# 2016 Safe Walks Program
# Delaware, Ohio
# Bid Number 02-16

EST 1808

CITY OF DELAWARE OHIO

## CITY OFFICIALS

| | |
|---|---|
| Carolyn Kay Riggle | Mayor |
| Kent Shafer | Vice Mayor |

## MEMBERS OF COUNCIL

| | |
|---|---|
| Chris Jones | First Ward |
| Lisa Keller | Second Ward |
| Joe DiGenova | Third Ward |
| Kyle Rohrer | Fourth Ward |
| George Hellinger | At Large |

## CITY STAFF

| | |
|---|---|
| R. Thomas Homan | City Manager |
| Jacqueline M. Walker | Assistant City Manager |
| Darren M. Shulman | City Attorney |
| William L. Ferrigno, P.E. | Public Works Director / City Engineer |
| Dean P. Stelzer | Finance Director |
| Brad A. Stanton | Public Utilities Director |
| David M. Efland, A.I.C.P. | Planning Director |

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NOTICE TO BIDDERS

Pursuant to Article XV Sections 73-75 of the Delaware Charter, sealed bids will be received by the City of Delaware, Ohio, City Hall, 1 South Sandusky Street, Delaware, Ohio 43015 until 11:00 a.m. local time, on Friday, May 13, 2016 at the Office of the City Manager and opened immediately thereafter, for the following:

| CONTRACT | ESTIMATE OF COST | |
|---|---|---|
| 2016 Safe Walks Program<br>Delaware, Ohio<br>Bid Number 02-16 | Base Bid | $395,000-$440,000 |

This project consists of the removal and replacement of approximately 35,000 square feet of existing sidewalk sections throughout the area designated in the exhibit. This work consists of the removal and replacement of concrete walk and tree roots 8" below finish grade.

**Bid documents are available at no charge by contacting the Project Manager at jcoleman@delawareohio.net to register as a plan holder to receive any addendums that may be issued.**

Each bid must be accompanied by a Bid Guaranty meeting the requirements 153.54 to 153.57 of the Ohio Revised Code. Bids shall be sealed and addressed to:

City of Delaware, Ohio
City Manager's Office
City Hall
1 South Sandusky Street
Delaware, Ohio 43015
BID ENCLOSED

A pre-bid meeting will be held at the City of Delaware, Ohio, **Public Works Facility, 440 East William Street**, Delaware, Ohio 43015 at 11:00 a.m. local time, on Wednesday, May 4, 2016.

Prospective bidders may address inquiries to Jeff Coleman, at (740) 203-1723 or the email above. All inquiries must be submitted no later than 4:00 p.m. local time on Friday, May 6, 2016.

No bidder may withdraw his/her bid within sixty (60) days after the actual date of the opening thereof. The City of Delaware reserves the right to reject any or all bids, to waive any informality and to award the bid or bids to the lowest responsive and responsible bidder as deemed to be in the best interest of the City, as determined by the City Manager.

Bidder's attention is called to all of the requirements contained in this bid packet, particularly to the Federal Labor Standards Provisions, Davis-Bacon Wages, various insurance requirements, and various equal employment opportunity provisions.

City of Delaware, Ohio
R. Thomas Homan
City Manager

Posted to the City of Delaware Website on or before Wednesday, April 20, 2016.

# INSTRUCTIONS TO BIDDERS

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## A. BIDDER'S PLEDGE AND AGREEMENT

1. **Each Bidder acknowledges that this is a public project involving public funds and that the Owner expects and requires that each successful Bidder adhere to the highest ethical and performance standards. Each Bidder by submitting a bid pledges and agrees that (a) it will act at all times with absolute integrity and truthfulness in its dealings with the Owner and the Design Professional, (b) it will use its best efforts to cooperate with the Owner and the Design Professional and all other Contractors on the Project and at all times will act with professionalism and dignity in its dealings with the Owner, Design Professional, and other Contractors, (c) it will assign only competent supervisors and workers to the Project, each of whom is fully qualified to perform the tasks that are assigned to him/her, and (d) it has read, understands and will comply with the terms of the Contract Documents.**

## B. EXAMINATION OF CONTRACT DOCUMENTS AND SITE CONDITIONS AND RELIANCE UPON TECHNICAL DATA

1. Each Bidder shall have a competent person carefully and diligently review each part of the Contract Documents, including the Divisions of the Specifications and parts of the Drawings that are not directly applicable to the Work on which the Bidder is submitting its bid. By submitting its bid, each Bidder represents and agrees, based upon its careful and diligent review of the Contract Documents, that it is not aware of any conflicts, inconsistencies, errors, or omissions in the Contract Documents for which it has not notified the Design Professional in writing at least seven (7) days prior to the bid opening. If there are any such conflicts, inconsistencies, errors, or omissions in the Contract Documents, the Bidder (i) will provide the labor, equipment, or materials of the better quality or greater quantity of Work and/or (ii) will comply with the more stringent requirements. The Bidder will not be entitled to any additional compensation for any conflicts, inconsistencies, errors, or omissions that would have been discovered by such careful and diligent review, unless it has given prior written notice to the Design Professional.

