

# **2025 Asphalt Materials**

## **Supply Contract**

**DELAWARE COUNTY, OHIO**

## **NO DBE GOAL**

**CONTRACTING AUTHORITY:**  
**DELAWARE COUNTY COMMISSIONERS**

**Gary Merrell**

**Barb Lewis**

**Jeff Benton**

**CONTRACT ADMINISTRATOR:**  
**DELAWARE COUNTY ENGINEER**

**Chris Bauserman, P.E., P.S.**

1610 State Route 521  
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# **BID DOCUMENTS**

## **2025 Asphalt Materials**

### **Supply Contract**

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## **Public Notice Advertisement for Bids**

Bids shall be submitted electronically through the [www.bidexpress.com](http://www.bidexpress.com) webservice until 10:00 am on Tuesday, March 18, 2025, at which time they will be publicly received and read aloud, for the project known as:

### **2025 Asphalt Materials Supply Contract**

The Owner of the project is the Delaware County Board of Commissioners. Copies of the plans and specifications must be obtained from [www.bidexpress.com](http://www.bidexpress.com). All bidders must register and be a member of the web service to bid on the project.

This notice is posted on the Delaware County website at [www.co.delaware.oh.us](http://www.co.delaware.oh.us) and may be accessed by selecting "Public Notices and Bids."

The Owner requires that all work associated with the project be completed before December 31, 2025. The estimated commencement of work date is April 1, 2025.

This is a prevailing wage contract in accordance with Ohio Revised Code Chapter 4115 and the requirements of the Ohio Department of Commerce, Division of Labor and Worker Safety, Wage and Hour Bureau. Bidders shall comply with all applicable provisions.

No bids shall be withdrawn for a period of sixty (60) days after the opening thereof. Awarding of the contract shall be to the Lowest and Best bidder as determined by the Delaware County Board of Commissioners in the best interest of Delaware County. The Board reserves the right to reject any or all bids.

Delaware Gazette Advertisement Dates:  
March 1, 2025

## **SPECIFICATIONS**

### **2025 Asphalt Materials Supply Contract**

Delaware County, Ohio

#### **GENERAL**

This contract is an agreement to furnish the materials listed in the bid blank at stated unit prices when requested by the Owner, defined as the Delaware County Board of Commissioners or the Delaware County Engineer (collectively known as "County") or any of its cooperative purchasing partners.

Bidder agrees to furnish any materials ordered under this contract promptly as requested by the Owner. Failure to furnish such materials within the time and manner specified by the Owner shall be documented by the County and may be cause to deny any future contract award under Lowest and Best bidder consideration.

The County reserves the right to award any or all or parts of this bid and make a non-exclusive award. Conditional bids with restrictions may be accepted or rejected at the discretion of the County.

#### **COOPERATIVE PURCHASING PROGRAM**

The Contractor shall extend bid prices to the cooperative purchasing partners listed below during the term of this agreement:

- All political subdivisions within Delaware County
- Delaware County Preservations Parks District
- Delaware Soil and Water Conservation District

Purchase orders issued by cooperative purchasing partners at the unit prices provided under this Contract shall be considered as separate agreements and the County shall not be considered bound by any such agreements. The Contractor shall deal with the cooperative purchasing partner directly when such purchase orders are made.

#### **NON-EXCLUSIVE AWARD**

Due to the nature of the goods and services required in addition to not knowing in advance when materials will be needed or a specific job is to be performed, the County will accept all responsive bids submitted on or before the specified bid opening date and make an award to all responsive bidders.

As needs arise, the County will review a tabulated list of the multiple awarded vendors who submitted a bid, and select what vendor best meets its requirements and place an order with that awarded vendor. An award does not guarantee that your company will receive a purchase order during the term of this contract.

#### **TERM OF CONTRACT**

This contract shall be in effect from April 1, 2025 to December 31, 2025. The County reserves the right to cancel the contract at any time, in the best interest of the County.

