

CONTRACT DOCUMENTS

**MAINTENANCE
OF
INFRASTRUCTURE
IN
BLACK CREEK TOWNSHIP
ON AN AS NEEDED BASIS**

May 2024

**BLACK CREEK TOWNSHIP
1980 Tomhicken Rd.
Bloomsburg, PA 17815**

INVITATION TO BID

Black Creek Township will receive Bids for maintenance work to Township infrastructure on an emergency or as needed basis until **Thursday, May 9, 2024 at 1:00 p.m.** Bids will be publicly opened at the regularly scheduled meeting of Black Creek Township Board of Supervisors on May 9, 2024 at 6:00 p.m. at the Black Creek Township Municipal Building, 1980 Tomhicken Rd. Bloomsburg, PA 17815. The Township reserves the right to reject any Bids or waive any irregularities.

Donald G. Karpowich, Esquire
Black Creek Township Solicitor
85 Drasher Road
Drums, PA 18222

Please publish the above ad in the April 22 and April 29 editions of the Standard Speaker in the legal notices. **PLEASE SEND PROOF OF PUBLICATION AND INVOICE TO:**

Black Creek Township
c/o Jennifer Hall, Secretary
1980 Tomhicken Rd.
Bloomsburg, PA 17815

INVITATION TO BIDDERS

Sealed Bids are invited and will be received by Black Creek Township for maintenance of infrastructure on an as needed basis.

Bids must be made on the attached Bid Form and in accordance with the attached Instructions to Bidders.

Sealed bids will be received by the Black Creek Township Board of Supervisors, 1980 Tomhicken Rd., Bloomsburg, PA 17815, until **Thursday, May 9, 2024 at 1:00 PM.**

Sealed Bids shall be addressed to Black Creek Township Board of Supervisors, and marked "Bid for Infrastructure Maintenance".

Bids will be opened at a meeting of the Black Creek Township Board of Supervisors scheduled for Thursday, May 9, 2024 at 6:00 PM. at the Black Creek Township Municipal Building, 1980 Tomhicken Rd., Bloomsburg, PA 17815.

The Township will award a Contract or reject Bids within 60 days from the date the Bids are opened. All Bids submitted shall remain valid for a period of 60 days from the date the Bid is opened.

The issuance of this Solicitation constitutes only an invitation to submit a responsive bid to the Township. Notwithstanding any other provision of this Solicitation, the Township reserves the right to determine in its sole discretion, whether any aspect of a Bid satisfactorily meets the criteria established in this Solicitation, to waive any informalities or irregularities in any Bid, to reject any or all proposals with or without cause, and to take any other action which the Township deems appropriate.

The Township intends to select the Bidder which, in its sole opinion, presents the *lowest, responsive, responsible* Bid which best serves the interests of the Township.

This Solicitation consists of the Invitation to Bid, Instructions to Bidders, Bid Form, Bidder's Affidavit, Affidavit of Non-collusion, Qualification Questionnaire, Contract and Specifications. Terms which are defined in the Contract shall have the same meaning when used in the other documents which comprise this Solicitation.

The procedures set forth in this Solicitation are for the convenience of the Township and shall not give rise to any rights of any person. In the event that a contract is not awarded for any reason, or in the event that this Solicitation is withdrawn for any reason, the Township shall have no liability to any person for any costs or expenses incurred in connection with this Solicitation, the Bids or the transactions contemplated by this Solicitation or otherwise.

Each Bid shall contain the following documents:

- *Cover Letter
- *Bid Form
- *Certificate of Insurance
- *Qualification Questionnaire

- *Affidavit on Non-Collusion
- *Bidders Affidavit

If the Township awards the Contract, it shall consist of the above documents and the following additional documents:

- *Contract
- *Insurance

(hereinafter collectively the “Contract Documents”). By submitting a Bid, Bidders agree to be legally bound by all of the terms, conditions and provisions of the Contract Documents, and to perform the services or work for which the Bidder is awarded the Contract.

By submitting a Bid, a Bidder warrants that the Bidder:

- (a) Has had an opportunity to review and inspect all pertinent Contract Documents and all the attachments;
- (b) Has had an opportunity to inspect the infrastructure within the Township at which the Work may be performed, and the conditions under which the Work may be performed; and
- (c) Has not discovered any ambiguities or discrepancies in the Work description, specification, or other terms or conditions of the Contract Documents, and all attachments.

The successful Bidder will be required to abide by all federal, state and local laws, ordinances, rules and regulations.

The Township is an Equal Opportunity Employer.

INSTRUCTIONS TO BIDDERS

1. SEALED BIDS OR PROPOSALS

Sealed bids will be received by the Black Creek Township Board of Supervisors, 1980 Tomhicken Rd., Bloomsburg, Pennsylvania 18715 until Thursday, May 9, 2024 at 1:00 PM.

Sealed Bids shall be addressed to Black Creek Township Board of Supervisors, and marked "Bid for Infrastructure Maintenance".

2. SCOPE OF WORK

The work to be performed shall be maintenance of infrastructure on an emergency or as needed basis.

