

**CITY OF HILLIARD, OHIO
CIP LB-20 – 2016 STREET
AND PUBLIC LANDS TREE PROGRAM**

**CITY OF HILLIARD
DEPARTMENT OF SERVICE/ENGINEERING
3800 MUNICIPAL WAY
HILLIARD, OHIO 43026**

**CLYDE R. SEIDLE, PE
DIRECTOR OF PUBLIC SERVICE /
CITY ENGINEER**

BID SUBMITTED BY: _____

COMPANY

ADDRESS

CITY

STATE

ZIP

Phone: _____

Fax: _____

Email: _____

Date of Submission: _____

BIDDING DOCUMENTS SHALL BE SUBMITTED IN THEIR ENTIRETY

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CITY OF HILLIARD, OHIO

CIP LB-20 – 2016 STREET AND
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BIDDER'S CHECKLIST

If this checklist is not completed and attached to a bid package, the bid may be disqualified at the discretion of the City.

This checklist is provided in order to ensure that all bids submitted include required signatures and information. This checklist must be copied from the bid book and attached as the cover sheet to the bid book prior to sealing and submitting bid.

BID SUBMITTED BY: _____

ADDRESS: _____

PHONE: _____ FAX: _____ EMAIL: _____
(E-mail of contact person for bid)

PROJECT NAME: CIP LB-20 – 2016 STREET AND PUBLIC LANDS TREE PROGRAM

DATE OF BID SUBMISSION: _____

Bid documents must be submitted in their entirety. Bidders must submit the entire bid book to the office of the Director of Public Service, or to the City staff person as identified in the bid notice. Do not unbind bid book and submit individual pages. Documents that you must sign or include cannot be submitted separately – they must all be included in a bid book.

The bid submission must be clearly marked and submitted in a sealed envelope to the office and person identified in the bid notice. The following items must be completed and included in the bid submission in order to qualify as bid. Please respond to each item below with a checkmark in the appropriate column.

1. Addenda received and included with this bid: _____ Yes _____ No
Indicate number of addenda received: _____
Addenda(s) are signed by bidder to acknowledge receipt: _____ Yes _____ No
2. Current Certificate of Workers' Compensation is attached to Section 4 of this bid book. _____ Yes _____ No

3. Bid Guaranty and Contract Bond in Section 8 of Contract, Proposal and Standard Documents Section of this bid book, is completed and enclosed: Yes No
- Form of Bid Bond: Surety Company Cashier's Check
- Certified Check Letter of Credit
4. Non-Collusion Affidavit in Section 9(a) of Contract, Proposal and Standard Documents Section of this bid book is signed by bidder and notarized: Yes No
5. Unresolved Finding for Recovery Affidavit in Section 9(b) of Contract, Proposal and Standard Documents Section of this bid book is signed and notarized: Yes No
6. Resources and Experience of Bidder in Section 10 of Contract, Proposal and Standard Documents Section of this bid book is completed and enclosed: Yes No
7. List of Substitutions in Section 11 of Contract, Proposal and Standard Documents Section of this bid book is completed and enclosed: Yes No
8. List of Subcontractors in Section 12 of Contract, Proposal and Standard Documents Section of this bid book is completed and enclosed: Yes No
9. Non-Delinquent Tax Affidavit in Section 13 of Contract, Proposal and Standard Documents Section of this bid book is signed by bidder and notarized: Yes No
10. Bid proposal in Appendix A of this bid book is complete, signed, and Federal Tax ID is provided: Yes No
11. I understand that if my company is notified that the City intends to award the contract to it, I will have the following provision, and no other language, included in the Certificate of Liability Insurance that must be provided to the City:

"Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will mail written notice to the certificate holder named to the left according to the policy's requirements." _____ Yes

12. Section 129.03 of the City's Codified Ordinances establishes a local preference program for the purchase of materials, supplies, equipment and services. Please review Section 129.03 in the bid documents. If the local preference applies in the awarding of this contract, and your business is located within the City's corporate boundaries, you agree to provide the City with permission to view your tax returns filed with the City of Hilliard. Viewing of these records is necessary in order to determine that the business qualifies for the preference under Section 129.03. Only the law department will view the tax returns for these purposes. Check one of the responses below:

_____ Yes, the City of Hilliard's law department has permission to view our company's tax returns filed with the City of Hilliard for the purpose of determining our eligibility for a local preference under Section 129.03 of the City's Codified Ordinances.

_____ Our business is not located in the corporate boundaries of Hilliard and the local preference program does not apply.

I certify that the above items were included in the bid package at the time our bid was submitted to the City.

Title of Authorized representative of Company/Bidder

Signature

Print Name Title

Date

Signatories e-mail address: _____

NOTICE TO BIDDERS

Sealed bids addressed to the Director of Public Service, City of Hilliard, 3800 Municipal Way, Hilliard, Ohio 43026 and endorsed "**CIP LB-20 – 2016 STREET AND PUBLIC LANDS TREE PROGRAM**" will be received by the City of Hilliard, Franklin County, until **3:00 P.M. (Local Time), Thursday, May 26, 2016** at which time and place all bids will be publicly opened and read aloud for the following:

CIP LB-20 – 2016 STREET AND PUBLIC LANDS TREE PROGRAM

All bidders must register as a potential bidder with Key Blue Prints, Plan Key Services, 195 East Livingston Avenue, Columbus, Ohio 43215, prior to the bid opening date; those that register after Friday, April 4, 2016 are not guaranteed to receive any clarifications or addenda, and should contact the City and inquire if any have been issued prior to submitting a bid.

Copies of the Contract Documents, Specifications, and Plans are on file with Key Blue Prints, Plan Key Services, 195 East Livingston Avenue, Columbus, Ohio 43215 where they are available for inspection by prospective bidders and can be obtained from Key Blue Prints for a non-refundable fee of **\$60.00**. You may also obtain these bid documents electronically by registering with Key at <https://www.keycompanies.com/services/plankey/>.

The Engineer's estimated cost for the Project is **One Hundred Ninety Thousand and two hundred dollars (\$190,200.00)**.

This project consists of removing City street trees including most that are infested with the Emerald Ash Borer or other deficiencies. Removal shall include tree canopy, trunk, stump, root and ground restoration as set forth in the bid specifications. This project also includes planting new trees, predominately 2 inch caliper and some 4 inch caliper trees in the locations specified in the plans.

Failure to fully and accurately complete the bid documents shall be considered grounds for rejecting the bid. Prices for labor and materials shall be quoted separately. Bids may be withdrawn at any time before the scheduled closing time for receipt of bids, but may not be modified and resubmitted. No bid will be accepted if it exceeds the Engineer's cost estimate by more than ten percent (10%).

Technical questions about the project and questions about the bid documents should be submitted to Clyde R. Seidle, PE, Director of Service, cseidle@hilliardohio.gov, or to him at 3800 Municipal Way, Hilliard, Ohio 43026.