## **MATERIAL SPECIFICATIONS**

2023 ODOT Construction and Material Specifications (CMS). 441 asphalt concrete materials shall be produced from a Job Mix Formula (JMF) approved by the County.

Cutback Asphalts (702.02): MC-30 (medium curing cutback asphalt)

Asphalt Emulsions (702.04): RS-2 (rapid setting emulsion)  
RS-2P (polymer modified rapid setting emulsion)  
CRS-2 (cationic rapid setting emulsion)  
CRS-2P (cationic, polymer modified rapid setting emulsion)  
SS-1 (slow setting asphalt emulsion)  
SS-1H (slow setting asphalt emulsion, hard pen)

Asphalt Concrete Base 301 Asphalt Concrete Base  
-HMA (301.02, 302.02): 302 Asphalt Concrete Base

Asphalt Concrete-HMA Type 1 Surface Mix  
(441): Type 1 Intermediate Mix  
Type 2 Intermediate Mix

Trackless Fog Seal (886): Provide fog seal material from ODOT approved product list maintained on the Office of Materials Management (OMM) website (886.02).

## **ORDERS AND DELIVERY**

Delivery of liquid asphalt products, if ordered FOB Job Site, shall be by insulated transport trucks (5000 gallon minimum) to any designated location in Delaware County, Ohio. Transports shall arrive at times designated by the County. Failure to provide proper delivery shall be cause for the County to make the purchase order from the next lower bidder and to consider such failures in the award of future bids under Lowest and Best considerations.

Bid prices shall include a minimum 1-hour free unloading time (laytime) for liquid asphalts and HMA materials, or the time required by the Bidder to unload, whichever is greater. Provide demurrage rates per hour on the bid blanks. Unloading time shall start upon arrival at the unloading point.

No cancellation fees will be paid by the County for any loading, unloading or travel time due to rain or wet weather. The County will make all reasonable efforts to cancel orders in a timely manner.

## **LIQUID ASPHALTS**

The County performs chip sealing at various locations throughout Delaware County and operates with a portable 7000 gallon liquid asphalt storage tank located by the County at the delivery point. When the County is chip sealing at full operation, orders are placed by 4:00 p.m. the day preceding delivery. Delivery of the first 6000+/- gallon load may be made at any time prior to 7:00 a.m. on the delivery day and placed in the temporary storage tank. Delivery of the second 7000+/- gallon load will typically occur at approximately 11:00 a.m. unless canceled due to weather conditions.

## **ASPHALT CONCRETE MATERIALS**

The County performs spot paving at various locations throughout Delaware County. Asphalt delivered to the site shall be unloaded as directed by the County representative.

## **MISCELLANEOUS TERMS AND CONDITIONS**

Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

Prohibited Interests: Bidder agrees that no agent, officer, or employee of the County during his/her tenure or for one year there after shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Bidder further

agrees that it will not employ in any manner a current County employee for a minimum period of one (1) year from the completion date of this project, without the prior express written consent of County.

Entire Agreement: This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the County and the Bidder, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the parties.

Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Delaware County, Ohio.

Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

Severability: If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

Findings for Recovery: Bidder certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.

Independent Contractor: The Contractor acknowledge and agrees that Contractor is acting as an independent contractor and that no agency, partnership, joint venture, or employment relationship has been or will be created between the Contractor and Delaware County. Contractor also agrees that, as an independent contractor, Contractor assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums that may accrue as a result of compensation received for services or deliverables rendered hereunder. **Contractor shall certify that it has five or more employees and that none of the employees are public employees for purposes of Chapter 145 of the Ohio Revised Code.**

## **GENERAL PROVISIONS**

### **ARTICLE 1 – DEFINITIONS**

Whenever the words defined in this article, or pronouns used in their stead, occur in the Contract Documents, they shall have the meanings given herein.

**Owner:** The Delaware County Board of Commissioners (Board) or their designated representative or any officer fully authorized to act for said Board.

**Engineer:** The Project Engineer so designated by the Delaware County Board of Commissioners assigned to administer the contract is the Delaware County Engineer.

