

MINUTES OF A CALLED MEETING OF THE BOARD OF DIRECTORS OF
TARRANT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER ONE
HELD IN THE DISTRICT OFFICE, IN FORT WORTH, TEXAS, ON THE
1ST DAY OF NOVEMBER, 1935, 3 P. M.

The call of the roll disclosed the presence of all Directors as follows, viz:

C. A. Hickman
W. K. Stripling
E. E. Bewley
Joe B. Hogsett
W. S. Cooke

At this meeting C. A. Hickman, President, presided; W. K. Stripling acted in his capacity as Secretary.

At this time and place the following proceedings were had and done, v i z:

1.

Minutes of a meeting of October 11, 1935, were read, approved and ordered of record.

2.

Attached to these minutes as "Exhibit A," is one of the duplicates of the construction contract between this District and Butcher & Sweeney, relating to the installation of the valves in the Eagle Mountain Dam. Said contract was accompanied by a construction bond, for the penal sum \$2,000.00, executed by Butcher & Sweeney, as principal, and by Standard Accident Insurance Company of Detroit, Michigan, as Surety. Said contract and bond here are referred to as part hereof. Thereupon the Directors were advised by the attorneys and engineers for the District that the contract as executed by Butcher & Sweeney should be approved for execution by the District. The attorneys gave advice that in their opinion the construction bond was lawful and adequate as to the form thereof. Thereupon Director Stripling made a motion that the District do approve

said construction bond as a good and sufficient bond, and that said contract do be executed in the name of the District, as the act and deed of the District, and that said execution be effected by the appropriate officers of this District, in the manner provided by law. Further that, the good faith check for \$100.00, delivered to the District with the proposal of Butcher & Sweeney (being The Fort Worth National Cashier's Check No. B-290304), do be endorsed by the District, to the order of Butcher & Sweeney; further that, said check do be delivered to said Butcher & Sweeney. Director Hogsett seconded the adoption of this motion. Upon a vote being taken the motion was carried and it was so ordered. Thereupon said contract was executed in the manner shown by said "Exhibit A."

3.

There was full consideration of whether or not this District now should conform to the demands of the Federal Emergency Administrator of Public Works (under its contract with the Administrator for a loan and grant) by actually advertising for construction bids and the letting of a contract, at a time prior to December 15, 1935; said contract relating to the remodeling of that portion of the levee system of Fort Worth Improvement District No. 1 which is situated to the West of the Paddock Viaduct in the city of Fort Worth. It was the sense of the Directors that bids should not be requested until such time as this District had a definite contract with Fort Worth Improvement District No. 1, whereunder this District might lawfully proceed with the work, without let or hindrance from the Levee District; whereupon Director Stripling made a motion that the Attorneys and Engineers of the District do pre-

pare and submit to the Supervisors of the Levee District a proposed specific contract, to substantially conform to the conditions stated in a letter transmitted by this District to the Supervisors of the Levee District on August 2, 1935. Further that, Mr. E. H. McKinley, as President of the Board of Supervisors of the Levee District, do be urged to consider said proposed contract and to tender the execution at a time not later than November 6, 1935. Director Hogsett Seconded the adoption of the Motion. Upon a vote being taken the motion was carried and it was so ordered.

A proposed written contract was delivered to Mr. E. H. McKinley, as directed, at Noon on November 4, 1935.

4.

Attached to these minutes as "Exhibit B," is a written proposal of Frazier Moss and Co. of Fort Worth, to purchase 126 bonds of this District. Said proposal is dated November 1st, 1935, and requires that there be acceptance or rejection of the proposal on this day. There was consideration of this matter and it was the sense of the Directors that, until it was definitely known whether a satisfactory contract between this District and Fort Worth Improvement District No. 1, might be had, the bonds should not be sold; but that, Mr. Moss be advised of this action and requested to extend the time for acceptance of his bid to November 9, 1935: It was so ordered.

Immediately after the meeting advice of this action was given by telephone to Mr. Edwards, of Frazier Moss and Co., who stated that his Company could not make a commitment for extension of the proposal, and that any subsequent tender would be based on the market outlet at the particular time.

5.

Director Hogsett made a motion that the District procure its check writer machine to be overhauled and provided with new type of the character originally placed in the machine, at a cost not to exceed \$12.50. This motion was seconded by Director Bewley. Upon a vote being taken the motion was carried and it was so ordered.

6.

Director Hickman, on behalf of the Land Committee, presented a proposed lease to cover the period January 1, 1936 to December 31, 1936, as follows:

| PROPOSAL OF | FOR LEASE OF LAND PURCHASED FROM | TRACT # | APPROX. ACRES | TOTAL CON- SIDERATION | AMOUNT ACCOMPANYING PROPOSAL | | BALANCE DUE |
|-------------|-------------------------------------|---------|------------------|--------------------------|------------------------------------|----------|----------------|
| | | | | | CASH | CHECK | |
| M. S. Smith | (J. D. Craft | 254 | 115.63) | | | | |
| | (G. W. Buck | 257 | 102.67) | | | | |
| | (J. F. Huddle- | | | | | | |
| | ston | 259 | .81) | \$ 326.00 | \$100.00 | \$226.00 | |
| | (J. L. Roberson | 259A | 63.00) | | | | |
| | (W. T. Smith | 260 | 46.82) | | | | |
| | (| | 328.93) | | | | |

There was full consideration of this proposal, and consummation of said proposal was recommended by Director Hickman, whereupon Director Stripling moved that said lease do be approved and consummated; subject only to the actual payment in cash of the recited consideration prior to December 15, 1935, and the execution of written lease containing the provisions in use by this District. This motion was seconded by Director Hogsett. Upon a vote being taken the motion was carried and it was so ordered.

7.

No further business was presented and the meeting was adjourned.

APPROVED:

C. R. Hickman
As President

W. K. Stripling
As Secretary

CONTRACT, BOND & SPECIFICATIONS

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TARRANT COUNTY WATER CONDROL AND
IMPROVEMENT DISTRICT NUMBER ONE, OWNER

BUTCHER & SWEENEY, CONTRACTORS

"EXHIBIT A"

NOTICE TO BIDDERS

THE SETTING OF FOUR EAGLE MOUNTAIN DAM 48 IN. GATE-VALVES

SEALED PROPOSALS, addressed to the Tarrant County Water Control and Improvement District Number One, for furnishing all materials, apparatus, appliances, tools, equipment and labor necessary to setting four (4) 48 inch diameter double disc, iron body, bronze mounted gate-valves, with their various accoutrements, concrete walls, etc., in the East Conduit of the Eagle Mountain Dam of the District, will be received at the District Offices, 406 Capps Building, Fort Worth, Texas, up to

3:00 P. M., OCTOBER 10, 1935,

to be then and there publicly opened, read and referred to the Directors of the District for their action.

