

INSTRUCTIONS TO BIDDERS

The Board of Education of the Barberton City School District is seeking sealed bids from qualified contractors to undertake paving and related work as described herein. To be considered, bids must be submitted in accordance with these Instructions to Bidders. The Owner reserves the right to consider invalid any bids not prepared and submitted in accordance with the provisions contained herein.

General Information

1. Communications and submissions shall be directed to the Owner's Representative:

Craig McKendry, Treasurer
Barberton Schools
633 Brady Avenue
Barberton, OH 44203
cmckendry@barbertonschools.org

2. Any questions related to project specifications are to be directed to Mr. Jon Apati, Maintenance Supervisor. Mr. Apati may be reached via email at japati@barbertonschools.org or via phone at 330-603-6414. Any other questions pertaining to the project are to be directed to Mr. Craig A. McKendry, Treasurer. Mr. McKendry may be reached via email at cmckendry@barbertonschools.org, or via phone at 330-753-1025, ext. 13111.
3. **Scope of Work.** The Owner is seeking to undertake a project with the following components. The specifications below are based on the Owner's understanding of its needs. Owner reserves the right to modify the scope prior to the bid submission deadline based in whole or in part on discussion at the pre-bid meeting, requests for information or clarification from interested bidders or other information:
 - i. **New Asphalt Parking Lot.** Approximately 12,727 sq. ft. New concrete apron and ODOT standard type-6 curbs. The Owner believes a minimum of 8" of compacted stone and 4" of asphalt is necessary for this work. Removal and haul of existing soils as needed.
 - ii. **New Asphalt Drive.** Approximately 9,023 sq. ft (Approx 480' x 24'). New concrete apron and ODOT standard type-6 curbs. The Owner believes a minimum of 8" of compacted stone and 5" of asphalt is necessary for this work. Removal and haul of existing soils as needed.

- iii. **Overlay Path.** A 2” asphalt overlay of an approximate 7,192 sq. ft. Mill existing edges

4. Bidders Examination and Representation

- .1 Before submitting a bid, each bidder should carefully examine the documents (including any previous documents) for the building and the construction site and inform itself with the limitations and conditions related to the Work covered by its bid, and shall include in the bid a sum to cover the cost of such items. Contractors will not be given extra payments for conditions that could have been determined by examining the site and documents.
- .2 It is the purpose and intent of the Contract Documents, that a fully complete job be accomplished. It shall be each bidder's responsibility to include costs necessary to provide labor and materials for that portion of the Work bid upon, including incidentals.
- .3 Each bidder by making its bid represents that it has read and understands the bidding documents.
- .4 Each bidder by making its bid represents that it has visited the site and familiarized itself with the local conditions under which the Work is to be performed.
- .5 Each bid shall reflect the materials, systems, and equipment requested herein.

5. Qualifications of Bidders

- .1 At the time of the bid, and in addition to the other requirements of these Instructions to Bidders, the Bidder shall submit the following information:
 - a. Overall experience of the Bidder, including number of years in business under present and former business names;
 - b. 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;
 - c. 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;

- d. Certified financial statement with trade and bank references;
 - e. Description of relevant facilities of the Bidder;
 - f. Description of the management experience of the Bidder's project manager(s) and superintendent(s);
 - g. Complete list of major subcontractors with an estimated contract value of \$50,000 or more, which the Bidder proposes to employ on the Project;
 - h. To support a Bond, a current and signed Certificate of Compliance required under Section 9.311, ORC, issued by the Department of Insurance, showing the Surety is licensed to do business in Ohio;
 - i. Current Ohio Workers' Compensation Certificate;
 - j. 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 brought under Section 153.05, ORC, or under Sections 4123.01 to 4123.94, inclusive, ORC.
- .2 The Owner shall have the right to take such steps as he deems necessary to determine the ability of the bidder to perform the Work, and the bidder shall furnish the Owner such data for this purpose as the Owner may request.

6. Clarification of Bidders' Questions

- .1 Questions for this project shall be directed to the person identified in the general information section above.
- .2 Each bidder is responsible for calling to the attention of the Owner's Representative ambiguities, inconsistencies, discrepancies, errors, or omissions which occur in the Contract Documents for his part of the Work. Failing to request clarification, the bidder will be expected to overcome such conditions without additions to bid Prices.
- .3 Oral interpretation of the meaning of the drawings and specifications shall not in any way alter the obligations of the bidders to provide services as called for in the above documents.

