTRACTOR's Affidavit of Completion, ENGINEER will, within 10 days, issue the Certificate of Completion and present a recommendation for final payment to the OWNER for approval and payment. If said documentation is satisfactory in form and substance, OWNER shall pay CONTRACTOR within 30 days of receipt thereof.

CONTRACTOR'S CONTINUING OBLIGATION

- 14.16 The CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents shall be absolute. Recommendation of any progress or final payment by ENGINEER, issuance of a Certificate of Substantial Completion, any payment by OWNER to CONTRACTOR, any use or occupancy of the Work or any part thereof by OWNER, any act of acceptance by OWNER or any failure to do so, or any correction of Defective Work by OWNER shall not constitute an acceptance of Work contrary to the Contract Documents.
- 14.17 The duties and obligations imposed on CONTRACTOR by these General Conditions, and the rights and remedies available hereunder, and the rights and remedies available to OWNER and ENGINEER hereunder, shall be in addition to, and not a limitation of, any otherwise imposed or available by law, by special guarantee, or other provisions of the Contract Documents.

WAIVER OF CLAIMS

- 14.18 The making and acceptance of final payment shall constitute:
- A. a waiver of all claims by OWNER against CONTRACTOR, except claims arising from unsettled Liens, from Defective Work appearing after final inspection pursuant to this Article or from failure to comply with the Contract Documents. However, it shall not constitute a waiver by OWNER of any rights with respect to CONTRACTOR's continuing obligations under the Contract Documents; and
 - B. A waiver of all claims by CONTRACTOR against OWNER, except those claims under negotiation, arbitration, or litigation.
- 14.19 CONTRACTOR'S refusal to accept the final payment as tendered by OWNER shall constitute a waiver of any right to interest thereon.

LIQUIDATED DAMAGES

- 14.20 OWNER will deduct the amount of any liquidated damages and expenses, calculated in accordance with the Agreement, from moneys due or to become due to CONTRACTOR. If such amount exceeds such unpaid balance, the CONTRACTOR shall pay the difference to the OWNER.

ARTICLE 15-SUSPENSION AND TERMINATION

WORK SUSPENSION

- 15.1 OWNER may order CONTRACTOR to suspend the Work, or any portion thereof, until the reason for such suspension has been eliminated; however, this right shall not give rise to any duty by OWNER to exercise this right for the benefit of CONTRACTOR or any other party.
- 15.2 OWNER may suspend the Work for the following reasons:
- A. Defective Work.
 - B. CONTRACTOR fails to supply sufficient skilled workmen or suitable Products.
 - C. CONTRACTOR fails to make prompt payments to Subcontractors or for labor or Products.
 - D. CONTRACTOR fails to maintain proper insurance, bonds, licenses, or federal, state, or local permits.

OWNER TERMINATION OF WORK

- 15.3 Upon the occurrence of any one or more of the following events OWNER may, after giving CONTRACTOR and Surety 10 days written Notice of Termination, terminate the services of the CONTRACTOR.
- A. CONTRACTOR fails to initiate and diligently proceed with the Work.
 - B. CONTRACTOR is adjudged bankrupt or insolvent.
 - C. CONTRACTOR makes a general assignment for the benefit of creditors.
 - D. a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR's property.
 - E. CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws.
 - F. CONTRACTOR repeatedly fails to supply sufficient skilled workmen or suitable Products.
 - G. CONTRACTOR repeatedly fails to make prompt payments to Subcontractors or for labor or Products.
 - H. CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction.
 - I. CONTRACTOR disregards the authority of the ENGINEER.
 - J. CONTRACTOR otherwise violates any provisions of the Contract Documents.

OWNER COMPLETION OF WORK ON TERMINATION:

- 15.4 If the Surety does not resume performance of the Work within 10 days after Notice of Termination is received from OWNER, OWNER shall have the absolute right to complete the Work in the most expeditious manner and shall have the right to exclude CONTRACTOR from the Site and take possession of the Work and of all CONTRACTOR's tools, appliances, equipment and machinery at the Site and use the same without liability to CONTRACTOR for trespass or conversion. OWNER may incorporate in the Work all Products for which OWNER has paid CONTRACTOR but which are stored elsewhere. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the balance due to CONTRACTOR at the time of termination exceeds the direct and indirect costs of completing the Work, including compensation for additional engineering services, attorney's fees, technical services and administrative costs, such excess shall be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs incurred by OWNER shall be verified by ENGINEER and incorporated in a Change Order, but in finishing the Work OWNER shall not be required to obtain the lowest cost for the remaining portion of the Work performed.

OWNER'S ADDITIONAL TERMINATION RIGHTS

- 15.5 Where CONTRACTOR's services have been terminated by OWNER, said termination shall not affect any rights of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention due or payment of money by OWNER to CONTRACTOR shall not release CONTRACTOR from liability.

OWNER'S TERMINATION FOR CONVENIENCE

- 15.6 Upon 10 days' written Notice to CONTRACTOR, Surety and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Contract. In such case, CONTRACTOR will be paid for Work executed and expense sustained plus a reasonable profit.

