



CONTRACT DOCUMENTS & SPECIFICATIONS
FORT GRATIOT CHARTER TOWNSHIP, MI

MCINTYRE PARK DOG PARK-PHASE 1
Bids Due: 4:00 PM, Wednesday, August 24, 2016

Prepared By:



PM Blough, Inc.
PO Box 102
Grand Haven, MI 49417

Project Contact: David Lycke, PLA
Direct Dial: 843.480.1343
Email: davidl@pmbblough.com

August 12, 2016

**INVITATION TO BID
MCINTYRE PARK DOG PARK-PHASE 1
FORT GRATIOT CHARTER TOWNSHIP, MI**

Fort Gratiot Charter Township will receive bids for the construction of a Dog Park in McIntyre Park-Phase 1 until 4:00 PM EST on Wednesday, August 24, 2016. Bids will be submitted to: Jorja Baldwin, Fort Gratiot Municipal Center, 3720 Keewahdin Road, Fort Gratiot, Michigan 48059. All bids shall be sealed and submitted on the official bid forms. Fort Gratiot reserves the right to refuse any bid, in whole or in part.

The new Dog Park work will include, but not be limited to, the construction of an aggregate park entrance and parking lot, concrete walks and surfaces, chain link fencing, site grading, and other minor improvements. Bids may be submitted as a complete project or individually by item number per the bid form.

Bid documents are available free electronically by contacting Jorja Baldwin at jbaldwin@fortgratiottwp.org or by visiting fortgratiottwp.org/pending-bids/. Bid document inquiries and questions should be directed to davidl@pmbrough.com or David Lycke at 843-480-1343. A paper set is available for review only at the Municipal Center during normal business hours.

Published in the Port Huron Times Herald on Saturday, August 13, 2016 and Sunday, August 14, 2016:

Notice to Bidders
Fort Gratiot Charter Township, Michigan

Sealed proposals will be accepted at the Fort Gratiot Municipal Center, 3720 Keewahdin Rd, Fort Gratiot, MI until 4:00 PM EDT on Wednesday, August 24, 2016 for Phase I construction of the McIntyre Dog Park. Work will include, but not be limited to, the construction of an aggregate park entrance & parking lot, concrete walks & surfaces, chain link fencing, site grading, & other minor improvements. Bids may be submitted as a complete project or individually by item number per the bid form. Bid documents are available free electronically by emailing jbaldwin@fortgratiottwp.org & at fortgratiottwp.org/pending-bids/ & for review at Fort Gratiot Municipal Center. Bid document inquires and questions should be directed to PMB PM Blough Inc. David Lycke at 843-480-1343 david@pmbrough.com. Published 08/13-08/14/2016

**PROPOSAL
FOR THE CONSTRUCTION OF
MCINTYRE PARK DOG PARK-PHASE 1
FORT GRATIOT CHARTER TOWNSHIP, MICHIGAN**

Including Addendum Nos. (if applicable):

Addendum No. 1 General Notes; Fence Height, Tank Removal, Tax Exempt Dated August 11, 2016

Addendum No. 2 _____ Dated _____

Addendum No. 3 _____ Dated _____

Addendum No. 4 _____ Dated _____

**PROPOSAL SHEET
MCINTYRE PARK DOG PARK-PHASE 1
FORT GRATIOT CHARTER TOWNSHIP, MICHIGAN**

The undersigned, having familiarized himself with the local conditions affecting the cost of the work and with the Contract Documents as prepared by Fort Gratiot Charter Township and PM Blough, Inc., hereby proposes to perform all work required to be performed and provide and furnish all labor, materials, necessary tools and equipment, and all utility and transportation services necessary to perform and complete in a workmanlike manner all work required for Phase 1 construction of the Dog Park in McIntyre Park.

The work shall include, but not be limited to the construction of an aggregate park entrance and parking lot, concrete walks and surfaces, chain link fencing, site grading, and other incidental construction to the project.

The unit quantities are provided for information purposes only and the Contractor is responsible for verifying quantities. Payment will be on the total price for the items and not based on unit quantities, (unless otherwise noted). Contractor shall provide a full and completely constructed project in accordance with the Contract Documents.

Contract Completion

Award of the project is expected to take place by **Friday, August 26, 2016** by the Fort Gratiot Charter Township Board of Trustees. The project will be available to begin on Monday, August 29, 2016 with construction to be completed no later than **Friday, October 14, 2016** for all items. If extensions are required due to delays, written extensions will be provided by the Township.

Permitting

The Contractor shall apply for a zoning compliance permit from Fort Gratiot Township. St. Clair County Soil Erosion and Sedimentation Control Division stated that a SESC Permit is not required. The Contractor will be responsible for completing all work in conformance with any required permits. The project will not be considered substantially complete without final approvals from the regulatory agencies.

Construction Staking

The Contractor shall be responsible for providing construction staking and will be provided electronic files for usage by the Consultant.

Materials Testing

The Township will provide for construction materials testing.

Non-Iran Linked Business

By signing below, I certify and agree on behalf of myself and the company submitting this proposal the following: (1) that I am duly authorized to legally bind the company submitting this proposal; and (2) that the company submitting this proposal is not an "Iran linked business," as that term is defined in Section 2(e) of the Iran Economic Sanctions Act, being Michigan Public Act No. 517 of 2012; and (3) That I and the company submitting this proposal will immediately comply with any further certifications or information submissions requested by the Township in this regard."

BID SHEET

Item	Description	Quantity	Unit	Unit Price	Item Price
1.	Site Grading	1	LS	\$ _____	\$ _____
2.	Aggregate Entrance & Parking	12,936	SF	\$ _____	\$ _____
3.	Concrete ADA Parking	600	SF	\$ _____	\$ _____
4.	ADA Parking Striping	1	LS	\$ _____	\$ _____
5.	ADA Parking Signs	2	EA	\$ _____	\$ _____
6.	Concrete Walks & Surfaces	2,050	SF	\$ _____	\$ _____
7.	Concrete Bench Pads	6	EA	\$ _____	\$ _____
8.	Chain Link Fencing	1,387	LF	\$ _____	\$ _____
9.	Chain Link Gates	4	EA	\$ _____	\$ _____
10.	Chain Link Double Gates	2	EA	\$ _____	\$ _____
11.	Sign Relocation	1	LS	\$ _____	\$ _____
12.	Topsoil, Seed, Mulch Blankets Site Restoration, Final Clean Up	1	LS	\$ _____	\$ _____
13.	Bench Assembly/Install (Twp Purchased)	1	EA	\$ _____	\$ _____
14.	Kiosk Install (Twp Purchased)	1	EA	\$ _____	\$ _____

15. Other

Include any other costs not included in the items above that the Contractor would like to list separately.

a. _____ \$ _____

b. _____ \$ _____

c. _____ \$ _____

TOTAL BID PRICE FOR ALL CONTRACT ITEMS \$ _____

TOTAL BID PRICE WRITTEN IN WORDS

ADDITIONAL REQUIREMENTS

The undersigned affirms that in making such proposal neither he nor any company that he may represent nor anyone on behalf of him or company directly or indirectly has entered into any combination or collusion, undertaking or agreement with any bidder or bidders to maintain the prices of said work, or any compact to prevent any other bidder or bidders from bidding on said contract or work, and further affirms that such proposal is made without regard or reference to any other bidder or proposal and without any agreement or understanding or combination either directly or indirectly with any other person or persons with reference to such bidding in any way or manner whatsoever.