- .4 Where interpretation is required, the Owner's Representative shall make such interpretation in the form of an Addenda.

7. Approval Before Bidding

- .1 If a Contractor preparing bids for submission on the Work is in doubt as to the acceptability of a manufacturer's material or equipment, under the requirements as set forth in this instructions to bidders, he should require that representatives of the proposed manufacturer or supplier contact the Owner's Representative and request a ruling on the acceptability of the material or equipment in question. The contact should be made in sufficient time, 10 days before the date scheduled for the closing of bids, so that an addendum can be issued to clarify the situation.
- .2 It is not possible to set the time allowance for every problem; however, it shall be not less than 10 days before bid closing. Each party requesting a ruling under this Article shall be responsible for the proper evaluation of the time involved and shall submit his request in ample time to process it.
- .3 Prior to receipt of bids the Owner's Representative will consider proposals for substitution of materials, equipment, and methods only when such proposals are submitted in writing at least 10 days before date set for receipt of bids, and are accompanied by full and complete technical data and other information required by the Owner's Representative to evaluate the proposed substitution.
- .4 Each bidder understands that past acceptance of products does not assure acceptance on this Project. Products not specifically specified require requests for approval prior to bid due date.

8. Addenda

- .1 The Owner's Representative will issue addenda to clarify bidders' questions.
- .2 The Owner reserves the right (through the Owner's Representative) to issue addenda changing, altering, or supplementing the Contract Documents, prior to the time set for receiving bids.
- .3 A copy of the addenda will be mailed or delivered to each bidder of record, and to each prospective bidder requesting a copy. Bidders who request and are sent documents by the Owner's Representative are considered "Bidders of Record". Copies of addenda will be available for inspection.
- .4 Bidders are responsible for acquiring each issued addenda in time to incorporate them into their proposal.

- .5 In the event delivery of addenda to bidders is delayed, for reasons not the fault of the bidders, the Owner may be requested to allow a reasonable extension of time for the opening of bids, to permit inclusion of such addenda.
- .6 Each bidder shall enumerate in his bid each addenda he has received.
- .7 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 of opening of bids shall be extended one week with no further advertising of bids required.
- .8 If a Bidder fails to indicate receipt of each Addenda through the last Addenda, issued by the Owner's Representative, on its Bid Proposal Form, the bid of such Bidder will be deemed to be responsive only if:
 - a) The bid received clearly indicates that the bidder received the Addendum, such as where the Addendum added another item to be bid upon and the bidder submitted a bid on that item; or
 - b) The Addendum involves only a matter of form or is one which has either no effect or has merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon.

9. Alternates

- .1 Omitted

10. Bidding Procedures

- .1 Bids must be made on the forms provided herein, placed in sealed envelopes and plainly marked on the outside with the project name. Bidders must also fill out the questionnaire for EDGAR compliance as set forth in Appendix A.
- .2 A bid is invalid if it has not been deposited at the designated location prior to the time and date for receipt of bids, or prior to the extension thereof issued to the bidders.
- .3 Telecommunicated bids will not be considered.
- .4 Bids that are not signed by the individuals making them shall have attached thereto a Power of Attorney evidencing authority to sign the bid in the name of the person for whom it is signed. Bids that are signed for a partnership shall be signed by the partners, or by an attorney-in-fact. If signed by an attorney-in-fact, there shall be attached to the bid a Power of Attorney evidencing authority to sign the bid, executed by the partners. Bids for a corporation shall be signed with

the name typed below the signature. A bidder that is a corporation shall sign its bid with the legal name of the corporation followed by the name of the state of incorporation and the legal signature of an officer authorized to bind the corporation to a contract.

- .5 It is the bidder's responsibility to include in his bid the costs necessary for a completed and finished job for items of Work bid upon.
- .6 Timeline: The Owner anticipates the following timeline with respect to the bid process unless later modified in writing by addendum:
 - June 2, 2023: Advertisement of bid
 - June 21, 2023: Bid submission deadline/public opening of bids
 - June 29, 2023: Award of Contract by the Board.