Each proposal must be accompanied by a Certified Check or Cashier's Check in the sum of One Hundred (\$100.00) Dollars, drawn on a bank of Fort Worth, Texas, made payable to the District as a guaranty that Bidder will, with ten (10) days after notice of award, enter into contract and execute bond in the forms required by the District. Proposals without good-faith checks will not be considered.

The District reserves the right to reject any or all bids.

Specifications, proposals and contract forms are on file at the offices of Hawley, Freese and Nichols, Consulting Engineers, 407 Capps Building, Fort Worth, Texas. Copies of specifications and proposal forms may be secured by bidders from the above offices upon a deposit of Five (\$5.00) Dollars, which will be returned upon the return of specifications.

In making awards the Directors of the District will consider the financial responsibility, equipment and experience of the several bidders. Bidders are requested to file statements covering these matters with their proposals.

Fort Worth, Texas,

September 17, 1935.

TARRANT COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NUMBER ONE,
C. A. Hickman, President;
W. K. Stripling, Secretary;
HAWLEY, FREESE & NICHOLS,
Consulting Engineers

CONSTRUCTION BOND

STATE OF TEXAS))
))
TARRANT COUNTY))

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, Butcher & Sweeney, a co-partnership composed of C. M. Butcher and R. C. Sweeney (having our principal office in Fort Worth, Texas), as Principal, and Standard Accident Insurance Company of Detroit, Michigan, (a corporation duly authorized under the laws of Texas to act as Surety on bonds for principals), as Surety, are held and firmly bound to pay unto Tarrant County Water Control and Improvement District Number One (a body politic and corporate, having its office in Fort Worth, Tarrant County, Texas), and to the sub-contractors, workmen, laborers, mechanics, and furnishers of all manner of equipment and material, as their interest may appear (all of whom shall individually and independebtly of said District, just as though each had been specifically named herein, either as the sole obligee, or as joint obligees, have the right to sue upon this bond), the penal sum of TWO THOUSND (\$2,000.00) DOLLARS, in lawful currency of the United States of America, for the payment of which, at Fort Worth, Texas, well and truly to be made, we hereby do bind ourselves, our heirs, executors and successors, jointly, severally, and firmly by these presents.

HOWEVER, this obligation is intended as a bond, which grows out of the fact that the above bound, Butcher and Sweeney, have on this the 16th day of October, 1935, entered into a written contract with said Tarrant County Water Control and Improvement District Number One for furnishing all materials, equipment, labor, fuels, water and other accessories necessary for the construction of certain improvements, which are those improvements necessary for the proper installation of Four (4) Gate Valves and appurtenances in the East Conduit at the OWNER'S Eagle Mountain Dam, situated about ten (10) miles Northwest from Courthouse in Tarrant County, Texas. Said work is more particularly designated in said contract, and the specifications forming part thereof; all being hereto attached as part hereof and to the same effect as though incorporated herein.

NOW THEREFORE, if the above bound Butcher & Sweeney, do well and faithfully perform said contract, do in all respects duly and faithfully observe and perform, all and singular, the covenants, conditions and agreements by said contract agreed and covenanted by said Butcher & Sweeney to be observed and performed, in time, according to the true intent and meaning of said agreement, and the plans and specifications, which are to be considered as part hereof, and as well during any period of extension of said contract that may be granted by said Tarrant County Water Control and Improvement District Number One, as during the original term of said contract, and do well and truly pay all sub-contractors,

workmen, laborers, mechanics, and furnishers of equipment and materials (to include fuels and water) all monies to them owing by said Butcher & Sweeney, for sub-contracts, equipment, work, labor and materials, utilized for the construction of said improvements, for the obligee herein, then this obligation shall be and become null and void; otherwise this obligation shall remain in full force and effect.

This obligation is further conditioned that the Owner and the Contractor, without notice to, or consent of, the Surety, may agree, viz:

(1) To make changes in the terms of the contract under which this bond is executed (which contract hereby is made part hereof), and, or, to make changes in the character of the work to be done or the materials to be furnished under said contract, but such changes, for the purposes of this paragraph, shall be such changes as independently of other factors, will not cause the total cost of the work to be done, and, or, the materials to be furnished, by the Contractor to be increased to the Contractor by more than ten (10%) per cent. of which that would, in the absence of any such change, have been the total completed cost to the Contractor:

(2) To make extensions of time for the performance of certain work, and, or, for performing the work as a whole;

(3) To exercise any other forbearance on the part of either the Owner or the Contractor:

Then, and in the event of the occurrence of any or all of such conditions, the Surety hereby expressly agrees to be and remain absolutely bound for guaranty of the full and faithful performance of said contract, as changed or modified, just as though no such change had been made; and further the Surety agrees to look wholly to the Contractor for notice or advice of any such change of conditions, and does, as to the Owner, its successors and assigns, absolutely waive notice of such changed condition, to the end that the Surety will in any such event be and remain firmly bound for the full and faithful performance of said contract, as the same now, is, and, or, as the same may be modified or changed, within the increased total cost limits in paragraph (1) specified.

(4) In case the obligee, as Owner, shall have had actually delivered into its office in Fort Worth, Texas, notice of any claim against the Contractor, and which may grow out of performance of the Contract secured hereby, it shall be the duty of said Owner to withhold from the Contractors money sufficient to cover the claim, or claims, as to which such notice may have been served upon the Owner, until such time as such claim, or claims, may have

been satisfied or until written consent for payment to the Contractors has been given by the Surety. In the absence of such notice of claims the Owner shall be authorized to pay to the Contractors or their assigns all sums which may lawfully become due and payable to the Contractors by the Owner hereunder, as and when the same may mature under the terms of said Contract, and the responsibility of the Surety shall not be diminished thereby.

The obligation of this bond shall extend to a period to be one year next after the acceptance of the work; provided, however, that the obligation of the Contractors and of the Surety on this bond, after final acceptance of the work shall be limited to the duty to make alterations, repairs or replacements (any, or all, which may be necessary to remedy any defect in the materials furnished by, and, or, work done by, the Contractors). It is provided, however, that defects arising from errors in specifications or design, shall not be deemed to create any responsibility on the part of the Contractor, or the Surety.

IN WITNESS WHEREOF, the said Butcher & Sweeney (Contractor), have hereunto set their hands, and the said Surety has caused these presents to be executed by its duly authorized agent and officer, and its corporate seal to be hereunto affixed at Fort Worth, Texas, on this the 16th day of October, 1935.