This project is subject to prevailing wage. Bid security must be furnished with all bids. If the bid is accepted, a contract must be executed and a satisfactory contract bond furnished, conditioned according to law, in the amount of one hundred percent (100%) of the contract price, within ten (10) days after Notice of Award. Sureties on all bonds must be satisfactory to the City. Failure to submit the required bid bond will result in rejection of the bid.

Section 129.03 of the City's Codified Ordinances establishes a local preference program for the purchase of materials, supplies, equipment and services. A copy of this code section is included in the bid documents.

The City reserves the right to reject any or all bids. An award will be made to the lowest and best bidder, taking into consideration such factors as the qualifications, past performance, efficiency and responsibility of the bidder along with the price of the bid. Informalities in making out the bid may be waived at the option of the City.

Clyde R. Seidle, P.E.,
Director of Public Service/City Engineer
Hilliard, Ohio

Advertisement Dates – Hilliard ThisWeek:

Thursday, May 5, 2016
Thursday, May 12, 2016

Bid Opening Date/Time:

Thursday, May 26, 2016 at 3:00 PM local time
3800 Municipal Way, Hilliard, Ohio

DESCRIPTION OF THE PROJECT

CIP LB-20 – 2016 STREET AND PUBLIC LANDS TREE PROGRAM

This project consists of removing City street trees including most that are infested with the Emerald Ash Borer or other deficiencies. Removal shall include tree canopy, trunk, stump, root and ground restoration as set forth in the bid specifications. This project also includes planting new trees, predominately 2 inch caliper and some 4 inch caliper trees in the locations specified in the plans.

The Engineer's estimate for this project is \$190,200.00. The project must be substantially complete by November 30, 2016, and fully complete by December 15, 2016.

INFORMATION FOR BIDDERS

1. RECEIPT AND OPENING OF BIDS
2. PREPARATION OF BID
3. SUBSTITUTION OF MATERIALS
4. SUBCONTRACTS
5. BID MODIFICATIONS
6. QUALIFICATION OF BIDDER
7. BID SECURITY
8. LOCAL PREFERENCE PROGRAM
9. CONTRACT AWARD AND EXECUTION
10. INSURANCE
11. POWER OF ATTORNEY
12. NOTICE TO PROCEED/TIME OF COMPLETION
13. CONDITIONS OF WORK
14. ADDENDA AND INTERPRETATIONS
15. LAWS AND REGULATIONS
16. OBLIGATION OF BIDDER
17. INCOME TAX
18. CONFLICTS OF INTEREST
19. OCCUPATIONAL SAFETY AND HEALTH ACT
20. ESTIMATE OF QUANTITIES
21. PAYROLL
22. RELEASE OF FINAL PAYMENT

1. RECEIPT AND OPENING OF BIDS

The City of Hilliard (hereinafter called the "Owner") invites bids on the forms provided. Bids will be received by the Owner at the office of the Department of Public Service until **3:00 p.m.** local time **Thursday, May 26, 2016**, at which time and place all bids will be publicly opened and read aloud. The envelope containing the bid must be sealed, addressed to the Director of Public Service of the City of Hilliard, 3800 Municipal Way, Hilliard, Ohio 43026 and designated as the **CIP LB-20 – 2016 STREET AND PUBLIC LANDS TREE PROGRAM**. The City Engineer's estimate for the project is **\$190,200.00**.

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid received after the time and date specified shall not be considered. Bids may be withdrawn at any time before the scheduled closing time for receipt of bids, but may not be modified and resubmitted. Modification of bids without withdrawal is addressed in Section 5.

Each bidder, by submission of a bid, waives the requirement under Section 153.12(A) of the Ohio Revised Code that the award and execution of the contract be made within sixty days after the date on which the bids are opened, and alternatively, agrees, by submission of a bid, to extend the time for awarding and executing a contract, and to keep their bid open and unchanged, for a period of ninety days.

2. PREPARATION OF BID

Each bid must be submitted on the forms provided. All blank spaces for bid prices must be filled in, in ink or typewritten, in both words and figures, and must be clearly legible. **The entire bid book must be submitted.** Prices for labor and materials shall be quoted separately. No additional prices or qualifying clauses shall be written in.

Each bid must contain the full name, address and telephone number of each bidder interested in the same.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, its address and phone number, and the name of the Project for which the bid is submitted. When forwarded by mail, the sealed envelope containing the bid must be in another envelope addressed as specified in Section 1.

All supplementary bid documents included within these Bid Documents must be completed and submitted with the bid, as stated in the Bidder's Checklist that must be completed and submitted with the bid package.

No bid will be accepted if it exceeds the Engineer's cost estimate on the base bid by more than ten percent (10%).

3. SUBSTITUTION

Any substitution of a tree species can only be done with the prior written approval of the Owner through the City's Service Director, which may be withheld in his discretion.

4. SUBCONTRACTS

The bidder is specifically advised that any person, firm or other party to whom it is proposed to award a subcontract under this contract must be acceptable to the Owner, and must abide by applicable terms and conditions contained herein. The attached List of Subcontractors must be completed and submitted with the bid if the Contractor will use one or more subcontractors. If no subcontractors are contemplated to be used by the bidder, then the form must state "None."

5. BID MODIFICATIONS

Any bidder may modify his bid by written communication at any time prior to the scheduled closing time for receipt of bids, providing such written communication is received by the Owner prior to closing time. The written communication shall not reveal the bid price but should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened.

6. QUALIFICATION OF BIDDER

The Owner may make such investigations as it deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request, including without limitation completion and submission of the attached Resources & Experience of Bidder form. The Owner reserves the right to reject any bid if the information submitted by, or investigation of such bidder, fails to satisfy the Owner that the contractor will be able to timely, satisfactorily and professionally complete the work contemplated therein. Conditional bids will not be accepted.

7. BID SECURITY

Bidders are **required** to comply with current Ohio Law which provides that bid security shall be in the form of a bond for the full amount of the bid, with a corporate Surety approved by the Owner, or a certified check, cashier's check, or irrevocable letter of credit equal to ten percent (10%) of the amount of the bid. The Bid Guaranty form attached to these Bid Documents should be used.

All certified checks, bonds, etc., shall be made payable to the City of Hilliard, Ohio.

Such cash, checks or bid bonds shall be returned to all except the three lowest bidders within three (3) days after the opening of bids, and the remaining cash, checks, or bid bonds will be returned within ten (10) days after the Owner and the accepted bidder have executed the Contract, or if no award has been made within 60 (sixty) days of the

opening of the bid, upon demand of the bidder at any time thereafter, so long as it has not been notified of the acceptance of its bid.

8. LOCAL PREFERENCE PROGRAM

Section 129.03 of the City's Codified Ordinances establishes a local preference program for the purchase of materials, supplies, equipment and services. A copy of this code section is included in the bid documents.