**Inspector:** An authorized representative of the Delaware County Engineer's Office assigned to make any and all necessary inspections of the work performed and materials furnished by the Contractor.

**Contractor:** The party entering into the Contract for the performance of the work required thereby, the legal representative of said party, or the agent appointed to act for said party in performance of the work.

**Subcontractor:** An individual, firm, or corporation who contracts with the Contractor to perform part or all of the latter's contract.

**Specifications:** The definitions, instructions, descriptions, directions, provisions, and requirements contained herein and all written supplements thereof made, or to be made, pertaining to the Contract and the materials and workmanship to be furnished under the Contract.

**Contract:** All things contained in the specifications, drawings, proposal, agreement, and bond; also, all supplemental agreements which could reasonably be required to complete the construction contemplated. The above items shall be considered as one instrument forming the Contract. It is understood that all things contained or referred to in the Advertisement, Information to Bidders, Special Provisions, General Provisions, Detailed Specifications, Signed Contract, Contract Bond, and Drawings, as well as all other papers or addenda attached to or bound with any of the above or referred to therein, are part of the Contract and are to be considered as one instrument constituting the Contract Documents. The intent is to make the Various "Parts" and "Sections" of the Contract Documents complementary one to the other. No papers attached to or bound with any of the above shall be detached there from, as all are a necessary part thereof. Whenever in the Specifications or in the Drawings the words directed, permitted ordered, designated, prescribed or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of the Engineer is intended.

### **ARTICLE 2 – CONTRACT AND CONTRACT DOCUMENTS**

All applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

The Plans, Specifications and Addenda, shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.

### **ARTICLE 3 – AUTHORITY OF ENGINEER**

The Engineer shall give all orders and directions contemplated under this Contract; shall determine in all cases the amount, quality, acceptability, and fitness of the several kinds of work and materials for which payment is to be made; shall determine all questions respecting the true interpretation or meaning of the Drawings or Specifications relating to said work and the construction thereof; shall decide in all cases every question which may arise relative to the fulfillment of this Contract on the part of the Contractor. In case any dispute shall arise between

the parties hereto involving this Contract, seeking determinations and decisions of the Engineer shall be a condition precedent to the right of the Contractor to receive any money under this Contract.

#### **ARTICLE 4 – AUTHORITY AND DUTIES OF INSPECTORS**

Inspectors employed under the supervision of the Engineer shall be authorized to inspect all work done and materials furnished. Inspection may extend to any part of the work and of the preparation or manufacture of the materials to be used. Inspectors will be assigned to the various phases of the work, reporting to the Engineer as to the progress of the work and the manner in which it is being performed; also reporting whenever it appears that the materials furnished and work done by the Contractor fail to fulfill the requirements of the Specifications and Drawings, and to call to the attention of the Contractor any failure or other default; but, no inspection, not any failure to inspect at any time or place, shall relieve the Contractor from any obligation to perform all the work strictly in accordance with the requirements of the Specifications. In case of any dispute arising between the Contractor and the inspector as to materials furnished or the manner of performing the work, the inspector shall have the authority to reject materials or suspend work until the question at issue can be referred to and decided by the Engineer. The inspectors shall perform such other duties as are assigned to them. They shall not be authorized to revoke, alter, enlarge, relax, or replace any requirements of these Specifications, nor to approve or accept any portion of the work, or to issue instructions contrary to the Drawings and Specifications. Inspectors shall in no case act as foremen or perform other duties for the Contractor, nor interfere with the management of the work. Any instructions which the inspectors may give the Contractor shall in no way be construed as committing the Engineer, or the Owner, in any way, nor releasing the Contractor from fulfillment of the terms of the Contract.

#### **ARTICLE 5 – SUPERVISION**

The Contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The Contractor will employ and maintain on the work site 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 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 work.

The Owner and its representatives 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, payrolls, records of personnel, invoices of 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.