PRINCIPALS (BUTCHER & SWEENEY
BY C. M. Butcher
R. C. Sweeney

SURETY: (STANDARD ACCIDENT INSURANCE COMPANY
OF DETROIT, MICH.
BY W. H. Arnold

Approved
C. H. Sweeney

ATTEST: J. B. Landon

STATE OF TEXAS 0
COUNTY OF TARRANT

THIS AGREEMENT, Made and entered into this 16th day of October, A. D. 1935, by and between Tarrant County Water Control and Improvement District Number One, of the City of Fort Worth, County of Tarrant, and the State of Texas, Party of the First Part, hereinafter termed OWNER, and Butcher & Sweeney (a co-partnership composed of C. M. Butcher and R. C. Sweeney), of the City of Fort Worth, County of Tarrant, and State of Texas, Party of the Second Part, hereinafter termed CONTRACTOR:

WITNESSETH: That for and inconsideration of the payments and agreements hereinafter mentioned, to be made and performed by the Party of the First Part (OWNER), and under the conditions expressed in the bond bearing even date herewith, the said Party of the Second Part (CONTRACTOR), hereby agrees with the said Party of the First Part (OWNER) to commence and complete the construction of certain improvements described as follows: The work to be done comprises furnishing all materials, (except the gate valves, air relief valves, fittings, special castings, steel reinforcing bars, and other appurtenances) apparatus, appliances, equipment, tools and labor necessary to the installation of four (4) 48-inch iron-bodied, double disc bronze-mounted Ludlow gate valves and appurtenances in the East Conduit of the Eagle Mountain Dam on the West Fork of the Trinity River, in Tarrant County, Texas, and all extra work in connection therewith, under the terms as stated in the General Conditions of the Agreement; and at his (or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said construction, in accordance with the conditions and prices stated in the Proposal attached hereto, and in accordance with all the General Conditions of the Agreement, and in accordance with the Plans, which includes all maps, plats, blue prints and other drawings and printed or written explanatory matter thereof, and the specifications therefor, as prepared by Hawley and Freese, herein entitled the ENGINEER, each of which has been identified by the endorsement of the CONTRACTOR and the ENGINEER thereon, together with the CONTRACTOR'S written Proposal, the General Conditions of the Agreement, and the Construction Bond hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire contract.

The CONTRACTOR hereby agrees to commence work within ten (10) days after the date written notice to do so shall have been given to him, and to substantially complete same within 20 working days after the date of the written notice to commence work.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract in accordance with the Proposal submitted therefor, subject to additions and deductions, as provided in the General Conditions of the Agreement, and to make payments on account thereof as provided therein.

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement in quadruplicate in the year and day first above written.

TARRANT COUNTY WATER CONTROL & IMPROVEMENT DIST. NUMBER ONE

ATTEST:

W. D. Dripling.
Secretary.

B. A. Hickman Pres.
Party of the First Part (Owner)

Butcher & Sweeney
Party of the Second Part (Contractor)

By C. M. Butcher

0/C

GENERAL CONDITIONS OF THE AGREEMENT

1. **Owner.** Whenever the word OWNER, or the expression Party of the First Part, or First

Party, are used in this contract, it shall be understood as referring to TARRANT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER ONE

2. **Contractor.** Whenever the word CONTRACTOR, or the expression Party of the Second Part, or Second Party, are used, it shall be understood to mean the person, persons, co-partner-

ship or corporation, to-wit: BUTCHER & SWEENEY, a co-partnership who have agreed to perform the work embraced in this contract, or to his or their legal representatives.

3. **Engineer.** Whenever the word ENGINEER is used in this contract, it shall be understood as referring to

ENGINEER of the OWNER, or such other ENGINEER, supervisor or inspector as may be authorized by said OWNER to act in any particular.

4. **Interpretation of Phrases.** Whenever the words "Directed," "Required," "Permitted," "Designated," "Considered Necessary," "Prescribed," or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription, etc., of the ENGINEER is intended; and, similarly, the words "approval," "acceptable," "satisfactory," or words of like import shall mean approved by or acceptable or satisfactory to the ENGINEER.

Whenever in the specifications or drawings accompanying this Agreement, the terms or description of various qualities relative to finish, workmanship, or other qualities of similar kind which cannot, from their nature, be specifically and clearly described and specified, but are necessarily described in general terms, the fulfillment of which must depend on individual judgment, then, in all such cases, any question of the fulfillment of said specifications shall be decided by the ENGINEER, and said work shall be done in accordance with his interpretations of the meaning of the words, terms or clauses defining the character of the work.

5. **Exhibits.** All work shall be done and all materials furnished in strict conformity with the appended advertisement (Notice to Contractors), marked "Exhibit A," "Instructions to Bidders," marked "Exhibit B," "Proposal," marked "Exhibit C," "Specifications," marked "Exhibit D,"

and None

all of which are hereto attached (or considered as if attached) and are hereby made a part of this contract.

6. **Keeping of Plans and Specifications Accessible.** The CONTRACTOR shall be furnished with One copies of all plans, profiles and specifications without expense to him, and shall keep one copy of the same constantly accessible on the work.

7. **Right of Entry.** The OWNER reserves the right to enter the property or location on which the works herein contracted for are to be constructed or installed, by such agent or agents as it may elect, for the purpose of supervising and inspecting the work, or for the purpose of constructing or installing such collateral work as said OWNER may desire.

8. **Quantities and Measurements.** No extra or customary measurements of any kind will be allowed, but the actual length, area, solid contents, number and weight only shall be considered, unless otherwise specifically provided.

9. **Lines and Grades.** All lines and grades shall be furnished by the ENGINEER. Whenever necessary, work shall be suspended to permit of this work, but such suspension will be as brief as practicable and the CONTRACTOR shall be allowed no extra compensation therefor. The CONTRACTOR shall give the ENGINEER ample notice of the time and place where lines and grades will be needed. All stakes, marks, etc., shall be carefully preserved by the CONTRACTOR, and in case of careless destruction or removal by him or his employees, such stakes, marks, etc., shall be replaced by the ENGINEER at the CONTRACTOR'S expense.

Indicates blank space to be filled in.

10. **Superintendence and Inspection.** It is agreed by the CONTRACTOR that the OWNER shall be and is hereby authorized to appoint from time to time such ENGINEERS, supervisors or inspectors as the said OWNER may deem proper, to inspect the material furnished and the work done under this Agreement, and to see that the said material is furnished, and said work is done in accordance with the specifications therefor. The CONTRACTOR shall furnish all reasonable aid and assistance required by the ENGINEERS, supervisors or inspectors for the proper inspection and examination of the work and all parts of the same. The CONTRACTOR shall regard and obey the directions and instructions of any ENGINEERS, supervisors or inspectors so appointed, when the same are consistent with the obligations of this Agreement and the accompanying specifications, provided, however, should the CONTRACTOR object to any order by any subordinate engineer, supervisor or inspector, the CONTRACTOR may within six (6) days make written appeal to the ENGINEER for his decision.

11. **Discrepancies and Omissions.** It is further agreed that it is the intent of this contract that all work must be done and all material must be furnished in accordance with the generally accepted practice, and in the event of any discrepancies between the plans and specifications, or otherwise, or in the event of any doubt as to the meaning and intent of any portion of the contract, specifications or plans, the ENGINEER shall define which is intended to apply to the work.

12. **Collateral Contracts.** The OWNER agrees to provide by separate contract or otherwise, all labor and material essential to the completion of the work that is not included in this contract, in such manner as not to delay its progress or damage said CONTRACTOR.