3. SITE INSPECTION

Bidders shall inspect the Township and its infrastructure before submitting a bid. A Bidder warrants and agrees that in formulating and submitting a bid the bidder has relied solely upon the bidder's own judgment as to the amount and nature of the work to be performed in formulating a bid price.

The successful Bidder shall not be relieved of the obligation to execute a Contract or to fully perform all obligations under the Contract, as a result of any error, miscalculation or omission in the inspection of the sites for Work or the computation of the cost of the Work to be performed. Bidders shall assume all risks whether or not patent, latent, known, hidden, or foreseeable. The Bidder is presumed to have investigated and examined all Contract Documents and has full knowledge and understanding of the same.

4. CONTRACT TIMES

The Contract shall be for a period of twenty-four months from the date of the award of the Contract. When Work is awarded under the Contract the Contractor shall be readily available to the Township and the Work shall be completed to the satisfaction of the Township.

5. LEGAL REQUIREMENTS

The performance of the Contract will be subject to all applicable federal, state and local laws, ordinances and regulations. Before submitting a Bid each Bidder must become familiar with federal, state and local laws, ordinances, rules, and regulations that may in any manner affect cost, progress and performance of the Contract.

6. PREPARATION OF BIDS

Bidders must submit bids on forms provided by the Township.

If the Contract is awarded, the Contract will be awarded to the bidder who submits the *lowest, responsible, responsive* bid, which in the sole opinion of the Township, best serves its interest.

(a) Low Bid. The low Bid shall be the bid, which presents the lowest total price to the Township for the performance of the Contract for its entire term. In the event that two or more bidders submit identical bid prices, the Township may choose one bidder as successful on the basis of such other criteria as the Township deems best, including without limitation, the relative responsibility of the bidders.

(b) Responsible Bid. The responsibility of a bidder is determined on the basis of the competence of the bidder to perform the Work. The competence of a bidder is based on those factors deemed relevant to the Township, including without limitation, financial resources, financial history, experience with similar contracts and any other matters, which might have a bearing on the ability of the bidder to successfully perform the Contract. Responsibility will be determined initially by the information submitted with the bid, with further inquiries conducted as deemed necessary by the Township.

(c) Responsive Bid. The responsiveness of a bid is determined by compliance of the bid with all of the requirements of this Solicitation. The Township may, in its sole discretion, reject a bid as non-responsive if it fails in any respect; however minor, to conform to the particular terms of this Solicitation. The Township may, in its sole discretion, waive any irregularity in any bid.

Bids must be submitted on the Bid Form and be completed in ink or be typewritten. The bid prices must be stated in words and numerals. Discrepancies between words and figures will be resolved in favor of words. Nothing contained in this paragraph shall be construed to prohibit the Township from rejecting any bids, which contain discrepancies.

Bids must be complete and consist of the following documents:

- *Cover Letter*
- *Bid Form*
- *Certificate of Insurance*
- *Qualification Questionnaire*
- *Affidavit on Non-Collusion*
- *Bidders Affidavit*

7. AUTHORIZED PERSONS AND SIGNATURES

Each bid submitted shall be accompanied by a cover letter bearing an original signature of an authorized officer of the bidder committing the bidder, if selected, to carry out the proposed Work in accordance with the Invitation to Bid and/or the provisions of this Solicitation. The cover letter must state that all information submitted with the Bid is accurate, that the Bid is made without any understanding, agreement or in connection

with any other person submitting a Bid that the Bid is, in all respects, fair and without collusion and fraud, and must identify all of the documents included with the Bid.

All Bid forms requiring signatures must be signed by the authorized representative of the Bidder. When the Bidder is a partnership the Bid must be signed in the name of the partnership by one or more of the general partners and such signatures shall be witnessed. When the Bidder is a corporation, the bid must be signed by an authorized officer whose signature shall be attested by a duly authorized officer and shall bear the seal of the corporation. The title of the officer so signing must be stated. The person signing the bid must file with it legal evidence of his or her authority to sign, and the bid must include a certified copy of a resolution of the corporate board of directors indicating the officer's authority to make such a proposal or bid.

8. BID SECURITY OR BID BOND

Since the Work is being bid on a unit price or an emergency basis there is no bid bond required. However, if the successful Bidder fails to execute and deliver the Contract Documents within 15 days of notice of the award of the Contract, then the successful Bidder's Bid may be rejected and the Township may decide to award the Contract to the next lowest, responsive, responsible Bidder. In such case the provisions of this paragraph shall apply to the next lowest, responsive and responsible Bidder.

9. CERTIFICATE OF INSURANCE

Each Bid must be submitted with a Certificate of Insurance issued by an insurance company authorized to do business within the Commonwealth of Pennsylvania and satisfactory to the Authority evidencing the existence of the mandatory minimum coverage required by this paragraph.

