



Holly Tatman <htatmanvillagemgr@gmail.com>

Cost Share for Low Lift Repairs

1 message

Chris Heiden <lexdpw@att.net>
Reply-To: Chris Heiden <lexdpw@att.net>
To: Holly Tatman <htatmanvillagemgr@gmail.com>

Mon, Dec 14, 2020 at 1:14 PM

Holly

According to my documentation the cost share percentage for Lexington and current whole sale customers is as follows:

Lexington = 45.45% or	\$17,725.50
Worth Twp. = 45.45% or	\$17,725.50
Sanilac Twp. = 9.10% or	\$3,549.00

Total Bid Cost \$39000.00

Please let me know if you need any further information.

Christopher M. Heiden
Utilities Manager
Village of Lexington
810-359-5901
810-404-0625



Matthews Septic Seawall & Excavating LLC

980 Ironwood Drive, #291
 Rochester, MI. 48307
 Bill Cell: 810-334-7832
 Danielle Cell: 313-595-0081
 Info@DigMichigan.com

Estimate

Submitted on 12/14/2020

Estimate for

Village of Lexington, Christopher M. Heiden
 Utilities Manager
 7227 Huron Avenue, Suite 100, Lexington, MI. 48450
 Cell: 810-359-5901
 Email: lexdpw@att.net

Payable to

Matthews Septic Seawall & Excavating LLC

Site Address

Lexington Lester Street Low Lift

Description	Qty	Unit price	Total price
Restoration Work: Install 3 loads (150 ton of boulders) in front of existing gabion baskets to decrease rate of future erosion. Boulder break wall to encompass 60 foot of lake frontage, height of boulders is 12-15 feet from depth of water.	1	\$29,250	\$29,250
Access Fee Access fee for traveling through 5689 Old Orchard Bluff Road, Lexington, MI 48450, property of Jamie McCombs.	1	\$3,000	\$3,000
Equipment Excavator, John Deere Track Skid Steer, and Ford Grading Tractor	3	\$750.00	\$2,250.00
Labor Approximately 3 days completion, 2 laborers.	3	\$1,500.00	\$4,500.00

Notes:

* Estimate is valid for 30 days. See attached map for further detail. Contractor not responsible for any asphalt or concrete damage. Size of boulders varies, and cannot be guaranteed. Job will commence weather and material supply permitting. Job may commence in 2021 spring season, weather dependent.

Grand Total: \$39,000.00

Contingency: \$3,900.00

Acceptance of estimate and payment of deposit will be taken as acceptance of the following terms & conditions. The costs provided on estimate are guide prices based upon what we anticipate the labor & materials required to be. Any deviations will require a change order that must be paid in full in order to start change order scope of work. Deposits must be paid in order for work to begin on the project. Unless otherwise agreed upon in writing, the balance of payment will be due in full upon completion of the project. Failure to make final payment may result in a lien being placed against the property where work was completed. Estimate is binding once signed by the Customer and the Contractor.

Terms:

\$19,500.00 down
 \$19,500.00 due upon completion

Client

Contractor

Weiss Excavating & Sand LLC

7050 Burns Line Rd
Lexington, MI 48450

Estimate

Date	Estimate #
12/17/2020	13

Name / Address
Village of Lexington 7227 Huron Avenue Lexington, Mi 48450



Description	Rate	Total
Bluff Project at the end of Lester Street. Install approximately 180 ton of boulders in front of Gabion baskets approx 60 feet long. Due to limited access the Village would need to get written permision from the neighbor to the north. ✱	0.00 42,000.00	0.00 42,000.00
Subtotal		\$42,000.00
Sales Tax (6.0%)		\$0.00
Total		\$42,000.00

Frank Parker Construction
7524 Lakeshore Rd.
Lexington, MI 48450
Phone: 810-359-8545
Fax: 810-359-2073
fparkerconstruction@gmail.com



Estimate

Number E137
Date 12/16/2020

Bill To

Village of Lexington
7227 Huron Ave Suite 100
Lexington, MI, 48450

Ship To

Village of Lexington
7227 Huron Ave Suite 100
Lexington, MI, 48450

Description	Qty.	Rate	Amount
Install 200 tons of angular limestone armor stone, with non-woven filter fabric underlayment. Owner to receive written permission from the neighbor to the north to take armor stone through their property			\$40,000.00
* We have not included any repair of access road cost *			
Owner to obtain all necessary permits			

Amount Due \$40,000.00

Total \$40,000.00

Memorandum

Date: February 20, 2020
To: Holly Tatman, Village of Lexington Manager
From: Edgewater Resources
Subject: Village of Lexington Lester Street Water Intake Structure – Erosion Study Memo

Distribution: Village of Lexington City Council

The following memorandum is intended to provide information regarding the ongoing erosion issues at the location of the Lester Street water intake structure for the Village of Lexington based on the site visit by Edgewater Resources on 2/10/20.