9. CONTRACT AWARD AND EXECUTION

After the bids are opened and read aloud, they will be compared on the basis of the Total Base Bid Amount. The Total Base Bid Amount shall be the summation of the products of the approximate quantities shown in the Base Bid Proposal by the total (sum of labor and material) price. In the event of a discrepancy between the total (sum of labor and material) price and the extensions, the total (sum of labor and material) price shall govern. The right is reserved to reject any or all bids, to waive technicalities or to advertise for new bids, if in the judgment of the Owner, its best interests will be served thereby.

The award of the work, if it is awarded, will be made as soon as is reasonably possible after the opening of the bids, to the lowest and best bidder as determined by the Owner. In no case will an award be made until all necessary investigations are made as to the qualification of the bidder to whom it is proposed to award the contract.

The Owner reserves the right to rescind the award of the work at any time before the execution of the Contract by all parties without incurring any liability. If the Contractor changes its position, economically or otherwise, after receiving a verbal or written notice of award and in reliance upon the Owner executing the Contract, the Contractor shall do so solely at its own risk and the Owner will not incur any liability from the Contractor's change of position.

The bidder to whom the work is awarded will be required to execute the Contract and to furnish the required Contract Bond, Certificates of Insurance, and Non-Delinquent Tax Affidavit within ten (10) calendar days from the date when the Notice of Award is communicated in writing to the successful bidder.

A Contract Bond in the amount of 100 percent (100%) of the Contract Price, with a corporate Surety approved by the Owner, will be required for the faithful performance of the Contract. The Contract Bond included herein should be used. The Contract Bond shall remain in effect until the expiration of the one-year guarantee period as assurance of the guarantee herein stipulated.

A bid guaranty, contract bond, payment bond, maintenance bond or any combination thereof executed by a surety not licensed, or a surplus lines company not approved, by the Superintendent of Insurance to execute such a bond in the State of Ohio shall be considered non-responsive and the bid shall be rejected.

10. INSURANCE

(a) Contractor's Liability Insurance. The Contractor shall purchase and maintain:

(i) Such liability and other insurance on an occurrence basis as will protect it and the Owner from claims set forth below which arise out of or result from the Contractor's execution of the work, whether such execution be by itself or by a Subcontractor or by

anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(A) Claims under Workers' Compensation, occupational sickness or disease, disability benefit and other similar employee benefit acts;

(B) Claims for damages because of bodily injury, disease, illness, death or personal injury, and other claims usually covered by bodily injury liability insurance; and

(C) Claims for damages because of injury to or destruction of property and other claims usually covered by property damage liability insurance.

In order to comply with this requirement, the Contractor shall furnish and attach to each executed set of the Contract Documents, a copy of the current Workers' Compensation Certificate showing that the Contractor has paid its Workers' Compensation insurance premium. Renewal certificates shall be furnished to the Owner as necessary during the life of the Contract.

(ii) A Commercial General Liability policy and Business Automobile Liability policy, separately or combined, issued to the Contractor and protecting it from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the Contract Documents, whether such operations be by the Contractor or by any Subcontractor under it, in the limits as set forth below. The policies shall be endorsed to provide that the General Aggregate Limit applies separately to each of the insured Contractor's projects.

(A) Contracts in the amounts of \$100,000 or less shall require coverage in the amount of not less than \$1 million general aggregate and \$500,000 per occurrence.

(B) Contracts in excess of \$100,000 shall require coverage in the amount of not less than \$2 million general aggregate and \$1 million per occurrence.

(C) The Business Automobile Liability policy shall cover owned, non-owned and hired vehicles and carry a \$1 million coverage amount.

(b) Risk Insurance

If the Contractor is involved solely in the installation and/or use of materials and equipment and not in new building construction, the Contractor shall purchase and maintain sufficient risk insurance coverage in the amount equal to 100% (one hundred percent) of the cost of the materials and equipment.

(c) Umbrella Excess Liability Insurance to extend existing policies to the required limits will be accepted.

(d) Certificates of Insurance acceptable to the Owner and naming the Owner as an additional insured shall be filed with the Owner prior to execution of the Contract. In no event shall any failure of the Owner to demand a copy of the required Certificate of Insurance be construed as a waiver of the obligation of the Contractor to obtain insurance required to be purchased or maintained and naming the City as an additional insured. These certificates shall contain the following provision in the cancellation section by itself, without any other language or limitation: "Should any of the above described policies be

cancelled before the expiration date thereof, the issuing insurer will mail written notice to the certificate holder named to the left according to the policy's requirements."

(e) The Contractor shall maintain all insurance in the required amounts, without interruption, from the date of the execution of the Contract until the date of full completion. Failure to maintain the required insurance during the time specified shall be cause for termination of the Contract.

(f) Insurance policies required to be purchased and maintained by the Contractor may include a reasonable loss deductible, which shall be the responsibility of the Contractor to pay in the event of a loss, regardless whether the Contractor or the Owner, as the additional insured, files a claim.

(g) The prompt repair or reconstruction of the work as a result of an insured loss or damage shall be the Contractor's responsibility and shall be accomplished at no additional cost to the Owner.

11. POWER OF ATTORNEY

Attorneys-in-fact who sign bid bonds and/or contract bonds must file with each bond a certified and effectively dated copy of the power of attorney granting the authority for their signatures.

12. NOTICE TO PROCEED/TIME OF COMPLETION

After award of the Contract, the City will issue to the successful bidder a Notice to Proceed, which notice shall provide written direction to the Contractor as to what work shall be performed. The Bidder must agree to commence work within ten (10) calendar days after the date of the Contract (Date of the Contract is the date of execution by the Owner) and be substantially **complete by November 15, 2016, and fully complete by December 15, 2016**. All work under the Contract, including all punch list items shall be fully complete by that time. The Owner reserves the right to issue a "Limited Notice to Proceed", which notice shall provide written direction to the Contractor as to a portion of the work that may or shall be commenced.

13. CONDITIONS OF WORK

Each bidder must be knowledgeable about the conditions relating to the Project and the employment of labor therefor. Failure to do so will not relieve a successful bidder of the obligation to furnish all material and labor necessary to carry out the provisions of the contract. Insofar as possible, the Contractor, in carrying out its work, must employ such methods or means as will not cause any interruption of, or interference with, the work of any other contractor.

14. ADDENDA AND INTERPRETATIONS

No oral interpretations of the meaning of the plans, specifications or other bid documents will be made to any bidder.