The Contractor shall submit a proposed program of operation, showing clearly, how he/she proposes to conduct the work so as to bring about the completion of his/her work within the time limit specified. This program shall outline the proposed sequence of operations, the rates of



progress and the dates when his/her work will be sufficiently advanced to permit the installation of the work under other contracts, and the estimated progress payments due under the Contract. The work under this contract shall be so scheduled that as structures are completed, they can be placed into useful operation with a minimum of delay. The program shall be subject to the approval of the Owner.

All construction as proposed along all City, Township, State and Federal rights of way including storage and stockpiling of materials, is to be conducted within the limits of the public right-of-way. Bracing, sheeting, and shoring shall be used to keep all construction work within the construction limits unless work agreements are secured from the adjacent property owners. It is the Contractor's responsibility to secure these work agreements, if deemed necessary. Copies of the work agreements shall be delivered to the Engineer and the Owner prior to any work beginning on the affected property.

## **ARTICLE 6 – EQUIPMENT**

The Contractor shall furnish such equipment as is considered necessary for the prosecution of the work in an acceptable manner and at a satisfactory rate of progress. All equipment, tools, and machinery used for handling materials and executing any part of the work shall be subject to the approval of the Engineer and shall be maintained in a satisfactory working condition. Equipment used on all portions of the work shall be such that no injury to work, adjacent property, or other objects will result from its use. The contract may be annulled if the Contractor fails to provide adequate equipment for the work.

## **ARTICLE 7 – SAFETY**

The Contractor will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. He/She will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury, or loss to all employees of the work and other persons who may be affected thereby, and all the work and all materials or equipment to be incorporated therein, whether in storage on and 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 construction.

The Contractor will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety protection. He/She will notify owners of adjacent utilities when prosecution of the work may affect them.

The Contractor shall comply with the safety standards provisions of applicable laws, building and construction codes and the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, the requirements of the Occupation Safety and Health Act of 1970 (Public Law 91-586), and the requirements of Title 29 of the Code of Federal Regulations, Section 1518 as published in the "Federal Register", Volume 36, No. 75, Saturday, April 17, 1971. The Contractor shall also comply with Chapter 4104.9-2 of the Ohio Revised Code prohibiting the Employment of Minors in Occupations Hazardous or Detrimental to their Health. The Contractor shall maintain at his/her office or other well known place at the job site, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees) who may be injured at the job site. In no case shall employees be permitted to work at a job site before the employer has made a standing arrangement for removal of injured persons to a hospital or a doctor's care.

Lights, signs, and barricades shall be used to maintain traffic and safety for vehicular and pedestrian traffic during the course of this contract in accordance with the specifications.

## **ARTICLE 8 – INDEMNIFICATION**

The Contractor shall indemnify and hold harmless the Owner, its officers, agents and employees from any and all losses, claims, damages, lawsuits, costs, judgments, expenses or any other liabilities which they may incur as a result of bodily injury, sickness, disease or death, or injury to or destruction of tangible property including, but not limited to, the loss of use resulting therefrom, or delay, acceleration, or loss of productivity caused in whole or part by the negligent act or omission of the Contractor, any subcontractor, any person directly or indirectly employed by any of them or any person for whose acts any of them may be liable.

## **ARTICLE 9 – CONSTRUCTION SCHEDULE**

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

The Contractor will proceed with the work at such rate of progress as to ensure full completion within the Contract Time. It is expressly understood and agreed, by and between the Contractor and the Owner, that the Contract Time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.

The contract time to fully complete the work shall be as specified in a written “Notice to Proceed”.

If the Contractor shall fail to complete the work within the Contract Time, or extension of time granted by the Owner, the Owner shall use such failure to perform in considering awarding future contracts to the Contractor under Lowest and Best considerations.

## **ARTICLE 10 – COMPLETION OF WORK**

The Contractor shall guarantee all materials and equipment furnished for a period of one year from the date of Substantial Completion. The Contractor warrants and guarantees for a period of one year from the date of Substantial Completion of the improvement that it is free from all defects due to faulty materials or workmanship, and the Contractor shall promptly make corrections as may be necessary by reason of such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make repairs, adjustments, or other work, which may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.

