



**Specifications and  
Contract  
Documents for**

**The Construction of the**

**Deer Meadow Possum  
Creek Connector**



**Legal Notice  
Advertisement for Bids**

Sealed Bids will be received in the City Manager's Office at the City of Moraine, 4200 Dryden Road, Moraine, Ohio 45439 until **10:00 a.m. on June 1<sup>st</sup>, 2018** for the Construction of the Deer Meadow Possum Creek Multiuse Trail, located at 4321 Pinnacle Rd., Moraine, OH. At this time Bids will be opened and publicly read.

**A PRE-BID MEETING WILL BE HELD **May 24 2018 AT 10:00 A.M.** AT DEER MEADOW PARK, 4321 PINNACLE RD, MORaine, OH 45439.**

Each proposal shall be signed by the full name and business address of each person or company interested in the same; shall be accompanied by a security bond by a bonding company authorized to do business in the State of Ohio, or by a certified check on some solvent bank in the amount of ten percent (10%) of the amount of the submitted proposal, the surety bond or certified check being payable to the City of Moraine, Ohio, as a guarantee that if the proposal is accepted, a contract will be entered into and its performance properly secured by a satisfactory bond in the amount of one hundred percent (100%) of the contract price.

The proposals must be made on a hard copy of the forms provided by the City of Moraine in the **Contract Documents Section**, or an **UNALTERED COPY** thereof, with either a lump sum bid amount or a total bid amount with a price quoted for each item of work. The price of labor and materials is to be separately stated.

The City Council reserves the right to accept or reject any or all proposals; to waive any informalities or irregularities in the bids received or to accept any proposal which is deemed most favorable to the City of Moraine.

The commencement date will be on or about July 10, 2018. Copies of the Contract documents and specifications will be available for review at the Manager's Office. Electronic copies may be obtained at no charge, via the City of Moraine Website.

David D. Hicks, City Manager

To be advertised in the Dayton Daily News:



## Instructions and General Information to Contractors

### 1. Bid Submission - ALL BIDS MUST BE SUBMITTED ON HARD COPY

#### a. Addressing Envelope

1. Bids must be received in a sealed envelope marked “Deer Meadow Possum Creek Multiuse Trail Project” and must contain the full name and address of the Contractor, along with a telephone number and email address at which the Contractor may be contacted. If the bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation “SEALED BID ENCLOSED” on the face thereof.
2. **Mailing Address:** Sealed proposals will be received by the City of Moraine, State of Ohio, at the office of the City Manager, 4200 Dryden Road, Moraine, Ohio 45439, **until 10:00 a.m. on June 1<sup>st</sup>.**

#### b. Include in Bid Submission

1. The Contractor shall furnish all labor, materials, and equipment, and perform all work and services necessary to complete in a satisfactory manner:
  - a. Clearing and grubbing of trail area per plan
  - b. Stockpile soil removed from construction limits to be reused on or stored on site
  - c. Construction of a 1 mile long, multiuse paved trail per design plan.
  - d. Seeding and mulching of exposed soil, in construction limits.
  - e. Installation of signage and maintenance of traffic, per design plan.

***See Attachment Deer Meadow Possum Creek Connector Bid Set and Quantities***

### 2 Regulatory Requirements

- a. Conform to applicable code for excavation of trail and construction of a paved multiuse trail.
- b. Obtain required permits from authorities.
- c. Notify affected utility companies before starting work and comply with their requirements.
- d. Do not close or obstruct roadways, sidewalks or hydrants without permits.
- e. Conform to applicable regulatory procedures when discovering hazardous or contaminated materials.

## 2. Completion of Bids

- a. Only Bids properly completed on the provided proposal and bid quantity sheets will be accepted. All forms and documents must be signed where indicated by the officer or agent of the Contractor as authorized. The signature indicates that the terms and conditions of the proposed Contract have been read and understood.
- b. Contractors are cautioned to carefully examine the specifications and information set forth and also to note carefully any regulation governing hours of work, prevailing wage to be paid, insurance requirements, etc. all of which form part of this proposal and/or Contract the same as if they were written herein.
  - i. No modification of a proposal will be permitted after it has been submitted, but a Contractor may withdraw his proposal unopened prior to the time set for the opening of Bids upon written request filed with the City Manager.
  - ii. Proposals received after the time specified will not be considered.

## 3. Pre-Bid Meeting

The City of Moraine Parks and Recreation Director will hold a pre-bid meeting with any interested bidders on **May 24 2018 AT 10:00 A.M.** The meeting will held at the Deer Meadow Park. Attendees will have an opportunity to measure and review the site.

## 4. Surety

a. **Bid Bond:** Each bid shall be accompanied by a security in the form and amount required by 153.54 O.R.C., pledging that the bidder will enter into a contract with the owner on the terms stated in the bid and will, if required, furnish bonds covering the faithful performance of the contract and payment of all obligations arising there under. Should the bidder refuse to enter into such contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the owner as liquidated damages, not as a penalty.

The owner will have the right to retain the bid security of bidders to whom an award is being considered until either (a) the contract has been executed and bonds, if required, have been furnished, or (b) the specified time has elapsed so that the bids may be withdrawn, or (c) all bids have been rejected.

b. **Performance Bond:** The Bidder to whom an award is made shall furnish a bond payable to the City of Moraine, Ohio in the amount of one hundred percent (100%) of the Bid price as a guarantee for the faithful performance of the Contract. The City will determine the sufficiency of the surety.

c. **Experience Statement:** An experience statement detailing what work of a similar nature to that included in the proposed Contract the Contractor has done, to give reference and such other detailed information as will enable the entities to judge the Contractor's responsibility, experience and skill. The statement shall include: evidence to the effect that the Bidder maintains a

permanent place of business; has adequate facilities and equipment available for the work under the proposal; evidence to the effect that the Bidder has appropriate experience and has in his employ a sufficient number of skilled and trained employees to carry out the work to be done under this Contract.

## **5. Awarding**

a. All Bidders shall be required to demonstrate to the satisfaction of the City that they have adequate financial resources and expertise to perform the services required by the specification of this Contract. No Contract will be awarded to any Bidder who, as determined by the City, has an unsatisfactory performance record or inadequate experience, or who lacks the necessary capital, organization, and equipment to conduct and complete the services in accordance with specifications.

b. The awarding criteria for this Contract is as follows: price, prior experience, sufficient equipment and personnel to provide services, adequate financial resources, operating hours, past performance, Bidders capability, completeness of Bid, compliance with Bid conditions and specifications, and any optional service that may be included in specifications.

c. The Owner is soliciting Bids pursuant to the Bid process. If the Owner awards a Contract it shall be to the lowest and/or best responsive responsible Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner shall have the right to waive informalities or irregularities in a Bid. The Owner shall have the right to reject any or all Bids, reject a Bid not accompanied by a required Bid bond or by other data required by the Bidding Documents, or reject a Bid which is in any way incomplete or irregular.

d. No Contract between the City and the Bidder shall be deemed to exist until a fully executed copy thereof has been tendered and/or delivered to the Contractor or the Contractor's fully authorized agent or representative.

## **6. Rejection of Bids**

a. The City reserves the right to waive informalities, to reject any or all Bids in whole or part, or to accept any Bid, which may be deemed to be in the best interest of the City of Moraine.

## **7. Requirements and Information**

a. The bidder shall, as soon as practicable after notification of selection for award of a contract, furnish in writing:

- i. A designation of the work to be performed with the bidders own forces;
- ii. Names of the manufactures, products and the suppliers of the principal items or systems of materials and equipment proposed for the work (Material Suppliers, Manufacturers, etc. form provided in bid book); and

iii. Names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the work (Subcontractor Listing form provided in bid book).

Persons and entities proposed by the bidder and to who the City of Moraine have made no reasonable objection must be used on the work for which they were proposed and shall not be changed except with the written consent of the City of Moraine.

b. The Contractor shall furnish all equipment, labor, material and supplies to do all the work necessary to complete such Contract as may be entered into.

c. Bidders are encouraged to visit the site, become familiar with local conditions under which the work is to be performed and has correlated the bidder's personal observations with the requirements of the proposed contract documents and shall at once report to the engineer errors, inconsistencies or ambiguities discovered.

d. Any Bidder contemplating submitting a Bid for the proposed Contract in doubt as to the true meaning of any part of the specifications or other proposed Contract documents, may submit to the City Manager a written request for an interpretation thereof. Any interpretations of the document will be only by addendum duly issued, and a copy of such addendum will be faxed or emailed to each prospective Bidder.

e. The City shall not be responsible for any other explanation or interpretation of the Bidding documents.

f. This is a Prevailing Wage job and the successful bidder must comply with all applicable laws, rules and regulations applicable thereto. It is your responsibility to check current State of Ohio prevailing wage rates.

g. If you are the successful bidder for work on any state, county, township, municipal corporation, school district, or other political subdivision of the State of Ohio, please keep in mind that if after award of the contract you are required to perform additional work as a result of the enactment or amendment of any statutes, ordinances, and regulations, including but not limited to those dealing with prevention of environmental pollution, then you are entitled to a change order for the cost of said additional work plus reasonable profit and the owner must issue a change order describing said additional work to you. **NOTE: You are not entitled to payment until an approved change order has been issued.**

h. The budget for this work is **\$ 500,000.00** No award of contract shall be made as to any bid, which exceeds the budget by ten percent (10%).

i. Liquidated damages have been set at \$ **100.00** per day for each day the work remains uncompleted beyond the completion date.

## 8. General

a. Any Contractor contemplating submitting a Bid for the proposed Contract in doubt as to the true meaning of any part of the specifications or other proposed Contract documents, may submit to the City Manager a written request for an interpretation

thereof. Any interpretations of the document will be only by addendum duly issued, and a copy of such addendum will be mailed or delivered to each prospective Contractor.

b. The City shall not be responsible for any other explanation or interpretation of the Bidding documents.

c. The prices stated in the document should be stated in the units specified in the Bidding schedule. In case of discrepancy in computing the amount of the Bid, unit prices quoted will govern.

## **9. Liability**

a. The Contractor agrees to indemnify the City against all claims for damages or injuries arising out of the operations and to obtain the necessary insurance as outlined herein.

- i. Commercial General Liability-Bodily and Property Damages \$1,000,000 Combined Single Limit, with \$1,000,000 aggregate.
- ii. Commercial Automobile Liability-Bodily and Property Damages \$1,000,000 combined single limit.
- iii. Contractual Liability Insurance \$1,000,000.

b. In addition to furnishing the insurance coverage above described, the Contractor shall produce satisfactory evidence to the City Manager before starting any work under this Contract that all of its employees are protected by Workers' Compensation under and in accordance with the laws of the State of Ohio, and shall make all premium payments promptly so as to maintain such protection in full force and effect during the term of this Contract.

c. The Contractor further agrees that in the event of any civil liability occurring by reason of this agreement, that Contractor will hold the City of Moraine harmless from any and all claims for damages for any reason whatsoever arising in any manner by reason of the action and conduct, whether negligent or otherwise, on the part of the Contractor, and will indemnify and hold harmless the said City from any and all claims, damages and suits, either in law, equity or otherwise. In the event of litigation arising by reason of this agreement as to actions of the Contractor, the City reserves the right to select its own Counsel for its own defense in any negotiations or trial of lawsuits or settlement thereof, and the cost of the same shall be paid by the Contractor.

d. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national ethnic origin, age or handicap. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex or handicap. Such action will include, but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees, and applicants for employment, notices setting forth the provisions of this non-discrimination clause. All Americans with

Disabilities Act requirements shall be adhered to and reasonable accommodations made.



