AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between City of Lafayette – Lafayette Renew ("Owner") and Midwest Paving, LLC ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents.

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: *Brady Lane Drainage Improvements Project*.

ARTICLE 3 – ENGINEER

3.01 The part of the Project that pertains to the Work has been designed by **VS Engineering, Inc.**

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Dates*

A. The Work will be substantially completed on or before **February 26, 2021**, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before **April 30, 2021**.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner **$500.00** for each calendar day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.

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2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **$500.00** for each day that expires after such time until the Work is completed and ready for final payment.

3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

4.04 *Special Damages*

A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.

B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments

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previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract

a. **10%** percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

b. **10%** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to **100%** percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less **200%** percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of **5%** percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

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F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. ….discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 7, inclusive).
2. Performance bond (pages 8 to 9, inclusive).
3. Payment bond (pages 10 to 11, inclusive).
4. General Conditions (pages 12 to 41, inclusive).
5. Supplementary Conditions (pages 42 to 45, inclusive).
6. Smoking in Public Places Statute (pages 46 to 51, inclusive).
7. Special Provisions (pages 52 to 54, inclusive)
8. Addendum 1 (page 55)
9. Drawings (not attached but incorporated by reference) consisting of **8** sheets as listed on the attached sheet index.
10. Exhibits to this Agreement (enumerated as follows):
    a. Contractor's Bid (pages 56 to 71, inclusive).
    b. Plan Set Sheet Index (page 72).
11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    a. Notice to Proceed.
    b. Work Change Directives.
    c. Change Orders.
    d. Field Orders.

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

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D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

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4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

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IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective 10/6/2020 (which is the Effective Date of the Contract).

OWNER:

_____

By: _____

Title: _____

Attest: _____

Title: _____

Address for giving notices:

_____

_____

_____

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

CONTRACTOR:

_____

By: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Title: _____

Address for giving notices:

_____

_____

_____

License No.: _____
(where applicable)

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CONTRACT PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, _____ _____ as Principal, and _____ as Surety, are held and firmly bound unto the _____ for the benefit of the City of Lafayette, hereinafter called the Owner, in the penal sum of _____ _____ dollars ($_____) for the payment of which we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Dated this ___ day of _____ , 20___.

The condition of this obligation is such that whereas the above named Principal did, on the _____ day of _____, 20__, enter into a Contract with the Owner, by the terms of which said Principal agreed to furnish all labor, materials, equipment and supplies for the construction of

Brady Lane Drainage Improvements

as described and defined in said Contract and in the Specifications and Drawings, prepared by the City of Lafayette, Indiana which are a part thereof, ready for continuous and successful operation, for the completion of said work, for the sum of _____ _____ dollars ($_____), and to remove and replace any defective or unsuitable equipment or structure at the expense of said Principal which may be apparent or may develop from inferior workmanship or material within one (1) year from the date of final acceptance of the above described work, which Contract is made a part of this bond the same as though set forth herein.

Now if said Principal shall well and faithfully do and perform the things agreed by it to be done and performed according to the terms of said Contract, then this obligation shall be void, otherwise the same shall remain in full force and effect; and said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same, shall in any wise affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or the Specifications.

No change, modification, omission, or addition in and to the terms or conditions of said Contract, Plans, Specifications, Drawings or Profile, or any irregularity or defect in said Contract or in the proceedings preliminary to the letting and awarding thereof shall in any wise affect or operate to release or discharge said surety and the provisions and conditions of IC 5-16-5 (1971) shall be, operate as, and become a part of the terms of this bond and said Contract the same as if incorporated herein.

IN WITNESS WHEREOF, we have this ___ day of _____, 20__, affixed our signatures and corporate seals to **3** executed original counterparts of this bond.

_____
Principal

ATTEST:

_____ By _____
Authorized Agent

_____
Surety

ATTEST:

_____ By _____
Attorney-In-Fact

CONTRACT PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, _____ _____ as Principal, and _____ _____ as Surety, are held and firmly bound unto the _____ for the benefit of the City of Lafayette, hereinafter called the Owner, in the penal sum of _____ _____ dollars ($_____) for the payment of which we are hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Dated this ___ day of _____, 20___.

The condition of this obligation is such that whereas the above named Principal did, on the ___ day of _____, 20__, enter into a Contract with the Owner, by the terms of which said Principal agreed to furnish all labor, materials, equipment and supplies for the construction of

Brady Lane Drainage Improvements

as described and defined in said Contract and in the Specifications and Drawings, prepared by _____ which are part thereof, ready for continuous and successful operation, for the completion of said work, for the sum of _____ _____ dollars ($_____) and to remove and replace any defective or unsuitable equipment or structure at the expense of said Principal which may be apparent or may develop from inferior workmanship or material within one (1) year from the date of final acceptance of the above described work which Contract is made a part of this bond the same as though set forth herein.

Now if said Principal shall promptly pay all indebtedness which may accrue, by operation of law or otherwise, to any person, firm or corporation on account of any labor or service performed or material furnished or service rendered in the carrying forward, performing and completion of said Contract; we agreeing and assenting that this undertaking directly insures to the benefit of subcontractors, laborers, material men and those performing service on account of or directly in connection with the completion of said Contract, as well as for the obligee herein; then this obligation shall be void, otherwise the same shall remain in full force and effect; and said Surety for value received hereby stipulates and that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same, shall in any wise affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or the Specifications.

No change, modification, omission, or addition in and to the terms or conditions of said Contract, plans, specifications, drawings, or profile, or any irregularity or defect in said Contract or in the proceedings preliminary to the letting and awarding thereof shall in any wise affect or

operate to release or discharge said Surety and the provisions and conditions of IC 5-16-5 (1971) shall be, operate as, and become a part of the terms of this bond and said Contract the same as if incorporated herein.

IN WITNESS WHEREOF, we have this _____ day of _____, 20___, affixed our signatures and corporate seals to ___ executed original counterparts of this bond.

_____
Principal

ATTEST:

_____ By _____
Authorized Agent

_____
Surety

ATTEST:

_____ By _____
Attorney-In-Fact

SECTION 00700

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STANDARD GENERAL CONDITIONS

SECTION 1 - CONTRACT DOCUMENTS

ARTICLE 1.1 - GENERAL

This project consists of the following component parts, all of which are as full a part of the Construction Contract as if therein set out verbatim, or, if not attached, as if hereto attached:

A. Construction Contract including Additional Contract Provisions
B. Contractor's Proposal
C. Notice to Bidders
D. Specifications (including Addenda)

    1. Instructions to Bidder
    2. General Conditions of the Contract
    3. Detailed Specifications
    4. Supplementary Conditions, if any

E. Drawings

In the event any item in any of the above component parts of this Contract conflicts with an item in any other of the component parts, the item in the component part first listed above shall govern over any other component part which follows it alpha-numerically, except as may be otherwise stated.

ARTICLE 1.2 - BIDDING DOCUMENTS

Bidding documents issued by the Owner to assist contractor in preparing their proposals include:

A. Notice to Bidders

B. Instructions to Bidders.

C. Proposal Form: The offer of a Bidder to perform the work described by the Contract Documents is to be made out and submitted on the prescribed Proposal Form, properly signed and guaranteed.

D. Proposal Guaranty: A Cashier's Check of Bidder's Bond in an amount equal to five thousand dollars ($5,000.00) shall accompany the Proposal submitted by the Bidder, as a guaranty that the Bidder will enter into an Agreement with the Owner of the construction of the work, if the Contract is awarded to him.

E. Addenda to Contract Documents: Any addenda issued during the time of bidding, or forming a part of the Contract Documents loaned to the Bidder for the preparation of his Proposal, shall be covered in the proposal, and shall be made a part of the Contract. Receipt of each Addendum shall be acknowledged in the Proposal.

ARTICLE 1.3 - CONTRACTUAL DOCUMENTS

A. Agreement covering the performance of the work described in the Contract Documents including all supplemental addenda thereto and all general and special provisions pertaining to the work or materials therefore.

B. Bonds: The Contractor shall furnish bonds in a form prescribed by the Owner and with a surety company authorized to do business in the State of Indiana as follows:

1. At the time of execution of the Contract Agreement, a Performance Bond in an amount equal to one hundred percent (100%) of the total Contract Amount as a guaranty of good faith on the part of the Contractor to do, perform and complete those things agreed to in the Contract Agreement with the Owner, including a one (1) year warranty period.

2. Prior to final payment to the Contractor, a Payment Bond in an amount equal to one hundred percent (100%) of the total Contract Amount as a guaranty of payment by the Contractor for all indebtedness which he has accrued on account of any labor, service or material in carrying forth the provisions of the Contract Agreement with the Owner.

ARTICLE 1.4 - GENERAL CONDITIONS OF THE CONTRACT

General Conditions outline certain general responsibilities of the Owner and the Contractor (who are the parties to the Contract) and also those responsibilities delegated by the Owner to the Engineer who acts as the agent of the Owner.

A. Definitions: Wherever the words hereinafter defined, or pronouns used in their stead, occur in these Specifications and Contract Documents, they shall have the meanings herein given:

1. "Owner" - municipality, person, firm, or corporation as specified in the Advertisement for Bids, for whom the work is to be done.

2. "Contractor" - person, firm, or corporation entering into a contract with the Owner to construct and complete the work as herein specified, set out and shown. Contractor is a Tier 1 contractor as defined in IC 5-16-13(4)(1)

3. "Subcontractor" - person, firm, or corporation, other than a Contractor, supplying labor and materials or labor for work at the site of the project. The term Subcontractor includes all of the following:

(A) "Tier 2 contractor" includes each person that has a contract with a tier 1 contractor to perform some part of the work on, supply some of the materials for, or supply a service for the project. A person included in this tier is also known as a "subcontractor". (B) "Tier 3 contractor" inclues each person that has a contract with a tier 2 contractor to perform some part of the work on, supply some of the materials for, or supply a service for the project. A person included in this tier is also known as a "sub-subcontractor";

(C) "Lower Tier Contractor" includes a person that has a contract with a tier 3 contractor or lower tier contractor to perform some part of the work on, supply some of the materials for, or supply a service for the project. A person included in this tier is also known as a "lower tier subcontractor".

4. "Engineer" - The person, firm or corporation named as such in the Agreement.

ARTICLE 1.5 - DETAILED SPECIFICATIONS

Special provisions not included in the General Conditions of the Contract, which apply to this specific project, are contained in the Supplementary Conditions.

ARTICLE 1.6 - DRAWINGS AND SPECIFICATIONS

The intent of the Drawings and Specifications is that the Contractor shall furnish all labor, materials, equipment and transportation necessary for the proper execution of the work, unless specifically noted otherwise. The Contractor shall do all the work outlined in the Contract Documents and all incidental work necessary to complete the project in a substantial and acceptable manner, and fully complete the work or improvement, operational and ready for occupancy by the Owner.

A. Discrepancies: Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings or Specifications shall be immediately reported to the Engineer, who shall promptly

correct such inconsistencies or ambiguities in writing. Any work done by the Contractor after his discovery of such discrepancies, inconsistencies, or ambiguities shall be done at the Contractor's risk.

B. Adequacy: Responsibility for adequacy of the design and for sufficiency of the Drawings and Specifications shall be borne by the Owner. The complete requirements of the work to be performed under the Contract shall be set forth in Drawings and Specifications to be supplied by the Owner through the Engineer or by the Engineer as representative of the Owner. The Drawings and Specifications shall be considered inseparable documents and in considering them the Contractor shall rely upon both instruments in order to perform the work in accordance with their combined intent.

