

SPECIFICATIONS AND CONTRACT DOCUMENTS

FOR

**RESURFACE VARIOUS ROADS IN CUMBERLAND
CROSSING IN ETNA TOWNSHIP, LICKING COUNTY,
OHIO**

**Owner:
ETNA TOWNSHIP
P.O. Box 188,
Etna, OH 43018**

Table of Contents

Title Page	
Table of Contents	2
Notice to Contractors.....	4
Instructions to Bidders.....	6

BID PROPOSAL

Bid Form	16
Bid Guaranty and Contract Performance and Payment Bond	22
Non-Collusion Affidavit.....	24
Bidder's Equal Opportunity Certification.....	26

AGREEMENT

Owner-Contractor Agreement.....	28
Contract Affidavit.....	51
Contractor Personal Property Tax Affidavit.....	53
Contract Performance and Payment Bond.....	55
Contractor's Finding for Recovery Affidavit	57
Contractor's Affidavit of Compliance with Prevailing Wages.....	59
Change Order Form	61

STANDARD CONSTRUCTION DRAWINGS.....IF APPLICABLE

NOTICE TO CONTRACTORS

Sealed proposals for "Resurface Various Roads in Cumberland Crossing in Etna Township, Licking County, Ohio" in Etna Township will be received by the Etna Township Board of Trustees, Licking County, Ohio, c/o Jackie Cotugno, Fiscal Officer, at P.O. Box 188, Etna, OH 43018, until June 16th, 2026 at 6pm P.M.
 On June 16, 2026, at 6:30 P.M., bids will be opened at the regular meeting of the Etna Township Trustees at the Etna Township Hall.

Plans, specifications, contract documents and bid forms may be secured by contacting Jackie Cotugno at 740-819-2817.

A brief description of the required work is as follows:

Mill and Resurface 1.5" of Item 441 Asphalt Concrete Surface Course, Type 1, (448), PG64-22. Average width of all road listed below is 25 feet except for Cumberland Crossing Drive (30 feet).

<u>Road Name</u>	<u>Limits</u>	<u>Road No.</u>	<u>Length, MI</u>
Addax Drive	Cumberland Crossing-Andiron Dr.	1144	0.114
Andiron Drive	Hawksoar Dr.-Columbia Rd.	1142	0.187
Glen Crossing Drive	Columbia Rd.-Cumberland Crossing	1141	0.922
Hawksoar Drive	Cumberland Crossing-Glen Crossing	1145	0.153
Hummock Drive	Cumberland Crossing-Andiron Dr.	1143	0.138
Cumberland Crossing Drive	Columbia Rd.-Glen Crossing	1154	0.379
Halcyon Drive	Cumberland Crossing-Glen Crossing	1157	0.130
Mandolin Ct.	Glen Crossing-Dead End	1159	0.032
Plantain Drive	Glen Crossing-Glen Crossing	1163	0.117
Copland Drive	Cumberland Crossing-Cumberland Crossing	1170	0.244
Palmetto Ct.	Cumberland Crossing-Dead End	1173	0.033
Althea Ct.	Cumberland Crossing-Dead End	1172	0.059
Redbud Ct.	Cumberland Crossing-Dead End	1165	0.045

Bidders who submit a bid must be a Plan Holder of record at the Issuing Office. Bids from Bidders who are not on the Plan Holders List may be returned as being non-responsive. The Township reserves the right to waive informalities and to reject any and all bids, waive any technical requirements, and to accept any bid which is deemed by the Board of Trustees to be the lowest responsible bid.


 Jackie Cotugno, Fiscal Officer
 Etna Township

To be advertised:

5-6-2026

INSTRUCTIONS TO BIDDERS

1. EXAMINATION OF CONTRACT DOCUMENTS AND SITE(S)

- A. Bidders are cautioned to review carefully the Site(s) and all parts of the Contract Documents made available to each bidder, including, but not limited to, the Notice to Bidders, Instructions to Bidders, Bid Form(s), Owner-Contractor Agreement, Special Conditions for the Project (if any), Drawings, and Specifications. The Contract Documents, as defined in the Owner-Contractor Agreement, shall govern the relationship between the successful Bidder and the Owner upon execution of an Owner-Contractor Agreement by the Owner and the successful Bidder.
- B. No allowance will be made subsequently for any omission, error, or negligence of the Bidder.
- C. All Bidders shall be familiar with the existing conditions in the material and labor markets, as well as the conditions related to the Work, and the fact that a Bid is submitted will be construed by the Owner as an agreement by the Bidder to carry out the improvements in full conformance with the Specifications and other Contract Documents, notwithstanding the existing conditions.
- D. Each Bidder shall be responsible for coordinating its Work with the Work of other bid packages that require integration of the Bidder's Work.
- E. Attention of the Bidder is particularly called to those parts of the Owner-Contractor Agreement and other Contract Documents and Specifications, which deal with the following:
 - 1) Insurance Requirements
 - 2) Prevailing Wage Standards
 - 3) Requirement for a bid guaranty or bid bond and performance bond for 100% of the contract price in the manner and form prescribed by R.C. 153.54 et. seq.
 - 4) Requirement that all subcontractors be approved by the owner
 - 5) Time for completion and liquidated damages requirements
 - 6) Safety standards
 - 7) Contractor's responsibility to obtain permits
- F. At the time of the opening of the bids each Bidder will be presumed to have inspected the site(s) and to have read and be 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 his/her bid.