## **DEER MEADOW POSSUM CREEK CONNECTOR TECHNICAL SPECIFICATIONS**

The following are the conditions and specifications for Bidding for a Contract between the City of Moraine, hereafter referred to as the “City” and the successful Bidder hereafter called “Contractor.”

### **1. Contractor Contact Information**

a. The City shall be given the name and phone number of the single appropriate person within the contractor's employment with whom complaints can be aired and remedied. The City shall also be given the name and phone number of the foreman(s) or other assigned representative(s) of the contractor who is responsible for all project details, system ordering and installation.

### **2. Project Description**

1. The Bid shall consist of the grubbing and construction of a paved multiuse trail between Deer Meadow Park (City of Moraine) and Possum Creek MetroPark (Five Rivers MetroPark). Drawings titled Deer Meadow Possum Creek Multiuse Trail identify the construction area more specifically described as follows:

- a. Clearing and grubbing of trail area per plan
- b. Stockpile soil removed from construction limits to be reused on or stored on site
- c. Construction of a 1 mile long, multiuse paved trail per design plan.
- d. Seeding and mulching of exposed soil, in construction limits.
- e. Installation of signage and maintenance of traffic, per design plan.

**See Attachment Deer Meadow Possum Creek Connector**

### **3. Schedule**

- a. It is the intent of the City of Moraine to bid and award this contract in June. The contractor shall have 90 days to complete project.
- b. The contractor shall submit to the City for approval a detailed schedule of construction activities within 14 calendar days of Notice to Proceed.

### **4. Qualifications**

- a. Firm: Company specializing in performing the Work of this Section with minimum of five years documented experience.

## **5. Standards**

a. Standards Constriction Drawlings of the State of Ohio Department of Transportation, as identified on the Cover Sheet of Attachment Deer Meadow Possum Creek Multituse Trail, shall govern the construction of this project, except where specifically modified by the City of Moraine Standards.

## **6. Storage of Construction Materials**

a. The contractor shall obtain the approval of the owner and or engineer for the locations to be used for the temporary storage of construction material, tools, and or machinery. All such materials, tools, and machinery shall be neatly and compactly piled in such a manner as to cause the least inconvenience to the property owners and traffic. Under no circumstance shall existing drainage courses be blocked or water hydrants, values or meter pits covered.

## **7. Utilities**

a. Utilities listed below are all utilities located within the project construction limits together with their respective owners'

The location of the underground utilities shown on the plans are as obtained from the owners as required by section 153.64 o.r.c.

## **8. Work Limits**

a. The work limits shown on these plans are for physical construction only. Provide the installation and operation of all work zone traffic. Control and work zone traffic control devices required by these plans. Whether inside or outside these work limits.

## **9. Clearing and grubbing**

a. Although there are no trees or stumps specifically marked for removal within the limits of the project, a lump sum quantity is included in the general summary for item 201, clearing and grubbing. All provisions as set forth in the specifications under this item are included in the lump sum price bid for item 201, clearing and grubbing.

## **10. Item 204 – Proof Rolling**

a. The following quantity is provided in the general summary to address locations requiring proof rolling.

Item 204 proof rolling 2 hour.

## 11. Farm Drains

a. All farm drains, which are encountered during construction, shall be provided with unobstructed outlets. Existing collectors which are located below the roadway/bikeway ditch elevations, and which cross the roadway/bikeway, shall be replaced within the construction limits

b. By item 611 conduit, type b, one commercial size larger than the existing conduit.

Existing collectors and isolated farm drains, which are encountered above the elevation of roadway y/bikeway ditches, shall be outletted into the ditch by 611 Type F conduit. The optimum outlet elevation shall be one foot above the flowline elevation of the ditch. Lateral field tiles which cross the roadway shall be intercepted by 611, type e conduit, and carried in a longitudinal direction to an adequate outlet or roadway/bikeway crossing.

c. The location, type, size and grade of replacements shall be determined by the engineer and payment shall be made on final measurements.

d. Erosion control pads shall be provided at the outlet end of all farm drains as per standard construction drawing dm-1.1, except when they outlet into a drainage structure.

e. Payment for the erosion control pads and any necessary bends or branches shall be included for payment in the pertinent conduit items.

f. The following estimated quantities have been included in the general summary for the work noted above'

611	8' conduit	Type B	20 FT
611	6' conduit	Type E	10 FT
611	6' conduit	Type F	10 FT
601	Rock channel protection, type c with filter		5 CU. YD

## 12. Item 614 Maintaining Traffic

a. A minimum of 1 lane of traffic in each direction shall be maintained at all times on public streets by use of the existing pavement. The contractor shall be solely responsible for erecting advance signage

b. To alert motorists of the construction activity. The contractor shall provide, erect and maintain signs and sign supports, as detailed in the Ohio manual of uniform traffic control devices.

c. A minimum of one lane of traffic in each direction shall be maintained at all times, except for a period not to exceed 4 consecutive hours, when through traffic may be temporarily detoured on Soldiers Home-West Carrollton road in order to complete the storm sewer crossing. A disincentive shall be assessed in the amount of \$100 per minute for each minute the roadway remains closed to traffic beyond the specified limit. The contractor shall notify the City of Moraine a minimum of 48 hours in advance of a closure. The contractor shall be responsible for providing wayfinding to motorists for the duration of the closure.

d. Existing bicycle and pedestrian facilities shall remain open at all times except for the period of time where resurfacing of pavement is in progress. The contractor shall be responsible for

construction site security and shall make reasonable efforts to prevent unauthorized access to the new connector trail prior to completion of construction. Barricades shall be erected at each logical access point.

The following estimated quantities have been included in the general summary for use as determined by the engineer for the maintenance of traffic.

Item 410, Traffic Compacted Surface, Type A or B	20 CU. YD.
Item 410, Traffic Compacted Surface, Type C	20 CU. YD.
Item 614, Asphalt Concrete for Maintaining Traffic	10 CU. YD.
Item 616, water	5 M. GAL.

### 13. Profile and Alignment

For the path resurfacing section, place the proposed pavement to follow the alignment and profile of the existing pavement. Place the proposed asphalt concrete overlay with a uniform thickness of one inch.

### 14. Pavement Restoration for Pipe Installations

a. The following quantity has been provided for pavement restoration following installation of pipes crossing Soldier's Home-West Carrollton Road and Shank Road.

Item 301 - Asphalt Concrete Base, pg. 64-22CU. YDS.

Item 441 - Asphalt Concrete Surface Course, Type 1, (448),pg. 64-22

The above quantity is based on a 301 thickness of 6 inches, a 441 thickness of 3 inches (2 lifts ii 1.5' each! And a pavement restoration width that includes the trench width plus two feet on each side of the trench.

b. Provide any materials used outside the limits stated above at no additional cost.

### 15. Crossings and Connections to Existing Pipes and Utilities

a. Where plans provide for a proposed conduit to be connected to, or cross over or under an existing sewer or underground utility, the contractor shall locate the existing pipes or utilities both as to line and grade before starting to lay the proposed conduit.

b. If it is determined that the elevation of the existing conduit, or existing appurtenance to be connected, differs from the plan elevation or results in a change in the plan conduit slope, the engineer shall be notified before starting construction of any portion of the proposed conduit which will be affected by the variance in the existing elevations.

c. If it is determined that the proposed conduit will intersect an existing sewer or underground utility if constructed as shown on the plan, the engineer shall be notified before starting

construction of any portion of the proposed conduit which would be affected by the interference with an existing facility.

d. Payment for all the operations described above shall be included in the contract price for the pertinent 611 conduit item.

#### **16. Item Special - Pipe Cleanout**

a. This work shall consist of removing sediment and debris from the existing drainage conduits specified in the plans. All material removed shall be disposed of as per 105.16 and 105.17. All sewers shall be cleaned out to the satisfaction of the engineer. Cleanout of connecting structures (e.g. Catch basins! Shall be included and considered incidental to the cost of pipe cleanout.

b. Cleanout of the pipe shall be paid for at the unit price bid for item special - pipe cleanout. This price shall include the cost for material, equipment, labor, and all incidentals required to complete the cleanout.

c. The following estimated quantities have been included in the general summary for the above noted work'

Special pipe cleanout, 24' and underft.

#### **17. Seeding and Mulching**

a. The following quantities are provided to promote growth and care of permanent seeded areas

659, Topsoil CU. YD.

659, Seeding and Mulching SQ. YD.

659, Commercial Fertilizer, Class 2 Ton

659, Water Gal.

b. Seeding and mulching shall be applied to all areas of exposed soil between the right-of-way lines, and within the construction limits for areas outside the right-of-way lines covered by work agreement or slope easement. Quantity calculations for seeding and mulching are based on these limits.

#### **18. Post Construction Storm Water Treatment**

a. This plan utilizes structural best management practices (bmp's) for post construction storm water treatment. Impacts to streams wetlands and other water resources be avoided and minimized to the post construction storm water treatment.

## **19. Vegetated Filter Strip**

a. This plan utilizes vegetated filter strips for post construction storm water treatment. Place item 659 seeding and mulching with a 4-inch lift of topsoil and item 670, slope erosion protection to all disturbed areas designated as vegetated filter strips, the edge of shoulder, and the fore slope as specified in the plans.

## **20. Endangered Bat Habitat Removal**

a. This project is located within the known habitat ranges of the federally listed and protected Indiana bat and northern long-eared bat. No trees shall be removed under this project from April 1 through September 30. All necessary tree removal shall occur from October 1 through March 31. This requirement is necessary to avoid and minimize impacts to these species as required by the endangered species act. For the purposes of this note, a tree is defined as: a live, dying, or dead woody plant, with a trunk three inches or greater in diameter at a height of 4.5 feet above the ground surface, and with a minimum height of 13 feet.

## **20. Rock Channel Protection**

a. Provide filter with rock channel protection per 601.09. An aggregate filter shall be used when the RCP is under water.

## **21. Dust Control**

a. The contractor shall furnish and apply water for dust control as directed by the engineer. The following estimated quantities have been included for dust control purposes'

Item 616, Water, 5 M. Gal.

## **22. Protection of the Public and Properties**

a. Littering of Streets

1. The Contractor shall be responsible for removing any debris or mud from any street, alley or right-of-way resulting from the execution or disposal of the work. Any cost incurred by the Owner in cleaning up any liter or mud shall be charged to the Contractor and be deducted from the funds due for the work.

2. Littering of the site shall not be permitted.

3. All waste materials shall be properly removed from the site.

b. Protection of the Public by the Contractor

1. Sidewalks: The Contractor shall be responsible for any damage to public sidewalks and parking lots abutting or adjacent to the properties resulting from execution of the work. The cost of repair or replacement shall be considered incidental to the work and the Contractor shall obtain all permits and pay any fees.

