



AIA[®] Document A701[™] – 1997

Instructions to Bidders

for the following PROJECT:

(Name and location or address):

Self-Provisioned Fiber Project and Services Provided over Third Party Networks

THE OWNER:

(Name and address):

Board of Education of the Centerville City School District
111 Virginia Avenue
Centerville, Ohio 45458

THE ARCHITECT

(Name and address):

Levin Porter Architects
3011 Newmark Drive
Miamisburg, Ohio 45342

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ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

ARTICLE 1 DEFINITIONS

§ 1.1 Bidding Documents include the Bidding Requirements and the Contract Documents plus any other item designated as a Bidding Document. The Bidding Requirements consist of the Notice to Bidders, Instructions to Bidders, the bid form, bid security/bond, and other sample bidding and contract forms. The Contract Documents, which are inclusive of the Bidding Requirements, are enumerated and defined in the Agreement between the Owner and Contractor.

§ 1.2 Definitions set forth in the Agreement between Owner and Contractor or in other Contract Documents are applicable to the Bidding Documents.

§ 1.3 Addenda are written or graphic instruments issued by the Architect prior to the opening of bids which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.

§ 1.4 A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which Work may be added or from which Work may be deleted for sums stated in Alternate Bids.

§ 1.6 An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

§ 1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment or services or a portion of the Work as described in the Bidding Documents.

§ 1.8 A Bidder is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.

§ 1.9 Bid Form is the pricing worksheet or equivalent document completed by the Bidder reflecting the Bidder's pricing.

ARTICLE 2 BIDDER'S REPRESENTATIONS

§ 2.1 The Bidder by making a Bid represents that:

§ 2.1.1 The Bidder has read and understands the Bidding Documents, to the extent that such documentation relates to the Work for which the Bid is submitted, and for other portions of the Project, if any, being bid concurrently or presently under construction.

§ 2.1.2 The Bid is made in compliance with the Bidding Documents.

§ 2.1.3 The Bidder has visited the site and surrounding area, become familiar with the conditions under which the Work is to be performed (including but not limited to the condition, layout and nature of the site and surrounding area; the availability and cost of labor; the availability and cost of materials, supplies and equipment; the costs of temporary utilities required in the Bid; the cost of any required permit or license; the usual weather conditions of the Project location; conditions bearing upon transportation, disposal, handling and storage of equipment, materials and waste; and subsurface and concealed physical conditions and related information provided in the Contract Documents) and has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents.

§ 2.1.4 The Bid is based upon the materials, equipment and systems required by the Bidding Documents without exception.

§ 2.2 By submitting its Bid, the Bidder understands and agrees that the Contract Sum, based on its Bid and as amended by Change Orders, shall cover all amounts due from the Owner resulting from interference, disruption, hindrance or delay caused by or between Contractors or their agents and employees.

§ 2.3 The Bidder agrees that the Bidder will make no request for additional compensation or mitigation of Liquidated Damages for any such interference, disruption, hindrance or delay, and will accept as full satisfaction an extension of the Contract Time which may be provided by the Owner in accordance with the Contract Documents.

§ 2.4 When the Contract Documents refer to a period of time by a number of days, it excludes the first day and includes the last day of the period. If the last day of the period falls on a Saturday, Sunday, or a legal holiday, that day shall be omitted and the period shall end on the next day which is not a Saturday, Sunday, or legal holiday. The term “day” as used in the Instructions to Bidders shall mean a calendar day unless otherwise noted.

§ 2.5 The Bidder is strongly encouraged (and required, when designated by Owner as mandatory) to attend any pre-bid meetings where questions will be answered regarding the Bidding Documents. Each Bidder will be determined to have actual knowledge of all information provided or discussed at the prebid meeting, and additional compensation shall not be based upon the Bidder’s failure to attend the pre-bid meeting which results in the Bidder’s incomplete knowledge and familiarity of the Project requirements.

§ 2.6 Bidder is required to comply with all requirements of the Contract Documents, regardless of whether the Bidder has actual knowledge of the requirements and regardless of any statement or omission made by the Bidder that might indicate a contrary intention.

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 COPIES

§ 3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Notice to Bidders in the number and for the dollar amount, if any, stated therein.

§ 3.1.2

Bidders shall use complete sets of Bidding Documents in preparing Bids; neither the Owner nor Architect assume responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

§ 3.1.3 The Owner and Architect may make copies of the Bidding Documents available on the above terms for the purpose of obtaining Bids on the Work. No license or grant of use is conferred by issuance of copies of the Bidding Documents.

§ 3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

§ 3.2.1 The Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being bid concurrently or presently under construction to the extent that it relates to the Work for which the Bid is submitted, shall examine the site and local conditions, and shall at once report to the Architect errors, inconsistencies or ambiguities discovered.

§ 3.2.2 Bidders requiring clarification or interpretation of the Bidding Documents shall make a written request for information which shall reach the Architect at least seven (7) days prior to the date for receipt of bids. By submitting its bid, each Bidder represents and agrees, based upon its careful and diligent review of the Bidding Documents, that it is not aware of any conflicts, inconsistencies, errors or omissions in the Bidding Documents for which it has not timely notified the Architect. Bidders who fail to timely provide notification and to request clarification will be expected to overcome such conditions without additional compensation.

§ 3.2.3 Interpretations, corrections and changes of the Bidding Documents if determined by the Architect to be warranted will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon them.

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

§ 3.3 SUBSTITUTIONS

§ 3.3.1 The materials, products and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

§ 3.3.2 No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the Architect at least seven (7) days prior to the date for receipt of bids. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work, including changes in the work of other contracts that incorporation of the proposed substitution would require, shall be included. The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.3 If the Architect approves a proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. Approvals made in any other manner will not be binding, and Bidders shall not rely upon them.

§ 3.3.4 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

§ 3.4 ADDENDA

§ 3.4.1 Addenda will be transmitted to all who are known by the issuing office to have received a complete set of Bidding Documents and to plan rooms where copies of the Bidding Documents are maintained. The Addenda may be delivered by e-mail, facsimile, posted to a Web or FTP site, or otherwise furnished to each registered plan holder.

§ 3.4.2 Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

§ 3.4.3 If an Addendum is issued within 72 hours prior to the published time for the opening of Bids (excluding Saturdays, Sundays, and legal holidays), then the time for opening of Bids shall be extended one week with no further advertising of Bids required.

§ 3.4.4 Each Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid. If the Bidder fails to acknowledge receipt of each Addendum, the Bid may be deemed non-responsive, unless the Bid amount clearly and unambiguously reflects receipt of the Addendum or the Addendum involves only a matter of form and does not affect the price, quantity or quality of the Work to be performed in any material manner.

§ 3.5 BASIS OF DESIGN AND ACCEPTABLE COMPONENTS

§ 3.5.1 The Contract Documents may list components produced by specific manufacturers to denote kind, quality, or performance requirements. The component listed first is the basis of design component, and other listed components are acceptable components. If the Bidder includes an acceptable component in its Bid, the Bidder is responsible for the costs of coordination and modification required.

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 PREPARATION OF BIDS

§ 4.1.1 Bids shall be submitted on the forms included with the Bidding Documents. The Owner may solicit bids which combine two or more bid packages. The individual Base Bid amounts of each separate bid package need not total the combination Base Bid amount. The Owner reserves the right to accept or reject any or all separate bids or combination bids, in whole or in part, and in any order.

§ 4.1.2 All blanks on the bid form shall be legibly filled in using a non-erasable medium, and interlineations, alterations and erasures must be initialed in ink by the signer of the Bid.

§ 4.1.3 Sums shall be expressed in both words and figures. In case of discrepancy, the amount written in words shall govern.

§ 4.1.4. The wording on the Bid Form shall be used without change, alteration or addition. Any change in the wording or omission of specifying accompanying documents may cause the Bid to be rejected.

§ 4.1.5 When an Alternate is listed on the bid form, the Bidder shall fill in the blank with an amount to add to or

deduct from the Base Bid and where a Bidder has failed to indicate whether the Alternate bid amount is to be added to or deducted from the Base Bid, such Alternate shall be deemed to be an add Alternate. Voluntary Alternates are prohibited from becoming the basis of the Contract award.

§ 4.1.5.1 If no change in the Bid amount is required, indicate “No Change” or “\$0 dollars.” Failure to make an entry, or an entry of “No Bid,” “N/A,” or similar entry for any Alternate shall cause the Bid to be nonresponsive if that Alternate is selected. If the Alternate is not selected, such an entry on that Alternate will not itself render a Bidder nonresponsive.

§ 4.1.5.2 In a combined Bid, a blank entry or an entry of “No Bid,” “N/A,” or similar entry on an Alternate shall cause the Bid to be nonresponsive if that Alternate applies to the combined Bid and that Alternate is selected. If the Alternate is not selected, such an entry on that Alternate will not itself render a Bidder nonresponsive.

§ 4.1.6 Each copy of the Bid shall state the legal name of the Bidder and the nature of legal form of the Bidder. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation. For a Bid submitted by an agent, the Owner may require submission of a current power of attorney certifying the agent's authority to bind the Bidder. The Bidder may be required to provide evidence of legal authority to perform within the jurisdiction of the Work.

§ 4.1.7 In determining which Bid is the lowest, the Owner shall consider the Base Bid and any Alternate or Alternates which the Owner decides to accept, and the Owner reserves the right to accept or reject any or all bids on Alternates, in whole or in part, and in any order.

