

Township of Pinconning  
County of Bay, State of Michigan

**RESOLUTION TO FUND WATERLINE INFRASTRUCTURE**

WHEREAS, the Township Board of the Township of Pinconning, County of Bay, State of Michigan, pursuant to Act 188, Public Acts of Michigan, 1954 as amended, tentatively declares its intention to undertake certain water supply system improvements described hereinafter as District Number 7 to be financed through a special assessment to each property owner, and pursuant to 51% of the property owners within the total land area of said district having requested the proposed water supply system improvement through the creation of a special assessment district; and

WHEREAS, the Township Board desires to proceed with the proposed water supply system improvement;

NOW, THEREFORE, BE IT RESOLVED THAT:

The properties to be included in Special Assessment District Number Seven (7) shall be more specifically defined as parcel numbers:

09-120-001-300-110-01	09-120-001-300-120-03	09-120-001-300-130-01
09-120-001-300-120-01	09-120-001-300-140-00	09-120-012-100-020-00
09-120-012-100-030-00		

Moved By: Kusterer Supported By: Buchalski

Yeas: Buchalski – Kusterer – Lichon – Waibel – Stalsberg Nays: none

The Supervisor has hereby declared the Resolution adopted. 01/17/2007

**CERTIFICATE**

I, Mary Kusterer, the duly elected and acting clerk of the Township of Pinconning hereby certify that the foregoing constitutes a true and complete Resolution as approved by the Pinconning Township Board, Bay County, Michigan at a Public Hearing held on January 17, 2007.

Mary Kusterer  
Township Clerk

1-17-07  
Date

# AFFIDAVIT OF MAILING

State of Michigan )

County of Bay ) : s.s.

I, Mary Kestere, being first duly sworn, depose and say that I personally prepared for mailing and mailed by first-class mail, on 1-03-07, a notice of hearing, a true copy of which is attached hereto and made a part hereof, to each owner of or party in interest in property located within the special assessment district described in the attached notice, whose name appears upon the last local tax assessment records for ad valorem tax purposes, which has been reviewed by the local board of review as supplemented by any subsequent changes in the names or the addresses of such owners or parties listed thereon; that I personally checked each envelope against the list of such owners or parties in interest shown by said tax assessment roll and that each envelope was properly addressed to each such owner or party in interest as shown on said tax assessment roll; that each such envelope had contained therein the appropriate notice of the aforesaid hearing, was securely sealed, with postage fully prepaid thereon for first-class mail delivery, and was properly addressed; that I personally placed all of said envelopes in a United States Post Office receptacle in Pineconing Michigan, on said date; that said notice referred to a hearing scheduled for 1-17-07 before the Pineconing Township board.

Township clerk: Mary Kestere

Subscribed and sworn to before me this 3rd day of January, 2007.

Notary public: Joanna Marie Moody  
Bay County, Michigan

My commission expires: August 21, 2011



**NOTICE OF HEARING ON WATER SPECIAL ASSESSMENT  
IMPROVEMENTS BY THE TOWNSHIP BOARD  
OF THE TOWNSHIP OF PINCONNING**

TO ALL OWNERS OF THE FOLLOWING DESCRIBED LANDS:

09-120-001-300-110-01   09-120-001-300-120-03   09-120-001-300-130-01   09-120-001-300-120-01   09-120-001-300-140-00  
09-120-012-100-020-00   09-120-012-100-030-00

TAKE NOTICE that pursuant to the provisions of Act 188, Public Acts of Michigan, 1994, as amended, and a petition requesting certain improvements signed by the record owners of land constituting more than fifty-one percent (51%) of the total land area in the special assessment district hereinafter described as Special Assessment District Number 7 for improvements proposed by said petition, and the Township Board has tentatively declared its intention to proceed with the public improvements described as follows:

TAKE FURTHER NOTICE that the township Board has tentatively declared its intention to make such improvements and tentatively designated the above described premises as a special assessment district against which all of the cost of said public improvements is to be assessed.