C. Additional Instructions: Further instructions may be issued by the Engineer during the progress of the work by means of Drawings and Specifications, or as may be necessary to explain or illustrate changes in the work to be done.

D. The fact that specific mention of a fixture, or of any part of work, is omitted in the Specifications, whether intentionally or otherwise, when the same is clearly shown or indicated on the Drawings, or is usually and customarily required to fully complete such work as is specified herein, will not entitle the Contractor to consideration in the matter of any claim for extra compensation, but the said fixtures or work or both, must be installed or done the same as if called for by both Drawings and Specifications.

E. All work indicated on the Drawings and not mentioned in the Specifications or vice versa, and all work and material usual and necessary to make work complete in all its parts, whether or not they are indicated on the Drawings or mentioned in the Specifications, shall be furnished and executed the same as if they were called for by both the Drawings and Specifications.

F. Drawings and Specifications: The Engineer shall furnish the Contractor up to five (5) sets of Drawings and Specifications covering this project at no cost to the Contractor. For each set of Drawings and Specifications furnished to the Contractor, or any of his subcontractors, in excess of this number, the Contractor shall be billed at actual cost of printing and delivery.

G. Dimensions: Only figured dimensions on the Drawings will be used by the Contractor. Where the work of the Contractor is affected by finish dimensions, these shall be determined and verified by the Contractor at the site, and he shall assume the responsibility therefore.

H. Ownership of Drawings and Models: All Drawings, Specifications, and copies thereof furnished by the Engineer are the property of the Engineer. They are not to be used on other work, and with the exception of the signed Contract set, are to be returned to him upon request at the completion of the work. All models are the property of the Engineer.

ARTICLE 1.7 - CONTRACT DOCUMENTS FOR THE USE OF THE ENGINEER

The Contractor shall maintain one complete set of the Contract Documents at the job site which shall be available to the Engineer at all times and upon which the Contractor shall record all changes and field adjustments. The Contractor shall keep one copy of plans, shop drawings, and supplemental drawings at the site in good order and annotated to show all changes made during construction. Prior to submission of the final application for payment, the annotated set of plans showing the changes and nameplate data shall be made available to the Engineer, for the preparation of record drawings. The Contractor shall assist the Engineer in the preparation of these record drawings.

SECTION 2 - OWNER-CONTRACTOR-ENGINEER RELATIONS

ARTICLE 2.1 - OWNER'S RIGHTS AND RESPONSIBILITIES

A. Lands by Owner: The Owner will provide the lands shown on the Drawings or described in the Specifications upon which the work under the Contract is to be performed and to be used for right-of-way purposes. Any delay in furnishing these lands by the Owner will be deemed proper cause for adjustment in the Contract Amount and in the time of completion.

B. Base Lines and Bench Marks: Unless otherwise specified, the Contractor will establish base lines necessary for the location of the principal component parts of the work together with a suitable number of bench marks adjacent to the work.

C. Owner's Right to Correct Deficiencies: Upon failure to perform the work in accordance with the Contract Documents, including any requirements with respect to the Schedule of Completion and after five (5) days' written notice to the Contractor, the Owner may, without prejudice to any other remedy he may have, correct such deficiencies in work intended to become a permanent part of the project. The cost to correct such deficiencies may be deducted from the payment due the Contractor.

D. Suspension of Work by Owner: The Owner shall have the authority to suspend the work wholly or in part, for such period or periods as he may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable to carry out the provisions of the Contract. No extension of time will be allowed if work is suspended by the failure of the Contractor to comply with the Drawings and Specifications.

E. Owner's Right to Terminate Agreement and Complete the Work: The Owner shall have the right to terminate his agreement with the Contractor after giving ten (10) days' written notice of termination to the Contractor in the event of any default by the Contractor.

1. Default by Contract: It shall be considered a default by the Contractor whenever he shall:

   (a) Declare bankruptcy, become insolvent, or assign his assets for the benefit of his creditors.

   (b) Disregard or violate provisions of the Contract Documents or fail to prosecute the work according to the agreed Schedule of Completion, including extensions thereof.

   (c) Fail to provide a qualified superintendent, competent workmen or subcontractors, or proper materials, or fail to make prompt payment therefore.

2. Completion by the Owner: In the event of termination of the Agreement by the Owner because of default by the Contractor, the Owner may take possession of the work and of all materials and equipment thereon and may finish the work by whatever method and means he may select.

ARTICLE 2.2 - CONTRACTOR'S RIGHTS AND RESPONSIBILITIES

All work shall be done in strict accordance with the Contract Documents. Observations, construction reviews, tests, recommendations, or approvals by the Engineer or persons other than the Contractor, shall in no way relieve the Contractor of his obligation to complete all work in accordance with the Contract Documents. All work shall be done under the direct supervision of the Contractor. The Contractor shall be responsible for all obligations prescribed as employer obligations under Chapter XVII of Title 29, Code of Federal Regulations, Part 1926, otherwise known as "Safety and Health Regulations for Construction".

A. Lands by Contractor: Any land and access thereto not specifically shown to be furnished by the Owner that may be required for temporary construction facilities or for storage of materials shall be provided by the Contractor with no liability to the Owner. The Contractor shall confine his apparatus and storage to such additional areas as he may provide at his expense.

   1. Private and Public Property: The Contractor shall not enter upon private property for any purpose without obtaining permission from owner of said property. He shall be responsible for the preservation of all public property, trees, monuments, structures and improvements, along and adjacent to the street and/or right-of-way, and shall use every precaution necessary to prevent damage or injury thereto. He shall use suitable precautions to prevent damage to pipes, conduits, and other underground structures, and shall protect carefully from disturbance or damage all monuments and property marks until an authorized agent had witnessed or otherwise referenced their location and shall not remove them until directed.

B. Surveys: Based upon the information provided by the Owner, the Contractor shall develop and make all detailed surveys necessary for construction, including slope stakes, batter boards, stakes for pile locations and other working points, lines and elevations. The Contractor shall carefully preserve bench marks, reference points and stakes, and in the case of destruction thereof by the Contractor or resulting from his negligence, the Contractor shall be charged with the expense and damage resulting there from and shall be responsible for any mistakes that may be caused by the loss or disturbance of such bench marks, reference points and stakes.

C. Public Utilities: The elevation and location of all public utilities shown on the drawings were taken from existing public records. It shall be the duty of the Contractor to make final and exact determination of the location and extent of all utilities and he will be liable for any expense resulting from damage to them.

D. Superintendent: A qualified superintendent, who is acceptable to the Owner, shall be maintained on the work and give efficient supervision to the work until its completion. The superintendent shall have full authority to act in behalf of the Contractor, and all instruction given to the superintendent shall be considered as given to the Contractor. It shall be the responsibility of this Contractor's superintendent to coordinate the work of all the Subcontractors. The superintendent shall be present on the site at all times required to perform adequate supervision and coordination.

E. Subcontracts: The Contractor shall submit in writing for review of the Owner the names of the Subcontractors proposed for the work with the bid proposal form. Subcontractors may not be changed except at the request or with the approval of

the Owner. The Contractor is responsible to the Owner for the acts and deficiencies of his Subcontractors and of their direct and indirect employees to the same extent as he is responsible for the acts and deficiencies of his employees. The Contract Documents shall not be construed as creating any contractual relation between any Subcontractor and the Owner. The Contractor shall bind every Subcontractor by the terms of the Contract Documents.

1. For convenience of reference and to facilitate the letting of Contracts and Subcontracts, the Specifications are separated into titled sections. Such separation shall not, however, operate to make the Owner or the Engineer an arbiter to establish limits to the contracts between Contractor and Subcontractor.

F. Contractor's Right to Suspend Work or Terminate Agreement: Contractor may suspend work or terminate his Agreement with the Owner upon ten (10) days' written notice to the Owner for any of the following reasons:

1. If an order of any court or other public authority caused the work to be stopped or suspended for a period of ninety (90) days through no act or fault of the Contractor or his employees.

2. If the Owner should fail to act upon any Request for Payment within thirty (30) days after it is presented in accordance with the General Conditions of the Contract.

G. Work During an Emergency: The Contractor shall perform any work and shall furnish and install any materials and equipment necessary during an emergency endangering life or property. In all cases he shall notify the Owner of the emergency as soon as practicable, but he shall not wait for instruction before proceeding to properly protect both life and property.

H. E-Verify: Contractor shall submit, before work begins on the project, the E-Verify case number for each individual who is required to be verified under IC 22-5-1.7. An individual who is required to be verified under IC 22-5-1.7 whose final case result is final nonconfirmation may not be employed on the project. Contractor shall not permit any Subcontractor to work on the project unless the Subcontractor complies with the same E-Verify requirements.

I. Cash Payments. Contract may not pay cash to any individual employed by the Contractor for work done by the individual on the project. Contractor shall not permit any Subcontractor to work on the project unless the Subcontract complies with the same cash payment requirements.

J. Fair Labor Standards. Contractor must be in compliance with the federal Fair Labor Standards act of 1938, as amended (29 U.S.C. 201-209) and IC 22-2-2-1 through IC 22-2-2-8. Contractor shall not permit any Subcontractor to work on the project unless the Subcontractor complies with the same fair labor standards.

K. Worker's Compensation. Contractor must be compliance with IC 22-3-5-1 and IC 22-3-7-34. Contract shall not permit any Subcontractor to work on the project unless the Subcontractor is in compliance with the same worker's compensation requirements.

L. Unemployment. Contractor must be in compliance with IC 22-4-1 through IC 22-4-39.5. A Contractor shall not permit any Subcontract to work on the project unless the Subcontractor is in compliance with the same unemployment requirements.

M. Drug Testing of Employees. Contractor must be in compliance with IC 4-13-18-1 through IC 4-13-18-7. A Contractor shall not permit any Subcontractor to work on the project unless the Subcontractor is in compliance with the same drug testing requirements.

N. Training Program. If the Contractor employes more than fifty (50) journeyman, the Contractor must comply with IC 5-16-13(12). Contractor shall not permit any Tier 2 contractor that employes more than fifty (50) journeyman to work on the project unless the Tier 2 contractor complies with the same training program requirements.

ARTICLE 2.3 - RESPONSIBILITY OF THE ENGINEER

The Engineer shall decide questions which may arise as to the quality and acceptability of materials furnished, work performed, rate of progress of work, interpretation of Drawings and Specifications, and all questions as to the acceptable fulfillment of the Agreement on the part of the Contractor. The duties and responsibilities of the Engineer as set forth herein shall not be extended except through written consent of the Engineer and the Owner.

A. Observation of the Work: All materials and each part or detail of the work shall be subject at all times to observation by the Engineer and the Owner, and the Contractor will be held strictly to the intent of the Contract Documents in regard to quality of materials, workmanship, and the diligent execution of the Contract. Observations may be made at the site or at the source of material supply, whether mill, plant or shop. The Engineer shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make his observations and construction review.

B. Acceptability of Work: The Engineer's decision as to the acceptability or adequacy of the work shall be final and binding upon the Contractor. The Contractor agrees to abide by the Engineer's decision relative to the performance of the work.

ARTICLE 2.4 - ORAL AGREEMENTS

No oral order, objection, claim or notice by any party to the others shall affect or modify any of the terms or obligations contained in any of the Contract Documents, and none of the provisions of the Contract Documents shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing, and no evidence shall be introduced in any proceeding of any other waiver or modification.

ARTICLE 2.5 - OBSERVATION OF COMPLETED WORK

The Contractor shall remove or uncover such portions of the completed work as may be directed by the Owner at any time before acceptance of the work. After examination, the Contractor shall restore the work to the standard required by the Contract Documents. Should the work thus exposed or examined prove acceptable, the uncovering or removing and the restoring of the work shall be paid for as Extra Work, but should the work exposed or examined prove unacceptable, the uncovering, removing and restoring of the work shall be at the Contractor's expense.