§ 4.1.8 If two or more Bidders submit the same bid amount and are determined to be responsive and responsible, the Owner may select one Bidder by lot in the presence of all such Bidders in such manner as the Owner shall determine and such selection shall be final.

§ 4.1.9 UNIT PRICES.

§ 4.1.9.1 When Unit Prices are requested on the bid form, the scheduled quantities listed are to be considered as approximate and are to be used only for the comparison of bids for purposes of award of the Contract and to determine the maximum quantity to be provided without a Change Order. If Unit Prices are stated to be sought only for informational purposes, they shall not be used for comparison of bids.

§ 4.1.9.2 Unless otherwise specified in the Bidding Documents, the Unit Prices set forth shall include all materials, equipment, labor, delivery, installation, overhead, profit and any other cost or expense, in connection with or incidental to, the performance of that portion of the Work to which the Unit Prices apply. The Bidder shall submit Unit Prices for all items listed unless other instructions are stated on the bid form.

§ 4.1.9.3 Where there is a conflict between a Unit Price and the extension thereof made by the Bidder, the Unit Price shall govern and a corrected extension of such Unit Price shall be made and such corrected extension shall be used for the comparison of the bids and to determine the maximum quantity to be provided without a Change Order.

§ 4.1.9.4 The Bidder agrees that the Owner may increase, decrease or delete entirely the scheduled quantities of Work to be done and materials to be furnished after execution of the Contract.

§ 4.1.9.5 Payments, except for lump sum items in Unit Price Contracts, will be made to the Contractor only for the actual quantities of Work performed or materials furnished in accordance with the Contract Documents.

§ 4.1.9.6 If the cost of an item for which a Unit Price is stated in the Contract changes substantially so that application of the Unit Price to the quantities of Work proposed will create an undue hardship on the Owner or the Contractor, the applicable Unit Price may be equitably adjusted by Change Order.

§ 4.1.10 ALLOWANCES

§ 4.1.10.1 If Allowances are provided in the Contract Documents, including the **Bid Form**, the amount of each applicable Allowance shall be included in the Base Bid amount.

§ 4.2 BID SECURITY/BOND

§ 4.2.1 Bid security payable to the Owner and meeting the requirements of Ohio Revised Code Sections 153.54 and 153.571 shall be submitted with the Bidders Bid in the form of either (i) a Bid Guaranty and Contract Bond (utilizing the form in the Bidding Documents) or (ii) a certified check, cashier's check or letter of credit. The bid security shall serve as an assurance that the Bidder will, upon acceptance of the Bid by the Owner, comply with all conditions for the execution of the Contract within the time specified.

§ 4.2.1.1. The amount of the Bid Guaranty and Contract Bond under Section 4.2.1(i) herein should be the full amount of the Bidder's Base Bid plus all add Alternates with no deduction for any deduct Alternates; a percentage is not acceptable. If the blank line on the Bid Guaranty and Contract Bond is not filled in, the penal sum will automatically be the full amount of the Base Bid plus all accepted Alternates. If an amount is inserted, then the failure to state an amount equal to or greater than the total of the base bid plus all add Alternates that are accepted shall make the bid non-responsive.

§ 4.2.1.2. A certified check, cashier's check or letter of credit under Section 4.2.1(ii) herein should be equal to ten (10) percent of the Base Bid plus all add Alternates, and a failure to provide an amount equal to or greater than ten (10) percent of the total of the Base Bid plus all add Alternates that are accepted shall make the bid non-responsive. Any letter of credit shall be revocable only by the Owner. Successful bidders that provide a bid security in the form of a certified check, cashier's check or letter of credit under Section 4.2.1(ii) and this subsection 4.2.1.2 shall, at the time of signing the Contract, provide a performance and payment bond meeting the requirements of Ohio Revised Code Section 153.54(C).

§ 4.2.1.3 Each bond must be issued by a surety capable of demonstrating a record of competent underwriting, efficient management, adequate reserves, and sound investments. These criteria will be met if the surety currently has an A.M. Best Company Rating of "A-" or higher. A bond must be signed by an authorized agent of an acceptable surety bonding company and by the Bidder. The bond must be issued by a surety company authorized by the Ohio Department of Insurance to transact business in the State of Ohio and a copy of that insurance company's certificate of compliance should be attached to the bond. Each bond shall also be supported by a power of attorney for the agent signing for the surety.

§ 4.2.2 FORFEITURE

§ 4.2.2.1 If for any reason, other than as authorized by Sections 4.4 and 4.5 herein, the Bidder fails to execute the Contract, and the Owner awards the Contract to another subsequent Bidder which the Owner determines is the lowest responsive and responsible Bidder, the Bidder who failed to enter into a Contract shall be liable to the Owner for the difference between such Bidder's Bid amount and the Bid amount of the subsequent Bidder awarded the Contract, but not to exceed ten (10) percent of the Bid amount of the Bidder who failed to enter into a Contract. For purposes of this Section 4.2.2, the Bid amount shall mean the Base Bid and Alternates selected by the Owner.

§ 4.2.2.2 If the subsequent Bidder also fails or refuses to execute the Contract, the liability of such subsequent Bidder shall be the amount of the difference between the Bid amount of such Subsequent Bidder and the Bid amount of another subsequent Bidder which the Owner determines is the lowest responsive and responsible Bidder, but not in excess of ten (10) percent of the Bid amount of the subsequent Bidder who failed to enter into a Contract. Liability on account of an award to each succeeding lowest responsible Bidder shall be determined in like manner.

§ 4.2.2.3 If the Owner does not award the Contract to another Bidder which the Owner determines is the next lowest responsible Bidder, but resubmits the Project for bidding, the Bidder failing to execute the Contract shall be liable to the Owner for the costs in connection with the resubmission, of printing new Bidding Documents, required advertising and printing and mailing notices to prospective Bidders, but not to exceed ten percent (10%) of such Bidder's bid amount.

§ 4.3 SUBMISSION OF BIDS

§ 4.3.1 The Bid, the bid security and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address and, if applicable, the designated portion of the Work for which the Bid is submitted. 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.

§ 4.3.2 Bids shall be delivered to the designated location not later than the time and date for receipt of Bids. The cancellation or delay of the normal business activities of the Owner shall not be construed as an extension of the time and date for the receipt and opening of Bids. Bids received after the time and date for receipt of Bids will be returned unopened regardless of the reason for the delay.

§ 4.3.3 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids, regardless of the method of delivery. Ample time should be allowed for transmittal of bids by mail or otherwise. Bidders should secure correct information relative to the probable time of arrival and distribution of mail at the place where Bids are to be opened.

§ 4.3.4 Oral, telephonic, telegraphic, facsimile or other electronically transmitted Bids will not be considered.

§ 4.3.5 Form of bid

§ 4.3.5.1 Bids shall not contain a recapitulation of the work to be done.

§ 4.3.5.2 Before submitting a Bid, Bidders should carefully examine all of the Bidding Documents, visit the site and fully inform themselves as to all existing conditions and limitations that may affect the Work. Each Contractor shall be responsible for its portion of the Work regardless of what Drawing it may appear on or Specification division it is described in.

§ 4.4 MODIFICATION OR WITHDRAWAL OF BID PRIOR TO BID OPENING

§ 4.4.1 Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder. Written confirmation over the signature of the Bidder shall be received, and date- and time-stamped by the receiving party on or before the date and time set for receipt of Bids. A modification to the bid amount shall be worded as not to reveal the amount of the original Bid, and changes shall provide an amount to be added to or subtracted from the bid amount so that the final bid amount can be determined only after the sealed envelope is opened.

Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders. Bid security shall be in an amount sufficient for the Bid as resubmitted.

§ 4.5 WITHDRAWAL OF BID AFTER BID OPENING

§ 4.5.1 Following the Bid opening, withdrawal of Bids shall be governed by Ohio Revised Code Section 9.31.

§ 4.5.2 A Bidder may withdraw a Bid from consideration after the bid opening if the bid amount was substantially lower than the amounts of other Bids, providing the Bid was submitted in good faith, and the reason for the bid amount being substantially lower was a clerical mistake, as opposed to a judgment mistake, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of Work, labor, or material made directly in the compilation of the bid amount.

§ 4.5.2.1 Notice of a request to withdraw a Bid shall be made in writing filed with the Owner within two (2) business days after the conclusion of the bid opening. The Owner reserves the right to request the Bidder to submit evidence substantiating the Bidder's request to withdraw the Bid.

§ 4.5.2.2 No Bid may be withdrawn under Section 4.5.2 which would result in awarding a Contract involving the same item on another Bid to the same Bidder.

§ 4.5.3 If a Bidder withdraws its Bid under Section 4.5.2, the Owner may award the Contract to the next lowest responsive and responsible Bidder, or reject all Bids and rebid the Project. In the event the Owner rebids the Project, the withdrawing Bidder shall pay the costs, in connection with the re-bidding, of printing new Contract Documents, required advertising, and printing and mailing of notices to prospective Bidders, if the Owner finds that these costs would not have been incurred but for the withdrawal.