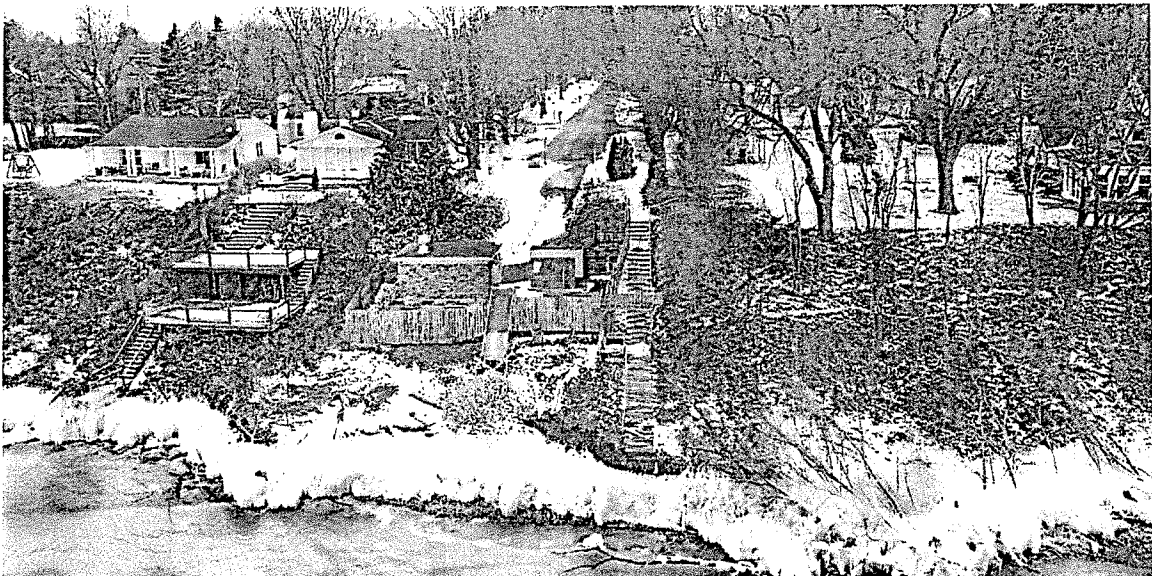


Figure 1: Drone Photo from February 10, 2020

Site Description/Investigation

Lindsey Mathus, PE of Edgewater Resources visited the shoreline with Holly Tatman to visually observe the ongoing erosion issues. The Village of Lexington's water intake structure is located 0.2 miles south of the Lexington State Harbor along the Lake Huron. The project area consists of approximately 66 LF of shoreline

with a steep bluff with the water intake building at the top of the bluff. Although ice was present during the site visit, observations include small gabion baskets filled with 4"-6" stones closer to the water, a temporary timber chute with a larger pile of the 4"-6" stones at the base, and an erosion area between the shoot at the gabion baskets. It is our understanding that the gabion baskets were constructed this past Fall as an emergency repair to prevent further erosion of the bluff due to the high water and wave activity. The temporary project was not fully completed due to lack of resources.

The water intake building is only 15' – 20' from the bluff edge, which is a major concern for the Village of Lexington. The gabion structures are being overtopped by wave activity during storms causing the land behind to erode. This loss of land poses as a major threat to a critical piece of infrastructure for the Village of Lexington. Erosion was present on both adjacent shorelines. It was unclear if any stormwater runoff measures were present at the project site.



Figure 2: Photo facing south illustrating the erosion area

Recommendations & Preliminary Costs

It is evident from the site visit and discussions with the Village, that the lack of adequate shoreline protection measures has resulted in bluff erosion along the project area shoreline. Due to the critical nature of the project, only a long-term approach for the erosion strategy is included. This long-term approach includes the installation of a properly sized armor stone revetment along the shoreline. It is anticipated that the stone in


the gabion baskets could be repurposed as mattress stone for the armor stone shoreline protection system. The gabion structures would be removed to allow for the armor stone revetment construction.

A typical armor stone revetment system consists includes the placement of a properly sized toe stone overtop a layer of mattress stone and geotextile fabric on a stable slope. Key components of a properly constructed armor stone revetment include stone placement that results in a tightly knit structure with irregularly shaped armor stones to create a surface for the wave energy to dissipate before reaching the upland slope. The recommended crest height is LWD (Low Water Datum: 577.5' for Lake Huron) +15' or at LWD +12.5' at a minimum. This outer stone layer should be sloped to create a slope of around 1.75H:1V to achieve the most total stability from both gravity and stone interlock. Stone should be placed individually and positioned to provide positive interlock with adjacent stones. Figure 3 shows an example photo of a proper armor stone revetment along the shores of the Great Lakes. Additionally, we recommend placing splash stone above the revetment to assist in the performance of the shoreline protection system. To protect the shoreline long-term we recommend either wrapping the stone on the north and south sides or working with the adjacent property owners to create a continuous shoreline protection system. If the project does not have stone wrapped back into the shoreline flanking of the front face of the system may occur. Flanking will eventually cause the shoreline protection system to fail.



Figure 3: Shoreline revetment example

The design of shoreline protection system is outside the scope of the current contract, however, we have provided budgetary numbers in Table 1 for similar strategies implemented along the Great Lakes shorelines. Please note that these costs are meant to be preliminary only and additional engineering and surveying services will be required to develop the final design.



Lexington Water Intake Structure - Preliminary Budget			
Long-Term			
	Length (ft)	Revetment Price/LF	Total
Project Area with Splash Stone	76	\$2,500.00	\$190,000.00
Engineering & Contingency			\$47,500.00
Bond Council & Attorney			TBD
		Subtotal	\$237,500.00

Table 1: Preliminary Budget

Regulatory Implications

For a typical shoreline revetment, the required permits will be through Michigan Environmental Department of the Great Lakes & Energy (EGLE) and US Army Corps of Engineers (USACE). The Joint Permit Application is an online permitting process which will likely be a General Permit under Part 325 (Great Lakes Submerged Lands) that will be reviewed by both EGLE and USACE. The requirements include preliminary quantities, drawings, and additional project information. It is likely there will also be a Stormwater and Sediment Erosion Control permit required by the local authority.

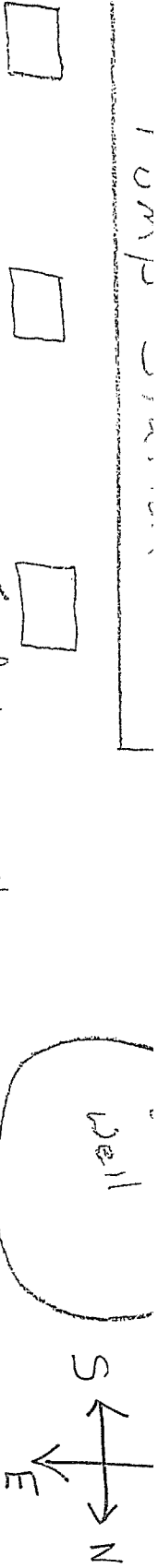
It is anticipated that the project area shoreline is also within a High-Risk Erosion Areas (HREA), per Part 323 – Shorelands Protection and Management by EGLE. Under this designation there are regulations for new construction and improvements to structures that would require an HREA permit. Shoreline protection structures such as a revetment or seawall do not require an HREA permit.