The undersigned hereby agrees that if the foregoing proposal shall be accepted by the Township, he will, within ten (10) consecutive calendar days after receiving formal notice of award, enter into contract, in the appropriate form, to furnish the labor, materials, equipment, tools and construction equipment necessary for the full and complete execution of the work at and for the price named in his proposal, and he will furnish to the Township and to the State of Michigan, such surety for the faithful performance of such contract and for all labor expended thereon as shall be approved and accepted by the Township.

The undersigned agrees to complete all of the work items, necessary items and incidental items whether noted on the plan or required in the specifications in a workmanlike manner and does include in the proposal bid items compensation covering all cost to perform the work.

Further, the undersigned agrees on the basis of this unit price proposal to accept as final payment the actual measurement or counts of the schedule of prices for all work necessary to complete the project.

Extra work not covered by the schedule ordered by the Professional or required to complete the project will be agreed upon in writing by the Contractor and Professional in accordance with the General Conditions which the Contractor agrees to accept as full compensation as written.

The undersigned bidder does hereby represent and warrant that the total price bid in this proposal is a complete and correct statement of the price bid for the work included in said Proposal, and further that all other information given in or furnished with this said Proposal is complete, correct, and submitted as intended by him. He does hereby waive any right or claim he may now have or what may hereafter accrue to him by reason of errors, mistakes, or omissions made by him in said Proposal, to refuse to execute the Contract if awarded to him, or to demand the return of the bid deposit, or to be relieved from any of his obligations required by said Proposal.

In submitting this bid, it is understood that the right is reserved by the Township to reject any and all bids.

Dated and signed at _____,

State of _____, this _____ day of

_____, 20 ____.

Name of Bidder: _____

Signature: _____ Printed: _____

Title of Signer: _____

Business Address
of Bidder: _____

Telephone No.: _____

Email: _____

ADDITIONAL CONDITIONS

1. Insurance.

Certificate:

The successful vendor shall supply to the Township prior to award an Insurance Certificate in the minimum amount prescribed below listing Fort Gratiot Charter Township as “Additional Insured”. All certificates of insurance shall be on the standard ACCORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance required. The contractor shall not commence any work on this project until a valid form has been delivered to the Township and has been approved by the Township Attorney.

Commercial General Liability Insurance

The Contractor shall procure and maintain during the life of this contract Commercial General Liability Insurance on an occurrence basis with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following: a) contractual liability; b) products and completed operations; c) independent contractors; d) broad form general liability extensions or equivalent; e) per contract aggregate.

Automobile Liability

The Contractor shall procure and maintain during the life of this contract automobile liability insurance, including applicable No-Fault coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit bodily injury and property damage. Coverage shall include all owned, non-owned, and hired vehicles.

Workers Compensation Liability Insurance

The Contractor shall procure and maintain during the life of this contract Workers Compensation Insurance, including employers liability coverage in accordance with all applicable statutes of the state of Michigan. Employer liability limits shall be at least \$500,000/\$500,000/\$500,000.

2. Performance and Payment Bond

No Performance and Payment Bonds will be required.

3. Subcontractor Usage:

The Township has the right of approval on subcontractors used for any Township project. The use of ineligible vendors as subcontractors may cause the main contractor to be placed on the Township’s list of ineligible vendors. The Township does **not** pay subcontractors directly, that is the responsibility of the general contractor.

GENERAL CONDITIONS

1. DEFINITION OF TERMS

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

- | | |
|------------------|---|
| (a) Owner | Fort Gratiot Charter Township, Michigan |
| (b) Professional | PM Blough, Inc. (PMB) |

2. CONTRACT DOCUMENTS

The original and three (3) copies of the Contract shall be signed by the Owner and the Contractor.

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 this complete book of documents as listed in the index and the Contract Drawings titled "McIntyre Park Dog Park, Fort Gratiot Charter Township, MI."

3. CONTRACT DRAWINGS AND SPECIFICATIONS

The work to be done is shown on the accompanying set of original drawings and 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.

These original drawings may be supplemented by other drawings furnished by the Contractor and approved by the Professional or supplied to the Contractor by the Professional during the progress of the work as he 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 additional 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 Professional's attention for proper adjustment before starting on the work covered by such and has received from the Professional an order in writing to so proceed.

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 Professional or Owner access thereto.

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 Professional shall decide as to the true intent of the documents.

4. PROFESSIONAL'S STATUS DURING CONSTRUCTION

Professional will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Professional as Owner's representative during construction are set forth herein and shall not be extended without written consent of Owner and Professional.

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

If Owner and Professional agree, Professional will furnish an Inspector to assist Professional in observing the performance of the Work. The duties, responsibilities and limitations of authority of any such Inspector and assistants will be provided as follows:

The Owner may appoint on-the-job inspectors who shall be under the direction of the Professional. (1) The inspector on the work will inform the Professional as to the progress of the work, the manner in which it is being done, and the quality of the materials being used. (2) The inspector will call to the attention of the Contractor any failure to follow the plans and specifications that he may observe. (3) The inspector shall have the authority to reject materials that do not conform to plans and specifications. (4) 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. (5) 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.

Professional will have authority to disapprove or reject Work which Professional determines is defective, and will also have authority to require special inspection or testing of the Work.

5. LIMITATIONS ON PROFESSIONAL'S RESPONSIBILITIES

Neither Professional's authority to act under this Article or elsewhere in the Contract Documents nor any decision made by Professional in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of Professional to Contractor, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.

Whenever in the Contract Documents the terms "as ordered," "as directed," "as required," "as allowed," "as approved" or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of Professional as to the Work, it is intended that such requirement, direction, review or judgment of Professional as to the Work, will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Professional any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of the following:

- (1) The Professional will not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and Professional will not be responsible for Contractor's failure to perform or furnish the Work in accordance with the Contract Documents.

(2) The Professional will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

6. CONTRACTOR'S RESPONSIBILITY

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 of 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, and he shall assume the defense and save harmless the Owner, P.M. Blough, Inc., and its individual officers and agents, and all additional named assured, from all claims arising out of or relating to Work 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, his 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, his agents or employees.

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 Contract Documents.

7. PERMITS AND REGULATIONS

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 himself 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.

He shall at all times observe and comply with, and shall cause all his agents and employees to observe and comply with all existing laws, ordinances, regulations, orders, and decrees. Provided, that if the drawings and specifications are at variance therewith, the Contractor shall promptly notify the Professional in writing and any necessary changes shall be adjusted as provided in the Contract Documents.

The Contractor shall assume the responsibility of performing his work in compliance with all provisions of the permits and/or applications and conditions.

8. SUBCONTRACTS

The Contractor shall not sublet, assign, or transfer this Contract or any portion thereof or any payments due him thereunder, without the written consent of the Owner.

Assignment or subletting any portion of this Contract shall not operate to release the Contractor or his bondsmen hereunder from any of the Contract obligations.

Any subcontractor performing work under this contract may be requested by the Owner to submit a resume and references as proof of their qualifications and demonstrating their ability to satisfy the requirements as set forth in 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.

The Contractor shall, as soon as practicable after the signing of the Contract, notify the Professional and Owner in writing of the names of subcontractors proposed for the work and shall not employ any that the Professional or Owner may object to as incompetent or unfit.

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 his officers and employees in all respects as if he and they were employees of the Contractor, and the Contractor shall not be in any manner thereby relieved from his 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. INFORMATION BY THE CONTRACTOR

The Contractor shall submit to the Professional full information as to the materials, equipment, and arrangements which the Contractor proposes to furnish. This information shall be complete to the extent that the Professional may intelligently judge if the proposed materials, equipment, and arrangements will meet the Contract requirements.