§ 4.5.4 If the Owner contests the right of a Bidder to withdraw a Bid pursuant to Section 4.5.2, it shall hold a hearing within ten (10) days after the bid opening and the Owner shall issue an order allowing or denying the claim of this

right within five (5) days after the hearing is concluded. The Owner shall give the withdrawing Bidder timely notice of the time and place of the hearing. The Owner shall make a stenographic record of all testimony, other evidence, and rulings on the admissibility of evidence presented at the hearing, and the Bidder shall pay the costs of the hearing. Pursuant to Ohio Revised Code Section 119.12, the Bidder may appeal the order of the Owner.

§4.5.5 In the event the Owner denies the request for withdrawal and the Bidder elects to appeal or otherwise refuses to perform the Contract, the Owner may reject all Bids or award the Contract to the next lowest responsive and responsible Bidder.

§4.5.6 A Bidder who is permitted to withdraw a Bid under Section 4.5.2 shall not supply material or labor to, or perform a subcontract or other work for, the person to whom the Contract is awarded, or otherwise benefit, directly or indirectly, from the performance of the Project for which the withdrawn Bid was submitted, without the Owner's prior written consent. The person to whom the Contract was awarded and the withdrawing Bidder are jointly liable to the Owner in an amount equal to any compensation paid to or for the benefit of the withdrawing Bidder without such approval, in addition to the penalty provided for in Ohio Revised Code Section 2913.31.

§4.5.7 A request for a withdrawal of a Bid that is made more than two business days after the conclusion of the bid opening shall be subject to Section 4.2.2 herein.

ARTICLE 5 CONSIDERATION OF BIDS

§ 5.1 OPENING OF BIDS

§ 5.1.1 Bids received on time will be publicly opened and will be read aloud. An abstract of the Bids may be made available to Bidders. Bids will be recorded showing the date and time received. Bids received prior to the time of opening will be securely kept, unopened. No responsibility will be accepted for the premature opening of a Bid not properly addressed and identified.

§ 5.1.2 **The public opening and reading of Bids is for informational purposes only and is not to be construed as an acceptance or rejection of any Bid submitted.**

§ 5.1.3 **The contents of the bid envelope shall be a public record and open for inspection, upon request, at any time after the completion of the entire bid opening, except for any information that is not defined as a public record under Ohio law.**

§ 5.1.4 All bids shall remain open for acceptance for sixty (60) days following the day of the bid opening, but the Owner may, in its sole discretion, release any bid and return the bid security prior to that date.

§ 5.2 BID EVALUATION

§ 5.2.1 The Owner shall have the right in its sole discretion to reject any or all Bids and submit the Project or any components thereof for rebidding. A Bid not accompanied by a required bid security or by other data required by the Bidding Documents, or a Bid which is in any way incomplete or irregular is subject to rejection.

§ 5.2.2 The Owner will have the right to take such steps as it deems necessary to determine the responsibility of the Bidder and the ability of the Bidder to perform the Work, and the Bidder shall furnish the Owner and Architect such data for this purpose as they may request. Such data may include but not be limited to:

- § 5.2.2.1** Overall experience of the Bidder, including number of years in business under present and former business names. If the Bidder's management operates or has operated another construction company, the Owner may consider the work history of that company in determining the responsibility of the Bidder;
- § 5.2.2.2** Complete listing of all ongoing and completed public and private construction projects of the Bidder in the last three years, including the nature and value of each contract and a name/address/phone number for each owner;
- § 5.2.2.3** Complete listing of any public or private construction projects for which the Bidder has been declared in default; also, any EPA, OSHA or other regulating entity issues or citations in the last ten (10) years;
- § 5.2.2.4** Certified financial statement, bank references, and information concerning Bidder as reported by

- Dun & Bradstreet and other similar reporting services;
- § 5.2.2.5 Description of relevant equipment and facilities of the Bidder;
- § 5.2.2.6 Description of the management experience of the Bidder's project manager(s) and superintendent(s);
- § 5.2.2.7 Complete list of Subcontractors which the Bidder proposes to employ on the Project;
- § 5.2.2.8 Current Ohio Workers' Compensation Certificate;
- § 5.2.2.9 If the Bidder is a foreign corporation, i.e., not incorporated under the laws of Ohio, a Certificate of Good Standing from the Secretary of State showing the right of the Bidder to do business in the State; or, if the Bidder is a person or partnership, the Bidder has filed with the Secretary of State a Power of Attorney designating the Secretary of State as the Bidder's agent for the purpose of accepting service of summons in any action;
- § 5.2.2.10 Any prior rejections of a bid submitted by the Bidder on a public project.

§ 5.2.3 Failure to timely submit the requested information may be grounds for rejecting the Bid.

§ 5.2.4 The right is reserved to reject Bids where an investigation of the available evidence or information does not satisfy the Owner that the Bidder is a responsible bidder.

§ 5.2.5 Bids which contain qualifications or conditions that are contrary to the text or intent of the Contract Documents, and which are inserted in the Bid or submitted subsequent to the Bid opening for the purpose of limiting or otherwise qualifying the obligations of the Bidder, outside of the text or intent of the Bidding Documents, may be subject to disqualification.

§ 5.2.6 The Owner reserves the right to reject the Bid of a bidder who has previously failed to perform properly or to complete Contracts of a similar nature on time, who is not in a position to perform the Contract, or who has habitually, and without just cause neglected the payment of bills or otherwise disregarded its obligations to subcontractors, material persons, or employees.

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

§ 5.3 ACCEPTANCE OF BID (AWARD)

§ 5.3.1 The Owner reserves the right to waive, or to allow any Bidder a reasonable opportunity to cure, a minor irregularity or technical deficiency in a Bid, provided the irregularity or deficiency does not affect the bid amount or otherwise give the Bidder a competitive advantage.

§ 5.3.2 The Owner shall have the right to accept Alternates in any order or combination as desired by the Owner and to determine the low Bidder on the basis of the sum of the Base Bid and Alternates accepted. The Bidder further understands and acknowledges that use of add and deduct Alternates is a long held customary practice in the construction industry in the State of Ohio. The bidder understands that based on Alternates selected by the Owner, the Contract award to the lowest responsible bidder may result in an award to a bidder other than the bidder that submitted the lowest Base Bid.

(Paragraph Deleted)

§ 5.3.3 Subject to the right of the Owner to reject each and every Bid, the Owner will award the Contract for the Work to the lowest responsible Bidder. In determining which Bid is the lowest responsible bid, the Owner may take into consideration not only the amount of the Base Bid and the Bids for any Alternate the Owner determines to accept but such of the following criteria as Owner, in its discretion, deems appropriate, and Owner may give such

weight thereto as it deems appropriate:

- § 5.3.3.1 The Bidder's financial condition and ability to complete the Contract successfully without resort to its surety;
- § 5.3.3.2 The Bidder's prior experience, including experience with similar work on comparable or more complex projects;
- § 5.3.3.3 The competency and experience of the Bidder's proposed supervisory and management staff;
- § 5.3.3.4 The Bidder's prior history for the successful and timely completion of projects;
- § 5.3.3.5 The Bidder's equipment and facilities;
- § 5.3.3.6 The adequacy, in numbers and experience, of the Bidder's work force to complete the Contract successfully and on time;
- § 5.3.3.7 The Bidder's prior experience on other projects of the Owner, including the Bidder's demonstrated ability to complete its work on these projects in accordance with the Contract Documents and on time;
- § 5.3.3.8 The Bidder's history of compliance with federal, state, and local laws, rules, and regulations.
- § 5.3.3.9 A Bidder who submits a Bid for Work as a mechanical Contractor, i.e., for electrical, plumbing, hydronics, refrigeration or heating, ventilating and air conditioning, may be required to submit evidence of licensure by the Ohio Construction Industry Licensing Board;
- § 5.3.3.10 The Owner's prior experience with the Bidder's surety;
- § 5.3.3.11 The Bidder's interest in the Project as evidenced by its attendance at any pre-bid meetings or conferences for Bidder;
- § 5.3.3.12 The Bidder's ability to work with the Owner, Architect and other Project personnel as a willing, cooperative and successful team member;
- § 5.3.3.13 The Bidder shall certify it has not had a professional license revoked in the past five years in Ohio or in any other state;
- § 5.3.3.14 The Bidder shall certify it has not been debarred from any public contract, federal, state or local, in the past five years;
- § 5.3.3.15 Other essential factors as deemed appropriate by the Owner;
- § 5.3.3.16 The foregoing information with respect to each of the subcontractors and suppliers that the Bidder intends to use on the Project.

§5.3.4 With respect to the bids for the Self-Provisioned Fiber Network, Bidders must additionally meet the following criteria. Bidders failing to meet any of the criteria will be rejected as not responsive or responsible. To the extent the criteria in this Section 5.3.4 are inconsistent with the criteria set forth in Section 5.3.3, then this Section 5.3.4 shall control:

- § 5.3.4.1 The Bidders is in stable financial condition and has the ability to complete the Contract successfully without resort to its surety;
- § 5.3.4.2 The Bidder's prior experience, at least 5 years, includes experience with similar work on comparable or more complex projects;
- § 5.3.4.3 The Bidder's has a history, at least 5 years, of successful and timely completion of comparable or more complex projects;
- § 5.3.4.4 The Bidder owns the equipment necessary to complete the work on time;
- § 5.3.4.5 The Bidder's workforce is adequate, in numbers, experience, and training to complete the Contract successfully and on time;
- § 5.3.4.6 The Bidder is competent and experienced supervising and managing their staff;
- § 5.3.4.7 The Bidder's prior experience on other projects demonstrates ability to complete its work on these projects in accordance with the Contract Documents and on time;
- § 5.3.4.8 The Bidder has no history of compliance related issues related with federal, state, and local laws, rules, and regulations.
- § 5.3.4.9 The Bidder who submits a Bid for Work has provided evidence of licensure by the Ohio Construction Industry Licensing Board;
- § 5.3.4.10 The Bidder who submits a Bid for Work has necessary E-Rate qualified SPIN number;
- § 5.3.4.11 The Bidder attended at the pre-bid meeting;
- § 5.3.4.12 The Bidders is willing to work with the Owner, Architect and other Project personnel as a cooperative and successful team member;
- § 5.3.4.13 The Bidder has certified it has not had a professional license revoked in the past five years in Ohio or in any other state;

§ 5.3.4.14 The Bidder has certified it has not been debarred from any public contract, federal, state or local, in the past five years.