13. **Damages.** In the event the CONTRACTOR is damaged in the course of the completion of the work by the act, neglect, omission, mistake or default of the OWNER or of the ENGINEER or of any other contractor employed by the OWNER upon the work, thereby causing loss to the CONTRACTOR, the OWNER agrees that he will reimburse the CONTRACTOR for such loss. In the event the OWNER is damaged in the course of the work by the act, negligence, omission, mistake or default of the CONTRACTOR; or, should the CONTRACTOR unreasonably delay the progress of the work being done by others on the job, so as to cause loss for which the OWNER becomes liable, then the CONTRACTOR shall reimburse the OWNER for such loss.

14. **Losses from Natural Causes.** All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from any unforeseen circumstances in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the work shall be sustained and borne by the CONTRACTOR at his own cost and expense.

15. **Estimated Quantities.** This Agreement, including the specifications, plans and estimate, is intended to show clearly all work to be done and material to be furnished hereunder. The estimated quantities of the various classes of work to be done and material to be furnished under this contract are approximate and are to be used only as a basis for estimating the probable cost of the work and for comparing the proposals offered for the work. It is understood and agreed that the actual amount of work to be done and material to be furnished under this contract may differ somewhat from these estimates, and that the basis for payment under this contract shall be the actual amount of such work done and the material furnished.

The CONTRACTOR agrees that he will make no claim for damages, anticipated profits or otherwise on account of any differences which may be found between the quantities of work actually done, the material actually furnished under this contract and the estimated quantities contemplated and contained in the proposal; provided, however, that in case the actual quantity of any item should become as much as 25% more than, or 25% less than, the estimated or contemplated quantity for such items, then either party to this Agreement, upon demand, shall be entitled to a revised consideration upon the portion of the work above or below 25% of the estimated quantity; such revised consideration to be determined by agreement between the parties, otherwise by the terms of this Agreement, as provided under EXTRA WORK.

16. **Changes and Alterations.** The CONTRACTOR further agrees that the OWNER may make such changes and alterations as the OWNER may see fit, in the line, grade, form, dimensions, plan or materials for the work herein contemplated, or any part thereof, either before or after the beginning of the construction, without affecting the validity of this contract and the accompanying bond.

If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for a claim for damages or anticipated profits on the work that may be dispensed with. If they increase the amount of work, and the increased work can fairly be classified under the Specifications, such increase shall be paid for according to the quantity actually done and at the unit prices established for such work under this contract; otherwise such additional work shall be paid for as provided under Extra Work. In case the OWNER shall make such changes or alterations

as shall make useless any work already done or material already furnished or used in said work, then the OWNER shall recompense the CONTRACTOR for any material or labor so used, and for any actual loss occasioned by such change, due to actual expenses incurred in preparation for the work as originally planned.

17. **Extra Work.** The term "Extra Work" as used in this contract shall be understood to mean and include all work that may be required by the ENGINEER or OWNER to be done by the CONTRACTOR to accomplish any change, alteration or addition to the work shown upon the plans, or reasonably implied by the specifications, and not covered by the CONTRACTOR'S Proposal, except as provided under Changes and Alterations in Paragraph 16 herein above.

It is agreed that the CONTRACTOR shall perform all Extra Work under the direction of the ENGINEER when presented with a Written Work Order signed by the ENGINEER; subject, however, to the right of the CONTRACTOR to require a written confirmation of such Extra Work Order by the OWNER. It is also agreed that the compensation to be paid the CONTRACTOR for performing said Extra Work shall be determined by one or more of the following methods:

Method (A)—By agreed unit prices; or

Method (B)—By agreed lump sum; or

Method (C)—If neither Method (A) nor Method (B) be agreed upon before the Extra Work is commenced, then the CONTRACTOR shall be paid the "actual field cost" of the work, plus fifteen (15%) per cent.

In the event said Extra Work be performed and paid for under Method (C), then the provisions of this paragraph shall apply and the "actual field cost" is hereby defined to include the cost of all workmen, such as foremen, timekeepers, mechanics and laborers, and materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used on such Extra Work, plus actual transportation charges necessarily incurred, if the kind of equipment, or machinery be not already on the job, together with all power, fuel, lubricants, water and similar operating expenses, also all necessary incidental expenses incurred directly on account of such Extra Work, and, a ratable proportion of premiums on Construction and Maintenance Bonds, Public Liability and Workmen's Compensation, and all other insurance as may be required by any law or ordinance, or directed by the ENGINEER or OWNER, or by them agreed to. The ENGINEER may direct the form in which accounts of the "actual field cost" shall be kept and may also specify in writing, before the work commences, the method of doing the work and the type and kind of machinery and equipment to be used, otherwise these matters shall be determined by the CONTRACTOR. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using 75 percentage of the latest schedule of Equipment Ownership Expense adopted by the Associated General Contractors of America. Where practicable the terms and prices for the use of machinery and equipment shall be incorporated in the Written Extra Work Order. The fifteen (15%) per cent of the "actual field cost" to be paid the CONTRACTOR shall cover and compensate him for his profit, overhead, general superintendence and field office expense, and all other elements of cost and expense not embraced within the "actual field cost" as herein defined, save that where the CONTRACTOR'S Camp or Field Office must be maintained primarily on account of such Extra Work, then the cost to maintain and operate the same shall be included in the "actual field cost."

No claim for Extra work of any kind will be allowed unless ordered in writing by the ENGINEER. In case any orders or instructions, either oral or written, appear to the CONTRACTOR to involve Extra Work for which he should receive compensation, he shall make written request to the ENGINEER for written order authorizing such Extra Work. Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefor, and the ENGINEER insists upon its performance, the CONTRACTOR shall proceed with the work after making written request for written order and shall keep an accurate account of the "actual field cost" thereof, as provided under Method (C). The CONTRACTOR will thereby preserve the right to submit the matter of payment to arbitration, as hereinbelow provided.

18. **Preliminary Approval.** No ENGINEER, supervisor or inspector shall have any power to waive the obligations of this contract for the furnishing by the CONTRACTOR of good material, and of his performing good work as herein described, and in full accordance with the plans and specifications. No failure or omission of any ENGINEER, supervisor or inspector to condemn any defective work or material shall release the CONTRACTOR from the obligations to at once tear out, remove and properly replace the same at any time prior to final acceptance upon the discovery of said defective work, or material; provided, however, that the ENGINEER, his assistant or inspector, shall, upon request of the CONTRACTOR, inspect and accept or reject any material furnished, and in event the material has been once accepted by the ENGINEER, his assistant or inspector, such acceptance shall be binding on the OWNER, unless it can be clearly shown that such material furnished does not meet the specifications for this work.

Any questioned work may be ordered taken up or removed for re-examination, by the ENGINEER, prior to final acceptance, and if found not in accordance with the specifications for said work, all expense of removing, re-examination and replacement shall be borne by the CONTRAC-

TOR; otherwise the expense thus incurred shall be allowed as EXTRA WORK, and shall be paid for by the OWNER.