Prior to the approval of materials, equipment, and arrangements by the Professional based on the information submitted by the Contractor, any work done by the Contractor shall be at his own risk.

The approval of information covering materials, equipment, and arrangements by the Professional shall in no way release the Contractor from his responsibility for the proper design, installation, and performance of any material, equipment, or arrangement, or from his liability to replace same should it prove defective.

10. GENERAL REQUIREMENTS FOR MATERIALS AND WORKMANSHIP

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 Professional and the Professional's decision will be final as to whether the materials or equipment offered are equal to those specified.

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 Professional may require.

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 Professional, 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 Professional.

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, Professionals and the trade.

If any type of machinery, equipment, or tools are specifically needed to prosecute the work in an orderly, workmanlike manner, the Professional may so direct the Contractor to procure same, before work is continued.

The Owner reserves the right to reject any material at the job site even though having been previously tested. All materials rejected by the Owner or his representative shall be removed from the site of work immediately.

The Contractor shall obtain, from his supplier, certificate of compliance to manufacturing and specifications for which the materials are to be used or incorporated in the project.

11. TESTING AND SAMPLES

Where called for in the specifications, samples of materials in the quantity named shall be submitted to the Professional 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 his certificate therefor submitted to the Professional.

12. STAKING LINES AND GRADES

The Contractor shall be responsible for all construction staking and elevations. Items noted on the drawings as being located by the Owner, or locations approved by the Owner prior to installation shall include the Owner in the decision process. All staking and re-staking shall be at the Contractor's expense. The Professional will provide AutoCADD based design files that can be utilized by the Contractor in layout and staking.

13. PROTECTION OF WORK AND PROPERTY

The Contractor shall continuously maintain adequate protection of all his work from damage and shall protect all public property and private property, within and/or abutting the work area, from injury or loss arising in connection with this Contract. He shall, without delay, make good any such damage, injury or loss, and shall defend and save the Owner, and P.M. Blough, Inc., and all additional named assured, harmless from all such damages or injuries occurring because of his work.

He 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 Professional, all at no additional cost to the Owner.

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.

The Contractor shall assume full responsibility of 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 pay estimate. For the purpose of this section the decision of the Professional, with respect to existing conditions and for the need for corrective action by the Contractor, shall be final.

14. RESPONSIBILITY FOR ADJOINING STRUCTURES AND TREES

The Contractor shall assume full responsibilities for the protection of all pavements, curbs, bridges, railroads, poles, and any other surface structures and all water mains, sewers, telephone, gas mains, and other underground services and structures along and near the work which may be affected by his operations, and shall indemnify, defend and save harmless the Owner, and P.M. Blough, Inc., against all damages or alleged damages to any such structure arising out of his work. The Contractor shall bear the cost of repair or replacement of any such structure damaged as a result of his operations.

No trees or shrubbery of any kind shall be removed or destroyed by the Contractor without the written permission of the Owner, and the Contractor will be held fully responsible for any damages caused by his 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.

15. MAINTENANCE OF SERVICE

There shall be no disruptions of the existing utility service without prior approval from Owner through the Professional and the request must be submitted not less than 48 hours in advance of the requested disruption.

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 Professional.

All detours shown on the Drawings or required because of the Contractor's operation shall be built and maintained at the Contractor's expense.

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.

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 Professional are necessary to reasonably accommodate the public.

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 his insistence, shall serve in no way to release the Contractor from his general or particular liability for the safety of the public or the work.

16. 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 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. When construction staging and stockpile areas are required, the Contractor shall place and store all materials for the work within the limits of the construction staging area. The Contractor shall access the construction staging area as designated on the construction documents. The exact location of the staging and stockpile areas will be determined on-site with the Owner and the Professional at the pre-construction meeting. Existing topsoils are to be reused in order to preserve the natural seed stock on the site for regrowth.

17. RELATION TO OTHER CONTRACTORS

The Contractor shall so conduct his operations as not to interfere with or injure the work of other contractors or workmen employed on adjoining or related work and he shall promptly make good any injury or damage which may be done to such work by him or his 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.

18. CONTRACTOR'S SUPERVISION AND ORGANIZATION

The work under this Contract shall be under the direct charge and direction of the Contractor. The Contractor shall give effective superintendence to the work, using his 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 him 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.

The Contractor shall employ only competent, effective workmen and shall not use on the work any unfit person or one not skilled in the work assigned to him, and he shall at all times enforce strict discipline and good order among his employees. Whenever the Professional shall notify the Contractor, in writing, that any man on the work is, in the opinion of the Professional, careless, incompetent, disorderly, or otherwise unsatisfactory, such man shall be discharged from work and shall not again be employed on it except with the written consent of the Professional.

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 act on behalf of the Contractor. Any communication given to and received by said representative shall be deemed to have been given to and received by the Contractor. Copies of the drawings and specifications shall at all times be kept on file by the Contractor at readily accessible points near the work.

19. FACILITIES FOR INSPECTION

The Owner, the Professional, 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 in the specifications.

The Contractor shall promptly remove from the premises all materials rejected by the Professional as failing to meet Contract requirements, whether incorporated in the work or not, and the Contractor shall promptly replace and re-execute his 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.

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.

The Professional has the right to have removed by the Contractor such portion of the work as he may deem necessary for the discovery of improper work or material, and the Contractor must restore such work at his own expense if improperly done and at the expense of the party of the first part 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.

20. SHOP DRAWINGS

Where called for in the specifications, the Contractor shall submit to the Professional for approval in not less than five (5) 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 Professional and re-submit same without delay. The approval of the Professional shall not relieve the Contractor of responsibility for errors in the drawings, as the Professional'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 Professional has approved the shop drawings.

21. 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 which 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 Owner and Professional. The Professional shall review these conditions, and if he may deem it necessary he shall make changes in design or accept suggested contractor 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 full instructions will be furnished by the Professional, 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. The work is to be made complete and to the satisfaction of the Owner and Professional, notwithstanding any minor omissions in the specifications or plans.

22. CHANGES IN THE WORK

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 adjusted 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 pursuance of written order from the Owner specifically authorized such change, addition, or deduction. Drawings without a written order shall not be considered such authority. Written notice of such claims shall be made to the Professional before the commencement of the work. Where the written order 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.

Under circumstances which, in the judgment of the Professional, so necessitate, the Professional shall have authority to require, by written order, changes in, additions to, or deductions from the work. Such written order by the Professional shall be subject to later confirmation by the Owner when the extent and costs have been established.

It is understood and agreed that in case any change 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.

The Contractor, without extra charge, shall make such slight alternations as may be necessary to make adjustable parts fit to fixed parts, leaving all complete and in proper shape when done.

23. BASIS FOR DETERMINING COST OF CHANGES IN THE WORK

Adjustments, if any, in the Contract price by reason of change in the work shall be limited to the amount specified in the written order authorizing the change in the work. 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:

- (a) **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 23 (c) below.
- (b) **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.
- (c) **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 cost incurred by the Contractor by reasons of the change in the work for:

- (1) labor
- (2) materials
- (3) equipment rental
- (4) insurance premiums

- (1) **Labor costs** shall be the amount shown on the Contractor's 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 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. Fort Gratiot is a tax exempt entity and will provide a tax exempt certificate for material purchases.
- (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 unless its use incurs actual and additional cost to the Contractor. 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.
- (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.

"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 percent on work done entirely by the Contractor and shall not exceed an aggregate total of 20 percent on work done by a subcontractor.

"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," "plus" the percentage or the specified maximum, whichever is the lesser amount.