ARTICLE 2.6 - WORK BY OWNER OR OTHER CONTRACTORS

A. Separate Contracts: The Owner may let other contracts in connection with the work of the Contractor. The Contractor shall cooperate with other contractors with regard to storage of materials and execution of their work. It shall be the Contractor's responsibility to inspect all work by other contractors affecting his work and to report to the Owner any irregularities which will not permit him to complete his work in a satisfactory manner. His failure to notify the Owner of such irregularities shall indicate the work of other contractors has been satisfactorily completed to receive his work. The Contractor shall not be responsible for defects of which he could not have known, which develop in the work of others after the work is completed. It shall be the responsibility of the Contractor to measure the completed work in place and report to the Owner immediately any difference between completed work by others and the provisions of the Contract Documents.

B. Written Agreement: Whenever work being done by the Owner through his own employees or through other contractors is contiguous to work covered by the Contract Documents, the respective rights of the various interests involved shall be

established by written agreement to secure the completion of the various portions of the work in general harmony.

ARTICLE 2.7 - HOURS OF OPERATION

A. No night or Sunday work requiring the presence of the Engineer or Inspector will be permitted, except to such an extent as it is absolutely necessary, and with the prior written approval of the Engineer.

B. No work in excess of eight (8) hours per day or forty (40) hours per week requiring the presence of the Engineer or Inspector will be permitted without prior written approval of the Engineer.

SECTION 3 - MATERIALS, EQUIPMENT AND WORKMANSHIP

ARTICLE 3.1 - MATERIALS AND EQUIPMENT

The materials and equipment installed in the work shall meet the requirements of the Contract Documents and no materials or equipment shall be ordered until reviewed and approved by the Engineer. All materials and equipment not otherwise specifically indicated shall be furnished by the Contractor. Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, heat, light and power, etc. all necessary to the execution of the work. Unless otherwise specified, all material shall be new and both workmanship and material shall be of good quality.

A. Substitutions: In order to establish standards of quality, the Engineer has referred to certain products by name and model number on the plans and/or in the detailed specifications. Subject to stipulations set out in the Bidder's Information, this procedure shall not be construed as eliminating from competition other products of equal or better quality by other manufacturers, which are fully suitable in design, as approved by the Engineer.

    1. The Contractor shall furnish the complete list of proposed desired substitutions prior to signing of the Contract, together with such engineering and catalog data as the Engineer may require.

    2. The Contractor shall abide by the Engineer's decision when proposed substitute materials or items of equipment are not recommended for installation and shall furnish the specified material or item or equipment in such case. All proposals for substitutions shall be submitted in writing by the

General Contractor and not by individual trades or material suppliers. The Engineer will review proposed substitutions and make his recommendations in writing within a reasonable time.

B. Arrangement: Where equipment requiring different arrangement of connections from those shown is approved, it shall be the responsibility of the Contractor to install the equipment to operate properly, and in harmony with the intent of the Contract Documents, and to make all changes in the work required by such arrangement.

C. Unacceptable Materials and Equipment: Materials and equipment which do not conform to the requirements of the Contract Documents, are not equal to samples reviewed by the Engineer, or are in any way unsatisfactory or unsuited to the purpose for which they are intended, shall not be furnished nor installed.

D. Storage: Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the work. When considered necessary, they shall be placed on wooden platforms or other hard, clean surfaces, and not on the ground, and/or they shall be placed under cover. Stored materials and equipment shall be located so as to facilitate prompt inspection. Private property shall not be used for storage purposes without the written permission of the property owner.

E. Manufacturer's Directions: Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer's guidelines.

ARTICLE 3.2 - SAMPLES

All samples called for in the Specifications or required by the Engineer shall be furnished by the Contractor and shall be submitted to the Engineer for his review.

A. Samples for Test: Contractor shall furnish such samples of materials as may be required for examination and test. All samples of materials for tests shall be taken according to standard methods or as provided in the Contract Documents.

B. Contractor's Guaranty: All samples shall be submitted by the Contractor with a covering letter indicating that such samples are recommended by the Contractor for the service intended and that the Contractor's Guaranty will fully apply.

ARTICLE 3.3 - SHOP DRAWINGS

The Contractor shall provide shop drawings, schedules and other drawings as may be necessary for the prosecution of the work in the shop and in the field as required by the Drawings, Specifications or the Engineer's instructions. Deviations from the Drawings and Specifications shall be called to the attention of the Engineer at the time of the first submission of shop drawings and other drawings for consideration. The Engineer's review of any drawings shall not release the Contractor from responsibility for any variation from the Contract Documents; nor will any review by the Engineer relieve Contractor from responsibility or omissions in the Shop Drawing. Shop drawings shall be submitted according to a schedule prepared jointly by the Contractor and the Engineer.

A. Contractor's Certification: When submitted for the Engineer's review, shop drawings shall bear the Contractor's certification that he has reviewed, checked, and approved the shop drawings, that they are in harmony with the requirements of the Project and with the provisions of the Contract Documents, and that he has verified all field measurements and construction criteria, materials, catalog numbers and similar data. Contractor shall also certify that the work represented by the shop drawings is recommended by the Contractor and that the Contractor's Guaranty will fully apply.

ARTICLE 3.4 - EQUIPMENT DATA

The Contractor shall submit for the Engineer's review complete catalog data for every manufactured item of equipment and all components to be used in the work, including specific performance data, material description, rating, capacity, working pressure, material gage or thickness, brand name, catalog number and general type. This submission shall be compiled by the Contractor and reviewed and approved by the Engineer before any of the equipment is ordered.

ARTICLE 3.5 - REJECTED WORK AND MATERIALS

Any defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, shall be removed within ten (10) days after written notice is given by the Owner, and the work shall be re-executed by the Contractor. The fact that the Engineer may have previously overlooked such defective work shall not constitute an acceptance of any part of it.

A. Should the Contractor fail to remove rejected work or materials within ten (10) days after written notice to do so, the Owner may remove them and may store the materials.

B. Correction of faulty work after final payment shall be in accordance with Section 5, Article 11.

ARTICLE 3.6 - CUTTING AND PATCHING

The Contractor shall do all necessary cutting and patching of the work that may be required to properly receive the work of the various trades or as required by the Drawings and Specifications to complete the structure. He shall restore all such cut or patched work as approved by the Engineer. Cutting of existing structure that may endanger the work, adjacent property, workmen or the public shall not be done.

ARTICLE 3.7 - CHARACTER OF WORKMEN

The Contractor shall at all times be responsible for the conduct and discipline of his employees and/or any Subcontractor or persons employed by Subcontractors. All workmen must have sufficient knowledge, skill, and experience to perform properly the work assigned to them. Any foreman or workman employed by the Contractor or Subcontractor who does not perform his work in a skillful manner or appears to be incompetent or to act in a disorderly or intemperate manner shall, at the written request of the Owner, be discharged immediately and shall not be employed again in any portion of the work without the approval of the Owner.

SECTION 4 - INSURANCE, LEGAL RESPONSIBILITY AND SAFETY

ARTICLE 4.1 - INSURANCE REQUIREMENTS:

The Contractor agrees to purchase from a company lawfully authorized to do business in the State of Indiana, with a rating of no lower than (A-) by AM Best rating or other rating services. The insurance must be maintained without interruption from the date of commencement of the Contractor's work. The Contractor will not permit any Subcontractor to commence work on this project until the same insurance requirements have been complied with by each Subcontractor.

The following is the minimum limits of coverage acceptable:

WORKERS COMPENSATION

$100,000 Each Accident
$500,000 Disease Policy Limit
$500,000 Disease Each Employee

If Workers Compensation is not required, as Contractor is operating as an sole proprietor, partnership, or member of a LLC, Contractor will provide a validated "Waiver" from the State of Indiana.

AUTOMOBILE

$1,000,000 Combined Single Limit. Covered autos include owned, hired and non-owned.

COMMERCIAL GENERAL LIABILITY

$1,000,000 Each Occurrence
$1,000,000 Personal and Advertising Injury
$2,000,000 Products and Completed Operations Aggregate
$2,000,000 General Aggregate

Contractor's insurance shall be PRIMARY and NON-CONTRIBUTORY (including, but not limited to contribution by equal shares) basis to the Owner. The Contractor's policy will be amended to reflect this requirement.

Indemnity: Included in such insurance will be contractual coverage sufficiently broad to insure the provisions of Section 4, Article 6.

UMBRELLA

$1,000,000 Each Occurence
$2,000,000 Aggregate

RAILROAD PROTECTIVE INSURANCE

If applicable, before commencement of work under or across a railroad, the Contractor shall obtain, at his own cost, Railroad Protective Insurance in accordance with the requirements of the specified railroad.

BUILDER'S RISK "ALL RISK" INSURANCE

If the project includes construction of a building, before commencement of the work, the Contractor shall submit written evidence that he has obtained, for the period of the Contract, Builders' Risk "All-Risk" Completed Value Insurance coverage, including Flood and Earthquake, upon the entire project which is the subject of this Contract and including completed work and work in progress. Such insurance shall include as Additional Named Insureds: The Owner and the Engineer and each of their employees and agents; and any other persons with an insurable interest designated by the Owner

as an Additional Named Insured. If such insurance has a deductible clause, the amount deductible shall not exceed $250.00.

ARTICLE 4.2 - ADDITIONAL INSURED REQUIREMENT

Contractor must name the City of Lafayette as an ADDITIONAL INSURED with respect to the General Liability policy. (form CG2010 or equivalent) The Contractor's policy will be amended to reflect this requirement. The Contractor shall provide a Waiver of Subrogation in favor of the Owner.

ARTICLE 4.3 - CERTIFICATES OF INSURANCE

Contractor must furnish a Certificate of Insurance on the ACORD (form 25-S) prior to the commencement of the subcontractor's work. The certificate and the insurance policy must be endorsed to reflect the insurance will not be cancelled or allowed to expire until at least 30 days prior written notice has been given to the City of Lafayette. Should any policy be cancelled before final payment by the Owner to the Contractor and the Contractor fails immediately to procure other insurance as specified, the Owner reserves the right to procure such insurance and to deduct the cost thereof from any sum due the Contractor under this Contract.

The Certificate must read: City of Lafayette is an Additional Insured with respects to General Liability.

ARTICLE 4.4 - ADEQUACY OF PERFORMANCE

Any insurance bearing on adequacy of performance shall be maintained after completion of the project for the full guaranty period. Should such insurance be cancelled before the end of the guaranty period and the Contractor fails immediately to procure other insurance as specified, the Owner reserves the right to procure such insurance and to charge the cost thereof to the Contractor.

ARTICLE 4.5 - PAYMENT OF DAMAGES

Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from his operations under this Contract.

ARTICLE 4.6 - INDEMNITY

The Contractor shall hold harmless, indemnify and defend the Owner and the Engineer and each of their employees and agents, from any and all liability claims, losses or damage arising or alleged to arise from the performance of the work described herein, but not including the sole negligence of the Owner or the Engineer.

ARTICLE 4.7 - PATENTS AND ROYALTIES

If any design, device, material or process covered by patent or copyright is used by the Contractor, he shall provide for such use by legal agreement with the owner of the patent or a duly authorized licensee of such owner, and shall save harmless the Owner and Engineer from any and all loss or expense on account thereof, including its use by the Owner.

ARTICLE 4.8 - PERMITS

All permits and licenses (except as listed hereafter) necessary for the prosecution of the work shall be secured and paid for by the Contractor.