If structure improvements are proposed, the setback distances are from an elevation of 582.2' IGLD. Based on the current HREA map for Sanilac County, the setbacks for the end of Lester St are 90 feet and 165 feet.

Please note this information is based on our current knowledge of the site and interpretation of permitting regulations. Permitting regulations and processes require confirmation with the pertinent agencies and are subject to change.

Limitations of Memorandum

All information included within this memorandum is based upon visual observations made during the site visit and from review of recent site photographs provided by the Village of Lexington. No record as-built information, exploratory excavation, or survey of any form was performed, provided, or reviewed. All possible shoreline repairs indicated above are solely based upon the visual observations made.



12" storm drain and spillway

Main Line Valve

We estimate the use of approximately 250 tons of 4x6 limestone Rip Rap for the complete project

Bank Erosion Line

Stone Fill From Baskets to Erosion Line

STONE FILL

STONE FILL

STONE FILL

STONE FILL

Lake Huron

60' (width of stone fill area)

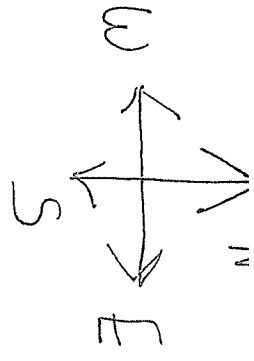
1-2: slope vert. & horizontal
6-10ft. out from shore-w/riprap line

shoreline

(water depth 1-2ft. in this location)