If any person contemplating submitting a bid for the proposed Project is in doubt as to the true meaning of any part of the Contract Documents, they may submit a written request for an interpretation thereof to Clyde R. Seidle, P.E., at cseidle@hilliardohio.gov. The person submitting the request will be responsible for its prompt delivery. Any interpretation of the Contract Documents will be made only by Addendum duly issued

and a copy of such Addendum will be mailed, faxed, emailed, or delivered to each person receiving a set of such Contract Documents. Any such Addenda shall become part of the Contract Documents. The time for opening the bids shall be extended for one week if, within seventy-two (72) hours before the date set for the opening of bids, the Owner mails or otherwise furnishes to prospective bidders a modification of its plans, specifications, or cost estimate for the project. Requests for contract interpretation received within 72 hours prior to the time and date bids are due may be addressed by the City in an addendum at its sole discretion. The Owner will not be responsible for any other explanation or interpretation of the Contract Documents. Documents received after 2:00 PM on Friday will be marked received on the following Monday. Failure of any bidder to receive any such addenda or interpretation shall not relieve such bidder from any obligation under its bid as submitted.

15. LAWS AND REGULATIONS

The bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the Project shall apply to the Contract throughout, and shall be deemed to be included in the Contract the same as though actually reproduced herein.

16. OBLIGATION OF BIDDER

At the time of the opening of bids, each bidder will be presumed to have inspected the site(s) and to have become thoroughly familiar with the plans and Contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect to its bid.

17. INCOME TAX

Pursuant to the laws of the City of Hilliard, there will be a tax collected by the City on all salaries, wages, commissions and other compensation earned by residents and non-residents of the City for work done or services performed or rendered in the City; and on the net profits earned on all businesses, professions, corporations or other activities, both resident and non-resident, as the result of work done or services performed or rendered in the City.

The current provisions for this tax are contained in Ordinance No. 15-43 of the City of Hilliard, Ohio and contained in Chapter 183 of the City's Codified Ordinances

Bidders are advised to become knowledgeable of their responsibilities under the aforementioned tax provisions. Information is available by contacting the Hilliard Tax Administrator, Hilliard Municipal Building, and by accessing the City's website at www.hilliardohio.gov under the City Code.

18. CONFLICTS OF INTEREST

No officer, member or employee of the Owner and no member of its governing body, and no other public official of the governing body of the localities in which the Project is situated or being carried out who exercises any functions or responsibility in the review or approval of the undertaking or carrying out of this Project, shall participate in any decision relating to this Contract which affects a personal interest, or have any personal or pecuniary interest, directly or indirectly, in this Contract or the proceeds thereof.

19. OCCUPATIONAL SAFETY AND HEALTH ACT

Special attention of Bidders is also directed to the requirements of O.S.H.A. The successful Contractor will be required to observe all provisions of that Act, which are by reference included in the provisions of these specifications as if actually reproduced herein and shall be responsible for their enforcement.

20. ESTIMATE OF QUANTITIES

The quantities, if so listed in the Bid Schedule, Appendix A, are to be considered as approximate and are to be used for comparison of bids only. Quantities used for final payment will be based on actual used or calculated measurements, whichever is less. All field measurements of quantities used for payment shall be made by the Contractor in the presence of the Engineer or his authorized representative.

21. PAYROLL

For projects requiring that prevailing wages be paid, the Contractor shall submit, on standard payroll forms, with original signature, a payroll for each week of the work. Before final payment will be made, these forms together with a letter certifying all payrolls have been submitted must be on file with the City.

22. RELEASE OF FINAL PAYMENT

The attention of the Contractor is directed to Section 20.1 of the following section titled "General Conditions."

Before the final payment will be released, the Contractor shall submit to the City of Hilliard an affidavit attesting under oath that all claims and obligations arising from performance of the work under this Contract have been paid, discharged or waived.

GENERAL CONDITIONS

1. DEFINITIONS
2. ADDITIONAL INSTRUCTIONS AND
DETAIL DRAWINGS
3. SCHEDULES, REPORTS AND
RECORDS
4. PLANS AND SPECIFICATIONS
5. SHOP DRAWINGS
6. MATERIALS, EQUIPMENT, SERVICES
AND FACILITIES
7. INSPECTION AND TESTING
8. SUBSTITUTIONS
9. PATENTS
10. SURVEYS, PERMITS, REGULATIONS
11. PROTECTION OF WORK, PROPERTY,
PERSONS
12. SUPERVISION BY CONTRACTOR
13. CHANGES IN THE WORK
14. CHANGES IN CONTRACT PRICE
15. TIME FOR COMPLETION AND
LIQUIDATED DAMAGES
16. CORRECTION OF WORK
17. SUBSURFACE CONDITIONS
18. SUSPENSION OF WORK,
TERMINATION AND DELAY
19. PAYMENTS TO CONTRACTOR
20. ACCEPTANCE OF FINAL
PAYMENT AS RELEASE
21. CONTRACT SECURITY
22. ASSIGNMENTS
23. INDEMNIFICATION
24. SEPARATE CONTRACTS
25. SUBCONTRACTING
26. ENGINEER'S AUTHORITY
27. LAND AND RIGHTS-OF-WAY
28. MAINTENANCE GUARANTY
29. TAXES
30. NIGHT, HOLIDAY & SUNDAY
WORK
31. CLEAN UP AFTER COMPLETION
32. SANITARY REGULATIONS
33. NON-DISCRIMINATION IN
EMPLOYMENT
34. REFERENCE STANDARDS
35. ESTIMATE OF QUANTITIES

1. DEFINITIONS

- 1.1 Wherever used in the Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof.
- 1.2 ADDENDA – Written or graphic instruments issued prior to the execution of the Contract which modify or interpret the Contract Documents by additions, deletions, clarifications or corrections.
- 1.3 BID – The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the work to be performed.
- 1.4 BIDDER – Any person, firm or corporation submitting a bid for the work.
- 1.5 BONDS – Bid Guaranty and Contract and other instruments of security, furnished by the Contractor and its surety in accordance with the Contract Documents.
- 1.6 CHANGE ORDER – A written order to the Contractor authorizing an addition, deletion or revision in the work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract price or Contract time based upon the addition, deletion or revision in the work to be performed.
- 1.7 CONTRACT DOCUMENTS – The Contract, including Notice to Contractors, Information for Bidders, description of Project, bid schedule, bid proposal, Bid Bond, Contract Bond, general conditions, special and detail specifications, plans, and addenda.