2. OWNER

Etna Township
P.O. Box 188
Etna, Ohio 43018

Project Contact: Jackie Cotugno (Township Fiscal Officer)

Phone: 740-819-2817

3. PROJECT

The Project consists of all labor, materials, and services necessary for the timely and proper completion of the **Resurface Various Roads in Cumberland Crossing in Etna Township, Licking County, Ohio**, all in accordance with the Contract Documents.

4. WORK

Mill and Resurface 1.5" of Item 441 Asphalt Concrete Surface Course, Type 1, (448), PG64-22.

Specific scopes, road lengths, and road widths are identified on the Engineer's Bid Forms. The Owner and the Contract require that resurfacing work shall provide complete coverage of all existing road widths.

- f. The completed Bid Form(s) shall be accompanied by the following documents:
 - i. The Bid Guaranty (see Section 8 below);
 - ii. Non-Collusion Affidavit;
 - iii. Bidder's Equal Employment Opportunity Certification;
 - iv. ODOT Pre-qualification Certification.

- g. The Bidder shall take the following precautions in preparing its Bid:
 - i. 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 Item f. above) have been included in a sealed opaque envelope addressed as described in Item e. above.
 - ii. When the Bid Form(s) provides for quoting either an addition or deduction for an Alternate item, indicate whether the sum named is an addition or deduction.
 - iii. When the Bid Form(s) provides for quoting a unit price, the Bidder should quote the unit price as set forth in the Bid Documents.
 - iv. When applicable, make sure that the Bid Guaranty is properly executed and signed by:
 - a. The Bidder
 - b. The Surety or Sureties
 - v. 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 Section 8 below. If the Bid Guaranty is in the form of the Bid Guaranty and Contract Performance and Payment 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. 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.
 - vi. Make sure that the appropriate bid package and scope of work is inserted in the correct space on the Bid Guaranty and Contract Performance and Payment 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 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 Performance and Payment 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 Performance and Payment Bond in the form Contract Performance and Payment Bond included in the Bid Documents in an amount equal to 100% of the Contract Sum.
NOTE: AIA Bond forms are not acceptable.

accompanying the Bid Form. Failure to do so may result in disqualification of the Bid.

- c. Determination of Lowest Responsible 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 Bidder submitting the lowest responsible bid, taking into consideration accepted alternates. The Owner may award bids and enter into contracts based upon the bids received and the Owner's budget. The Owner, in its sole discretion, will determine whether a bid or bidder is responsible. In evaluating Bids, the Owner shall consider the qualifications of the bidders, whether or not the bids comply with the prescribed requirements, and alternatives and unit prices, if requested, in the Bid Form. The Owner may also consider the qualifications and experience of suppliers and distributors. The Owner may conduct such investigations as are deemed necessary to establish the responsibility, qualifications and financial ability of the Bidders, proposed distributors and other persons and organizations to do the work in accordance with the Contract Documents to the Owner's satisfaction within the prescribed time. The Owner reserves the right to reject the bid of any Bidder that does not pass any such evaluation to the Owner's satisfaction. The factors to be considered by the Owner in making its determination as to whether a Bidder is a responsible bidder include the following as the Owner, in its discretion, deems appropriate; the Owner may give such weight to each factor as it deems appropriate:

- i. The Bidder's Work History. The Bidder should have a record of consistent customer satisfaction and of consistent completion of projects, including projects, which are comparable to or larger and more complex than the Owner's Project, on time and in accordance with the applicable Contract Documents. If the Bidder's management operates or has operated another construction company, the Owner may consider the work history of that company in determining responsibility of the Bidder.

The Owner will consider the Bidder's prior experience on other projects of the Owner including the Bidder's demonstrated ability to complete its work on these projects in accordance with the Contract Documents and on time, and its ability to work with the Owner.

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, 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 candidate evaluation and such action is not successful, the Bidder will reimburse such owners, design professionals and construction managers, and the employees of each of them, for all legal fees and expenses incurred by them 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.

- ii. The Bidder's financial ability to complete the Contract successfully and on time, without resort to its Surety.
- iii. The Bidder's prior experience with similar work on comparable or more complex projects;
- iv. The Bidder's equipment and facilities;
- v. The adequacy, in numbers and experience, of the Bidder's work force to complete the Contract successfully and on time;
- vi. The Bidder's compliance with federal, state, and local laws, and regulations, including but not limited to the Occupational Safety and Health Act;
- vii. The ability of the Subcontractors the Bidder intends to use on the Project to meet all criteria in this Section;
- viii. 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 for recovery as defined in Ohio Revised Code Section 9.24; and/or,
- ix. Depending upon the type of the Work, other essential factors, as the Owner may determine.
- d. The apparent low bidder will provide the Owner with such additional information as the Owner may request regarding the Bidder's responsibility. Additionally, upon request from the Owner, any other Bidder will provide the Owner with such additional information as the Owner may request regarding

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.

14. UNIT PRICES

Where unit prices are requested in the Bid Form for a Prime Contract on which the Bidder submits a Bid, the Bidder shall quote a unit price. Unless otherwise expressly provided in the Contract 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 Owner determines that the use of such unit prices will cause substantial inequity.