The Contractor shall keep complete, accurate, daily record of the net actual cost of changes in the work and shall present such information in such form and at such times as the Owner may direct.

24. **PATENTS**

The Contractor shall pay all royalties and license fees and shall hold and save the Owner, P.M. Blough, Inc., and his 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.

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.

25. "OR EQUAL CLAUSE"

Whenever in any of the Contractor Documents an article, material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vender, the term "or equivalent" if not inserted, shall be implied. The specific article, material, or equipment mentioned shall be understood as indicating the type, function, minimum standard or design, effectiveness and quality desired and shall not be construed in such a manner as to exclude manufacturer's products of comparable quality, design, and effectiveness. 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.

26. CLEANING UP

The Contractor shall keep the site free of accumulation of surplus materials and rubbish caused by Contractor and Subcontractors. The Owner will determine a suitable location for rubbish bins that shall be provided by the Contractor who will be responsible for their removal.

The Contractor shall, as directed by the Professional, remove at his own expense from the Owner's property and from all public and private property all temporary structures, rubbish and waste materials resulting from his operations. 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.

27. 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 his 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 pay estimate for such work. The date of final pay estimate shall be the date of final pay estimate for the entire project covered under this Contract.

28. PAYMENTS WITHHELD

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:

- (a) Defective work not remedied;
- (b) Claims filed or reasonable evidence indicating probable filing of claims;
- (c) Failure of the Contractor to make payments properly to subcontractors or for material or labor;

- (d) A reasonable doubt that the Contract cannot be completed for the balance then unpaid;
- (e) Damage to another contractor.

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

29. CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

If the work should be stopped under an order of any court, or other public authority for a period of three (3) 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 (60) days of its maturity and presentation any sum certified by the Professional, provided no appeal is taken, the Contractor may, upon fourteen (14) days' written notice to the Owner and the Professional, 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 Professional, but no claim for extra compensation or damages shall be made or allowed because of such termination of the Contract.

30. FAIR EMPLOYMENT PRACTICES ACT

The Contractor agrees that neither he nor his subcontractors will discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to his hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of his race, color, religion, national origin or ancestry, age, nor shall age or sex be a condition of employment except where based upon a bona fide occupational qualification, height, weight, marital status, or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Breach of these covenants may be regarded as a material breach of this Contract.

31. 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 is conferred by Section 22 Changes in the Work, or otherwise 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.

32. STARTING WORK

Material shall be ordered and work shall begin on the ground within ten (10) days after the notice to proceed has been given, unless otherwise stated.

33. 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.

34. 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 Professional.

35. PROGRESS OF WORK

The work shall be prosecuted regularly and uninterruptedly, unless the Professional shall otherwise specifically direct, with such force and at such points as to insure its full completion within the time herein stated.

If, in the opinion of the Professional, 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 he fail to so proceed, the Professional 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.

36. TIME OF COMPLETION

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

37. DELAYS AND EXTENSION OF TIME

Should the Contractor be unavoidably delayed in the commencement, prosecution, or completion of the work under this Contract by:

- A. Any act or omission of the Owner, or his agents;
- B. Injunctions, or acts of omissions of public authorities in consequence of acts of omissions of the Owner, or his agent;
- C. Reason of any cause or circumstances, weather conditions being specifically excepted, which the Owner shall decide is absolutely and clearly beyond the control of the Contract and not covered or contemplated by the Contract Documents; then the time for completion of said work shall be extended by the Owner, in writing, for a period equivalent to the time lost by reason of any of the aforesaid causes mentioned above. No such extensions shall be made unless the Contractor shall have presented to the Owner a written notice of the claim therefore within 48 hours of the occurrence of such delay; or in case of extra work or modification of the plans and specifications, unless the extension of time has been mutually agreed to by the Contractor and the Owner at the time the extra work or modification is ordered. It shall be the sole responsibility of the Contractor to present such pertinent facts and data as will satisfy the Owner that the delays as claimed are unavoidable and substantial, and could not be reasonable anticipated or adequately guarded against.

If, in the opinion of the Owner, it becomes necessary for maintaining the progress required to complete the Contract within the specified time or to the time extended, to work after regular hours, on Sundays or Holidays, the Contractor must immediately do so upon request without additional cost to Owner.

Permitting the Contractor to continue and finish the work, or any part of its, after the time fixed for its completion, or after the date in which the time for completion may have been extended shall in no way operate as a waiver on the part of the Owner of any of its rights under this Contract.

All days in which work is suspended by order of the Professional, or in accordance with these specifications, shall automatically extend the time for completion an equal number of days.

38. LIQUIDATED DAMAGES

In the event of delay in the completion of the entire work required hereunder beyond the period here prescribed or beyond the period to which such time may be extended by authority of the Owner for good cause shown, the Owner shall be paid damages for such delay. In as much as the amount of such damage will be extremely difficult to ascertain, the Contractor agrees to compensate the Owner in the sum of **\$200.00** for each and every calendar day that the time consumed in said performance and completion exceeds the time herein allowed for that purpose, which said sum is hereby agreed upon, fixed and determined by the parties hereto as the liquidated damages that the Owner will suffer by reason of said delay and default and not as penalty; and the Owner shall have the right to deduct and retain the amount of such liquidated damages from any moneys due or which may become due under this Contract. It is further agreed that permitting the Contractor to complete the work after the time fixed for its completion shall in no way operate as a waiver on the part of the Owner of any of his rights under this Contract.

39. 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.

40. 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 his 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, 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.

41. FORFEITURE OF CONTRACT OR TERMINATION BY OWNER FOR CAUSE

If the work to be done under the Contract shall be abandoned by the Contractor, or if at any time in the judgment of the Owner, the Contractor shall fail to prosecute the work at a reasonable rate of progress, or to comply with all or any part of the terms and requirements herein set forth, then the Owner shall have the right to take possession of the work, including Contractor's machinery, equipment, tools,, supplies, 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, and shall then cease to have control over any portion thereof or the men employed thereon.

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 his sureties, to said Owner when the work is completed.

42. NO WAIVER OF CONTRACT

Neither the acceptance of the whole or any part of the work by the Owner or his Professional, or any of its agents, nor any order, measurements, or certificate by the Professional, 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.

43. PAYMENT NOT TO BE STOPPED

The Owner shall not, nor shall any office thereof, be precluded or stopped by any return or certificate made or given by the Professional or other office, 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 therefor 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 his 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.

44. GUARANTEE

The Contractor shall guarantee to the Owner for a period of one (1) year from the date of final payment to keep in good order and repair any defect in all the work done under this Contract, either by the Contractor or his 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.

45. ESTIMATES AND PAYMENTS

The Owner shall pay and the Contractor receive the prices bid in the proposal, or agreed upon, less any deduction for any uncompleted portion, based upon measurements made by the Professional or as otherwise herein stipulated, and such measurements shall be final and conclusive.

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 Contract price per unit.

The Contractor shall submit to the Owner a written request for each payment and a Contractor's Declaration declaring that he 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 he

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 his payments for materials and labor, including payments to subcontractors.

Payments based on progress estimates will be made within thirty (30) days of receipt by the Owner of the progress estimates for work completed during the preceding month or since the date of the last 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 finish work, unless otherwise stated.

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.

The Owner may withhold payment of any estimates or portion of estimate until the Contractor shall have furnished satisfactory evidence that he has paid all claims of every nature.

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.

46. RESOLUTION OF CLAIMS AND DISPUTES

CORRECTION PERIOD

If within one year after the date of Substantial Completion, or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Document or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by law is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions, repair such defective land or areas; or correct such defective Work or if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and satisfactorily correct or repair or remove and replace any damage to other Work, to the work others or other land or areas resulting there from.