The Certificate of Insurance shall designate the Authority as an additional insured and shall, at a minimum, provide the following types and amounts of insurance coverage:

Worker's Compensation	Statutory Minimum
Employer's Liability	\$1,000,000.00
Bodily Injury Liability	\$1,000,000.00 per person
Except Automobile per occurrence	\$1,000,000.00 aggregate
Property Damage Liability	\$1,000,000.00 per occurrence
Except Automobile	
Automobile Bodily Injury	\$1,000,000.00 per person
Liability per occurrence	\$1,000,000.00 aggregate
Automobile Property Damage	\$1,000,000.00 per liability occurrence
Excess Umbrella Liability	\$2,000,000.00 each occurrence

These insurance policies shall be maintained and designed to protect the Township from any and all claims for damages of any kind or any nature; whatsoever, including, but not limited to wrongful death, which may arise from the obligation of the Contractor in the performance of the Contract, whether such obligation be controlled by the Contractor or by someone either directly or indirectly employed by the Contractor for purposes of accomplishing some obligation imposed upon the Contractor by the terms of the Contract.

All insurance policies shall remain in full force and effect until the expiration of the terms of the Contract or until completion of all duties to be performed by the Contractor under the Contract, whichever shall occur later.

10. WITHDRAWAL OF BID OR PROPOSAL

No bid may be withdrawn, altered or otherwise modified once it has been opened by the Township. The Township reserves the right to retain all bids for official record purposes or to dispose of the same, whichever the Township may deem appropriate. No bids or copies of bids will be returned to any bidder.

11. INTERPRETATION

It is the duty of bidders to request clarification of any ambiguities, discrepancies or errors in this Invitation or Solicitation to Bid. Any request for clarification must be submitted to the Township in writing not less than 10 days from the date bids are to be opened. Any supplemental instructions that are deemed necessary by the Township will be forwarded in writing to all bidders, who have as a matter of record, received this Solicitation or Invitation to Bid. Any and all addenda issued under this Solicitation or Invitation to Bid shall be signed by the bidders and returned with their bids. Failure of any bidder to receive such supplemental instructions shall not relieve the bidder from obligations under the bid submitted, nor from any obligation to conform to the requirements herein.

12. QUALIFICATION OF BIDDERS

Each bidder must complete and sign the Qualification Questionnaire. Bidders are advised to provide complete information and may use supplementary pages if required to provide an accurate and comprehensive description of their qualifications.

The Township may reject any bid received if the qualifications questionnaire fails to satisfy the Township that such bidder is qualified to carry out the obligations of this Contract and to complete the Work as specified. Each bidder shall be required to complete and sign the affidavit of qualifications included herewith and made a part of this proposal; and failure to do so may result in the classification of such a bid as being unqualified.

The Township may make such investigations as deemed necessary to determine the ability of the bidder to perform the Work. If requested, the bidder shall furnish the

Township with all such information and data for the purposes as the Township may request. The Township reserves the right to reject any bid if the evidence submitted by, or the investigation of, such bidder fails to satisfy the Township that the bidder is properly qualified to carry out the obligations of the Contract. **Conditional bids will not be accepted.**

13. AFFIDAVIT OF NON-COLLUSION

Each bidder shall be required to submit an Affidavit of Non-collusion on the form included in and made a part of this Proposal.

14. CONTRACT AND BONDS

The successful Bidder shall, within 15 days after notification of award, enter into the written contract included in and made a part of this Proposal with the Township. Prior to performing any Work, the contractor may be required to give the Township a performance and payment bonds with an approved surety company authorized to do business in the Commonwealth of Pennsylvania, in the amount of one hundred (100%) percent of the contract amount. The Bonding and Power of Attorney shall be received by the Township when requested within 15 days of notice of Work. When bonding is required by the Township, the Contractor shall supply a two (2) year Warranty Maintenance Bond covering all materials and workmanship starting on the date of Final Completion by all parties in the total amount of the project. Otherwise, the Contractor shall still be required to warranty any of the work for a period of two (2) years.

15. PRICE

The price quoted shall include all of the costs arising out of or related to the performance of the Contract, and no additional compensation shall be expected by or paid to the successful bidder.

16. AWARD OF CONTRACT

Award of the Contract, if made, will be made within 60 days following the opening of bids, to the lowest, responsive, responsible bidder who, in the judgment of the Township, best serves its interests.

The Township reserves the right to make further inquiry into the responsibility of the apparent low bidder after bid opening. A bidder warrants by the submission of a bid that the bidder will cooperate fully with such inquiries including, without limitation:

(a) Submitting additional information or documentation to support statements made on the Qualification Questionnaire, a bidder's financial status, or any other aspects of the bid; and

(b) Making available for inspection by the Township, its agents, employees or representatives the Bidder's equipment and facilities.

The Township reserves the right to award work to different bidders depending upon the unit prices for the items bid.

BID FORM

TO: Black Creek Township

DATE: _____

BID OF: _____

NAME

ADDRESS

The Bidder hereby represents as follows:

1. The undersigned has carefully examined the instructions, specifications and contract documents and thoroughly understands their stipulations, requirements and provisions.

2. The undersigned has inspected the infrastructure and the conditions relating to the Work.

3. No officer, agent or employee of the Township is personally interested, directly or indirectly, in this Proposal and accompanying contract or the compensation to be paid hereunder.

4. The cost of any work performed, materials furnished, services provided or expenses incurred for Work called for in the Contract Documents but for which no special compensation item has been provided shall be deemed to have been included in the prices for bid.

