

**GENERAL CONDITIONS**

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1. **CONTRACT DOCUMENTS**

The work under this Contract shall consist of the items listed in the Proposal, including all incidentals necessary to fully complete the project in accordance with the Contract Documents. The Contract Documents shall consist of the Advertisement, Proposal, Specifications, General Supplementary Conditions, Bonds, Contract, and Contract Drawings, and all attachments, addenda and exhibits to the foregoing, and all easements, permits and other documents with which Contractor must comply in performing the work hereunder.

2. **CONTRACT DRAWINGS AND SPECIFICATIONS**

- a. The work to be done is shown on the accompanying set of original drawings which are hereby made a part of this Contract, it being mutually understood and agreed that when taken together, the Plans and Contract Documents, including the Specifications and the General Conditions, are complementary, and what is called for by any one shall be binding as if called for by all. The intent of the Contract Documents is to include in the contract price the cost of all labor and materials, water, fuel, tools, plant, equipment, light, transportation, and all other expenses as may be necessary for the proper execution and completion of the work.
- b. These original drawings may be supplemented by other drawings furnished by the Contractor and approved by the Engineer or supplied to the Contractor by the Engineer during the progress of the work as it may deem to be necessary or expedient. All such supplementary contract drawings or instructions are intended to be consistent with the Contract Documents, true developments thereof and reasonably inferable therefrom. Therefore, no extra charge will be allowed on a claim that particular supplemental contract drawings or instructions differed from the Contract Documents, incurring extra work, unless the Contractor has first brought the matter, in writing, to the Engineer's attention for proper adjustment before starting on the work covered by such and has received from the Engineer an order in writing to so proceed.
- c. These original and supplementary Drawings constitute the Drawings according to which the work is to be done. The Contractor shall keep at the site of the work an approved or confirmed copy of all Drawings and Specifications and shall at all times give the Engineer or Owner access thereto.
- d. In case any inconsistency, omission, or conflict shall be discovered in either Specifications or Drawings, or if in any place the meaning of either or both shall be obscure, or uncertain, or in dispute, the Engineer shall decide as to the true intent of the documents.

3. **DEFINITION OF TERMS**

The following definition of terms shall be applied to the Contract Documents:

- a. **Addenda** - Written or graphic instruments issued prior to the opening of Bids, which clarify, correct, or change the Bidding Documents.
- b. **Applications for Payment** - The form acceptable to the Engineer which is to be used by Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

3. **DEFINITION OF TERMS** (continued)

- c. **Bid** - The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
- d. **Bidder** - An authorized representative of a company that submits a bid.
- e. **Bidding Documents** - The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.
- f. **Change Order** - A document recommended by Consulting Engineer, which is signed by Contractor and Owner to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the effective date of the Construction Agreement.
- g. **Construction Agreement** - The written instrument, which is evidence of the agreement, contained in the Contract Documents, between Owner and Contractor covering the Work.
- h. **Construction Contract** - The entire and integrated written agreement between the Owner and Contractor concerning the Work.
- i. **Construction Cost** - The total cost to Owner of those portions of the entire Project designed or specified by the Consulting Engineer. Construction Cost does not include compensation and costs of the Consulting Engineer or other design professionals and other consultants, the cost of land, rights-of-way, or compensation for or damages to properties, or Owner's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
- j. **Consulting Engineer** - A design professional hired by the Owner to prepare plans and specifications for the project and assists the Owner interpreting the plans and specifications during construction. Additional services may also be provided at the request of the Owner if needed.
- k. **Contractor** - The person or entity with whom Owner enters into a written agreement covering construction work to be performed or furnished with respect to the Project.
- l. **Contract Documents** - Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between Owner and Contractor, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) which attached as an exhibit to the Construction Agreement, the notice to proceed, bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all written amendments, Change Orders, Work Change Directives, Field Orders, and Engineer's and/or The Consulting Engineer's written interpretations and clarifications issued on or after the effective date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.
- m. **Contract Price** - The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

3. **DEFINITION OF TERMS** (continued)

- n. **Contract Times** - The number of days or the dates stated in the Construction Agreement to: (1) achieve Substantial Completion; and (2) complete the Work so that it is ready for final payment as evidenced by Consulting Engineer's written recommendation of final payment.
- o. **Documents** - Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Consulting Engineer to Owner pursuant to this Agreement.
- p. **Drawings** - That part of the Contract Documents prepared or approved by Consulting Engineer which graphically show the scope, extent and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
- q. **Engineer** - The Project Engineer as authorized by the Oakland County Water Resources Commissioner.
- r. **Field Order** - A written order issued by Engineer which directs minor changes in the Work but which does not involve a change in the Contact Price or Contract Time.
- s. **General Conditions** - That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.
- t. **Inspector** - A field representative authorized by the Oakland County Water Resources Commissioner's Office. (See Inspector's Status Section)
- u. **Laws and Regulations** - Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, authorities and courts having jurisdiction.
- v. **Owner** - The statutory Drainage District, the Oakland County Water Resources Commissioner, or County Agency for the County of Oakland.
- w. **Record Drawings** - The Drawings issued for construction on which the Consulting Engineer, upon completion of the Work, has shown changes due to Addenda or Change Orders or other information which Consulting Engineer considers significant based on record documents furnished by Contractor or Inspector to Consulting Engineer and which were annotated by Contractor or Inspector to show changes made during construction.
- x. **Resident Project Representative ("RPR")** - The authorized representative of Consulting Engineer, if any, assigned to assist Consulting Engineer at the site during the Construction Phase. The RPR will be Consulting Engineer's agent or employee and under Consulting Engineer's supervision. As used herein, the term RPR includes any assistants of RPR agreed to by Owner.
- y. **Request for Information (RFI)** - A written inquiry to the Engineer or Owner requesting clarification of the project intent or the contract documents.
- z. **Samples** - Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portions of the Work will be judged.
- aa. **Site** - Land or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for use of Contractor.

3. **DEFINITION OF TERMS** (continued)

- bb. **Shop Drawings** - All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to Owner to illustrate some portion of the Work. Owner may then transmit the Shop Drawings to Consulting Engineer.
- cc. **Specifications** - That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
- dd. **Substantial Completion** - The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
- ee. **Supplementary Conditions** - That part of the Contract Documents which amends or supplements the General Conditions.
- ff. **Work** - The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to the Project. Work includes and is the result of performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
- gg. **Work Change Directive** - A written directive to Contractor issued on or after the effective date of the Construction Agreement and signed by Engineer upon recommendation of the Consulting Engineer, ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

4. **ENGINEER'S STATUS**

- a. The Engineer has authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract.
- b. The Engineer shall also have authority to reject all work and materials that do not conform to the Contract, and to decide questions that arise in the execution of the work.

5. **INSPECTOR'S STATUS**

- a. The Owner may appoint on the job inspectors who shall be under the direction of the Engineer. The Inspector on the work will inform the Engineer as to the progress of the work, the manner in which it is being done, and the quality of the materials being used. The Inspector will call to the attention of the Contractor any failure to follow the Plans and Specifications that may be observed. The Inspector shall have the authority to reject materials or suspend the work until questions on the performance of the work can be referred to and decided by the Engineer. The Inspector shall have no authority to direct the Contractor's work or workmen, to supervise the Contractor's operations or to change the Contract Plans or Specifications, unless otherwise noted in the contract documents.

5. **INSPECTOR'S STATUS** (continued)

- b. In no instance shall any action or omission on the part of the Inspector release the Contractor of the responsibility of completing the work in accordance with the Plans and Specifications.

6. **CONTRACTOR'S RESPONSIBILITY**

- a. The Contractor shall assume full responsibility for the work and take all precautions for preventing injuries to persons and property on or about the work; shall bear all losses resulting to him on account of the amount or character of the work or because the conditions under which the work is done are different, or because the nature the ground in which the work is done is different from what was estimated or expected, or on account of the weather, floods, elements, or other causes. The Contractor shall assume the defense of and save harmless the Owner and its individual officers and agents from, all claims relating to labor provided and materials furnished for the work; to inventions, patents, and patent rights used in doing the work; to injuries to any persons or property received or sustained by or from the Contractor, its agents or employees in doing the work or arising out of the work performed or to be performed and to any act, or neglect of the Contractor, its agents or employees.
- b. The mention of any specific duty or liability of the Contractor in this or in any part of the Contract Documents shall not be construed as a limitation or restriction upon any general liability or duty imposed on the Contractor by the Contractor Documents.

7. **PERMITS AND REGULATIONS**

- a. The Contractor shall secure, at no cost to the Owner, all permits and licenses necessary for the prosecution of the work. The Contractor shall keep itself fully informed of all laws, ordinances and regulations in any manner affecting those engaged or employed in the work, or the materials used in the work, or in any way affecting the conduct of the work, and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.
- b. The Contractor shall at all times observe and comply with, and shall cause all its agents and employees to observe and comply with all existing and future laws, ordinances, regulations, orders and decrees. Provided, that if the Drawings and Specifications are at variance therewith, the Contractor shall promptly notify the Engineer in writing and any necessary changes shall be adjusted as provided in the Contract Documents.