2. Each Bidder shall have a competent person carefully and diligently inspect and examine the entire site and the surrounding area, including all parts of the site applicable to the Work for which it is submitting its bid, including location, condition, and layout of the site and the location of utilities, and carefully correlate the results of the inspection with the requirements of the Contract Documents. The Bidder's bid shall include all costs attributable to site and surrounding area conditions that would have been discovered by such careful and diligent inspection and examination of the site and the surrounding area, and the Bidder shall not be entitled to any Change Order, additional compensation, or additional time on account of such conditions.

3. The Bidder may rely upon the general accuracy of any technical data identified in the Owner-Contractor Agreement (e.g., any soils exploration reports, soil boring logs, site survey, or abatement reports) in preparing its bid, but such technical data are not part of the Contract Documents. Except for the limited reliance described in the preceding sentence, Bidder may not, if awarded a contract for the Work, rely upon or make any Claim against the Owner or Design Professional, or any of their agents or employees, with respect to any of the following:

    (a) the completeness of such reports and drawings for Bidder's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by the successful Bidder and safety precautions and programs incident thereto; or

(b) any interpretation by the successful Bidder of or conclusion drawn from any technical data or any such other data, interpretations, opinions, or information. For example, all interpolations and extrapolations of data performed by the Bidder to estimate locations or quantities of subsurface strata are independent factual assumptions, which Owner does not warrant.

4. Each Bidder will be deemed to have actual knowledge of all information provided or discussed at the pre-bid meeting.

## C. OWNER & DESIGN PROFESSIONAL

1. The Owner is:

   The City of Delaware
   One South Sandusky Street
   Delaware, Ohio 43015
   Telephone: (740) 203-1723

   The Owner's Representative is Jeff Coleman.

2. The Design Professional (referred to as the "Design Professional" or "Engineer" in the Contract Documents) is:

   The City of Delaware
   One South Sandusky Street
   Delaware, Ohio 43015
   Telephone: (740) 203-1721
   Email: mweber@delawareohio.net

   The Design Professional's Representative is Matt Weber , P.E.

## D. PROJECT

1. The Project and Work for the Project consists of all labor, materials, equipment, and services necessary for construction of the project identified as 2016 SAFE WALKS PROGRAM BID NO. 02-16 ("the Project"), all in accordance with the Drawings and Specifications prepared by the Design Professional. The Project will be substantially complete within 180 calendar days of Owner's issuance of the Notice to Proceed.

## E. WORK

1. This project consist of the removal and replacement of sidewalks that were mark as defiecient following criteria set forth by City Council. The removal process includes removing tree roots within the disturbed area.

2. Only one contract will be issued by the Owner for constructing the Project, the General Contract, which will cover all scopes of work necessary to construct the Project.

3. The Contractor awarded the General Contract (General Contractor) will be responsible for the performance and coordination of any and all subcontractors and suppliers either directly or indirectly contracted with the General Contractor.

4. On request, Owner will provide Bidders access to the Project site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates. Call Jeff Coleman at the Public Works Department at (740) 203-1723 to arrange a site visit.

## F. ESTIMATE OF COST

1. The total estimated construction cost for the base bid Work for the Project for which bids are being solicited at this time is $395,000.00 – $440,000.00.

2. The estimated construction cost of the Alternates for which Owner is seeking bids is as follows:

   Bid Alternate 1: Doweled joints: $275,500.00

## G. CONTRACT DOCUMENTS

The Contract Documents consist of the Contract Documents listed in Section 1 of the Owner-Contractor Agreement.

Bidders may download the Contract Documents including a set of drawings, specifications, and a bid packet from the City website in PDF format at no charge. The City website address is:

http://www.delawareohio.net/vendors/

Bidders may also view the Contract Documents at the following Plan Room(s):

Dodge Reports
bxohio
CNC News
ISQFT
ACI Construction
Construction Journal
MHFI

Bidders shall use complete sets of Contract Documents in preparing bids. Neither the Owner nor the Design Professional assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Contract Documents.