The permits for construction within or across public or private property, rights-of-way or easements of highways, railroads, gas lines, electric power transmission lines, water lines, telephone lines, telegraph lines, levees, or other utilities shall be secured and paid for by the Owner, excepting any bonds or insurance required by the affected agency or utility.

ARTICLE 4.9 - ASSIGNMENT OF CONTRACT

Neither the Contractor nor the Owner shall sublet, sell, transfer, assign, or otherwise dispose of the Contract or any portion thereof, or of his right, title or interest therein, or his obligations thereunder, without written consent of the other party.

ARTICLE 4.10 - WARNING SIGNS AND BARRICADES

The Contractor shall provide adequate signs, barricades, warning lights and watchmen and take all necessary precautions for the protection of the work and safety of the public. All barricades and obstructions shall be protected at night by suitable signal lights which shall be kept operative from sunset to sunrise. Barricades shall be of substantial construction and shall be painted such as to increase their visibility at night. Suitable warning signs shall be so placed and illuminated at night as to show in advance where construction, barricades or detours exist.

ARTICLE 4.11 - PUBLIC CONVENIENCE

The Contractor shall at all times conduct his work so as to insure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the work, and to insure the protection of persons and property. No road or street shall be closed to the public except with the permission of the proper authorities. Fire hydrants on or adjacent to the work shall be kept accessible to fire-fighting equipment at all times. Temporary provisions shall be made by the Contractor to insure the use of sidewalks and the proper functioning of all gutters, sewer inlets, drainage ditches, and irrigation ditches, which shall not be obstructed.

ARTICLE 4.12 - SAFETY

In accordance with generally accepted construction practices, the Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons and property affected directly or indirectly by his operations during the performance of the work. This requirement will apply continuously 24 hours per day until acceptance of the work by the Owner and shall not be limited to normal working hours.

ARTICLE 4.13 - SANITARY PROVISIONS

The Contractor shall provide and maintain such sanitary accommodations for the use of his employees and those of his subcontractors as may be necessary to comply with the requirements and regulations of the local and state departments of health.

ARTICLE 4.14 - WAGE RATES AND LABOR REQUIREMENTS (If required by Federal law)

General: If required by Federal law, Contractors performing work on this project must fulfill requirements of the Davis-Bacon Act, the Copeland Anti-Kickback Act, the Contract Work Hours Standards Act, and Executive Order No. 11246. Section 601 of the Civil Rights Act also applies to this project.

Each laborer or mechanic of the Contractor or Subcontractor engaged in work on the project, under this Contract in the trade or occupation listed, shall be paid not less than this hourly wage rate set forth, regardless of any contractual relationship which may be alleged to exist between the Contractor of any Subcontractors and such laborers and mechanics.

Note: The Engineer will endeavor to see that wage rates are established at the earliest possible date and subsequently issued in the form of an addendum at least ten (10) days prior to the date of receiving bids.

A. Any laborer or mechanic employed to perform work on the project under this Contract, which work is not covered by any of the foregoing classifications, shall be paid not less than the minimum rate of wages specified herein for the classification which most nearly corresponds to the work to be performed by him. In the event any dispute on that question cannot be adjusted by the Engineer, the question and the information together with the recommendations of the Engineer, shall be referred for determination to the Owner's governing body or other duly designated official whose decision on the question shall be conclusive on the parties to the Contract with the same effect as if the work performed by such laborer or mechanic had been classified and the minimum rate specified herein.

B. The foregoing specified wage rates are minimum rates only, and the Owner will not consider any claims for additional compensation made by the Contractor because of payment by the Contractor of any wage rate in excess of the applicable rate contained in this Contract. All disputes in regard to the payment of wages in excess of those specified in this Contract shall be settled by the Contractor.

C. Employees must be paid for overtime at one and one-half (1 1/2) times regular rate for all time over forty (40) hours in any week.

D. Except as may be otherwise required by law, all claims and disputes pertaining to the classification of labor employed on the project under this Contract shall be decided by the Owner's governing body or other duly designated officials.

E. The minimum wage rates, if any, herein specified for apprentices shall apply only to persons working with the tools of the trade they are learning under the direct supervision of journeyman mechanics. Except as otherwise required by law, the number of apprentices, in each trade or occupation, employed by the Contractor or any Subcontractor, shall not exceed the number permitted by the applicable standards of the U.S. Department of Labor, or in the absence of such standards. the number permitted under the usual practice prevailing between the unions and the employer's associations of the respective trades or occupations.

F. The Contractor shall post at appropriate conspicuous points at the site of the project a schedule showing all determined minimum wage rates for the various classes of laborers and mechanics to be engaged in work on the project under this Contract and all deductions, if any, required by law to be made from unpaid wages actually earned by the laborers and mechanics so engaged.

G. As work progresses, the Contractor must submit to the Owner a copy of all weekly payrolls and required attachments stipulated therein.

H. All weekly payrolls shall be submitted on the HUD Form WH-347 or contain all of the information included on the HUD Form WH-347.

I. All Prime Contractors shall include the wage determination and all the labor standards provisions in all subcontracts as herein specified.

J. The Contractor shall make employment records available for inspection by applicable authorized representatives of local, state and federal government, and will permit employees to be interviewed during working hours by these representatives. Payroll records will be maintained during the course of the work by the General Contractor, including a copy of the payroll of each Subcontractor, and they shall be preserved for a period of five (5) years thereafter.

K. Each monthly engineering estimate must be accompanied by the following certificate executed by each Prime Contractor employing mechanics and laborers at the site:

Principal Contractor _____

Project Name _____

I, _____, as official representative of the above-named Principal Contractor, do hereby certify as follows:

All Labor Standards Requirements have been fulfilled by the Principal Contractor and all Subcontractors under this Contract; or

There is an honest dispute regarding the required provisions. Explanation:
_____
_____
_____
_____

_____ _____
(Signature) (Title)

1. In the event of a violation of the Labor Standards provisions of the Contract by the General Contractor or any Subcontractor, the Owner may, after notice to the Contractor, suspend further payments or proceed to terminate the Contract.

SECTION 5 - PROGRESS AND COMPLETION OF WORK

ARTICLE 5.1 - NOTICE TO PROCEED

The Notice to Proceed shall be given by the Owner to the Contractor no later than fifteen (15) days after the following items have been completed:

A. Execution of the Contract Documents by Owner and Contractor.

B. Approval of Contract Documents by applicable local, State or Federal agencies.

C. Availability of project funds.

D. Procurement of Easements or Rights of Entry and Permits.

However, Notice to Proceed may be accepted by the Contractor, at his option, prior to finalization of all easement acquisition, rights of entry, and permitting. In such case, no commitment for additional project time or monies has been extended by the Owner.

Upon receipt of the Notice to Proceed, the Contractor may begin the work immediately, but in no case later than fifteen (15) days thereafter, and shall prosecute the work regularly and uninterruptedly thereafter with such force as to secure the completion of the work within the Contract time.

ARTICLE 5.2 - SCHEDULE OF COMPLETION

Within fifteen (15) days of issuance of the Notice to Proceed, the Contractor shall submit for the review and approval of the Engineer, schedules showing the order in which the Contractor proposes to carry on the work, with dates at which the Contractor will start the various parts of the work, and estimated time to complete each part of the work. No request for payment will be accepted by the Engineer until such schedule has been reviewed and approved by the Engineer. The purpose of this schedule is to assist the Engineer in monitoring the organization and rate of progress of the work.

ARTICLE 5.3 - CHANGES IN THE WORK (CHANGE ORDER)

The Owner may, as the need arises, order changes in the work through additions, deletions, or modifications in the appropriate proportion of the Contract Amount, without invalidating the Contract. Compensation and time of completion affected by the change shall be adjusted at the time of ordering such change.

ARTICLE 5.4 - EXTRA WORK (CHANGE ORDER)

New and/or unforeseen items of work found to be necessary by the Engineer or Owner and which cannot be covered by any item or combination of items for which there is an established Contract price, shall be classed as Extra Work. The Contractor shall do such Extra Work and furnish such materials as may be required for the proper completion or construction of the work contemplated, upon written order of the Owner as approved by the Engineer. In the absence of such written order, no claim for Extra Work shall be considered. Extra Work shall be performed in accordance with these Contract Documents where applicable and work not covered by such shall be done in accordance with the best construction practice and in a workmanlike manner. Extra Work required in an emergency to protect life and property shall be performed by the Contractor as required (see Section 2, Article 2G.).

ARTICLE 5.5 - EXTENSION OF CONTRACT TIME (CHANGE ORDER)

A delay beyond the Contractor's control occasioned by an Act of God, by act or omission on the part of the Owner or by strikes, lockouts, fire, etc. may entitle the Contractor to an extension of time in which to complete the work, provided, however, that the Contractor shall immediately give written notice to the Owner of the cause of such delay.

A. Act of God shall mean an earthquake, flood, cyclone, or other cataclysmic phenomenon of nature. Rain, wind, flood, or other natural phenomenon of normal intensity for the locality shall not be construed as an Act of God and no reparation shall be made to the Contractor resulting there from.

ARTICLE 5.6 - USE OF COMPLETED PORTIONS

The Owner shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding that the time for completing the entire work or such portions may not have expired. Such possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract Documents. If such prior use increases the cost of or delays the completion of uncompleted work or causes refinishing of completed work, the Contractor shall be entitled to such extra compensation or extension of time or both, as agreed by the Owner.

ARTICLE 5.7 - REMOVAL OF CONSTRUCTION EQUIPMENT, TOOLS AND SUPPLIES

At the termination of this Contract, before acceptance of the work by the Owner, the Contractor shall remove all of his equipment, tools and supplies from the property of the Owner. Should the Contractor fail to remove such equipment, tools and supplies, the Owner shall have the right to remove them at the expense of the Contractor.

ARTICLE 5.8 - CLEANING UP

The Contractor shall remove from the Owner's property, and from all public and private property, all temporary structures, rubbish, and waste materials resulting from his operation or caused by his employees, and shall remove all surplus materials leaving the site smooth, clean and true to line and grade.

ARTICLE 5.9 - ENGINEER'S CERTIFICATE OF SUBSTANTIAL COMPLETION

When the work to be performed under this Contract is substantially completed in accordance with the Contract Documents, the Engineer may prepare an Engineer's Certificate of Substantial Completion to be acknowledged and accepted by the Owner and the Contractor. The Certificate may list items to be completed or corrected; and such Certificate shall not relieve the Contractor of his obligation to complete all work, whether listed or not, in accordance with the Contract Documents nor will it preclude any right the Owner may have for recourse in accordance with the Contract Documents.

ARTICLE 5.10 - TERMINATION OF CONTRACTOR'S RESPONSIBILITY

The Contract will be considered complete when all work has been finished, the final review made up by the Engineer, and the project accepted in writing by the Owner. The Contractor's responsibility shall then cease, except as set forth in his Performance and Payment Bonds, and as provided for in Section 5, Article 11, Correction of Faulty Work After Final Payment.

ARTICLE 5.11 - CORRECTION OF FAULTY WORK AFTER FINAL PAYMENT

The making of the final payment by the Owner to the Contractor shall not relieve the Contractor of responsibility for faulty materials or workmanship. The Contractor shall promptly replace any such defects discovered within one year from the date of written acceptance of the work.

ARTICLE 5.12 - LIQUIDATED DAMAGES

In the event the Contractor fails to complete satisfactorily the entire work contemplated and provided for under this Contract on or before the date of completion determined as described elsewhere herein, the Owner shall deduct from the monies due the Contractor the sum of Five Hundred Dollars ($500.00) for each calendar day (Sundays and legal holidays excluded) of delay, which sum is agreed upon not as a penalty but as a fixed and liquidated damage for each day of such delay, to be paid in full and subject to no deduction, it being understood and agreed that the time of completion is of the essence. If the monies due the Contractor are less than the amount of such liquidated damages, then the Contractor or his surety shall pay the balance to the Owner.