2. Pedestrian Access: It shall be the Contractor's responsibility to place and construct the necessary warning signs, barricades fencing and temporary pedestrian

sidewalks, as directed by the Engineer; and to maintain alternate pedestrian access for sidewalks around the construction site. The cost of these items shall be considered incidental to the work.

c. Work Hours

1. All site work shall be performed between the hours of 7:00 AM and 4:00 PM. There shall be no work activities taking place on the weekends.

d. Noise Pollution

1. All construction equipment used in conjunction with this project shall be in good repair and adequately muffled. The Contractor shall comply with any noise pollution restrictions.

f. Dust Control

The Contractor shall comply with applicable air pollution control requirements. The Contractor shall take appropriate actions to minimize atmospheric pollution. To this end, the Engineer shall have the authority to require that reasonable precautions be taken to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but not be limited to:

1. The use of water or chemicals for control dust in the excavation/construction or the grading of the site.
2. Covering, at all times when in motion, open-bodied trucks transportation excavation and or fill materials likely to give rise to airborne dust.

g. Requirements for the Reduction of Fire Hazards

1. Fire Extinguishing Equipment: The Contractor shall be responsible for having and maintaining the correct type and class of fire extinguishers on site. When a cutting torch or other equipment that might cause a fire is being used, a fire extinguisher shall be placed close at hand for instant use.
2. Fires: No fires of any kind will be permitted in the work area.
3. Hydrants: No material obstructions or debris shall be placed or allowed to accumulate within fifteen feet of any fire hydrant. All fire hydrants shall be accessible at all times.
4. Debris: Debris shall not be allowed to accumulate on roofs, floors, or in areas outside of and around any structure. Excess debris and materials shall be removed from the site as the work progresses.
5. Emergency Notifications: The Contractor shall arrange for access to and use of, during working hours, one or more telephones or cell phones in the vicinity of the work site for the purpose of making calls in case of fire or other emergency situations, and shall keep all personnel on the job site informed of the location of such phones. The Contractor's foreman, or at least one regular of each shift, shall be charged with the responsibility of promptly calling emergency services when necessary. The same person shall be required to inspect the building and site frequently for possible fires or fire producing

conditions and to apply appropriate corrective action, particularly at the close of work each day.

h. Protection of Public Utilities: The Contractor shall not damage existing fire hydrants, street lights, power or telephone poles, wire cables, pole guys, underground utilities or other appurtenances in the vicinity of the construction area. The contractor shall pay for temporary relocation of utilities which are relocated at the contractors request or convenience.

i. Protection of Adjacent Property

1. The Contractor shall not damage or cause to be damaged any public right-of-way structures, parking lots, drives, streets, sidewalks, utilities, lawns or any other property adjacent to parcels released for construction whether or not the property is scheduled for future work. The Contractor shall provide such sheeting and shoring or other protective measures as required to protect adjacent property during excavation/construction. Care must also be taken to prevent the spread of dust and flying particles.

### **23. Risk of Loss**

The Contractor shall accept the site in its present condition and shall inspect the site for its character and area. The Owner assumes no responsibility for the condition of existing structures and other property within the excavation area, or the condition of the property before or after the solicitation of proposals. NO adjustment of proposal price or allowance for any change in conditions that occur after the acceptance of the lowest responsible, responsive proposal will be allowed.

### **24. Property Ownership**

a. Title: The property address, legal description, and ownership will be included in the Contract Documents. Upon execution of the contract for the work of excavation/construction and site clearance on all or any part of the area, all rights, title, and interest of the Owner in and to buildings, structures and other property by the Contractor on part or all of said project area as described in the Contract Documents and contract addenda thereto, shall be deemed to be vested in the Contractor.

b. Land: NO property rights, title, or interest of any kind whatsoever, in or to the land or premises upon which such buildings or structures stand, is created, assigned, conveyed, granted, or transferred to the Contractor, or any other person or persons, except only the license and right to remove such buildings and structures in strict accordance with the Contract Documents. The Contractor shall not use the land or premises, or allow any other party to use the land or premises for any purpose other than activities in direct support of the construction of the multiuse trail.

### **25. Release of Area**

a. The construction area shall be released to the Contractor upon Award of the Contract and issuance of the Notice To Proceed. Said Notice to Proceed shall give any sequence

of the portion of work that is available to be released if all areas are not ready at the same time. The Engineer shall approve any change in the sequence. The Contractor shall have full control of the excavation/construction process and clearance of the site, subject to the provisions of the Contract Documents.

## **26. Permits and Fees**

The Contractor shall obtain all necessary permits and pay all permit fees that are required in conjunction with the work.

## **27. Lump Sum Payment**

The contractor shall furnish all labor, materials and equipment to complete this work in accordance with the plans and specifications. The Contractor shall be paid a lump sum fee for work as described in the Bid. This respective fee shall be full compensation for preparation and construction of a paved multiuse trail on the Deer Meadow, City of Moraine and Five Rivers MetroPark Property.

## **28. Safety**

a. The Contractor shall comply with all applicable federal, state and local health and safety regulations.

## **29. Daily Clean-Up of Site**

a. At the end of each workday, the Contractor shall clean the site and all adjacent public and private areas that have been dirtied or soiled by that day's work activities.

For General Notes on Alternative Bid Items, see page 6 of Bid Set Plans.

## General Provisions

### 1. Definitions and Terms

- a. Whenever in these specifications, or in any documents or instruments used in connection with a contract where these specifications govern, the following terms are used (or pronouns in place of them). The intent and meaning of the terms shall be interpreted as follows:
- i. **Owner** City of Moraine, Ohio and/or Five Rivers MetroPark
  - ii. **Property Owner** City of Moraine, Ohio and/or Five Rivers MetroPark
  - iii. **Engineer** The Engineer for the City of Moraine, Ohio
  - iv. **Inspector** Duly authorized representative of the City of Moraine
  - v. **Clerk** The clerk of the City of Moraine, Ohio
  - vi. **Solicitor** The Legal Advisor of the City of Moraine, Ohio
  - vii. **Bidder** Any person, firm, partnership, or corporation submitting a proposal for the project contemplated, acting directly or through a duly authorized representative.
  - viii. **Contractor** The person, firm, or corporation to whom the within Contract is awarded by the owner, and who is subject to the terms thereof.
  - ix. **Subcontractor** A person, firm, or corporation, other than the contractor, supplying labor and material or labor for work at the site of the project.
  - x. **Surety** Any person, firm, or corporation that has executed, as surety, the contractor's contract bond securing the performance of the within contract.
  - xi. **Proposal** The order of the bidder to perform the work on the project when made out and submitted on the prescribed proposal form, properly signed and guaranteed.
  - xii. **Contract** The written agreement between the City of Moraine, Ohio and the contractor covering the performance of the work on the project and furnishing of labor and/or materials in the construction of the work on the project.
  - xiii. **Contract Bond** The approved form of security furnished by the contractor and his surety or sureties as a guarantee that he will perform and complete the work on the project in accordance with the terms of the contract and all supplementary agreements pertaining thereto.
  - xiv. **Project** The entire public improvements proposed by the owner to be constructed in part or in whole pursuant to the within contract.
  - xv. **Contract Documents** This item includes all the statements and provision described in this text and construction drawing(s).

## **2. Interpretation of Contract Documents**

- a. If any person, firm or corporation who contemplates submitting a proposal for this contract is in doubt as to the true meaning of any part of the drawings, specifications, or other contract documents, he may submit to the Director of Parks and Recreation a written request for an interpretation thereof, and the person, firm or corporation submitting the request shall be responsible for its prompt delivery. No interpretation of these documents will be made except through a memorandum duly issued by the Director of Parks and Recreation, and a copy of such memorandum will be mailed or delivered to each person securing a set of contract documents, provided that a sufficient period of time is available for the issuance of such memorandum prior to the receipt of bids and such memorandum shall be attached to and become part of these specifications.

## **3. Personal Examination**

- a. Bidders are required to satisfy themselves by personal examination of the contract documents and investigation at the site of the proposed work as to the conditions existing and the difficulties likely to be encountered in the construction of the work.
- b. No pleas of ignorance of conditions that exist or that may hereafter exist, or of conditions or difficulties that may be encountered in the execution of the work, as the result of failure to make such examination and investigation, will be accepted as an excuse for any failure or omission on the part of the contractor to fulfill in every respect all the requirements of the contract, nor will the same be accepted as a basis for any claim whatsoever for extra compensation or for extension of time.

## **4. Statement of Quantities**

- a. The estimate of quantities of work, if included on the proposal form, is approximate only, and it will not become the basis for calculating the final payment for the work. However, the estimated quantities shall be used by the owner in calculating the total amount of bids for comparison of bids.

## **5. Proposals**

- a. Bid security of all except the three (3) lowest bidders will be returned within three (3) days after the opening of bids. Bid security of the three (3) lowest bidders will be returned within forty-eight (48) hours after the contract has been executed and the required bonds have been finally approved by the Owner. If the required contract and contract bonds have not been executed within fifteen (15) days after the time specified in the "Instructions and General Information to Bidders" for the owner to evaluate bids, the bid security of any bidder will be

returned upon his request, provided he has not been given "Notice to Award" prior to the date of such request.

- b. Any bidder may withdraw his proposal, providing his written request is received by the owner prior to the specified time of the opening of bid, or he may change or modify his proposal in the same manner in which it was originally submitted, but no bidder may withdraw his proposal after the specified time of the opening bids. Proposals received after the specified time of the bid opening will be returned to the bidder unopened.

## **6. Preparation and Submission of Bids**

- a. All bids shall be submitted on the forms furnished or copies thereof. They shall be signed in ink by an authorized representative of the bidder. Erasures or changes in a bid must be explained or noted over the signature of the bidder. Bids containing any conditions, omissions, unexplained erasures, alteration of forms, or irregularities of any kind may be rejected by the owner; however, the owner reserves the right to accept or to reject any or all proposals and to waive defects or technicalities as he may deem best for this interest.
- b. Whenever the unit prices in the proposal are separated into three (3) columns designated as "Labor", "Materials", and "Total", and where a discrepancy appears between the sum shown in the "Total" column and the correct addition to the sums appearing in the "Labor" and "Materials" columns, the correct addition of the sums appearing in those columns shall control.
- c. Proposals for all public work must show a figure for "Labor", "Materials", and "Total". The "Total" proposal shall be expressed in words and figures. The sum of the individual bid items shall control, if there is any discrepancy.
- d. Whenever in any contract documents an article, material, or equipment is defined by describing a proprietary product or by using the name of a manufacturer or vendor, it is done for the express purpose of establishing a basis for the type of function, quality, durability and efficiency, and not for the purpose of limiting competition.
- e. The bidders shall submit all supportive data for the items desired to be considered. The data shall include drawings with all necessary dimensions, description of the materials used in the construction of the item, manufacturer's brochure and all data deemed to be necessary in evaluating the proposed items.
- f. If it is determined that items prepared for use in the project do not meet the specification, the contractor shall use one of the named items.
- g. Proposals with all required supporting documents shall be sealed in an envelope which shall have the following information inscribed in the upper left-hand corner: The names of the bidder, bid for (give title as advertised), bid opening date.

## **7. Competency of Bidders**

- a. The owner requires that the bidder shall furnish satisfactory evidence that he has the necessary resources to fulfill the conditions of the contract documents. The evidence shall be listed in the form, "Experience Statement". The contract shall be awarded to the bidder that offers the lowest and best proposal as determined by the owner.

## **8. Proposal Considerations**

- a. The owner shall be considered to accept, reject, or waive any informalities in any Proposal made for the work contemplated herein. The "Instructions and General Information to Bidders" specifies the time reserved by the owner for the evaluation of bids.

## **9. Final Award**

- a. The contract shall be considered to have been awarded and binding upon the contracting parties on or after the date of the "Notice of Award" from the owner. The contractor shall, within ten (10) days from the date of the "Notice of Award", furnish to the owner six (6) copies of the required "Contract Bond" and proof of Insurance Coverage; and shall sign the "Form of Contract". The contract shall be considered as awarded after the contract has been signed by the legally authorized representative of the owner; the owner is satisfied as to the surety or sureties offered by the contractor guaranteeing his performance of the contract; proof of insurance coverage is satisfactory; and the authorized representative (s) of the owner have affixed their signature (s) thereto.