Contractor's obligations under this Paragraph are in addition to any other obligation or warranty. The provisions of this Paragraph shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

If the Contractor fails to repair the defective work the Owner shall be entitled to proceed with correction of the defective Work and the Contractor shall reimburse the Owner for the cost of such repairs.

RESOLUTION OF CLAIMS AND DISPUTES

I. CLAIMS FOR RETAINED FUNDS

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. Nothing herein shall impair the right of the Owner to bring an action in any court of jurisdiction to determine the rights of the parties.

II. OTHER CLAIMS.

A. Claims, including those alleging an error or omission by the Professional, shall be referred initially to the Professional for decision. An initial decision by the Professional shall be required as a condition precedent to mediation, arbitration or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Professional with no decision having been rendered by the Professional. The Professional will not decide disputes between the Contractor and persons or entities other than the Owner.

B. The Professional will review Claims and within ten days of the receipt of the Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Professional is unable to resolve the Claim if the Professional lacks sufficient information to evaluate the merits of the Claim or if the Professional concludes that, in the Professional's sole discretion, it would be inappropriate for the Professional to resolve the Claim.

C. In evaluating Claims, the Professional may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Professional in rendering a decision. The Professional may request the Owner to authorize retention of such persons at the Owner's expense.

D. If the Professional requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either provide a response on the requested supporting data, advise the Professional when the response or supporting data will be furnished or advise the Professional that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Professional will either reject or approve the Claim in whole or in part.

E. The Professional will approve or reject Claims by written decision, which shall state the reasons therefore and which shall notify the parties of any change in the Contract Sum or Contract Time or both. The approval or rejection of a Claim by the Professional shall be final and binding on the parties but subject to mediation.

F. Upon receipt of a Claim against the Contractor or at any time thereafter, the Professional or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Professional or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

G. If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim by the Professional, by mediation or by arbitration.

III. DISPUTE RESOLUTION

A. Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect shall, after initial decision by the Professional or 30 days after submission of the Claim to the Professional, shall be subject to resolution by litigation.

B. The parties agree that any dispute which either party submits to litigation shall be resolved in St. Clair County Circuit or the 72nd District Court.

47. FINAL PAYMENT

Within thirty (30) days after the completion of the work under this Contract to the satisfaction of the Owner and the Professional, in accordance with all and terms and conditions of the Contract Documents, plans and specifications , the Owner shall make final payment, from a final estimate made by the Professional. Before final payment is made, the Contractor shall, as directed by the Owner, transfer to the Owner all applicable items accumulated throughout construction. Satisfaction of the following requirements shall be considered a part of the final payment request. These include, but are not limited to the following items:

- Contractors Affidavit that he 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.
- Operating and maintenance instructions and shop drawings for all mechanical and electrical equipment and other special items.
- Service manuals, installation instructions, special tools, and specialties.
- Spare parts ordered as part of this Contract.
- Submittal of Contractor's two-year guarantee
- Submittal of manufacturer's guarantees, bonds and letters of coverage extending beyond the time limitations of the Contractor's guarantee.
- Delivery of any salvaged or borrowed materials or equipment to the Owner.
- Record documents of completed facilities.
- All keys to all doors, gates, and equipment.

The acceptance by the Contractor of the final payment aforesaid shall operate as, and shall be, a release to the Owner and his Agents, from all claim and liability to the Contractor for anything done or furnished for, relating to the work, or for any act or neglect of the Owner or of any person relating to or affecting the work.

48. WAIVERS OF LIENS

Before receiving final payment, the Contractor shall furnish the Professional with two (2) copies of waivers of lien from all supplies of labor and material for the project.

Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver to the Owner a complete release of any or all claims or liens arising out of this Contract, or receipts in full in lieu thereof, and in either case, an affidavit that so far as he has knowledge or information, the releases and/or receipts include all the labor and material for which a claim or lien could be filed. However, if any person, firm, or corporation which has filed a claim or lien refuses to furnish a release or a receipt in full therefore, any payment which would otherwise become due will be made, provided, the Surety on the Contractor's Labor and Material Bond consents in writing to such payment to the Owner and further furnishes the Owner an affidavit that said Surety will indemnify the Owner against such claim or lien. If any claim or lien remains unsatisfied the Owner reserves the right to use monies earned by the Contractor to discharge said claim or lien including all associated costs.

49. **INSURANCE**

The Contractor shall not commence work or continue work, nor shall he allow any subcontractor to commence or continue to work under this contract, until all insurance policies or certificates of insurance required under this paragraph have been submitted to the Owner and approved by the Owner.

The Contractor, at his option shall, either, (1) require each of his subcontractors to procure and maintain during the life of his subcontract, Workmen's Compensation Insurance, Subcontractor's Public Liability and Property Damage Insurance, Subcontractor's Motor Vehicle Bodily Injury and Property Damage Insurance, and Owner's and Contractor's Protective Public Liability and Property Damage Insurance of the types and in the amounts as specified for the Contractor, or (2) insure the activities of his Subcontractors in his own policies. The carriers providing the insurance as specified herein shall be licensed to do business in the state of Michigan and not less than AA rated by AM Best.

(a) Workmen's Compensation Insurance

The Contractor shall procure and shall maintain during the life of this Contract Workmen's Compensation Insurance as required by Michigan State law for all of his employees to be engaged in work on the project under this Contract; and in case any such work is sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work.

In case any class of employees engaged in hazardous work under this Contract is not protected under the Workmen's Compensation statute, the Contractor shall provide and shall cause each Subcontractor to provide adequate Employer's Liability Insurance for the protection of the employees not so protected.

(b) Contractor's Public Liability and Property Damage Insurance

The Contractor shall procure and shall maintain during the life of this Contract, Contractor's Public Liability Insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit for injuries, including accidental death, to each person; and subject to the same limit for each person.

(c) Contractor's Motor Vehicle Bodily Injury and Property Damage Insurance

(1) The Contractor shall procure and shall maintain during the life of this Contract, Motor Vehicle Bodily Injury and Property Damage Insurance (Comprehensive Form) in an amount not less than \$1,000,000 for injuries, including accidental death, to each person.

(2) The Contractor shall procure and shall maintain during the life of this Contract, Hired and Non-Ownership Motor Vehicle Bodily Injury and Property Damage Insurance (Comprehensive Form) in an amount not less than \$1,000,000 for injuries, including accidental death, to each person.

(d) Owner's Protective Public Liability and Property Damage Insurance (Contractor only)

The Contractor shall procure and maintain during the life of this Contract, Owner's Protective Public Liability and Property Damage Insurance in the name of the Owner and P.M. Blough, Inc. The Liability insurance shall be in an amount not less than \$1,000,000 for injuries, including accidental death, to each person; and subject to the same limit for each person, in an amount not less than \$1,000,000 on account of each accident, and \$2,000,000 aggregate combined single limit. Such insurance shall include motor vehicle exposure and shall include specific coverage, by endorsement, for the so-called Explosion, Collapse and Underground Hazards, which covers damage to property arising directly or indirectly from

explosion, damage or structural injury to buildings or adjacent structures arising from operations under this Contract, including excavation or tunneling and damage sustained by wires, conduits, mains, sewers and the like, occasioned by the Contractor's sub-surface operations.