11. Bid Security

- .1 A bid security in the form of a certified check, cashier's check or letter of credit pursuant to Chapter 1305 of the Ohio Revised Code in the amount of 10 percent of the total bid shall accompany each bid, or a bid guaranty bond in accordance with Chapter 153.54 of the Ohio Revised Code in the amount of 100 percent of the total bid shall accompany each bid.
- .2 The bid security of bidders, except the 3 selected best qualified in each category, may be returned within 7 days after the opening of bids at the Owner's or Owner's Representative's option.
- .3 Bid security of the three selected qualified bidders may be held by the Owner, following the bid opening for a maximum of 60 days, unless the Owner and the bidders agree otherwise; except that in the event a qualified bidder has been awarded the Contract and has failed to execute same or furnish performance bond. Then the bid security of such bidder will be subject to forfeit and the next qualified bidder, if tendered the Contract, will be subject to the same provisions as herein before set forth. Should the award fall to the third qualified bidder because of a default of the previous two qualified bidders, the same condition will apply to the third bidder as herein before set forth.
- .4 The bid security of the three selected bidders of each Contract category will be returned within 72 hours after the Form of Agreement has been executed.
- .5 In the event that the Owner should decide to reject every bid in connection with a given Contract or Contracts, the bid securities in connection with the Contracts will be returned within 72 hours following such decision.

- .6 Bid security is subject to forfeiture if a bid is withdrawn during the time period bids are to be held.
- .7 The Non-collusion Affidavit provided herein must be properly filled-in, signed and notarized, and included with the bid.

12. Identification and Submission of Bid Proposal

- .1 Enclose bids in opaque, sealed envelope with bid security and other requested exhibits. The envelope shall have clearly marked in indelible material on its face, the following:

Name of Project
Name of Bidder
Bid Package
Date and time of closing of bids

13. Modification or Withdrawal of Bid Proposal

- .1 A bidder may withdraw his bid prior to the scheduled time for the receipt of bids, without forfeiture of bid security. If a postponement of the time for receiving bids is made, the new time established therein shall be the time within the meaning of this Article.
- .2 Bids may be modified prior to bid closing Time.
- .3 After the pronouncement of the closing of bids, no Contractor may recall his bid.

14. Opening of Bids

- .1 Sealed bids will be received by the Owner until noon local time, on June 21, 2023 and will be publicly opened and read immediately thereafter and a report thereof made to the Board of Education at their next meeting.
- .2 Bids received prior to the time of opening will be securely kept, unopened. The officer whose duty it is to open them will decide when the specified time has arrived, and no bid received thereafter will be considered.
- .3 No responsibility will be attached to an officer for the premature opening of a bid not properly addressed and identified.
- .4 Every bid received within the time fixed for the receiving of bids will be opened and read aloud, irrespective of irregularities therein. Bidders and other persons properly interested may be present, in person or by a representative.

- .5 The amounts involved in alternatives requested will be read or disclosed as part of the requirements of this Article. Voluntary alternates will not be read.
- .6 The Owner/Owner's Representative reserves the right to delay the time for the opening of bids when, in their judgment, it is desirable or necessary.
- .7 When requested, bidders will be furnished a transcript of the bids made, as soon as convenient after the bid opening and the tabulation of the results.

15. Disqualification

- .1 The Owner reserves the right to reject each and every bid, reserves the right to reject each and every alternate, to waive informalities, irregularities, and minor defects in bidding, to accept and reject alternatives regardless of their order or sequence, unless otherwise called for on the Bid Proposal Form.
- .2 The right is reserved to reject bids where an investigation of the available evidence of information does not satisfy the Owner that the bidder is qualified to properly carry out the terms of the Contract Documents.
- .3 Bona fide bids in a definite stated amount, without special clauses governing price of labor and material increases, shall be the only ones that will be considered. No contract shall be entered into carrying what is commonly known as an "Escalator Clause."
- .4 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 for the purpose of limiting or otherwise qualifying the responsibility of the bidder, outside of the text or intent of the Contract Documents, will be subject to disqualification.
- .5 Failure to submit the requested information with the bid shall be grounds for rejecting the bid.
- .6 The Owner also 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 his obligations to subcontractors, material suppliers, or employees.
- .7 The ability of the bidder to obtain or qualify for a performance bond or labor and material payment bond shall not be regarded as a sole test of such bidder's competence or responsibility.