CONTRACTOR'S CONTINUING WORK DURING DISPUTES

- 15.7 CONTRACTOR shall carry on the Work and maintain the Construction Schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as CONTRACTOR and OWNER may otherwise agree.

CONTRACTOR MAY STOP WORK OR TERMINATE

- 15.8 If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than 90 days by the OWNER or by an order of court or other public authority, or OWNER fails to pay CONTRACTOR any sum recommended by ENGINEER within 90 days of its presentation, then CONTRACTOR may, upon 10 days' written Notice to OWNER, terminate this Contract and recover from OWNER payment for all Work executed and any expense sustained plus a reasonable profit. In lieu of terminating the Contract, CONTRACTOR may, upon 10 days' notice to OWNER, stop the Work until CONTRACTOR has been paid amounts then due.

ARTICLE 16-ARBITRATION

- 16.1 In the event that a claim, dispute or other question arises relating to the Contract Documents, except claims which have been waived by the making or acceptance of final payment or claims not subject to arbitration under applicable law, OWNER and CONTRACTOR may, by mutual agreement, submit the claim, dispute or matter to arbitration. In the event the parties agree to arbitration, the right to proceed to arbitration shall be subject to the terms and conditions in this Article.
- 16.2 The parties must agree on the specific claims, disputes or matters to be arbitrated. The written arbitration submission shall state the nature and circumstances surrounding the claim or dispute, state the amount claimed or relief sought, and the specific supporting provisions relied upon in the Contract Documents. The scope of the arbitration shall be strictly limited to matters defined in the arbitration submission.
- 16.3 Once the arbitration submission has been signed by both parties, it shall be submitted to the American Arbitration Association which shall proceed to process the case in accordance with the Construction Industry Arbitration Rules, except to the extent that the same have been modified by this Article and the arbitration submission.
- 16.4 The arbitration panel shall consist of one Professional Engineer or Architect, one Contractor, and one Attorney selected in accordance with the applicable rules of the American Arbitration Association. In lieu of the appointment of an Arbitration Panel to settle an existing claim or dispute, OWNER and CONTRACTOR may agree upon a permanent arbitrator or Arbitration Panel to decide all claims, disputes, and other matters relating to the Contract Documents.
- 16.5 The arbitrator or Arbitration Panel shall apply the terms and conditions of the Contract Documents to the claim, dispute or matter submitted to it and shall base its decision on said Contract Documents.
- 16.6 The arbitrator's or Arbitration Panel's decision shall be set forth in writing, shall state the decision on each claim, dispute or matter submitted, and the reason for each decision.
- 16.7 Once a written arbitration submission has been executed, the agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The arbitration award rendered by the arbitrator(s) shall be final and judgment may be entered upon it in any court having jurisdiction thereof.
- 16.8 During the pendency of the arbitration proceedings, CONTRACTOR covenants and agrees that CONTRACTOR shall continue to proceed with the Work required pursuant to the Contract Documents. In the event that CONTRACTOR is terminated by OWNER at any time prior to the issuance of the arbitrator's or Arbitration Panel's written decision, or if CONTRACTOR fails to proceed with the Work during the pendency of the arbitration proceedings, OWNER shall be entitled to obtain a court order enjoining the continuance of said arbitration proceedings by reason of such action.

ARTICLE 17-MISCELLANEOUS

- 17.1 Whenever any provision of the Contract Documents requires the giving of Notice, it shall be deemed to have been validly given, if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if sent by certified mail or commercial carrier, with provision for receipt acknowledgement, to the last business address known to party who gives the Notice. Notice may also be made by facsimile transmission. In such case, Notice will be deemed received when the transmission is made. The party making such facsimile transmissions shall also forward a copy of such Notice by regular mail.

- 17.2 If any section, paragraph, clause or provision of the Contract Documents shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of the Contract Documents. The Article and paragraph headings in the Contract Documents are furnished for convenience of reference only and shall not be considered to be a part of the Contract Documents.

ARTICLE 18-RESIDENT PROJECT REPRESENTATIVE

GENERAL

- 18.1 Resident Project Representative is ENGINEER's Agent under the supervision of ENGINEER in matters pertaining to the on-site Work. Dealings with Subcontractors shall be through, or with knowledge of, CONTRACTOR.