## **10. Forfeiture of Contract**

- a. The person or persons to whom the "Notice of Award" has been mailed and who has not executed the "Form of Contract", the "Contract Bond" and provided the proof of Insurance within ten days as specified in the section entitled "Final Award", shall be considered in default thereof, the deposit accompanying his proposal shall thereupon be forfeited to and retained by the owner as Liquidated damages for any expense or delay which may be incurred in making another letting for the performance of said work and to indemnify said owner for any loss which he may sustain. The Project may then be re-advertised or let to the next highest or next best bidder, as the owner may determine.

## 11. Subcontracting

- a. The contractor may utilize the services of specialty subcontractors on those parts of the work which, under normal contracting practices, are not performed by a general contractor, provided:
  - i. The contractor shall not award work to any subcontractor without prior written approval of the owner.
  - ii. The contractor shall be fully responsible to the owner for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by himself.
  - iii. The contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the contractor by the terms of the contract documents insofar as applicable to the work of subcontractors, and to give the contractor the same power regarding terminating any subcontract that the owner may exercise over the contractor under any provision of the contract documents.
  - iv. Nothing contained in these contract documents shall create any contractual relation between the owner and the subcontractor.

## 12. Commencement and Completion of Work

- a. The calendar days established for completion of the work in the "Proposal" shall commence on the date of "Notice to Proceed". All work under this contract shall be completed within these calendar days by the contractor, subject to the penalties herein provided. However, the contractor or any subcontractor shall not commence any work on this project under this contract until the "Notice to Proceed" has been issued.

## 13. Contractor's and Subcontractor's Insurance

- a. The contractor and/or subcontractor on this work will be required to take out and maintain during the life of this contract, the insurance listed below, and approval of the insurance by the owner shall not relieve or decrease the liability of the contractor hereunder. The contractor shall purchase the insurance listed below to protect the owner from all claims incurred by the action of the contractor or subcontractors in the construction of this project.
  - i. **Compensation and Employees General Liability Insurance** The contractor shall procure and shall during the life of this contract, Workman's Compensation coverage for all of his employees to be engaged in work under this contract; and in case any such work is sublet, the contractor shall require the subcontractor similarly to provide Workman's Compensation coverage for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by the contractor's Workman's Compensation

Coverage. The employees' liability limit shall be as provided by statutory requirements of the State. In case any class of employees engaged in hazardous work protected under the Workman's Compensation statute, the contractor shall provide and shall cause each subcontractor to provide Employer's General Liability Insurance for the protection of such of his employees not otherwise protected.

ii. **Public Liability and Owner's or Contractors Protective Insurance**

The contractor shall take out and maintain this type of insurance and shall require any of his subcontractors performing work covered by the contract to do the same in order to protect themselves from claims for damage to property which may arise from operations under this contract, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either of them.

1. (Comprehensive) Automobile Liability Covering:

- a. Bodily Injury including wrongful death in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) for each person and One Million Dollars (\$1,000,000.00) for each accident.
- b. Property Damage in an amount not less than One Hundred Thousand Dollars (\$100,000.00) for each accident.

2. (Comprehensive) General Liability Covering:

- a. Bodily Injury including wrongful death in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) for each person and one Million Dollars (100,000.00) for each accident.
- b. Property Damage, including blasting and underground damage, in an amount not less than one Hundred Thousand Dollars (100,000.00) for each accident and aggregate liability of Two Hundred Fifty Thousand Dollars (250,000.00).

iii. **Scope of Insurance and Special Hazards** The insurance required under paragraph II, hereof, shall provide adequate protection for the owner, contractor and his subcontractor, respectively, against damage claims which may arise from operation under this contract, whether such operations by the insured in the insured or by anyone directly or indirectly employed by him, and also against any of the special hazards which may be encountered in the performance of the contract. Each of the aforesaid policies shall include the owner as named insured and will provide that such policy will not be canceled until after the owner shall have been given twenty (20) days written notice of the proposed cancellation.

## **14. Laws, Ordinances, and Regulations**

- a. The contractor shall keep himself fully informed of and shall carefully observe and comply with all Federal, State, County, City, and local laws, ordinances, rules, permits, licenses, or inspections; the employment of and payment for all labor; the legal rights of all workers employed under this contract; and any other items which in any manner affect the conduct of the work; and all such orders or decrees that exist at present, or those which may be enacted later, or bodies or tribunals having any jurisdiction or authority over the work, and he will be required to indemnify and save harmless the owner and all his officers and agents against any claim or liability arising from or based upon any violation of any such law, ordinance, regulation order or decree whether by himself or his employers or subcontractor. Should the contractor at anytime find that any requirement of this contract is at variance with applicable laws, ordinances, or building code requirements, he shall promptly notify the owner, and any necessary adjustment of the contract will be made as specified under the section herein entitled "changes in the work".

## **15. Patents**

- a. The contractor will be required to indemnify, keep and save harmless the owner, and their officers and agents from all liabilities, judgments, costs, damages or claims for damages which may arise from the infringement of any letter patented, patent rights, or royalty due on the same by reason of the use of any patented materials, machinery, devices, and equipment furnished or used in the performance of the work under this contract, or by reason of the use of patented designs furnished and incorporated into the work by the contractor and accepted by the owner, excepting equipment furnished by the owner.

In the event that any claim, suitor action at law or equity of any kind whatsoever is made or brought against the owner involving such patents, then the owner shall have the right to retain from the money due and/ or to become due the contractor, a sufficient amount of money as shall be considered necessary by the legal advisor of the owner, to protect him against loss until such claim, suit, or action shall have been settled and evidence to the effect shall have been furnished to the satisfaction of the said legal advisor.

## **16. Taxes**

- a. The contractor will be required to pay, without additional expense to the owner, all Federal, State, Local sales, and any other taxes which may be applicable to the work under this contract, excepting any taxes and assessments on the real property comprising the site of the project. The owner will provide State Sales Tax Exemption for materials or equipment incorporated in the work where such is applicable.

## **17. Assignments**

- a. The contractor may not assign the whole or any part of this contract or any moneys due and /or to become due hereunder without written consent of the owner and/or of all sureties executing any bonds on behalf of the contractor. In case the contractor should assign all or any part of moneys due and / or to become due under the contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of assignee in and to any moneys due and / or to become due to the contractor shall be subject to prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in these contract documents.

## **18. Construction Schedule and Periodical Estimates**

- a. Immediately after execution and delivery of the contract, a preconstruction conference will be scheduled by the owner and at said conference, the contractor will provide a construction progress schedule satisfactory to the Director of Parks and Recreation, showing the proposed dates of commencement and completion of each of the various subdivisions of work, including restoration required under the contract documents and the anticipated amount of each monthly payment that will become due to the contractor in accordance with the progress schedule.
- b. The contractor may also be required to furnish on forms to be supplied by the owner, a detailed estimate giving a complete breakdown of the contract price, and periodically itemized estimates of work done for the purpose of making partial payments thereon. The quantities submitted on these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the contract price.

## **19. Mutual Responsibility of Contractor**

- a. If, through acts of neglect on the part of the contractor, any other contractor, or any subcontractor suffers loss or damage on the work, the contractor agrees to settle with such other contractor or subcontractor will so settle. However, if such other contractor or subcontractor should assert claim against the owner on account of any damage alleged to have been so sustained, the owner shall notify the contractor in writing, and the contractor hereby indemnifies and saves harmless the owner against any such claims.

## **20. Supervision of the Work by Contractor**

- a. The contractor shall personally supervise the work or furnish at all times a duly authorized representative, who shall receive and execute all orders given by the Director of Parks and Recreation. Such orders so given to and received by said representative shall be deemed to have been given to and received by the contractor.
- b. Supervisory personnel must be available locally, twenty-four (24) hours a day, seven (7) days a week until all items of work have been completed under this contract.

## **21. Control of Work by Owner**

- a. The owner will control the work under this contract through the Director of Parks and Recreation or his duly appointed representative.
- b. The contractor shall at all times give to the Director of Parks and Recreation and to the inspector all necessary facilities for determining both on the work and at the place of manufacture, that all work to be done and all the materials to be furnished under this contract is being performed and are being made strictly in accordance with the contract drawing and specifications. The contractor shall notify the engineer in writing at least seven (7) days previous to the commencement of the manufacture of any materials, of the time and place where the manufacture is to take place in order that representatives of the engineer may be present to inspect the manufacture, if desired or required by the owner.
- c. The Director of Parks and Recreation shall in all cases determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this contract. He shall also determine all questions in relation to said work and the performance thereof and decide every question which may arise relative to the fulfillment of this contract on the part of the contractor.
- d. The Director of Parks and Recreation or authorized representatives will inspect the materials furnished and the work done under this contract. She is also hereby authorized and empowered to reject and refuse all work and materials and the method of application of any part thereof that does not comply in kind, quality, quantity, time or place with the specifications and contract drawings. The inspection approval, or acceptance of any part of the work herein contracted for, or the materials used therein, or any payment on account thereof, shall not prevent the rejection of said work or materials at any time thereafter, during the existence of this contract, should said work or materials be found not in accordance with the requirements of this contract.
- e. The absence of the Director of Parks and Recreation or the inspector from the site of the construction work for any reason whatsoever does not relieve the contractor from his responsibility for compliance with all terms of these specifications and contract obligations.

- f. If at any time before the termination of the guarantee period any materials or workmanship should be discovered which does not comply with the specifications, they shall be immediately removed by the contractor when notified to do so by a written notice from the engineer and shall be replaced at the contractor's expense. Any work condemned by the Director of Parks and Recreation, the City of Moraine Building Inspector and or the City Engineer as unsuitable or improperly done shall be removed and repaired, or otherwise remedied as the directed by City of Moraine Staff.
- g. Should defective work be suspected and the Director of Parks and Recreation so requires, the contractor shall uncover, take down or make openings in the finished work for the purpose of examining at such points as the city staff member designates. Should the work thus exposed or examined prove satisfactory, the cost of uncovering, taking down, or making openings in and the replacing of the covering or the making good of the parts removed shall be paid to the contractor as provided in the "force account" method in the section of these specifications, "changes in work"; but should the work exposed or examined prove unsatisfactory, the uncovering, taking down, replacing and making good shall be at the expense of the contractor.
- h. If the contractor shall neglect or refuse to remove or replace the same within seven (7) days from the date of the written notice from the engineer to do so, said notice being served either personally or by leaving it at his place of business or with his agent in charge of the work, thence the engineer may remove or cause the same to be removed and satisfactorily replaced by contract or otherwise as he may deem expedient, and charge the expense thereof to the contractor. The expense so charged will be deducted and paid by the owner out of such moneys as be or may become due under this agreement, or if such moneys are not sufficient to meet said expense, the additional moneys shall be furnished by the contractor, and if he refuses or neglects to provide the necessary moneys, they shall be provided by his surety.
- i. If in the opinion of the Director of Parks and Recreation, the City Building Inspector and or the City Engineer an emergency arises that jeopardizes continuity of service and/or public health, welfare, or safety, and the contractor is unable to remedy the situation at the time it exists, the owner reserves the right to immediately take steps to have the situation remedied and the contractor and his surety shall be liable for all expenses incurred in making these repairs. "Notice and service thereof" will be dispensed with when such an emergency exists.
- j. The plans and specifications are intended to be explanatory of each other, but should any discrepancies appear or any misunderstandings, the contractor shall immediately notify the Director of Parks and Recreation and the interpretation and decision of the Director of Parks and Recreation shall be final and binding on both parties of this contract. The contractor shall not have a valid claim for "changes in work", "Extra work", or for "Damages" as a result of such interpretation by the engineer.