The Owner or the Design Professional, in making the Contract Documents available on the above terms, does so only for the purpose of obtaining bids on the Work and does not confer a license or grant for any other use.

A pre-bid conference will be held at **11:00 A.M.**, on **Wednesday, May 4, 2016**, at **440 E. William Street, Delaware, Ohio 43015.**

## H. PREPARATION OF BIDS

1. All bids must be submitted on the "Bid Form" furnished with the Contract Documents.

2. All blank spaces shall be filled in, in ink or typewritten, in words and figures, and in figures only where no space is provided for words, and signed by the Bidder. The wording on the Bid Form shall be used without change, alteration, or addition. Any change in the wording or omission of specified accompanying documents may cause the bid to be rejected. If both numbers and words are requested for any bid item, the amount in words shall prevail if there is an inconsistency between the numbers and words written.

3. Bidders shall note receipt of Addenda on the Bid Form. If the Bidder fails to acknowledge receipt of each Addendum, the Bid shall be deemed non-responsive, unless the Bid amount

clearly and unambiguously reflects receipt of the Addendum or the Addendum involves only a matter of form and does not affect the price, quantity or quality of the Work to be performed.

4. Each Bidder shall submit One (1) copy of its bid to the Owner. The Bid Form shall be signed with the name typed or printed below the signature. A Bid shall not be submitted by facsimile transmission. A Bidder that is a corporation shall sign its bid with the legal name of the corporation followed by the name of the state of incorporation and the legal signature of an officer authorized to bind the corporation to a contract.

5. Each Bid shall be enclosed in a sealed opaque envelope with the Bidder's name and the title of the Project printed in the upper left hand corner. The envelope shall have bid enclosed written on the front and addressed as follows:

   The City of Delaware
   Attn: Jeff Coleman
   1 S. Sandusky Street
   Delaware, Ohio 43015

   Bids must be received at the designated location for the bid opening before 11:00 a.m., local time, on **Friday, May 13, 2016.**

6. **The completed Bid Form shall be accompanied by the following documents:**

   a. **Substitution Form, if any proposed substitutes have been pre-approved. (See Section K below.)**
   b. **Bid Guaranty and if applicable, Contract Bond (See Paragraph H.8 below.)**
   c. **Contractor's Qualification Statement (See Paragraph I.4 below.)**

7. The Bidder shall take the following precautions in preparing its bid:

   a. Sign the bid and check to ensure all blank spaces have been filled in with requested information and that the specified accompanying documents (listed in Paragraph H.6 above) have been included in a sealed opaque envelope addressed as described in item 5 above.
   b. When the Bid Form provides for quoting either an addition or deduction for an Alternate item, indicate whether the sum named is an addition or deduction. If it is not indicated, it will be conclusively presumed that the amount is a deduction.
   c. When the Bid Form provides for quoting a unit price, the Bidder should quote the unit price as set forth in the Bid Documents.
   d. When applicable, make sure that the Bid Guaranty is properly executed and signed by:
      1) The Bidder
      2) The Surety or Sureties
   e. Make sure that the amount of the Bid Guaranty (if the Bid Guaranty is in the form of a certified check, letter of credit, or cashier's check) is for a specific sum in an amount as instructed in Paragraph H.8.a below. If the Bid Guaranty is in the form of the Bid Guaranty and Contract Bond, the amount may be left blank; if an amount is inserted, it must equal the total of the base bid and all add alternates included. If inserted, then the failure to state an amount equal to the total of the base bid and all add alternates shall make the bid non-responsive if the Owner selects alternates not included in the amount.

f. Make sure that the appropriate bid package and scope of work is inserted in the correct space on the Bid Guaranty and Contract Bond Form. Failure to include work covered by the bid submitted may make the bid non-responsive.

8. Bonds and Guarantees

a. Bid Guaranty: Bidder shall furnish a Bid Guaranty, as prescribed in Sections 153.54, 153.57, and 153.571 of the Ohio Revised Code, in the form of either: (1) a bond for the full amount of the bid in the form of the Bid Guaranty and Contract Bond included in the Bid Documents; or (2) a certified check, cashier's check, or irrevocable letter of credit in a form satisfactory to the Owner in an amount equal to 10% of the bid. Bid amount shall be the total of all sums bid, including all add alternatives, but excluding all deduct alternatives. NOTE: AIA Bid Bond forms are not acceptable.

b. Contract Bond: The successful Bidder, who, as a Bid Guaranty, submits a certified check, cashier's check, or irrevocable letter of credit in an amount equal to 10% of the bid, shall furnish a Contract Bond in the form Contract Bond included in the Bid Documents in an amount equal to 100% of the Contract Sum. NOTE: AIA Bond forms are not acceptable.