When the work, including that performed by Subcontractors, is completed, the site shall be cleaned of all rubbish and debris caused by the construction. All sheds or other temporary structures, surplus materials, and equipment shall be removed and the project left in a neat and presentable condition.

## **ARTICLE 11 – LAWS AND REGULATIONS**

The Contractor shall keep himself fully informed of all Federal and State Laws in any way affecting those engaged or employed in the work, the material used in the work, or in any way affecting the conduct of the work, and of all orders and decrees of bodies or political subdivisions having any jurisdiction or authority over the same. If any discrepancy or inconsistency shall be discovered in this Contract or in the Drawings and Specifications herein referred to in relation to any such law, regulation, decree, or order, the Contractor shall forthwith report the same in writing to the Engineer. He shall at all times himself observe and comply with, and shall cause all of his agents and employees to observe and comply with, all such existing and future laws, regulations, orders and decrees; and shall protect and indemnify the County, its officers and agents against any claims or liability arising from or based on the violation of such law, regulation, order or decree whether by himself or by his employees.

## **ARTICLE 12 – SUBCONTRACTS**

The Contractor shall not sublet, sell, transfer or assign any portion of the contract without written consent of the Owner or the Owner’s designated agent. When such consent is given, the Contractor will be permitted to sublet a portion thereof, but shall perform with his/her own organization, work amounting to no less than fifty percent of the total contract cost, except any item designated in the contract before computing the amount of work required to be performed by the Contractor with his/her own organization. No subcontract, or transfer of contract, shall in any way release the Contractor or his/her liability under the contract and bonds.

The Contractor shall not award work to subcontractor(s) without prior written approval of the Owner, after verification by the Ohio Department of Transportation of the subcontractor's current eligibility status, and after submission of all certifications as required in the Instructions to Bidders. The Contractor shall be fully responsible to the Owner for the acts and omissions of the subcontractor(s), and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

## **ARTICLE 13 – ASSIGNMENT**

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Contract or his right, title, or interest in or to the same or any part thereof, without the previous consent in writing of the Owner endorsed herein or hereby attached; and he shall not convey by power of Attorney or otherwise, any of the moneys to become due and payable under this Contract unless, by and with, like consent signified in a like manner. If the Contractor shall, without previous written consent, assign, transfer, convey, sublet or otherwise dispose of his Contract or his right, title or interest therein or any moneys to become due under this Contract to any person, firm or corporation, this Contract may, at the option of the Owner, be revoked and annulled and the Owner shall thereupon be relieved and discharged from any and all liabilities and obligations growing out of the same to the Contractor and to his assignee or transferee; provided that nothing herein contained shall be construed to hinder, prevent, or affect an assignment by the Contractor for the benefit of his creditors, made pursuant to the statutes of the State of Ohio; and no right under this Contract, or to any moneys to become due hereunder, shall be asserted against the Board in law or equity, by reason of any so-called assignment of this Contract, or any part thereof, or any moneys become due hereafter unless authorized by written consent of the Owner.

## **ARTICLE 14 – CHANGE OF WORK**

The Owner reserves the right to make, at any time during the progress of the work, such increases or decreases in quantities and such alterations in details of work as may be deemed necessary or desirable. Such increases or decreases and alterations shall not invalidate the contract, and the Contractor agrees to perform the work as altered, the same as if it had been a part of the original contract.

Authorized alterations in plans or quantities of work involving work not covered by unit prices in the proposal shall be paid for as stipulated in the change order authorizing such work.

No changes in work covered by the approved Contract shall be made without having prior written approval of the Owner.