North Neighbor

Building Foundation



Bank Erosion Line
Stone Fill

Gabion Baskets Row 2

Gabion Baskets Row 1

6-10 ft.
from shoreline

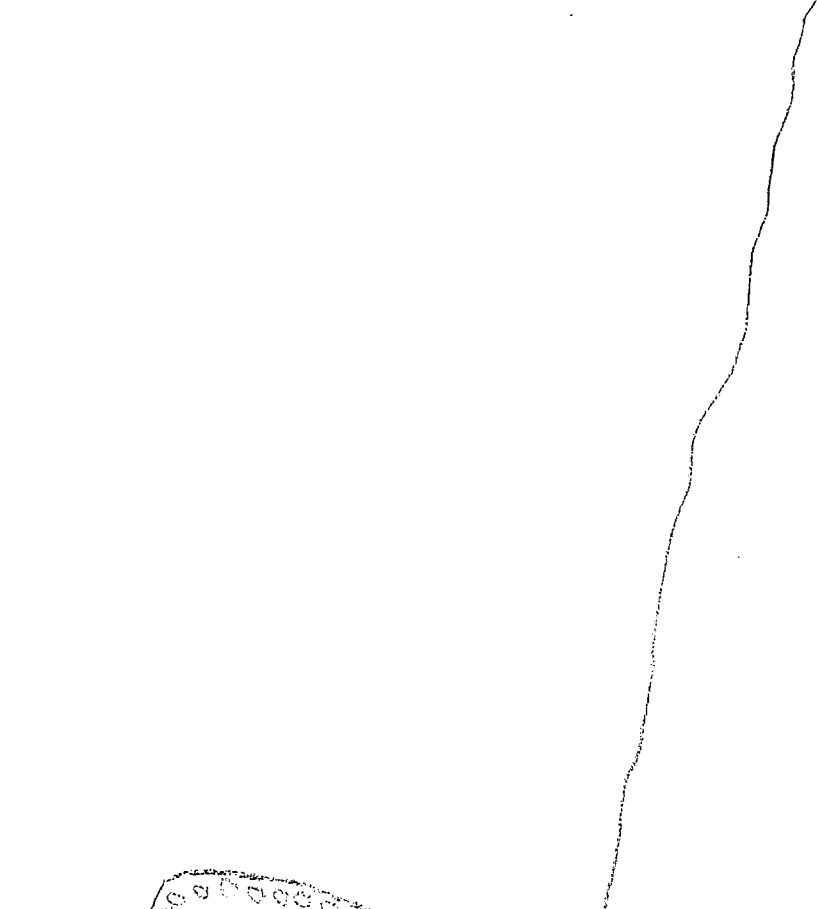
1-2 slope

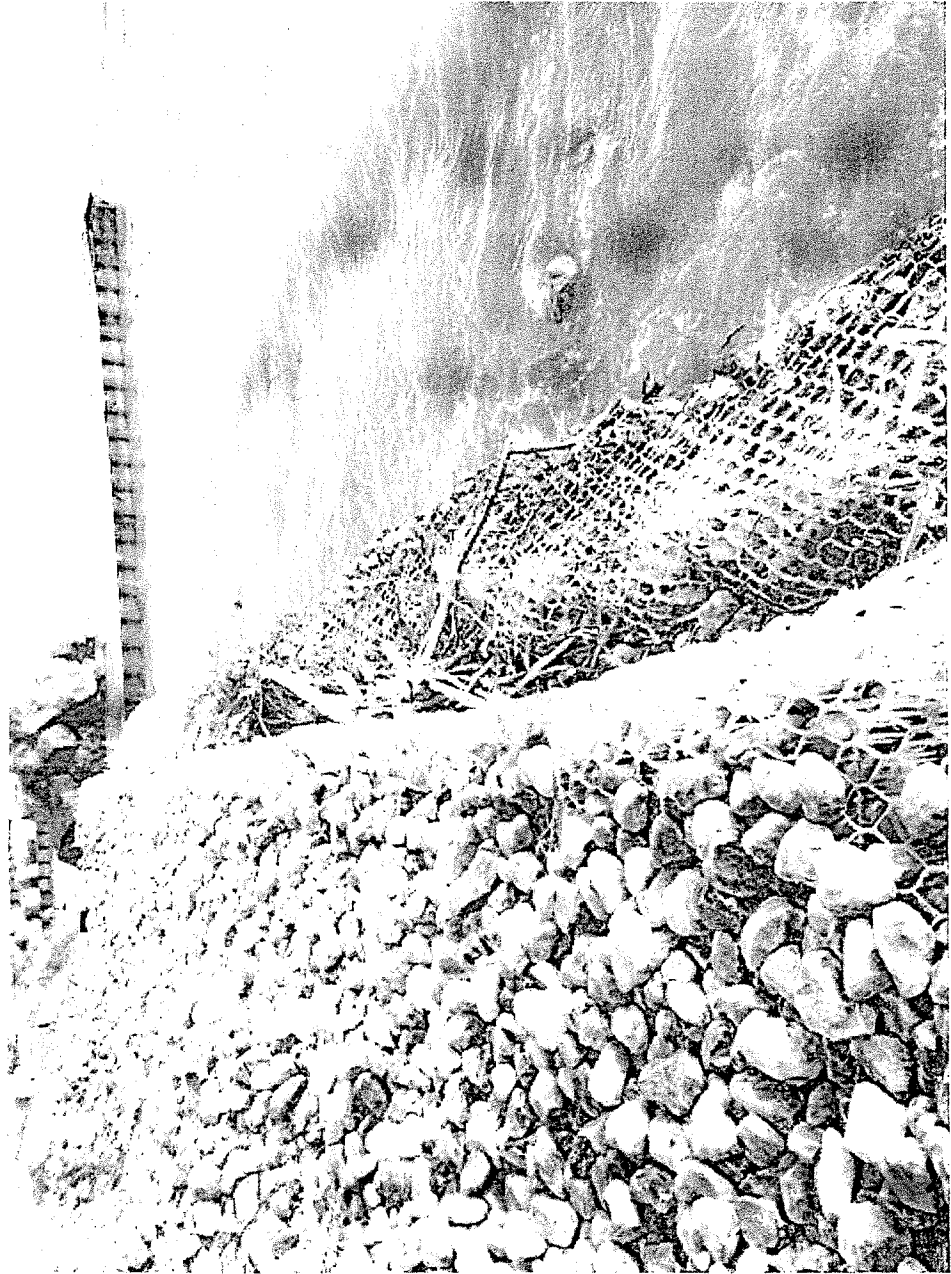
Water

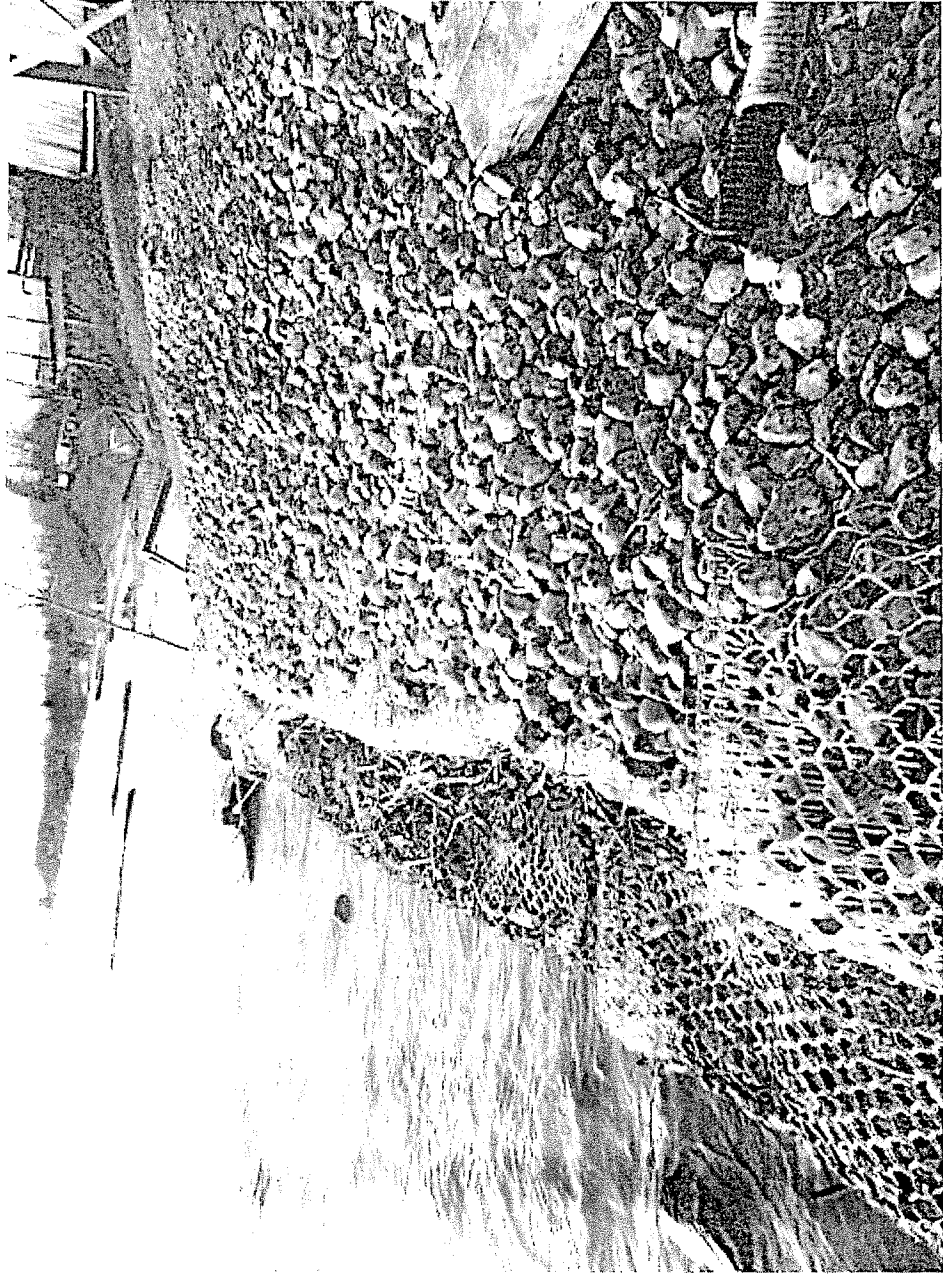
lake

1-2 ft.
water
depth

150,000 TON
3'-6" Boulders







December 16, 2020

To: Village of Lexington Council
Re: Lagoon Blower Replacement

Dear Council,

On the following pages you will find cost information for the replacement of one of our lagoon aeration blowers used to introduce oxygen into the water that we treat at the Waste Water Sewerage Lagoons. The current equipment is going on 15 years old and has reached the end of its life. We had experienced complete failure of one of our alternate blowers a few years back, and it was approved for replacement in the same way we are asking for now. The current unit we are having issues with has already been rebuilt two other times before, but now with the current issue, to rebuild and repair this unit will likely exceed the purchase of a replacement unit. These units are required to run 24/7 – 365 so they experience a significant amount of wear and tear, even with proper maintenance. Village staff will perform the installation of all equipment needed for replacement. I would like to request approval for the expenditure of \$5,500 for the entire project, to include miscellaneous parts and belts. Direct replacement equipment for this is proprietary to the dealer in our area, so there is only one source for this equipment. Funds will come out of the Sewer Capital Equipment budget. Thank you for your consideration in this matter.

Sincerely,

Christopher M. Heiden

Utilities Manager

Hardy Pro-Air Systems & Service

Antioch, IL 60002
 www.HardyProAir.Com

Phone : 800-658-0198
 Fax: 847-395-2972

Quotation

Quote Number
 P-2012-203

Quote Date
 Dec 11, 2020

Page:
 1

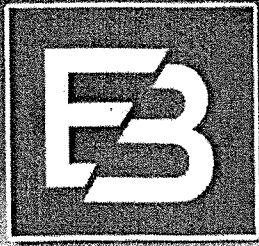
Quoted to:

7227 Huron Avenue
 Suite 100
 Lexington, MI 48450