DUTIES AND RESPONSIBILITIES

- 18.2 Resident Project Representative will:
- A. Review the Construction Schedule, schedule of Shop Drawing submissions, and Schedule of Values prepared by CONTRACTOR, and consult with ENGINEER concerning their acceptability.
 - B. Attend preconstruction conferences, progress meetings, and other job conferences; chair meetings and maintain and circulate copies of minutes and notices thereof.
 - C. Serve as ENGINEER's liaison with CONTRACTOR, principally through with CONTRACTOR's Superintendent. Assist ENGINEER as OWNER's liaison when CONTRACTOR's operations affect OWNER's on-site operations.
 - D. Assist ENGINEER in obtaining from OWNER additional details or information when required for proper execution of the Work.
 - E. Receive Shop Drawings, Product Data and samples, submittals, and receive samples delivered at the site for ENGINEER's examination.
 - F. Advise ENGINEER and CONTRACTOR immediately of the commencement of any Work requiring a Shop Drawing of sample submission if the submission has not been approved by ENGINEER.
 - G. Conduct on-site observations of the Work to assist ENGINEER in determining compliance with the Contract Documents.
 - H. Report to ENGINEER whenever it appears that any portion of the Work does not conform to the Contract Documents or has been damaged prior to final payment; and advise ENGINEER when it appears any portion of the Work should be uncovered for observation or requires special testing, inspection or approval.
 - I. Verify that required tests, equipment and systems startups, and operating and maintenance instructions are conducted in the presence of required personnel, and that CONTRACTOR maintains adequate records thereof; observe, record and report to ENGINEER details of test procedures, startups, inspections, and operating and maintenance instructions.
 - J. Accompany inspectors representing public or other agencies having jurisdiction on the Project; record and report to ENGINEER on the outcome of these inspections.
 - K. Transmit to CONTRACTOR, ENGINEER's clarifications and interpretations of the Contract Documents.
 - L. Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings or Specifications and report them with recommendations to ENGINEER.

- M. Maintain at the Site orderly files for correspondence, reports of job conferences, Shop Drawings, Product Data and samples submissions, reproductions of original Contract Documents, including all Addenda, Change Orders, additional Drawings, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
- N. Maintain a log book, recording hours on the Site, weather conditions, data relative to extras or deductions, list of visiting officials and representatives of manufacturers, fabricators, suppliers and distributors, daily activities, decisions, and general and specific observations of test procedures.
- O. Consult with ENGINEER relative to scheduled major tests, inspections or start of critical phases of the Work.
- P. Report accidents immediately to ENGINEER.
- Q. Review applications for payment with CONTRACTOR and forward them with recommendations to ENGINEER, noting relation to the Schedule of Values, Work completed, and payment for materials and equipment not incorporated in the Work.
- R. During the course of the Work, verify that certificates, maintenance and operation manuals, and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed; and that this material is delivered to ENGINEER for review and forwarding to OWNER prior to final acceptance of the Work.
- S. Prior to, and as a condition of, recommending to ENGINEER issuance of a Certificate of Substantial Completion, Resident Project Representative will:
 - 1. Prepare a list of incomplete or Defective Work.
 - 2. Verify that all items required for Substantial Completion have been corrected or completed.
 - 3. Secure agreement between OWNER and CONTRACTOR relative to responsibilities for utilities, heat, janitorial services, insurance, Project security, access by the parties, safety and any other matters.
 - 4. Secure CONTRACTOR's specific Construction Schedule to fully complete the Work.
- T. Conduct final inspection with ENGINEER, OWNER and CONTRACTOR and prepare a final list of items to be completed or corrected.
- U. Verify that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

LIMITATIONS OF AUTHORITY

- 18.3 Resident Project Representative shall not guarantee or warrant CONTRACTOR's Work. Except upon written instructions of ENGINEER, Resident Project Representative shall not:
 - A. Authorize any deviation from the Contract Documents or approve any substitute Products.
 - B. Exceed limitations on ENGINEER's authority as set forth in the Contract Documents.
 - C. Undertake any of the responsibilities of CONTRACTOR, Subcontractors or CONTRACTOR's Superintendent, or expedite the Work.
 - D. Advise on, or issue directions relative to, any aspect of the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the Contract Documents.
 - E. Advise on, or issue directions as to, safety precautions and programs in connection with the Work.

SECTION 00700

00700.24
GENERAL CONDITIONS

- F. Authorize OWNER to occupy the Project in whole or in part.
- G. Participate in specialized field or laboratory tests.

PART 1 - GENERAL

1.01 SECTION INCLUDES:

- A. Measurement and payment criteria applicable to the Work.

1.02 AUTHORITY:

- A. Measurement methods delineated in the individual specification sections are intended to complement the criteria of this section.
- B. The ENGINEER will take all measurements and compute quantities accordingly.
- C. Assist by providing necessary equipment, workers, and survey personnel as required.

1.03 UNIT QUANTITIES SPECIFIED:

- A. Quantities and measurements indicated in the Bid Form are for bidding and contract purposes only. Quantities and measurements supplied or placed in the Work and verified by the ENGINEER shall determine payment.
- B. If the actual Work requires more or fewer quantities than those quantities indicated, provide the required quantities at the unit prices contracted.
- C. Item quantities may be increased or decreased upon discretion of ENGINEER or OWNER.

1.04 MEASUREMENT OF QUANTITIES:

- A. Measurement Devices:
 - 1. Weigh Scales: Inspected, tested and certified.
 - 2. Platform Scales: Of sufficient size and capacity to accommodate the conveying vehicle.
 - 3. Metering Devices: Inspected, tested and certified.
- B. Measurement by Weight: Concrete reinforcing steel, rolled or formed steel or other metal shapes will be measured by handbook weights. Welded assemblies will be measured by handbook weights.
- C. Measurement by Volume: Measured by cubic dimension using mean length, width and height or thickness.
- D. Measurement by Area: Measured by square dimension using mean length and width or radius.
- E. Linear Measurement: Measured by linear dimension, at the item centerline.