ARTICLE 6 POST-BID INFORMATION

§ 6.1 CONTRACTOR'S QUALIFICATION STATEMENT

Bidders to whom award of a Contract is under consideration shall submit to the Architect, as promptly as possible but no later than 48 hours after bid opening, a Contractor's Qualification Statement (using, unless otherwise specified, the AIA A305 form plus such supplements specified in the Project Manual) and Bidder shall thereafter promptly provide the Architect, but not later than 24 hours after request, with such additional information as the Architect may reasonably request regarding the Bidder's responsibility.

§ 6.2 SUBMITTALS

§ 6.2.1 The Bidder shall within 48 hours after bid opening, or such longer time as may be permitted by Owner, furnish to the Owner through the Architect in writing the following information. Failure to submit this information within the required time may be grounds for rejection of the Bid:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the manufacturers, products, and the suppliers of principal items or systems of materials and equipment proposed for the Work;
- .3 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;
- .4 the list of all proposed Subcontractors and suppliers; and
- .5 the breakdown of the labor and material for the Project, including the sum thereof.

§ 6.2.2 The Bidder will be required to establish to the satisfaction of the Owner the reliability and responsibility of the persons or entities proposed to furnish materials and perform the Work described in the Bidding Documents.

§ 6.2.3 Prior to the execution of the Contract, the Owner will notify the Bidder in writing if, after due investigation, the Owner has reasonable objection to a person or entity proposed by the Bidder. If the Owner has reasonable objection to a proposed person or entity, the Bidder shall submit an acceptable substitute person or entity at no additional cost to Owner.

§ 6.2.4 Persons and entities proposed by the Bidder and to whom the Owner has 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 Owner and Architect.

(Paragraph Deleted)

§ 6.3 NOTICE OF INTENT TO AWARD

§ 6.3.1 The Owner shall notify the apparent successful Bidder of the Owner's intent to accept the Bid of the Bidder upon satisfactory compliance by Bidder with the conditions specified in Section 8.4 herein. The Owner reserves the right in its sole discretion to rescind the notice at any time. The failure to submit requested information on a timely basis may result in the determination that the Bidder is not the lowest responsible Bidder.

§ 6.3.2 It is understood that issuance of the notice by the Owner does not constitute the formation of a Contract between Owner and Bidder, and it is further understood that acceptance by Owner of the Bidder's Bid and of the execution of a formal written Agreement by both the Owner and Bidder, which Agreement must contain a fiscal officer certificate as required by statute, are conditions to the formation of a Contract.

ARTICLE 7 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

Unless otherwise required in the Bidding Documents, the Agreement for the Work will be written on the Form of Agreement Between Owner and Contractor as contained in the Project Manual.

ARTICLE 8 SUPPLEMENTAL BIDDING INFORMATION

§ 8.1 Communications for the administration of the Contract shall be as set forth in the Contract and, in general, shall be through the Architect.

§

§ 8.2 If the Owner and a Bidder enter into a contract within 60 days of the Bid opening, the Contractor shall pay any and all material, labor or subcontract cost increases which have occurred since the Bid opening. Contracts entered into beyond the 60 day period may contain additional amounts for cost increases if the cause for delay is not the fault of the Contractor.

§ 8.3 By submitting a bid, the Bidder represents that the Bidder is not subject to a finding for recovery under Ohio Revised Code Section 9.24, or that Bidder has taken the appropriate remedial steps required under Ohio Revised Code Section 9.24, or otherwise qualifies under this section.

§ 8.4 Prior to the signing of a Contract, the successful bidder shall furnish (i) certificates of insurance meeting the requirement of the Contract, (ii) bond (if required by Section 4.2 herein), (iii) Ohio workers' compensation certificates, (iv) Ohio Secretary of State certification, (v) tax affidavit (Ohio Revised Code Section 5719.042), (vi) contractor consent to escrow agent/agreement or waiver of escrow, and (vii) Proof of enrollment in good standing in the Ohio Bureau of Workers' Compensation ("BWC") Drug-Free Workplace Program ("DFWP") or an equivalent BWC approved DFWP in accordance with Ohio Revised Code Sections 153.03 to 153.031.

§ 8.4.1 The award of the Contract and the execution of the Contract are based upon the expectation that the lowest responsible Bidder will comply with the conditions of Section 8.4.

§ 8.4.2 Noncompliance with the conditions within five (5) days of the date that the Bidder is notified of the notice of intent to award the Contract in accordance with Section 6.3 herein shall be cause for the Owner to cancel the award for the Bidder's lack of responsibility and award the Contract to another Bidder which the Owner determines is the next lowest responsive and responsible Bidder, or resubmit the Contract for bidding, at the discretion of the Owner.

§ 8.4.3 The Owner may extend the time for compliance with the conditions for good cause shown. No extension shall operate as a waiver of the conditions precedent for execution of the Contract.

(Paragraph Deleted)

§ 8.5 The award of separate Contracts for the Project requires sequential, coordinated and otherwise interrelated Contractor operations and may involve interference, disruption, hindrance or delay in the progress of any individual Contractor's Work. Each Contractor shall be an intended third party beneficiary of the Contract of each other Contractor performing Work on the Project.

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PAGE 1

(Name and location or ~~address~~address):

...

Self-Provisioned Fiber Project and Services Provided over Third Party Networks

...

(Name, legal status and address)(Name and address):

...

Board of Education of the Centerville City School District
111 Virginia Avenue
Centerville, Ohio 45458

...

THE ARCHITECT:ARCHITECT

...

(Name, legal status and address)(Name and address):

...

Levin Porter Architects
3011 Newmark Drive
Miamisburg, Ohio 45342

...

7 PERFORMANCE BOND AND PAYMENT BOND

...

8—FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

...

8 SUPPLEMENTAL BIDDING INFORMATION

PAGE 2

ARTICLE 1 DEFINITIONS

...

§ 1.1 Bidding Documents include the Bidding Requirements and the ~~proposed Contract Documents~~. Contract Documents plus any other item designated as a Bidding Document. The Bidding Requirements consist of the Advertisement or Invitation to Bid, Instructions to Bidders, Supplementary Notice to Bidders, Instructions to Bidders, the bid form, bid security/bond, and other sample bidding and contract forms. The ~~proposed Contract Documents~~ consist of the form of Agreement between the Owner and Contractor, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications and all Addenda issued prior to execution of the Contract. Contract Documents, which are inclusive of the Bidding Requirements, are enumerated and defined in the Agreement between the Owner and Contractor.

...

§ 1.2 Definitions set forth in the ~~General Conditions of the Contract for Construction, AIA Document A201, Agreement between Owner and Contractor~~ or in other Contract Documents are applicable to the Bidding Documents.

...

§ 1.3 Addenda are written or graphic instruments issued by the Architect prior to the ~~execution of the Contract~~ opening of bids which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.

...

§ 1.9 ~~A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment or labor for a portion of the Work.~~ Bid Form is the pricing worksheet or equivalent document completed by the Bidder reflecting the Bidder's pricing.

...

§ 2.1.1 The Bidder has read and understands the Bidding Documents or ~~Contract Documents~~, to the extent that such documentation relates to the Work for which the Bid is submitted, and for other portions of the Project, if any, being bid concurrently or presently under construction.

...

§ 2.1.3 The Bidder has visited the ~~site, become familiar with local site and surrounding area, become familiar with~~ the conditions under which the Work is to be performed (including but not limited to the condition, layout and nature of the site and surrounding area; the availability and cost of labor; the availability and cost of materials, supplies and equipment; the costs of temporary utilities required in the Bid; the cost of any required permit or license; the usual weather conditions of the Project location; conditions bearing upon transportation, disposal, handling and storage of equipment, materials and waste; and subsurface and concealed physical conditions and

related information provided in the Contract Documents) and has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents.

...

§ 2.2 By submitting its Bid, the Bidder understands and agrees that the Contract Sum, based on its Bid and as amended by Change Orders, shall cover all amounts due from the Owner resulting from interference, disruption, hindrance or delay caused by or between Contractors or their agents and employees.

PAGE 3

§ 2.3 The Bidder agrees that the Bidder will make no request for additional compensation or mitigation of Liquidated Damages for any such interference, disruption, hindrance or delay, and will accept as full satisfaction an extension of the Contract Time which may be provided by the Owner in accordance with the Contract Documents.

...