c. The bond must be issued by a surety company authorized by the Ohio Department of Insurance to transact business in the State of Ohio and acceptable to the Owner. The bond must be issued by a surety capable of demonstrating a record of competent underwriting, efficient management, adequate reserves, and sound investments. These criteria will be deemed to be met if the surety currently has an A.M. Best Company Policyholders Rating of "A-" or better and has or exceeds the Best Financial Size Category of Class VI. Other sureties may be acceptable to the Owner, in its sole discretion

d. All bonds shall be signed by an authorized agent of an acceptable surety and by the Bidder.

e. Surety bonds shall be supported by credentials showing the Power of Attorney of the agent, a certificate showing the legal right of the Surety Company to do business in the State of Ohio, and a financial statement of the Surety.

f. The Bid Guaranty, as applicable, shall be in the name of or payable to the order of the Owner.

g. The name and address of the Surety and the name and address of the Surety's Agent should be typed or printed on each bond.

## I. METHOD OF AWARD

1. All bids shall remain open for acceptance for sixty (60) days following the day of the bid opening, but the Owner may, in its sole discretion, release any bid and return the Bid Guaranty prior to that date. The Bid Guaranty shall be subject to forfeiture, as provided in the Ohio Revised Code, if a bid is withdrawn during the period when bids are being held.
2. The Owner reserves the right to reject any, part of any, or all bids and to waive any informalities and irregularities. The Bidder expressly acknowledges this right of the Owner to reject any or all bids or to reject any incomplete or irregular bid. Bidders must furnish all information requested on or accompanying the Bid Form. Failure to do so may result in disqualification of the bid.
3. Determination of the Lowest Responsible and Responsive Bid. Subject to the right of the Owner to reject any or all bids, the Owner will award the Contract for the Work to the responsible bidder submitting the lowest responsive bid, taking into consideration accepted alternates. In evaluating bids, the Owner may consider the qualifications of the Bidders, whether or not the bids comply with the prescribed requirements, and alternates and unit prices, if requested, on the Bid Form. The Owner may also consider the qualifications and experience of subcontractors and suppliers. The Owner may conduct such investigations as

are deemed necessary to establish the qualifications and financial ability of the Bidder and its subcontractors and suppliers. The factors the Owner may consider in determining which bid is lowest responsive and responsible include the factors set forth below. The Owner, in its discretion, may consider and give such weight to these criteria as it deems appropriate.

a. The Bidder's work history. The Bidder should have a record of consistent customer satisfaction and of consistent completion of projects, including projects that are comparable to or larger and more complex than the Owner's Project, on time and in accordance with the applicable Contract Documents, and the Bidder's claims history. If the Bidder's management operates or has operated another construction company, the Owner may consider the work history of that company in determining whether the Bidder submitted the lowest responsive and responsible bid.

   The Owner will consider the Bidder's prior experience on other projects of similar scope and/or complexity including prior projects with the Owner and/or Design Professional, including the Bidder's demonstrated ability to complete its work on these projects in accordance with the Contract Documents and on time, and will also consider its ability to work with the Owner and Design Professional as a willing, cooperative, and successful team member. Bringing overstated claims, an excessive number of claims, acting uncooperatively, and filing lawsuits against project owners and/or their design professionals on prior projects of similar scope and/or complexity will be deemed evidence of a Bidder's inability to work with the Owner and Design Professional as a willing, cooperative, and successful team member.

   The Bidder authorizes the Owner and its representatives to contact the owners and design professionals (and construction managers, if applicable) on projects on which the Bidder has worked and authorizes and requests such owners and design professionals (and construction managers) to provide the Owner with a candid evaluation of the Bidder's performance. By submitting its bid, the Bidder agrees that if it or any person, directly or indirectly, on its behalf or for its benefit brings an action against any of such owners or design professionals (or construction managers) or the employees of any of them as a result of or related to such candid evaluation, the Bidder will indemnify and hold harmless such owners, design professionals (and construction managers) and the employees of any of them from any claims whether or not proven that are part of or are related to such action and from all legal fees and expenses incurred by any of them arising out of or related to such legal action. This obligation is expressly intended for the benefit of such owners, design professionals (and construction managers), and the employees of each of them.

b. The Bidder's financial ability to complete the Contract successfully and on time without resort to its Surety.

c. The Bidder's prior experience with similar work on comparable or more complex projects.

d. The Bidder's prior history for the successful and timely completion of projects, including the Bidder's history of filing claims and having claims filed against it.