1.05 PAYMENT:

- A. Payment Includes: Full compensation for all required labor, products, tools, equipment, plant, transportation, services and incidentals; erection, application or installation of an item of the Work; overhead and profit.
- B. Final payment for Work governed by unit prices will be made on the basis of the actual measurements and quantities accepted by the ENGINEER multiplied by the unit price for Work which is incorporated in or made necessary by the Work.

1.06 MEASUREMENT AND PAYMENT SCHEDULE:

A. The following schedule outlines the method of measurement and basis of payment to be used on this project. Requirements for materials and methods described under each unit price are included in the specification sections.

1. Woody Debris Management:
 - a. Includes furnishing, installing, and maintaining the following as indicated on the drawings and in accordance with the specifications:
 - i. Furnishing all labor, materials and equipment as necessary to complete the Work.
 - ii. Selective clearing, grubbing, and snagging the drain right of way as necessary to complete the work.
 - iii. Clearing and snagging all dead, dying, and leaning trees within the channel limits. The channel limits shall be defined as 5 feet landward of the top of channel bank.
 - iv. Removal of deadfall, log jams, and other organic or inorganic debris from within the drain channel.
 - v. Disposal of all items from clearing, grubbing, and snagging operations.
 - vi. Cleanup and maintenance of the work in the finished condition until final acceptance.
 - b. Unit of Measure: Lump Sum.

2. Open Channel Excavation:
 - a. Includes the following as indicated on the drawings and in accordance with the specifications:
 - i. Furnishing all labor, materials and equipment as necessary to complete the Work.
 - ii. Excavating open channel to the lines and grades indicated on the Drawings or as directed by the ENGINEER.
 - iii. Placing, leveling, spreading and shaping of spoil.
 - iv. Cleanup and maintenance of the Work in the finished condition until final acceptance.
 - b. Cleanout of sediment from culverts and from under bridges will be included in the unit price for Open Channel Excavation.
 - c. Unit of Measure: Linear Foot of open channel as measured along the centerline of the survey stationing indicated on the Drawings.

3. Rock Riffle:
 - a. Includes the following as indicated on the Drawings and in accordance with the Specifications:
 - i. Furnishing all labor, materials and equipment as necessary to complete the Work including but not limited to rock and geotextile fabric.
 - ii. Excavating and grading as necessary to complete the work.
 - iii. Placing rock and geotextile fabric as indicated on the Drawings or as directed by the ENGINEER.
 - iv. Adjustments as directed by the ENGINEER in order to ensure proper function.
 - v. Cleanup and maintenance of the Work in the finished condition until final acceptance.
 - b. Unit of Measure: Each

- 4. Riprap:
 - a. Includes the following as indicated on the drawings and in accordance with the specifications:
 - i. Furnishing all labor, materials and equipment as necessary to complete the Work, including but not limited to rock riprap and geotextile fabric.
 - ii. Excavating and grading as necessary to complete the work.
 - iii. Placing rock riprap and geotextile fabric as indicated on the Drawings or as directed by the ENGINEER.
 - iv. Cleanup and maintenance of the Work in the finished condition until final acceptance.
 - b. Unit of Measure: Square Yard.

- 5. Riprap Spillway:
 - a. Includes the following as indicated on the drawings and in accordance with the specifications:
 - i. Furnishing all labor, materials and equipment as necessary to complete the Work, including but not limited to rock riprap and geotextile fabric..
 - ii. Excavating and grading as necessary to complete the work.
 - iii. Placing rock riprap and geotextile fabric as indicated on the Drawings or as directed by the ENGINEER.
 - iv. Cleanup and maintenance of the Work in the finished condition until final acceptance.
 - b. Unit of Measure: Each.

- 6. Mulch Blanket
 - a. Includes the following as indicated on the Drawings and in accordance with the Specifications:
 - i. Furnishing all labor, materials and equipment as necessary to complete the Work.
 - ii. Placing and anchoring mulch blanket as indicated on the Drawings or as directed by the ENGINEER.
 - iii. Cleanup and maintenance of the Work in the finished condition until final acceptance.
 - b. Unit of Measure: Square Yard

- 7. Open Channel Seeding
 - a. Includes the following as indicated on the Drawings and in accordance with the Specifications:
 - i. Furnishing all labor, materials and equipment as necessary to complete the Work.
 - ii. Removing, stockpiling, replacing and grading existing topsoil.
 - iii. Placing seed along channel banks and all other disturbed areas.
 - iv. Cleanup and maintenance of the Work in the finished condition until final acceptance.
 - b. Unit of Measure: Linear Foot of open channel as measured along the centerline of the survey stationing indicated on the Drawings.

SECTION 01570EROSION AND SEDIMENTATION CONTROLPART 1 - GENERAL

1.01 DESCRIPTION:

- A. Work Included:
 - 1. Provide permanent and/or temporary erosion and sedimentation control as called for on the plans.
- B. Intent and Purpose of Control:
 - 1. Keep disturbed areas small.
 - 2. Stabilize and protect disturbed areas as soon as possible.
 - 3. Keep storm water runoff velocities low.
 - 4. Protect disturbed areas from runoff.
 - 5. Retain sediment within the corridor or site area.
- C. Method of Measurement and Basis of Payment:
 - 1. Temporary Measures - Incidental to construction.
 - 2. Permanent Measures - See Proposal for pay item.