- 1.8 CONTRACT PRICE – The total monies payable to the Contractor under the terms and conditions of the Contract Documents.
- 1.9 CONTRACT TIME – The number of calendar days stated in the Contract Documents for the completion of work.
- 1.10 CONTRACTOR – The person, firm, partnership, association or corporation with whom the owner has executed the Contract.
- 1.11 PLANS – The part of the Contract Documents which show the characteristics and scope of the work to be performed and which have been prepared or approved by the Engineer.
- 1.12 ENGINEER – The City Engineer of Hilliard, Ohio or its designated Project representative.
- 1.13 FIELD ORDER – A written order affecting a change in the work not involving an adjustment in the Contract Price or an extension of the Contract Time, issued by the Engineer to the Contractor during the construction.
- 1.14 NOTICE OF AWARD – The written notice of the acceptance of the bid from the Owner to the bidder.
- 1.15 NOTICE TO PROCEED – Written communication issued by the Owner to the Contractor authorizing it to proceed with the work and establishing the date of commencement of the work.
- 1.16 OWNER – The City of Hilliard, Ohio.
- 1.17 PROJECT – The subject of the Contract Documents which the Owner has hired Contractor to perform and complete.
- 1.18 SHOP DRAWINGS – All drawings, diagrams, illustrations, brochures, schedules and other data prepared by the Contractor, a sub-contractor, manufacturer, supplier or distributor, which illustrate how specific portions of the work shall be fabricated or installed.
- 1.19 SPECIFICATIONS – A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- 1.20 SUB-CONTRACTOR – An individual, firm or corporation having a direct contract with the Contractor or with any other sub-contractor for the performance of a part of the work at the site.
- 1.21 SPECIAL SPECIFICATION – Modifications to general conditions and supplemental detail specifications.
- 1.22 SUPPLIERS – Any person, supplier or organization who supplies materials or equipment for the work, including that fabricated to a special design, but who does not perform labor, other than delivery, at the site.
- 1.23 WORK – All labor necessary to complete the Project required by the contract documents, and all materials and equipment incorporated or to be incorporated in the Project.
- 1.24 WRITTEN NOTICE – Any notice to any party of the Contract relative to any part of the Contract, in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to such party at its last given address, delivered in person to such party or its authorized representative, faxed to such party or its authorized representative with receipt confirmation; or e-mailed to such party or its authorized representative with receipt confirmation.

2. **ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS**

- 2.1 The Contractor may be furnished additional instructions and detail drawings, by the Engineer, as necessary to carry out the work required by the Contract Documents.
- 2.2 The additional drawings and instruction thus applied will become a part of the Contract Documents. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

3. **SCHEDULES, REPORTS AND RECORDS**

- 3.1 The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data where applicable, as are required by the Contract Documents for the work to be performed.
- 3.2 Prior to the project start date, the Contractor shall submit progress schedules showing the order in which the Contractor proposes to carry on the work, including dates at which the Contractor will start the various parts of the work, estimated date of completion of each part and, as applicable, the following:
 - 3.2.1 The dates at which special detail drawings will be required; and
 - 3.2.2 Dates for submission of the installation of materials.
- 3.3 The Contractor shall also submit a schedule of payments that it anticipates to invoice during the course of completing the Project.

4. **PLANS AND SPECIFICATIONS**

- 4.1 The intent of the plans and specifications is that the Contractor shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy or operation by the Owner.
- 4.2 In the event of a conflict between the plans and specifications, the plans shall govern. Figure dimensions on plans shall govern over scale dimensions, and detailed plans shall govern over general plans.
- 4.3 Discrepancies discovered by Contractor between the plans and specifications and site conditions or any inconsistencies or ambiguities in the plans or specifications shall be immediately reported to the Engineer, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after discovering such discrepancies, inconsistencies or ambiguities and prior to the Engineer's approval or corrections, shall be done at the Contractor's risk and Contractor may have to redo the work at its own expense and without compensation by Owner.
- 4.4 The plans and specifications prepared for this Project are intended to be complete. Anything called for in the specifications and not shown on the plans or shown on the plans and not called for in the specifications, must be furnished by the Contractor as part of the Project as though appearing in both.

5. **SHOP DRAWINGS**

- 5.1 The Contractor shall provide shop drawings as may be necessary for the prosecution of the work as required by the Contract Documents and the Engineer. The Engineer shall promptly review all shop drawings. The Engineer's approval of any shop drawing shall not release the Contractor from responsibility for deviations from the Contract Documents. The approval of

any shop drawing which substantially deviates from requirements in the Contract Documents shall be evidenced by a written change order.

- 5.2 When submitted for the Engineer's review, shop drawings shall bear the Contractor's certification that the Contractor has reviewed, checked and approved the shop drawings and that they are in conformance with the requirements of the Contract Documents.
- 5.3 Portions of the work requiring a shop drawing or sample submission shall not begin until the shop drawing or submission has been approved by the Engineer. A copy of each approved shop drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Engineer.

6. **MATERIALS, EQUIPMENT, SERVICES, AND FACILITIES**

- 6.1 It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the work within the specified time.
- 6.2 Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for work. Stored materials and equipment to be incorporated in the work shall be located so as to facilitate prompt inspection.
- 6.3 Trees, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer. Unless specifically stated otherwise, all materials and equipment incorporated in the work shall be new, unused, and undamaged.
- 6.4 Materials, supplies and equipment shall be in accordance with samples submitted by the Contractor and approved by the Engineer.
- 6.5 Materials, supplies or equipment to be incorporated into the work shall not be purchased by the Contractor or the sub-contractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

7. **INSPECTION AND TESTING**

- 7.1 See supplemental specifications for conformance to the American Standard for Nursery Stock. All materials and equipment used in and for the Project shall be subject to adequate inspection in accordance with generally accepted standards, as required and defined in the Contract Documents.
- 7.2 The Owner shall provide all inspection services not included as a part of the work and services to be provided by Contractor.
- 7.3 The Contractor shall provide, at its expense, the necessary testing and inspection services if such services are required by the Contract Documents.
- 7.4 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any work to specifically be inspected, tested, or approved by someone other than the Contractor, the Contractor will give the Owner timely notice of readiness. The Contractor will then furnish the Owner the required certificates of inspection, testing or approval.
- 7.5 Inspections, tests or approvals by the Owner or others shall not relieve the Contractor from its obligations to perform the work in accordance with the requirements of the Contract Documents.

7.6 The Owner and its representatives and agents will at all times have access to the work. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all work, materials and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the work and also for any inspection, or testing thereof.

8. **SUBSTITUTIONS**

8.1 Whenever a material, article or piece of equipment is identified on the plans or specifications by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function may be considered. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function, for those referred to in the Contract Documents by reference to brand name or catalogue number, and if, in the sole discretion of the Owner, such material, article, or piece of equipment is of equal substance and function to that specified, the Owner may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the Contract Price and Contract Documents shall be appropriately modified by change order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the Project will result. Incidental changes or extra component parts required to accommodate the substitution will be made by the Contractor without a change in the Contract Price or Contract Time.

8.2 In considering the suitability of substitutes, in addition to equality of substance and function, economy of maintenance and operation, availability of repair parts and duration of life shall be considered. In those instances in which a particular brand or make of material, device or equipment is required to be stated by the Contractor in the bid, the Contractor will be required to provide the item so indicated unless approved by the Engineer, by field order or change order.

9. **PATENTS**

9.1 The Contractor shall pay all applicable royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall hold and save the Owner harmless from loss on account thereof. If the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, the Contractor shall be responsible for such loss unless the Contractor promptly gives such information to the Engineer.