SECTION 6 - PAYMENTS TO THE CONTRACTOR

ARTICLE 6.1 - DETAILED BREAKDOWN OF CONTRACT AMOUNT

Except in cases where unit prices form the basis for payment under the Contract, the Contractor shall, within ten (10) days of receipt of Notice to Proceed, submit a complete breakdown of the Contract Amount showing the value assigned to each part of the work, including an allowance for profit and overhead. Upon approval of the breakdown of the Contract Amount by the Engineer, it shall be used as the basis for all Requests for Payment.

ARTICLE 6.2 - REQUESTS FOR PAYMENT

The Contractor may submit to the Owner periodically, but not more than once each month, a Request for Payment for work done and materials delivered to and stored on the site. The Contractor shall furnish the Owner all reasonable information required for obtaining the necessary data relative to the progress and execution of the work. Payment for materials stored on the site will be conditioned upon evidence submitted to establish the Owner's title to such materials. Each Request for Payment shall be computed on the basis of work completed on all items listed in the Detailed Breakdown of Contract (or on unit prices, as the case may be), less ten percent (10%) retainage (to be held per Indiana statute) and less previous payments.

ARTICLE 6.3 - ENGINEER'S ACTION ON A CONTRACTOR'S REQUEST FOR PAYMENT

All Contractor's Requests for Payment shall be referred to the Engineer for his review, and within a reasonable period the Engineer shall:

A. Recommend payment by the Owner of the Request for Payment as submitted.

B. Recommend payment by the Owner of such other amount as the Engineer shall consider is due the Contractor, informing the Owner and the Contractor in writing of his reasons for recommending the amended amount.

C. Recommend to the Owner that payment of the Request for Payment be withheld, informing the Contractor and the Owner in writing of his reasons for so recommending.

ARTICLE 6.4 - OWNER'S ACTION ON REQUEST FOR PAYMENT

Within thirty (30) days after receipt of a Request for Payment from the Contractor, the Owner shall:

A. Pay the Request for Payment as recommended by the Engineer.

B. Pay such other amount, in accordance with Section 6, Article 5, as he shall decide is due the Contractor, informing the Contractor and the Engineer in writing of his reasons for paying the amended amount.

C. Withhold payment in accordance with Section 6, Article 5, informing the Contractor and the Engineer of his reasons for withholding payment.

ARTICLE 6.5 - OWNER'S RIGHT TO WITHHOLD PAYMENT OF A REQUEST FOR PAYMENT

The Owner may withhold payment, in whole or in part, of a Request for Payment to the extent necessary to protect himself from loss on account of any of the following:

A. Defective work.

B. Evidence indicating the probable filing of claims by other parties against the Contractor which may adversely affect the Owner.

C. Failure of the Contractor to make payments due to Subcontractors, material suppliers or employees.

D. Damage to another contractor.

E. Failure of the Contractor to submit payroll records and other reports required by the Owner.

ARTICLE 6.6 - PAYMENT FOR UNCORRECTED WORK

Should the Owner direct the Contractor not to correct work that has been damaged or that was not performed in accordance with the Contract Documents, an equitable deduction from the Contract Amount shall be made to compensate the Owner for the Uncorrected Work.

ARTICLE 6.7 - PAYMENT FOR REMOVAL OF REJECTED WORK AND MATERIALS

The removal of work and materials rejected in accordance with Section 3, Article 5, and the execution of acceptable work by the Contractor shall be at the expense of the Contractor, and he shall be further obligated to pay the cost of replacing the work of other contractors destroyed or damaged by the removal of the rejected work or materials.

A. Removal by Owner: Removal of rejected work or materials and storage of materials by the Owner, in accordance with Section 3, Article 5, shall be paid by the Contractor within thirty (30) days after written notice to pay is given by the Owner. If the Contractor does not pay the expenses of such removal and after ten (10) days' written notice, the Owner may sell the materials at auction or at private sale and pay the Contractor the net proceeds therefrom after deducting applicable costs and expenses.

ARTICLE 6.8 - PAYMENT FOR EXTRA WORK

No payment for Extra Work performed will be made by the Owner without specific prior written authorization (Change Order), except as necessitated in an emergency condition endangering life or property.

The Owner's order for Extra Work shall specify any extension of the Contract Time and one of the following methods of payment:

A. Unit prices or combinations of unit prices which formed the basis of the original Contract.

B. A lump sum based on the Contractor's estimate and accepted by the Owner.

C. Actual cost plus an amount not to exceed 15 percent for overhead and profit. Actual costs are defined as follows:

    1. Labor costs, including all allowances for holidays, vacation, sick leave, apprentice programs, hospitalization, or other "fringe benefits".

2. Labor insurance and taxes.

3. Materials and supplies actually used on the work.

4. Associated General Contractors of America standard rental rates on each piece of equipment having a value in excess of one hundred dollars ($100.00). Equipment and tools of lesser value are considered "small tools" and as such are considered to be part of overhead.

ARTICLE 6.9 - PAYMENT FOR WORK SUSPENDED BY THE OWNER

If the work or any part thereof shall be suspended by the Owner and abandoned as provided in Section 2, Article 1D, Suspension of Work by Owner, the Contractor shall be entitled to payment for all work done on the portions so abandoned.

ARTICLE 6.10 - PAYMENT FOR WORK BY THE OWNER

The cost of the work performed by the Owner, in removing construction equipment, tools, supplies or clean-up in accordance with Section 5, Articles 7 and 8, Removal of Construction Equipment, Tools and Supplies; and Clean-Up shall be paid by the Contractor directly to the Owner or may be deducted from monies due the Contractor by the Owner at the time of Acceptance and Final Payment.

ARTICLE 6.11 - PAYMENT FOR WORK BY THE OWNER FOLLOWING TERMINATION OF THE CONTRACT

Upon termination of the Contract by the Owner in accordance with Section 2, Article 1E, Owner's Right to Terminate Agreement and Complete the Work, no further payments shall be due the Contractor until the work is completed. If the unpaid balance of the Contract Amount shall exceed the cost of completing the work, including all overhead costs and damages incurred, the excess shall be paid to the Contractor. If the cost of completing the work, including damages, shall exceed the unpaid balance, the Contractor shall pay the difference to the Owner.

ARTICLE 6.12 - PAYMENT FOR WORK TERMINATED BY THE CONTRACTOR

Upon suspension of the work or termination of the Contract by the Contractor in accordance with Section 2, Article 2F, the Contractor's Right to Suspend Work or Terminate Agreement, the Contractor shall recover payment from the Owner for the work performed.

ARTICLE 6.13 - ACCEPTANCE AND FINAL PAYMENT

When the Contractor has completed the work in accordance with the terms of the Contract Documents, he shall certify completion of the work to the Owner and submit a final Request for Payment, which shall be the Contract Amount plus all approved additions, less all approved deductions and less previous payments made. The Contractor shall furnish evidence that he has fully paid all debts for labor, materials, and equipment incurred in connection with the work, and upon acceptance by the Owner, the Owner will release the Contractor except as to the conditions of the Performance Bond and Labor and Material Payment Bond, any legal rights of the Owner, required guaranties, and Correction of Faulty Work after Final Payment, and will pay the Contractor's final Request for Payment. The Contractor shall allow sufficient time between the time of completion of the work and approval of the final Request for Payment for the Engineer to assemble and check the necessary data.

END OF SECTION

SECTION 00800

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions are to become a part of this Contract. In the event of conflict between the requirements of the various components of this Bid Package, the requirements of the Supplementary Conditions will prevail over those of the General Conditions**.**

Project Scope

Federal wage requirements DO NOT apply to this project.

Installation of storm inlet and pipe on the south side of Brady Lane – including coring of existing manhole at the Brady Lane directional centerline, just west of Concord Drive; installation of new combined curb and gutter and residential driveway approaches; milling and resurfacing of the project area; and any other miscellaneous work pertaining to the project work area, as included in the Construction Documents.

Erosion Control

The contractor shall install erosion control measures in accordance with the Construction Documents, to ensure that sediment does not leave the site by runoff or vehicle tracking. Erosion Control shall remain in place until final vegetation is established on site. If sediment is tracked on the street, the contractor shall be responsible for any and all clean up.

Traffic Control and Construction Site

1. The Contractor shall provide adequate traffic control for the duration of the project from sunrise to sunset and as well as through the night to protect the work area and the safety of the public. This should include: flaggers, cones, barricades, and any other traffic control devices necessary in accordance with the Section “VI” of the Indiana Manual of Uniform Traffic Control Devices.

2. All workers within the right-of-way who are exposed either to traffic or construction equipment within the work area shall wear high visibility safety apparel in accordance with 23 CFR 634. If a trench, 5 ft or more in depth, is constructed on a project, the requirements for trench safety systems as specified in OSHA regulations 29 CFR 1926, Subpart P, shall be performed. Unless otherwise specified, trench safety systems work will not be paid for separately, but the cost thereof shall be included in the cost of the pay item covering the trench excavation work.

3. Construction vehicles shall have suitable warning devices or cones when in the work area, sidewalk or shoulder for extended periods of time.

4. Contractor shall protect the work area and the safety of the public by securing the site with construction fencing when not working on-site.

5. Contractor is required to follow the City of Lafayette's Tobacco Free Work Place Policy herein.

Materials

- **Topsoil:** Shall consist of loose, friable soil, free of refuse, stumps, large roots, rocks over two inches in diameter, brush, weeds, or other material which would be detrimental to the development of vegetative growth. It shall not be taken from a source known to contain noxious weeds. Topsoil shall have a PH value of 6.2 to 7.4. **12 inches** of topsoil shall be placed to allow for settling and positive drainage.
- **Grass Seed:** #18 Mix, 58% Rye, 25% Bluegrass, 9.6% Fescue.
- **Fertilizer:** Starter fertilizer 12-12-12
- **Straw:** Shall be free of weed seeds.

Municipal and Private Utilities

1. It shall be the duty of the Contractor to make final and exact determination of the location and extent of all utilities and will be liable for any expense resulting from damage to them.

Restoration and Cleanup

1. All excavated areas to be backfilled and compacted. All disturbed areas to be seeded shall be properly prepared to receive seed. Topsoil shall be raked free of stones and debris and fine graded. Seeded areas shall be covered with straw. Contractor shall be responsible for watering the site until vegetation has been established.

2. The Contractor shall remove from the city parkway, and from all public and private property, all temporary structures, rubbish and waste materials resulting from his operation or caused by his employees, and shall remove all surplus materials leaving the site smooth, clean and to grade.

3. Bid Proposal should include site restoration costs, additional backfill, seeding, and placement of straw, and compacting necessary to complete the project.

4. Additional care will need to be taken because of existing embankments. The Contractor will be responsible for establishing a hillside grade suitable for the property owner to be able to mow. The Contractor will also be responsible for establishing vegetation on these hillsides.

5. Saw-cut existing sidewalk where necessary to avoid damage to public sidewalks, curbs or streets.

6. The Contractor shall provide removal and disposal of all materials.

Inspection Requirements

Owner will observe the site regularly to ensure compliance with the contract documents.

Project Completion

At the termination of this work, and before acceptance of the work by the City of Lafayette Engineering Department Inspector, the Contractor shall remove all of his equipment, tools, signage, and supplies from the property of the owner. Should the Contractor fail to remove such equipment, tools, and supplies, the City of Lafayette shall have the right to remove them at the expense of the Contractor.