(e) **Owner's and Contractor's Protective Public Liability and Property Damage Insurance (Subcontractor only)**

The Contractor shall require each of his subcontractors to procure and maintain during the life of his subcontract, Owner's and Contractor's Protective Public Liability and Property Damage Insurance in the name of the Owner, P.M. Blough, Inc., and the Contractor in an amount not less than \$1,000,000 for injuries, including accidental death, to each person; and subject to the same limit for each person, in an amount not less than \$1,000,000 on account of each accident and \$2,000,000 aggregate combined single limit, and property damage in an amount not less than \$1,000,000 each accident. Such insurance shall include motor vehicle exposure and specific coverage by endorsement, for the so-called Explosion, Collapse and Underground Hazards, which covers damage to property arising directly or indirectly from explosion, damage or structural injury to buildings or adjacent structures arising from operations under this Contract, including excavation or tunneling and damage sustained by wires, conduits, mains, sewers and the like, occasioned by the Subcontractor's sub-surface operations.

(f) **Additional Named Assured**

"Owner's Protective Public Liability and Property Damage Insurance (Contractor only)" and "Owner's and Contractor's Protective Public Liability and Property Damage Insurance (Subcontractor only)," shall include the following as additionally named insured: "*Fort Gratiot Charter Township*" and "*P.M. Blough Inc.,*" and shall include the additional named assured as set forth in Supplemental Specifications, plus any additional municipality that may be created and exists at the time of award of this Contract.

(g) **Indemnification Clause**

The Contractor shall indemnify and save harmless the Owner and all Additional Named Insured for and from all claims, demands, payments, suits, actions, recoveries and judgments, of every name and description, brought or recovered against them or either or any of them for or on account of any personal injuries or damages to property received or sustained by any person or persons whomsoever by reason of any act or omission of said Contractor, his agents, servants or his contractors in the performance of said work, or by or in consequence of any negligence or carelessness in connection with the same or on account of the death of or injuries to persons who shall be engaged in or about the work to be performed under this contract; and on account of liability or obligation imposed directly or indirectly upon the Owner, and all Additional Named Assured, by reasons of any law of the State of Michigan of the United States, now existing or which shall hereafter be enacted imposing any liability of obligation, or providing for compensation to any person or persons on account of, or arising from the death of, or injuries to, employees. Said Contractor shall pay, settle, compromise and procure the discharge of any and all claims and all such losses, damages, expenses, liabilities and obligations, and shall defend at his own cost and expense any and all claims, demands, suits and actions made or brought against the Owner, and all Additional Named Assured, for or upon any such claim. In case said Contractor shall fail, neglect or refuse to comply with any of the provisions of this paragraph, the Owner may, in order to protect himself and all Additional Named Assured from liability, defend any such claims, demand, suits or actions and pay, settle, compromise and procure the discharge thereof, in which case the said Contractor shall repay the Owner any and all such loss, damage and expense, including attorneys' fee paid, suffered or incurred by the Owner and all Additional Named Assured, in so doing.

So much of the monies due, or to become due to said Contractor under this agreement as shall be deemed necessary by the Owner shall or may be retained by the Owner until every and all such claims, demands, suits, actions, recoveries, judgments, liabilities and obligations have been settled and discharged and

evidence to that effect furnished the Owner, or the Owner may collect the same in whole or in part in any lawful manner from said Contractor. The Contractor shall provide adequate insurance until his work is completed, with a responsible insurance company which meets the approval of the Owner, covering liability to the public for loss resulting from injury to persons or damage to property arising out of, or caused by, his operations, acts or omissions, or those of his Subcontractors, agents or employees in procuring work for the Owner. Such insurance coverage shall be in such amounts as are provided in the public liability and property damage section herein, provided, however, that such insurance coverage shall include an endorsement providing that the contractual exclusion shall be removed or, in the alternative, contractual insurance shall be afforded. If the former, such endorsement shall contain specific language as follows:

"It is hereby agreed that the contractual exclusion does not apply to the contract entered into between the insured and the Owner, and each Additionally Named Assured, as their interests may appear for the project work. Such insurance coverage shall also contain an endorsement guaranteeing that twenty (20) days' notice to the Owner and each Additional Named Assured shall be given in writing prior to the cancellation of, or change in, any such insurance."

(h) Proof of Carriage of Insurance

The Contractor shall provide the Owner with certificates and policies listed below at the time contracts are returned by him for execution. The Owner may request that all certificates and policies be written for a two-year period from the date of the Contract award. Each such certificate and policy shall contain a guarantee by specific endorsement that twenty (20) days' notice shall be given to the Owner prior to cancellation of, or change in, any such insurance. Where the Contractor does not insure the activities of his Subcontractors in his own policies, the Contractor shall require each of his Subcontractors similarly to furnish the Owner with certificates and policies listed below containing the guarantee of twenty (20) days' notice by specific endorsement. The Contractor shall submit Subcontractor's certificates and policies with the written request to the Owner for Subcontractor approval.

- (1) Five (5) copies of Certificate of Coverage of Contractor's and/or Subcontractor's Workmen's Compensation Insurance.
- (2) Five (5) copies of Certificate of Coverage of Contractor's and/or Subcontractor's Public Liability and Property Damage Insurance.
- (3) Five (5) copies of Certificate of Coverage of Contractor's and/or Subcontractor's Motor Vehicle Bodily Injury and Property Damage Insurance covering owned, hired, and non-owned vehicles.
- (4) Four (4) copies of policy of Owner's and/or Owner's and Contractor's Protective Public Liability and Property Damage Insurance.

GENERAL SPECIFICATIONS

The General Specifications for the project shall be "Standard Specification for Construction 2012" and "Standard Plans" of the Michigan Department of Transportation unless otherwise stated within the Project. Additional special specifications are included within the drawings notes, details, and labels.

DRAWINGS

The Drawings for the project shall be "McIntyre Park Dog Park, Fort Gratiot Charter Township" as prepared by PM Blough, Inc., Sheets 1 through 4, dated 08/01/2016, and any additional drawings added by way of addenda or Change Order.

THE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20___, by and between the Fort Gratiot Charter Township, Michigan hereinafter called the Owner, and _____ hereinafter called the Contractor.

WITNESSETH, that the Contractor and the Owner, for the considerations hereinafter named, agree as follows:

ARTICLE I - THE WORK

It is agreed that the Contractor shall furnish all labor, materials, and equipment, and perform all of the work shown and called for on the Drawings and described in the Specifications entitled -

Contract Documents & Specifications
McIntyre Park Dog Park
Fort Gratiot Charter Township
St. Clair County, Michigan

prepared by PM Blough, Inc. (PMB), acting as, and in these Contract Documents entitled, the Professional, and shall do everything required by the Contract Documents. The Contract Documents being hereby defined to include the Agreement, Bonds, Drawings, Advertisement, Instructions to Bidders, Proposal, Specifications, General Conditions, and any supplements thereto agreed to by both parties.

ARTICLE II - THE TIME

It is agreed that the Contractor shall, upon execution of this agreement, begin work within ten (10) consecutive calendar days from the date of the notice to proceed, and shall prosecute the work in such a manner so as to complete the installation all proposed improvements within the number of calendar days indicated by the Contractor's proposal beginning on the date of the notice to proceed, except as provided herein. The time of beginning, rate of progress, and dates of completion are considered essential elements of the Contract.

It is agreed that if the Contractor shall be unavoidably delayed in beginning or fulfilling this Contract by reason of excessive storms or floods, or by Acts of Providence, or by general strikes, or by court injunction, or by stopping of the work by the Owner because of any emergency or public necessity, or by any preference, priority or allocation order duly issued by the government, or by reason of alterations ordered by the Owner, the Contractor shall have no valid claim for damages on account of any cause or delay; but he shall in such case be entitled to such an extension of the above time limits herein, as the Professional shall adjudge to be just and reasonable; provided, however, that formal claim for such extension shall be made in writing by the Contractor within one (1) week after the date upon which such alleged cause or delay shall have occurred.