e. The Bidder's equipment and facilities.

f. The adequacy, in numbers and experience, of the Bidder's work force to complete the Contract successfully and on time.

g. The Bidder's compliance with federal, state, and local laws, rules, and regulations, including but not limited to the Occupational Safety and Health Act, the Ohio Prevailing Wage laws, and Ohio ethics laws.

h. The foregoing information with respect to each of the Subcontractors and Suppliers that the Bidder intends to use on the Project.

i. The Bidder's participation in a drug-free workplace program acceptable to the Owner, and the Bidder's record for both resolved and unresolved findings of the Auditor of State for recovery as defined in Section 9.24 of the Ohio Revised Code.

j. The Owner's prior experience with the Bidder's surety.

k. The Bidder's interest in the Project as evidenced by its attendance at any pre-bid meetings or conferences for bidders.

l. Depending upon the type of the work, other essential factors, as the Owner may determine and as are included in the Specifications.

4. **Qualifications Statement. Each Bidder will submit with its bid a completed Contractor Qualifications Statement, which is included with the Contract Documents, and thereafter provide the Engineer promptly with such additional information as the Engineer may request regarding the Bidder's qualifications. A Bidder shall submit any requested additional information within three (3) business days of the date on the request.**

5. The failure to submit requested information on a timely basis may result in the determination that the Bidder has not submitted the lowest responsive and responsible bid.

6. By submitting its bid, the Bidder agrees that the Owner's determination of which bidder is the lowest responsive and responsible bidder shall be final and conclusive, and that if the Bidder or any person on its behalf challenges such determination in any legal proceeding, the Bidder will indemnify and hold the Owner and its employees and agents harmless from any claims included or related to such legal proceeding, whether or not proven, and from legal fees and expenses incurred by the Owner, its employees, or agents that arise out of or are related to such challenge.

7. **After bid opening, within three (3) business days of a request made by the Design Professional, the apparent low Bidder and any other Bidder so requested by the Engineer must submit the following:**

   **a. For all subcontracts with an estimated value of at least $20,000, a list of all Subcontractors that the Bidder will use to construct the Project, as well as an indication of whether or not the Bidder has ever worked with a proposed Subcontractor before, including the following information for the three most recent projects on which the Bidder and each Subcontractor have worked together:**

      **i. Project Owner**
      **ii. Project Name**
      **iii. Subcontract Scope**
      **iv. Subcontract Value**
      **v. Owner's contact name and phone number.**

   **If Bidder and a proposed Subcontractor have not worked together on at least three projects in the five years, Bidder must submit the information set forth above for the three most recent similar projects to the Project that a proposed Subcontractor has worked on.**

   **The above Subcontractor information, as well as the information pertaining to each proposed Subcontractor as set forth in section I.3 herein, shall be used in the Owner's determination of the lowest responsive and responsible bid.**

   **Once a Bidder identifies its proposed Subcontractors as set forth herein, and Owner makes no objections, the list shall not be**

**changed unless written approval of the change is authorized by the Owner and Design Professional.**

8. Affidavit as to Personal Property Taxes. Each successful Bidder shall submit, prior to the time of the entry into the Contract, an affidavit in the form required by Section 5719.042, Ohio Revised Code, regarding the status of the Bidder's personal property taxes. A copy of the affidavit form is included with the Contract Documents.
9. No Bidder may withdraw its bid within sixty (60) days after the date bids are opened. The Owner reserves the right to waive any formalities or irregularities or to reject any or all bids.
10. The Owner reserves the right to disqualify bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices on the part of the Bidder.
11. Award of Contract. The award of the Contract, when required, will only be made pursuant to a duly adopted resolution of the Owner.

## J. EXECUTION OF CONTRACT

1. Within the time designated by the Design Professional after award of the Contract, the successful Bidder shall execute and deliver to the Design Professional the required number of copies of the Owner-Contractor Agreement, in the form included in the Contract Documents, and all accompanying documents requested, including, but not limited to, a Contract Bond (if applicable), insurance certificates, and a valid Workers' Compensation Certificate. The successful Bidder shall have no property interest or rights under the Owner-Contractor Agreement until the Agreement is executed by the Owner.