## **ARTICLE 15 – PARTIAL ESTIMATES**

Each month the Engineer will make in writing an estimate of the amount and value of the work and the materials incorporated in the work by the Contractor in the performance of this Contract. The Contractor shall aid the Engineer in the preparation of this estimate by submitting to him at the start of each month an estimate of the work he has accomplished during the preceding month, broken down by items and containing supporting computations. The first such estimate shall be of the amount and value of the work done and materials incorporated in the work since the Contractor commenced the performance of the Contract. Every subsequent estimate, except the final estimate, shall be of the amount and value of the work done and materials incorporated in the work since the last preceding estimate was made; provided, however, that no such estimate shall be required to be made when, in the judgment of the Engineer, the total value of the work done and material incorporated in the work since the last preceding estimate amounts to less than two thousand dollars (\$2,000). At the discretion of the Engineer, allowances may be made for non-perishable materials, which are to be incorporated in the work, when delivered and properly stored upon the site. Payment for materials and equipment delivered and stored as specified above shall be based upon certified paid invoices to be submitted by the Contractor and title to the same shall be vested with the Owner upon payment therefore. The Contractor's plant shall not be included in partial estimates, such estimates shall not be required to be made by strict measurement, but they may be made by measurement or by estimation, or partly by one method and partly by the other, and it shall be sufficient if they are approximate only. Such estimates shall be dated as of the last day of the month covered by the estimate, except the final estimate.

## **ARTICLE 16 – PARTIAL PAYMENTS**

Before the contract is fifty percent completed, labor performed on the project and materials delivered on site shall be paid for at a rate of ninety-two percent of the estimates for partial payment as submitted by the Contractor, checked and prepared by the Engineer, and approved by the Engineer.

## **ARTICLE 17 – PARTIAL PAYMENT MAY BE WITHHELD**

Partial payments may at any time be withheld or reduced if, in the opinion of the Engineer, the work is not proceeding in accordance with this Contract.

## **ARTICLE 18 – FINAL ESTIMATE**

When, in the opinion of the Engineer, all the work contemplated by this Contract is completed, he shall measure up said work and prepare a final estimate of the same. The Contractor shall aid the Engineer in the preparation of this estimate by submitting to him, as soon as possible following the completion of work an estimate of the work he has done under this Contract, broken down by items and containing supporting computations. The Owner shall, within thirty days after receiving the said final estimate, make payment of ninety-six percent of the amount of said estimate, less previous payments to the Contractor and such other sums as may lawfully be retained under the terms of this Contract, provided that all terms of this Contract have been complied with by said Contractor. Such estimate shall be dated as of the day on which the Contractor shall have completed the work called for to be done under this Contract.

## **ARTICLE 19 – REPAIRS FOR ONE YEAR**

The Contractor shall make all repairs due to defective workmanship of material for the term of one year after the date of the final estimate; shall correct and repair promptly during that time all defective work and material of whatever description; and shall deliver the work in all respects in good condition at the end of that time. However, ordinary wear and tear, or damage due to negligent or improper operation on the part of the Owner, shall not be considered an obligation of the Contractor. Twelve months after the date of the final estimate, as hereinbefore mentioned, and as soon after the expiration of the said twelve months as practicable, the Owner shall make or cause to be made a final inspection of the performance of this Contract.

If such performance and work shall be found satisfactory and not to have deteriorated through defects of workmanship or material, then the Owner shall accept said work. Such acceptance shall be a prerequisite to the release of the surety on the warranty bond. If, however, the final or any prior inspection discloses defects due to non-fulfillment of this Contract, or non-compliance with its requirements, the Owner shall so notify the Contractor in writing and thereupon the Contractor shall, at his own expense, repair or replace and shall make good all defects of materials, workmanship, or guarantee. Such repairs shall be a prerequisite to the approval and acceptance of the work and the release of the surety on the warranty bond. In case the Contractor shall neglect or fail to promptly make said repairs, after written notification, the Owner shall cause such repairs to be made at the expense of the Contractor.