19. **Defects and Their Remedies.** It is further agreed that if the work or any part thereof, or any material brought on the ground for use in the work or selected for the same, shall be deemed by the ENGINEER as unsuitable or not in conformity with the specifications, the CONTRACTOR shall, after receipt of written notice thereof from the ENGINEER, forthwith remove such material and rebuild or otherwise remedy such work so that it shall be in full accordance with this contract.

20. **Time and Order of Completion.** It is the meaning and intent of this contract, unless otherwise herein specifically provided, that the CONTRACTOR shall be allowed to prosecute his work at such times and seasons, in such order of precedence, and in such manner as shall be most conducive to economy of construction; provided, however, that the order and time of prosecution shall be such that the work shall be substantially completed as a whole and in part, in accordance with this contract, plans and specifications and within the time of completion hereafter designated; provided, also, that when the OWNER is having other work done, either by contract or by his own force, the ENGINEER may direct the time and manner of constructing the work done under this contract, so that conflict will be avoided and the construction of the various works being done for the OWNER shall be harmonized.

The CONTRACTOR further agrees that he will commence work within ten (10) days after the date written notice to do so shall have been given to the CONTRACTOR, and will progress therewith so that the work shall be substantially completed in accordance with the terms of this

Agreement within.....20.....working days after the date of the written notice to commence the work.

A "working day" is defined as a calendar day, not including Sundays or any legal holidays, in which weather or other conditions, not under the control of the CONTRACTOR, will permit construction of the principal units of the work for a continuous period of not less than seven (7) hours between 7:00 a. m. and 6:00 p. m.

By the term "substantially completed" is meant that the structure has been made suitable for use or occupancy and is in condition to serve its intended purpose, but still may require minor miscellaneous work and adjustment.

21. **Extension of Time.** Should the CONTRACTOR be delayed in the completion of the work by any act or neglect of the OWNER or ENGINEER, or of any employee of either, or by other Contractors employed by the OWNER, or by changes ordered in the work, or by strikes, lockouts, fire, and unusual delays by common carriers, and unavoidable cause or causes beyond the CONTRACTOR'S control, or by any cause which the ENGINEER shall decide justifies the delay, then an extension of time shall be allowed for completing the work, sufficient to compensate for the delay, the amount of the extension to be determined by the ENGINEER; provided, however, that the CONTRACTOR shall give the ENGINEER prompt notice in writing of the cause of such delay.

22. **Hindrances and Delays.** No charge shall be made by the CONTRACTOR for hindrances or delays from any cause (except where the work is stopped by order of the OWNER) during the progress of any portion of the work embraced in this contract. In case said work shall be stopped by the act of the OWNER, then such expense as in the judgment of the ENGINEER is caused by such stopping of said work shall be paid by the OWNER to the CONTRACTOR.

23. **Price for Work.** In consideration of the furnishing of all the necessary labor, equipment and material, and the completion of all work by the CONTRACTOR, and on the completion of all work and of the delivery of all material embraced in this contract in full conformity with the specifications and stipulations herein contained, the OWNER agrees to pay the CONTRACTOR the prices set forth in the Proposal hereto attached, marked "Exhibit C," which has been made a part of this contract. And the CONTRACTOR hereby agrees to receive such prices in full for furnishing all material and all labor required for the aforesaid work, also for all expense incurred by him, and for well and truly performing the same and the whole thereof in the manner and according to this agreement, the attached specifications and requirements of the ENGINEER.

24. **Partial Payments.** On or before the 5th day of each month the Engineer shall prepare a statement showing as completely as practicable the total value of work done by the Contractor up to and including the last day of the preceding month; said statement shall also include the value of all sound materials delivered on the ground that are to be fabricated into the work.

The OWNER shall then pay to the CONTRACTOR on or before the 10th day of the current month the total amount of the ENGINEER'S statement, less 10 per cent of the amount thereof, which 10 per cent shall be retained until final payment, and further less all previous payments, and further less all further sums that may be retained by the OWNER under the terms of this agreement. It is understood, however, that in case the whole work be near to completion and

some unexpected and unusual delay occur due to no fault or neglect on the part of the CONTRACTOR, the OWNER may—upon the written recommendation of the ENGINEER pay a reasonable and equitable portion of the retained percentage to the CONTRACTOR; or, the CONTRACTOR at the OWNER'S option, may be relieved of the obligation to fully complete the work and, thereupon, the CONTRACTOR shall receive payment of the balance due him under the contract subject only to the conditions stated in paragraph 26 hereof.

25. Final Completion and Acceptance. Within ten (10) days after the CONTRACTOR has given the ENGINEER written notice that the work has been completed, or substantially completed, the ENGINEER and the OWNER shall inspect the work and within said time, if the work be found to be completed or substantially completed in accordance with the Plans and Specifications, the ENGINEER shall issue to the OWNER and the CONTRACTOR his Certificate of Completion and thereupon it shall be the duty of the OWNER, within said ten (10) days, to issue a Certificate of Acceptance of the work to the CONTRACTOR.

26. Final Payment. Upon the issuance of the Certificate of Completion, the ENGINEER shall proceed to make final measurements and prepare final statement of the value of all work performed and materials furnished under the terms of this Agreement and shall certify same to the OWNER, who shall pay to the CONTRACTOR on or before the 15th day after the date of the Certificate of Completion the balance due the CONTRACTOR under the terms of this Agreement, provided he has fully performed his contractual obligations under the terms of this contract; and said payment shall become due in any event upon said performance by the CONTRACTOR.

27. Delayed Payments. Should the OWNER fail to make payment to the CONTRACTOR of the sum named in any partial or final statement, when payment is due, or should the ENGINEER fail to issue any statement on or before the date above provided, then the OWNER shall pay to the CONTRACTOR, in addition to the sum shown as due by such statement, interest thereon at the rate of eight (8%) per cent per annum from date due as provided in Paragraphs 24 and 26, until fully paid, which shall fully liquidate any injury to the CONTRACTOR growing out of such delay in payment, but the right is expressly reserved to the CONTRACTOR in the event payments be not promptly made, as provided in paragraph 24, to at any time thereafter treat the contract as abandoned by the OWNER and recover compensation, as provided by paragraph 45 of this contract.

28. Engineer's Authority and Duty. It is mutually agreed between the parties to this Agreement that the ENGINEER shall supervise all work included herein. In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties to this contract, that if it cannot be otherwise agreed, the ENGINEER shall in all cases determine the amounts and quantities of the several kinds of work, which are to be paid for under this contract, and he shall determine all questions in relation to said work and the construction thereof, and he shall in all cases decide every question which may arise relative to the execution of this contract on the part of said CONTRACTOR, that his estimates and findings shall be the conditions precedent to the right of the parties hereto to arbitration or to any action on the contract, and to any rights of the CONTRACTOR to receive any money under this contract; provided, however, that should the ENGINEER render any decision or give any direction which, in the opinion of either party hereto, is not in accordance with the meaning and intent of this contract, either party may file with said ENGINEER within thirty (30) days his written objection to the decision or direction so rendered, and by such action may reserve the right to submit the question so raised to arbitration as herein provided. It being the intent of this Agreement that there shall be no delay in the execution of the work, and the decision or directions of the ENGINEER as rendered, shall be promptly carried out, and any claim arising therefrom shall be thereafter adjusted by arbitration as hereinafter provided.