The Contractor is responsible for scheduling a final inspection for the entire project. The Inspector will prepare a punch list of items, if any, and submit to the Contractor for completion. A re-inspection will be conducted once the entire punch list has been completed. The Contractor's final payment will be with held until the punch list is complete and all required documents have been submitted.

City of Lafayette Phone Numbers to call for the Organization of the Above Procedures:

Parks & Recreation Department –	**765-807-1384**	**Mike Perry**
Sewer Department –	**765-807-1800**	**Pete Corbin**
Street Department –	**765-807-1410**	**Darrin Woods**
Traffic Department –	**765-807-1401**	**Fred Koning**
Water Department –	**765-807-1700**	**Steve Moore**

Engineering Department –	**765-807-1055**	**Courtney Cobb**
Urban Forestry (Engineering Dept.)	**765-807-1041**	**Tim Detzner**

Chapter 9.04 - SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

Sections:

9.04.010 - Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

"Bar" means any building, room or area used primarily for the sale of alcoholic beverages for consumption by guests on the premises and in which the sale of food and the provision of entertainment is merely incidental to the sale of alcoholic beverages.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"Electronic smoking device" means any electronic product that can be used to aerosolize or vaporize and deliver nicotine or other substances to the person inhaling from the device. The term includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or under any other product name or descriptor and any cartridge or other component of the device or related product.

"Employee" means any person who is employed by any employer for direct or indirect monetary wages or profit, including those employed full-time, part-time, on a temporary basis, or by contract through a third party.

"Employer" means any person, partnership, corporation, including a municipal corporation, or non profit entity, which employs the services of one or more individual persons.

"Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of doors or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping," or similar structures.

"Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, private offices, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a licensed child care, adult day care or health care facility.

"Private club" means a facility:

1. Owned or operated by an association or corporation, which shall:
    a. Not be operated for pecuniary gain; and
    b. Consist of a membership:
        i. Formed as a lodge, local chapter, or corresponding unit of a fraternal order whether or not recognized on a national basis, or
        ii. Comprised of persons who have served in the armed forces of the United States, or
        iii. Formed as a recognized, exclusive association of persons organized for a joint or common purpose for which application for membership, the payment of dues, and self governance by the membership are distinguishing characteristics; and
2. Where entry into, and use of the facility, is restricted to members and guests of members.

"Public place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to banks, bars, educational facilities, health facilities, laundromats,

public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a "public place."

"Restaurant" means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers for sale food to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

"Retail store" means a mercantile establishment, a place of business for selling goods.

"Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental. The term does not include retail stores where food or beverages are sold for consumption on the premises or where an area has been set aside on the premises for customers to consume food or beverages.

"Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoking" means the act of puffing, having in one's possession, holding or carrying a lighted or smoldering cigar, cigarette, pipe or smoking equipment of any kind, or lighting a cigar, cigarette, pipe or smoking equipment of any kind, "smoking" also includes the use of an electronic smoking device in any manner or in any form.

"Sports arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

"Tobacco bars" are establishments that sell or rent tobacco products and devices and derive more than twenty-five (25) percent of their income from these sales or rentals.

(Ord. 2008-04 § 2 (part), 5-5-08)

(Ord. No. 2018-05, §§ 1, 2, 3-5-18)

9.04.020 - Application to city-owned facilities.

All enclosed facilities owned by the city of Lafayette shall be subject to the provisions of this chapter, including city vehicles, whether or not they are occupied by more than one person.

(Ord. 2008-04 § 2 (part), 5-5-08)

9.04.030 - Prohibition of smoking in public places.

A. Smoking shall be prohibited in the following public places and other public places similarly situated, including, but not limited to, the following areas:

1. Elevators;
2. Restrooms, lobbies, reception areas, hallways and any other common-use areas;
3. Buses, taxicabs, and other means of public transit under the authority of the city of Lafayette, and ticket, boarding, and indoor waiting areas of public transit depots;
4. Service lines;
5. Retail stores;

6. All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public;

7. Restaurants and bars;

8. Public areas of galleries, libraries, and indoor areas of museums;

9. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance;

10. Sports arenas and convention halls, including bowling facilities;

11. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;

12. Hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices;

13. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;

14. Polling places;

15. Places of employment.

B. Smoking shall be allowed outdoors, except where prohibited by other applicable laws, provided that, however, smoking shall be prohibited within ten (10) feet of any entrance to a non-exempt public place so as to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or any other means.

C. Notwithstanding any other provisions of this section, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment.

(Ord. 2008-04 § 2 (part), 5-5-08)

9.04.040 - Policies regarding smoking in places of employment.

A. It shall be the responsibility of employers to provide a smoke-free workplace for all employees.

B. The smoking policy shall be communicated to all employees.

C. Each employer having an enclosed place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy, which shall contain the following requirements: Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles with more than one occupant, and all other enclosed facilities.

All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

(Ord. 2008-04 § 2 (part), 5-5-08)

9.04.050 - Where smoking not regulated.

A. Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:

1. Private residences, except when used as a licensed child care, adult day care or health care facility;
2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided however, that not more than twenty-five (25) percent of rooms rented to guests in a hotel or motel may be so designated and so long as the smoking does not directly affect any non smoking rooms and areas of the building. Once designated, the status of rooms as smoking or non-smoking may not be changed, except to add additional non-smoking rooms;
3. Retail tobacco stores as defined in Section 9.04.010, so long as the smoking does not directly affect smoking prohibited areas;
4. Private clubs as defined in Section 9.04.010. However, smoking shall be prohibited when the premises is temporarily used by the general public for a particular function;
5. Tobacco bars as defined in Section 9.04.010, so long as the smoking does not directly affect smoking prohibited areas;
6. Outdoor areas of places of employment;
7. Outdoors, except where prohibited by other applicable laws;
8. Any business that, during all hours of operation:
    a. Allows no customer to enter any area of the business therein who is under the age of twenty-one (21), and
    b. Employs no person in any area of the business therein who is under the age of twenty-one (21), and
    c. Is not physically located within a business otherwise required to be smoke free by this chapter.

B. Notwithstanding any other provisions of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment.

(Ord. 2008-04 § 2 (part), 5-5-08)

9.04.060 - Posting of signs—Removing of paraphernalia.

A. "No Smoking" signs or the international No Smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other area where smoking is prohibited by this chapter by the owner, operator, manager or other person having control of such building or other area.

B. Every public place where smoking is prohibited by this chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

C. Any public place or place of employment exempted from this chapter shall clearly and conspicuously post the following sign at every entrance: "Warning. Tobacco smoke may be present." In addition, any exempt business under Section 9.04.050(A)(3), (5), and (8) shall be required to post clearly and conspicuously at every entrance the following sign: "Warning: This is a Smoking Establishment."

D. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this chapter by the owner, operator, manager or other person having control of such area.

(Ord. 2008-04 § 2 (part), 5-5-08)

9.04.070 - Enforcement.

A. The city shall seek to obtain voluntary compliance with this chapter by means of publicity and education programs, and the issuance of warnings, where appropriate.

B. Enforcement of this chapter shall be implemented by the Mayor's office, or designee(s).

C. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the department or positions designated by the Mayor's office.

D. Upon finding that any provision of this chapter has been violated, the enforcement designee(s) shall issue a Notice of Violation (NOV) to the person(s) responsible for the violation. The NOV shall be in writing and shall be served upon the person(s) responsible for the violation by one or more of the following methods: delivery in person, certified or first class mail. The NOV shall state:

1. The location of the violation;
2. The nature of the violation;
3. The fine assessed for the violation; and
4. That the fine is paid at the City Clerk's office.

(Ord. 2008-04 § 2 (part), 5-5-08)

9.04.080 - Violations and penalties.

A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.

B. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to knowingly or willfully allow smoking to occur where prohibited by this chapter. It is a defense to this section if the foregoing persons or their employees act in a reasonable and timely manner to personally inform the violator of the prohibition and request that he or she refrain from smoking.

C. It is unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

D. 1. A person who smokes in an area where smoking is prohibited by the provisions of this chapter shall be guilty of an infraction, punishable by a fine of fifty dollars ($50.00).

2. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this chapter shall be guilty of an infraction, punishable by:

a. A fine of fifty dollars ($50.00) for the first violation;

b. A fine of one hundred dollars ($100.00) for the second violation at the same place;

c. A fine of two hundred fifty dollars ($250.00) for each additional violation at the same place.

3. Each day on which a violation of this chapter occurs shall be considered a separate and distinct violation.

E. All penalties shall be processed through the ordinance violations bureau established by Chapter 1.02 of the Lafayette City Code. If, after multiple violations by the same person or at the same business, the city legal and law enforcement departments have reason to believe that the fines will not be effective in enforcing this chapter, then the city legal department shall be empowered to seek any other remedies provided by law.

(Ord. 2008-04 § 2 (part), 5-5-08)

9.04.090 - Public education.

The city may engage in programs to explain and clarify the purposes and requirements of this chapter to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such programs may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter.

(Ord. 2008-04 § 2 (part), 5-5-08)

9.04.100 - Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. 2008-04 § 2 (part), 5-5-08)

9.04.110 - Severability.

If any section, sentence or provision of this chapter, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter we declare to be severable.

(Ord. 2008-04 § 2 (part), 5-5-08)

EXHIBIT B

SPECIAL PROVISIONS

In addition to the City of Lafayette standard drawings and specifications as well as the 2020 INDOT Standard Specifications and standard drawings, the following pay item special provisions shall apply.

PAY ITEMS

1 – CONSTRUCTION ENGINEERING
This item shall conform to INDOT Standard Specifications Section 105.

2 – MOBILIZATION AND DEMOBILIZATION
This item shall conform to INDOT Standard Specifications Section 110.

3 – PAVEMENT REMOVAL
This item shall conform to INDOT Standard Specifications Section 202.

4 – CURB AND GUTTER, REMOVE
This item shall conform to INDOT Standard Specifications Section 202 and 605.

5 – SIDEWALK CONCRETE, REMOVE
This item shall conform to INDOT Standard Specifications Section 202 and 604.

6 – STRUCTURE BACKFILL, TYPE 2
This item shall conform to INDOT Standard Specifications Section 211 except that it shall specifically be #8 Gravel Aggregate. The #8 aggregate shall extend from 4 inches below proposed pipe to 6 inches below bottom of HMA FOR STRUCTURE INSTALLATION, TYPE C.

7 – COMPACTED AGGREGATE NO. 53
This item shall conform to INDOT Standard Specifications Section 301 and shall be 6 inches in depth. The aggregate is to be installed directly below HMA FOR STRUCTURE INSTALLATION, TYPE C and directly above STRUCTURE BACKFILL, TYPE 2.

8 – MILLING, ASPHALT, 2 IN.
This item shall conform to INDOT Standard Specifications Section 306. Work for this item shall be performed when HMA plants are operational and temperature requirements will be met for placement of HMA surface. Area of milling to include installed patches.

9 – QC/QA-HMA, 3, 70, SURFACE, 9.5 mm
This item shall conform to INDOT Standard Specifications Section 401. Placement of HMA shall adhere to temperature requirements.

10 – ASPHALT FOR TACK COAT
This item shall conform to INDOT Standard Specifications Section 406.

11 – SIDEWALK, CONCRETE
This item shall conform to INDOT Standard Specifications Section 604.

12 – CURB AND GUTTER, COMBINED B, MODIFIED
This item shall conform to INDOT Standard Specifications Section 604.

13 – PCCP FOR APPROACHES, 6 IN.
This item shall conform to INDOT Standard Specifications Section 610. Wire or fiber mesh – approved by the City of Lafayette – shall be installed as shown in the construction details.