Phone : 231-652-1934

Fax: 231-652-1938

Customer ID	Ship Date	Payment Terms	Sales Rep	
SKA002	1/10/21	Prepaid	Brad Hargett	
Qty.	Item	Description	Unit Price	Extension
1	BPT410S	6L-ZZ EURUS BLOWER Serial # _____ Delivery possible within 3 days after receipt of Purchase Order	5,318.00	5,318.00
<p><i>We thank you for your interest in our Service & Equipment. We assure that we are willing to work hard to meet the needs of your company.</i></p> <p>Respectfully Submitted : _____</p>			Subtotal	5,318.00
			Sales Tax	
			Freigh	
			Total	5,318.00



Eurus Blower®

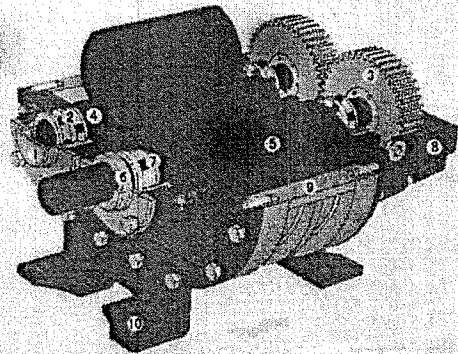
ZZ Series

Bi-lobe Positive Displacement Blowers

Eurus Blower: Built For a Long Life

- Drop-in replacement for Roots URAI, Sutorbilt Legend and Tuthill Competitor models.
- Precision machined and balanced two lobe rotor.
- Ground alloy steel shaft.
- Keyless locking assemblies for gear mounting.
- Oversized bearings
- Forged alloy steel spur gears.
- Oil lubricated gear side and grease lubricated drive side.
- Versatile configurations.

1. Drive side bearings are grease lubricated
2. Oversized bearings
3. Precision spur timing gears
4. Viton lip seal
5. Ductile iron rotor
6. Viton lip seal
7. Roller drive bearing (Except ZZ-2)
8. Aluminum oil cover
9. Cast iron housing
10. Vertical and horizontal mounting feet Configurations

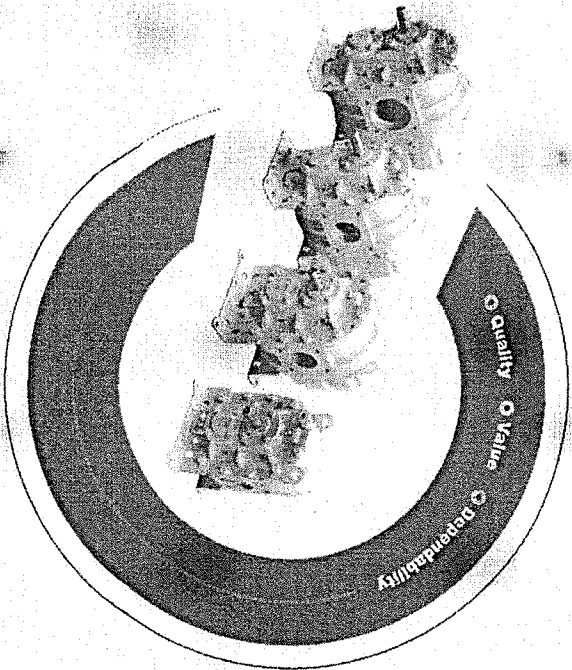


SHANDONG ZHANGQIU BLOWER CO., LTD.

Over 40 Years Experience

Shandong Zhangqiu Blower Co., Ltd. was founded in 1968 on the principles of providing quality, value and dependability. After 30 years of establishing a solid foundation in China, they began to export their blowers in the late 1990's. The company quickly became known as a leader in blower technology across international markets.

In 2006, Shandong Zhangqiu Blower Co., Ltd. decided to take its 40 years of experience and establish Eurus Blower in southeastern Virginia—one of the fastest growing industrial areas on the east coast of the United States.