PUBLIC NOTICE IS HEREBY GIVEN FOR DATE, TIME AND PLACE OF THE MEETING

**PINCONNING TOWNSHIP HALL  
1751 E. CODY ESTEY ROAD  
PO BOX 58  
PINCONNING, MI 48650  
JANUARY 17, 2007 at 4:00 PM**

TAKE FURTHER NOTICE that appearance and protest at this hearing is required in order to appeal the amount of the special assessment to the State Tax Tribunal if an appeal should be desired. A property owner or party of interest, or his/her agent may appear in person at the hearing to protest the special assessment or may file his/her protest by mail to the above referenced address before January 16, 2007. The property owner or any person having an interest in the property subject to the proposed special assessment may file a written appeal of the special assessment with the State Tax Tribunal within thirty days after confirmation of the special assessment roll if that special assessment was protested at this hearing.

Mary Kusterer  
Pinconning Township Clerk

*Published in Pinconning Journal*

*1-10-07  
1-24-07*



09-120-001-300-110-01  
Norman Holbrook  
2655 E. Whitefeather Rd  
Pinconning MI 48650

09-120-001-300-120-03  
Lee Dinsmore & Moncan Kat  
2621 E. Whitefeather Rd  
Pinconning MI 48650

09-120-001-300-130-01  
Brian Byrne  
2603 E. Whitefeather Rd  
Pinconning MI 48650

09-120-001-300-120-01  
09-120-001-300-120-04  
Harold & Dorothy Gale  
2555 E. Whitefeather Rd  
Pinconning MI 48650

09-120-001-300-140-00  
Republic Services of Michigan  
IV LLC - Attn Matt Neely  
PO BOX 42165  
Houston TX 77242-2165

09-120-012-100-020-00  
Republic Services of Michigan  
IV LLC - Attn Matt Neely  
PO BOX 42165  
Houston TX 77242-2165

09-120-012-100-030-00  
Larry & Shirley Clymer  
2556 E. Whitefeather Rd  
Pinconning MI 48650

Whitefeather  
Rd

**SECTION 00500**

**00500.1  
AGREEMENT**

This Agreement is dated as of the 15<sup>th</sup> day of February in the year 2007, between the Township of Pinconning, of 1751 Cody Estey Road, Pinconning, Michigan (hereinafter call OWNER) and Mid State Earthworks, Inc., P.O. Box 200, Freeland, MI, 48523 (hereinafter called CONTRACTOR).

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

**ARTICLE 1 - WORK**

- 1.1 CONTRACTOR shall complete the Work as specified or indicated in the Contract Documents, generally described as follows:

Whitefeather Road Water Main Extension, Township of Pinconning, Bay County.

**ARTICLE 2 - ENGINEER**

- 2.1 The work has been designed by the firm of Civil Engineering Consultants, Inc. will act as ENGINEER on the Work.

**ARTICLE 3 - CONTRACT TIME**

- 3.1 The Work shall be Substantially completed within 45 days of the date that the contract is signed. The work shall be Finally Completed within 60 days of the date that the contract is signed.
- 3.2 OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the time specified. They recognize that the financial loss suffered by OWNER in the event that CONTRACTOR fails to complete the Work within the Contract Time would be most difficult to determine accurately in any proceeding. Instead of requiring such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay but not as a penalty CONTRACTOR shall pay OWNER \$200.00 for each day that expires after the completion dates until the Work is complete.
- 3.3 CONTRACTOR agrees to pay, in addition to liquidated damages, expenses arising from failure to complete the Work within the Contract Time including expenses for engineering services, attorney's fees, technical services and administration costs.

**ARTICLE 4 - CONTRACT PRICE**

- 4.1 OWNER will pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds as follows: \$35,127.50 dollars.

**ARTICLE 5 - PAYMENT APPLICATIONS**

- 5.1 CONTRACTOR to prepare and submit monthly payment request to ENGINEER for review. ENGINEER will prepare monthly and final estimates in accordance with the General Conditions.

**ARTICLE 6 - PAYMENTS**

- 6.1 OWNER will make monthly and final payments in accordance with the GENERAL CONDITIONS.