14 – TOPSOIL
This item shall consist of 4” of properly compacted topsoil installed in areas of restoration and shall conform to INDOT Standard Specifications Section 621.

15 – SODDING
This item shall conform to INDOT Standard Specifications Section 621.

16 – PIPE, TYPE 1, CIRCULAR, 12 IN.
This item shall conform to INDOT Standard Specifications Section 715.

17 – INLET, A8
This item shall conform to INDOT Standard Specifications Section 720. Casting shall be Neenah R-3501-TL or approved equal.

18 – MAINTAINING TRAFFIC
This item shall include all necessary labor and materials necessary to properly maintain traffic in accordance with INDOT Standard Specifications Section 801. Lane closures shall be limited to one (1) lane at a time and shall conform to standard INDOT details.

19 – LINE, THERMOPLASTIC, SOLID, WHITE, 4 IN.
This item shall conform to INDOT Standard Specifications Section 808 and shall be installed to cleanly blend with existing striping.

20 – 24” CORE DRILL IN EXISTING MANHOLE
This item shall include all labor, materials, and equipment necessary to core drill a 24” diameter hole in an existing storm manhole and remove debris from existing structure and pipes as necessary.

21 – PAVEMENT PATCHING
This item shall be either 8” of concrete patching, consisting of high early mix concrete – to facilitate expedited lane reopening OR 7” HMA patching with the surface coat being installed after milling. Depth measurements are from bottom of patch to finish grade, HMA can be installed 5” depth if surface coat will be installed before a winter shutdown.

Prior to removing the existing pavement, full depth sawcutting shall be performed to ensure a clean edge at patching limits. Sawcut shall be 2’ off the proposed edge of pavement, at trench limits, and around existing drainage structure to allow for core drilling.

Patch material chosen shall be based on temperature restrictions. In no case shall the patch be left below existing grade through the winter or require the closure of more than one (1) lane of traffic for installation. HMA patching shall conform to INDOT Standard Specifications Section 304 and PCC patching shall conform to INDOT Standard Specifications Section 305.

EXHIBIT C

ADDENDUM #1

The following addendum constitutes an update to the 21 – PAVEMENT PATCHING line item.

Additionally, the 19 - LINE, THERMOPLASTIC, SOLID, WHITE, 4 IN. line item was incorrectly called LINE, THERMOPLASTIC, SOLID, YELLOW, 4 IN. in the original bid proposal form. This has been corrected to white to match the special provisions and plan intention.

The following bid proposal form shall supersede that originally provided with contract documents, changing the 21 – PAVEMENT PATCHING quantity from 14 SYS to 46 SYS and changing the 19 – LINE, THERMOPLASTIC, SOLID, YELLOW, 4 IN. to 19 – LINE, THERMOPLASTIC, SOLID, WHITE, 4 IN.

SECTION 00300

BID PROPOSAL FORM

To: Board of Public Works and Safety
City of Lafayette, City Hall
20 North Sixth Street
Lafayette, Indiana 47901

Pursuant to the published "Notice to Bidders", the undersigned has investigated the costs and conditions affecting the construction contained in this project for the City of Lafayette, Indiana, and having examined the site(s) and under full knowledge of the requirements set forth in the Contract Documents prepared by the City of Lafayette, Indiana does hereby propose to provide and furnish all labor, material, tools, equipment, etc., and obtain all service necessary to perform and complete the work as required by the Bid Documents, including any and all Alternates, and Addenda now on file in the City Clerk's Office, City of Lafayette, Indiana.

ITEM NO.	DESCRIPTION	QUANTITY	UOM	Unit Price	TOTAL PRICE
1	CONSTRUCTION ENGINEERING	1	LS	500-	500-
2	MOBILIZATION AND DEMOBILIZATION	1	LS	21,711-	21,711-
3	PAVEMENT REMOVAL	95	SYS	35-	3,325-
4	CURB AND GUTTER, REMOVE	130	LFT	10-	1,300-
5	SIDEWALK CONCRETE, REMOVE	45	SYS	35-	1,575-
6	STRUCTURE BACKFILL, TYPE 2	4	CYS	50-	200-
7	COMPACTED AGGREGATE NO. 53	30	CYS	40-	1,200-
8	MILLING, ASPHALT, 2 IN.	320	SYS	10-	3,200-
9	QC/QA-HMA, 3, 70, SURFACE, 9.5 mm	35	TON	100-	3,500-
10	ASPHALT FOR TACK COAT	320	SYS	0.01	3.20
11	SIDEWALK, CONCRETE	45	SYS	90-	4,050-
12	CURB AND GUTTER, COMBINED B, MODIFIED	130	LFT	60-	7,800-
13	PCCP FOR APPROACHES, 6 IN.	95	SYS	100-	9,500-
14	TOPSOIL	4	CYS	100-	400-
15	SODDING	50	SYS	20-	1,000-

16	PIPE, TYPE 1, CIRCULAR, 12 IN.	16	LFT	200-	3,200-
17	INLET, A8	1	EACH	4,000-	4,000-
18	MAINTAINING TRAFFIC	1	LS	8,000-	8,000-
19	LINE, THERMOPLASTIC, SOLID, WHITE, 4 IN.	25	LFT	20-	500-
20	24" CORE DRILL IN EXISTING MANHOLE	1	EACH	4,000-	4,000-
21	PAVEMENT PATCHING	46	SYS	45-	2,070-

TOTAL BASE BID = 81,034.20

TOTAL BASE BID (in words and figures): Eighty-One Thousand Thirty-Four dollars & Twenty Cents

$ 81,034.20

Contractor's Schedule: Project start date is on or after **receipt of NTP**. The date for substantial completion is **February 26,** 20201. The date for final completion is **April 30, 2021.**

Bidder has examined copies of all the Bid Documents and of the following Addenda (receipt of which is hereby acknowledged):

DATE NUMBER

1

SUBMITTED on September 22, 2020

An individual

By _____ (SEAL)

(Individual's Name)

Doing business as: _____

Business Address: _____

Telephone Number: _____

A Partnership

By _____

Midwest Paving, LLC

(Firm Name)

Matt Kelley

(General Partner)

Business Address: 16105 River Road, Noblesville, IN 46062

Telephone Number: (317) 776-8925

A Corporation

By_____ (SEAL)

_____
(Corporation Name)

_____
(State of Incorporation)

By_____
(Name and Title of person Authorized to Sign)

Attest_____

Business Address:_____

Telephone Number:_____

END OF SECTION

CONTRACTING WITH IRAN CERTIFICATION FORM
ADDITIONAL CONTRACT CLAUSE ATTACHMENT

The following clause is added and incorporated as an additional contract term to:

Brady Lane Drainage Improvements

No Investment in Iran. As required by IC 5-22-16.5-13, the Contractor hereby certifies that the Contractor is not engaged in investment activities in Iran.

Midwest Paving
Contractor Name, Printed

Signed: _____

Printed Name: Matt Kelley

Title: Managing Member

Date: September 22, 2020

Part of State Form 52414 (R2 / 2-13) / Form 96 (Revised 2013)

BID OF

Midwest Paving LLC

(Contractor)

16105 River Road

(Address)

Noblesville, IN 46062

FOR

PUBLIC WORKS PROJECTS

OF

City of Lafayette, IN

Brady Lane Drainage Improvements

Filed September 22nd, 2020

Action taken

CONTRACTOR'S BID FOR PUBLIC WORK - FORM 96

State Form 52414 (R2 / 2-13) / Form 96 (Revised 2013)
Prescribed by State Board of Accounts

PART I
(To be completed for all bids. Please type or print)

Date *(month, day, year)*: September 22, 2020

1. Governmental Unit (Owner): City of Lafayette, IN
2. County : Tippecanoe
3. Bidder (Firm): Midwest Paving LLC 46-1269427

   Address: 16105 River Road

   City/State/ZIPcode: Noblesville, IN 46062
4. Telephone Number: 317-776-8925
5. Agent of Bidder *(if applicable)*:

Pursuant to notices given, the undersigned offers to furnish labor and/or material necessary to complete the public works project of Brady Lane Drainage Improvements (Governmental Unit) in accordance with plans and specifications prepared by Board of Public Works and Safety 20 North Sixth Street, Lafayette, IN 47901 and dated September 1, 2020 for the sum of Eighty-One Thousand Thirty-Four Dollars & Twenty Cents $ 81,034.20

The undersigned further agrees to furnish a bond or certified check with this bid for an amount specified in the notice of the letting. If alternative bids apply, the undersigned submits a proposal for each in accordance with the notice. Any addendums attached will be specifically referenced at the applicable page.

If additional units of material included in the contract are needed, the cost of units must be the same as that shown in the original contract if accepted by the governmental unit. If the bid is to be awarded on a unit basis, the itemization of the units shall be shown on a separate attachment.

The contractor and his subcontractors, if any, shall not discriminate against or intimidate any employee, or applicant for employment, to be employed in the performance of this contract, with respect to any matter directly or indirectly related to employment because of race, religion, color, sex, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

CERTIFICATION OF USE OF UNITED STATES STEEL PRODUCTS
(If applicable)

I, the undersigned bidder or agent as a contractor on a public works project, understand my statutory obligation to use steel products made in the United States (I.C. 5-16-8-2). I hereby certify that I and all subcontractors employed by me for this project will use U.S. steel products on this project if awarded. I understand that violations hereunder may result in forfeiture of contractual payments.

ACCEPTANCE

The above bid is accepted this _____ day of _____, _____, subject to the following conditions: _____

_____

Contracting Authority Members:

_____ _____

_____ _____

_____ _____

PART II

(For projects of $150,000 or more – IC 36-1-12-4)

Governmental Unit: City of Lafayette, IN

Bidder (Firm) Midwest Paving LLC 46-1269427

Date *(month, day, year):* September 22, 2020

These statements to be submitted under oath by each bidder with and as a part of his bid. Attach additional pages for each section as needed.

SECTION I EXPERIENCE QUESTIONNAIRE

1. What public works projects has your organization completed for the period of one (1) year prior to the date of the current bid?

Contract Amount	Class of Work	Completion Date	Name and Address of Owner
1,071,579.68	Road Rehabilitation	November, 2018	Zionsville 2018 CCMG
1,947,316.25	Resurfacing	November, 2018	Westfield 2018 Resurfacing
2,970,798.45	Resurfacing	November, 2019	Westfield 2019
609,629.24	Resurfacing	September 2019	Westfield Midland Trace Trail Ph 3

2. What public works projects are now in process of construction by your organization?

Contract Amount	Class of Work	Expected Completion Date	Name and Address of Owner
234,675.70	Road Construction	Spring 2020	Vandalia Overlook Sec 2
277,642.00	Road Construction	Spring 2020	876 Sanitary Sewer Town of Zionsville
2,803,905.00	Road Construction	Spring 2020	US 31 Watermain City of Carmel
213,765.40	HMA Overlay	6/30/2020	CR 400 Shelby Co

3. Have you ever failed to complete any work awarded to you? no If so, where and why?

4. List references from private firms for which you have performed work.

Valenti Held Developers Allan Valenti 317-769-6922

Detroit Salt Company John Shook 313-841-5144

Pulte Homes of Indiana Joe Marx 847-489-8816

SECTION II PLAN AND EQUIPMENT QUESTIONNAIRE

1. Explain your plan or layout for performing proposed work. *(Examples could include a narrative of when you could begin work, complete the project, number of workers, etc. and any other information which you believe would enable the governmental unit to consider your bid.)*

Per Plans and Specifications all equipment as needed to perform said work.

2. Please list the names and addresses of all subcontractors *(i.e. persons or firms outside your own firm who have performed part of the work)* that you have used on public works projects during the past five (5) years along with a brief description of the work done by each subcontractor.