8. **SUBCONTRACTS**

- a. The Contractor shall not sublet, assign, or transfer this Contract or any portion thereof or any payments due it thereunder, without the written consent of the Owner.
- b. Assignment or subletting any portion of this Contract shall not operate to release the Contractor or its bondsmen hereunder from any of the Contract obligations.
- c. Any Subcontractor performing work under this Contract may be requested by the Owner to complete the EXPERIENCE AND QUALIFICATION STATEMENT that is a part of these Contract Documents. The Owner may also require the submission of any additional information necessary to satisfy the Owner that the Subcontractor is adequately prepared to fulfill the Subcontract in accordance with these Contract Documents.
- d. The Contractor shall, as soon as practicable after the signing of the Contract, notify the Engineer and Owner, in writing, of the names of Subcontractors proposed for the work and shall not employ any that the Engineer or Owner may object to as not responsible or otherwise unacceptable at the discretion of the Owner.

**8. SUBCONTRACTS** (continued)

- e. If the Contractor shall cause any part of the work under this Contract to be performed by a Subcontractor, the provisions of this Contract shall apply to such Subcontractor and its officers and employees in all respects as if it and they were employees of the Contractor, and the Contractor shall not be in any manner thereby relieved from its obligation and liabilities; and the work and materials furnished by the Subcontractor shall be subject to the same provisions as if furnished by the Contractor.

**9. OTHER WORK - COORDINATION**

- a. The Owner may perform other work related to the Project at the site by Owner's own forces, have other work performed by utility owners or let other direct contracts therefore which shall contain General Conditions similar to these. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to Contractor prior to starting any such other work; and, if Contractor believes that such performance will involve additional expense to Contractor or requires additional time and the parties are unable to agree as to the extent thereof, Contractor may make a claim therefor as provided in Sections 25 and 26 of this specification.
- b. Contractor shall afford each utility owner and other Contractor who is a party to such a direct contract (or Owner, if Owner is performing the additional work with Owner's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs. Contractor shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this paragraph are for the benefit of such utility owners and other Contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other Contractors.
- c. If any part of Contractor's Work depends for proper execution or results upon the work of any such other Contractor or utility owner (or Owner), Contractor shall inspect and promptly report to Engineer in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure so to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work except for latent or non-apparent defects and deficiencies in the other work.
- d. If Owner contracts with others for the performance of other work on the Project at the site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified in the Supplementary Specifications, and the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibilities will be provided, in the Supplementary Specifications. Unless otherwise provided in the Supplementary Specifications, neither Owner nor Engineer shall have responsibility, nor shall the Engineer have any authority, in respect to such coordination.

**10. INFORMATION BY THE CONTRACTOR**

- a. The Contractor shall submit to the Engineer full information as to the materials, equipment, and arrangements that the Contractor proposes to furnish. This information shall be complete to the extent that the Engineer may intelligently judge if the proposed materials, equipment, and arrangements will meet the Contract requirements.
- b. Prior to the approval of materials, equipment, and arrangements by the Engineer based on the information submitted by the Contractor, any work done by the Contractor shall be at its own risk.
- c. The approval of information covering materials, equipment, and arrangements by the Engineer shall in no way release the Contractor from its responsibility for the proper design, installation, and performance of any material, equipment, or arrangement, or from its liability to replace same should it prove defective.

**11. GENERAL REQUIREMENTS FOR MATERIALS AND WORKMANSHIP**

- a. In the Specifications where a particular material or piece of equipment is specified by reference to some particular make or type, or equal, it is not the intent to limit competition but to set up by such reference a standard of quality most easily understood and defined. If materials or equipment of other make or type than that specified by name are offered by the Contractor they will be given full consideration by the Engineer and the Engineer's decision will be final as to whether the materials or equipment offered are equal to those specified.
- b. Unless otherwise stipulated in the Specifications, all equipment, materials, and articles incorporated in the work covered by this Contract are to be new and of the best grade of their respective kinds for the purpose. The Contractor shall, if required, furnish such evidence as to kinds and quality of materials as the Engineer may require.
- c. The Contractor shall furnish suitable tools and building appliances and employ competent labor to perform the work to be done, and any labor or tools or appliances that shall not, in the judgment of the Engineer, be suitable or competent to produce this result may be ordered from the work by him, and such labor or tools or appliances shall be substituted therefore by the Contractor as will meet with the approval of the Engineer.
- d. If not otherwise provided, material or work called for in this Contract shall be furnished and performed in accordance with well-known established practice and standards recognized by architects, engineers and the trade.
- e. If any type of machinery, equipment or tools are specifically needed to prosecute the work in an orderly, workmanlike manner, the Engineer may so direct the Contractor to procure same, before work is continued.

**12. TESTING AND SAMPLING**

Where called for in the Specifications, samples of materials in the quantity named shall be submitted to the Engineer for approval. Where tests are required they shall be made at the expense of the Contractor, except as otherwise called for in the Specifications. For materials covered by ASTM or Federal Specifications, unless otherwise stipulated, the required tests are to be made by the manufacturer and its certificate therefore submitted to the Engineer.

**13. EQUIPMENT CERTIFICATION**

- a. The contractor shall establish and maintain documented procedures to control, calibrate and maintain inspection, measuring and test equipment that the WRC will use to inspect their work. The contractor shall also provide documentation of training of the personnel performing the work.
  - (1) The contractor shall identify all inspection, measuring and test equipment to be utilized in the scope of the work per WRC specifications.
  - (2) The contractor shall identify inspection, measuring and test equipment with a suitable indicator or approved identification record to show the calibration status (a serial number traceable to the device calibration record meets the intent of the requirement).
  - (3) A qualified in-house laboratory or a qualified commercial/independent laboratory shall conduct calibration of inspection, measuring and test equipment every six months, or sooner as needed. The contractor shall maintain records as evidence of control. Accuracy will be +/- 1% or better.
  - (4) The performance limits of all equipment being used must meet or exceed the requirements of the respective test. See specific specifications for details.
  - (5) Sub-contractors will be held to the same standard.
- b. Documentation will be submitted upon request to the WRC office.

**14. LINES AND GRADES**

- a. The Owner will establish principal reference lines or lot lines, benchmarks and all other lines and levels necessary to the location and construction of the work under the Contract. The Contractor shall give the Owner 72 hours (3 working days) notice when construction stakes will be required.
- b. The Engineer will set suitable stakes and marks showing the locations and elevations of the various parts of the work and will furnish the Contractor with "cut sheets" referred to the reference points. No work shall be undertaken until such stakes and marks shall have been set by the Engineer. The Contractor shall take due and proper precautions for the preservation of these stakes and marks, and shall see to it that the work at all times proceeds in accordance therewith and shall provide all labor and material to set required batter boards and locate the work accurately with reference to the above points.
- c. The Owner will provide one set of line and grade stakes for sewer and water main construction. The cost of additional staking will be back charged to the Contractor.
- d. For tunnel work, the Contractor shall accurately locate the work from the reference points established by the Engineer and shall be responsible for the proper setting of the model, both as to line and grade. It shall use such methods and means as are necessary to properly do this work. The Engineer will carry line and grade down to the bottom of each shaft. The Contractor will start and carry on the work from the points thus established. As the work progresses and the tunnel masonry is completed, the Engineer will carry forward along the completed work, reference points both as to line and grade, from which points the Contractor shall set the models and carry forward the work. It is the intent that such points shall be maintained up to distances not greater than 120 feet behind the open heading. The Contractor shall furnish and set proper wood blocks where requested so as to facilitate the establishing of the reference points.

**15. PROTECTION OF WORK AND PROPERTY**

- a. The Contractor shall continuously maintain adequate protection of all its work from damage and shall protect all public property and private abutting property from injury or loss arising in connection with this Contract. It shall, without delay, make good any such damage, injury or loss, and shall defend and save the Owner harmless from all such damages or injuries occurring because of this work. It shall furnish and maintain all passageways, barricades, guard fences, lights, and danger signals, provide watchmen and other facilities for protection required by public authority or by local conditions or as directed by the Engineer, all at no additional cost to the Owner.
- b. In an emergency affecting the safety of life or of the work or of adjoining property, the Contractor, without special instruction or authorization from the Owner, shall take such action as may be necessary to prevent such threatened damage, injury or loss.
- c. In all cases the Contractor shall respond to all non-emergency claims from property owners or the public within 7 days.
- d. The Contractor shall assume full responsibility for loss or damage to the work during the entire construction period resulting from caving earth and from storms, floods, frosts, and other adverse weather conditions, and from all other causes whatsoever not directly due to the acts or neglect of the Owner, including fire, vandalism and malicious mischief, and shall turn the finished work over to the Owner in good condition and repair, at the time of the final payment. For the purpose of this section the decision of the Engineer, with respect to existing conditions and for the need for corrective action by the Contractor, shall be final.

**16. RESPONSIBILITY FOR ADJOINING STRUCTURE AND TREES**

- a. The Contractor shall assume full responsibilities for the protection of all pavements, curbs, bridges, railroads, poles, buildings and any other surface structure and all water mains, sewers, telephone, gas mains, and other underground services and structures along and near the work which may be affected by its operations, and shall indemnify, defend and save harmless the Owner against all damages or alleged damages to any such structure arising out of its work. The Contractor shall bear the cost of repair or replacement of any such structure damaged as a result of its operations.
- b. No trees or shrubbery of any kind shall be removed or destroyed by the Contractor unless otherwise specifically stipulated in the contract documents. The Contractor will be held fully responsible for any damages caused by its work to adjoining trees and shrubs. Ample precautions shall be taken by the Contractor to protect such trees and shrubs as are to remain in place by surrounding them with fences or other protection before construction work begins. Shrubby that has to be removed shall be preserved and replaced in a manner acceptable to the Owner, or as specified by the contract documents.