15. ADDENDA

- a. The Owner reserves the right to issue Addenda changing, altering, or supplementing Contract Documents prior to the time set for receiving bids. The Owner will issue the Addenda to clarify Bidders' questions, to change, alter, or supplement the Contract Documents.
- b. 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 or interpretations made by any other means shall **NOT** be legally binding. All Addenda shall become a part of the Contract Documents.
- c. Bidders must submit questions to the Owner in sufficient time in advance of the Bid opening to allow the Owner to respond. All Addenda will be issued, except as hereinafter provided, and mailed or otherwise issued 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.
- d. Copies of each Addendum will be sent only to the Contractors to whom Contract Documents have been issued. 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 Owner prior to the Bid opening to verify the number of Addenda issued.
- e. If a Bidder fails to indicate receipt of all Addenda issued by the Owner on its Bid Form, the Bid of such Bidder will be deemed to be responsive only if:
 - i. 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,
 - ii. The Addendum involves only a matter of form or is one that has either no effect or merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon.

16. INTERPRETATION

- a. If a Contractor contemplating submitting a Bid for the proposed project is in doubt as to the true meaning of any part of the Specifications or Contract Documents, it may submit a written request for an interpretation thereof to the Owner in accordance with Section 10 of these Instructions to Bidders. Any interpretation of the Contract Documents will be made by Addendum only, duly signed, and a copy of such Addendum will be mailed or delivered to each person receiving a set of Contract Documents. The Owner will not be responsible for any other explanation or interpretation of the proposed documents.
- b. 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.
- c. Bidders are responsible for notifying the Owner 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 for interpretation was made by the Bidder prior to the Bid opening.

17. TAX STATUS

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 sales tax exemption certificate, executed by the successful Bidder and the Owner, to the vendors or suppliers when the

would incur if the work were not completed by the foregoing dates. These Liquidated Damages are damages for loss of use of the Project, and the successful Bidder in addition to the Liquidated Damages will be obligated to indemnify and hold the Owner harmless from any claims, and if the Work on the Project is accelerated because of delay, for all costs related to the acceleration of the Work, as provided in the Contract Documents.

19. PREVAILING WAGE

The Bidder to whom the Contract is awarded shall be required to pay, as a minimum, the prevailing wage rates promulgated by the State.

20. OWNER'S RIGHT TO WAIVE DEFECTS AND IRREGULARITIES

- a. 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.
- b. By submitting its Bid, the Bidder agrees that (i) the Owner's determination of whether a defect or irregularity affects the amount of the Bid in any material respect or otherwise gives the Bidder a competitive advantage will be final and conclusive; and (ii) the Bidder will pay the Owner's attorneys and consultants' fees related to any challenge to the bid procedure or process, brought directly or indirectly by the Bidder and/or any of its affiliates, which is unsuccessful.

21. EXECUTION OF THE CONTRACT

Within seven (7) calendar days of the Award of the Contract, or such other time designated by the Owner, the successful Bidder shall execute and deliver to the Owner the required number of the following documents:

- a. The Owner-Contractor Agreement;
- b. Contract Performance and Payment Bond, if the Bidder did not submit a Bid Guaranty and Contract Performance and Payment Bond with its bid;
- c. Insurance Certificates;
- d. Contractor's Certification containing labor standards and prevailing wage requirements;
- e. Subcontractor Certification concerning labor standards and prevailing wage requirements;
- f. Contractor's Personal Property Tax Affidavit (R.C. 5719.042);
- g. Contractor's Finding for Recovery Affidavit; and,
- h. Any other documents identified in the Contract Documents for submission with the signed agreement.

The failure of the successful bidder to execute and deliver the required documents shall constitute a default that entitles the Owner to the Bidder's bid guaranty, as provided in the Ohio Revised Code.

22. MODIFICATION/WITHDRAWAL OF BIDS

- a. **Modification.** A Bidder may modify its Bid by written communication to the Owner addressed to the Owner, attention of Jackie Cotugno, Fiscal Officer, at P.O. Box 188, Etna, Ohio 43018 at any time prior to the scheduled closing time for receipt of Bids, provided such written communication is received by the Fiscal Officer 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.
- b. **Withdrawal Prior to Bid Deadline.** A Bidder may withdraw its Bid at any time for any reason prior to the Bid deadline established in the Notice to Bidders. The request to withdraw shall be made in writing and submitted to the Owner, attention of the Fiscal Officer, at the Owner's address. The request for withdrawal must be received by the Fiscal Officer prior to the time of the Bid opening.
- c. **Withdrawal After Bid Deadline.**
 - i. 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 request withdrawal of its Bid from consideration after the Bid deadline when all of the following apply:
 1. the price of the 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

BID FORM

1.01 BID SUBMITTED BY:

(Contractor)

DATED: _____, 20__

1.02 DELIVER TO:

Etna Township
c/o Jackie Cotugno
P.O. Box 188
Etna, Ohio 43018

1.03 Having reviewed the Contract Documents for the Project entitled:

**RESURFACE VARIOUS ROADS IN CUMBERLAND CROSSING IN ETNA TOWNSHIP,
LICKING COUNTY, OHIO**

for, Etna Township, Licking County, Ohio, and having also received, read and taken into account the following Addenda:

Addendum No. _____, dated _____;

Addendum No. _____, dated _____;

Addendum No. _____, dated _____;

and likewise having inspected the Site(s) and the conditions affecting and governing the Project and confirmed the location of the site utilities and all existing structures, the undersigned hereby proposes to furnish all materials and to perform all labor, as specified and described in the said Contract Documents for all work necessary to complete the Project on a timely basis and in accordance with the Contract Documents regardless of whether expressly provided for in such Specifications and Drawings.