**ARTICLE 7 - CONTRACT DOCUMENTS**

- 7.1 The complete Contract between OWNER and CONTRACTOR consists of the following:
- 7.1.1 Agreement
  - 7.1.2 Instruction to Bidders
  - 7.1.3 Bid
  - 7.1.4 Bonds
  - 7.1.5 Notice of Award
  - 7.1.6 General Conditions.
  - 7.1.7 Supplementary Conditions
  - 7.1.8 Specifications
  - 7.1.9 Special Provisions
  - 7.1.10 Drawings
  - 7.1.11 Change Orders
  - 7.1.12 Addenda (numbers \_\_\_\_ through \_\_\_\_ inclusive)
  - 7.1.13 Bay County Road Commission - Permit Specifications
- 7.2 Some of these items may not be included in this document.

**ARTICLE 8 - MISCELLANEOUS**

- 8.1 Terms used in this Agreement are defined in the General Conditions.



- 8.2 Neither party shall assign or sublet, in whole or in part, any of its rights or obligations, including any monies due, or to become due, under the terms of the Contract Documents without the prior consent of the other party. This paragraph shall not be construed to limit the powers vested in the OWNER under the General Conditions.
- 8.3 The OWNER and CONTRACTOR each binds itself, successors, assigns and legal representatives to the other party hereto in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- 8.4 The Contract Documents may only be altered, amended, or repealed by a Change Order.
- 8.5 Limitation of Liability. Anything contained in this Agreement to the contrary notwithstanding, the contractor understands and agrees that any duty or obligation arising under this Agreement or otherwise on the part of OWNER shall not be enforced, compelled, sanctioned, or otherwise realized by requiring the Township of Pinconning to pay any party or other person any monies received by the Township of Pinconning under, pursuant to, or because of Michigan Public Act 51 of 1951, as amended.
- 8.6 Indemnification. The CONTRACTOR shall protect, defend, indemnify, and hold the OWNER and its members, employees, and agents harmless from and against any and all losses, penalties, damages, professional fees, including attorney fees and all costs of litigation and judgments arising out of any willful misconduct or negligent act, error or omission of the CONTRACTOR, its subcontractors, agents or employees, arising out of or incidental to the performance of this Agreement or work performed thereunder, including any claim (s) brought against the OWNER, its members, employees or agents by any employee of the CONTRACTOR, any subcontractor, or anyone directly or indirectly employed by any of them. The CONTRACTOR'S obligation under this provision shall not be limited in any way by the agreed-upon total contract fee specified in this Agreement or the CONTRACTOR'S limit of, or lack of, sufficient insurance protection. The parties agree that one percent (1%) of the total compensation to the CONTRACTOR for performance of services authorized by this Agreement is specific consideration for the CONTRACTOR'S indemnification of the OWNER.

ARTICLE 9 - CORPORATE CERTIFICATE AND SEAL

- 9.1 CONTRACTOR, if a corporation, shall cause the following certificate to be executed. The same officer shall not execute this Agreement and the certificate unless only one person occupies all corporate offices.

CORPORATE CERTIFICATION

9.2 I, Steve Glorioso, certify that I am the President of the corporation named as CONTRACTOR herein; that Pat Gerny, who signed this Agreement on behalf of CONTRACTOR, was then Secretary of the corporation; that the Contract was duly signed and the corporate seal affixed for, and in behalf of, said corporation by authority of its governing body and is within the scope of its corporate powers.

Steve Glorioso  
(Signature)

2-15-07  
(Date)

(CORPORATE SEAL)

ARTICLE 10 - SIGNATURES

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

WITNESS

Steve Glorioso

CONTRACTOR

MIDSTATE EARTHWORKS INC.  
(Corporation)

By

Pat Gerny  
(Signature)

Pat Gerny  
(Print Name)

Title

Secretary

WITNESS

Mary Teestee

Township of Pinconning ("OWNER")

Sharon Stalsberg  
Sharon Stalsberg, Supervisor

WITNESS

Jenna Hardy