10. **SURVEYS, PERMITS, REGULATIONS**

10.1 Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the Contractor unless otherwise stated in the special specifications.

11. **PROTECTION OF WORK, PROPERTY, AND PERSONS**

11.1 The Contractor will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. The Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury, or loss to all employees, and other persons who may be affected thereby, all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of the Project.

11.2 The Contractor will comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction. The Contractor will erect and maintain, as required by

the conditions and progress of the work, all necessary safeguards for safety and protection. The Contractor will notify owners of adjacent utilities when prosecution of the work may affect them. The Contractor will remedy all damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any subcontractor or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable.

- 11.3 In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Engineer, shall act to prevent threatened damage, injury or loss. The Contractor will give the Engineer prompt written notice of any significant changes in the work or deviations from the Contract Documents caused thereby, and request that a change order be issued covering the changes and deviations involved, which may be issued upon just determination by the Owner.
- 11.4 The locations of utilities and structures, both surface and subsurface, are shown on the plans from data available at the time of survey and are not certified by the Owner to be complete or correct. The exact location and protection of utilities and structures is the responsibility of the Contractor. During prosecution of the Project, the Contractor shall use diligence in protecting from damage, all existing utilities and structures whether shown on the plans or not. If damage is caused, the Contractor shall be responsible for the repair or restoration of same in accordance with the directions of the Engineer and for any resulting contingent damage, including financial claims
- 11.5 The Contractor will be held responsible for any and all materials or work to the full amount of payments made thereon, and will be required to make good, at its own cost, any injury or damage which said materials or work may sustain from any source or cause whatsoever, before final acceptance thereof. During periods of wet, freezing or severe winter weather, the Contractor shall provide the necessary drainage, heating facilities and other protection for the work.

If upon notification, the Contractor fails to take positive action to correct the drainage, heating or protection deficiencies within 24 hours, the Owner will do so at the Contractor's expense. The cost of correcting the deficiencies will be deducted from the Contract Price.

12. SUPERVISION BY CONTRACTOR

- 12.1 The Contractor will supervise and direct the work and will be solely responsible for the means, methods, and technics, sequences used in providing the Services and work for the Project. The Contractor will employ and maintain a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site. The supervisor shall have full authority to act on behalf of the Contractor and all communications given to the supervisor shall be as binding as if given to the Contractor. The supervisor shall be present and on the site at all times as required to perform adequate supervision and coordination of the work.

13. CHANGES IN THE WORK

- 13.1 The Owner may, at any time as the need arises, order changes within the scope of the work without invalidating the Contract. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the work, an equitable adjustment shall be authorized by Change Order.
- 13.2 The Engineer also may, at any time, by issuing a Field Order, make changes in the details of the work. The Contractor shall proceed with the performance of any changes in the work so ordered by the Engineer unless the Contractor believes that such field order entitles him to change a Contract Price or Contract Time, or both, in which event the Contractor shall give the Engineer written notice thereof within seven (7) days after the receipt of the ordered change. Thereafter, the Contractor shall document the basis for the change in Contract Price or Contract Time within fourteen days (14) days. However, the Contractor shall not execute such

changes pending the receipt of an executed Change Order or further written instructions from the Owner.

14. CHANGES IN CONTRACT PRICE

14.1 The Contract Price may be changed only by a Change Order. The value of any work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods in the order of precedence listed below:

- (a) Unit prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost for labor, direct overhead, materials, supplies, equipment and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon, but not to exceed fifteen (15) percent of the actual cost of the work to cover the cost of general overhead and profit.

15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

15.1 The date of beginning and time for completion of the work are essential conditions of the Contract Documents and the work shall be commenced on a date specified in the notice to proceed.

15.2 The Contractor will proceed with the work at a rate of progress which will insure full completion within the Contract Time. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time stated in the Contract for the completion of the work described herein is a reasonable time, taking into consideration the nature of the work, its level of complexity, the average climatic and economic conditions and other factors prevailing in the locality of the work.

15.3 If the Contractor fails to complete the work within the Contract Time, or extension of time granted by the Owner, then the Contractor shall pay to the Owner the amount of liquidated damages as specified in paragraph 14.5 for each calendar day that the Contractor shall be in default after the time stipulated above and for all expenses of engineering and inspection after the date set for completion. The Owner shall have the right to deduct all or any unpaid balance of said liquidated damages and engineering and inspection expenses from any money due the Contractor. The amount still owing, if any, after such deduction, shall be paid on demand by the Contractor or his Surety. Such payment shall not relieve the Contractor or the Surety from any other obligations under the Contract.

15.4 The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following and the Contractor has promptly given written notice of such delay to the Owner or Engineer:

14.4.1 Any preference, priority or allocation order authorized and issued by the Owner which differs from the Contractor's bid.

14.4.2 Unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or the public enemy, fires, floods, medical epidemics, quarantine restrictions, freight embargoes, and extreme, unforeseeable weather; and

14.4.3 Any delays of sub-contractors occasioned by any of the acts specified in paragraphs 14.4.1 and 14.4.2.

15.5 SCHEDULE OF LIQUIDATED DAMAGES

The Contractor shall complete the work within the time of completion stated in the Information for Bidders and on or before the calendar date specified in the Notice to Proceed, or on or before a later date determined and agreed to in writing by the Owner.

If the Contractor fails to complete the work within the time allowed in the Notice to Proceed or within an extended time granted by the Owner, there shall be for each calendar day that any work shall remain uncompleted after the completion date or extended completion date the sum specified hereinafter deducted from any money due the Contractor, not as a penalty but as liquidated damages.

Original Contract Amount
(Total Amount of the Bid)

Amount of Liquidated Damages To
Be Deducted for Each Calendar
Day Past Date Project Was to be Completed

From More Than	To and Including	Amount
\$0.....	\$25,000	\$50.00
\$25,000.....	\$50,000	\$75.00
\$50,000.....	\$100,000	\$100.00
\$100,000.....	\$500,000	\$300.00
\$500,000.....	\$1,000,000	\$400.00
\$1,000,000.....	\$2,000,000	\$500.00
\$2,000,000.....	\$5,000,000	\$600.00
\$5,000,000.....	\$10,000,000	\$800.00
Over \$10,000,000.....		\$1000.00

16. CORRECTION OF WORK

- 16.1 The Contractor shall promptly remove, replace or repair (if possible in a manner to ensure conformity with the plans and specifications) all work rejected by the Engineer for failure to comply with the Contract Documents without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal, repair or replacement.
- 16.2 All removal, repair and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remedy the work within ten (10) days after receipt of written notice, the Owner may undertake such remedy and store the materials, at the expense of the Contractor.

17. SUBSURFACE CONDITIONS

- 17.1 The Contractor shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the Owner by written notice of:
 - 17.1.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the contract documents; or
 - 17.1.2 Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.