**17. MAINTENANCE OF SERVICE**

- a. Drainage through existing sewers and drains shall be maintained at all times during construction and all nearby gutters shall be kept open for drainage. Where existing sewers are encountered in the line of the work which interfere with the construction, the flow in the sewers, including both dry weather flow and storm flow, shall be maintained by constructing a satisfactory flume or any other means approved by the Engineer.
- b. All detours shown on the Drawings or required because of the Contractor's operation shall be built and maintained at the Contractor's expense.

**17. MAINTENANCE OF SERVICE (continued)**

- c. Safety precautions shall be followed at all street openings; substantial barricades shall be erected as deemed necessary to prevent accidents to vehicular or pedestrian traffic and red flags by day and red lights by night shall be diligently posted by the Contractor at all points of possible danger. In case detours or other traffic instructions are necessary, suitable warning or direction signs shall be erected and maintained by the Contractor. In all cases the detour roadways shall be maintained so as to keep free from undue dust conditions and reasonably graded.
- d. Barricades, flags and other traffic control devices shall be in accordance with the current edition of the Michigan Manual of Uniform Traffic Control Devices.
- e. During the progress of the work, the Contractor shall accommodate both vehicular and foot traffic and shall provide free access to fire hydrants, water and gas valves. Except as otherwise specified herein or as noted on the drawings, street intersections may be blocked but one-half at a time, and the Contractor shall lay and maintain temporary driveways, bridges and crossings, such as in the opinion of the Engineer are necessary to reasonably accommodate the public.
- f. In the event of the Contractor's failure to comply with these provisions, the Owner may with or without notice, cause the same to be done, and will deduct the cost of such work from any money due or to become due the Contractor under this Contract, but the performance of such work by the Owner, or at its insistence, shall serve in no way to release the Contractor from its general or particular liability for the safety of the public or the work.

**18. STORAGE OF MATERIALS**

Materials and equipment distributed, stored, and placed upon or near the site of the work shall at all times be so disposed as not to interfere with work being prosecuted by other contractors or workers in the employ of the Owner, or with street drainage, or with fire hydrants or with access thereto, and not to unreasonably inconvenience the public from access to or use of their property. The Contractor shall comply with all related local ordinances and obtain any necessary permits.

**19. RELATION TO OTHER CONTRACTORS**

The Contractor shall so conduct its operations as not to interfere with or injure the work of other contractors or workmen employed on adjoining or related work and it shall promptly make good any injury or damage which may be done to such work by it or its employees or agent. Should a contract for adjoining work be awarded to another contractor, and should the work of one of these contracts interfere with that of the other, the Owner shall decide which contractor shall cease work for the time being and which shall continue or whether the work in both contracts shall continue at the same time and in what manner.

**20. SAFETY AND PROTECTION**

- a. Contractor shall be responsible for initiating, maintaining and supervision of all safety precautions and programs in connection with the work being performed under the subject contract. Said safety program is to comply with the provisions of MIOSHA Standards, "General Rules for Construction Operations".
- b. The Contractor shall take all reasonable precautions for the safety of and shall provide all reasonable protection to prevent damage, injury or loss to:
  - (1) All persons on the work site and all other persons who may be affected thereby;

**20. SAFETY AND PROTECTION** (continued)

- (2) All work, materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor.
  - (3) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
  - (4) The property of the owner or other separate Contractors.
  - (5) Prior to any excavation, the Contractor shall telephone MISS DIG (482-7171) for the location of underground pipeline and cable facilities, and shall also notify representatives of other utilities located in the vicinity of the work. Miss Dig requires three working days advance notice for the staking of utilities.
  - (6) Contractor shall notify owners of adjacent properties when prosecution of the work may affect them.
- c. All damage, injury or loss to any of the above-mentioned property caused directly or indirectly, in whole or in part by the Contractor, Subcontractor, Supplier or party employed by them, shall be remedied by the Contractor.
- d. The Contractor shall erect and maintain, as required by law, all safeguards for the safety and protection of persons and property, including but not limited to, the posting of danger signs and other warnings against hazards, promulgate safety regulations and notify owners and users of adjacent utilities of potentially dangerous conditions. At the end of each working day the Contractor shall be responsible for checking and confirming that the construction area is made as safe as possible for the public, that open trench areas are fenced and/or barricaded, that traveled roadways along the construction areas are secured with barricades, flashers, etc., and that equipment is stored and material stockpiled adequately away from roads, and that adequate sight distances are maintained.
- e. When the storage of explosives or other hazardous materials or equipment is necessary for the execution of the work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel. Persons involved in these activities shall be properly trained and licensed.
- f. The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's site supervisor unless otherwise designated by the Contractor in writing to the owner and approved by the owner.
- g. In any emergency affecting the safety of persons or property, the Contractor shall act immediately, at the Contractor's discretion, to prevent threatened damage or loss. The Contractor shall immediately stop any activity or operation affecting safety until the situation(s) is corrected. If the project is found not to be in compliance with safety standards, the Contractor must immediately begin activity to bring the project into compliance and complete the remedial action as soon as possible.

**20. SAFETY AND PROTECTION (continued)**

- h. Contractor hereby guarantees, as minimum standards to the owner that all material, supplies and equipment as listed on the proposal, contract or purchase order meets the requirements, specifications and standards as provided for under the Michigan Occupational Safety and Health Act, P.A. No. 154 of 1974, as amended, and in force at the date hereof and all other applicable ordinances, codes, standards, etc. including the Michigan Right to Know Law.

**21. CONTRACTOR'S SUPERVISION AND ORGANIZATION**

- a. The work under this Contract shall be under the direct charge and direction of the Contractor. The Contractor shall give efficient superintendence to the work, using its best skill and attention. The Contractor shall at all times keep on the site of the work, during its progress, a competent superintendent and any and all necessary foremen and assistants. The superintendent shall represent and have full authority to act for the Contractor in the latter's absence, and all directions given to the superintendent shall be as binding as if given to the Contractor. On written request in each case, all such directions will be confirmed in writing to the Contractor.
- b. The Contractor shall employ only competent, efficient workers and shall not use on the work any unfit person or one not skilled in the work assigned to them, and it shall at all times enforce strict discipline and good order among its employees. Whenever the Engineer shall notify the Contractor, in writing, that any employee on the work is, in the opinion of the Engineer, careless, incompetent, disorderly, or otherwise unsatisfactory, such employee shall be discharged from work and shall not again be employed on it except with the written consent of the Engineer.
- c. The Contractor shall establish and maintain an office on the site of the work, or at some convenient point adjacent thereto, during the continuance of this Contract and shall have at all times during working hours, a representative authorized to receive and execute any and all orders, when given by the Engineer; and such order, when given out and received by said representative shall be deemed to have been given to and received by the Contractor. The Contractor at readily accessible points near the work shall at all times keep copies of the Drawings and Specifications on file.

**22. FACILITIES FOR INSPECTION**

- a. The Owner, the Engineer, and their employees shall at all times have the right to enter upon the premises upon which work is being done, or upon which material is stored for the work under this Contract, and to inspect the work and materials, and to ascertain whether or not the construction is carried out in accordance with this Contract, and the Contractor shall furnish all reasonable facilities, and give ample time for such inspection. All materials shall be subject to mill and shop inspection, as provided by the Specifications.
- b. The Contractor shall promptly remove from the premises all materials rejected by the Engineer as failing to meet Contract requirements, whether incorporated in the work or not, and the Contractor shall promptly replace and re-execute its own work in accordance with the Contract and without expense to the Owner and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

**22. FACILITIES FOR INSPECTION (continued)**

- c. If the Contractor does not remove such rejected work and materials promptly, after written notice, the Owner may remove them and store the material at the expense of the Contractor.
- d. The Engineer has the right to have removed by the Contractor such portion of the work as it may deem necessary for the discovery of improper work or material, and the Contractor must restore such work at its own expense if improperly done, and at the expense of the Owner if found to be in proper condition. Any work which during its progress and before its final acceptance may become damaged from any cause, shall be removed and replaced by good, satisfactory work at the Contractor's expense.
- e. The Contractor shall give the Owner 72 hours (3 working days) notice prior to the commencement of construction so that ample time is allowed to schedule inspection.

**23. SHOP DRAWINGS**

Where called for in the Specifications, the Contractor shall submit to the Engineer for approval in not less than five copies, Details, Specifications, Cuts and Drawings of such equipment and structural work as may be required. The Contractor shall make any changes or alterations required by the Engineer and re-submit it without delay. The approval of the Engineer shall not relieve the Contractor of responsibility for errors in the Drawings as the Engineer's checking is intended to cover compliance with the Drawings and Specifications and not to enter into every detail of the shop work. No work shall be undertaken until the Engineer has approved the Shop Drawings.

**24. ERRORS, CORRECTIONS AND CHANGES IN DRAWINGS AND SPECIFICATIONS**

The Contractor shall examine and check all Drawings and specifications furnished by the Owner for dimensions, quantities, types of materials, and coordination with other parts of the work on this or related contracts. No structure, sewer pipe, water main or fixtures thereto shall be placed or constructed under conditions that may be expected to result in defective work. If the soil is not sufficiently stable to properly support structure, or if the Contractor wishes to question the materials prescribed, the Contractor shall stop work and immediately notify the Engineer. The Engineer shall review these conditions, and if deemed necessary, shall direct changes to be made in design or suggest changes in construction procedure before work is to continue. The Contractor shall not be allowed to take advantage of any such error, omission or discrepancy, as the Engineer will furnish full instructions, and the Contractor shall carry out such instructions as if originally specified. In no case shall the Contractor proceed with the work in uncertainty, and any work done by the Contractor after the discovery of any error, omission or discrepancy, until authorized, will be at the Contractor's risk and responsibility and without additional compensation to the Contractor. The work is to be made complete and to the satisfaction of the Engineer, notwithstanding any minor omissions in the Specifications or Plans.