The ENGINEER shall, within a reasonable time, render and deliver to both the OWNER and the CONTRACTOR a written decision on all claims of the parties hereto and on all questions which may arise relative to the execution of the work or the interpretation of the contract, specifications and plans. Should the ENGINEER fail to make such decision within a reasonable time, an appeal to arbitration may be taken as if his decision had been rendered against the party appealing.

29. Contractor's Duty. The CONTRACTOR shall give personal attention to the faithful prosecution and completion of this work and shall be present either in person or by duly authorized representative on the site of the work continually during its progress. He shall maintain an office on or adjacent to the site of the work.

30. Contractor's Agent. The CONTRACTOR during his absence from the work shall keep a competent superintendent or foreman upon the work, fully authorized to act for him in his absence, and to receive such orders as may be given for the proper continuance of the work. Notice to do any work, to alter work, to cease work which the CONTRACTOR is obligated to do; or concerning any imperfections in work or any material furnished when given to any foreman or agent

of the CONTRACTOR in charge of any operation of the work in the absence of the CONTRACTOR shall be considered as notice to the CONTRACTOR, provided any notice given under this paragraph shall be in writing.

31. Character of Workmen. The CONTRACTOR agrees to employ only orderly, competent and skillful men to do the work; and that whenever the ENGINEER shall inform him in writing that any man or men on the work are, in his opinion, incompetent, unfaithful or disorderly, such man or men shall be discharged from the work and shall not again be employed on the same without the ENGINEER'S written consent.

32. Construction Plant. The CONTRACTOR shall provide all labor, tools, equipment, machinery and material necessary in the prosecution and completion of this contract where it is not otherwise specifically provided that the OWNER shall furnish the same, and it is also understood that the OWNER shall not be held responsible for the care, preservation, conservation or protection of any material, tools or machinery or any part of the work until it is finally completed and accepted.

33. Right of Engineer to Modify Methods and Equipment. If at any time the methods or equipment used by the CONTRACTOR are found to be inadequate to secure the quality of work or the rate of progress required under this contract, the ENGINEER may order the CONTRACTOR in writing to increase their safety or improve their character and efficiency, and the CONTRACTOR shall comply with such order.

If at any time the working force of the CONTRACTOR is inadequate for securing the progress herein specified, the CONTRACTOR shall, if so ordered in writing increase his force or equipment, or both, to such an extent as to give reasonable assurance of compliance with the schedule of progress.

34. Sanitation. Necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation, shall be constructed and maintained by the CONTRACTOR in such manner and at such points as shall be approved by the ENGINEER, and their use shall be strictly enforced.

35. Contractor's Buildings. The building structures for housing men, or the erection of tents or other forms of protection, will be permitted only at such places as the ENGINEER shall direct, and the sanitary conditions of the grounds in or about such structures shall at all times be maintained in a manner satisfactory to the ENGINEER.

36. Protection Against Accident to Employees and the Public. The CONTRACTOR shall maintain such insurance as will protect the Contractor, the Owner and the Engineer from claims under Workmen's Compensation Acts, and any amendments thereof, and from any other claims for damages from personal injury, including death, which may arise from operations under this Agreement, whether such operations be by himself or by any sub-contractor, or anyone directly or indirectly employed by either of them. Certificate of such insurance shall be filed with the OWNER, if so required, and shall be subject to his approval for adequacy of protection.

37. Protection of Adjoining Property. The said CONTRACTOR shall take proper means to protect the adjacent or adjoining property or properties in any way encountered, or which might be injured or seriously affected by any process of construction, to be undertaken under this Agreement, from any damage or injury by reason of said process of construction; and he shall be liable for any and all claims for such damages on account of his failure to fully protect all adjoining property.

38. Protection Against Claims of Sub-Contractors, Laborers, Materialmen and Furnishers of Machinery, Equipment and Supplies. The CONTRACTOR agrees that he will indemnify and save the OWNER harmless from all claims growing out of the lawful demands of sub-contractors, laborers, workmen, mechanics, materialmen and furnishers of machinery and parts thereof, equipment, power, tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. When so desired by the OWNER, the CONTRACTOR shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived. If the CONTRACTOR fails so to do, then the OWNER may at the option of the CONTRACTOR either pay unpaid bills, of which the OWNER has written notice, direct, or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to liquidate any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payments to the CONTRACTOR shall be resumed in full, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligation upon the OWNER to either the CONTRACTOR or his SURETY.

39. Protection Against Royalties or Patented Invention. The CONTRACTOR shall protect and save harmless the OWNER from all and every demand for damages, royalties or fees on any patented invention used by him in connection with the work done or material furnished under this

contract; provided, however, that if any patented material, machinery, appliance or invention is clearly specified in this contract, then, and in that event, the cost of procuring the rights of use and the legal release or indemnity shall be borne and paid by the OWNER, unless such cost can be determined and included in the bid price at the time the proposal is submitted.

40. **Laws and Ordinances.** The CONTRACTOR shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations, which in any manner affect the contract or the work, and shall indemnify and save harmless the OWNER against any claim arising from the violation of any such laws and ordinances, whether by the CONTRACTOR or his employees. In case the OWNER is a body politic and corporate, the law from which it derives its powers, insofar as the same regulates the objects for which, or the manner in which, or the conditions under which, the OWNER may enter into contract, shall be controlling, and shall be considered as part of this Contract, to the same effect as though embodied herein.

41. **Liquidated Damages for Delay.** And the CONTRACTOR agrees that time is of the essence of this contract, and that for each day of delay beyond the number of working days herein agreed upon for the completion of the work herein specified and contracted for (after due allowance for such extension of time as is provided for under Extension of Time hereinabove), the OWNER may withhold permanently from the CONTRACTOR'S total compensation, the sum of

TEN - - - - - Dollars
(\$10.00.....) as stipulated liquidated damages for such delay.

(OR)

~~42. **Reciprocal Reward for Delayed or Early Completion.** Time for completion is of the essence of this contract, by reason whereof, it reciprocally is agreed: (a) For each day of delay in completion beyond the number of working days herein agreed upon for completion of the work (after allowance for "Extension of Time," as provided for in paragraph 21 hereof), the OWNER shall withhold from the CONTRACTOR'S compensation then unpaid the sum of.....~~

..... Dollars

~~(\$.....), which shall be applied as liquidated damages; (b) In case the work be completed in fewer days than the number agreed on for completion; then, for each day so saved,~~

the OWNER shall pay to the CONTRACTOR the sum of.....