## 22. Changes in Work

- a. The Director of Parks and Recreation may find it necessary and desirable to make changes and/or alterations in the plans, form dimensions, equipment, or materials from time to time, either before or after construction has begun.
- b. The Director of Parks and Recreation shall notify the contractor in writing about all changes in the work at any time, and it shall be completed according to the said changes without any alteration in the contract price except in those cases where the changes materially affect the amount of work to be done and the cost thereof. The decision of the Director of Parks and Recreation regarding changes in work shall be final in all cases where no alteration in price is involved. Changes in work which involve an alteration in the amount to be paid to the contractor shall not be commenced until the recommendation of the Director of Parks and Recreation have been approved by the owner and not then until the alteration in price has been approved and payment therefore has been ordered.
- c. If the contractor claims that any written instructions from the Director of Parks and Recreation, by drawings or otherwise, involved extra cost or an extension of time, he shall so notify the owner in writing within seven (7) days after receipt of such instructions and in any event before proceeding to execute the work. Should he proceed with the work in compliance with the written order of the engineer and without the change order provided in the next succeeding paragraph, it shall be construed as his acceptance of the order, and no additional compensation will be allowed for any future claim.
- d. Claims for payment of additional compensation to the contractor for "Changes in Work" shall not be valid and payment will not be made unless the change order for the work which caused his claim has been given in writing by the engineer, the owner has approved same by appropriate action and ordered payment to be made all as provided in this section.
- e. Adjustment in the amount to be paid to the contractor by reason of any changes, in additions to, or deductions from the amount of work to be done shall be determined by one (1) or more of the following methods of selection by the owner:
  - i. By using the unit price contained in the contractor's original proposal, or other mutually agreed unit price.
  - ii. By using an acceptable lump sum proposal from the contractor, which shall be added to, or deducted from the contract price. The agreed price will include the contractor's "Overhead and Profit", if the change involves an addition to the contract price; but if it involves a credit to the owner, an allowance for "Overhead and Profit" also will be figured.
  - iii. By ordering the contractor to proceed with the work on a "force account" basis, wherein he keeps and presents to the owner the exact amount of the cost of the "Changes in Work", together with all vouchers of expenditures thereon. This cost may include all items of labor and

materials; the use of power tools, and equipment actually needed; the use of small tools, utility services; pro-rate charged for superintendent, foremen, timekeeper, clerks, watchmen, incidental job burdens; general office expense; and all items of cost such as public liability, workmen's compensation coverage, social security, old age and unemployment coverage, or additional contract bond. The total cost may include an allowance for "Overhead and Profit" not to exceed fifteen percent (15%) of the net cost, but no percentage for "Overhead and Profit" shall be allowed on the items of Social Security, Old Age and Unemployment coverage. Whenever any "change in work" involves a deduction in the contract price, the credit shall be the net cost.

Sureties will not be notified of changes in the work and cost thereof, except when the changes increase the total contract price by more than twenty percent (20%) of the original price.

### **23. Partial Payments to Contractor**

- a. The owner will make partial payments to the contractor during construction on the basis of an estimate of the value of work performed during the preceding calendar month under this contract. The partial payment shall be made in accordance with the applicable sections of the Ohio Revised code. The contractor will furnish an estimate of the quantities of work. The Director of Parks and Recreation will review and approve the value of the work performed for the partial estimate. The partial payment will be made less 10% retainage for contracts up to \$500,000.00 and 8% retainage for contracts over \$500,000.00.
- b. All materials and work covered by partial payments made shall thereon become the sole property of the owner. This provision shall not be construed as relieving the contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made of the restoration of any damaged work. The payment of monthly partial estimates does not waive the right of the owner to require the fulfillment of all the terms of the contract documents.

### **24. Owner's Right to Withhold Certain Amounts and Make Applicable Thereof**

- a. The contractor may be required by the owner to furnish from time to time, satisfactory evidence that all persons who have done work or furnished materials under this contract, or may have suffered and claimed damage on account of the contractor's operations, have been fully paid or secured; and in case such evidence is not furnished as aforesaid, the owner may in addition to the portion of any estimate retained under the preceding provisions of these contract documents, also withhold sufficient amount of any payment otherwise due to the contractor to cover:
  - i. Payment that may be past due or payable for just claims for labor or materials furnished in and about the performance of the work or for damages sustained under this contract;

- ii. For defective work not remedied as hereinbefore provided; and
  - iii. For failure of the contractor to make proper payments to his subcontractors.
- b. The owner shall have the right to act as agent for the contractor in disbursing such funds as have been withheld pursuant to this paragraph to the party or parties who are entitled to payment therefrom; and the owner will render to the contractor a proper accounting of all such funds disbursed in behalf of the contractor, but it shall be understood and agreed that the owner thereby assumes no obligations toward any claimant under this provision.
- c. It is mutually agreed by and between the parties hereto that time is an essential part of this contract; and if the contractor shall fail to carry on the work with such force and in such manner and order, and at such points, that within the time set out in his proposal, the whole work shall be performed including testing and restoration in accordance with the terms of these contract documents, the owner may retain from the moneys that are, or which may become due said contractor, the owner's estimated daily cost of the completed work, for each and every calendar day the completion of the work be delayed beyond the time specified herein for such completion; or such extensions thereto as may be approved in writing by the owner upon written request from the contractor. The contractor shall not be entitled to a bonus for early completion.
- d. It is agreed by and between the parties hereto that inasmuch as expenses will be sustained by the owner, in the event that said contractor fails to perform the work herein specified within the time herein set forth; e.g., engineering expenses, interest charged, wages of clerks in the engineering and other departments, salaries of inspectors, delay caused to other work by failure to perform this contract, the sum per day of each working day's delay shall be considered as liquidated damages and not as a penalty and shall become due said owner as full payment for all such expenses sustained to it by failure of said contractor to complete the work as herein specified.

## **25. The Right of Owner to Terminate Contract**

- a. In the event that any of the provisions of these contract documents are violated by the contractor or any of his subcontractors, the owner may serve written notice upon the contractor and the surety, of his intention to terminate such contract, such notices to contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the contractor such violation shall cease and satisfactory arrangements for corrections be made, the contract shall, upon the expiration of said ten (10) days cease and terminate. In the event of any termination, the owner shall immediately serve notice thereof upon the surety and the contractor, and the surety shall have the right to take over and perform the contract, provided however, that if the surety does not commence performance within thirty (30) days from the date of the mailing to such surety or notice of termination, the owner may take over the work and prosecute same to completion by contract for

the amount and at the expense of the contractor, and the contractor and his surety shall be liable to the owner for any excess cost occasioned the owner thereby , and in such event the owner may take possession of and utilize in completing the work, such materials, appliances, and shop drawings as may be on the site of the work and necessary therefore.

## **26. Other Contracts**

- a. The owner reserves the right to allow other work or to enter into other contracts for work or materials to be constructed or placed in or about the work herein described, and to order the starting and progress of such other contracts at any time prior to the completion of this contract. The contractor for the work herein described agrees to allow the construction of or progress of the work under such other contracts, under such arrangements for the joint occupation of the site of the work as the engineer may approve. The contractor hereby waives any claim for damages or extra compensation by reason of any real or supposed interference with his work; but if, in the judgment of the engineer, the joint occupation of the site of the work by two (2) or more contractors working on different contracts at the same time actually impedes progress of the work herein described, then, with the approval of the Owner, the time for completion of the work may be proportionately extended.

## **27. Suspension of Work**

- a. The owner reserves the right to suspend the whole or any part of the work to be done hereunder if work is not proceeding in accordance with the contract documents, without compensation to the contractor for such suspension other than extending the time for completing the work as much as it may have been delayed by such suspension. Such suspension shall be in the form of a written "Stop Order" issued by the Director of Parks and Recreation.

## **28. No Waiver of Contract**

- a. Neither an extension of time for any reason beyond the date fixed herein for the completion of the contract, nor the delivery and acceptance of the whole or any part of the work by the engineer, nor any possession taken by the owner or employees, shall be deemed to be a waiver by the owner of the right to abrogate this contract for abandonment or delay in the manner therein provided.

## **29. Extension of Time**

- a. In case the work be delayed due to acts of omission or commission on the part of the owner or the interference or delay caused by other contractors, the owner or the interference or delay caused by other contractors, the time for the completion of the contract will be extended by the owner, after request is made in writing by the contractor; such an extension of time shall in no instance exceed the time actually lost to the contractor by reason of such interference or delay.

### **30. Delays**

- a. The right of the contractor to proceed shall not be terminated or the contractor charged with liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the fault of negligence of the contractor, including, but not restricted to acts of God, or of the public enemy, acts of the owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes, if the contractor shall, within ten (10) days from the beginning of such delay (unless the owner shall grant a further period of time prior to the date of final settlement of the contract) notify the owner in writing of the causes of delay, who shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in its judgment, the findings of fact thereon shall be final and conclusive on the parties thereto.

### **31. No Estoppels**

- a. Neither the owner nor his appointee shall be precluded or estopped by any return or certificate made or given by the owner or his appointee under any provisions of this contract, at any time (before the final completion certificate) showing the true and correct amount and character of the work done and materials furnished by the contractor or any other person under this contract, or that any such return or certificate is untrue and incorrect, or improperly made in any particular, or that the work and materials, or any part thereof, do not, in fact, conform to the contract documents, and the owner shall not be precluded or estopped, notwithstanding any such return or certificate and payment in accordance therewith, from demanding and recovering from the contractor any damages which may be sustained by reason of his failure to comply with the contract documents.
- b. The final inspection of the work covered by the contract documents shall not be binding or conclusive upon the owner, if its subsequently appears that the contractor has willfully or fraudulently or through collusion with the representatives of the work, supplied inferior materials of workmanship, or has departed from the terms of the contract documents notwithstanding the acceptance of said work and the payment by the owner of all estimates.

### **32. Guarantee of Work**

- a. The contractor shall guarantee all the work for a period of one (1) year from the date set forth in the "Final Estimate", against defects resulting from the use of inferior materials, equipment or workmanship. The guarantee period shall be covered by the "Contract Bond" as agreed upon between the owner and the contractor prior to the final payment for the work.
- b. The contractor will be required during the life of this guarantee to make all repairs or changes in the guaranteed work, which in the opinion of the owner are necessary as the result of the use of materials, equipment, or workmanship

which is inferior, defective or not in accordance with the terms of the contract documents.

- c. The contractor shall, promptly upon receipt of notice from the owner and without expense to the owner, remove and replace all unsatisfactory work with suitable materials and equipment.
- d. Failure by the contractor to proceed with the terms of the guarantee shall be sufficient reason for the owner to have the defects corrected, and the contractor and his surety shall be liable for all expenses incurred by the corrections.
- e. Any or all special guarantees applicable to definite parts of work or equipment shall also be subject to the terms of this section during the first year of the life of such special guarantees.