1.04 Before completing the Bid Form, the undersigned represents that it has carefully reviewed the Contract Documents, including but not limited to the Notice to Bidders, Instructions to Bidders, Bid Form, Form of Bid Guaranty and Contract Performance and Payment Bond, Contractor's Affidavit (ORC 5719.042), Owner-Contractor Agreement, Special Conditions (if any), Project Specifications, and the Schedule. Failure to comply with provisions of the Contract Documents may be cause for disqualification of the Bid.

1.05 BONDS AND CONTRACT:

If the undersigned is notified of Bid acceptance, it agrees to furnish required bonds as indicated in Instructions to Bidders.

1.06 COMPLETION OF WORK:

In submitting a Bid, the undersigned agrees to execute the Owner-Contractor Agreement in the form included in the Contract Documents and to complete its work as required by the Contract Documents.

NOTE A: The wording of the Bid Form shall be used throughout, without change, alteration, or addition. Any change may cause it to be rejected.

**INSERT LICKING COUNTY ENGINEER
BID FORM**

3.01 INSTRUCTIONS FOR SIGNING

- A. The person signing for a sole proprietorship must be the sole proprietor or his/her authorized representative. The name of the sole proprietor must be shown below.
- B. The person signing for a partnership must be a partner or his/her authorized representative.
- C. The person signing for a corporation must be the president, vice president or other authorized representative; or he/she must show authority, by affidavit, to bind the corporation.
- D. The person signing for some other legal entity must show his/her authority, by affidavit, to bind the legal entity.

4.01 BIDDER CERTIFICATIONS. The Bidder hereby acknowledges that the following representations in this Bid are material and not mere recitals:

1. The Bidder has read and understands the Contract Documents and agrees to comply with all requirements of the Contract Documents, regardless of whether the Bidder has actual knowledge of the requirements and regardless of any statement or omission made by the Bidder which might indicate a contrary intention.
2. The Bidder represents that the Bid contains the name of every person interested therein and is based upon the Standards specified by the Contract Documents.
3. The Bidder has visited the Project Site(s), become familiar with local conditions and has correlated personal observations about the requirements of the Contract Documents. The Bidder has no outstanding questions regarding the interpretation or clarification of the Contract Documents.
4. The Bidder and each person signing on behalf of the Bidder certifies, and in the case of a Bid by joint venture, each member thereof certifies as to such member's entity, under penalty of perjury, that to the best of the undersigned's knowledge and belief: (a) the Base Bid, any Unit Prices and any Alternate bid in the Bid have been arrived at independently without collusion, consultation, communication or agreement, or for the purpose of restricting competition as to any matter relating to such Base Bid, Unit Prices or Alternate bid with any other Bidder; (b) unless otherwise required by law, the Base Bid, any Unit Prices and any Alternate bid in the bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to the Bid opening, directly or indirectly, to any other Bidder who would have any interest in the Base Bid, Unit Prices or Alternate bid; (c) no attempt has been made or will be made by the Bidder to induce any other Person to submit or not to submit a bid for the purpose of restricting competition; and, (d) the statements made in the Bidder's Affidavits included in the Contract Documents are true and correct, to the best of the Bidder's knowledge and information.
5. The Bidder will execute the Owner-Contractor Agreement in the form included with the Contract Documents, if a Contract is awarded on the basis of this Bid, and if the Bidder does not execute the Owner-Contractor Agreement for any reason, other than as authorized by law, the Bidder and the Bidder's Surety are liable to the Owner as provided in the Instructions to Bidders.
6. The Bidder certifies that upon the award of a Contract, the Contractor will make a good faith effort to ensure that all of the Contractor's employees, while working on the Project site, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.
7. The Bidder agrees to furnish any information requested by the Owner or the Owner's authorized representative to evaluate that the Bidder is responsible and that the Bid is responsive to the specifications.
8. The Bidder agrees to furnish the submittals required by the Instructions to Bidders for execution of the Owner-Contractor Agreement within seven (7) calendar days of the date of the Notice of Award.
9. The Bidder certifies that it has no unresolved findings for recovery issued by the Auditor of State.

**BID GUARANTY AND
CONTRACT PERFORMANCE AND PAYMENT BOND**
(O.R.C. § 153.571)

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned _____
_____ ("Contractor") as principal and
_____ as sureties are
hereby held and firmly bound unto _____ Township, Licking County, Ohio, as obligee in the penal sum of
the dollar amount of the bid submitted by the principal to the obligee on _____, 20____, to undertake _____
_____ [INSERT BID PACKAGE NUMBER AND DESCRIPTION] in
connection with the construction of the **Resurface Various Roads in Cumberland Crossing in Etna Township, Licking
County, Ohio**. The penal sum referred to herein shall be the dollar amount of the principal's bid to the obligee, incorporating
any additive or deductive Alternates made by the principal on the date referred to above to the obligee, which are accepted by
the obligee. In no case shall the penal sum exceed the amount of _____
_____. Dollars (\$_____). (If the foregoing blank is not filled in, the penal sum will be
the full amount of the principal's bid, including add Alternates. Alternatively, if the blank is filled in the amount stated must
not be less than the full amount of the bid including add Alternates, in dollars and cents. A percentage is not acceptable.) For
the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors,
administrators, successors, and assigns.

Signed this _____ day of _____, 20_____.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH that whereas the above-named principal has submitted a bid
for work on the Project.