**25. CHANGES IN THE WORK**

- a. The Owner shall have the right to require, by written order, changes in, additions to, or deductions from the work required by the Contract Documents; provided that if changes, additions or deductions are made, the general character of the work as a whole is not changed thereby. Adjustments in the Contract price, if any, because of any change, addition, or deduction in the work shall be determined as hereinafter provided, and any claim for extension of time for completion shall be addressed at the time of ordering the change, addition, or deduction. No claim for change, addition, or deduction, or adjustment of price, or extension of time for completion thereof, shall be made or allowed unless done in

25. **CHANGES IN THE WORK (continued)**

pursuance of a written work change directive from the Owner specifically authorizing such change, addition, or deduction. Drawings without a written work change directive shall not be considered such authority. Written notice of such claims shall be made to the Engineer **before the commencement of the work**. Where the written work change directive diminishes the quantity of work to be done, this shall not constitute a basis for a claim for damages or anticipated profits on the work that may be dispensed with.

- b. Under circumstances which, in the judgment of the Engineer, so necessitate, the Engineer shall have authority to require, by written work change directive changes in, additions to, or deductions from the work. Such written order by the Engineer shall be subject to later confirmation by the Owner when the extent and costs have been established and followed by a contract change order.
- c. It is understood and agreed that in case any changes in, addition to, or deduction from the work is required, said change shall in no way invalidate the Contract and shall not affect or discharge the bonds furnished by the Contractor.
- d. The Contractor, without extra charge, shall make slight alterations as may be necessary to make adjustable parts fit to fixed parts, leaving all complete and in proper shape when done.
- e. The Contractor, without extra charge, shall make other slight alterations, including grade and/or elevations, if the Engineer determines such alterations are needed to complete the work as long as the alterations do not change the overall scope of the work. Any alterations in question by the Contractor will be submitted by the Contractor as a request for information and responses by the Engineer will be issued as a field order.

26. **BASIS FOR DETERMINING COSTS OF CHANGES IN THE WORK**

- a. Adjustments, if any, in the Contract price by reason of change in the work shall be limited to the amount specified in the written work change directive authorizing the change in the work. Any claim for increase or decrease in the Contract price shall be based upon written notice stating the general nature of the claim delivered by the party making the claim to the other party and to the Engineer no later than 30 days after the occurrence of the event giving rise to the claim. Notice of the amount of the claim with supporting data and the approved work change directive shall be delivered within 60 days of such occurrence (unless Engineer allows additional time) and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts (direct, indirect and consequential) to which the claimant is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract price shall be determined by Engineer. No claim for an adjustment in the Contract price will be valid if not submitted in accordance with this paragraph.

Adjustments shall be determined by one or more of the following methods, the Owner reserving the right to select the method or methods at the time the written order is issued:

- (1) An acceptable lump sum proposal: To facilitate checking and acceptance, the proposal shall be itemized with quantities and prices given for the various items. In determining the acceptability of such proposals, the Owner will use as a general guideline the various items contained in paragraph 26.a(3) below.

26. **BASIS FOR DETERMINING COSTS OF CHANGES IN THE WORK (continued)**

- (2) Unit price: The unit prices may be the "Unit Price" set in the Agreement, or fixed by subsequent agreement between the Owner and the Contractor.
- (3) On a cost-plus-limited-basis, not to exceed a specified maximum limit of cost:

**"COST"** as herein used shall be the actual and necessary costs incurred by the Contractor by reasons of the change in the work for -

- (a) labor
- (b) materials
- (c) equipment rental
- (d) insurance premiums

- 1) Labor costs shall be the amount shown on the Contractor's payrolls with payroll taxes added when such taxes can be shown to have been incurred. In no case shall the rates charged for labor exceed the rates paid by the Contractor for the same class of labor employed by him to perform work under the regular items of the Contract.
- 2) Materials costs shall be the net price paid for material delivered to the site of the work. If any material previously required is omitted by the written order of the Owner after it has been delivered to or partially worked on by the Contractor and consequently will not remain its full value for other uses, the Contractor shall be allowed the actual cost of the omitted material less a fair market value of the material as determined by the Owner.
- 3) Equipment rental shall be the actual additional costs incurred for necessary equipment. Costs shall not be allowed in excess of usual rentals charged in the area for similar equipment of like size and condition; including the costs of necessary supplies and repairs for operating the equipment. No costs, however, shall be allowed for the use of equipment on the site in connection with other work. If equipment not on the site is required for the change in the work only, the cost of transporting such equipment to and from the site shall be allowed.

The rental rate established for each piece of Contractor owned equipment, including appurtenances and attachments to equipment used, will be determined by use of the Rental Rate Blue Book for Construction Equipment Volume 1, 2, or 3, as applicable; the edition which is current at the time the work was started will apply. The established hourly rental rate will be equal to the "Monthly" rate divided by 176, modified by the applicable rate adjustment factor and the map adjustment factor, plus the "Estimated Operating Costs per Hour".

26. **BASIS FOR DETERMINING COSTS OF CHANGES IN THE WORK (continued)**

For equipment not listed in the Rental Blue Book, Volume 1, 2, or 3, the rental rate will be determined by using the rate listed for a similar piece of equipment or by proportioning a rate listed so that the capacity, size, horsepower, and age are properly considered.

In the event that machinery and equipment actually on the project site is idled for reasons beyond the control of the Contractor, the rental rate for Contractor owned equipment will be the "Monthly" rate divided by 176, modified by the applicable rate adjustment factor and the map adjustment factor, and then multiplied by 50 percent. No payment will be allowed for operating costs. This section applies only to machinery and equipment necessary for performance of the work in question.

- 4) Insurance premiums shall be limited to those based on labor payroll and to the types of insurance required by the Contract. The amount allowed shall be limited to the net costs incurred as determined from the labor payroll covering the work. The Contractor shall, upon request of the Owner, submit verification of the applicable insurance rates and premium computations.
  - 5) **"PLUS"** as herein used is defined as a percentage to be added to the items of "Cost" to cover superintendence, use of ordinary tools, bonds, overhead expense and profit. The percentage shall not exceed 15% on work done entirely by the Contractor and shall not exceed an aggregate total of 25% on work done by a Subcontractor.
  - 6) **"SPECIFIED MAXIMUM LIMIT OF COST"** is the amount stated in the written order of the Owner authorizing the change in the work. The amount to be allowed the Contractor shall be the "cost", and "plus" the percentage or the specified maximum, whichever is the lesser amount.
- b. The Contractor shall keep complete, accurate, daily record of the net actual cost of changes in the work and shall present such information at the end of each working day as verified by the inspector, in such form and at such times as the Owner may direct.
  - c. If the Owner and Contractor cannot reach mutual agreement in establishing the cost of changed work, the method of establishing said cost shall be on a cost plus basis.

**27. CHANGE OF CONTRACT TIME**

- a. A Change Order or a Written Amendment may only change the Contract Time. Any claim for an extension or shortening of the Contract Time shall be based on written notice delivered by the party making the claim to the other party and to Engineer promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data and the approved work change directive shall be delivered within sixty days after such occurrence (unless Engineer allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. Engineer shall determine all claims for adjustment in the Contract Time. No claim for an adjustment in the Contract Time will be valid if not submitted in accordance with the requirements of this paragraph.
  
- b. The Contract Time may be extended in an amount equal to time lost due to substantial delay of a type or of a cause that could not reasonably have been foreseen or anticipated by the Contractor, and that is beyond the control of the Contractor or its Subcontractors, if the Contractor timely and properly asserts a claim pursuant to this section. Delays that may give rise to an extension of time, if such delays are substantial and otherwise come within the preceding sentence, include those caused by negligent acts or omissions by Owner or others excluding Contractor or its agents or subcontractors performing additional work as contemplated by Section 9, or caused by fires, floods, labor disputes not involving a dispute between Contractor or its subcontractors and their own employees, epidemics, or other "Acts of God," as that term is commonly understood.

**28. PATENTS**

- a. The Contractor shall pay all royalties and license fees and shall hold and save the Owner and its agents harmless from all liability of any nature or kind, including cost and expenses, for, or account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents. In this respect the Contractor shall defend all suits or claims for infringement of any patent or license right.
  
- b. In the event that any claim, suit, or action at law or in equity of any kind, whatsoever, is brought against the Owner, involving any such patents or license rights, then the Owner shall have the right to, and may, retain from any money due or to become due to the Contractor, such sufficient sum as is considered necessary to protect said Owner against loss, and such sum may be retained by the Owner until such claim or suit shall have been settled and satisfactory evidence to that effect shall have been furnished the Owner.

**29. "OR EQUAL CLAUSE"**

Whenever in any of the Contract Documents an article, material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vendor, the term "or equal" if not inserted, shall be implied. The specific article, material or equipment mentioned shall be understood as indicating the type, function, minimum standard of design, efficiency and quality desired and shall not be construed in such a manner as to exclude other manufacturer's products of comparable quality, design and efficiency. The Contractor shall comply with the requirements of the Contract Documents relative to an Owner's approval of materials and equipment before they are incorporated in the work.