### **33. Release of Claims**

- a. The contractor shall deliver to the owner, either prior to or concurrently with the Final Estimate, the contractor's affidavit listing all suppliers of materials and all persons performing labor under and by virtue of this contract. The contractor shall also supply, at this time, release of liens from all material suppliers and all persons performing labor as listed in the contractor's affidavit.
- b. The contractor will be responsible for obtaining from his subcontractors the affidavits and release of liens for the subcontractor's portion of the work. The subcontractor's affidavits and release of liens shall be made out jointly to the contractor and to the owner.

### **34. Final Inspection**

- a. The Director of Parks and Recreation and the City of Moraine Building Inspector shall make a final inspection upon completion of the work; and if all the work required to be done under the contract is found acceptable as required by the contract documents, he shall prepare and file with the owner and with the contractor a written statement indicating completion of all the work under the contract.

### **35. Final Estimate**

- a. The owner will pay to the contractor the total earned compensation as stated in the Final Estimate prepared by the engineer, less all prior payments and advances whatsoever, to or for the account of the contractor and all amounts to be kept and retained under the provisions of these contract documents. All prior estimates and payments, including those relating to "Changes in Work" or "Extra Work" shall be subject to correction by this final estimate for payment of the work included under these contract documents. The one (1) year guarantee period shall commence on the date of the final estimate.

### **36. Contract Release**

- a. The contractor's acceptance of the payment of the final estimate shall operate as, and shall be a release to the owner and agents thereof, from any and all claims and any liability to the contractor for anything done or furnished for, or relating to or affecting the work under these contract documents, or for any act and neglect of the owner or of any person relating to or arising out of the work. No payments, final or otherwise, shall operate to release the contractor or his sureties from any obligations under these contract documents.

### **37. Notice and Service Thereof**

- a. Where, in any of the contract documents there is any provision in respect to the giving of any notice, such notice shall be deemed to have been given, as to the owner, when written notice shall be delivered to the owner, or shall have been placed in the United States Mail addressed to the owner at the place where the bids of proposals for the contract were opened; as to the contractor, when a written notice shall be delivered to the chief representative of the contractor at the site of the project, or by mailing such written notices in the United States Mails addressed to the contractor at the place stated in the papers prepared by him to accompany his proposal at the address of his permanent place of business; as to the surety on the contract bond, when a written notice is placed in the United States Mails addressed to the surety at the home office of such surety or to its agents who executed such contract bond in behalf of such surety.

### **38. Legal Requirements**

- a. The intent of these contract documents is to include each and every provision of law and clause required by law to be inserted herein, and it shall be read and enforced as though they were included herein.

### **39. Drawings**

- a. The drawings illustrate the general charter and scope of the work covered by these contract documents. Additional detailed drawings and other information deemed necessary by the engineer will be furnished to the contractor when and as required by the work. Shop drawings, when approved by the engineer, shall govern all details of the work taking precedence over all other drawings.
- b. Figured dimensions on drawings shall take precedence over measurements by scale; detailed working drawings shall take precedence over general drawings and shall be considered as explanatory of them and not as indicating extra work.

### **40. Shop Drawings**

- a. The contractor shall, at his own expense, submit for review to the Director of Parks and Recreation, four (4) complete sets of detailed drawings of materials which he is to furnish. These drawings shall be accurate and distinct and shall give all working dimensions, kinds of materials to be used, kinds of machine

work, and finish to be applied and like information. One (1) set of drawings furnished by the contractor will be returned after review by the Director of Parks and Recreation. If required, the drawings shall be revised and four (4) sets of revised drawings shall be furnished until the review of the city engineer has been completed. No work upon the manufacture or fabrication of any materials shall be done until such review by the city engineer has been completed.

- b. Submittals of shop drawings shall be made to: Director of Parks and Recreation City of Moraine, 4200 Dryden Road, Moraine, OH 45439
- c. A transmittal letter shall accompany each submission. If data for more than one section of the specifications is submitted, a separate transmittal letter shall accompany the data submitted for each section.
- d. At the beginning of each letter of transmittal and each letter of inquiry, provide a reference heading indicating the following:
  - i. Owner's Name
  - ii. Project Name/Number
- e. If the shop drawing submittals show variations from the requirements of the contract documents, the contractor shall make specific mention of such variation in his letter of transmittal.
- f. All shop drawings submitted for approval shall have a title block with complete identifying information
- g. All shop drawings shall bear the approval and signature of the contractor as evidence that they have been reviewed by the contractor. The stamp shall contain the following minimum information:
  - i. Project Name
  - ii. Contractor's Name
  - iii. Date
  - iv. Reference:
    - 1. Item Number
  - v. Specifications
    - 1. Section
  - vi. Drawing No. \_\_\_\_\_ of \_\_\_\_\_
  - vii. Location
- h. A number shall be assigned to each submittal by the contractor.
- i. The contractor shall initially submit to the Director of Parks and Recreation a minimum of four (4) bound copies of all submittals that are on 8 ½ inch by 11 inch or smaller sheets and four (4) prints for all submittals on sheets larger than 8 ½ inches by 11 inch. Contractor shall restrict his submittals to the following sizes only:

- i. 8 ½ inch by 11
  - ii. 8 ½ inch by 14
  - iii. 24 inch by 36 inch
  - iv. Catalog cuts with non-applicable information marked out are acceptable when sufficient information for complete review is presented.
- j. After review, the shop drawings will be marked with one of the following notations:
  - i. Approved
  - ii. Approved as Noted
  - iii. Revise and Resubmit
  - iv. Not Approved
- k. If a submittal is acceptable, it will be marked “Approved” or “Approved as Noted”. One print or copy of the submittals will be returned to the contractor.
- l. Upon return of a submittal marked “Approved” or “Approved as Noted”, the contractor may order, ship or fabricate the materials included on the submittal, provided it is in accordance with the corrections indicated.
- m. If a shop drawing marked “Approved as Noted” has extensive corrections or corrections affecting other drawings of work, the engineer may require that the contractor make the corrections indicated thereon and resubmit the shop drawings for record purposes.
- n. If a submittal is unacceptable, one (1) copy will be returned to the contractor with one of the following notations:
  - i. “Revise”
  - ii. “Not Approved”
- o. Upon return of a submittal that is unacceptable, the contractor shall make corrections indicated and repeat the initial approval procedure.
- p. Shop drawings or other submittals not bearing the owner’s “Approved” or “Approved as Noted” notations shall not be issued to subcontractors nor utilized for construction purposes. No work shall be performed or equipment installed without a drawing or submittal bearing one of these notations.
- q. In the event the contractor obtains the approval for the use of equipment other than that which is shown or specified, the contractor shall, at his own expense, and using methods approved by the city engineer, make all changes to the work, including structures, piping, electrical, equipment and controls, that may be necessary to accommodate this equipment.
- r. Shop drawings shall be submitted well in advance of the need for the material or equipment for construction and with ample allowance for time required to make delivery of material or required to make delivery of material or equipment after data covering such is approved. The contractor shall assume the risk for all

materials or equipment which are fabricated or delivered prior to the approval of shop drawings. No materials or equipment shall be incorporated into the work nor will such be included in periodic progress payment until approval thereof has been obtained in the specified manner.

- s. The Director of Parks and Recreation will review and process all submittals promptly, but a reasonable time should be allowed for this, for the shop drawings being revised and resubmitted, and for time required to return the approved shop drawings to the contractor.
- t. It is the contractor's responsibility to review submittals made by his suppliers and subcontractors before transmitting them to the city engineer to assure proper coordination of the work and to determine that each submittal is in accordance with his desires and that there is sufficient information about materials and equipment to determine compliance with his desires and equipment to determine compliance with the drawings and specifications. Incomplete or inadequate submittals will be returned for revision without review.
- u. Approval of shop drawings shall not relieve the contractor from the responsibility of furnishing materials and equipment of proper dimensions, size, quality, quantity, and all performance characteristics to efficiently perform the requirements and intent of the contract. Approval shall not relieve the contractor from responsibility for errors of any sort on the shop drawings. Approval is intended only to assure conformance with the design concept of the project and compliance with the information given in the contract documents. The contractor is responsible for dimensions which shall be confirmed and correlated at the job site. The contractor is also responsible for information that pertains solely to the fabrication processes or to the technique of construction and for the coordination of the work of all trades.
- v. The review of shop drawings for contract compliance shall not relieve the contractor from the responsibility for deviations unless the contractor has called the city engineer's attention to the deviations by a separate clearly stated notification of the proposed variation at the time of submittal nor shall it relieve the contractor of his responsibility for errors in the shop drawings. When catalog cuts are submitted for shop drawings review, all non-applicable information shall be marked out.
- w. It is the intent of these contract documents that the contractor be fully acquainted with the equipment and materials specified and the construction details pertinent to the installation of said equipment and materials. Any modifications of the work occasioned by the shop drawings shall not become a basis for a claim for "changes in work" by the contractor.

#### **41. Sanitary Measures**

- a. The contractor shall construct and maintain or make arrangements for sanitary convenience for the use of all persons employed on the work in sufficient number, in such manner and in such places as shall be approved by the engineer. All persons connected with the work shall be obliged to use them, and

any employee violating these provisions shall be discharged and not again employed without written consent of the engineer. Any necessary precautions, including the care of employees, shall at all times be satisfactory to the Local Government, County and State Health Departments. The contractor shall promptly and fully comply with all orders and regulations in regard to these matters.

#### **42. Utilities**

- a. Any utility; e.g., telephone, electricity, water, etc., required by the contractor for the construction and testing of this project shall be the responsibility of and cost to the contractor.

#### **43. Buildings**

- a. Buildings for the housing of men employed on the work, for storage of materials, or any other purpose shall not be erected on land owned or leased by the owner unless a permit in writing is secured from the owner allowing their construction. Should permission be asked and granted, the contractor must comply with all local regulations regarding the construction and maintenance of such buildings.

#### **44. Identification of Existing Underground Utility Facilities (H.B. 538)**

- a. The owner must contact the Underground Utility Protection Service and owners of public utilities who are members of that service for the existence of all utilities in the area. Within ten (10) calendar days after award of bid, the owner must notify in writing all owners of underground utility facilities who are known to be in the project area of the name, address, and telephone number of the contractor awarded the work.
- b. The contractor shall, at least two working days (excluding Saturdays, Sundays and legal Holidays) prior to starting work in the area of the improvement of the owners who are shown on the plans to be Underground Utility Production service members. Such notice may be in writing, by telephone, or in person of its intent to start construction operations. If the notice is given in writing by certified mail, the return receipt signed by any person to whom the notice may be given shall be conclusive proof of notice.
- c. After commencing construction, the contractor shall report immediately to the owner or any dent, gouge, groove, or other damage to the lines or their coating or cathodic protection. The contractor must also alert the nearby occupants of any emergency he may create or discover in connection with excavation in and around the utilities.
- d. The owners of utilities in the project area shall, within 48 hours (excluding Saturdays, Sundays and legal holidays) after notice is received from the contractor that it intends to start construction, mark or otherwise designate the

markings shall be coordinated to be approximately two days ahead of construction.

- e. If the contractor complies with the requirements imposed upon it by statute and encounters underground utilities facilities that should have been shown on the plans and specifications had the owner properly contractor is entitled to an increase in the contractor price for any additional work as well as a time extension for any delays.
- f. If the contractor complies with the requirements imposed upon it by the statute and if the utility erroneously marks the lines, then, so long as the public authority had complied with its obligations prior to construction, the contractor is not responsible to damage to the utilities encountered that are improperly marked.
- g. Any anticipated temporary/permanent relocation of the utilities that is deemed necessary by the owner shall be construction. If any reasonable time to move such facilities unless the contractor agrees with the facility to coordinate relocation with its construction operations.