## **ARTICLE 20 – FINAL PAYMENT**

The Owner agrees that upon the expiration of said period of thirty (30) days, provided all the work shall at that time be in good order and approved by the Owner following the final inspection, the said Contractor shall be entitled to receive the whole or that part of the above mentioned sum as may remain after the expense of making such repairs shall have been paid there from. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

The Owner hereby agrees to pay and the Contractor hereby further agrees to receive in full compensation for furnishing all materials and doing all work as contemplated and set forth by these Specifications and the accompanying drawings, the several sums and prices set forth in the proposal sheet hereto attached.

## **ARTICLE 21 – LIENS**

If, at any time within one hundred twenty (120) days after the whole work herein agreed to be performed and all labor and material herein agreed to be delivered have been performed and delivered or completed and accepted by the Owner, any person or persons claiming to have performed any labor or furnishing any materials toward the performance or completion of this Contract shall file with the Owner notice according to law, the Owner shall retain until the discharge thereof, from all money under its control, such moneys as shall be sufficient to satisfy and discharge the amount in such notice claimed to be due, together with the costs of any action or actions brought to enforce such lien created by the filing of such notice.

## **ARTICLE 22 – TERMINATION**

After ten (10) 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 terminate the Contract. In such case, the Contractor shall be paid for all work executed and any expense sustained. Contractor shall also be entitled to reasonable profit, unless such termination was due to the act or conduct of the Contractor.

## **ADDITIONAL PROVISIONS**

### **ARTICLE 1. Physical Data**

The Contractor shall make all explorations necessary to locate structures to which connections are to be made without additional expense to the Owner.

### **ARTICLE 2. Night Work**

No work shall be done during the hours between sunset and sunrise without the prior approval or order of the Engineer.

### **ARTICLE 3. Work on Sunday and Holidays**

No work will be permitted on Sundays or on legal holidays except upon the specific authorization or direction of the Engineer (to be authorized only in case of emergency).

### **ARTICLE 4. Protection of Existing Structures**

The Contractor shall make such investigations as are necessary to determine the extent to which existing structures may interfere with the prosecution of the work contemplated under this Contract.

Any existing surface, subsurface or overhead structures damaged or destroyed shall be promptly repaired or replaced by the Contractor in a satisfactory manner at his own cost and expense.

### **ARTICLE 5. Care and Protection of Work**

From the commencement of the work until the completion thereof, the Contractor shall be solely responsible for the work covered by this Contract and for all materials and equipment used or intended to be used in the work. All destruction, injury or damage to the same from whatever cause, as well as any damage done by him, his employees, and his subcontractors in the performance of this work shall be made good by him at his own expense before the final estimate is made. He shall provide suitable means of protection for all materials and equipment intended to be used in the work and for all work in progress as well as for the completed work.

### **ARTICLE 6. Cleaning Up**

The Contractor shall keep the site of the work free from trash, litter and waste materials and shall maintain the same in a neat and orderly condition throughout the period of work.

### **ARTICLE 7. Examination of Finished Work**

The Contractor shall furnish the Engineer with every reasonable facility for ascertaining whether or not the work as performed is in accordance with the requirements and intent of the Specifications and Contract. If the Engineer requires it, at any time before acceptance of the work, the Contractor shall remove or uncover such portion of the finished work as may be directed for examination. The Contractor shall restore said portion of the work to the standards required by the Specifications. Should the work thus exposed or examined above prove acceptable, the uncovering, removing, replacing of the covering, or making good of the parts removed shall be paid for by the Owner; except that any work done or materials used without suitable supervision or inspection by a representative of the Engineer may be ordered removed and replaced at the Contractor's expense. However, should the work exposed or examined prove unacceptable, either in whole or part, the uncovering, removing, replacing of the covering and making good of the parts removed shall be at the Contractor's expense.

The Contractor shall, when directed, remove all water, which may accumulate in or about the work during construction, or prior to the final acceptance of the same, in order that proper inspection may be made.

### **ARTICLE 8. Safety Precautions**

Precautions shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws and building and construction codes shall be observed.