17.2 The Owner shall promptly investigate the conditions, and if it is found that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the work, the Owner may agree to an equitable adjustment which would then be reflected in the Contract Documents by a Change Order. Any claim of the Contractor for adjustment hereunder shall only be considered if the Contractor has given the required written notice; provided that the Owner may, if the Contractor determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

18. SUSPENSION OF WORK, TERMINATION, AND DELAY

18.1 The Owner may suspend the work or any portion thereof for a period of not more than 30 days or such further time as agreed upon by the Contractor, by written notice to the Contractor. The notice shall fix the date on which work shall be resumed. The Contractor will resume that work on the date so fixed. The Owner may adjust the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension.

18.2 Without prejudice to any other right or remedy and after giving the Contractor and the surety a minimum of seven (7) calendar days written notice, the Owner may terminate the services of the Contractor for any of the following: (a) the Contractor is adjudged bankrupt or insolvent or a general assignment is made for the benefit of the creditors or a trustee or receiver is appointed for the Contractor or for any of its property; (b) the Contractor files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or applicable laws; (c) the Contractor repeatedly fails to supply sufficient skilled workers or suitable materials or equipment; (d) the Contractor fails to make prompt payments to sub-contractors for labor, materials or equipment; (e) the Contractor disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the work; or (f) the Contractor disregards the authority of the Engineer, or otherwise violates any provision of the Contract Documents. In the event that the Owner terminates the services of the Contractor pursuant to this paragraph, the Owner may thereupon take possession of the Project and of all materials, equipment, tools, and machinery thereon, owned by the Contractor, and finish the work by whatever method the Owner deems expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the Owner. Such costs incurred by the Owner will be determined by the Engineer and incorporated in a Change Order.

18.3 Where the Contractor's services have been so terminated by the Owner, said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter accrue. Any retention of payment of monies by the Owner due the Contractor will not release the Contractor from compliance with the Contract Documents.

18.4 After seven (7) calendar days from delivery of a written notice to the Contractor, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Contract. In such case, the Contractor shall be paid for all work executed up to the date of termination.

18.5 If, through no act or fault of the Contractor, the work is suspended for a period of more than 30 days by the Owner or under an order of court or other public authority, or the Engineer fails to act on any request for payment within thirty (30) days after it is submitted, or the Owner fails to pay the Contractor substantially the sum approved by the Engineer within thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) calendar days from delivery of a written notice to the Owner and Engineer, terminate the Contract and recover from the Owner payment for all work executed and all expenses sustained. In addition and in lieu of terminating the Contract, if the Engineer has failed to act on a request for payment or if the Owner has failed to make any payment as aforesaid, the Contractor may, upon ten (10) calendar days written notice to the Owner and the Engineer, stop the work until the Contractor has been paid all amounts then due, in which event and upon resumption of the work, written

Change Orders shall be issued for adjusting the Contract Price or extending the Contract Time or both to compensate for the costs and delays attributable to the stoppage of the work.

- 18.6 If the performance of all or any portion of the work is suspended, delayed, or interrupted as a result of a failure of the Owner or Engineer to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time, an adjustment in the Contract Price or an extension of the Contract Time, or both, may be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Owner or Engineer.

19. PAYMENTS TO CONTRACTOR

- 19.1 See Supplemental Specifications for Contractor Payment.
- 19.2 The Owner shall have the right to enter the premises for the purpose of doing work not covered by the Contract Documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the work, or the restoration of any damaged work except such as may be caused by agents or employees of the Owner.
- 19.3 Upon completion and acceptance of the work, the Engineer shall issue a certificate attached to the final payment request that the work has been accepted under the conditions of the Contract Documents. The entire balance found to be due the Contractor, including the retained percentage, but except such sums as may be lawfully retained by the Owner, shall be paid to the Contractor within thirty (30) days of completion and acceptance of the work.
- 19.4 The Contractor shall indemnify and save the Owner and the Owner's agents harmless from any and all claims growing out of the lawful demands of sub-contractors, laborers, workers, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, tools and all supplies incurred in the performance of the work. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations and claims of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so the owner may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the Contractor shall be resumed, in accordance with the terms of the Contract Documents. In no event shall the provisions of this sentence be construed to impose any obligation upon the Owner to any of the Contractor, its surety, or any third party. In paying any unpaid bills of the Contractor, any payment so made by the Owner shall be considered as a payment made under the Contract Documents by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

20. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

- 20.1 The acceptance by the Contractor of final payment shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this work and of others relating to or arising out of this work. Any payment, however, final or otherwise, shall not release the Contractor or his sureties from any obligations under the Contract Documents or the Bonds.

21. CONTRACT SECURITY

- 21.1 The Contractor shall within ten (10) days after the receipt of the notice of award furnish the Owner with a Contract in a penal sum equal to the amount of the Contract Price, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the work provided by the Contract Documents. Such bond shall be executed by the Contractor and a corporate bonding

company licensed to transact such business in the State of Ohio, and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of the Contract Bond shall be borne by the Contractor and not reimbursable under this Contract. If at any time a surety on any such bond is declared bankrupt or loses its right to do business in Ohio or is removed from the list of Surety Companies accepted on Federal Bonds, the Contractor shall, within ten (10) days after notice from the Owner to do so, substitute an acceptable bond(s) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the owner.

22. **ASSIGNMENTS**

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

23. **INDEMNIFICATION**

23.1 The Contractor will indemnify and hold harmless the Owner and the Owner's Engineer and its agents and employees, and the City's elected officials and officers, from and against all claims, damages, losses and expenses including attorneys' fees arising out of, or resulting from the performance or non-performance of the work, caused in whole or in part by any act or omission of the Contractor, any sub-contractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

23.2 In any and all claims against the Owner or the Engineer, or any of their agents or employees, by any employee of the Contractor, any sub-contractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any sub-contractor under workers compensation acts, disability benefit acts or other employee benefits acts.

24. **SEPARATE CONTRACTS**

24.1 The Owner reserves the right to let other contracts in connection with this Project. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate all work with theirs. If the proper execution or results of any part of the Contractor's work depends upon the work of any other contractor, the Contractor shall inspect and promptly report to the Engineer any defects in such work that render it unsuitable for such proper execution and results.

24.2 The Owner may perform additional work related to the Project, or may let other contracts containing provisions substantially similar to these. The Contractor will afford the other contractors who are parties to such contracts (or the Owner, if performing the additional work), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate all work with theirs.

24.3 If the performance of additional work by other contractors or the Owner is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes that the performance of such additional work by the work of others involves additional expense or an extension of the Contract Time, a claim may be made through a request for a change order pursuant to paragraph 14 "Changes in Contract Price" in the General Standards.