§ 2.4 When the Contract Documents refer to a period of time by a number of days, it excludes the first day and includes the last day of the period. If the last day of the period falls on a Saturday, Sunday, or a legal holiday, that day shall be omitted and the period shall end on the next day which is not a Saturday, Sunday, or legal holiday. The term "day" as used in the Instructions to Bidders shall mean a calendar day unless otherwise noted.

...

§ 2.5 The Bidder is strongly encouraged (and required, when designated by Owner as mandatory) to attend any pre-bid meetings where questions will be answered regarding the Bidding Documents. Each Bidder will be determined to have actual knowledge of all information provided or discussed at the prebid meeting, and additional compensation shall not be based upon the Bidder's failure to attend the pre-bid meeting which results in the Bidder's incomplete knowledge and familiarity of the Project requirements.

...

§ 2.6 Bidder is required to comply with all requirements of the Contract Documents, regardless of whether the Bidder has actual knowledge of the requirements and regardless of any statement or omission made by the Bidder that might indicate a contrary intention.

...

§ 3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Advertisement or Invitation to Bid Notice to Bidders in the number and for the deposit sum, if any, stated therein. The deposit will be refunded to Bidders who submit a bona fide Bid and return the Bidding Documents in good condition within ten days after receipt of Bids. The cost of replacement of missing or damaged documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the Bidding Documents and the Bidder's deposit will be refunded-dollar amount, if any, stated therein.

...

§ 3.1.2 Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the Advertisement or Invitation to Bid, or in supplementary instructions to bidders.

...

§ 3.1.3 Bidders shall use complete sets of Bidding Documents in preparing Bids; neither the Owner nor Architect ~~assumes~~ assume responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

...

§ 3.1.4-3.1.3 The Owner and Architect may make copies of the Bidding Documents available on the above terms for the purpose of obtaining Bids on the Work. No license or grant of use is conferred by issuance of copies of the Bidding Documents.

...

§ 3.2.2 ~~Bidders and Sub-bidders~~ requiring clarification or interpretation of the Bidding Documents shall make a written request for information which shall reach the Architect at least seven (7) days prior to the date for receipt of ~~Bids~~ bids. By submitting its bid, each Bidder represents and agrees, based upon its careful and diligent review of the Bidding Documents, that it is not aware of any conflicts, inconsistencies, errors or omissions in the Bidding Documents for which it has not timely notified the Architect. Bidders who fail to timely provide notification and to request clarification will be expected to overcome such conditions without additional compensation.

...

§ 3.2.3 Interpretations, corrections and changes of the Bidding Documents if determined by the Architect to be warranted will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon them.

...

§ 3.2.4 In interpreting the Bidding Documents, words describing materials that have a well-known technical or trade meaning, unless otherwise defined in the Bidding Documents, shall be construed in accordance with the wellknown meaning recognized by the

...

§-trade.

...

§ 3.3 SUBSTITUTIONS

PAGE 4

§ 3.3.2 No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the Architect at least ~~ten~~ seven (7) days prior to the date for receipt of ~~Bids~~ bids. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work, including changes in the work of other contracts that incorporation of the proposed substitution would require, shall be included. The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

...

§ 3.3.3 If the Architect approves a proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. ~~Bidders shall not rely upon approvals made in any other manner.~~ Approvals made in any other manner will not be binding, and Bidders shall not rely upon them.

...

§ 3.4.1 Addenda will be transmitted to all who are known by the issuing office to have received a complete set of ~~Bidding Documents.~~ Documents and to plan rooms where copies of the Bidding Documents are maintained. The Addenda may be delivered by e-mail, facsimile, posted to a Web or FTP site, or otherwise furnished to each registered plan holder.

...

§ 3.4.3 ~~Addenda will be issued no later than four days prior to the date for receipt of Bids except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.~~ If an Addendum is issued within 72 hours prior to the published time for the opening of Bids (excluding Saturdays, Sundays, and legal holidays), then the time for opening of Bids shall be extended one week with no further advertising of Bids required.

...

§ 3.4.4 Each Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid. If the Bidder fails to acknowledge receipt of each Addendum, the Bid may be deemed non-responsive, unless the Bid amount clearly and unambiguously reflects receipt of the Addendum or the Addendum involves only a matter of form and does not affect the price, quantity or quality of the Work to be performed in any material manner.

...

§ 3.5 BASIS OF DESIGN AND ACCEPTABLE COMPONENTS

...

§ 3.5.1 The Contract Documents may list components produced by specific manufacturers to denote kind, quality, or performance requirements. The component listed first is the basis of design component, and other listed components are acceptable components. If the Bidder includes an acceptable component in its Bid, the Bidder is responsible for the costs of coordination and modification required.

...

§ 4.1.1 Bids shall be submitted on the forms included with the Bidding Documents. The Owner may solicit bids which combine two or more bid packages. The individual Base Bid amounts of each separate bid package need not total the combination Base Bid amount. The Owner reserves the right to accept or reject any or all separate bids or combination bids, in whole or in part, and in any order.

...

§ 4.1.2 All blanks on the bid form shall be legibly ~~executed in a non-erasable medium.~~ filled in using a non-erasable medium, and interlineations, alterations and erasures must be initialed in ink by the signer of the Bid.

...

§ 4.1.4 ~~Interlineations, alterations and erasures must be initialed by the signer of the Bid.~~ The wording on the Bid Form shall be used without change, alteration or addition. Any change in the wording or omission of specifying accompanying documents may cause the Bid to be rejected.

~~§ 4.1.5 All requested Alternates shall be bid. When an Alternate is listed on the bid form, the Bidder shall fill in the blank with an amount to add to or deduct from the Base Bid and where a Bidder has failed to indicate whether the Alternate bid amount is to be added to or deducted from the Base Bid, such Alternate shall be deemed to be an add Alternate. Voluntary Alternates are prohibited from becoming the basis of the Contract award.~~

...

~~§ 4.1.5.1~~ If no change in the Base-Bid amount is required, enter "No Change."

...

~~§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture indicate "No Change" or "\$0 dollars." Failure to make an entry, or an entry of "No Bid," "N/A," or similar entry for any Alternate shall cause the Bid to be nonresponsive if that Alternate is selected. If the Alternate is not selected, such an entry on that Alternate will not itself render a Bidder nonresponsive.~~

...

~~of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall make no additional stipulations on the bid form nor qualify the Bid in any other manner.~~ § 4.1.5.2 In a combined Bid, a blank entry or an entry of "No Bid," "N/A," or similar entry on an Alternate shall cause the Bid to be nonresponsive if that Alternate applies to the combined Bid and that Alternate is selected. If the Alternate is not selected, such an entry on that Alternate will not itself render a Bidder nonresponsive.

...

~~§ 4.1.7~~ § 4.1.6 Each copy of the Bid shall state the legal name of the Bidder and the nature of legal form of the Bidder. The Bidder shall provide evidence of legal authority to perform within the jurisdiction of the Work. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached incorporation. For a Bid submitted by an agent, the Owner may require submission of a current power of attorney certifying the agent's authority to bind the Bidder. The Bidder may be required to provide evidence of legal authority to perform within the jurisdiction of the Work.

...

§ 4.2 BID SECURITY § 4.1.7 In determining which Bid is the lowest, the Owner shall consider the Base Bid and any Alternate or Alternates which the Owner decides to accept, and the Owner reserves the right to accept or reject any or all bids on Alternates, in whole or in part, and in any order.

...

~~§ 4.2.1 Each Bid shall be accompanied by~~ § 4.1.8 If two or more Bidders submit the same bid amount and are determined to be responsive and responsible, the Owner may select one Bidder by lot in the presence of all such Bidders in such manner as the Owner shall determine and such selection shall be final.

...

§ 4.1.9 UNIT PRICES.

...

~~a bid security~~ § 4.1.9.1 When Unit Prices are requested on the bid form, the scheduled quantities listed are to be considered as approximate and are to be used only for the comparison of bids for purposes of award of the Contract and to determine the maximum quantity to be provided without a Change Order. If Unit Prices are stated to be sought only for informational purposes, they shall not be used for comparison of bids.

...

~~in the form and amount required if so stipulated in the Instructions~~ § 4.1.9.2 Unless otherwise specified in the Bidding Documents, the Unit Prices set forth shall include all materials, equipment, labor, delivery, installation, overhead, profit and any other cost or expense, in connection with or incidental to, the performance of that portion of the Work to which the Unit Prices apply. The Bidder shall submit Unit Prices for all items listed unless other instructions are stated on the bid form.

...

~~to Bidders~~ § 4.1.9.3 Where there is a conflict between a Unit Price and the extension thereof made by the Bidder, the Unit Price shall govern and a corrected extension of such Unit Price shall be made and such corrected extension shall be used for the comparison of the bids and to determine the maximum quantity to be provided without a Change Order.

...

~~The Bidder pledges~~ § 4.1.9.4 The Bidder agrees that the Owner may increase, decrease or delete entirely the scheduled quantities of Work to be done and materials to be furnished after execution of the Contract.

...

~~to enter into~~ § 4.1.9.5 Payments, except for lump sum items in Unit Price Contracts, will be made to the Contractor only for the actual quantities of Work performed or materials furnished in accordance with the Contract Documents.

...