ARTICLE III – LIQUIDATED DAMAGES

It is expressly covenanted and agreed that time is and shall be considered of the essence of the Contract. In the event that the Contractor shall fail to perform the entire work agreed to by or at the times herein mentioned as referred to in Article II, or within some other certain date subsequent to this to which the time limit for the completion of the work may have been advanced under the provisions of Article II, the Contractor shall pay unto the Owner as and for liquidated damages and not as a penalty, the sum of Two Hundred Dollars (\$200.00) for each and every calendar day that the Contractor shall be in default. Said sum of Two Hundred Dollars (\$200.00) per day, in view of the difficulty of estimating such damages with exactness is hereby expressly fixed and agreed upon as the damages which will be suffered by the Owner for reason of such defaults. It is also understood and agreed that the liquidated damages hereinbefore mentioned are in lieu of the actual damages arising from such breaches of this Contract, which said sums the Owner shall have the right to deduct from any moneys in his hand otherwise due or to become due to the Contractor or to sue for and recover compensation for damages for nonperformance of this contract at the time stipulated herein and provided.

ARTICLE IV - OWNER'S RIGHT TO COMPLETE

It is agreed that if at any time the Contractor should abandon his work; or if he should be adjudged as bankrupt, or if his performance of this Contract is being unnecessarily or unreasonably delayed; or if he should make a general assignment for the benefit of his creditors; or if a receiver should be appointed on account of his insolvency; or if he should persistently or repeatedly fail to supply enough properly skilled workmen or sufficient materials for the work; or if he should habitually fail to make prompt payment to sub-contractors or to pay promptly for materials and labor; or if he should persistently disregard laws or ordinances or the directions of the Professional; or if he should willfully and repeatedly violate any of the substantial provisions of this Agreement, then in such case the Owner, after giving the Contractor and his sureties written notice thereof, may order him to discontinue all work under this Contract, or any part thereof. Thereupon, the Contractor shall at once discontinue such work or such part thereof, and shall cease to have any right to the possession of the ground. The Owner shall have the right to finish the work, or part thereof, by contract or otherwise as he may elect, and for that purpose to take possession and make use of such materials, tools, building appliances and equipment as may be found upon the work, and to charge the cost and expense of such completion to the Contractor. The Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, the amount of such excess shall be paid to the Contractor; and if such expense shall exceed such unpaid balance, the Contractor or his sureties shall pay to the Owner the amount of such excess.

It is expressly stipulated and agreed that from and after the date of the order to discontinue work, and until such work shall have been finally completed by the Owner, neither the Contractor nor any of his agents or employees shall remove, or make any effort directly or indirectly to remove any of the above-mentioned materials, tools, building appliances or equipment from the points at which they were located on the date of said order, except upon the written consent of the Owner to do so.

It is further understood and agreed that the foregoing provisions of these articles are without prejudice to any other right or remedy which the Owner may have under this Agreement.

ARTICLE V - ASSIGNMENT OF CONTRACT

It is agreed that the Contractor shall not assign or transfer this Contract or sublet any part of the work embraced in it, except with written consent of the Owner to do so.

It is further agreed that all parts of the work which may be performed by a subcontractor shall be done in conformity with and be subject to all the provisions of the Contract Documents exactly as if performed by the Contractor and his immediate employees and workmen. No subletting of the work shall in any way diminish or weaken the responsibility of the Contractor for all parts of the work or lessen his obligations and liabilities under this Agreement.

It is likewise agreed that the Contractor shall not assign, either legally or equitably, any of the monies payable to him under this Agreement, or his claim thereto, except with the written consent of the Owner.

ARTICLE VI - THE CONTRACT PRICE

It is agreed that, in consideration of the faithful and entire performance by the Contractor of his obligations under this contract, the Owner shall pay to him, at the time and in the manner hereinafter stipulated, an amount as determined by the measured quantities and the respective unit prices herein named on the proposal form subject to additions and deductions as provided in the Contract.

On or about the fifteenth (15th) of each month during which satisfactory progress has been made toward the final completion of the work, the Professional will make an estimate of the amount and value of the work which has been completed under this Contract during that month, or since the date of the last preceding estimate. Such estimate shall not be required to be made by strict measurement or with exactness, but may be made either wholly or in part by appraisalment or estimation or by a consideration of accounts for labor and materials, and it shall be sufficient if it is approximate only. Any error or inaccuracy which may occur in any such progress estimate may be allowed for or corrected in any subsequent estimate

It is agreed that the Contractor shall submit to the Owner a written request for each partial or final estimate of payment. It is further agreed that the Contractor shall submit sworn statements or other satisfactory evidence, as requested by the Owner, that all persons who have supplied labor, materials, or equipment for the work embraced under this Contract as well as persons who have claimed damages arising out of the performance of this Contract have been fully paid for the same.

Payments based on progress estimates will be made within thirty (30) days of receipt by the Owner of the progress estimates for work completed during the preceding month or since the date of the last preceding progress payment. No allowance will be made for materials furnished which are not incorporated in the finish work, unless otherwise stated.

In accordance with the provisions of Section 3 of Act 524 of the Michigan Public Acts of 1980, (MCL 125.1563) and with the terms of this Contract, in order to assure proper performance of the contract, the Owner shall retain 10% of the amount of each progress payment, but the total retained funds shall not exceed an amount equal to 10% of the dollar value of all work in place until the work is 50% in place. After the work is 50% in place, the Owner shall not withhold additional retainage unless Owner determines that the contractor is not making satisfactory progress, or for other specific cause relating to the contractor's performance under the contract. If the Owner so determines, it may retain not more than 10% of the dollar value of work more than 50% in place. Unless there is a dispute as set forth below, retainage, and interest earned on retainage shall be released to Contractor together with the final progress payment.

Pursuant to Act No. 524, Michigan Public Acts of 1980, the Owner hereby designates PM Blough, Inc. (PMB) as the person representing it to whom written requests for payments are to be submitted. The Contractor hereby designates PM Blough, Inc. (PMB) as the person who will submit written requests for payments to the Owner.

It is agreed that 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 the 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 (2) of said Act. The dispute resolution process herein described shall be used only for the purpose of determining the rights of the parties to retained funds and interest earned on retained funds. Nothing herein shall impair the right of the Owner to bring an action in any court of jurisdiction to determine the rights of the parties.

The progress estimates and payments will include all alterations which may be done under the provisions of Section 22 of the General Conditions on the same basis as other work is included. All such work is regarded herein as essentially a part of the Contract and not merely an addition to it.

No progress estimate made or certified by the Professional and no partial payment made to the Contractor by the Owner shall be deemed or construed as an acceptance of any part of the work under this Contract or any portion thereof prior to the final completion of the work and payment of the final estimate.

Within thirty (30) days after satisfactory completion of the work covered by this Agreement, the Professional will make a final inspection of the work as a whole and will make up a final estimate of the total amount due the Contractor under the terms of the Agreement. Upon the acceptance of the completed work, the Owner will pay to the Contractor the entire amount of such final estimate less the sums previously paid. The Contractor shall file with the Owner the Contractor's Affidavit included in these contract documents and comply with all requirements for Final Payment in Section 45 of the General Conditions

ARTICLE VII - ANTICIPATED CONDITIONS AND WORK BY OTHERS

The Contractor further acknowledges that he is not entitled to any additional compensation by reason of conditions being different from those anticipated or by reason of his failing to fully acquaint himself with the site, the conditions, and the work now in place or on account of interference by the Owner or by any other contractor's activities which affect the work of this contract.