Now, therefore, if the obligee accepts the bid of the principal and the principal fails to enter into a proper contract in
accordance with the bid, plans, details, specifications, and bills of material; and in the event the principal pays to the obligee
the difference not to exceed ten percent (10%) of the penalty hereof between the amount specified in the bid and such larger
amount for which the obligee may in good faith contract with the next lowest bidder to perform the work covered by the bid;
or in the event the obligee does not award the contract to the next lowest bidder and resubmits the project for bidding, the
principal pays to the obligee the difference not to exceed ten percent (10%) of the penalty hereof between the amount specified
in the bid, or the costs, in connection with the resubmission, of printing new contract documents, required advertising, and
printing and mailing notices to prospective bidders, whichever is less, then this obligation shall be null and void, otherwise to
remain in full force and effect; if the obligee accepts the bid of the principal and the principal within ten (10) days after the
awarding of the contract enters into a proper contract in accordance with the bid, plans, details, specifications, and bills of
material, which said contract is made a part of this bond the same as though set forth herein.

Now also, if the said principal shall well and faithfully do and perform the things agreed by said principal to be done
and performed according to the terms of said contract; and shall pay all lawful claims of subcontractors, materialmen, and
laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said contract; we
agreeing and assenting that this undertaking shall be for the benefit of any materialman or laborer having a just claim, as well
as for the obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; and surety
shall indemnify the obligee against all damage suffered by failure of the principal to perform the contract according to its
provisions and in accordance with the plans, details, specifications, and bills of material therefor and to pay all lawful claims
of subcontractors, materialmen, and laborers for labor performed or material furnished in carrying forward, performing, or
completing the contract and surety further agrees and assents that this undertaking is for the benefit of any subcontractor,
material man, or laborer having a just claim, as well as for the obligee; it being expressly understood and agreed that the liability
of the surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

NON-COLLUSION AFFIDAVIT

STATE OF _____ SS

COUNTY OF _____

Bid Identification _____

_____, being first duly sworn, deposes and says that he/she is

_____ of _____;

(sole owner, a partner, president, secretary, etc.)

(Contractor)

the party making the foregoing bid; that such bid is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization, or corporation; that such bid is genuine and not collusive or sham; that said bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that said bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the bid price of said bidder or of any other bidder, or to fix any overhead, profit, or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in such bid are true; and, further that said bidder has not, directly or indirectly, submitted his/her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any other individual except to such person or persons as have a partnership or other financial interest with said bidder in his general business.

SIGNED _____

TITLE _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

(SEAL)

Notary Public

NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY AFFIDAVIT
(THIS AFFIDAVIT IS PART OF THE BID)

STATE OF _____ SS
COUNTY OF _____

_____, being first duly sworn, deposes and says that he/she is
_____ of _____
(sole owner, a partner, president, secretary, etc.) (Contractor)

the party making the foregoing bid; that such party as bidder does not and shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, religion, handicap, military status, familial status or national origin. If awarded the bid and contract under this proposal, said party shall take affirmative action to ensure that applicants are employed and that employees are treated, during employment, uniformly and without regard to race, creed, color, sex, age, religion, handicap, military status, familial status, or national origin. If successful as the lowest responsible bidder under the foregoing proposal, this party shall post non-discrimination notices in conspicuous places available to employees and applicants for employment setting forth the provisions of this affidavit.

Furthermore, said party agrees to abide by the assurance found in Section 153.59 of the Ohio Revised Code in the Contract Provisions with the Owner if selected as the successful bidder by the Owner.

SIGNED _____

TITLE _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

(SEAL)

Notary Public

END OF SECTION

OWNER-CONTRACTOR AGREEMENT

OWNER:

Etna Township
P.O. Box 188
Etna, Ohio 43018

Phone: 740-927-7717

Contract: _____

Alternates: _____

Contractor: _____

Address: _____

PROJECT:

**RESURFACE VARIOUS ROADS
IN CUMBERLAND CROSSING
IN ETNA TOWNSHIP,
LICKING COUNTY, OHIO**

Fax: _____

Date: _____

This document is an agreement between the Owner and the Contractor for the Work described in the Contract Documents related to the Contract identified above for the Project and is entered into as of the date set forth above ("Agreement").

The Owner and the Contractor agree as set forth in the following paragraphs:

- 1. CONTRACT DOCUMENTS.** All applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the 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 Contract Documents consist of the following documents:

- A. Notice to Bidders;
- B. Instructions to Bidders;
- C. Bid Form;
- D. Owner-Contractor Agreement;
- E. Specifications;
- F. Addenda issued;
- G. Contractor's Non-Collusion Affidavit;
- H. Contractor's Qualifications Statement;
- I. Contractor's Personal Property Tax Affidavit (R.C. 5719.042);
- J. Contractor's Finding for Recovery Affidavit;
- K. Contractor's Non-Discrimination and Equal Employment Opportunity Affidavit;
- L. Contractor's Affirmative Action Program, if applicable (R.C. 125.111, OAC 123:2-3-02);
- M. Modifications issued after the execution of the contract, including:
 - i. A written amendment to the Agreement signed by both parties;
 - ii. A Change Order; or,
 - iii. A Work Change Directive.

The Contract Documents are complementary; what is required by one is as binding as if required by all. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to Owner.

The Contract Documents shall form part of this Agreement 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

from delays caused by the Contractor and from all costs and expenses incurred as a result of such claims, including but not limited to attorneys' and consultants' fees. Permitting Contractor to continue and complete the Work or any part thereof after any specified Contract Time will in no way operate as a waiver of any right of the Owner under this Agreement.