1.02 PERMIT:

- A. Soil Erosion and Sedimentation Control (Part 91, Act 451, PA 1994)
 - 1. The Muskegon County Drain Commissioner is an Authorized Public Agency (APA) and a separate SESC permit is not required.
 - 2. CONTRACTOR shall comply with the requirements and conditions of the APA.

1.03 JOB CONDITIONS:

- A. Scheduling:
 - 1. Control measures shall be constructed prior to the time construction starts uphill or upstream from the control measure location.
 - 2. Removal and cleanup of temporary control structures: Within one week after control measure is no longer needed.

PART 2 – PRODUCTS

2.01 MATERIALS:

- A. Seeding:
 - 1. Open Channel Seeding:
 - a. MDOT, Sec. 816.02, 917.12.
 - b. Temporary Measures: MDOT Table 816-2 and 917-1. CR (Cereal Rye, less than 6 mos.) at a rate of 70 lb/acre.
 - c. Permanent Measures: MDOT Table 816-1 and 917-1. THV (Turf Heavy Soil) at a rate of 220 lb/acre.
- B. Topsoil:
 - 1. MDOT, Sec. 816.02, 917.07.
 - 2. Temporary Measures: Not required unless readily available.
 - 3. Permanent Measures: MDOT 816.02.
- C. Mulch Blanket:
 - 1. MDOT, Sec. 816.02, 917.15.
 - 2. Temporary and Permanent Measures: MDOT 816.02 shall apply. Required as specified on plans and/or in Project Specifications.

SECTION 01570EROSION AND SEDIMENTATION CONTROL

- D. Riprap:
1. Crushed Cobblestone: Sound, non-stratified, durable rock free from structural defects. Material shall be range in dimension as indicated on the Drawings. MDOT 916.01 shall apply.
 2. Limestone: Sound, non-stratified, durable rock free from structural defects. Material shall range in dimension as indicated on the Drawings. MDOT 916.01 shall apply.
 3. Crushed Concrete: Not allowed.

PART 3 - EXECUTION

3.01 PERFORMANCE:

- A. General:
1. Abide with all applicable rules and regulations as established by the State of Michigan and the local governmental unit pursuant to Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, Act 451, PA 1994.
 2. Achieve Effective Erosion Control:
 - b. Provide all materials.
 - c. Promptly take actions necessary to prevent off Site sedimentation.
 3. Maintain erosion controls.
 4. Remove temporary soil erosion and sedimentation control measures once permanent measures are established and accepted by the ENGINEER.
 5. Even though a specific erosion control measure is not called out on the plans, this does not relieve the CONTRACTOR from his obligation under the above Act to properly control and/or prevent all erosion caused by the CONTRACTOR's construction operation.
- B. Sediment Removal:
1. Take such steps as are necessary to assure the retention and removal of any sediment which enters an existing storm sewer or open ditch along the construction route before said sewer or ditch discharges into a stream or pond.
 2. If eroded material is allowed to enter a storm sewer system it shall be the CONTRACTOR's responsibility to see that all catch basins and manholes are cleaned following construction prior to receipt of final payment. Unless the CONTRACTOR can document positively to what extent an existing storm sewer system along the construction area is silted in prior to construction, no credit will be allowed for cleaning the system stem.
 3. The CONTRACTOR shall be responsible for maintaining the roadways in a passable condition until the paving is completed. This includes any maintenance necessary for dust control.

3.02 SEEDING:

- A. Scheduling:
1. Within 7 days from the time the area was first disturbed.
 2. Channel Banks: Within 24 hours from the time the area was first disturbed.
 3. Seasonal Limitations:
 - a. April 20 through November 1.
 - b. Dormant seeding after November 1 to freeze up.
- B. Sowing:
1. Sow the seed following or in conjunction with the fertilizer and while the seed bed is in a friable condition.
 2. Do not sow seed through mulch.

SECTION 01570EROSION AND SEDIMENTATION CONTROL

- C. Method:
 - 1. Broadcast: Do not seed when wind velocity exceeds 5 miles per hour.
 - 2. Mechanical drills.
 - 3. Hydroseeder:
 - a. Use only equipment specifically designed for hydraulic seeding application.
 - b. Mix seed, fertilizer and pulverized mulch in water until uniformly blended into homogeneous slurry.
 - c. Continue mixing during application.
- D. Inspection:
 - 1. Visually inspect for uniform distribution.
 - 2. Reseed areas as required to establish a uniform and stable stand of grass.
- E. Finishing: Incorporate seed into the upper 1/2-inch of soil.

3.03 TEMPORARY VEGETATIVE COVER:

- A. General:
 - 1. Provide temporary seed if permanent measures will not be placed within 15 days of initial disturbance and area will not undergo further earth change within 15 days of initial disturbance:
 - 2. Within 15 days from the time final grade has been established, provide permanent soil erosion and sedimentation control measures.
- B. Seed: Apply uniformly at a minimum rate of 70 pounds per acre.
- C. Mulch: As needed to effectively control soil erosion.