5. If awarded the Contract, the undersigned Bidder agrees to enter into and perform the Contract and to execute and deliver the Contract Documents, including any required Performance Bond during the Contract, to the Township in accordance with the terms of the Solicitation.

6. Communications regarding the Bid may be addressed to the person and address indicated on the cover letter.

7. The undersigned agrees that this Bid is irrevocable, once opened by the Township, and shall remain subject to acceptance by the Township for a period of 60 days after the date of opening.

Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

EQUIPMENT WITH OPERATOR COSTS

Item Number	Description	Unit	Unit Price	(Spelled Out)
1	Skid Steer, (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
2	Backhoe (Cat 416 or Equivalent, Including all Equipment and Operator Costs)	Per/Hr	_____	_____
3	Mini Excavator, (10,000 lb) (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
4	Excavator (30,000 lb) (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
5	Dump Truck, 10,000-24,999 GVWR (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
6	Dump Truck, 25,000-35,000 GVWR (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
7	Dump Truck, Tandem Axle (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
8	Loader, Rubber Tire (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
9	Compactor, Hand Operated (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
10	Static Roller 5 to 9 Ton (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
11	Vibratory Roller 3 to 7 Ton (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
12	Pavement Miller, 4' width (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
13	Skid Steer Mounted Curb Miller (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
14	Brooms and Sweeping Equipment (Including all Equipment and Operator Costs)	Per/Hr	_____	_____
15	Hand Operated Concrete/ Pavement Saw 14" (Including all Equipment Cost)	Per/Hr	_____	_____
16	Self Propelled Concrete/ Pavement Saw 24" (Including all Equipment Cost)	Per/Hr	_____	_____
17	Paver, 8' minimum width (Including all Equipment Cost)	Per/Hr	_____	_____
18	General Laborer	Per/Hr	_____	_____

EQUIPMENT RENTAL WITHOUT OPERATOR

Item Number	Description	Unit	Unit Price	(Spelled Out)
1	Skid Steer,	Per/Hr	_____	_____
2	Backhoe (Cat 416 or Equivalent)	Per/Hr	_____	_____
3	Mini Excavator, (10,000 lb)	Per/Hr	_____	_____
4	Excavator (30,000 lb)	Per/Hr	_____	_____
5	Dump Truck, 10,000-24,999 GVWR	Per/Hr	_____	_____
6	Dump Truck, 25,000-35,000 GVWR	Per/Hr	_____	_____
7	Dump Truck, Tandem Axle	Per/Hr	_____	_____
8	Loader, Rubber Tire	Per/Hr	_____	_____
9	Compactor, Hand Operated	Per/Hr	_____	_____
10	Static Roller 5 to 9 Ton	Per/Hr	_____	_____
11	Vibratory Roller 3 to 7 Ton	Per/Hr	_____	_____
12	Pavement Miller, 4' minimum width	Per/Hr	_____	_____
13	Skid Steer Mounted Curb Miller	Per/Hr	_____	_____
14	Brooms and Sweeping Equipment	Per/Hr	_____	_____
15	Hand Operated Concrete/ Pavement Saw 14"	Per/Hr	_____	_____
16	Self Propelled Concrete/ Pavement Saw 24"	Per/Hr	_____	_____
17	Paver, 8' minimum width	Per/Hr	_____	_____

**A BIDDER MAY BID EITHER EQUIPMENT WITH AN OPERATOR OR
EQUIPMENT WITHOUT AN OPERATOR OR BOTH**

SIGNATURES:

SUBMITTED BY:

When Bidder is an Individual _____ (Seal)

Bidder

Trading or doing business as

When Bidder is a Partnership

By: _____ (Seal)

By: _____ (Seal)

By: _____ (Seal)

When Bidder is a Corporation

By: _____
Signature

(Corporate Seal)

Print Name

Attest:

Secretary

QUALIFICATION QUESTIONNAIRE

In Accordance with the Solicitation, each Bidder shall provide the following information as part of the proposal:

1. When Organized? _____
2. How many years of experience do you have in construction (Bidder and/or Bidder's parent, subsidiary or affiliated corporation) ? _____
3. List all the municipalities for which your organization has provided construction work and the names of the municipal official in each with the responsibility for your Contract.

Municipality	Municipal Official
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

4. Indicate the local telephone number for your office, which will be available during all working hours to receive calls from Township Officials.

5. For each piece of equipment that you bid, please provide the following information:

- Type, make, model
- License Number
- Name of Body Manufacturer
- Year Manufactured
- Capacity Gross Vehicle Weight
- Purpose for which Used
- (Submit pictures of equipment to be used)

7. If a corporation, state:

- A. Date when organized _____
- B. State of Incorporation _____
- C. Is the corporation now in good standing? _____
- D. Is the corporation authorized to conduct business in Pennsylvania? _____

- E. What is the Corporation's tax identification number? _____

8. If a partnership state:

- A. Is the partnership a general partnership or a limited partnership?

- B. Furnish names and addresses of all Partners:

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

- C. Is the partnership authorized to conduct business in Pennsylvania?

- D. What is the partnership's tax identification number? _____

9. Have you failed at any time to complete and/or default on a contract or job awarded to you? _____ If so, identify with whom and state the circumstances.