3. **CONTRACT SUM.** The lump sum Contract Sum to be paid by the Owner to the Contractor, as provided herein, for the satisfactory performance and completion of the Work and all of the duties, obligations and responsibilities of the Contractor under this Agreement and the other Contract Documents will be _____ Dollars (\$ _____), subject to additions and deductions as provided in the Contract Documents. The Contract Sum includes all federal, state, county, municipal, and other taxes imposed by law, including but not limited to any sales, use, and personal property taxes payable by or levied against the Contractor on account of the Work or the materials incorporated into the Work. The Contractor will pay any such taxes. The Contract Sum includes the following:

Base Bid Amount: \$ _____

Alternate No. ___ \$ _____

Alternate No. ___ \$ _____

Without prejudice to any of the Owner's rights and remedies under the Contract Documents, if the Contractor fails to submit payment applications and any required documentation, and the Owner has provided written notice of such failure, but the Contractor has not responded, then, not less than ninety (90) days after the written notice to the Contractor to do so has been provided to the Contractor, the balance of the Contract Sum shall remain and become the sole possession of the Owner.

4. **PAYMENT.** As work on the project as specified in this contract is completed, Contractor shall promptly submit an invoice to Jackie Cotugno, Fiscal Officer, at P.O. Box 188, Etna, Ohio 43018. The Township agrees to pay for the services provided in the contract, not to exceed the amount designated in the contract.

5. **PERFORMANCE AND PAYMENT BONDS.**

A. **DELIVERY.** Simultaneously with his/her delivery of the executed contract, the contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with the contract, as specified in the Contract Documents. The bond shall be for 100% of the contract price and in the form included in these Bid Documents, or such other form that meets the requirements of R.C. 153.57. If the contractor submitted a combined Bid Guaranty and Contract Performance and Payment Bond with its Bid, that form of Bond shall satisfy the Contractor's requirement to provide a Contract Performance and Payment Bond as described herein. A Payment Bond and Performance Bond are required. Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their Power of Attorney.

B. **SURETY.** The surety on such bond or bonds shall be duly licensed or authorized in Etna Township, Licking County, Ohio to issue bonds for the limits and coverages so required, and must be satisfactory to the owner. All bonds shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of the agent's authority to act.

i. **Bankruptcy.** If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Section 5(B), Contractor shall promptly notify Owner and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Section 5(B).

C. **MATERIAL DEFAULT OR TERMINATION.** If the Owner notifies the Contractor's surety that the

- c. Claims for damages because of bodily injury sickness or disease, or death of any person other than Contractor's employees;
- d. Claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - 1. By any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - 2. By any other person for any other reason;
- e. Claims for damages, other than to the work itself, because of injury to or destruction of tangible property wherever located including loss of use resulting therefrom; and,
- f. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

ii. Policies of Insurance. The minimum limits of liability for the required insurance policies listed in Section 6(C)(i) shall not be less than the following unless a greater amount is required by law:

- a. Commercial General Liability ("CGL"): Bodily injury (including death and emotional distress) and property damage with limits of \$1,000,000 each occurrence and \$2,000,000 aggregate. CGL shall include (i) Premises-Operations, (ii) Explosion and Collapse Hazard, (iii) Underground Hazard, (iv) Independent Contractors' Protective, (v) Broad Form Property Damage, including Completed Operations, (vi) Contractual Liability, (vii) Products and Completed Operations, (viii) Personal/Advertising Injury with Employment Exclusion deleted, (ix) Stopgap liability with Ohio Intentional Tort endorsement for \$1,000,000 limit, and (x) per project aggregate endorsement.
- b. Automobile Liability, covering all owned, non-owned, and hired vehicles used in connection with the Work: Bodily injury (including death and emotional distress) and property damage with a combined single limit of \$1,000,000 per person and \$1,000,000 each accident.
- c. Such policies shall be supplemented by an umbrella policy, also written on an occurrence basis, to provide additional protection to provide coverage in the total amount of \$1,000,000 for each occurrence and \$1,000,000 aggregate for contracts with a Contract Price of \$250,000 or less; \$2,000,000 each occurrence and \$2,000,000 aggregate for contracts with a Contract Price greater than \$250,000 but less than or equal to \$500,000; \$3,000,000 each occurrence and \$3,000,000 aggregate for contracts with a Contract Price greater than \$500,000 but less than or equal to \$1,000,000; and \$5,000,000 each occurrence and \$5,000,000 aggregate for contracts with a Contract Price greater than \$1,000,000.

iii. Additional Provisions. The following provisions shall also apply to the insurance provided by the Contractor:

- a. Contractor's insurance shall be primary and non-contributory.
- b. Insurance policies shall be written on an occurrence basis only.
- c. The Contractor shall require all Subcontractors to provide Workers' Compensation, CGL, and Automobile Liability Insurance with the same minimum limits specified herein, unless the Owner agrees to a lesser amount.
- d. Owner shall be named as certificate holder on the policies of insurance maintained by Contractor. The Contractor shall provide each additional insured with a certificate of insurance.
- e. The additional insured endorsement shall be ISO 20 10 11 85 or its equivalent so that Completed Operations liability extends to the additional insured's after the completion of the Project.
- f. The policies of insurance shall include products and completed operations insurance.
- g. The policies of insurance shall include contractual liability insurance covering Contractor's indemnity obligations under Section 6.
- h. The policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed with respect to coverage for the Project or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Contract Documents to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Section 6(A) will so provide);

obligation under this Section 6 shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