## K. SUBSTITUTIONS/NON-SPECIFIED PRODUCTS

1. Certain brands of material or apparatus are specified. Each bid will be based on these brands, which may be referred to in the Contract Documents as Standards. The use of another brand (referred to as a substitution or proposed equal in the Contract Documents, when a bidder or the contractor seeks to have a different brand of material or apparatus than that specified approved by the Owner for use in the Project) may be requested as provided herein. Substitutions, however, will not be considered in determining the lowest responsive and responsible bid.
2. The products specified in the Contract Documents establish a standard of required function, dimension, appearance, and quality.
3. Bidders wishing to obtain approval to bid non-specified products shall submit written requests to the Design Professional a minimum of fifteen (15) working days before the bid date and hour. To facilitate the submission of requests, a Substitution Form is included in the Bid Documents. The Bidder shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution, including the name of the proposed manufacturer and/or product and a complete description of the proposed product including manufacturer's name and model number or system proposed, drawings, product literature, performance and test data, color selections or limitations, and any other information necessary for evaluation. Include a statement including any changes in other materials, equipment, or other work that would be required if the proposed product is incorporated in the materials, equipment, or other work that would be required if the proposed product is incorporated in the work. The burden of proof of the merit of the proposed product is on the proposer. The Design Professional's decision on approval of a proposed product will be final.

   The following will be cause for rejection of a proposed substitution:

   a. Requests submitted by subcontractors, material suppliers, and individuals other than Bidders;

   b. Requests submitted without adequate documentation;

c. Requests received after the specified cut-off date.

4. When the Design Professional approves a product submission before receipt of bids, the approval will be included in an Addendum, and Bidders may include the pricing of this product in their bid. Bidders shall not rely on approvals made in any other manner.

5. In proposing a non-specified product or a substitution, the Bidder represents and warrants that each proposed product will not result in any changes to the Project, including changes to the Work of other contractors, or any decrease in the performance of any equipment or systems to be installed in the Project and agrees to pay any additional costs incurred by the Owner and the Owner's consultants as a result of a non-specified or substitute product that is accepted.

6. Following the award of the Contract, there shall be no substitutions for specified products, except pursuant to a Change Order. The Owner in its sole discretion may decline to consider a substitution for a Change Order.

## L. ALTERNATES

1. The Owner may request bids on alternates. If the Owner requests bids on alternates, the Bidder should include the cost of the alternates requested on its Bid Form.

2. At the time of awarding the contract, the Owner will select or reject alternates as it determines is in its best interest. A Bidder's failure to include on its Bid Form the cost of an alternate selected by the Owner and applicable to the Bidder's work shall render the bid non-responsive and be grounds for the rejection of the bid. Otherwise, the failure to include the cost of an alternate will not be deemed material.

3. The Bidder acknowledges that although there is an estimate for the cost of the Project, the market conditions may and frequently do result in the estimate being different from the sum of the bids received, either higher or lower. The Bidder understands that the Owner may include alternates, which may include deduct alternates as well as add alternates, to give it flexibility to build the Project with the funds available. The Bidder further understands and acknowledges that use of add and deduct alternates is a long held customary practice in the construction industry in the State of Ohio. The Bidder also acknowledges that the Owner will not make a decision about the alternates on which to base the award of contracts until the bids are received, and the Owner can compare its available funds with the base bids and the cost or savings from selecting different alternates. The Bidder understands that the award to the Bidder submitting the lowest responsive and responsible bid will be based on the lowest base bid plus selected alternates, and may result in an award to a Bidder other than the Bidder that submitted the lowest base bid.

4. If, during the progress of the Work, the Owner desires to reinstate any alternate not included in the Contract, the Owner reserves the right to reinstate the alternate at the price bid by the Contractor provided that such action is taken in sufficient time so as not to delay the progress of the work or cause the Contractor additional expense.

## M. UNIT PRICES

1. Where unit prices are requested in the Bid Form the Bidder should quote a unit price. Unless otherwise expressly provided in the Bid Documents, such unit prices shall include all labor, materials, and services necessary for the timely and proper installation of the item for which the unit prices are requested. The unit prices quoted in the bid shall be the basis for any Change Orders entered into under the Owner-Contractor Agreement, unless the Design Professional determines that the use of such unit prices will cause substantial inequity to either the Contractor or the Owner.

## N. ADDENDA

1. The Owner reserves the right to issue Addenda changing, altering, or supplementing the Contract Documents prior to the time set for receiving bids. The Design Professional will

issue the Addenda to clarify bidders' questions and/or to change, alter, or supplement the Contract Documents.

2. Any explanation, interpretation, correction, or modification of the Contract Documents will be issued in writing in the form of an Addendum, which shall be the only means considered binding; explanations, interpretations, etc., made by any other means shall NOT be legally binding. All Addenda shall become a part of the Contract Documents.