§ 4.1.9.6 If the cost of an item for which a ~~Contract with~~ Unit Price is stated in the Contract changes substantially so that application of the Unit Price to the quantities of Work proposed will create an undue hardship on the Owner or the Contractor, the applicable Unit Price may be equitably adjusted by Change Order.

...

§ 4.1.10 ALLOWANCES

...

§ 4.1.10.1 If Allowances are provided in the Contract Documents, including the **Bid Form**, the amount of each applicable Allowance shall be included in the Base Bid amount.

§ 4.2 BID SECURITY/BOND

...

the Owner on the terms stated in the Bid and will, if required, furnish bonds covering the faithful performance of the Contract **§ 4.2.1** Bid security payable to the Owner and meeting the requirements of Ohio Revised Code Sections 153.54 and 153.571 shall be submitted with the Bidders Bid in the form of either (i) a Bid Guaranty and Contract Bond (utilizing the form in the Bidding Documents) or (ii) a certified check, cashier's check or letter of credit. The bid security shall serve as an assurance that the Bidder will, upon acceptance of the Bid by the Owner, comply with all conditions for the execution of the Contract within the time specified.

...

and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall **§ 4.2.1.1**. The amount of the Bid Guaranty and Contract Bond under Section 4.2.1(i) herein should be the full amount of the Bidder's Base Bid plus all add Alternates with no deduction for any deduct Alternates; a percentage is not acceptable. If the blank line on the Bid Guaranty and Contract Bond is not filled in, the penal sum will automatically be the full amount of the Base Bid plus all accepted Alternates. If an amount is inserted, then the failure to state an amount equal to or greater than the total of the base bid plus all add Alternates that are accepted shall make the bid non-responsive.

...

be forfeited to the Owner as liquidated damages, not as a penalty. The amount of the bid security shall not be forfeited to the Owner in the event the Owner fails to comply with Section 6.2 **§ 4.2.1.2**. A certified check, cashier's check or letter of credit under Section 4.2.1(ii) herein should be equal to ten (10) percent of the Base Bid plus all add Alternates, and a failure to provide an amount equal to or greater than ten (10) percent of the total of the Base Bid plus all add Alternates that are accepted shall make the bid non-responsive. Any letter of credit shall be revocable only by the Owner. Successful bidders that provide a bid security in the form of a certified check, cashier's check or letter of credit under Section 4.2.1(ii) and this subsection 4.2.1.2 shall, at the time of signing the Contract, provide a performance and payment bond meeting the requirements of Ohio Revised Code Section 153.54(C).

...

§ 4.2.2 If a surety bond is required, it shall be written on AIA Document A310, Bid Bond, unless otherwise provided in the Bidding Documents, and the attorney in fact who executes the bond on behalf of the surety **4.2.1.3** Each bond must be issued by a surety capable of demonstrating a record of competent underwriting, efficient management, adequate reserves, and sound investments. These criteria will be met if the surety currently has an A.M. Best Company Rating of "A-" or higher. A bond must be signed by an authorized agent of an acceptable surety bonding company and by the Bidder. The bond must be issued by a surety company authorized by the Ohio Department of Insurance to transact business in the State of Ohio and a copy of that insurance company's certificate of compliance should be attached to the bond. Each bond shall also be supported by a power of attorney for the agent signing for the surety.

...

§ 4.2.2 FORFEITURE

...

shall affix to the bond a certified and current copy of the power of attorney **§ 4.2.2.1** If for any reason, other than as authorized by Sections 4.4 and 4.5 herein, the Bidder fails to execute the Contract, and the Owner awards the

Contract to another subsequent Bidder which the Owner determines is the lowest responsive and responsible Bidder, the Bidder who failed to enter into a Contract shall be liable to the Owner for the difference between such Bidder's Bid amount and the Bid amount of the subsequent Bidder awarded the Contract, but not to exceed ten (10) percent of the Bid amount of the Bidder who failed to enter into a Contract. For purposes of this Section 4.2.2, the Bid amount shall mean the Base Bid and Alternates selected by the Owner.

...

~~§ 4.2.3~~ The Owner will have the right to retain the bid security of Bidders to whom an award ~~4.2.2~~ If the subsequent Bidder also fails or refuses to execute the Contract, the liability of such subsequent Bidder shall be the amount of the difference between the Bid amount of such Subsequent Bidder and the Bid amount of another subsequent Bidder which the Owner determines is the lowest responsive and responsible Bidder, but not in excess of ten (10) percent of the Bid amount of the subsequent Bidder who failed to enter into a Contract. Liability on account of an award to each succeeding lowest responsive Bidder shall be determined in like manner.

...

~~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 Bids may be withdrawn or (c) all Bids have been rejected.~~ § 4.2.3 If the Owner does not award the Contract to another Bidder which the Owner determines is the next lowest responsible Bidder, but resubmits the Project for bidding, the Bidder failing to execute the Contract shall be liable to the Owner for the costs in connection with the resubmission, of printing new Bidding Documents, required advertising and printing and mailing notices to prospective Bidders, but not to exceed ten percent (10%) of such Bidder's bid amount.

...

§ 4.3.1 All copies of the Bid, the bid security, if any, The Bid, the bid security and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address and, if applicable, the designated portion of the Work for which the Bid is submitted. 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.

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~~§ 4.3.2~~ Bids shall be deposited at the designated location prior to delivered to the designated location not later than the time and date for receipt of Bids. The cancellation or delay of the normal business activities of the Owner shall not be construed as an extension of the time and date for the receipt and opening of Bids. Bids received after the time and date for receipt of Bids will be returned unopened-unopened regardless of the reason for the delay.

...

§ 4.3.3 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids. Bids, regardless of the method of delivery. Ample time should be allowed for transmittal of bids by mail or otherwise. Bidders should secure correct information relative to the probable time of arrival and distribution of mail at the place where Bids are to be opened.

...

§ 4.3.4 Oral, telephonic, telegraphic, facsimile or other electronically transmitted bids-Bids will not be considered.

...

§ 4.4 MODIFICATION OR WITHDRAWAL OF BID 4.3.5 Form of bid

...

§ 4.4.1 A Bid may not be modified, withdrawn or canceled by 4.3.5.1 Bids shall not contain a recapitulation of the work to be done.

...

the Bidder during the stipulated time period following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting a Bid. § 4.3.5.2 Before submitting a Bid, Bidders should carefully examine all of the Bidding Documents, visit the site and fully inform themselves as to all existing conditions and limitations that may affect the Work. Each Contractor shall be responsible for its portion of the Work regardless of what Drawing it may appear on or Specification division it is described in.

...

§ 4.4.2 4.4 MODIFICATION OR WITHDRAWAL OF BID PRIOR TO BID OPENING

...

§ 4.4.1 Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder. Written confirmation over the signature of the Bidder shall be received, and date- and time-stamped by the receiving party on or before the date and time set for receipt of Bids. A ~~change shall be so~~ modification to the bid amount shall be worded as not to reveal the amount of the original Bid. Bid, and changes shall provide an amount to be added to or subtracted from the bid amount so that the final bid amount can be determined only after the sealed envelope is opened.

...

~~§ 4.4.3~~ Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders. Bid security shall be in an amount sufficient for the Bid as resubmitted.

...

§ 4.4.4 § 4.5 WITHDRAWAL OF BID AFTER BID OPENING

...

§ 4.5.1 Following the Bid opening, withdrawal of Bids shall be governed by Ohio Revised Code Section 9.31.

...

~~Bid security, if required, § 4.5.2~~ A Bidder may withdraw a Bid from consideration after the bid opening if the bid amount was substantially lower than the amounts of other Bids, providing the Bid was submitted in good faith, and the reason for the bid amount being substantially lower was a clerical mistake, as opposed to a judgment mistake, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of Work, labor, or material made directly in the compilation of the bid amount.

...

§ 4.5.2.1 Notice of a request to withdraw a Bid shall be made in writing filed with the Owner within two (2) business days after the conclusion of the bid opening. The Owner reserves the right to request

the Bidder to submit evidence substantiating the Bidder's request to withdraw the Bid.

...

§4.5.2.2 No Bid may be withdrawn under Section 4.5.2 which would result in awarding a Contract involving the same item on another Bid to the same Bidder.

...

§4.5.3 If a Bidder withdraws its Bid under Section 4.5.2, the Owner may award the Contract to the next lowest responsive and responsible Bidder, or reject all Bids and rebid the Project. In the event the Owner rebids the Project, the withdrawing Bidder shall pay the costs, in connection with the re-bidding, of printing new Contract Documents, required advertising, and printing and mailing of notices to prospective Bidders, if the Owner finds that these costs would not have been incurred but for the withdrawal.

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§4.5.4 If the Owner contests the right of a Bidder to withdraw a Bid pursuant to Section 4.5.2, it shall hold a hearing within ten (10) days after the bid opening and the Owner shall issue an order allowing or denying the claim of this right within five (5) days after the hearing is concluded. The Owner shall give the withdrawing Bidder timely notice of the time and place of the hearing. The Owner shall make a stenographic record of all testimony, other evidence, and rulings on the admissibility of evidence presented at the hearing, and the Bidder shall pay the costs of the hearing. Pursuant to Ohio Revised Code Section 119.12, the Bidder may appeal the order of the Owner.

...

§4.5.5 In the event the Owner denies the request for withdrawal and the Bidder elects to appeal or otherwise refuses to perform the Contract, the Owner may reject all Bids or award the Contract to the next lowest responsive and responsible Bidder.