Z Series Pressure Performance Data

Model	2 PSIG			3 PSIG			4 PSIG			5 PSIG			6 PSIG			7 PSIG		
	Blower Speed (RPM)	Inlet Flow (CFM)	Static Power (BHP)	Inlet Flow (CFM)	Static Power (BHP)	Inlet Flow (CFM)	Static Power (BHP)	Inlet Flow (CFM)	Static Power (BHP)	Inlet Flow (CFM)	Static Power (BHP)	Inlet Flow (CFM)	Static Power (BHP)	Inlet Flow (CFM)	Static Power (BHP)	Inlet Flow (CFM)	Static Power (BHP)	
ZZL	1185	27	0.4	23	0.7	19	0.9	15	1.1									
	2600	84	1.1	88	1.6	85	2.1	82	2.7	78	3.2	75	3.8					
ZZL	3650	125	1.3	120	2	116	2.7	113	3.4	110	4	107	4.7					
	5275	194	2	180	3	186	4	182	5.1	179	6.1	176	7.1					
ZZL	1180	88	1.1	81	1.7	74	2.3	68	2.8	64	3.4	60	4					
	1760	148	1.7	141	2.5	134	3.4	131	4.3	124	5.1	120	6					
ZZL	2170	251	2.7	244	4	240	5.4	233	6.8	220	8.2	223	9.5					
	3600	339	3.5	328	5.2	325	7.1	318	8.9	315	10.8	311	12.6					
ZZL	890	100	1.4	91	2	82	2.7	75	3.4	68	4.1	62	4.8					
	1760	261	2.8	244	4.3	233	5.6	228	7.1	219	8.6	216	9.9					
ZZL	2620	389	4.2	389	6.3	382	8.4	371	10.6	368	12.7	360	14.9					
	3600	565	5.8	565	9.7	548	11.7	541	14.6	524	17.4	527	20.4					
ZZL	700	194	2.2	172	3.3	162	4.4	159	5.6	146	6.7	138	7.8					
	1500	452	4.8	442	7.2	431	9.7	421	12.1	413	14.5	406	16.8					
ZZL/A	2100	854	6.7	843	10.2	833	13.5	826	16.9	815	20.4	808	23.7					
	2850	938	8.1	898	13.8	887	18.4	876	23.1	869	27.6	862	32.3					
ZZL	1170	750	8.5	729	12.2	710	15.9	694	19.8	679	26.3	666	29					
	1790	1178	13.8	1156	18.4	1138	24.8	1121	32.5	1107	38.1	1098	41.8					
ZZL	1930	1301	16.2	1279	22.3	1261	28.4	1245	34.5	1230	40.6	1218	48.7					
	2390	1605	21.6	1594	29	1595	38.4	1549	43.9	1534	51.3	1521	58.7					
ZZL	1170	1278	14.4	1247	20.5	1221	26.7	1199	32.9	1178	38.1							
	1465	1635	18.3	1604	26	1578	33.7	1555	41.5	1535	48.2							
ZZL	1760	1892	23	1861	32.3	1835	41.8	1812	50.9	1882	60.2							
	2050	2342	29.4	2312	40.2	2286	51.1	2265	61.9	2242	71.7							

Performance based on inlet air at standard temperature of 68°F, an ambient pressure of 14.7psia and 35% relative humidity. For performance at non-standard conditions, contact your authorized Eurus Blower representative.

LIMITED WARRANTY OF EURUS BLOWER, INC.

Subject to the terms and conditions hereinafter set forth and set forth in its General Terms of Sale, EURUS BLOWER, INC (the "Seller") warrants, only to the Buyer and/or the original end-user, that the products and parts manufactured by Seller, when shipped, and its work (including installation and start-up) when performed, will be of good quality and will be free from defects in material and workmanship. This limited warranty applies only to Seller's products that are used and serviced in accordance with 'Seller's written instructions, recommendations and ratings for installation, operating, maintenance and service of products. This limited warranty shall be limited in duration for a period as stated in the table below:

Product Type	Type of Application	
		Atmospheric Air or Process Air Without Liquids Present
Model	MB, ZG, ZZ and RR Series	RR Series
New	24 months from date of shipment, or 18 months after initial startup date, whichever occurs first	18 months from date of shipment, or 12 months after initial startup date, whichever occurs first
Repair	12 months from date of shipment, or remaining warranty period, whichever is greater	12 months from date of shipment, or remaining warranty period, whichever is greater

THIS LIMITED WARRANTY EXTENDS ONLY TO BUYER AND/OR ORIGINAL END USER, AND IN NO EVENT SHALL THE SELLER BE LIABLE FOR PROPERTY DAMAGE SUSTAINED BY A PERSON DESIGNATED BY THE LAW OF ANY JURISDICTION AS A THIRD PARTY BENEFICIARY OF THIS LIMITED WARRANTY OR ANY OTHER WARRANTY HELD TO SURVIVE SELLER'S DISCLAIMER.

All claims for defective products, parts, or work under this limited warranty must be made in writing immediately upon discovery and, in any event within one (1) year from date of shipment of the applicable item and all claims for defective work must be made in writing immediately upon discovery and in any event within one (1) year from date of completion thereof by Seller. Unless done with prior written consent of Seller, any repairs, alterations or disassembly of Seller's equipment shall void warranty. Installation and transportation costs are not included and defective items must be held for Seller's inspection and returned to Seller's Ex-Works point or the seller's authorized repair center upon request.

December 1, 2020

MHP LOT DEPOSIT
REFUNDS

- Lot #109 Nicolette Shock \$324.00 Moved: Nov. 2020
- Lot # 22 Brian Cebulski \$486.07 Moved: Dec. 2020

November 25, 2020

Holly Tatman, Village Manager
Village of Lexington
7227 Huron Avenue, STE. 100
Lexington, MI 48450

RE: Village of Lexington – Shoreline Erosion
Sanilac County, Michigan
Agreement for Professional Services

Ms. Tatman:

Per your request during our meeting on November 5th, 2020, Spicer Group is submitting this proposal to furnish professional engineering services in connection with the stabilization of the shoreline located near the Village of Lexington's mobile home park. Spicer Group is very excited to provide the Village with this professional services proposal. As discussed during our meeting, we have the necessary knowledge and experience to assist the Village with designing solutions to the existing erosion problems on the shoreline.