**30. CLEAN UP AND RESTORATION**

The Contractor shall, as directed by the Engineer, remove at its own expense from the Owner's property, easements and rights-of-way and from all public and private property all temporary structures, rubbish and waste materials resulting from its operation. Unless otherwise stated on the Plans or in Supplemental Specifications, the Contractor shall restore the job site to substantially the same condition as existed prior to beginning of work.

**31. USE OF COMPLETED PORTIONS OF THE WORK**

The Owner may, at any time during progress of the work, after written notice to the Contractor, take over and place in service any completed portions of the work which are ready for service, although the entire work of the Contract is not fully completed, and notwithstanding the time for completion of the entire work or such portions may not have expired. In such event, the Contractor will be relieved of maintenance of said portion, except as covered by its guarantee of same. The use of any portion of the work by the Owner under the provisions of this section shall not constitute final acceptance of the work and shall not be construed to be a final estimate for such work. The date of final estimate shall be the date of final estimate for the entire project covered under this Contract.

**32. PAYMENTS WITHHELD**

- a. The Owner may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate for progress payment to such extent as may be necessary to protect the Owner from loss on account of:
  - (1) Defective work not remedied;
  - (2) Claims filed or reasonable evidence indicating probable filing of claims;
  - (3) Failure of the Contractor to make payments properly to Subcontractors or for material or labor;
  - (4) A reasonable doubt that the Contract can be completed for the balance then unpaid;

(5) Damage to any Contractor.

b. When the above grounds are removed, payment shall be made for amounts withheld because of them.

**33. CONTRACTOR'S RIGHT TO STOP WORK**

If the work should be stopped under an order of any court, or other public authority for a period of three months, through no act or fault of the Contractor or of anyone employed by him, or if the Owner should fail to pay to the Contractor within sixty days of its maturity and presentation any sum certified by the Engineer, provided no appeal is taken, the Contractor may, upon seven days written notice to the Owner and the Engineer, stop work or terminate this Contract, and shall receive from the Owner payment in full for all work executed, as determined from the prices contained in the approved detailed estimate as computed by the Engineer, but no claim for extra compensation or damages shall be made or allowed because of such termination of the Contract. Under no other circumstances whatsoever may the Contractor ever stop or delay the work.

**34. FAIR EMPLOYMENT PRACTICES ACT**

The Contractor agrees that neither it nor its Subcontractors will discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to its hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of its race, color, religion, national origin or ancestry, nor shall age or sex be a condition of employment except where based upon a bona fide occupational qualification. Breach of these covenants may be regarded as a material breach of this Contract.

**35. AUTHORITY**

No agent of the Owner shall have power to revoke, alter, enlarge, or relax the stipulations or requirements of these Specifications, except insofar as such authority may be specifically conferred by the Specifications themselves, without the formal authorization to do so, conferred by the Contract of which the Specifications are a part, or by ordinance, resolution, or other usual official action by the Owner.

**36. STARTING WORK**

Material shall be ordered and work shall begin on the ground within ten (10) days after the Contract is signed, unless otherwise stated.

**37. SANITARY REGULATIONS**

Necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation, shall be constructed and maintained in sanitary condition by the Contractor, and their use shall be strictly enforced. Contractor shall be responsible for initiating, maintaining all the required sanitary facilities as indicated in the provisions of MIOSHA Standards, Part I, "General Rules for Construction Operations".

**38. SUNDAY, HOLIDAY AND NIGHT WORK**

The Contractor is required to prosecute work done under this Contract during the hours of daylight, and no work will be permitted at night or on Sundays or holidays, except to save property or life or

as specifically authorized or directed by the Engineer. In all cases local ordinances must be complied with.

**39. PROGRESS OF WORK**

- a. The work shall be prosecuted regularly and uninterruptedly, unless the Engineer shall otherwise specifically direct, with such force and at such points as to insure its full completion within the time herein stated.
- b. If, in the opinion of the Engineer, it is necessary or advisable that certain portions of the work be done immediately, the Contractor, upon written order, shall proceed with such work without delay. Should it fail to so proceed, the Engineer may do or cause to be done, such work, and the cost of the same will be deducted from any money due or to become due the Contractor under this Contract.

**40. TIME OF COMPLETION**

The time allowed for completion of the work contemplated in this Contract shall be as stated in the Proposal or specifications.

**41. TIME IS ESSENCE OF CONTRACT**

It is distinctly understood and agreed to by the parties hereto that the time specified for the completion of the work is the essence of this Contract, and the Contractor shall not be entitled to claim performance of this agreement unless the work is satisfactorily completed in every respect, within the time herein specified.

**42. ESTIMATED QUANTITIES**

The quantities of the various classes of work to be done and materials to be furnished under this Contract, which have been estimated as stated elsewhere herein, are approximate and only for the purpose of comparing, on a uniform basis, the bids offered for the work under this Contract; and neither the Owner nor its agents is to be held responsible should any of the said estimated quantities be found incorrect during the construction of the work; and the Contractor shall make no claim for anticipated profit, nor for loss of profit, or for additional compensation of any type, or for reimbursement of any cost or expenses of any type, because of a difference between the quantities of the various classes of work actually done or materials actually delivered, and the estimated quantities as herein stated.

**43. FORFEITURE OF CONTRACT**

- a. If the work to be done under the Contract shall be abandoned by the Contractor, or if at any time in the judgement of the Owner, the Contractor shall fail to prosecute the work at a reasonable rate of progress, or to comply with all or any of the terms and requirements herein set forth, then the Owner shall have the right to take possession of the work, including Contractor's plant, supply, and materials, at any time after having notified the Contractor in writing to discontinue the work under this Contract for said cause or causes, and such action shall not affect the right of the Owner to recover damages resulting from such failure. Upon receiving such notice, the Contractor shall and will, upon demand immediately give the Owner safe and peaceable possession of the work, including the plants, and shall then cease to have control over any portion thereof or the men employed thereon.
- b. The Owner may then proceed to complete the work herein specified by Contract or otherwise; and the entire cost of same shall be charged to the Contractor and deducted from any sum or sums due or to become due under the Contract; the excess cost, if any, to be paid by the Contractor or its sureties, to said Owner.

**44. NO WAIVER OF CONTRACT**

Neither the acceptance of the whole or any part of the work by the Owner or its Engineer, or any of its agents, nor any order, measurements, or certificate by the Engineer, nor any order by the Owner for the payment of money, nor any payment for the whole or any part of the work by the Owner, nor any extension of time, nor any possession taken by the Owner or its agents, shall operate as a waiver for any portion of the Contract or any power therein reserved to the Owner, or any right to damages therein provided; nor shall any waiver of any breach of the Contract be held to be a waiver of any other or subsequent breach.

**45. PAYMENT NOT BE STOPPED**

The Owner shall not, nor shall any officer thereof, be precluded or stopped by any return or certificate made or given by the Engineer or other officer, agent or appointee, under the provisions of this agreement, at any time (either before or after the final completion and acceptance of the work and payment made therefore pursuant to any such return or certificates showing the true and correct amount of money due therefore, notwithstanding any such return or certificate, or any payment made in accordance therewith) from demanding and receiving from the Contractor or its sureties, separately or collectively, such sums as may have been improperly paid said Contractor by reason of any return or certificate which has been untruly or incorrectly compiled.

**46. GUARANTEE**

- a. The Contractor shall guarantee to the Owner for a period of one year from the date of final payment to keep the work in good order, and repair any defect in all the work done under this Contract, either by the Contractor or its Subcontractors, or the material suppliers, that may develop during said period due to improper materials, defective equipment, workmanship, or arrangements, and any other work affected in making good such

imperfections shall also be made good, all without expense to the Owner, and the Contractor shall execute, in favor of the Owner the attached Maintenance and Guarantee Bond.

- b. When the Specifications call for a guarantee period greater than one year, the Contractor shall be bound by such longer guarantee period.

**47. ESTIMATES AND PAYMENTS**

- a. The Owner shall pay and the Contractor receive the prices bid in the proposal, and agreed upon, less any deduction for any uncompleted portion, based upon measurements made by the Engineer or as otherwise herein stipulated, and such measurements shall be final and conclusive.
- b. As an aid to the Owner in preparing estimates for progress payments, the Contractor may be required to submit to the Owner for approval, a breakdown of some or all Contract unit prices into their essential component parts. The sum of the component parts shall not exceed the total Contract price per unit and the breakdown shall not overrule the Contractor price per unit.
- c. The Contractor shall submit to the Owner a written request for each payment and a Contractor's Declaration declaring that it has not performed any work, furnished any material, sustained any loss, damage or delay, for any reasons, including soil conditions encountered or created, or otherwise done anything for which it will ask, demand, sue for, or claim compensation from the Owner other than as indicated on the Contractor's Declaration. When requested by the Owner, the Contractor shall submit receipts or other vouchers showing its payments for materials and labor, including payments to Subcontractors.
- d. Payments based on progress estimates will be made on or about the twentieth (20th) of each month for work completed during the preceding progress payment. Payments will be in accordance with the provisions of Act 524 of the Michigan Public Acts of 1980 and in accordance with the terms of this Contract. No allowance will be made for materials furnished which are not incorporated in the finished work, unless otherwise stated.
- e. Pursuant to Act 524, Michigan Public Acts of 1980, the Owner shall designate a person representing it to whom written requests for payments shall be submitted. The Contractor shall designate a person who shall submit written requests for payment to the Owner.
- f. In the event a dispute arises over an avoidable or unacceptable delay in the performance of the work as described in Section 4 (3) of Act 524 of Michigan Public Acts of 1980, MCLA 125.1564 (3) the dispute may, at the option of the Owner, be submitted for resolution in accordance with the provisions of Section 4 of Act 524 of Michigan Public Acts of 1980 to an agent designated pursuant to Section 4 (2) of the Act. The dispute resolution process described above shall be used only for the purpose of determining the rights of the parties to retained funds and interest earned on retained funds.
- g. The Owner may withhold payment of any estimate or portion of estimate until the Contractor shall have furnished satisfactory evidence that it has paid all claims of every nature.