~~..... Dollars (\$.....),~~

~~which shall be added to the other compensation payable hereunder.~~

43. **Assignment and Subletting.** The CONTRACTOR further agrees that he will retain personal control and will give his personal attention to the fulfillment of this contract and that he will not assign by Power of Attorney, or otherwise, nor sublet said contract without the written consent of the OWNER, and that no part or feature of the work will be sublet to anyone objectionable to the ENGINEER or the OWNER. The CONTRACTOR further agrees that the subletting of any portion or feature of the work, or materials required in the performance of this contract, shall not relieve the CONTRACTOR from his full obligations to the OWNER, as provided by this Agreement.

44. **Abandonment by Contractor.** In case the CONTRACTOR should abandon and fail or refuse to resume work within ten (10) days after written notification from the OWNER, or the ENGINEER, or if the CONTRACTOR fails to comply with the orders of the ENGINEER, when such orders are consistent with this Contract, or with this Agreement, or with the Specifications hereto attached, then, and in that case, the Surety on the bond shall be notified in writing and directed to complete the work, and a copy of said notice shall be delivered to the CONTRACTOR.

After receiving said notice of abandonment the CONTRACTOR shall not remove from the work any machinery, equipment, tools, materials or supplies then on the job, but the same, together with any materials and equipment under contract for the work, may be held for use on the work by the OWNER or the SURETY on the construction bond, or another contractor, in completion of the work; and, the CONTRACTOR shall not receive any rental or credit therefor (except when used in connection with Extra Work, where credit shall be allowed as provided for under paragraph 17, Extra Work); it being understood that the use of such equipment and materials will ultimately reduce the cost to complete the work and be reflected in the final settlement.

In case the Surety should fail to commence compliance with the notice for completion hereinbefore provided for, within ten (10) days after service of such notice, then the OWNER may provide for completion of the work in either of the following elective manners:

(a) The OWNER may thereupon employ such force of men and use such machinery, equipment, tools, materials and supplies as said OWNER may deem necessary to complete the work

and charge the expense of such labor, machinery, equipment, tools, materials and supplies to said CONTRACTOR, and the expense so charged shall be deducted and paid by the OWNER out of such moneys as may be due, or that may thereafter at any time become due to the CONTRACTOR under and by virtue of this Agreement. In case such expense is less than the sum which would have been payable under this contract, if the same had been completed by the CONTRACTOR, then said CONTRACTOR shall receive the difference. In case such expense is greater than the sum which would have been payable under this contract, if the same had been completed by said CONTRACTOR, then the CONTRACTOR and/or his SURETY shall pay the amount of such excess to the OWNER; or:

(b) The OWNER under sealed bids, after five (5) days notice published one or more times in a newspaper having a general circulation in the county of the location of the work, may let the contract for the completion of the work under substantially the same terms and conditions which are provided in this contract. In case of any increase in cost to the OWNER under the new contract as compared to what would have been the cost under this contract, such increase shall be charged to the CONTRACTOR and the SURETY shall be and remain bound therefor. However, should the cost to complete any such new contract prove to be less than what would have been the cost to complete under this contract, the CONTRACTOR and/or his SURETY shall be credited therewith.

When the work shall have been substantially completed the CONTRACTOR and his Surety shall be so notified and Certificates of Completion and Acceptance, as provided in Paragraph 25 hereinabove, shall be issued. A Complete itemized statement of the contract accounts, certified to by the ENGINEER as being correct, shall then be prepared and delivered to the CONTRACTOR and his Surety, whereupon the CONTRACTOR and/or his Surety, or the OWNER, as the case may be, shall pay the balance due as reflected by said statement, within fifteen (15) days after the date of such Certificate of Completion.

In the event the statement of accounts shows that the cost to complete the work is less than that which would have been the cost to the OWNER had the work been completed by the CONTRACTOR under the terms of this contract; or when the CONTRACTOR and/or his Surety shall pay the balance shown to be due by them to the OWNER, then all machinery, equipment, tools, materials or supplies left on the site of the work shall be turned over to the CONTRACTOR and/or his Surety. Should the cost to complete the work exceed the contract price, and the CONTRACTOR and/or his Surety fail to pay the amount due the OWNER within the time designated hereinabove, and there remains any machinery, equipment, tools, materials or supplies on the site of the work, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the CONTRACTOR and his Surety at the respective addresses designated in this contract; provided, however, that actual written notice given in any manner will satisfy this condition. After mailing, or other giving of such notice, such property shall be held at the risk of the CONTRACTOR and his Surety subject only to the duty of the OWNER to exercise ordinary care to protect such property. After fifteen (15) days from the date of said notice the OWNER may sell such machinery, equipment, tools, materials or supplies and apply the net sum derived from such sale to the credit of the CONTRACTOR and his surety. Such sale may be made at either public or private sale, with or without notice, as the OWNER may elect. The OWNER shall release any machinery, equipment, tools, materials or supplies, which remain on the work, and belong to persons other than the CONTRACTOR, or his Surety, to their proper OWNERS.

45. **Abandonment by Owner.** In case the OWNER shall fail to comply with the terms of this contract, and should fail or refuse to comply with said terms within ten (10) days after written notification by the CONTRACTOR, then the CONTRACTOR may suspend or wholly abandon the work, and may remove therefrom all machinery, tools and equipment, and all materials on the ground that have not been included in payments to the CONTRACTOR and have not been wrought into the work. And thereupon the ENGINEER shall make an estimate of the total amount earned by the CONTRACTOR, which estimate shall include the value of all work actually completed by said CONTRACTOR at the prices stated in the attached Proposal (Exhibit C), the value of all partially completed work at fair and equitable price, and the amount of all Extra Work performed at the prices agreed upon, or provided for by the terms of this contract, and a reasonable sum to cover the cost of any provisions made by the CONTRACTOR to carry the whole work to completion and which cannot be utilized. The ENGINEER shall then make a final statement of the balance due the CONTRACTOR by deducting from the above estimate all previous payments by the OWNER and all other sums that may be retained by the OWNER under the terms of this Agreement and shall certify same to the OWNER, who shall pay to the CONTRACTOR on or before thirty (30) days after the date of the notification by the CONTRACTOR the balance shown by said final statement as due the CONTRACTOR, under the terms of this Agreement.

46. **Bond.** It is further agreed by the parties to this contract that the CONTRACTOR will
- execute a bond in the sum of TWO THOUSAND - - - - -
 - Dollars (\$2,000.00) for the satisfactory performance of the work in accordance with this contract in the form provided for this purpose, and it is agreed that this contract shall not be in effect until such bond is furnished and approved by the OWNER.