10. List Bank References:

11. Describe your operation plan to respond to emergencies or complaints.

_____, 20____

CONTRACT

THIS CONTRACT made this ____ day of _____, 2024, by and between _____

(hereinafter “Contractor”) and BLACK CREEK TOWNSHIP, a Second-Class Township and Municipal Corporation with a municipal office address of 1980 Tomhicken Rd. Bloomsburg, Pennsylvania (hereinafter “Township”).

Township and Contractor, in consideration of the mutual covenants hereinafter set forth and intending to be legally bound thereby, agree as follows:

ARTICLE 1. PROJECT, CONTACT PERSONS AND REPRESENTATIVES.

1.1. PROJECT. The project is to provide Maintenance Infrastructure within Black Creek Township, Luzerne County, Pennsylvania.

1.2. CONTACT PERSONS/REPRESENTATIVES. The contact persons or representatives for the Township shall be the Chairperson and the contact person or representative for the Contractor is _____. The contact persons shall assume all duties and responsibilities and have the rights and authority assigned to them under the Contract Documents in connection with the completion of work in accordance with the Contract Documents. Neither the Township’s nor the Contractor’s contact persons shall be changed without the changing party first giving the other party ten (10) days prior written notice.

ARTICLE 2. THE CONTRACT DOCUMENTS. The Contract Documents consist of the following (including their attachments and exhibits):

- a. This Contract.
- b. Bid Form Certificate of Insurance
- c. Certificate of Insurance
- d. Qualification Questionnaire
- e. Affidavit of Non-Collusion
- f. Bidder’s Affidavit

(hereinafter collectively the “Contract Documents”). The Contract Documents represent the entire and integrated Agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract documents appears in Article 11 below.

ARTICLE 3. WORK.

3.1. The Contractor shall perform, complete and fully execute the Work described in the Contract Documents upon request of the Township, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

3.2. The work is generally described as the maintenance of infrastructure in the Township.

ARTICLE 4. CONTRACT TIMES.

4.1. The date of commencement of the work shall be the date when the Contractor is called upon by the Township to provide the equipment and/or operators to perform the Work as specified in the Notice to Proceed. The Contractor shall commence work when called upon according to the Unit Prices in the Bid Form, time being of the essence. Work to be commenced within 15 days upon the issuance of a "Notice to Proceed" by the Township Engineer, and shall be completed in a reasonable time thereafter as estimated by the Township Engineer.

4.2. The Work shall be completed in accordance with the Contract Documents.

4.3. The date when the Work is to be commenced by Contractor and the time for completion of the Work are essential conditions of the Contract Documents. The Contractor agrees to proceed with the Work at such rate of progress to insure full and final completion within the Contract Time as established by the Township Engineer. If the Contractor shall fail to complete the Work within the Contract Time, or any extension of time as granted by the Township in writing, then the Contractor shall pay to the Township the sum of Two Hundred (\$200.00) Dollars as liquidated damages for each calendar day of delay of work that is not completed under the Contract Documents, or that is not completed satisfactory, including, but not limited to, punch list and corrective work. However, the Contractor shall not be charged with liquidated damages or any excess costs when the delay in completion of the Work is due to the following circumstances for which Township shall have been given notice of: (a) any preference, priority or allocation order of the Township; (b) unforeseeable causes beyond the control and without fault or negligence of the Contractor, including, but not limited to, acts of God, acts of another contractor in the performance of a contract with the Township, or (c) the acts of the Township.

ARTICLE 5. CONTRACT PRICE.

5.1. Township shall pay Contractor for completion of Work in accordance with the Unit Prices on the Bid Form, which is a part of these Contract Documents, subject to additions and deductions as provided in the Contract Documents, if any. Payment to be made within 30 days of completion of the Work. Progress payments may be made upon agreement of the Parties.

5.2. The Contract Price may only be changed in accordance with the Contract Documents or a written Change Order signed by both Contractor and Township.

5.3. The parties acknowledge and agree that there are no alternates under this Contract.

5.4. The Contractor shall solely be responsible for paying all sales, consumer, use or other similar taxes required under the law of the place where the work is to be performed.

ARTICLE 6. PAYMENT PROCEDURES.

6.1 Progress Payments. The Township may make progress payments on account of the contract price on the basis of Contractor's applications for payment as recommended by Engineer. All progress payments will be on the basis of the progress of the work measured by the schedule of values provided for in the Request for Proposal.

6.2 When progress payments are agreed upon by the Parties, the sum or sums withheld by the Township from the Contractor prior to 50% completion will be 10% of the amount due the Contractor. When the Contract is 50% completed, one-half of the amount retained by the Township shall be returned to the Contractor: Provided, that the Engineer approves the application for payment and that the Contractor is making satisfactory progress and there is no specific cause for greater withholding. The sum or sums withheld by the Township from the Contractor after the Contract is 50% completed will be 5% of the value of completed work based on monthly applications for payment; provided, however, that in the event a dispute arises between the Township and the prime contractor occasioned by delays or other actions of another prime contractor, additional retainage in the sum of 1-1/2 times the amount of any possible liability may be withheld until such time as a final resolution is agreed to by all parties directly or indirectly involved, unless the Contractor causing the additional claim furnishes a bond satisfactory to Township to indemnify Township against the claim. However, all such money retained by Township may be withheld from the Contractor until substantial completion of the Contract.