8. WAGE RATES.

- A. Contractor and all subcontractors hired by contractor shall comply with R.C. 4115.03 to R.C. 4115.16. In the event that the rate of wages paid for any tract or occupant in the locality where such work is being performed are under current collective agreements or understandings between bona fide organizations of labor and employer, then the wages to be paid shall be not less than such agreed wage rates, nor less than the minimum rates compiled by the Department of Industrial Relations of the State of Ohio. A copy of these prevailing rates of wages is available upon request.
- B. Every Contractor and Subcontractor who is subject to this contract shall, as soon as he/she begins performance under his/her contract with the Owner, supply the owner a schedule of the dates on which he/she is required to pay wages to employees. He/She shall also deliver to the prevailing wage coordinator within three (3) weeks after each pay date, a certified copy of his/her payroll which shall exhibit for each employee paid any wages, name, current address, social security number, number of hours worked each day of the pay period and the total for each week, hourly rate of pay, job classification, fringe payments, and deductions from wages. The certification of each payroll shall be executed by the Contractor, Subcontractor, or duly appointed agent thereof and shall recite that the payroll is correct and complete and that the wage rate shown is not less than those required by the contract.
- C. Insofar as possible, local labor shall be employed on this work.

9. SAFETY AND PROTECTION.

- A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
 - i. all persons on the Site(s) or who may be affected by the Work;
 - ii. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site(s); and,
 - iii. other property at the Site(s) or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- C. 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, and requirements of the Occupational Safety and Health Act of 1980 (Public Law 91-596), 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 4101:9-2 of the Ohio Administrative Code prohibiting the Employment of Minors in Occupations Hazardous or Detrimental to their health.
- D. 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.

delays.

- ii. **Continuing the Work.** Contractor shall carry on the Work and adhere to the Program of Operation and Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Owner and Contractor may otherwise agree in writing.
- E. All construction as proposed along all City, Township, County, State and Federal roads 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 Licking County Engineer and the Owner prior to any work beginning on the affected property.

12. SUBCONTRACTING.

- A. The Contractor shall not sublet, sell, transfer or assign any portion of the contract without written consent of the owner or his/her 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 50% of the total contract cost. No subcontract or transfer of contract shall in any way release the Contractor of his/her liability under the contract and bonds. Where Owner after due investigations has reasonable objections to any proposed Subcontractor, Supplier, or other entity, it may request Contractor to submit an acceptable substitute with an increase in the Contract Price.
- B. The Contractor shall not award work to subcontractor(s) without prior written approval of the Owner. The Contractor shall be fully responsible to the Owner for the acts or 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.
- C. If the Contract Documents require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Contract Documents, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner to reject defective Work.
- D. Contractor shall be fully responsible to Owner for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
 - i. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner and any such Subcontractor, Supplier or other individual or entity, nor
 - ii. shall create any obligation on the part of Owner to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- E. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

1 to April 30.

- ii. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Section 13(G)(ii).
- iii. Owner shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
- iv. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

14. **REPORTING AND RESOLVING DISCREPANCIES.**

A. **REPORTING DISCREPANCIES.**

- i. **Contractor's Review of Contract Documents Before Starting Work.** Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Owner any conflict, error, ambiguity, or discrepancy which Contractor may discover and shall obtain a written interpretation or clarification from Owner before proceeding with any Work affected thereby.
- ii. **Contractor's Review of Contract Documents During Performance of Work.** If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, Contractor shall promptly report it to Owner in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Section 22) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Section 13.
- iii. Contractor shall not be liable to Owner for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor knew or reasonably should have known thereof.
- iv. If Contractor proceeds with work that Contractor had actual knowledge or should have known that a conflict, error, ambiguity, or discrepancy existed as indicated above, correction of work constructed without such notification to Owner shall be at Contractor's expense, (except in an emergency as authorized by Section 22).

B. **RESOLVING DISCREPANCIES.**

- i. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

- A. The provisions of Section 15 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.
 - B. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site, which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
 - C. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Section 22); and (iii) notify Owner (and promptly thereafter confirm such notice in writing). Owner determines the necessity to retain a qualified expert to evaluate such condition or take corrective action, if any.
 - D. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered to Contractor written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely.
 - E. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Section 24.
 - F. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, and its officers, directors, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Section 16(F) shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
17. **LABOR.** Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site(s).
18. **SERVICES, MATERIALS, AND EQUIPMENT.**
- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
 - B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Owner, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. Suppliers shall be deemed to impliedly warrant that their products and all component materials incorporated into them are suitable and fit for the intended use of such products and shall be free from defect in material, workmanship or design, such warranty to run to the benefit of Owner. The foregoing applies whether the products or their component materials are specified in the Contract Documents or are of Supplier's design.

- E. CLEANING. Prior to Substantial Completion of the Work Contractor shall clean the Site(s) and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site(s) all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- F. LOADING STRUCTURES. Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

21. RECORD DOCUMENTS. Contractor shall maintain in a safe place at the Site(s) two record copies of all Drawings, Specifications, Addenda, Change Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Owner for reference. Upon completion of the Work, these record documents, samples, and shop drawings shall be delivered by Contractor to Owner.

22. EMERGENCIES. In emergencies affecting the safety or protection of persons or the Work or property at the Site(s) or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Owner prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Owner determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Change Order will be issued.