Our scope and fee for our professional engineering services is as follows:

SURVEY, DESIGN, PERMITTING & BIDDING:

1. Topographical survey of site with established control points for future construction staking. We are currently estimating that the project will include approximately 1,100 linear feet of shoreline repairs and stabilization.
2. Obtain four soil borings to a depth of 40 feet each. Soil borings will be utilized to understand the existing soil profile and the existing water table.
3. Attend two meetings with Village staff and stakeholders during design phase.
4. Attend one meeting with the Michigan Department of Environment, Great Lakes and Energy (EGLE).
5. Prepare all required permits from the EGLE/USACE.
6. Coordinate with utility owners for any necessary relocation of existing facilities within the project area.
7. Perform calculations necessary to determine appropriate riprap sizes and design bank stabilization measures.
8. Prepare a set of plans and specifications utilizing Spicer Group standard specifications for this type of work.

9. Prepare an engineer's preliminary estimate of cost.
10. Bidding services including preparation of the construction contracts and invitation to bid, attendance of the pre-bid meeting, answering any questions that arise during bidding, and assisting in review and analysis of bids and selection of contractor.

DESIGN CONCEPT

As requested during our meeting, we prepared a sketch of a proposed design concept and a planning level cost estimate to accompany the design, both documents are enclosed with this proposal. This concept was prepared based on visual observations made during our meeting on November 5th and is subject to change once design begins and we have a better understanding of existing conditions based on the survey and soil borings. Included with this scope is a Pre-Application meeting with EGLE to understand any permitting concerns they may have with the design concept. Based on feedback from EGLE, further revisions may need to be made to the design concept and cost estimate.

SERVICES NOT INCLUDED

For a clearer understanding of our work scope and fee, the following is not included in our Scope of Professional Services and/or Fee Schedule.

- Construction Administration Phase
- EGLE/USACE Joint Permit Application fee (reimbursable expense)
- Grant application assistance or preparation
- Design for work outside of the project limits identified during the November 5th meeting
- Permit coordination with contractor

ADDITIONAL SERVICES

We will furnish additional services related to this project after you authorize the work. Our fee for the additional services will be determined at the time they are agreed to and rendered. Requests by the State, the County, utilities, or other regulatory agencies that require supplemental design may require additional services.

FEE SCHEDULE

Our fee is based on our standard hourly rates; therefore, invoices will be for actual hours of service provided on this project. Our estimated fees on this project are based upon our experience with the actual time required on previous projects of this type. We will submit monthly invoices to you for services furnished and for any reimbursable expenses during each phase on the amount of work completed. The estimated fee for this phase of the project is **\$78,000**. Spicer Group will not exceed this estimated fee without approval of the Village. As discussed at our meeting, our fee is based on the estimated hours to complete the work scope provided and does not include reimbursable expenses. We estimate that reimbursable expenses on this project to be limited to fees charged by other agencies such as permit application fees (EGLE/USACE)/pre-application meeting fees (EGLE).

If this proposal meets with your approval, please acknowledge your approval by signing the enclosed copy in the space provided and returning it to our office.

We deeply appreciate your confidence in our firm, and we are looking forward to working with you and for you on this project.

Sincerely,



Ronald B. Hansen, P.E., P.S.
Principal



Nicholas D. Czerwinski, P.E.
Senior Associate/Project Manager

Above proposal accepted and approved by Owner:

VILLAGE OF LEXINGTON

By: _____

Holly Tatman
Village Manager

Date: _____

SPICER GROUP, INC.
230 S. Washington Avenue
Saginaw, MI 48607
Phone: (989) 754-4717

C: SGI File # 129637PR2020
SMC, Accounting

Enclosure:

Spicer Group General Conditions
Sketch of Design Concept
Planning Level Cost Estimate

q:\proj2020\129637sg2020 - village of lexington shoreline erosion\129637pr2020_proposal\20201125_village of lexington_shoreline erosion_loa.docx

GENERAL CONDITIONS ATTACHED TO LETTER AGREEMENT

SECTION 1

1.1 **Preamble.** This agreement is based upon a mutual obligation of good faith and fair dealing between the parties in its performance and enforcement. Accordingly, the OWNER and the PROFESSIONAL, with a positive commitment to honesty and integrity, agree to the following:

That each will function within the laws and statutes that apply to its duties and responsibilities; that each will assist in the other's performance; that each will avoid hindering the other's performance; that each will work diligently to fulfill its obligations; and that each will cooperate in the common endeavor of the contract.

1.2 **Ownership of Instruments of Service.** All reports, plans, specifications, computer files, field data, notes and other documents and instruments prepared by the PROFESSIONAL as instruments of service shall remain the property of the PROFESSIONAL. The PROFESSIONAL shall retain all common law, statutory and other reserved rights, including the copyright thereto.

1.3 **Covenant not to Hire.** OWNER agrees that during the term of this agreement and for a period of one (1) year thereafter that it will not hire for its own employment any person employed by the PROFESSIONAL in the performance of this agreement.

1.4 **Standard of Care.** Service performed by PROFESSIONAL under this AGREEMENT will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this AGREEMENT, or in any report, opinion, document or otherwise.

1.5 **Defects in Service.** OWNER and OWNER's personnel, contractors and subcontractors shall upon discovery promptly report to PROFESSIONAL any defects or suspected defects in PROFESSIONAL's work, in order that PROFESSIONAL may take prompt, effective measures which in PROFESSIONAL's opinion will minimize the consequences of a defect in service. PROFESSIONAL shall not be responsible for additional costs due to any tardiness in reporting defects in service.