6.3. Final Payment. Upon final completion and acceptance of the work in accordance with the Contract Documents, Township shall pay the remainder of the contract price as recommended by Engineer as provided in said Contract Documents.

ARTICLE 7. TERMINATION OR SUSPENSION.

7.1. The Township may suspend work or any portion thereof for a period of not more than ninety (90) days or such further time as agreed to by the parties. If the work is suspended for whatever period of time, then Contractor will be allowed an extension in the Contract Time directly attributable to any suspension. If, through no fault or act of the Contractor, the Work is suspended for a period of more than ninety (90) days by the Township or under an order of Court or other public authority, or the

Representative and Township fails to act on any request for payment within thirty (30) days after the same is submitted, or the Township fails to pay Contractor the sum approved by the Township, then Contractor shall be permitted after ten (10) days following receipt of a written notice to Township to terminate this Agreement and recover from the Township payment for all Work completed to that date.

7.2. If the Contractor (a) is adjudged bankrupt or insolvent, or if the Contractor makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the Contractor or for any of Contractor's property, or if Contractor files a petition to take advantage of any debtor's acts, or to reorganize under the bankruptcy or applicable laws; (b) fails to supply sufficient skilled work persons or suitable materials or equipment; (c) fails to make prompt payments to subcontractors, or for labor, materials, or equipment; (d) disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the Work, or the authority of the Township's representative, Lender and of the Township; or (e) otherwise violates any provision of the Contract Documents; then the Township may, without prejudice to any other right or remedy and after giving Contractor ten (10) days prior written notice terminate the services of the Contractor and take possession of the Project and of all materials, and finish the Work by whatever method Township may deem necessary and expedient. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to Township. Such costs incurred by the Township will be determined by the Township and their representative, and incorporated in a Change Order.

Where the Contractor's services have been so terminated by the Township, said termination shall not affect the right of the Township against the Contractor then existing or which may thereafter accrue. Any retention or payment of money by the Township due the Contractor will not release the Contractor from compliance with the Contract Documents.

After ten (10) days from delivery of a written notice to Contractor, the Township may without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the contract. In such case, the Contractor shall be paid for all Work executed and any expense incurred plus reasonable profit.

ARTICLE 8. INSURANCE.

8.1. The Contractor shall purchase and maintain such insurance as will protect Contractor from claims that may arise out of or result from Contractor's execution and performance of work set forth in the Contract Documents, whether such execution or performance is by Contractor or by anyone directly or indirectly employed by Contractor,

or by anyone acting on its behalf, or by anyone for whose acts any of them may be jointly or severally liable, including, but not limited to, the following types of claims:

(a) Claims under Worker's Compensation, Disability Benefits and other similar employee benefits, acts or laws.

(b) Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees, or any person other than Contractor's employees.

(c) Claims for damages insured by usual personal injury liability coverage, which are sustained by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or by any other person.

(d) Claims for damages because of injury to or destruction of tangible personal property, including loss of use resulting therefrom.

8.2. The Contractor shall procure and maintain, at its own expense, during the Contract Time, the following types of insurance:

(a) Contractor's General Public Liability and Property Damage Insurance, including vehicle coverage issued to the Contractor and protecting Contractor from all claims of personal injury, including death, and all claims for destruction of or damage to property, arising out of, on, or in connection with any operation under the Contract Documents, whether such operation be by the Contractor or any of its sub-contractors, or anyone directly or indirectly employed by the Contractor or by a Sub-contractor under the Contractor, insurance shall be written with a limit or liability of not less than one million (\$1,000,000.00) dollars for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any accident, and a limit of liability in the same aggregate amount for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of one million (\$1,000,000.00) dollars for all property damage sustained by any one person in any one accident, and a limit of liability in the same aggregate amount for any such property damage sustained by two or more persons in any one accident.

(b) Worker's Compensation Insurance in accordance with the laws of the Commonwealth of Pennsylvania, which include occupational disease provisions, for all of Contractor's employees at the Project site and in case any work is sublet, the Contractor shall require such Sub-contractor to provide the same Worker's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any employee or class of employees engages in hazardous work under the Contract Documents at the Project site and such employee or employees are not protected under the Worker's Compensation Act, then the Contractor shall provide, and shall cause itself and each Sub-Contractor to provide adequate and suitable insurance for the protection of that employee or employees not otherwise protected.

(c) "All Risk" Type Insurance for Work to be performed under the Contract Documents. Unless otherwise authorized by Township, Contractor shall furnish such insurance in an amount not less than the Contract Price. The policy of insurance

shall cover not less than the losses due to fire, explosion, hail, lightening, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the Contract Time and until the Work is accepted as complete by Township. The policy shall name as the insured the Contractor and Township.

8.3. Certificates of Insurance approved by the Township shall be required before any Notice to Proceed is issued. These certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least fifteen (15) days prior written notice is given and received by Township.