3.04 MULCH BLANKET:

- A. General: Directions of installation, staple patterns and other requirements in accordance with Manufacturer's directions.
- B. Location: Where indicated on the Drawings or as directed by the ENGINEER.

3.05 RIPRAP:

- A. General:
 - 1. Includes riprap bank stabilization and riprap end treatment.
 - 2. Conform to slopes and dimensions indicated on the Drawings.
- B. Grading:
 - 1. Excavate to finished grade of required section and slope.
 - 2. Excavate header and footer trench at upstream and downstream toe.
- C. Geotextile Fabric:
 - 1. Place geotextile fabric beneath all riprap areas.
 - 2. Extend geotextile fabric into trenches for anchorage at upstream and downstream.
- D. Placing Riprap: As indicated on the Drawings or as directed by ENGINEER.
- E. Maintenance: Regrade, relay riprap and geotextile fabric as necessary.

SECTION 01570EROSION AND SEDIMENTATION CONTROL

3.06 ROCK RIFFLE:

- A. General:
 - 1. Conform to slopes and dimensions indicated on the Drawings.
 - 2. Rock material shall be cobblestone or limestone. Crushed concrete shall not be used.
- B. Grading:
 - 1. Excavate to finished grade of required section and slope.
 - 2. Excavate header and footer trench at upstream and downstream toe.
- C. Geotextile Fabric:
 - 1. Place geotextile fabric beneath all rock areas.
 - 2. Extend geotextile fabric into trenches for anchorage at upstream and downstream.
- D. Placing Rock: As indicated on the Drawings or as directed by ENGINEER.
- E. Engineers Approval: Obtain approval from ENGINEER that rock riffle is functioning properly.
- F. Maintenance: Regrade, relay and adjust rock as necessary in order to ensure that rock riffle is functioning properly.

3.07 RIPRAP SPILLWAY:

- A. General:
 - 1. Conform to slopes and dimensions indicated on the Drawings.
- B. Grading:
 - 1. Excavate to finished grade of required section and slope.
 - 2. Excavate header and footer trench at upstream and downstream toe.
- C. Geotextile Fabric:
 - 1. Place geotextile fabric beneath all rock areas.
 - 2. Extend geotextile fabric into trenches for anchorage at upstream and downstream.
- D. Placing Rock: As indicated on the Drawings or as directed by ENGINEER.
- E. Engineers Approval: Obtain approval from ENGINEER that riprap spillway is functioning properly.
- F. Maintenance: Regrade, relay and adjust rock as necessary in order to ensure that riprap spillway is functioning properly.

3.08 OPEN CHANNEL EXCAVATION

- A. Power equipment such as bulldozers shall not enter the water unless approved by ENGINEER.
- B. Complete excavation, clearing, grubbing, snagging, tree cutting, pulling, raking, and related work in such a way as to minimize erosion of soil in the areas in which work is completed.
- C. Channel banks and other disturbed areas.
 - 1. Stabilize within 24 hours after a disturbance unless otherwise approved by ENGINEER.
 - 2. In no case shall banks be left un-stabilized for more than 7 days.
- D. Construct sediment basins or traps prior to excavation.
- E. Comply with measures for soil erosion and sediment control as indicated on the Drawings.

3.09 AIRBORNE SEDIMENT

A. Dust Control:

1. Use legal means necessary to control dust on and near the Work and on and near off Site borrow areas if such dust is caused by CONTRACTOR's operations during performance of the Work or if resulting from the condition of the Site when earthwork operations are suspended.
2. Treat haul roads, delivery roads, temporary Site access roads and other surfaces as required to prevent dust from being a nuisance to the public, neighbors, and concurrent performance of other work on the Site, and as directed by ENGINEER.
3. Periodically scrape and broom adjacent streets and paved areas to remove tracked dirt.

B. Wind Erosion:

1. Erect and maintain barriers to prevent migration of windblown sediment off Site.
2. Conduct operations in such a manner as to minimize the amount of Site area exposed to wind erosion.
3. Be responsible for removal of windblown sediments deposited off Site, including costs for repairs required due to sediment deposition and removal.

PART 1 - GENERAL

1.01 STAKING:

- A. Construction staking will be furnished by the OWNER through the ENGINEER as needed on the following basis:
 - 1. Open Channel Excavation or Realignment – One staking: Line and Grade points at 200 foot station intervals and at bends in the drain alignment.
 - 2. In-Stream Structures – One staking: Line and Grade points at critical dimensions.
- B. CONTRACTOR shall order the staking Three (3) working days in advance of the need for said staking.

1.02 RESTAKING:

- A. If restaking or additional staking is required, it shall be performed by the ENGINEER at the CONTRACTOR'S expense.