23. CONTRACTOR'S GENERAL WARRANTY AND GUARANTEE.

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. The Contractor shall guarantee all materials and equipment furnished and work performed 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 in accordance with the provisions of Section 25. 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 Contract Bond shall remain in full force and effect through the guarantee period.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - i. abuse, modification, or improper maintenance or operation by persons other than Contractor, Sub-contractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 - ii. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 - i. observations by Owner;
 - ii. payment by Owner of any progress or final payment;
 - iii. the issuance of a certificate of Substantial Completion by Owner or any payment related thereto by Owner;
 - iv. use or occupancy of the Work or any part thereof by Owner;
 - v. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Owner;
 - vi. any inspection, test, or approval by others; or
 - vii. any correction of defective Work by Owner.

- C. TESTS AND INSPECTIONS. Contractor shall give Owner timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- i. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Owner the required certificates of inspection or approval.
 - ii. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner.
 - iii. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Owner, it must, if requested by Owner, be uncovered for observation.
 - iv. Uncovering Work as provided in Section 25(C)(iii) shall be at Contractor's expense unless Contractor has given Owner timely notice of Contractor's intention to cover the same and Owner has not acted with reasonable promptness in response to such notice.
- D. UNCOVERING WORK. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price.
- E. OWNER MAY STOP THE WORK. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.
- F. CORRECTION OR REMOVAL OF DEFECTIVE WORK. Promptly after receipt of notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others). When correcting defective Work under the terms of this Section 25(F) or Section 25(G), Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- G. CORRECTION PERIOD.
- i. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Section 20 is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, and Owner's other contractors access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

- iii. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Section 25(I) will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- iv. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Section 25(I).

26. SUSPENSION OF WORK AND TERMINATION.

- A. OWNER MAY SUSPEND THE WORK. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor. Contractor shall resume the Work on the date so fixed.
- B. OWNER MAY TERMINATE FOR CAUSE.
 - i. The occurrence of any one or more of the following events will justify termination for cause:
 - a. Contractor's failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Program of Operation and Progress Schedule established under Section 11(D) as adjusted from time to time pursuant to Section 11(D));
 - b. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 - c. Contractor's disregard of the authority of Owner; or
 - d. Contractor's violation in any substantial way of any provisions of the Contract Documents.
 - ii. If one or more of the events identified in Section 26(B)(i) occur, Owner may, after giving Contractor (and surety) three (3) business days' written notice of its intent to terminate the services of Contractor:
 - a. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),
 - b. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and
 - c. complete the Work, as Owner may deem expedient.

Such termination shall be effective as of the date stated in the termination notice provided to Contractor.

- iii. If Owner proceeds as provided in Section 26(B)(ii), Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be incorporated in a Change Order. When exercising any rights or remedies under this Section Owner shall not be required to obtain the lowest price for the Work performed.

Contract Documents, constitute the waiver or modification of any such terms. The parties acknowledge that no person has authority to modify this Agreement or the other Contract Documents or to waive any of its or their terms, except as expressly provided in this paragraph.

- B. ELECTRONIC DATA. Copies of data furnished by Owner to Contractor or Contractor to Owner that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- C. ASSIGNMENT. The Contractor may not assign this Agreement without the written consent of the Owner, which the Owner may withhold in its sole discretion.
- D. LAW AND JURISDICTION. All questions regarding the validity, intention, or meaning of this Agreement or any modifications of it relating to the rights and obligation of the parties will be construed and resolved under the laws of the State of Ohio. Any suit, which may be brought to enforce any provision of this Agreement or any remedy with respect hereto, shall be brought in the Licking County Common Pleas Court, Licking County, Ohio, and each party hereby expressly consents to the jurisdiction of such court.
- E. CONSTRUCTION. The parties acknowledge that each party has reviewed this Agreement and the other Contract Documents and voluntarily entered into this Agreement. Accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement, the other Contract Documents, or any amendments or exhibits to it or them.
- F. APPROVALS. Except as expressly provided herein, the approvals and determinations of the Owner will be subject to the sole discretion of the respective party and be valid and binding on the Contractor, provided only that they be made in good faith, i.e., honestly. If the Contractor challenges any such approval or determination, the Contractor will have the burden of proving by clear and convincing evidence that it was not made in good faith.
- G. PARTIAL INVALIDITY. If any term or provision of this Agreement is found to be illegal, unenforceable, or in violation of any laws, statutes, ordinances, or regulations of any public authority having jurisdiction, then, notwithstanding such term or provision, this Agreement will remain in full force and effect and such term will be deemed stricken; provided this Agreement will be interpreted, when possible, so as to reflect the intentions of the parties as indicated by any such stricken term or provision.
- H. REFERENCE STANDARDS. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
- I. COMPLIANCE WITH LAWS AND REGULATIONS. The Contractor, at its expense, will comply with all applicable federal, state, and local laws, rules, and regulations applicable to the Work, including but not limited to Sections 153.59 and 153.60 of the Ohio Revised Code, which prohibit discrimination in the hiring and treatment of employees, with respect to which the Contractor agrees to comply and to require its subcontractors to comply.
 - i. NON-DISCRIMINATION. Contractor agrees:
 - a. That in the hiring of employees for the performance of Work under this Agreement or in any subcontract, neither the Contractor, subcontractor, or any person acting on behalf of either of them, shall by reason of race, creed, sex, handicap, military status or color, discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform the Work to which the employment relates.
 - b. That neither the Contractor, subcontractor, nor any person acting on behalf of either of them, shall, in any manner, discriminate against or intimidate any employee hired for the performance of Work under this Agreement on account of race, creed, sex, handicap, military status or color.
 - c. That there shall be deducted from the amount payable to the Contractor by the Owner under this Agreement a forfeiture of twenty-five dollars (\$25.00) as required by Ohio Revised Code Section