25. **SUBCONTRACTING**

- 25.1 The Contractor may utilize the services of specialty sub-contractors on those parts of the work which, under normal contracting practices, are performed by specialty sub-contractors. All sub-contractors must be listed with the bid submitted by the Contractor on the form provided with a description of the type of work they will be performing. The Owner reserves the right to reject any or all proposed sub-contractors listed thereon before the bid is awarded. However, the Owner will give the bidder an opportunity to either (a) withdraw the bid or (b) substitute sub-contractors who are acceptable to the Owner, provided such substitution of sub-contractors does not change the amount of the bid. The Owner will not reject any listed sub-contractor after the Contract award has been made by the Owner.
- 25.2 The Contractor shall not award work to sub-contractor(s) in excess of forty-nine (49%) percent of the Contract Price.
- 25.3 The Contractor shall be fully responsible to the Owner for the acts and omissions of its sub-contractor(s), and of persons either directly or indirectly employed by it, as it is for the acts and omissions of persons directly employed by it.
- 25.4 The Contractor shall cause appropriate provisions to be inserted in all sub-contracts relative to the work to bind sub-contractors to the Contractor by the terms of the Contract documents, including indemnification, insofar as applicable to the work of sub-contractors and to give the Contractor the same power as regards to terminating any subcontract and enforcing liability that the Owner may exercise over the Contractor under any provisions of the Contract Documents.
- 25.5 Nothing contained in this Contract shall create any contractual relation between any sub-contractor and the Owner.

26. **ENGINEER'S AUTHORITY**

- 26.1 The Engineer shall act as the Owner's representative during the project period. The Engineer shall answer questions which may arise as to quality and acceptability of materials furnished and work performed and shall interpret the intent of the Contract Documents in a fair and unbiased manner. The Engineer will make visits to the site and determine if the work is proceeding in accordance with the Contract Documents.
- 26.2 The Contractor will be held strictly to the intent of the Contract Documents in regard to the quality of materials, workmanship and execution of the work. Inspections may be made at the factory or fabrication plant of the source of material supply.
- 26.3 The Engineer will not be responsible for the construction means, controls, techniques, sequences, procedures, or project safety.
- 26.4 The Engineer shall promptly make decisions relative to interpretation of the Contract Documents.

27. **LAND AND RIGHTS-OF-WAY**

- 27.1 Unless stated otherwise in the Contract or Bid Documents, the Owner shall obtain all land and rights-of-way that are necessary for carrying out and for completing the work pursuant to the Contract Documents, unless otherwise mutually agreed.
- 27.2 The Owner shall provide to the Contractor information which delineates and describes the lands owned and rights-of-way acquired.
- 27.3 The Contractor shall provide without expense and without liability to the Owner any additional land and access thereto that the Contractor may desire for project construction facilities or for storage of materials.

28. **MAINTENANCE GUARANTEE**

- 28.1 The Contractor shall guarantee all materials and equipment furnished, and work performed, for a period of one year from the date of final completion. The Contractor warrants and guarantees for a period of one year that the completed work and materials are free from all defects due to faulty stock, materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the work resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred. The Contract Bond shall remain in full force and effect through the guarantee period.

29. **TAXES**

- 29.1 The Contractor will pay all sales, consumer, use, income and other similar taxes required by the law of the place where the work is performed.

30. **NIGHT, HOLIDAY, OR SUNDAY WORK**

- 30.1 No work shall be done on Sundays, national Holidays or before 7:30 a.m. or after 7:00 p.m. on any workday, except in case of emergencies, or when written permission has been provided by the Director of Public Service because work items are of such a nature that they must be performed during these hours.

31. **CLEANING UP AFTER COMPLETION**

- 31.1 When the work is completed, all areas disturbed by the contractor's operations shall be cleaned and restored as directed by the Engineer, to a neat and presentable condition.

32. **SANITARY REGULATIONS**

- 32.1 If needed and as agreed to by the Engineer, suitable sanitary conveniences for the use of persons employed at the Project site, properly screened from the public observation, may be provided and maintained by the Contractor.

33. **NON-DISCRIMINATION IN EMPLOYMENT**

- 33.1 During the performance of this Agreement, Contractor agrees that Contractor, its sub-consultants, employees and agents, will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, national origin, age, ancestry, disability or military status as defined in Section 4112.01 of the Ohio Revised Code, which employee or applicant for employment is qualified and available to perform the work to which the employment relates. Contractor will take affirmative action to ensure that applicants and employees are treated during employment without regard to their race, color, creed, religion, sex, national origin, age, ancestry, disability or military status (as defined in Section 4112.01 of the Ohio Revised Code). Such action will include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

34. **REFERENCE STANDARDS**

- 34.1 Reference to the standards or specifications of any technical society, organization or association, shall mean the latest standard or specification adopted and published sixty (60) days prior to the date of taking bids, unless specifically stated otherwise.

35. **ESTIMATE OF QUANTITIES**

- 35.1 The quantities listed in the Bid Schedule form are to be considered as approximate and are to be used only for the comparison of bids and used as the basis for computing amounts of security of penal sums of bonds to be furnished. The unit prices are to be tendered expressly for the scheduled quantities as they may be increased or decreased. Payments, except for lump sum contracts and except for lump sum items in unit price contracts, will be made to the Contractor for the actual quantities only of work performed or materials furnished in accordance with the plans and specifications, and it is understood that the scheduled quantities of work to be done and materials to be furnished may each be increased or decreased without in any way invalidating the unit bid prices.

CONTRACT, PROPOSAL AND STANDARD DOCUMENTS

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|-------|--------------------------------------|-------|--|
| 1. | CONTRACT | 9(b). | UNRESOLVED FINDING FOR RECOVERY AFFIDAVIT |
| 2. | CERTIFICATE OF LAW DIRECTOR | 10. | RESOURCES AND EXPERIENCE OF BIDDER |
| 3. | CERTIFICATE OF CITY FINANCE DIRECTOR | 11. | LIST OF SUBSTITUTIONS |
| 4. | INSURANCES | 12. | LIST OF SUBCONTRACTORS |
| 5. | NOTICE OF AWARD | 13. | NON-DELINQUENT TAX AFFIDAVIT |
| 6(a). | "LIMITED" NOTICE TO PROCEED | 14. | AFFIDAVIT OF CONTRACTOR PREVAILING WAGE (SAMPLE) |
| 6(b). | "FULL" NOTICE TO PROCEED | 15. | APPLICATION FOR PAYMENT |
| 7. | BID PROPOSAL | 16. | APPLICATION FOR SUBSTANTIAL COMPLETION |
| 8. | BID GUARANTY & CONTRACT BOND | 17. | LOCAL PREFERENCE CODE |
| 8(a). | NOTICE OF COMMENCEMENT | | |
| 8(b). | NOTICE TO UTILITIES | | |
| 9(a). | NON-COLLUSION AFFIDAVIT | | |