- h. No payment shall be considered as acceptance of the work or any portion thereof prior to the final completion of the work and payment of the final estimate.
- i. Within thirty (30) days after the completion of work under this Contract to the satisfaction of the Owner and the Engineer, in accordance with all and singular terms and stipulations herein contained, the Owner shall make final payment, from a final estimate made by the Engineer. Before final payment is made, the Contractor shall, as directed by the Owner, make Contractor's Affidavit that it has paid or satisfactorily secured all claims of every nature; and shall furnish releases from the surety or sureties and permit agencies, as applicable, approving payment of final estimate by the Owner.

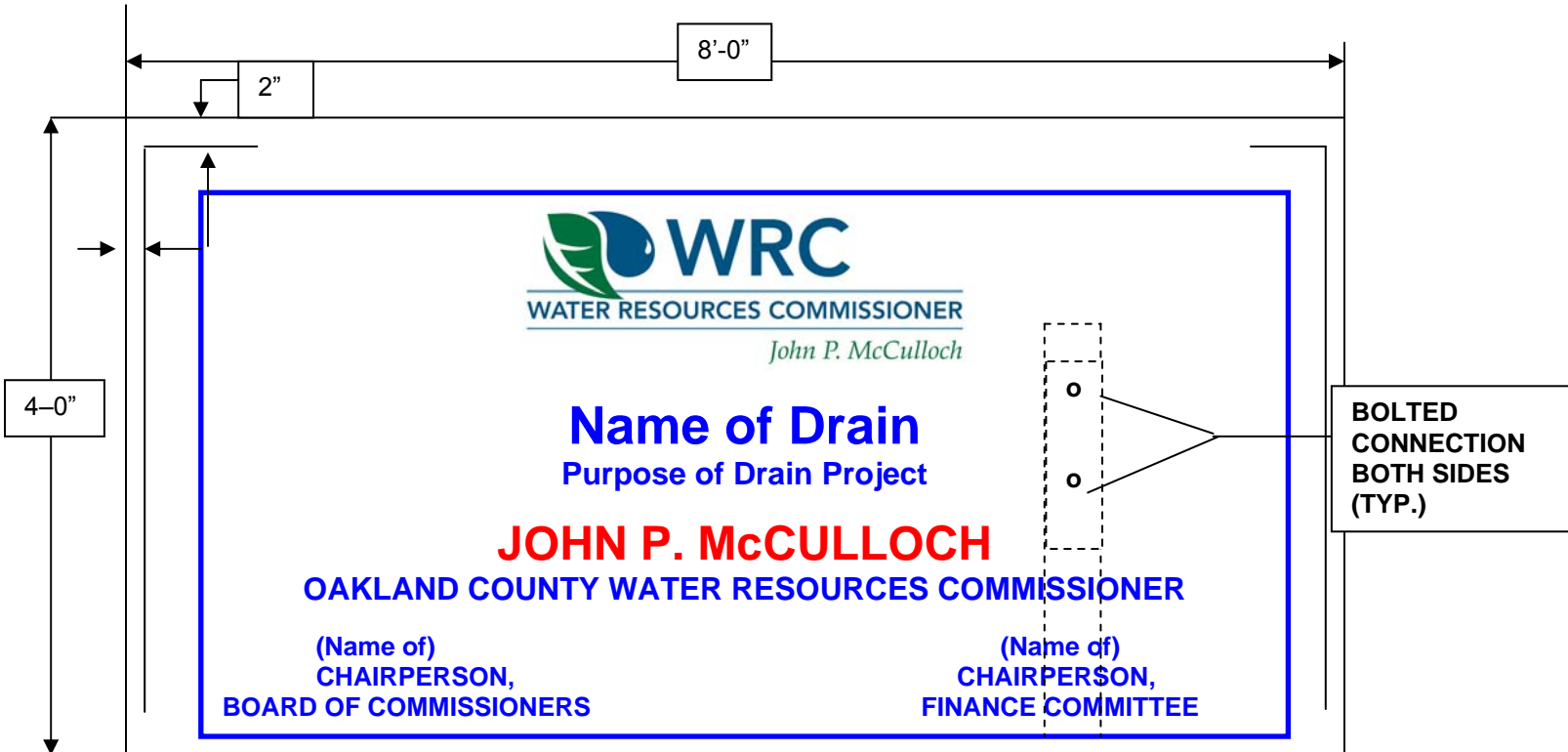
**47. ESTIMATES AND PAYMENTS (continued)**

- j. The acceptance by the Contractor of the final payment aforesaid shall operate as, and shall be, a release to the Owner and its agents, from any and all claims or liabilities to the Contractor for anything done or furnished for, relating to the work, or for any act or omission of the Owner or of any person relating to or affecting the work.

**48. SIGNS**

- a. The Contractor will furnish and erect one sign for each section of the project, at those locations as directed by the Engineer.
- b. The project sign shall be in accordance with the drawing shown on the following page, made of 3/4-inch exterior plywood with blue and red letters on a white background and maintained in good condition until completion of the project.
- c. The Engineer will supply to the Contractor an electronic copy of the WRC logo for use on the sign(s).
- d. A draft copy of the sign(s) must be approved by the Engineer prior to final production.
- e. Signs must be in accordance with local ordinances; this takes precedence over Section 48 b.

GENERAL CONDITIONS



**Color Scheme:** 3/4" Exterior Plywood

Background - White

Border Lines - Blue

Letters - Blue 4" x 4" Support Posts

Commissioner letters - Red

**Logo Color Scheme:**

WRC, Water Resources Commissioner & water drop - Blue (Pantone 302 coated or 301 uncoated)

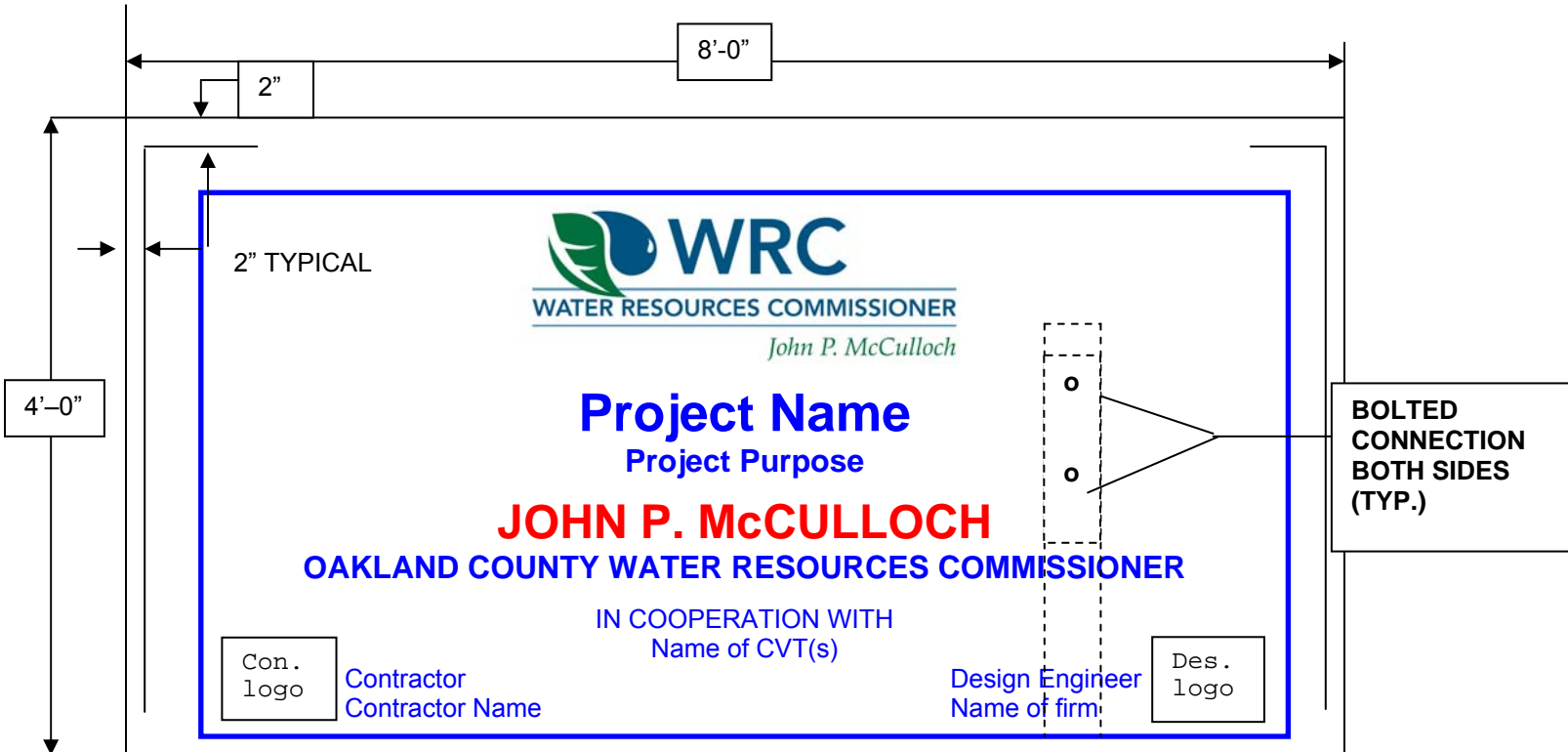
John P. McCulloch & Leaf - Green (Pantone 349 coated or 348 uncoated)

Sign 4.0' X 8.0' Border is 0.5"

**Project Sign (Drain)**

**NOTE:**  
Lettering on actual sign shall be same type as shown with size of letter and spacing between lines same proportions as shown.