PART 1 - GENERAL

1.01 DESCRIPTION:

- A. This work consists of clearing, selective thinning and application of any growth preventive material where required. CLEARING: Shall consist of cutting, removing from the ground, and disposing of trees, stumps, brush, shrubs, and other vegetation occurring within the project site which interfere with excavation, embankment, channel flow or clear vision, or are otherwise noted on the construction drawings to be removed and includes the preservation from injury or defacement of all vegetation and objects designated to remain. Where removal of a stump may result in damage to existing utilities, the stump shall be removed by chipping to a depth of at least one foot below the finished ground surface. Other stumps may be removed by chipping when approved by the ENGINEER. Any trees or shrubs that are designated to be saved but are damaged by the CONTRACTOR's operations shall be repaired or replaced by the CONTRACTOR, as directed by the ENGINEER, at no additional cost to the OWNER.

1.02 PERMITS:

- A. Permit for transport and disposal of debris by CONTRACTOR (if necessary).

PART 2 - PRODUCTS

2.01 MATERIALS:

- A. Except as noted the CONTRACTOR maintains possession of all materials being demolished.

PART 3 - EXECUTION

3.01 GENERAL:

- A. Limits of Work:
 - 1. Clear within drain right-of-way for access lane on one side only. Remove only those trees that interfere with execution of the Work.
 - 2. Clear all dead, dying or leaning trees and remove log jams and debris within the channel up to 5-feet landward of the top of bank. Trees are to remain if they do not interfere with the flow or the construction process and are not in danger of falling into the drain.
 - 3. Grubbing is not required except where tree roots interfere with construction.
- B. Precautions: Avoid damage to stable, vegetated channel banks, or to trees and shrubs that are not designated for excavation or removal during completion of the clearing operations.
- C. Ownership:
 - 1. The property owner shall have the option of retaining ownership of trees that are removed on his property.
 - 2. CONTRACTOR shall notify the property owner of CONTRACTOR's schedule for clearing in order to allow a reasonable amount of time for removal of material by the property owner.
 - 3. If the owner of the property to be cleared requests to maintain possession of the material to be cleared the CONTRACTOR shall have the property owner complete the Land Owner Agreement Form found in the Supplemental Conditions. Cleared material claimed by the property owner shall be placed outside of the drain easement
 - 4. Trees, stumps, etc., that are not removed by the property owner after a reasonable amount of time shall become the property of CONTRACTOR and shall be removed or disposed of in accordance with the Specifications.

3.02 CLEARING:

- A. Cutting:
 - 1. Cut trees and brush a maximum of 18 inches above the ground.
 - 2. Remove tree tops and limbs prior to cutting the entire tree if necessary to avoid damage to adjacent structures or trees that are not designated for removal.
 - 3. The final cut shall be an even cut, parallel with the ground.
 - 4. Identification for Channel Restoration:
 - a. The trees that are specified for cutting will be marked by ENGINEER.
 - b. Cut only marked trees.
- B. Log Jams, Deadfall and Debris:
 - 1. Trees, log jams, deadfall and debris specified for pulling will be marked by ENGINEER.
 - 2. Only marked items shall be pulled.
- C. Access:
 - 1. Restrict equipment access for Clearing operations to areas indicated on the Drawings or as designated by ENGINEER.
 - 2. Equipment shall remain outside of the channel limits unless authorized by ENGINEER.
- D. Fruit Trees: Clear only when authorized by ENGINEER.

3.03 GRUBBING:

- A. Stump Removal: Unless stumps are specifically designated for chipping, pull the entire stump and roots out from below ground.
- B. Stump Treatment: Not in this Contract.
- C. Utilities:
 - 1. Notify ENGINEER of instances in which stump removal may result in damage to existing utilities or culverts.
 - 2. Be responsible for damage to utilities that may result from stump removal.
- C. Chipping: Where authorized by ENGINEER, stumps may be chipped to a minimum depth of 1-foot below ground in lieu of pulling the stump and roots.

3.04 DISPOSAL:

- A. Trash, debris and other nonwoody material: Sort out and dispose of in a licensed landfill.
- B. Burial:
 - 1. Trees, brush, stumps and other woody material may be disposed of by burial where authorized by ENGINEER and in areas that do not conflict with present land use.
 - 2. Bury material in compacted trenches with a minimum of 2 feet of compacted earth cover.
 - 3. Locate buried trenches a minimum of 10 feet (horizontal) beyond the top edge of the proposed channel bank.
- C. Burning:
 - 1. Woody material may be disposed of by burning where authorized by ENGINEER and in accordance with all local, State and Federal regulations.
 - 2. Maintain a minimum 200 feet horizontal isolation distance between overhead public utilities or wooded areas and burning piles.
 - 3. Bury material that remains following burning or remove from the Site.
 - 4. Burning will not be permitted in areas with combustible organic soils.

- D. Debris Piles:
 - 1. Woody material may be placed in debris piles as authorized by ENGINEER and in locations that do not conflict with present land use.
 - 2. Neatly windrow debris piles beyond the spoil piles or place in debris piles at intervals of not less than 100 feet.
 - 3. Maintain a minimum clearance of 200 feet (horizontal) between debris piles and overhead public utilities.
 - 4. Floodplains: Secure debris piles to prevent movement of debris during flooding events.
- E. Removal: Material that is required to be removed from the Site shall become the property of CONTRACTOR.