47. **Time of Filing Claims.** It is further agreed by both parties hereto that all questions of dispute or adjustment presented by the CONTRACTOR shall be in writing and filed with the ENGINEER within a reasonable time after the ENGINEER has given any direction, order or instructions to which the CONTRACTOR desires to take exception. The ENGINEER shall reply to such written exceptions by the CONTRACTOR and render his final decision in writing. In case the CONTRACTOR should appeal from the ENGINEER'S decision, any demand for arbitration shall be filed with the ENGINEER and the OWNER in writing within ten (10) days after the date of the ENGINEER'S final decision. It is further agreed that final acceptance of the work by the OWNER and the acceptance by the CONTRACTOR of the final payment shall be a

- bar to any claims by either party, except as follows: None - - - - -
-
-
-

48. **Adequacy of Design.** It is understood that the OWNER has selected the ENGINEER named in this Agreement to prepare the plans and specifications, and all Supplements thereto; and agreed that the OWNER will be responsible for the adequacy of the design, sufficiency of the plans and specifications, and the safety of the structure, provided the CONTRACTOR has complied with said plans and specifications, all modifications thereof, and additions and alterations thereto, approved by the ENGINEER. The burden of proof shall be upon the CONTRACTOR to show that he has complied with this contract, said plans, specifications, and all modifications thereof, and all additions and alterations thereto.

49. **Arbitration.** All questions of dispute under this Agreement shall be submitted to arbitration at the request of either party to the dispute. The parties may agree upon one arbiter, otherwise, there shall be three; one named in writing by each party, and the third chosen by the two arbiters so selected; or if the arbiters fail to select a third within ten (10) days, he shall be

- chosen by HON. EMMETT MOORE, County Judge of Tarrant County, Texas - - - - -
-

Should the party demanding arbitration fail to name an arbiter within ten (10) days of the demand, his right to arbitrate shall lapse, and the decision of the ENGINEER shall be final and binding on him. Should the other party fail to choose an arbiter within ten (10) days, the ENGINEER shall appoint such arbiter. Should either party refuse or neglect to supply the arbiters with any papers or information demanded in writing, the arbiters are empowered by both parties to take ex parte proceedings.

The arbiters shall act with promptness. The decision of any two shall be binding on both parties to the contract. **The decision of the arbiters upon any question submitted to arbitration under this contract shall be a condition precedent to any right of legal action.** The decision of the arbiter or arbiters may be filed in court to carry it into effect.

The arbiters, if they deem the case demands it, are authorized to award the party whose contention is sustained, such sums as they deem proper for the time, expense and trouble incident to the appeal, and, if the appeal was taken without reasonable cause, they may award damages for any delay occasioned thereby. The arbiters shall fix their own compensation, unless otherwise provided by agreement, and shall assess the cost and charges of the arbitration upon either or both parties. The award of the arbiters must be made in writing, and shall not be open to objection on account of the form of proceedings or award.

"EXHIBIT B"
11/1/35.
FRAZIER MOSS & COMPANY
INVESTMENT SECURITIES
1014 FIRST NATIONAL BANK BUILDING
FORT WORTH, TEXAS

November 1, 1935

Board of Directors,
Tarrant County Water Control
and Improvement District No. 1,
Capps Building,
Fort Worth, Texas.

Gentlemen:

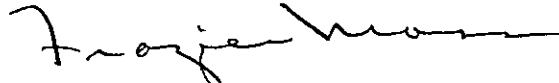
We take pleasure in offering you 110 and accrued interest for the -

\$13,000 - TARRANT COUNTY Water Control and
Improvement District Number One
5% Bonds, due September 15, 1970, and
113,000 - TARRANT COUNTY Water Control and
Improvement District Number One
5% Bonds, due September 15, 1971.

This offer is subject to acceptance by you today
and delivery on Monday, November 4, 1935.

We consider this an extremely good price for the
bonds and are only too glad that we are again able to pay
this high.

Yours very truly,



President

FM-Mc

"EXHIBIT B"

GENERAL INFORMATION

The Caretaker at Eagle Mountain Dam will exhibit to prospective bidders the four gate valves lying on south slope of dam, the extension gate stems now in place and various appurtenances now stored in the Gate House and on slopes of dam, and will conduct bidders into the conduit where the gate valves are to be set.

After the Contractor has completed setting the gate valves, sufficient water shall be allowed to accumulate between them and the stop-logs covering portal of conduit, to float the stop-logs and the Contractor shall collect and neatly stack them in the gate house, to remain the property of the District.

OK

"EXHIBIT C"

P R O P O S A L

for the

Setting of four (4) 48-inch Ludlow Gate Valves,
Stems and appurtenances in the East Conduit of
Eagle Mountain Dam.

o o o o o o o o o o

Fort Worth, Texas,
October 10, 1935.

To the Board of Directors,
Tarrant County Water Control and
Improvement District Number One,
Fort Worth, Texas.

Gentlemen:

Pursuant to the enclosed Notice to Bidders, the undersigned Bidder hereby proposes to do all the work and furnishall necessary labor, tools, equipment, materials, apparatus and appliances, and to complete all the work upon which he bids, as provided by the attached specifications and shown on the plans, and binds himself on acceptance of his proposal to execute a contract and bond, according to the accompanying forms, for performing and completing the said work within the time stated for the following prices, to-wit:

The setting of four (4) 48" Ludlow Gate Valves and appurtenances, including 6 inch drain pipe and valve and all extension valve-stems, all concrete and the rescue and housing of all "portal stop-logs" the lump sum of

TWENTY EIGHT HUNDRED THIRTY FOUR (\$2834.00) DOLLARS

This proposal is based on the assumption that the "Portal Stop Logs" were so placed that they will float to the surface, should they fail to do so, we are to be reimbursed for the cost of getting them loose.

The undersigned bidder agrees to begin work within ten (10) days after written notice by the District or its Engineer and to complete same within 20 working days thereafter.

Enclosed herewith is a "good faith" Certified (or Cashier's) check for \$100.00.

806½ Taylor St.
Ft. Worth, Texas
Address.

BUTCHER & SWEENEY
Bidder

By C. M. Butcher.

"EXHIBIT D"

DETAIL SPECIFICATIONS

1. WORK TO BE DONE

The work to be done comprises furnishing all materials, (except the gate valves, air relief valves, fittings, special castings, steel reinforcing bars, and other appurtenances) apparatus, appliances, equipment, tools and labor necessary to the installation of four (4) 48-inch iron-bodied, double disc bronze-mounted Ludlow gate valves and appurtenances in the East Conduit of the Eagle Mountain Dam on the West Fork of Trinity River about 12 miles west of the City of Fort Worth.

2. PLANS

Plans (Drawings Nos. 500-9, 500-16 and 500-18) and specifications, ("Eagle Mountain and Bridgeport Dams, 1929"); Article 12G (i) on page 13, (description of valves); Article 22 on pages 16 to 23 inclusive, and Article 23 on pages 22 and 23, of the specifications; on file in the Engineers' office, Capps Building, Fort Worth and the latest edition of "Standard Form of Agreement Between Owner and Contractor" as adopted by the Texas Section of the A. S. C. E. will govern construction of the work.