GENERAL CONDITIONS



**Color Scheme:** 3/4" Exterior Plywood  
 Background - White  
 Border Lines - Blue  
 Letters - Blue 4" x 4" Support Posts  
 John P. McCulloch Letters - Red

**Logo Color Scheme:**  
 WRC, Water Resources Commissioner & water drop - Blue (Pantone 302 coated or 301 uncoated)  
 John P. McCulloch & Leaf - Green (pantone 349 coated or 348 uncoated)  
 Sign 4.0' X 8.0' Border is 0.5"

**Project Sign (Water/Sewer)**

**NOTE:**  
 Lettering on actual sign shall be same type as shown with size of letter and spacing between lines same proportions as shown.

**49. MOBILIZATION**

**a. Description:**

This item shall consist of preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies, and incidentals to the project site; for the establishment of the Contractor's offices, buildings, and other facilities necessary to undertake the work on the project; and for other work and operations which must be performed, or for expenses incurred, prior to beginning work on the various contract items on the project site. It shall also include pre-construction costs, exclusive of bidding costs, which are necessary direct costs to the project and are of a general nature rather than directly attributable to other pay items under the contract.

**b. Measurement and Payment:**

Payment of the lump sum pay unit for mobilization will be made in accordance with the following schedule:

Percentage of Original Contract Amount Earned	Percentage of Bid Price for Mobilization Allowed
5%	50%
10%	75%
25%	100%

The original contract amount is the total value of all contract items including the mobilization item. The percentage earned is exclusive of the mobilization item. When the amount bid for the mobilization item exceeds 10 percent of the total original contract amount, the County reserves the right to withhold (on any partial estimate) the portion in excess of 10 percent until 95 percent or more of the original contract amount is earned.

The total sum of all payments for this item shall not exceed the original contract amount bid for mobilization, regardless of the fact that the Contractor may have, for any reason, shut down his work on the project, moved equipment away from the project and then back again, or for additional quantities or items of work added to the contract.

Nothing herein shall be construed to limit or preclude partial payments otherwise provided by the Contract.

When a pay item for mobilization is not included in the proposal, payment for any such work required is considered to have been included in payments made for other items of work.

**50. PHOTOGRAPHS**

- a. The Contractor, for each contract, shall have one color photograph made of the work every week as it is in progress. The photographs shall be of such views and taken at such times as the Engineer directs.
- b. A qualified, established, commercial photographer acceptable shall do all photographic work to the Engineer. One glossy print of each photograph shall be furnished the Engineer and two to the owner. Prints shall be approximately 7-1/2 x 10 inches in size. Prints shall be inserted in transparent sheet protectors, Amfile No. 1780, or equal, provided with punching for a 3 ring binder. Suitable binders shall be provided.

**50. PHOTOGRAPHS (continued)**

c. Each photograph shall have a permanent negative title block in the lower right hand corner, approximately 2-1/4 inches wide by 1-3/4 inches high, stating therein in neat lettering:

- (1) Owner's Name
- (2) Contract Description
- (3) Contractor's Name
- (4) Description of View
- (5) Photo No. Date
- (6) Consulting Engineer

Failure to submit these photos will result in a credit to the Owner of one hundred dollars (\$100.00) per photo.

**51. HAZARDOUS SUBSTANCES**

- a. Owner shall be responsible for any Hazardous Substance, as defined in Section 3(p) of the Michigan Environmental Response Act ("Act 307"), uncovered or revealed at the site which (i) was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the work, (ii) as to which Owner did not otherwise give Contractor any notice of the possible presence of such substance, (iii) was not discovered by Contractor if it did a reasonable and competent inspection and investigation of the site, and (iv) which presents a substantial danger, unless certain safety precautions are adopted, to persons exposed thereto in connection with the work at the site. Under no other circumstances shall Owner have any responsibility or liability whatsoever for any such hazardous substance, including without limitation any hazardous substance brought to the site by Contractor, any Subcontractors, suppliers or anyone else for whom Contractor is responsible.
- b. If Contractor discovers any undisclosed and previously unsuspected hazardous substance that falls within the definition set forth in the preceding Section 50(A), Contractor shall immediately: (i) stop all work in connection with such hazardous substance and in any area affected thereby except in an emergency and (ii) immediately notify Owner and Engineer and thereafter confirm such notice in writing such that Owner is able to comply with any emergency abatement measures that may be required by law. Owner shall promptly consult with Engineer concerning the necessity, if any, for Owner to retain a qualified expert to evaluate the alleged hazardous condition or take corrective or abatement action, if any. Contractor shall not be required to resume work in connection with such hazardous condition or in any such affected area until after Owner has obtained any required authorization related thereto if any and delivered to Contractor special written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of work, or (ii) specifying any special conditions under which such work may be resumed safely. If Owner and Contractor cannot agree as to whether Contractor is entitled to any adjustment, or to the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of such work stoppage or such special conditions under which work is agreed by Contractor to be resumed, either party may make a claim therefor as provided in Articles 25 and 26.
- c. If Contractor improperly stops and/or delays the work by unreasonably alleging the presence of hazardous substances or conditions, or by unreasonably refusing to adopt certain safety precautions that would allow work to continue safely, Contractor shall be unentitled to any adjustment of the Contract completion dates or to any additional compensation of any type, and shall be liable for any loss, cost or damages incurred by Owner, as well as liquidated damages to the extent provided in the Contract Documents.

**51. HAZARDOUS SUBSTANCES** (continued)

- d. If after receipt of such special written notice Contractor does not agree to resume such work based on a reasonable belief that it would be unsafe to do so, supported by appropriate evidence and expert opinion, then Owner may order any portion of the work that would involve contact with any hazardous substances to be deleted from the work. If Owner and Contractor cannot agree as to whether Contractor is entitled to any adjustment, or to the amount or extent of an adjustment, if any, in the Contract Price or Contract Times as a result of deleting such portion of the work, then either party may make a claim therefor as provided in Articles 25 and 26. Owner may have such deleted portion of the work performed by Owner's own employees or by any contractor of Owner's choice.

**52. INSURANCE**

- a. Insurance Required of the Contractor:

Prior to commencement of the Work, the Contractor shall purchase and maintain during the term of the project such insurance as will protect it, the Owner(s) and the Engineer(s) from claims arising out of the Work described in this contract and performed by the Contractor, Subcontractor(s) or Sub-subcontractor(s) consisting of:

- (1) Workers' Compensation insurance including Employer's Liability to cover employee injuries or disease compensable under the Workers' Compensation Statutes of the states in which work is conducted under this contract; disability benefit laws, if any; or Federal compensation acts such as U.S. Longshoremen or Harbor Workers', Maritime Employment, or Railroad Compensation Act(s), if applicable. Self-insurance plans approved by the regulatory authorities in the state in which work on this project is performed are acceptable.
- (2) A Commercial General Liability policy to cover bodily injury to persons other than employees and for damage to tangible property, including loss of use thereof, including the following exposures:
  - (a) All premises and operations.
  - (b) Explosion, collapses and underground damage.
  - (c) Contractor's Protective coverage for independent contractors or Subcontractors employed by him.
  - (d) Contractual Liability for the obligation assumed in the Indemnification or Hold Harmless agreement found in the General Conditions section of this contract.
  - (e) The usual Personal Injury Liability endorsement with no exclusions pertaining to employment.
  - (f) Products and Completed Operations coverage. This coverage shall extend through the contract guarantee period.

The Commercial General Liability Policy shall have "project aggregate" limits, and the certificate shall contain an appropriate notation clearly evidencing such "project aggregate" coverage to the full amount and extent of the minimums required under the General and/or Supplemental Conditions herein.