3.05 MAINTENANCE:

- A. Clear and snag trees that become unstable (lean) or fall into drain between completion of the work and final completion.

PART 1 - GENERAL

1.01 DESCRIPTION:

- A. The work includes excavation and realignment of open channel drains.

1.02 DEFINITIONS:

- A. Earth: Materials which can be excavated with equal facility by equipment used for normal earth excavation. Examples include, but are not limited to:
 - 1. Common materials such as sand, clay, loam, gravel, silt, and stones less than 1/2 cubic yard in volume.
 - 2. Organic materials such as muck, peat, and marl.
 - 3. Rock-like material that is fragile, friable, or fragmented.
- B. Rock: Igneous, metamorphic and sedimentary rock and hardpan requiring continuous drilling, blasting or use of ripper:
 - 1. Solid ledge rock.
 - 2. Solid boulders more than 1/2 cubic yard in volume.
 - 3. Hardpan consists of cemented soil layers but does not include uncemented clay layers.
- C. Other:
 - 1. Natural items, such as trees, stumps, logs, brush, shrubs, and other vegetation.
 - 2. Man-made items, including but not limited to:
 - a. Surface items, such as bituminous and concrete paving, curb, headwalls, and the like.
 - b. Underground items, such as pipes, culverts, manholes, catch basins, foundations, walls, chambers, refuse, and the like.

PART 2 - PRODUCTS

Not used.

PART 3 – EXECUTION

3.01 OPEN CHANNEL EXCAVATION:

- A. Location: Excavate existing channels from one side only with the intent to incur minimal disturbance to the opposite bank.
- B. Tolerance:
 - 1. Excavation of the open channel drain shall conform to the cross-sections and horizontal and vertical alignment indicated on the Drawings.
 - 2. The completed cross-section shall not be more than 0.2-foot above or 0.5-foot below the plan elevation without the prior approval of ENGINEER.
- C. Rock Excavation:
 - 1. CONTRACTOR shall notify ENGINEER immediately when rock is encountered during excavation.
 - 2. Rock excavation and removal methods shall be approved by ENGINEER prior to initiating the work.
 - 3. Rock excavation shall be paid under separate change order unless a specific item appears in the Bid Form.

- D. Other Excavation:
1. Natural Items: In accordance with Division 2 Section "SITE CLEARING."
 2. Manmade Items:
 - a. CONTRACTOR shall notify ENGINEER immediately when manmade items are encountered during excavation.
 - b. Excavation and removal methods of manmade items shall be approved by ENGINEER prior to initiating the Work.
 - c. Excavation, removal and disposal of manmade items greater than 1/2-cubic yard in volume shall be paid under separate change order unless a specific item appears in the Bid Form.
- E. Unstable Soils:
1. CONTRACTOR shall notify ENGINEER immediately when a significant amount of unstable soils are encountered during excavation.
 2. Additional excavation that is deemed necessary by ENGINEER to compensate for unstable soil conditions shall be paid under a separate change order, unless a specific item appears in the Bid Form.
- F. Spoil Banks:
1. Spoil material shall be placed and graded in the location and to the slopes indicated on the Drawings.
 2. Location:
 - a. On one side of channel only unless indicated otherwise on the Drawings.
 - b. Away from existing tributary water courses or drains.
 - c. Away from landscaped areas.
 - d. Away from the trunks of trees.
 - e. Initial placement: Minimum 8 feet between the top of channel bank and the edge of the spoil pile.
 3. Grading:
 - a. Grade spoil banks to no steeper than 4 on 1 side slopes away from the drain in open areas and a minimum 2 on 1 side slopes in wooded areas unless indicated otherwise on the Drawings.
 - b. Level spoil to allow broad, flat drainage ways to enter the drain without the ponding of surface water behind the spoil banks.
 - c. Maintain a minimum 4-foot buffer strip between the leveled spoil and the top of the channel bank.
 4. Organic Soils: Maintain a minimum 15-foot buffer strip between the leveled spoil and the top of the channel bank.
 5. Sticks and Stones: Sticks 1-inch diameter or larger and 18 inches in length or longer, and rocks or boulders 8 inches in diameter or larger shall be removed or buried within the drain right-of-way in accordance with Division 2 Section "SITE CLEARING".
- G. Spoil Ownership: If the owner of the property requests or is willing to accept excavated material, the CONTRACTOR shall have the property owner complete a Land Owner Agreement in a form acceptable to the OWNER. Excavated material claimed by the property owner shall be spread in accordance with the conditions of the agreement.
- H. Tributaries:
1. Grade tributaries at a constant slope away from the drain excavation throughout the limit of the available right-of-way or 75 feet, whichever is less.
 2. Begin tributary grading at the proposed drain elevation and meet the existing grade at the limit of the regrading.
 3. Regrade the tributary to a bottom width equal to the existing bottom width. Regraded channel side slopes shall be a minimum of 2 on 1.
- I. Channels Parallel to Roads:
1. Excavate from field side of drain.
 2. Comply with requests of highway authority having jurisdiction within road right-of-way.
 3. Preserve and maintain existing driveways.