Indiana Signs and Barricades, Gridlock, Highway Safety Services

Javelina Milling, Mamco, Specialties Milling, McCrite Milling,CE Hughes -Milling

Calumet Civil Contractors, OLCO -Concrete

Pendleton Trucking

Otto's Parking Marking, Indiana Traffic Systems - Pavement Markings

3. If you intend to sublet any portion of the work, state the name and address of each subcontractor, equipment to be used by the subcontractor, and whether you will require a bond. However, if you are unable to currently provide a listing, please understand a listing must be provided prior to contract approval. Until the completion of the proposed project, you are under a continuing obligation to immediately notify the governmental unit in the event that you subsequently determine that you will use a subcontractor on the proposed project.

A list will be provided upon request.

4. What equipment do you have available to use for the proposed project? Any equipment to be used by subcontractors may also be required to be listed by the governmental unit.

All as necessary to perform work.

5. Have you entered into contracts or received offers for all materials which substantiate the prices used in preparing your proposal? If not, please explain the rationale used which would corroborate the prices listed.

yes

SECTION III CONTRACTOR'S FINANCIAL STATEMENT

Attachment of bidder's financial statement is mandatory. Any bid submitted without said financial statement as required by statute shall thereby be rendered invalid. The financial statement provided hereunder to the governing body awarding the contract must be specific enough in detail so that said governing body can make a proper determination of the bidder's capability for completing the project if awarded.

SECTION IV CONTRACTOR'S NON – COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

SECTION V OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated at Noblesville this 22nd day of September, 2020

Midwest Paving LLC 46-1269427
(Name of Organization)

By

Matt Kelley President
(Title of Person Signing)

ACKNOWLEDGEMENT

STATE OF Indiana)
) ss
COUNTY OF Hamilton)

Before me, a Notary Public, personally appeared the above-named Matt Kelley and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to before me this 22nd day of September, 2020.

Notary Public

ALISON MARIE DENNEY
Seal
Notary Public – State of Indiana
Hamilton County
My Commission Expires Feb 27, 2025

My Commission Expires: 02/27/2025

County of Residence: Hamilton

EJCDC
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

PENAL SUM FORM

Bid Bond

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER *(Name and Address)*:

Midwest Paving, LLC
16105 River Road, Noblesville, IN 46062

SURETY *(Name, and Address of Principal Place of Business)*:

Fidelity and Deposit Company of Maryland
1299 Zurich Way, 5th Floor , Schaumburg, IL 60196-1056

OWNER *(Name and Address)*:

City of Lafayette, Indiana
20 N. 6th Street, Lafayette, IN 47901

BID

Bid Due Date: September 22, 2020
Description *(Project Name—Include Location)*: Brady Lane Drainage Improvements

BOND

Bond Number: Bid Bond
Date: September 22, 2020
Penal sum Five Thousand Dollars and 00/100 (Words) $ $5,000 (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER	**SURETY**
Midwest Paving, LLC (Seal)	Fidelity and Deposit Company of Maryland (Seal)
Bidder's Name and Corporate Seal	Surety's Name and Corporate Seal
By:	By:
Signature	Signature (Attach Power of Attorney)
Matt Kelley	Lisa M. Parsley
Print Name	Print Name
President	Attorney-in-Fact
Title	Title
Attest:	Attest:
Signature Alison Denney	Signature Janet R. Becker
Contract Administrator	Administrative Assistant
Title	Title

Note: Addresses are to be used for giving any required notice.
Provide execution by any additional parties, such as joint venturers, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.

2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.

3. This obligation shall be null and void if:

3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or

3.2 All Bids are rejected by Owner, or

3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.

6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.

7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

Bond Number Bid Bond

Obligee City of Lafayette, Indiana

ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by **Robert D. Murray, Vice President,** in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint Lisa M. Parsley, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings,** and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND,** this 19th day of June, A.D. 2019.

ATTEST:
ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: Robert D. Murray
Vice President

SEAL

By: Dawn E. Brown
Secretary

State of Maryland
County of Baltimore

On this 19th day of June, A.D. 2019, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposeth and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Constance A. Dunn, Notary Public
My Commission Expires: July 9, 2023

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify of revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 22nd day of September, 2020.

Brian M. Hodges, Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056
www.reportsfclaims@zurichna.com
800-626-4577

BUSINESS INFORMATION
CONNIE LAWSON
INDIANA SECRETARY OF STATE
10/08/2019 02:45 PM

Business Name:	**MIDWEST PAVING LLC**	Business ID:	**2012101700042**
Entity Type:	**Domestic Limited Liability Company**	Business Status:	**Active**
Creation Date:	**10/16/2012**	Inactive Date:	
Principal Office Address:	**16105 RIVER RD, NOBLESVILLE, IN, 46062, USA**	Expiration Date:	**Perpetual**
Jurisdiction of Formation:	**Indiana**	Business Entity Report Due Date:	**10/31/2020**
		Years Due:	

Title	Name	Address
President	Matt Kelley	1529 Bayswater Lane, Cicero, IN, 46034, USA
Vice President	Douglas Denney	1423 AR Les Drive, Noblesville, IN, 46060, USA

Type: **Individual**

Name: **MATTHEW KELLEY**

Address: **1529 BAYSWATER LANE, Cicero, IN, 46034, USA**

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Midwest Paving, LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☑ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ S

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
16105 River Road

Requester's name and address (optional)

6 City, state, and ZIP code
Noblesville, IN 46062

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
☐☐☐ - ☐☐ - ☐☐☐☐

or

Employer identification number
4 6 - 1 2 6 9 4 2 7

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here | **Signature of U.S. person ▶** Matt Kelley | **Date ▶** 1/1/2020

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

BRADY LANE
DRAINAGE IMPROVEMENTS
CITY OF LAFAYETTE, IN

LAT. 40° 25' 8.79" N
LONG. 86° 53' 5.67" W

LAFAYETTE RENEW
WATER · ENVIRONMENT · COMMUNITY

DRAWING INDEX

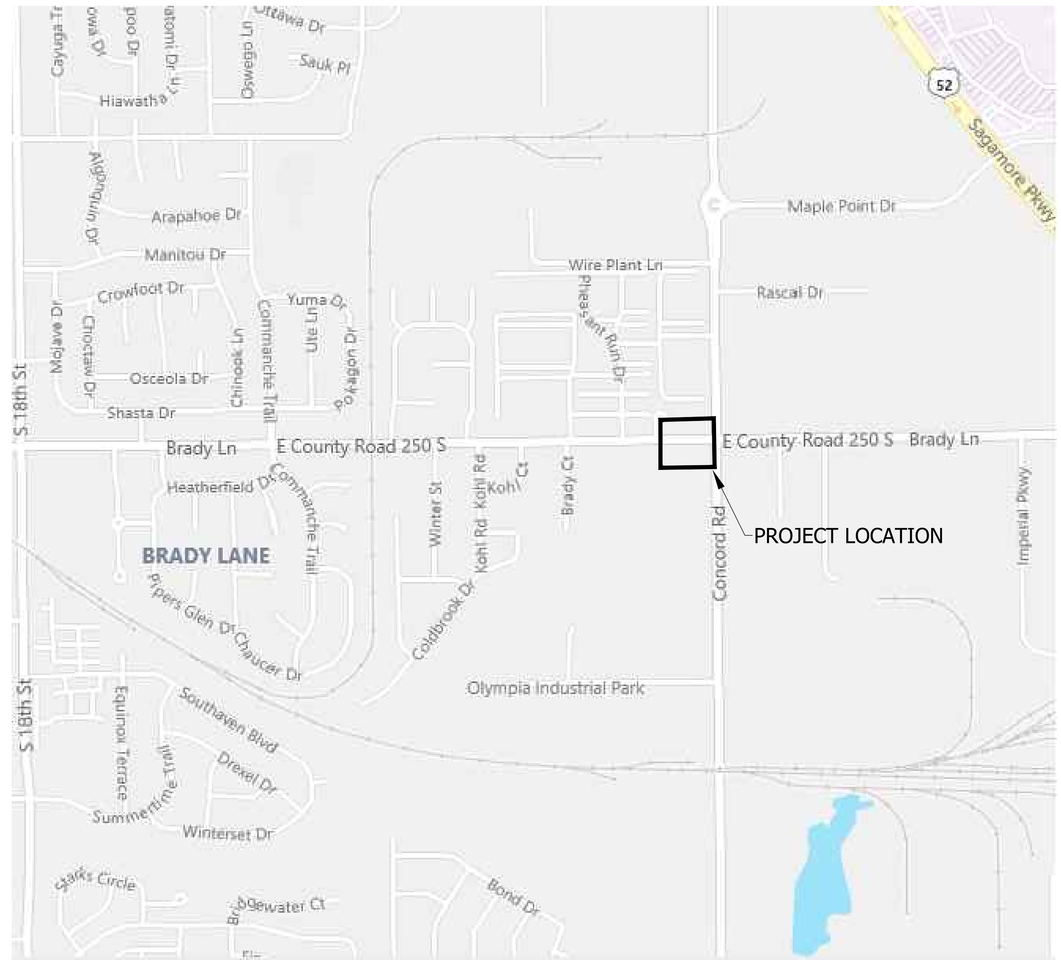
NUMBER	DESCRIPTION
01	TITLE SHEET
02	GENERAL NOTES SHEET
03	TOPOGRAPHIC SURVEY
04	OVERALL LAYOUT SHEET
05	PLAN AND PROFILE SHEET
06-08	DETAIL SHEETS

PROJECT CONTACT INFORMATION

CITY ENGINEER -
JEROMY GRENARD
20 N 6TH ST
LAFAYETTE, IN 47901
EMAIL: JGRENARD@LAFAYETTE.IN.GOV
PHONE: 765-807-1050

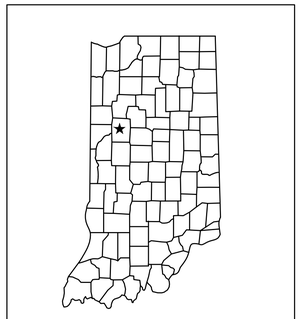
LAFAYETTE RENEW SUPERINTENDENT -
BRAD TALLEY
1700 WABASH AVENUE
LAFAYETTE, IN 47901
EMAIL: BTALLEY@LAFAYETTE.IN.GOV
PHONE: 765-807-1800

UTILITIES
SEE SHEET 2



LOCATION MAP
LAFAYETTE, INDIANA

1" = 1000'



PROJECT LOCATION SHOWN BY ★

Know what's below. Call before you dig.

DIRECTORY....F:\2020\20-4302 Lafayette - Brady and Concord\30 SheetDrawings\01-General Sheets\ LTSCALE...20
FILE.....4302 Title Sheet.dwg DIMSCALE..20
PLOTTED BY..cbutler
DATE.....Aug 10,2020 - 10:11am

VS ENGINEERING, INC.
4275 North High School Road Indianapolis, Indiana 46254
vsei@vsengineering.com www.vsengineering.com
Phone: (317) 293-3542 Fax: (317) 293-4737

PLANS PREPARED BY: VS ENGINEERING, INC. FAX: (317) 293-4737 TEL: (317) 293-3542 PHONE NUMBER
CERTIFIED BY: SAMUEL E. ROBERTSON P.E., INDIANA REG. NO. PE10707586 05/29/2020 DATE

SAMUEL E. ROBERTSON REGISTERED No. PE10707586 STATE OF INDIANA PROFESSIONAL ENGINEER

BRIDGE FILE	
N/A	
DESIGNATION	
N/A	
SHEETS	
01 of 07	
CONTRACT	PROJECT
	20-4302