ARTICLE 9. INDEMNIFICATION.

9.1. The Contractor shall indemnify and hold harmless the Township, their representatives, agents, employees, successors and/or assigns, from and against all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the performance of the Work under the Contract Documents, provided that any such claims, damages, losses, or expenses are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom; and is caused in whole or in part by any negligent, reckless, careless, or willful act or omission of the Contractor, and Sub-Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

9.2. In any and all claims against the Township or any of their representatives, agents, employees, successors and/or assigns, by any employee of the Contractor, and Subcontractor, anyone directly or indirectly employed by them, or anyone whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, insurance, compensation or benefits payable by or for the Contractor or any Sub-Contractor under the Worker's Compensation Act, Disability Benefits Act, or other employee benefits acts.

9.3. The obligation of Contractor under this Article shall not extend to the liability of the Representative of Township, or its employees and agents arising out of the preparation or approval of maps, drawings, opinions, reports surveys, change orders, designs, or specifications.

ARTICLE 10. SEPARATE CONTRACTS/NONEXCLUSIVITY.

10.1. The Township reserves the right to enter other contracts in connection with the Project. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate Contractor's Work with theirs. If the proper execution or results of any part of the Contractor's Work depends upon the work of any other contractor, then the Contractor shall inspect and promptly report to the Township's Representative any defects in such work that render it unsuitable for such proper execution and results.

10.2. The Township may perform additional work related to the Project by themselves, or they may let other contracts containing provisions similar to these. The Contractor will afford the other contractors who are parties to such contracts, or the Township, if they are performing additional work for themselves, reasonable opportunity for the introduction and storage of materials, equipment and the execution of work, and shall properly connect and coordinate Contractor's Work with theirs.

10.3. It is expressly understood and agreed between the Parties that this is a nonexclusive agreement. Nothing in this Agreement shall be construed as creating an exclusive arrangement between the Township and the Contractor or as prohibiting the Township from entering into other contracts with third-party contractors to perform the same or similar work as the work provided herein or the type of work the Contractor could have performed under this Agreement.

ARTICLE 11. ENUMERATION OF CONTRACT DOCUMENTS.

The Contract Documents, except for Modifications issued after the execution of this Agreement, are enumerated as this Agreement, and the documents referred to in this Agreement.

ARTICLE 12. SPECIAL CONDITIONS.

12.1. Land and Right-of-Ways. Contractor acknowledges that the Township has already obtained all land and right-of-ways necessary for the carrying out and for the completion of the Work to be performed by Contractor under the Contract Documents. The Township shall provide to Contractor information, which delineates and describes the lands owned and right-of-ways acquired. The Contractor shall provide at its own expense and without liability to the Township any additional land and access thereto that the Contractor may desire for temporary construction facilities, or for storage of equipment and materials.

12.2. Environmental Requirements. The Contractor shall comply with the following environmental constraints prior to and during performance of the Work under the Contract Documents:

(a) Contractor when disposing of excess spoil or other construction materials on public or private property, will not fill in or otherwise convert wetlands, or any delineated floodplain areas.

(b) Any excavation by the Contractor that uncovers a historical or archeological artifact shall be immediately reported to the contact person for the Township, who shall then notify a representative of Farmer's Home Association (FmHA). Work shall be temporarily halted pending the notification process and further directions issued by FmHA after consultation with the State Historic Preservation Officer.

(c) The Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical

habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of the Contractor, the Contractor shall immediately report this evidence to the Engineering Consultant, who shall then notify a representative of FmHA. Work shall be temporarily halted pending the notification process and further directions issued by FmHA after consultation with the U.S. Fish and Wildlife Service.

12.3. Precautions. The Contract agrees, represents and warrants that it will take all the necessary safety precautions at all times during the performance of Work on the Project in compliance with all local, state and federal regulations, and that Contractor is fully aware that it is solely responsible to comply with all required precautions and safety provisions established by local, state and federal and private agencies; and that the Contractor indemnifies, saves and holds Township harmless from any and all claims for damage resulting from personal injury and/or death suffered or alleged to have been suffered by any person as a result of the Work under the Contract Documents. The Contractor is responsible for all damage to property and/or persons that results due to its own negligence or the negligence of one or more of its employees or sub-contractors in the execution of Work under the Contract Documents. Contractor is also responsible for the proper care and protection of material and equipment delivered to and stored at the Project site. All surfaces, structures and vegetation in the vicinity or adjacent to the Project shall be protected at all times and if damaged, will be replaced at the sole cost and expense of the Contractor. Furthermore, Contractor shall confine its equipment, storage areas and operations within the confines of the Project site. Contractor shall also comply with any codes and regulations of the Municipality where the work is being completed such as erection of signs, traffic, clean up, safety etc.

12.4. Waste. Contractor shall, from time to time or as directed by Township, remove and legally dispose of all refuse, debris, garbage, unused building material, or unsalvageable equipment to a disposal site permitted by state law to accept such waste. At all times Contractor shall keep the Project site free and clear of such waste and the public and private rights-of-ways clear. Upon completion of the Work, the site shall be put back in a neat and clean condition.