1.6 **Reimbursable Expenses** mean the actual expenses incurred by PROFESSIONAL or PROFESSIONAL's independent professional associates or consultants, directly or indirectly in connection with the Project, such as expenses for; transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and courier services; reproduction of reports, drawings, specifications, bidding documents, and similar project-related items; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates.

1.7 **Standard Hourly Rates** used as a basis for payment mean those rates in effect at the time that the work is performed, for all PROFESSIONAL's personnel engaged directly on the Project, including, but not limited to, architects, engineers, surveyors, designers, planners, drafters, specification writers, estimators, other technical and business personnel. The Standard Hourly Rates include salaries and wages, direct and indirect payroll costs and fringe benefits. The Standard Hourly Rates of personnel of PROFESSIONAL will be adjusted periodically to reflect changes in personnel and in PROFESSIONAL's overall compensation procedures and practices.

1.8 **Limitation of Liability.** To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of the PROFESSIONAL and the PROFESSIONAL's officers, directors, partners, employees and subconsultants, and any of them, to the OWNER and anyone claiming by or through the OWNER, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Project or the Agreement from any cause or causes shall not exceed the total compensation received by the PROFESSIONAL under this Agreement, or the total amount of \$100,000.00, whichever is greater. It is intended that this limitation apply to any and all liability or caused of action however alleged or arising, unless otherwise prohibited by law.

1.9 **Indemnification.** The PROFESSIONAL agrees, to the fullest extent permitted by law, to indemnify and hold harmless the OWNER, its officers, directors and employees (collectively, Owner) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the PROFESSIONAL's negligent performance of professional services under this Agreement.

The OWNER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the PROFESSIONAL, its officers, directors, employees and subconsultants (collectively, Professional) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the OWNER's negligent acts in connection with the Project and the acts of its contractors, subcontractors or PROFESSIONAL or anyone for whom the OWNER is legally liable.

Neither the OWNER nor the PROFESSIONAL shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

1.10 **Severability.** Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

1.11 **Survival.** Notwithstanding completion or termination of this Agreement for any reason, all rights, duties and obligations of the parties to this Agreement shall survive such completion or termination and remain in full force and effect until fulfilled.

1.12 **Betterment.** If, due to the PROFESSIONAL's negligence, a required item or component of the Project is omitted from the PROFESSIONAL's construction documents, the PROFESSIONAL shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. In no event will the PROFESSIONAL be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

1.13 **Mediation.** In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the OWNER and the PROFESSIONAL agree that all disputes between them arising out of or relating to the Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

The OWNER and the PROFESSIONAL further agree to include a similar mediation provision in all agreements with independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.

1.14 **Changed Conditions.** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the PROFESSIONAL are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the PROFESSIONAL may call for renegotiation of appropriate portions of this Agreement. The PROFESSIONAL shall notify the OWNER of the changed conditions necessitating renegotiation, and the PROFESSIONAL and the OWNER shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions.

1.15 **Hazardous Materials.** Both parties acknowledge that the PROFESSIONAL's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the PROFESSIONAL or any other party encounters any hazardous or toxic materials, or should it become known to the PROFESSIONAL that such materials may be present on or about the job site or any adjacent areas that may affect the performance of the PROFESSIONAL's services, the PROFESSIONAL may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the OWNER retains appropriate PROFESSIONAL's or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the job site is in full compliance with all applicable laws and regulations.

SECTION 2

2.1 **Assignment.** Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party. Subcontracting to subconsultants normally contemplated by the PROFESSIONAL shall not be considered an assignment for purposes of this Agreement.

2.2 **Governing Law & Jurisdiction.** The OWNER and the PROFESSIONAL agree that this Agreement and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the State of Michigan.

2.3 **Billing and Payment Terms.** *Payment Due:* invoices shall be submitted by the PROFESSIONAL (monthly) are due upon presentation and shall be considered past due if not paid within thirty (30) calendar days of the due date. *Interest:* If payment in full is not received by the PROFESSIONAL within thirty (30) calendar days of the due date, invoices shall bear interest at one-and one-half (1.5) percent of the PAST DUE amount per month, which shall be calculated from the invoice due date. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal.

2.4 **Suspension of Services.** If the OWNER fails to make payments when due or otherwise is in breach of this Agreement, the PROFESSIONAL may suspend performance of service upon ten (10) calendar days' notice to the OWNER. The PROFESSIONAL shall have no liability whatsoever to the OWNER for any costs or damages as a result of such suspension caused by any breach of this Agreement by the OWNER. Upon payment in full by the OWNER the PROFESSIONAL shall resume services under this Agreement, and the time scheduled and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expenses necessary for the PROFESSIONAL to resume performance. *Termination of Services:* If the OWNER fails to make payment to the PROFESSIONAL in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by the PROFESSIONAL. *Set-off, Backcharges, Discounts:* Payment of invoices shall not be subject to any discounts or set-off's by the OWNER unless agreed to in writing by the PROFESSIONAL. Payment to the PROFESSIONAL for services rendered and expenses incurred shall be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.

2.5 **Collection of Costs.** In the event legal actions necessary to enforce the payment terms of this Agreement, the PROFESSIONAL shall be entitled to collect from the OWNER any judgement or settlement sums due, plus reasonable attorneys' fees, court costs and other expenses incurred by the PROFESSIONAL in connection therewith and, in addition, the reasonable value of the PROFESSIONAL's time and expenses spent in connection with such collection action, computed according to the PROFESSIONAL's prevailing fee schedule and expense policies.

2.6 **Delays.** The OWNER agrees that the PROFESSIONAL is not responsible for damages arising directly or indirectly from any delays for causes beyond the PROFESSIONAL's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters; fires, riots, war or other emergencies or acts of God; failure of any government agency to act in timely manner; failure of performance by the OWNER or the OWNER's contractors or consultants; or discovery of any hazardous substances or differing site conditions.

In addition, if the delays resulting from any such causes increase the cost or time required by the PROFESSIONAL to perform its services in an orderly and efficient manner, the PROFESSIONAL shall be entitled to an equitable adjustment in schedule and/or compensation.