#### **45. Protecting Existing Buildings and Structures**

- a. The contractor shall, at his own expense, shore up and protect any building or other public or private structures which may be encountered or endangered in the prosecution of the work. He shall repair and make good any damage caused to any such property by reason of his operations.

#### **46. Monuments and Landmarks**

- a. The contractor or any of his employees shall not molest or remove any monuments, iron survey pins, or landmarks without approval of the Director of Parks and Recreation. Any monument, iron survey pins or landmark so removed without approval will be replaced by the owner and the expense of the survey will be changed to the contractor. The cost thereof shall be retained from the moneys due or to become due the contractor under these contract documents.

#### **47. Accident Prevention**

- a. The contractor shall be held responsible for all accidents and shall indemnify and protect the City of Moraine from all suits, claims and action brought against it, and all cost for liability to which the owner may be put for any injury or alleged injury or carelessness in the performance of the work, or in caring for the same, or from any improper or inferior workmanship or inferior materials used. All loss or difficulties which may be encountered in the prosecution of the work shall be sustained by the contractor.
- b. The contractor shall exercise every precaution at all times for the protection of persons (including employees) and property, and hazardous conditions shall be

guarded against or eliminated. This protection includes sheeting and shoring, barricades, guards, night watch men and warning lights, as needed.

- c. The contractor shall comply with the safety provisions of applicable laws and building and construction codes. All hazards connected with the use or installation of machinery and equipment shall be guarded against or eliminated in accordance with the safety provisions of the latest edition of the U.S. Department of Labor Occupational Safety & Health Administration Regulation 29 CFR; 1926 "Safety and Health Regulations for Construction"; Subpart C, "General Safety and Health Provisions Standard" Number 1926.20, "General Safety and Health Provisions" to the extent that such provisions are not in contravention of applicable Laws.
- d. The contractor shall have available to all construction crews for immediate use the Bureau of Workers Compensation Division of Safety & Hygiene publication titled "Safety Works for Construction".

#### **48. Fire Protection Insurance**

- a. The contractor shall insure for the life of the contract against all loss or damage covered by the site and against all loss or damage by the standard additional extended coverage insurance endorsements. The owner and contractor. The amount of the policy may vary with the extent of work completed, but shall at all times be at least equal to the amount paid on account of work and materials plus the contractor but not paid by the owner. Certificates of the insurance companies as to the amount and extent of coverage shall be delivered to the owner before payments are made which certificates shall state that the policies cannot be canceled without twenty (20) days written notice in advance to the owner.

#### **49. Work Site Availability**

- a. The successful bidder is required to become familiar the areas that are available for the commence work on available sites.

#### **50. Anti-Discrimination Clause**

- a. That for this performance of the work under this contract or any subcontract, that the contractor, subcontractor or any person acting on his behalf shall consider applicants that are qualified and available to perform the work involved within the contract without regard to race, color, religion, sex, national origin, age, disability, marital status, veteran status, or any other legally protected status.
- b. That no contractor, subcontractor, or any person on his behalf, shall in any manner discriminate or intimidate any employee hired for the performance of work under this contract with regard to race, color, religion, sex, national origin, age, disability, marital status, veteran status, or any other legal protected status.

## **51. Climatic Conditions**

- a. All work which will be affected by climatic conditions, (wind, rain, frost, or freezing) shall be suspended unless permission is given by the Director of Parks and Recreation to the contractor shall provide approved facilities for protecting all the materials and the finished work. This will include heating of materials to be used in mixing concrete.

## **52. Storing of Materials**

- a. Materials required in the work may be stored on the site of the project, if directed by the Director of Parks and Recreation, but all such materials, tools, and machinery shall be neatly and compactly piled in such a manner as to cause the least inconvenienced to the property owners and traffic.
- b. Improved lawn areas shall be protected and restored even though said areas are within public right-of-way.
- c. Materials, tools and machinery shall not be piled or placed against shade trees, unless they shall be amply protected against injury there from.

## **53. Air Pollution**

- a. Ohio EPA Regulations, "Restriction of Emission of Fugitive Dust and Gasses", OAC 3745-17-08 is applicable to this project and the contractor shall comply with this regulations.
- b. The contractor shall have on hand sufficient and proper equipment and materials to control the dust from his operation. The contractor will be require to do such work and apply such materials as will minimize the inconvenience caused to adjacent residents and the traveling public by dust and dirt from his operations.
- c. Separate payment will not be made for this work but the cost thereof shall be included in the price bid for the various items of the contract.

## **54. Wage Rates**

- a. The contractor or subcontractors will be required to pay each laborer, workman or mechanic engaged in work on the project under this contract at the site of the project in the trade or occupation required, not less than the minimum basic hourly wage plus certain fringe benefits, as predetermined by the Department of Industrial Relations of the State of Ohio in accordance with Section 4115.03 through 4115.16 of the Revised General Code of Ohio. The current schedules for the prevailing wages for this area in Ohio are considered as part of these contract documents. Each contractor must comply with all the Sections of 4115 of the Revised General Code of Ohio.
- b. The contractor shall post on the exterior of the contractor's office the prevailing wage schedule. The wage schedule shall be placed in the conspicuous location protected from the weather and elements.

- c. The contractor of the contractors must, prior to final payment, file a notarized affidavit certified that the prevailing wages have been paid on this project.

**Proposal**

The

undersigned

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having carefully inspected the site and location of the work proposed to be performed, and also the premises at and adjacent to the location of the proposed work and the means of approach to the various parts of the work, and having also carefully examined the "Notice to Contractor," "Instruction to Bidders", "Form of Contract", "General Provisions", and the "Detailed Specifications" which shall govern the construction of the work to be done; NOW PROPOSES to furnish any and all materials, tools, labor, transportation, machinery, appliances and/or necessary appurtenances, and to prosecute to full completion the work called for under the Contract Documents **within 90 calendar days**, all upon the terms and the conditions and provisions set forth in the "Instruction to Bidders," "Form of Contract," "Contract Bond," the "General Provisions," detailed specifications of this Proposal; and in consideration thereof to accept from the Owner as full payment for the completion of each specified item and any required maintenance thereof as hereinafter provided, the price quoted for each item for work completed, the price of labor and materials to be stated separately.

It is understood and agreed that the "Estimated Quantities" upon which this Proposal is based are approximately only; that they shall be used in determining the total amounts of bids for the purpose of determining the lowest and best bidder; that they may be increased or diminished at the option of the Owner during the term of the Contract; and that if awarded the Contract, the undersigned shall not be entitled to any claim or loss of profits or other damages should the actual quantities of any or all items prove to be greater or less than that stated in the column "Estimated Quantities."

The

undersigned

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agrees that the Owner reserves the right to reject any or all bids, to waive any informalities or irregularities in the bids received, and to accept that bid which is considered lowest and to the best interest of the City of Moraine, Ohio.

The

undersigned

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agrees that if this Proposal shall be accepted, he will be prepared to discuss with the Owner in detail any matters relating to special features and the methods he proposes to follow for the general conduct of the work; that he will, within ten (10) days after "Notice of Award," complete the Contract Form with the Owner for the performance of the work and furnish Contract Bond in an amount not less than one hundred percent (100%) of the total bid amount, and with

sureties subject to the approval of the Owner, as a guarantee of the faithful performance of his Contract; and that he will also submit the required insurance policies.

The undersigned \_\_\_\_\_ hereby agrees, in accordance with the Specifications and this Proposal, to complete all work as shown or as specified **within 90 calendar days,**" or such extensions thereto as may be approved; and that the Owner may retain from the monies which may be due, an amount of liquidated damages for each and every calendar day the completion of the work may be delayed beyond the time herein stipulated.

The undersigned \_\_\_\_\_ hereby certifies that no person interested in this Proposal is directly or indirectly interested in or connected with any other bid or proposal for the said work and no member of the City of Moraine or any other person in the employ of said City is directly or indirectly interested therein, or in any portion thereof, and he will, if required by the Owner, execute and submit from himself as Principal Contractor and from any Subcontractor, the non-collusion affidavits as provided herein.

Official Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Telephone/Fax Number)

**LUMP SUM BID TOTAL FOR  
THE DEER MEADOW POSSUM CREEK CONNECTOR: \$ \_\_\_\_\_**



**Deer Meadow Possum Creek Connector**

**Experience Statement of Contractor**

The Contractor is required to state in detail what work of a similar nature to that included in the proposed Contract he/she has done, to give reference and such other detailed information as will enable the City to judge their responsibility, experience and skill. Among other things, this statement shall include the following; evidence to the effect that the Contractor maintains a permanent place of business; has adequate facilities and equipment available for the work under the proposed Contract; evidence to the effect that the Contractor has appropriate experience and has in his employ a sufficient number of skilled and trained workers to carry out the services done under this Contract.

Please type the statement.



**Bid Guaranty and Contract Bond (ORC 153.571)  
Deer Meadow Possum Creek Connector Multiuse Trail**

**Bid Guaranty and Contract Bond (ORC 153.57 Form of Bond)**

***(A) The bond provided for in division (C) (1) of section 153.54 of the Revised Code shall be in substantially the following form, and recovery of any claimant thereunder shall be subject to sections 153.01 to 153.60 of the Revised Code, to the same extent as if the provisions of those sections were fully incorporated in the bond form:***

“KNOWN ALL PERSONS BY THESE PRESENTS, that we, the undersigned \_\_\_\_\_, as Principal,  
and  
\_\_\_\_\_, as Sureties,  
are hereby held and firmly bound unto \_\_\_\_\_ in the penal  
sum of  
\_\_\_\_\_, Dollars, for  
the payment of which well and truly to be made, we hereby jointly and severally bind  
ourselves, our heirs, executors, administrators, successors, and assigns.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above  
named principal did on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, enter into  
a contract with \_\_\_\_\_, which said contract is made a part of  
this bond the same as though set forth herein;

Now, if the said \_\_\_\_\_ shall well and faithfully do and  
perform the things agreed by \_\_\_\_\_ to be done and

performed according to the terms of said contract; and shall pay all lawful claims of subcontractors, material suppliers, 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 material supplier or laborer having a just claim, as well as for the oblige herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; 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.

The said surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of the said contract or in or to the plans or specifications therefore shall in any wise affect the obligations of said surety on its bond.”

***(B) The bond provided for in division (C) (2) of section 153.54 of the Revised Code shall be in substantially the following form:***

“KNOWN ALL PERSONS BY THESE PRESENTS, that we, the undersigned  
\_\_\_\_\_, as Principal,  
and  
\_\_\_\_\_, as Sureties,  
are hereby held and firmly bound unto \_\_\_\_\_ in the penal  
sum of  
\_\_\_\_\_, Dollars, for  
the payment of which well and truly be made, we hereby jointly and severally bind  
ourselves, our heirs, executors, administrators, successors, and assigns.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above  
named principal did on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, enter into

a contract with \_\_\_\_\_, which said contract is made a part of this bond the same as though set forth herein;

Now, if the said \_\_\_\_\_ shall well and faithfully do and perform the things agreed by \_\_\_\_\_ to be done and performed according to the terms of said contract; we agreeing and assenting that this undertaking shall be for the benefit of the obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; 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.

The said surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of the contract shall in any way affect the obligations of said surety on its bond.”