...

an amount sufficient for the §4.5.6 A Bidder who is permitted to withdraw a Bid under Section 4.5.2 shall not supply material or labor to, or perform a subcontract or other work for, the person to whom the Contract is awarded, or otherwise benefit, directly or indirectly, from the performance of the Project for which the withdrawn Bid was submitted, without the Owner's prior written consent. The person to whom the Contract was awarded and the withdrawing Bidder are jointly liable to the Owner in an amount equal to any compensation paid to or for the benefit of the withdrawing Bidder without such approval, in addition to the penalty provided for in Ohio Revised Code Section 2913.31.

...

Bid as resubmitted. §4.5.7 A request for a withdrawal of a Bid that is made more than two business days after the conclusion of the bid opening shall be subject to Section 4.2.2 herein.

...

At the discretion of the Owner, if stipulated in the Advertisement or Invitation to Bid, the properly identified
§ 5.1.1 Bids received on time will be publicly opened and will be read aloud. An abstract of the Bids may be made available to Bidders. Bids will be recorded showing the date and time received. Bids received prior to the time of

opening will be securely kept, unopened. No responsibility will be accepted for the premature opening of a Bid not properly addressed and identified.

...

§ 5.1.2 The public opening and reading of Bids is for informational purposes only and is not to be construed as an acceptance or rejection of any Bid submitted.

...

§ 5.1.3 The contents of the bid envelope shall be a public record and open for inspection, upon request, at any time after the completion of the entire bid opening, except for any information that is not defined as a public record under Ohio law.

...

§ 5.1.4 All bids shall remain open for acceptance for sixty (60) days following the day of the bid opening, but the Owner may, in its sole discretion, release any bid and return the bid security prior to that

...

§ date.

...

5.2 REJECTION OF BIDS § 5.2 BID EVALUATION

...

§ 5.2.1 The Owner shall have the right to reject any or all Bids, in its sole discretion to reject any or all Bids and submit the Project or any components thereof for rebidding. A Bid not accompanied by a required bid security or by other data required by the Bidding Documents, or a Bid which is in any way incomplete or irregular is subject to rejection.

...

§ 5.3 ACCEPTANCE OF BID (AWARD) § 5.2.2 The Owner will have the right to take such steps as it deems necessary to determine the responsibility of the Bidder and the ability of the Bidder to perform the Work, and the Bidder shall furnish the Owner and Architect such data for this purpose as they may request. Such data may include but not be limited to:

...

§ 5.3.1 It is the intent of the Owner § 5.2.2.1 Overall experience of the Bidder, including number of years in business under present and former business names. If the Bidder's management operates or has operated another construction company, the Owner may consider the work history of that company in determining the responsibility of the Bidder;

...

§ 5.2.2.2 Complete listing of all ongoing and completed public and private construction projects of the Bidder in the last three years, including the nature and value of each contract and a

name/address/phone number for each owner;

...

§ 5.2.2.3 Complete listing of any public or private construction projects for which the Bidder has been declared in default; also, any EPA, OSHA or other regulating entity issues or citations in the last ten (10) years;

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§ 5.2.2.4 Certified financial statement, bank references, and information concerning Bidder as reported by Dun & Bradstreet and other similar reporting services;

...

§ 5.2.2.5 Description of relevant equipment and facilities of the Bidder;

...

§ 5.2.2.6 Description of the management experience of the Bidder's project manager(s) and superintendent(s);

...

to award § 5.2.2.7 Complete list of Subcontractors which the Bidder proposes to employ on the Project;

...

§ 5.2.2.8 Current Ohio Workers' Compensation Certificate;

...

a Contract to the lowest qualified Bidder provided the Bid has been § 5.2.2.9 If the Bidder is a foreign corporation, i.e., not incorporated under the laws of Ohio, a Certificate of Good Standing from the Secretary of State showing the right of the Bidder to do business in the State; or, if the Bidder is a person or partnership, the Bidder has filed with the Secretary of State a Power of Attorney designating the Secretary of State as the Bidder's agent for the purpose of accepting service of summons in any action;

...

submitted in accordance with § 5.2.2.10 Any prior rejections of a bid submitted by the Bidder on a public project.

...

the requirements § 5.2.3 Failure to timely submit the requested information may be grounds for rejecting the Bid.

...

of the Bidding Documents and does not exceed § 5.2.4 The right is reserved to reject Bids where an investigation of the available evidence or information does not satisfy the Owner that the Bidder is a responsible bidder.

...

the funds available. § 5.2.5 Bids which contain qualifications or conditions that are contrary to the text or intent of the Contract Documents, and which are inserted in the Bid or submitted subsequent to the Bid opening for the purpose of limiting or otherwise qualifying the obligations of the Bidder, outside of the text or intent of the Bidding Documents, may be subject to disqualification.

...

The Owner shall have the right to waive informalities and irregularities in a Bid received. § 5.2.6 The Owner reserves the right to reject the Bid of a bidder who has previously failed to perform properly or to complete Contracts of a similar nature on time, who is not in a position to perform the Contract, or who has habitually, and without just cause neglected the payment of bills or otherwise disregarded its obligations to subcontractors, material persons, or employees.

...

and to accept the Bid which, in the Owner's judgment, is §5.2.7 The Bidder authorizes the Owner and its representatives to contact the owners and professionals (including but not limited to architects, engineers and construction managers) on projects on which the Bidder has worked, and Bidder authorizes such owners and professionals to provide the Owner with a candid evaluation of the Bidder's performance. By submitting its bid, the Bidder agrees that if it or any person, directly or indirectly, on its behalf or for its benefit brings an action against any of such owners or professional or the employees of any of them as a result of or related to such candid evaluation, the Bidder will indemnify and hold harmless such owners and professionals and the employees of any of them from any claims whether or not proven that are part of or are related to such action and from all legal fees and expenses incurred by any of them arising out of or related to such legal action. This obligation is expressly intended for the benefit of such owners and professionals, and the employees of each of them.

...

§ 5.3 ACCEPTANCE OF BID (AWARD)

...

§ 5.3.1 The Owner reserves the right to waive, or to allow any Bidder a reasonable opportunity to cure, a minor irregularity or technical deficiency in the Owner's own best interests a Bid, provided the irregularity or deficiency does not affect the bid amount or otherwise give the Bidder a competitive advantage.

...

§ 5.3.2 The Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, combination as desired by the Owner and to determine the low Bidder on the basis of the sum of the Base Bid and Alternates accepted. The Bidder further understands and acknowledges that use of add and deduct Alternates is a long held customary practice in the construction industry in the State of Ohio. The bidder understands that based on Alternates selected by the Owner, the Contract award to the lowest responsible bidder may result in an award to a bidder other than the bidder that submitted the lowest Base Bid.

...

ARTICLE 6 – POST-BID INFORMATION

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§5.3.3 Subject to the right of the Owner to reject each and every Bid, the Owner will award the Contract for the Work to the lowest responsible Bidder. In determining which Bid is the lowest responsible bid, the Owner may take into consideration not only the amount of the Base Bid and the Bids for any Alternate the Owner determines to accept but such of the following criteria as Owner, in its discretion, deems appropriate, and Owner may give such weight thereto as it deems appropriate:

...

§ 5.3.3.1 The Bidder's financial condition and ability to complete the Contract successfully without resort to its surety;

...

§ 5.3.3.2 The Bidder's prior experience, including experience with similar work on comparable or more complex projects;

...

§ 5.3.3.3 The competency and experience of the Bidder's proposed supervisory and management staff;

...

§ 5.3.3.4 The Bidder's prior history for the successful and timely completion of projects;

...

§ 5.3.3.5 The Bidder's equipment and facilities;

...

~~§ 6.1 CONTRACTOR'S QUALIFICATION STATEMENT~~ §5.3.3.6 The adequacy, in numbers and experience, of the Bidder's work force to complete the Contract successfully and on time;

...

~~Bidders to whom award~~ § 5.3.3.7 The Bidder's prior experience on other projects of the Owner, including the Bidder's demonstrated ability to complete its work on these projects in accordance with the Contract Documents and on time;

...

§ 5.3.3.8 The Bidder's history of compliance with federal, state, and local laws, rules, and regulations.

...

~~a Contract is under consideration shall submit~~ § 5.3.3.9 A Bidder who submits a Bid for Work as a mechanical Contractor, i.e., for electrical, plumbing, hydronics, refrigeration or heating, ventilating and air conditioning, may be required to submit evidence of licensure by the Ohio Construction Industry Licensing Board;

...

§ 5.3.3.10 The Owner's prior experience with the Bidder's surety;

...

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

to the Architect, upon request, a properly executed AIA Document A305, Contractor's Qualification Statement, unless such § 5.3.3.12 The Bidder's ability to work with the Owner, Architect and other Project personnel as a willing, cooperative and successful team member;

...
a Statement § 5.3.3.13 The Bidder shall certify it has not had a professional license revoked in the past five years in Ohio or in any other state;

...
§ 5.3.3.14 The Bidder shall certify it has been previously required not been debarred from any public contract, federal, state or local, in the past five years;

...
§ 5.3.3.15 Other essential factors as deemed appropriate by the Owner;

...
and submitted as a prerequisite § 5.3.3.16 The foregoing information with respect to each of the subcontractors and suppliers that the Bidder intends to use on the Project.