3. Bidders shall submit written questions to the Design Professional in sufficient time in advance of the bid opening to allow sufficient time for the Design Professional to respond. All Addenda will be issued, except as hereafter provided, and mailed or otherwise furnished to persons who have obtained Contract Documents for the Project, at least seventy-two (72) hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays. If any Addendum is issued within such seventy-two (72) hour period, then the time for opening of bids shall be extended one (1) week with no further advertising of bids required.

4. Copies of each Addendum will be sent only to the Bidders to whom Contract Documents have been issued and to Plan Rooms where copies of the Contract Documents are maintained. Receipt of Addenda shall be indicated by Bidders in the space provided on the Bid Form. Bidders are responsible for acquiring issued Addenda in time to incorporate them into their bid. Bidders should contact the Design Professional prior to the bid opening to verify the number of Addenda issued.

5. Each Bidder shall carefully read and review the Contract Documents and immediately bring to the attention of the Design Professional any error, omission, inconsistency, or ambiguity therein.

6. If a Bidder fails to indicate receipt of all Addenda through the last Addendum issued by the Design Professional on its Bid Form, the bid of such Bidder will be deemed to be responsive only if:

   a. The bid received clearly indicates that the Bidder received the Addendum, such as where the Addendum added another item to be bid upon and the Bidder submitted a bid on that item; or

   b. The Addendum involves only a matter of form or is one which has either no effect or has merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon.

## O. INTERPRETATION

1. If a Bidder contemplating submitting a bid for the proposed Project is in doubt as to the true meaning of any part of the Contract Documents, it may submit a written request for an interpretation thereof to the Design Professional's representative via email at jcoleman@delawareohio.net. Requests received fewer than 7 days prior to bid opening may not be answered. Any interpretation of the proposed documents will be made by Addendum only, duly signed by the Design Professional, and a copy of such Addendum will be mailed or delivered to each Bidder receiving a set of Contract Documents and each plan room where the Contract Documents are maintained. The Owner will not be responsible for any other explanation or interpretation of the proposed documents.

2. In interpreting the Contract Documents, words describing materials that have a well-known technical or trade meaning, unless otherwise specifically defined in the Contract Documents, shall be construed in accordance with the well-known meaning recognized by the trade.

3. Bidders are responsible for notifying the Design Professional in a timely manner of any ambiguities, inconsistencies, errors, or omissions in the Contract Documents. The Bidder shall not, at any time after the execution of the Contract, be compensated for a claim alleging insufficient data, incomplete Contract Documents, or incorrectly assumed conditions

regarding the nature or character of the Work, if no request was made by the Bidder prior to the bid opening.

## P. STATE SALES AND USE TAXES

1. The Owner is a political subdivision of the State of Ohio and is exempt from taxation under the Ohio Sales Tax and Use Tax Laws. Building materials that the successful Bidder purchases for incorporation into the Project will be exempt from state sales and use taxes if the successful Bidder provides a properly completed Ohio Department of Taxation Construction Contract Exemption Certificate to the vendors or suppliers when the materials are acquired. The Owner will execute properly completed certificates on request.

## Q. DATE FOR SUBSTANTIAL COMPLETION/LIQUIDATED DAMAGES

1. Date for Substantial Completion. The successful Bidder shall have its Work on the Project Substantially Complete (as Substantial Completion is defined in the Contract Documents) by the following date or within the Contract Time, as applicable to the Bidder's scope of work:

   Date for Substantial Completion (aka Contract Time) expressed as calendar days from Notice to Proceed:

   **180 Days**

   The Contract Time shall run from the date of the Notice to Proceed or if there is no Notice to Proceed from the Effective Date of the Owner- Contractor Agreement. The Date for Substantial Completion Date and the Contract Time may be extended only by Change Order, by other Modification, or by a Claim that is Finally Resolved. **By submitting its Bid, each Bidder agrees that the period for performing its Work is reasonable**.

2. Liquidated Damages. If the successful Bidder does not have its Work Substantially Complete by its Date for Substantial Completion and/or Finally Complete within forty-five (45) days of achieving Substantial Completion, whichever may be applicable, the successful Bidder shall pay the Owner and the Owner may set off from amounts otherwise due the successful Bidder Liquidated Damages. The daily amounts of Liquidated Damages are set forth in the tables included in the Owner-Contractor Agreement. The total amounts of Liquidated Damages will be calculated based on the total number of calendar days beyond the Date for Substantial Completion that the Bidder's Work is not Substantially Complete and/or to the extent that its Work is not Finally Complete more than forty-five (45) after the Substantial Completion of its Work, i.e., number of late days times the per diem rate(s) for Liquidated Damages in the tables.