**Effective Date: 11-24-1995; 03-30-2007**

**Principal: Surety:**

\_\_\_\_\_

By (Signature) By (Signature)

By (Print) By (Print)

Title Title

Street Street

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*City, State, Zip City, State, Zip*

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*Phone/Fax Phone/Fax*



**Affidavit In Compliance with Section 3517.13  
of the Ohio Revised Code**

State of Ohio, County of \_SS:

Personally appeared before me the undersigned, as an individual or as a representative  
of \_\_\_\_\_ for a contract for the City of Moraine for

\_\_\_\_\_  
(Type of Product or Service)

to be let by the City of Moraine, who, being duly cautioned and sworn, make the following statement with respect to prohibited activities constituting a conflict of interest or other violations under Ohio Revised Code Section 3517.13, and further states that the undersigned has the authority to make the following representation on behalf of himself or herself or of the business entity:

1. That none of the following has **Individually** made within the previous twenty-four months and that, if awarded a contract for the purchase of goods or services aggregating more than \$10,000 in a calendar year, none of the following **Individually** will make, beginning on the date the contract is awarded and extending until one year following the conclusion of the contract, as an individual, one or more campaign contributions totaling in excess of \$1,000, to any member of the City of Moraine Council or their individual campaign committees:
  - a. myself;
  - b. any partner or owner of the partnership or other unincorporated business (if applicable);
  - c. any shareholder of the professional association organized under Chapter 1785 of the Ohio Revised Code (if applicable);
  - d. any trustee of the trust (if applicable);
  - e. any administrator or executor of the estate (if applicable);
  - f. any owner of more than 20% of the corporation or business trust (if applicable);
  - g. each spouse of any person identified in (a) through (f) of this section;
  - h. each child seven years of age to seventeen years of age of any person identified in divisions (a) through (f) of this section;

2. That none of the following have **collectively** made within the previous twenty-four months, and that, if awarded a contract for the purchase of goods or services aggregating more than \$10,000 in a calendar year, none of the following **collectively** will make, beginning on the date the contract is awarded and extending until one year following the conclusion of the contract, one or more campaign contributions totaling in excess of \$2,000, to any member of the City of Moraine Council or their individual campaign committees:
- a. myself;
  - b. any partner or owner of the partnership or other unincorporated business (if applicable);
  - c. any shareholder of the professional association organized under Chapter 1785 of the Ohio Revised Code (if applicable);
  - d. any trustee of the trust (if applicable);
  - e. any administrator or executor of the estate (if applicable);
  - f. any owner of more than 20% of the corporation or business trust (if applicable);
  - g. each spouse of any person identified in (a) through (f) of this section;
  - h. each child seven years of age to seventeen years of age of any person identified in divisions (a) through (f) of this section;
  - i. any political action committee affiliated with the corporation, business trust, partnership or other unincorporated business, association, estate or trust identified in (a) through (f) of this section;
  - j. Any combination of persons identified in (a) through (i) of this section;
3. I do hereby acknowledge that to knowingly make any false statement herein may subject me and/or the above-named entity to the penalties set forth in Section 3517.992 of the Ohio Revised Code.

Further, Affiant, sayeth naught.

Signature \_\_\_\_\_ Title \_\_\_\_\_

Sworn to before me and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

The requirements of Ohio Revised Code Section 3517.13 are only applicable to contributions made **on or after April 4, 2007** (Section 631.05, Amended Substitute Ohio House Bill 119)



**Subcontractor Listing**

Please list any and all subcontractors, which will be used on the aforementioned project.

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Contact Person**

\_\_\_\_\_  
**Contact Person**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**Telephone Number**

\_\_\_\_\_  
**Telephone Number**

\_\_\_\_\_  
**Work being Performed**

\_\_\_\_\_  
**Work being Performed**

- **This form may be duplicated for additional subcontractor listings**



**Material Suppliers, Manufacturers, etc.**

Please list any and all material suppliers, manufacturers, etc. which will be used on the aforementioned project.

<b>Company Name</b>	<b>Company Name</b>
<b>Contact Person</b>	<b>Contact Person</b>
<b>Address</b>	<b>Address</b>
<b>Telephone Number</b>	<b>Telephone Number</b>
<b>Item(s) being Supplied</b>	<b>Item(s) being Supplied</b>

**\* Manufacturer’s material specification sheets and installation instructions must be submitted for approval as directed by the engineer.**

**\*\* This form may be duplicated for additional material suppliers, manufactures, etc. listings**



Ohio Department of Public Safety
Division of Homeland Security
http://www.homelandsecurity.ohio.gov

GOVERNMENT BUSINESS AND FUNDING CONTRACTS
In accordance with section 2909.33 of the Ohio Revised Code

DECLARATION REGARDING MATERIAL ASSISTANCE/NONASSISTANCE TO A TERRORIST ORGANIZATION

This form serves as a declaration of the provision of material assistance to a terrorist organization or organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List (see the Ohio Homeland Security Division website for a reference copy of the Terrorist Exclusion List).

Any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, "material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, and financial services that are in excess of one hundred dollars, as well as communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

Form with fields: LAST NAME, FIRST NAME, MIDDLE INITIAL, HOME ADDRESS, CITY, STATE, ZIP, COUNTY, HOME PHONE, WORK PHONE

COMPLETE THIS SECTION ONLY IF YOU ARE A COMPANY, BUSINESS OR ORGANIZATION

Form with fields: BUSINESS/ORGANIZATION NAME, BUSINESS ADDRESS, CITY, STATE, ZIP, COUNTY, PHONE NUMBER

DECLARATION

In accordance with division (A)(2)(b) of section 2909.32 of the Ohio Revised Code

For each question, indicate either "yes," or "no" in the space provided. Responses must be truthful to the best of your knowledge.

- 1. Are you a member of an organization on the U.S. Department of State Terrorist Exclusion List? [ ] Yes [ ] No
2. Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List? [ ] Yes [ ] No

GOVERNMENT BUSINESS AND FUNDING CONTRACTS - CONTINUED

3. Have you knowingly solicited funds or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List? <input type="checkbox"/> Yes <input type="checkbox"/> No
4. Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List? <input type="checkbox"/> Yes <input type="checkbox"/> No
5. Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S. Department of State Terrorist Exclusion List? <input type="checkbox"/> Yes <input type="checkbox"/> No
6. Have you hired or compensated a person you knew to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you knew to be engaged in planning, assisting, or carrying out an act of terrorism? <input type="checkbox"/> Yes <input type="checkbox"/> No

In the event of a denial of a government contract or government funding due to a positive indication that material assistance has been provided to a terrorist organization, or an organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List, a review of the denial may be requested. The request must be sent to the Ohio Department of Public Safety's Division of Homeland Security. The request forms and instructions for filing can be found on the Ohio Homeland Security Division website.

**CERTIFICATION**

I hereby certify that the answers I have made to all of the questions on this declaration are true to the best of my knowledge. I understand that if this declaration is not completed in its entirety, it will not be processed and I will be automatically disqualified. I understand that I am responsible for the correctness of this declaration. I understand that failure to disclose the provision of material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List, or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree. I understand that any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided by myself or my organization. If I am signing this on behalf of a company, business or organization, I hereby acknowledge that I have the authority to make this certification on behalf of the company, business or organization referenced on page 1 of this declaration.

X \_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**Attidavit**

Regarding payment of Montgomery County Personal Property Taxes (Contractor to fill and execute either Part A or Part B)

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, ss:

A. That\_ being duly sworn, affirms that as

Of \_\_\_\_\_, 2018, \_\_\_\_\_ is not charged with any

delinquent personal property taxes on the general tax list of personal property of Montgomery County, Ohio.

B. That \_\_\_\_\_, being duly sworn, affirms that

\_\_\_\_\_ is currently charged with Montgomery County

delinquent personal property taxes in the amount of \$\_\_\_\_\_ with interest

in the amount of \$\_\_\_\_\_ and penalties in the amount of

\$\_\_\_\_\_, due said Montgomery County, Ohio.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Notary Public in and for\_ County, Ohio

My commission expires:\_

**NOTE:**

If this statement indicates that the taxpayer was charged with any such taxes, a copy of the statement shall be transmitted by the Director of Finance to the County Treasurer within 30 days of the date it is submitted.

**NOTE:**

A copy of this statement shall be incorporated into the Contract, and no payment shall be made with respect to said Contract unless such statement has been incorporated as a part thereof.



**Affidavit - Drug and Alcohol Abuse Prevention and Testing Policy and Procedure**

This Affidavit is required when needed regarding existence of a program and compliance with the Omnibus Transportation Employee Testing Act of 1991 (the Act). The Act requires that any Contractor who supplies operators of safety sensitive equipment (gross vehicle weight of 26,001 or more pounds) provide a **Drug and Alcohol Abuse Prevention and Testing Policy and Procedure**. The program shall provide the minimal standards as stated in the Act and cover such issues as pre-employment, reasonable suspicion, random, post-accident, return-to-work and follow up testing of safety sensitive employees.

The Contractor to fill out and notarize this Affidavit and if successful in receiving the Contract may have to provide a copy of their Policy.

State of \_\_\_\_\_, County of \_\_\_\_\_, ss:

That \_\_\_\_\_, being duly sworn, affirms that

as of \_\_\_\_\_ 2018,

has developed and implemented a Drug and Alcohol Abuse Prevention and Testing Policy and Procedure in compliance with the Act.

\_\_\_\_\_  
Contractor

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Notary Public in and for \_\_\_\_\_ County, Ohio

My commission expires: \_\_\_\_\_

NOTE: A copy of this statement shall be incorporated into the Contract, and no payment shall be made with respect to said Contract unless such statements have been incorporated as a part thereof.



**Affidavit**

(To be filled in and executed if the Contractor is a Corporation)

State of \_\_\_\_\_ County of \_\_\_\_\_ ss:

\_\_\_\_\_, being duly sworn, deposes and says that  
he/she is Secretary of \_\_\_\_\_,

a corporation organized and existing under and by virtue of the laws of the  
State of \_\_\_\_\_ and having its principal office at:

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
County

Affiant further says that he is familiar with the records, State minute books and bylaws  
of \_\_\_\_\_ (Name of Corporation),

Affiant further says that \_\_\_\_\_ (Name of Officer),  
\_\_\_\_\_ (Title),

of the corporation is duly authorized to sign the Contract for the construction of the

**Deer Meadow Possum Creek Connector** for said corporation by virtue of \_\_\_\_\_ (State whether a provision of bylaws or a resolution of the Board of Directors. If by resolution, give date of adoption.)  
Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Notary Public in and for \_\_\_\_\_ County, Ohio

My commission expires: \_



**Non-Collusion Affidavit**

This affidavit is to be completed and executed by the Contractor.

State of Ohio, County of \_\_\_\_\_

\_\_\_\_\_(Name of Individual)

being first duly sworn, deposes and says that \_\_\_\_\_(Firm Name)

with offices located at:

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
County

is the \_\_\_\_\_(Corporate Officer).

Making the forgoing proposals or Bids that such Bids are genuine and not collusive or sham; such Contractor has not colluded, conspired, connived, or agreed, directly or indirectly, with any Contractor or person, to put in a sham Bid, or that such other person shall refrain from the Bidding and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the Bid price or affiant or any other Contractor, or to fix any overhead, profit or cost element of said Bid price, or of that of any other Contractor, or to secure any advantage against the City of Moraine, Ohio, or any person or persons interested in the proposed Contract; and that all statements contained in said proposal are true and further, that such Contractor has not, directly or indirectly submitted this Bid, or the contents thereof, or divulged any information or data relative thereto to any association or to any member or agent thereof.

Affiant \_\_\_\_\_

Firm Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_

Date \_\_\_\_\_