#### **ARTICLE 9. First Aid**

The Contractor shall provide and keep upon the work site a completely equipped first-aid kit and shall provide ready access thereto at all times when men are employed on the work. He shall designate some proper person to be in charge of the first-aid work site and shall cause such person to receive proper instruction therein.

#### **ARTICLE 10. Posting Wage Rates**

Does not apply.

#### **ARTICLE 11. Wage Rates**

Does not apply.

#### **ARTICLE 12. Insurance**

- A. The Contractor shall not commence work under this Contract until Contractor has obtained all the insurance required hereunder and the Owner has approved such insurance, nor shall the Contractor allow any Subcontractor to commence work on the subcontract until all similar insurance required of the Subcontractor has been so obtained and approved. Approval of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder.
- B. The Contractor shall cause the Owner to be listed as an additional insured party on all required liability policies. The Contractor shall file with the Owner all Certificate(s) of Insurance and properly executed endorsements listing the Owner as an additional insured party as are necessary to document the insurance coverage required hereunder, subject to the approval of the Owner and receipt of any additional forms/documentation requested, prior to final execution of the Contract and issuance of the Notice to Proceed.
- C. *Workers' Compensation* – All contractors and subcontractors shall acquire and maintain, during the term of the Contract, *Workers' Compensation* insurance in full compliance with the laws of the State of Ohio.
- D. *Contractor's General Liability Insurance* – The Contractor shall acquire and maintain, during the term of the Contract, insurance for a minimum of \$1,000,000 per occurrence with an annual aggregate of \$2,000,000, including coverage for subcontractors.
- E. *Excess Liability* – The Contractor shall acquire and maintain, during the term of the Contract, insurance over and above General Liability Insurance up to \$2,000,000.
- F. Bodily Injury and Property Damage Liability Insurance under a standard Comprehensive General/Automobile Liability Policy which shall provide and include coverage on all Contractor's Operations, Contractor's protective (Sublet) Liability, Contractual Liability, Completed Operations Liability, Owned Automobiles and Non-owned and Hired Automobiles.

Bodily Injury Liability limits shall be for an amount of no less than Two Hundred Fifty Thousand (\$250,000) Dollars for injuries, including wrongful death to any one person and subject to the same limit for each person, in an amount of not less than Five Hundred Thousand (\$500,000) Dollars on the account of any one occurrence.

Property Damage Liability Insurance shall be provided on any demolition, blasting, excavating, shoring or similar operation on an "if any" basis. Property Damage Liability Insurance shall be in an amount of not less than One Hundred Thousand (\$100,000) per occurrence. General Liability shall be extended to provide "Broad Form Property Damage Liability", and in an amount of not less than One Million (\$1,000,000) Dollars aggregate for damage on account of all occurrences.

Any combination of underlying Comprehensive General/Automobile Liability coverage with Umbrella/Excess Liability coverage which provides no less than One Million (\$1,000,000) Dollars Single Limit Bodily Injury and Property Damage Liability Insurance for the Contractor will also be acceptable.

The Owner may adjust the liability limits to coincide with local government procurement policies and practices within the limits of state and local law.

- G. *Builder's Risk Insurance* – Each contractor shall maintain insurance to protect himself and the Owner, jointly, from loss incurred by fire, lightning, extended coverage hazards, vandalism, theft, explosion and malicious mischief in the full amount of the Contract and such insurance shall cover all labor and material connected with the work, including materials delivered to the site, but not yet installed.
- H. *Installation Floater Insurance* – When a contractor is involved solely in the installation of materials and not in the construction of a building, an Installation Floater is required in lieu of a Builder's Risk Policy with the same general conditions applying as set forth in Paragraph G.

The Policies as listed above shall all contain all the following special provisions:

“The Company agrees that thirty (30) days prior to cancellation or reduction of the insurance afforded by this policy with respect to the Contract involved, written notice will be mailed to the Board of Delaware County Commissioners.

The maintaining of such insurance as outlined herein shall in no way constitute a waiver of legal liability for damage to any adjoining buildings or their contents or the work and property of others on the site beyond the limits of insurance thus maintained.