ARTICLE VIII - MISCELLANEOUS

The Contractor acknowledges that he has not received or relied upon any representations or warranties of any nature whatsoever from Owner, its agents or employees, and that this contract is entered into solely upon the Contractor's own independent business judgment.

ARTICLE IX - BONDS

No Performance, Labor, Material, Equipment Rental or Maintenance and Guaranty Bonds will be required.

ARTICLE X - INDEPENDENT CONTRACTOR RELATIONSHIP.

In the performance of this Contract, the relationship of Contractor to the Owner shall be that of an independent contractor and not that of an employee or agent of the Owner. Contractor is and shall perform under this Contract as an independent contractor, and no liability or responsibility with respect to benefits of any kind, including without limitation, medical benefits, worker's compensation, pension rights, or other rights or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to either party as a result of the performance of this Contract.

Contractor, as an independent contractor, is not authorized to enter into or sign any agreements on behalf of the Owner or to make any representations to third parties that are binding upon the Owner. Although Contractor is required under this Contract to advise, make recommendations to and to a limited extent represent the Owner all plans, studies, applications, submittals, surveys, reports and any other information relating to the work must be submitted to and approved by the Owner or the Owner's authorized representative prior to being disseminated to any third party and shall only be so disseminated if such dissemination is approved in advance by the Owner or an authorized Owner's representative.

Contractor represents that it will dedicate sufficient resources and provide all necessary personnel required to perform the work described in this Contract in accordance with the terms and conditions of this Contract. Contractor shall perform all of the work under this Contract and no other person or entity shall be assigned or sub-contracted to perform the work, or any part thereof, unless approved by the Owner in advance.

ARTICLE XI - LIABILITY AND INSURANCE.

Contractor is required, in accordance with Section 49 of the General Conditions, to complete and comply with Section 49 of the General Conditions and agrees to indemnify and hold harmless the Owner, its elected and appointed officials and employees and attorneys, and all Additional Named Insured from and against any and all claims, demands, suits, losses and settlements, including actual attorney fees incurred and all costs connected therewith, for any damages which may be asserted, claimed or recovered against the Owner and all Additional Named Insured by reason of: (i) personal injury, death and/or property damages which arises out of or is in any way connected or associated with the actions or inactions of Contractor in performing or failing to perform the work; (ii) civil damages which arise out of any dispute between Contractor and its subcontractors, affiliates, employees or other private third parties in connection with this Contract; or (iii) civil damages and penalties, including without limitation damages and penalties resulting from claims of discrimination, civil rights violations, statutory violations or constitutional violations, which arise out of any or are in any way connected or associated with the actions or inactions of Contractor. Contractor also agrees to indemnify and hold harmless the Owner, its elected and appointed officials and employees and attorneys, and all Additional Named Insured from and against any and all claims, demands for payment, suits, losses and settlements, including actual attorney fees incurred and all costs connected therewith, for or relating to any patented or copyrighted material, process, or device that may be used in the course of performing the work or form a part of the work.

Contractor shall provide evidence of adequate insurance coverage in the types and amounts required by the Owner. Such insurance shall be maintained at the specified level of coverage throughout the term of this Contract, including any extension of such term, and will cover all work, acts and omissions by and on behalf of Contractor in connection with this Contract, with the Owner, PMB, and certain adjoining property owners as Additional Named Insured, but with such coverage being primary and non-contributory. Contractor shall give the Owner and all Additional Named Insured immediate notice of any change in or cancellation of the coverage within twenty (20) days of such change or cancellation, shall provide a copy of any cancellation notice received from its insurer to the Owner and all Additional Named Insured within twenty (20) days of such cancellation, and shall request that its insurer send such notice of cancellation to the Owner and all Additional Named Insured. Contractor shall provide evidence of insurance coverage as set forth herein coverage at any time requested by the Owner.

ARTICLE XII - GENERAL PROVISIONS.

A. Entire Agreement. This instrument, being hereby defined to include the Agreement, Bonds, Drawings, Advertisement, Instructions to Bidders, Proposal, Specifications, General Conditions, and any supplements thereto agreed to by both parties, contains the entire Contract between the Owner and Contractor. No verbal agreement, conversation, or representation by or between any officer, agent, or employee of the parties hereto, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.

B. Compliance with Laws. This Contract and all of Contractor's work and practices shall be subject to all applicable state, federal and local laws, ordinances, rules, or regulations, including without limitation, those which apply because the Owner is a public governmental agency or body. Contractor represents that it is in compliance with all such laws and eligible and qualified to enter into this Contract.

C. Governing Law. This Contract shall be governed by the laws of the State of Michigan.

D. Assignment. Contractor shall not assign this Contract or any part thereof without the written consent of the Owner. This Contract shall be binding on the parties, their successors, assigns, and legal representatives.

E. Notices. Written notices under this Contract shall be given to the parties at their addresses contained in this Contract by personal or registered mail delivery to the attention of the following persons:

Owner: Jorja Baldwin, 3720 Keewahdin Road, Fort Gratiot, MI 48059

Contractor:

F. Changes. Any changes in the provisions of this Contract must be in writing and signed by the Owner and Contractor.

G. Waivers. No waiver of any term or condition of this Contract shall be binding and effective unless in writing and signed by all parties, with any such waiver being limited to that circumstance only and not applicable to subsequent actions or events.

H. Jurisdiction and Venue of Contract. This Contract shall be considered for all purposes, including the establishment of jurisdiction and venue in St. Clair County Circuit Court or the 72nd District Court.

If any section, paragraph, sentence, clause or phrase of these Contract Documents shall be held invalid, the same shall not affect any other part of these Contract Documents.

WITNESSES:

FORT GRATIOT CHARTER TOWNSHIP
ST. CLAIR COUNTY, MICHIGAN

_____ By _____

_____ By _____

CONTRACTOR

_____ By _____

INSTRUCTIONS FOR EXECUTING AGREEMENT

If the Contractor be a Corporation, the following certificate should be executed:

I, _____ certify that I am the
_____ Secretary of the Corporation named as Contractor hereinabove; that
_____ who signed the foregoing Agreement on behalf of the Contractor, was then
_____ of said Corporation; that said Agreement was duly signed for and in behalf
of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

(Corporate Seal)

If the Agreement be signed by the Secretary of the corporation, the above certificate should be executed by some other office of the Corporation, under the Corporate Seal. In lieu of the foregoing certificate, there may be attached to the Agreement copies of so much of the records of the Corporation as will show the official character and authority of the officers signing, duly certified by the Secretary or Assistant Secretary under the Corporate Seal to be true copies.

The full name and business address of the Contractor should be inserted and the Agreement should be signed with his official signature. Please have the name of the signing party or parties typewritten or printed under all signatures to the Agreement.

If the Contractor should be operating as a partnership, each partner should sign the Agreement. If the Agreement be not signed by each partner, there shall be attached to the Agreement a duly authenticated Power of Attorney evidencing the signer's (signers') authority to sign such Agreement for and in behalf of the partnership.

If the Contractor be an individual, the trade name (if the Contractor be operating under a trade name) should be indicated in the Agreement and the Agreement should be signed by such individual. If signed by one other than the Contractor, there should be attached to the Agreement a duly authenticated Power of Attorney evidencing the signer's authority to execute such Agreement for and in behalf of the Contractor.