3. The Bidder acknowledges and agrees, by submitting its bid for the Work and entering into a Contract with the Owner, that such amounts of Liquidated Damages represent a reasonable estimate of the actual damages for loss of or interference with the intended use of the Project that the Owner would incur if the Bidder's Work is not Substantially Complete by its Date for Substantial Completion and/or not Finally Complete by forty-five (45) days of the Date of Substantial Completion. The Bidder further acknowledges, agrees and understands that it may seek an extension of the Contract Time (and its Date for Substantial Completion) to avoid or reduce Liquidated Damages by properly following the Claim procedures in the Contract Documents.

## R. OWNER'S RIGHT TO WAIVE DEFECTS AND IRREGULARITIES

1. The Owner reserves the right to waive any and all irregularities provided that the defects and irregularities do not affect the amount of the bid in any material respect or otherwise give the Bidder a competitive advantage.

## S. MODIFICATION/WITHDRAWAL OF BIDS

1. Modification. A Bidder may modify its bid by written communication to the Owner addressed to the Owner's Representative at any time prior to the scheduled closing time for receipt of bids, provided such written communication is received by Owner's Representative prior to the bid deadline. 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 until the sealed bid is opened. If the Bidder's written instructions with the change in bid reveal the bid amount in any way prior to the bid opening, the bid may be rejected as non-responsive.

2. Withdrawal Prior to Bid Deadline. A Bidder may withdraw its bid at any time for any reason prior to the bid deadline for the opening of bids established in the Legal Notice. The request to withdraw shall be made in writing to and received by the Owner's Representative prior to the time of the bid opening.

3. Withdrawal after Bid Deadline.

   a. All bids shall remain valid and open for acceptance for a period of at least 60 days after the bid opening; provided, however, that a Bidder may withdraw its bid from consideration after the bid deadline when all of the following apply:

      (1) the price bid was substantially lower than the other bids;

      (2) the reason for the bid being substantially lower was a clerical mistake, rather than a mistake in judgment, and was due to an unintentional and substantial error in arithmetic or an unintentional omission of a substantial quantity of work, labor, or material;

      (3) the bid was submitted in good faith; and

      (4) the Bidder provides written notice to the Owner, to the attention of the Owner's Representative, within two (2) business days after the bid opening for which the right to withdraw is claimed.

   b. No bid may be withdrawn under this provision if the result would be the awarding of the contract on another bid for the bid package from which the Bidder is withdrawing its bid to the same Bidder.

   c. If a bid is withdrawn under this provision, the Owner may award the Contract to another Bidder determined by the Owner to be the lowest responsive and responsible bidder or the Owner may reject all bids and advertise for other bids. In the event the Owner advertises for other bids, the withdrawing Bidder shall pay the costs incurred in connection with the rebidding by the Owner, including the cost of printing new Contract Documents, required advertising, and printing and mailing notices to prospective bidders, if the Owner finds that such costs would not have been incurred but for such withdrawal.

## T. COMPLIANCE WITH APPLICABLE LAWS

1. By submitting a bid for Work on the Project, the Bidder acknowledges that it is in compliance with applicable federal, state, and local laws and regulations, including, but not limited to, the following:

   a. Equal Employment Opportunity/Nondiscrimination. The Bidder agrees that if it is awarded a contract that in the hiring of employees for performance of work under the contract or any subcontract, neither it nor any subcontractor, or any person acting on its behalf or its subcontractor's behalf, by reason of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform work to which the employment relates. The Bidder further agrees that neither it nor any subcontractor or any person on its behalf or on behalf of any subcontractor, in any manner, shall discriminate against or intimidate any employees hired for the

performance of the work under the contract on account of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color.

b. Ethics Laws. The Bidder represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.

## U. FINDINGS FOR RECOVERY

1. By submitting its bid, each Bidder certifies for reliance of the Owner that it has no unresolved finding for recovery against it issued by the Auditor of the State of Ohio on or after January 1, 2001, except as permitted by Section 9.24 (F) of the Ohio Revised Code.

## V. PREVAILING WAGES

1. For "Construction" projects as defined in Section 4115.03 of the Ohio Revised Code, the successful Bidder and all of its subcontractors, regardless of tier, will strictly comply with its obligation to pay a rate of wages on the Project not less than the rate of wages fixed for this Project under Section 4115.04 of the Ohio Revised Code. Additionally, for such "Construction Projects," the successful Bidder will comply with all other provisions of Chapter 4115 of the Ohio Revised Code.

## W. OHIO PUBLIC WORKS COMMISSION FUNDING

1. (Reserved.)

**END OF INSTRUCTIONS TO BIDDERS**