**52. INSURANCE** (continued)

- (3) A Comprehensive Automobile Liability policy to cover bodily injury and property damage arising out of the ownership, maintenance or use of any motor vehicle, including owned, non-owned and hired vehicles. In light of standard policy provisions concerning (a) loading and unloading and (b) definitions pertaining to motor vehicles licensed for road use vs. unlicensed or self-propelled construction equipment, it is strongly recommended that the Commercial General Liability and the Comprehensive Auto Liability be written by the same insurance carrier, though not necessarily in one policy.
- (4) The Contractor will purchase for the Owner an Owner's Protective Liability policy to protect the Owner, the Engineer, their consultants, agents, employees and such public corporations in whose jurisdiction the work is located for their contingent liability for work performed by the Contractor, the Subcontractor(s) or the Sub-subcontractor(s) under this contract.
- (5) The Contractor shall purchase a Builder's Risk-Installation Floater in a form acceptable to the Owner covering property of the project for the full cost of replacement as of the time of any loss which shall include, as named insured(s), (a) the Contractor, (b) all Subcontractors, (c) all Sub-subcontractors, (d) the Owner, the Engineer(s) or Architect(s), as their respective interests may prove to be at the time of loss, covering insurable property which is the subject of this contract, whether in place, stored at the job site, stored elsewhere, or in transit at the risk of the insured(s) (but such insurance may exclude claims arising from the actual or alleged professional liability of the consulting engineer or architect). Coverage shall be effected on an "All Risk" form including, but not limited to, the perils of fire, wind, vandalism, collapse, theft and earthquake, with exclusions normal to the cover. The Contractor may arrange for such deductibles as it deems to be within its ability to self-assume, but it will be held solely responsible for the amount of such deductible and for any coinsurance penalties. Any insured loss shall be adjusted with the Owner and the Contractor and paid to the Owner and Contractor as Trustee for the other insured(s).
- (6) Umbrella or Excess Liability  
  
The Owner or its representative may, for certain projects, require limits higher than those stated in paragraph b. which follows. The Contractor is granted the option of arranging coverage under a single policy for the full limit required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy equal to the total limit(s) requested. Umbrella or Excess policy wording shall be at least as broad as the primary or underlying policy(ies) and shall apply both to the Contractor's general liability and to its automobile liability insurance.
- (7) Railroad Protective Liability  
  
Where such an exposure exists, the Contractor will provide coverage in the name of each railroad company having jurisdiction over rights-of-way across which work under the Contract is to be performed. The form of policy and the limits of liability shall be determined by the railroad company(ies) involved. See supplemental specifications for limits and coverage requested.

52. **INSURANCE** (continued)

(8) Impairment of Coverage

The Owner may in its discretion, at any time and without payment of further compensation or fees to the Contractor, require the Contractor to obtain and provide satisfactory evidence of appropriate supplemental, additional or replacement insurance coverage (of any type required hereunder) in the event of any cancellation, lapse, impairment, restriction or reservation that would have the effect of either removing, reducing or rendering insecure any of the coverage required of Contractor hereunder.

b. Limits of Liability

The required limits of liability for insurance coverage requested in section 1.1 shall be not less than the following:

(1) Workers' Compensation

Coverage A - Compensation	Statutory
Coverage B - Employer's Liability - (Each Accident)	\$ 100,000
Employer's Liability - (Disease Policy Limit)	\$ 500,000
Employer's Liability - (Disease - Each Employee)	\$ 100,000

(2) Commercial General Liability

General Aggregate	\$ 2,000,000
Products-Comp/Ops Aggregate	\$ 2,000,000
Personal & Advertising Injury	\$ 1,000,000
Each Occurrence	\$ 1,000,000
Fire Damage (any one fire)	\$ 50,000
Medical Expense (any one person)	\$ 5,000

(3) Comprehensive Automobile Liability  
Combined single limit

\$ 1,000,000

(4) Owner's Protective  
Each occurrence  
General Aggregate

\$ 1,000,000  
\$ 2,000,000

(5) Builder's Risk-Installation Floater

Cost to Replace  
At Time of Loss

(6) Umbrella or Excess Liability

\$ 2,000,000

**52. INSURANCE** (continued)

c. Insurance-Other Requirements

(1) Notice of Cancellation or Intent not to Renew

Policies will be endorsed to provide that at least 30 days written notice shall be given to the Owner and to the Engineer of cancellation or of intent not to renew.

(2) Evidence of Coverage

Prior to commencement of the Work, the Contractor shall furnish to the Owner, Certificates of Insurance in force on the standard Accord Form. Other forms of Certificate are acceptable only if (1) they include all of the items prescribed in the Accord Form, including agreement to cancellation provisions outlined in paragraph c. (1) above and (2) they have written approval of the Owner and the Engineer. The Owner reserves the right to request complete copies of policies if deemed necessary to ascertain details of coverage not provided by the certificates. Such policy copies shall be "Originally Signed Copies," and so designated. The Certificate(s) for the required Commercial General Liability coverage shall clearly evidence "project aggregate" policy limits, as specified in Section a. (2) hereof.

(a) Insurance Required for the Contractor

1) Workers' Compensation and Employers' Liability Comprehensive General Liability including:

- a) All premises and operations.
- b) Explosion, collapse and underground damage.
- c) Contractors' Protective.
- d) Contractual Liability for obligations assumed in the Indemnification Hold Harmless Agreement of this contract.
- e) Personal Injury Liability.
- f) Products and Completed Operations.

2) Comprehensive Automobile Liability - including owned, non-owned and hired vehicles.

3) Umbrella or Excess Liability.

(b) Insurance Required for the Owner

Owner's Protective Liability which names as insured(s) the Owner, the Engineer(s), their consultants, agents, employees

(c) Insurance Required for the Contractor and the Owner

Builders Risk-Installation Floater which names as insured(s) the Owner; the Engineer(s); their consultants, agents, and employees; the Contractor and all Subcontractors.

52. **INSURANCE** (continued)

(d) Additional Named Insured

Insurance requirements shall include the additional named insured as set forth in the Supplemental Specifications contained herein plus any additional municipality that may be created and exists at the time of award of this Contract.

(3) Qualification of Insurers

In order to determine financial strength and reputation of insurance carriers, all companies providing the coverage required shall be licensed or approved by the Insurance Bureau of the State of Michigan and shall have a financial rating not lower than XI and a policyholder's service rating no lower than A- as listed in A.M. Best's Key Rating Guide, current edition. Companies with ratings lower than A-:XI will be acceptable only upon written consent of the Owner.

d. Indemnification Clause

The Contractor agrees to the fullest extent of the law to indemnify, defend, and save harmless the Owner and the Engineer, their consultants, agents, and employees, and all additional named insured(s) from and against any and all claims, demands, causes of action, damages, losses or expenses including costs and attorneys fees because of bodily injury, whether actual or merely alleged, including death at any time resulting therefrom sustained by any person or persons, or on account of damage to property, whether actual or merely alleged, including loss of use thereof, arising out of, in connection with or in relation to the Contract or the performance of this work, whether such injuries to persons are due, or claimed to be due, to the negligence of the Contractor, his Subcontractors, the Owner, the Engineer, or their consultants, agents, or employees, or any additional named insured, except only such injury or damage as shall have been occasioned by the sole negligence of the Owner, the Engineer, or their agents and/or consultants.

53. **BUILDER'S RISK INSURANCE (SPECIAL)**

- a. The Contractor shall maintain Builder's Risk Insurance (fire, extended coverage, vandalism and malicious mischief) for the life of the Contract on insurable portions of the project for the benefit of the Owner, the Contractor, and Subcontractors, as their interests may appear. Insurable portions of the project include, but are not necessarily limited to, building of major structures such as pumping stations, sewage treatment plants, bridges, diversion chambers and meter chambers. The amount of the policy may vary with the extent of the work completed, but shall at all times be at least equal to the amount paid for completed work plus the value of work or materials furnished or delivered by the Contractor or Subcontractors but not paid for by the Owner.
- b. The Contractor shall provide the Owner with six (6) copies of Certificate of Coverage indicating the amount and extent of coverage and shall deliver such copies of Certificates to the Owner before partial payments are made.

CONTRACTOR'S DECLARATION

The undersigned, \_\_\_\_\_, hereby declares that I have not, during the period \_\_\_\_\_ to \_\_\_\_\_, A.D., 20\_\_\_\_, performed any work furnished any material, sustained any loss, damage or delay for any reason, including soil conditions encountered or created, or otherwise done anything for which I shall ask, demand, sue for, or claim compensation from \_\_\_\_\_, the Owner, or its agents, in addition to the regular items set forth in the Contract numbered \_\_\_\_\_ and dated \_\_\_\_\_, A.D., 20\_\_\_\_, for

\_\_\_\_\_ executed between myself and the Owner, and in the Change Orders for work issued by the Owner, in writing, as provided thereunder and/or extension of time, except as set forth on the itemized statement attached hereto.

There  is  is not an itemized statement attached.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_

Title \_\_\_\_\_

CONTRACTOR'S AFFIDAVIT

STATE OF MICHIGAN )
COUNTY OF \_\_\_\_\_ ) ss

The undersigned, \_\_\_\_\_ hereby represents that on \_\_\_\_\_ it was awarded a Contract by \_\_\_\_\_, hereinafter called the Owner, to \_\_\_\_\_, in accordance with the terms and conditions of Contract No. \_\_\_\_\_; and the undersigned further represents that the subject work has now been accomplished and the said Contract has now been completed.

The undersigned hereby warrants and certifies that all of its indebtedness arising by reason of the said Contract has been fully or satisfactorily secured, and that all claims from Subcontractors and others for labor and material used in accomplishing the said project, as well as all other claims arising from the performance of the said Contract, have been fully paid or satisfactorily secured. The undersigned further agrees that if any such claim should hereafter arise, it shall assume responsibility for the same immediately upon request to do so by the Owner.

The undersigned, for a valuable consideration, the receipt of which is hereby acknowledged, does further hereby waive, release and relinquish any and all claims or right of lien which the undersigned now has or may hereafter acquire upon the subject premises for labor and material used in accomplishing said project owned by the Owner.

This affidavit is freely and voluntarily given with full knowledge of the facts, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_

Title \_\_\_\_\_

Subscribed and sworn to before me, a Notary Public in and for \_\_\_\_\_, County, Michigan, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_