...
to the issuance of Bidding Documents. §5.3.4 With respect to the bids for the Self-Provisioned Fiber Network, Bidders must additionally meet the following criteria. Bidders failing to meet any of the criteria will be rejected as not responsive or responsible. To the extent the criteria in this Section 5.3.4 are inconsistent with the criteria set forth in Section 5.3.3, then this Section 5.3.4 shall control:

...
~~§ 6.2 OWNER'S FINANCIAL CAPABILITY~~ §5.3.4.1 The Bidders is in stable financial condition and has the ability to complete the Contract successfully without resort to its surety;

...
§ 5.3.4.2 The Bidder's prior experience, at least 5 years, includes experience with similar work on comparable or more complex projects;

...
The Owner shall, at § 5.3.4.3 The Bidder's has a history, at least 5 years, of successful and timely completion of comparable or more complex projects;

...
the request of the Bidder § 5.3.4.4 The Bidder owns the equipment necessary to complete the work on time;

...

~~to whom award of a Contract~~ § 5.3.4.5 The Bidder's workforce is adequate, in numbers, experience, and training to complete the Contract successfully and on time;

...

~~is under consideration and no later than seven days~~ § 5.3.4.6 The Bidder is competent and experienced supervising and managing their staff;

...

~~The Bidder's prior experience on other projects demonstrates ability to the expiration complete its work on these projects in accordance with the Contract Documents and on time;~~ § 5.3.4.7

...

§ 5.3.4.8 The Bidder has no history of compliance related issues related with federal, state, and local laws, rules, and regulations.

...

~~The Bidder who submits a Bid for Work has provided evidence of the time licensure by the Ohio Construction Industry Licensing Board;~~ § 5.3.4.9

...

~~for withdrawal of Bids, furnish~~ § 5.3.4.10 The Bidder who submits a Bid for Work has necessary E-Rate qualified SPIN number;

...

§ 5.3.4.11 The Bidder attended at the pre-bid meeting;

...

§ 5.3.4.12 The Bidders is willing to work with the Owner, Architect and other Project personnel as a cooperative and successful team member;

...

~~Bidder reasonable evidence that financial arrangements have~~ § 5.3.4.13 The Bidder has certified it has not had a professional license revoked in the past five years in Ohio or in any other state;

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~~been made~~ § 5.3.4.14 The Bidder has certified it has not been debarred from any public contract, federal, state or local, in the past five years.

...

ARTICLE 6 POST-BID INFORMATION

...

§ 6.1 CONTRACTOR'S QUALIFICATION STATEMENT

...

to fulfill the Owner's obligations under the Contract. Unless such reasonable evidence is furnished, the Bidder will not be required to execute the Agreement between the Owner and Contractor. Bidders to whom award of a Contract is under consideration shall submit to the Architect, as promptly as possible but no later than 48 hours after bid opening, a Contractor's Qualification Statement (using, unless otherwise specified, the AIA A305 form plus such supplements specified in the Project Manual) and Bidder shall thereafter promptly provide the Architect, but not later than 24 hours after request, with such additional information as the Architect may reasonably request regarding the Bidder's responsibility.

...

§ 6.3-6.2 SUBMITTALS

...

~~§ 6.3.1~~ The Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, after notification of selection for the award of a Contract, ~~6.2.1~~ The Bidder shall within 48 hours after bid opening, or such longer time as may be permitted by Owner, furnish to the Owner through the Architect in ~~writing~~ writing the following information. Failure to submit this information within the required time may be grounds for rejection of the Bid:

...

.2 names of the manufacturers, products, and the suppliers of principal items or systems of materials and equipment proposed for the Work; and

...

.3 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; Work;

...

.4 the list of all proposed Subcontractors and suppliers; and

...

.5 the breakdown of the labor and material for the Project, including the sum thereof.

...

~~§ 6.3.2-6.2.2~~ The Bidder will be required to establish to the satisfaction of the ~~Architect and~~ Owner the reliability and responsibility of the persons or entities proposed to furnish materials and perform the Work described in the Bidding Documents.

...

~~§ 6.3.3-6.2.3~~ Prior to the execution of the Contract, the ~~Architect-Owner~~ will notify the Bidder in writing if ~~either the Owner or Architect, after due investigation, if, after due investigation, the Owner~~ has reasonable objection to a person or entity proposed by the Bidder. If the Owner ~~or Architect~~ has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, (1) ~~withdraw the Bid or~~ (2) shall submit an acceptable substitute person or entity with an adjustment in the Base Bid or Alternate Bid to cover the difference in cost occasioned by such substitution. The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited. at no additional cost to Owner.

...

~~§ 6.3.4~~~~6.2.4~~ Persons and entities proposed by the Bidder and to whom the Owner and Architect have has 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 Owner and Architect.

...

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

...

§ 7.1 BOND REQUIREMENTS~~6.3~~ **NOTICE OF INTENT TO AWARD**

...

~~§ 7.1.1~~ If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Bonds may be secured through the Bidder's usual sources.~~6.3.1~~ The Owner shall notify the apparent successful Bidder of the Owner's intent to accept the Bid of the Bidder upon satisfactory compliance by Bidder with the conditions specified in Section 8.4 herein. The Owner reserves the right in its sole discretion to rescind the notice at any time. The failure to submit requested information on a timely basis may result in the determination that the Bidder is not the lowest responsible Bidder.

...

~~§ 7.1.2~~ If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall ~~6.3.2~~ It is understood that issuance of the notice by the Owner does not constitute the formation of a Contract between Owner and Bidder, and it is further understood that acceptance by Owner of the Bidder's Bid and of the execution of a formal written Agreement by both the Owner and Bidder, which Agreement must contain a fiscal officer certificate as required by statute, are conditions to the formation of a Contract.

...

ARTICLE 7 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

...

be added to the Bid in determining the Contract Sum. Unless otherwise required in the Bidding Documents, the Agreement for the Work will be written on the Form of Agreement Between Owner and Contractor as contained in the Project Manual.

...

ARTICLE 8 SUPPLEMENTAL BIDDING INFORMATION

...

~~§ 7.1.3~~ If the Owner requires that bonds be secured from other than the Bidder's usual sources, changes in cost will be adjusted as provided in the Contract Documents.~~8.1~~ Communications for the administration of the Contract shall be as set forth in the Contract and, in general, shall be through the Architect.

~~§ 7.2 TIME OF DELIVERY AND FORM OF BONDS~~

...

~~§ 7.2.1~~ The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. ~~If~~ **8.2** If the Owner and a Bidder enter into a contract within 60 days of the Bid opening, the Contractor shall pay any and all material, labor or subcontract cost increases which have occurred since the Bid opening. Contracts entered into beyond the 60 day period may contain additional amounts for cost increases if the cause for delay is not the fault of the Contractor.

...

~~the Work is to be commenced prior thereto in response~~ **§ 8.3** By submitting a bid, the Bidder represents that the Bidder is not subject to a finding for recovery under Ohio Revised Code Section 9.24, or that Bidder has taken the appropriate remedial steps required under Ohio Revised Code Section 9.24, or otherwise qualifies under this section.

...

~~to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.~~ **§ 8.4** Prior to the signing of a Contract, the successful bidder shall furnish (i) certificates of insurance meeting the requirement of the Contract, (ii) bond (if required by Section 4.2 herein), (iii) Ohio workers' compensation certificates, (iv) Ohio Secretary of State certification, (v) tax affidavit (Ohio Revised Code Section 5719.042), (vi) contractor consent to escrow agent/agreement or waiver of escrow, and (vii) Proof of enrollment in good standing in the Ohio Bureau of Workers' Compensation ("BWC") Drug-Free Workplace Program ("DFWP") or an equivalent BWC approved DFWP in accordance with Ohio Revised Code Sections 153.03 to 153.031.

...

~~§ 7.2.2~~ Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond. Both bonds shall be written in the amount of the Contract Sum. **8.4.1** The award of the Contract and the execution of the Contract are based upon the expectation that the lowest responsible Bidder will comply with the conditions of Section 8.4.

...

~~§ 7.2.3~~ The bonds shall be dated on or after the date of the Contract. **8.4.2** Noncompliance with the conditions within five (5) days of the date that the Bidder is notified of the notice of intent to award the Contract in accordance with Section 6.3 herein shall be cause for the Owner to cancel the award for the Bidder's lack of responsibility and award the Contract to another Bidder which the Owner determines is the next lowest responsive and responsible Bidder, or resubmit the Contract for bidding, at the discretion of the Owner.

...

~~§ 7.2.4~~ The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney. **8.4.3** The Owner may extend the time for compliance with the conditions for good cause shown. No extension shall operate as a waiver of the conditions precedent for execution of the Contract.

...

ARTICLE 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

...

Unless otherwise required in the Bidding Documents, the Agreement for the Work will be written on AIA Document A101, Standard Form of Agreement Between Owner and Contractor Where the Basis of Payment Is a Stipulated Sum. § 8.5 The award of separate Contracts for the Project requires sequential, coordinated and otherwise interrelated Contractor operations and may involve interference, disruption, hindrance or delay in the progress of any individual Contractor's Work. Each Contractor shall be an intended third party beneficiary of the Contract of each other Contractor performing Work on the Project.



Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:21:38 on 07/20/2018 under Order No. 2694747181 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A701™ - 1997, Instructions to Bidders, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)