12.5. Compliance with Laws and Regulations. Contractor shall comply with all applicable laws and regulations during the Contract Time, including, but not limited to, OSHA (safety at the Project site), Pennsylvania Act 287 (notification to Utilities); Federal Occupational and Health Act (health and safety); Noise and Dust regulations; Erosion and Sedimentation Control (compliance with local and state regulations pursuant to the control and abatement of erosion and sedimentation); Pennsylvania Human Relations Act; Solid Waste Management Act (disposal of debris and excavation from project).

12.6. Soil Erosion and Sedimentation. The Contractor shall comply with the regulations and standards of the Luzerne Conservation District pursuant to the control of soil erosion and sedimentation during the entire life of the Project.

12.7. Supervision and Equipment. The Contractor shall employ competent, safety conscious, supervisory and skilled personnel, in sufficient quantity as necessary to perform the work under the Contract Documents, in a safe, workmanlike manner, in accordance with the Contract Documents. The Contractor shall provide all required equipment, including, but not limited to, safety equipment and devices, as necessary, to complete the Work in a safe manner at all times so all Work is completed within the Contract Times.

12.8. Testing and Inspection. All Work performed, and all products, material and equipment supplied under the Contract Documents is subject to testing and inspection by the Township Engineer, at times as they may deem necessary. The Contractor shall immediately comply with any of the findings and results of said inspections and tests.

12.9. Mud and Dust. The Contractor shall be responsible to take all measures necessary to control and eliminate mud and dust at all times. At the end of each work day all dirt and mud on adjacent roads shall be satisfactorily removed.

12.10. Deviation from Contract Documents. No deviations from the Contract Documents are permitted, without the prior written approval of Township and their Representative. If Contractor does so, it will be at its own risk and expense.

12.11. Disposal of Excess Excavation Material. Contractor shall remove excess fill, soil or excavation material from the Project site under the direction of the Township.

ARTICLE 13. CONTRACTOR'S REPRESENTATIONS. In order to induce Township to enter into this Agreement, Contractor makes the following representations:

13.1. Contractor has familiarized himself with the nature and extent of the Contract documents, work locality, and with all local conditions and federal, state and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress or performance of the work.

13.2. Contractor has visited and carefully examined the site of the work, has made such tests and examinations as he believes necessary to submit a bid based upon information secured by him independently, and not based on information coming from the Township, or Engineer, and has carefully examined the Contract Documents.

13.3. Contractor has given the Township Engineer written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by the Township Engineer is acceptable to the Contractor.

13.4. Contractor has carefully examined the Contract Documents and Specifications (including PA DOT Publication 408) and shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the Work in accordance with the Contract Documents and all incidental work necessary to complete

the Project in an acceptable manner, ready for use, occupancy or operation by the Township.

13.5 Depending on the type of work, a determination may have to be made as to whether general prevailing wage rates apply by the Pennsylvania Department of Labor and Industry and/or Federal US Department of Labor for the Work is to be performed. It shall be mandatory upon the Contractor to whom the Work is awarded and upon any Subcontractor under the Contractor to pay not less than wage determination specified rates to all workers employed by them in the execution of the Work, and the Contractor shall post a copy of wage determination specified rates at the Project Sites. Prevailing wage rates are required to be paid per State and Federal Regulations for all work projects over \$25,000.00.

ARTICLE 14. MISCELLANEOUS PROVISIONS.

14.1. The Contractor may utilize the services of specialty sub-contractors on portions of the awarded Work provided that Contractor first obtains the written consent of Township. The suitability of any such Sub-Contractor shall rest in the sole discretion of Township.

14.2. No deviations from the Contract Documents are allowed, without the prior written consent of Township. If Contractor does so, it is at its own risk and expense.

14.3. In cases where conflicts exist between sections of the Contract Documents, the Township's Representative shall determine which section will govern, and that determination shall be final and binding upon Contractor and Township.

14.4. No assignment by a party of any rights under the Contract Documents shall be binding upon the other party without the prior written consent of the party sought to be bound; and specifically, but without limitation, money that may become due or that is due (except to the extent that such a restriction is limited by law), and unless specifically stated to the contrary in any written consent to the assignment shall release or discharge the assignor from any responsibility under the Contract Documents.

14.5. Township and Contractor each bind themselves, their partners, successors, assigns and legal representatives to all of the covenants, agreements, conditions and obligations contained under the Contract Documents.

14.6. Any provision or part of the Contract Documents held to be void or unenforceable under any law or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Township and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

14.7. All of Contractor's Work shall be satisfactory to the Township Engineer and prior to final payment all work must be inspected and approved by the Township.

IN WITNESS WHEREOF, Township and Contractor have signed this Agreement, intending to be legally bound hereby, the date above written.

TOWNSHIP:

CONTRACTOR:

BY: _____ BY: _____
TITLE: _____ TITLE: _____
ATTEST: _____ ATTEST: _____

Certification

I, _____, certify that I am the
_____ of _____ named as Contractor herein; that I
signed this Agreement on behalf of the Corporation; I am authorized to do so, and is
within the scope of my authority.

(Name of Principal)

(Corporate Seal)