- .8 The bidder acknowledges the right of the Owner to reject bids and to waive informalities and irregularities in bids received. In addition, the bidder recognizes the right of the Owner to reject a bid, if the bidder failed to furnish the required bid security, to submit the data required by the bidding documents, or if the bid is incomplete or irregular.

16. Determination of the Lowest Responsible Bid

- .1 Subject to the right of the Owner to reject each and every bid, the Owner will award the Contract for the Work to the bidder submitting the lowest responsible bid. In determining if the lowest bid is from a responsible bidder, the Owner may conduct a responsibility investigation to determine the following criteria as it, in its discretion, deems appropriate and may give such weight thereto as it deems appropriate:
 - a) The bidder's financial ability to complete the Contract successfully without resorting to its Surety;
 - b) The bidder's prior experience with similar work on comparable or more complex projects;
 - c) The bidder's prior history for the successful and timely completion of projects;
 - d) The bidder's equipment and facilities;
 - e) The adequacy, in numbers and experience, of the bidder's workforce to complete the Contract successfully and on time;
 - f) 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;
 - g) The bidder's compliance with federal, state, and local laws, rules, and regulations.
 - h) Depending upon the type of work, other essential factors.
- .2 The failure to submit requested information on a timely basis may result in the determination that the bidder is not responsible.
- .3 Affidavit as to Property Taxes
 - a) The successful bidder will be required to submit, with the bid, an affidavit in the form required by Section 5719.042, Ohio Revised Code, regarding the

status of the lowest bidder's property taxes. A copy of the form of the affidavit is included herein.

b) Section 5719-042 of the Ohio Revised Code, effective September 21, 1982, requires the successful bidder(s) to furnish the Project Taxing District with a statement under oath that he or his company has or does not have any delinquent personal property taxes due and payable within the county of the Project, 22.2 (ORC) Sec. 5719.042. After the award by a taxing district of any contract let by competitive bid and prior to the time the contract is entered into, the person making a bid shall submit to the district's fiscal officer a statement affirmed under oath that the person with whom the contract is to be made was not charged at the time the bid was submitted with any delinquent personal property taxes on the general tax list of personal property of any county in which the taxing district has territory or that such person was charged with delinquent personal property taxes on any such tax list, in which case the statement shall also set forth the amount of such due and unpaid delinquent taxes and any due and unpaid penalties and interest thereon. If the statement indicates that the taxpayer was charged with any such taxes, a copy of the statement shall be transmitted by the fiscal officer to the County Treasurer within thirty days of date it is submitted. A copy of the statement shall also be incorporated into the contract, and no payment shall be made with respect to any contract to which this section applies unless such statement has been so incorporated as a part thereof.

- .4 A Contract shall be considered as awarded when the bidder receives a letter of intent to enter into a Contract from an agent or officer of the Owner authorized to give such notice.
- .5 A Contractor receiving an award will be required to furnish and execute the following within 10 days after the form of the Contract is presented for signature.
 - a. Contract for Construction, to be provided by Owner.
 - b. Performance Bond and Labor and Material Payment Bond in accordance with RC 153.54.
 - c. Insurance requirements as evidenced by a properly executed Certificate of Insurance.
 - d. Valid Workmen's Compensation Certificate
 - e. Within 10 days after execution of the Contract, the awarding Contractor shall provide Schedule of Values to the Owner's Representative for application of progress payment on forms provided by Owner's

Representative for approval. The prices indicated shall be total erected and installed prices with overhead and profit prorated on each item.

17. Performance Bond and Labor and Material Payment Bond

- .1 To satisfy the bond requirements the bidders who become the Contractors must have submitted a combination Bid Guaranty and Contract Bond as prescribed in Sections 153.54, 153.57, and 153.571 of the Ohio Revised Code or the following.
- .2 The bidders who become the Contractors, who submitted as a Bid Security, a certified check, cashier's check, or letter of credit, shall be required to provide a Performance Bond and Labor and Materials Payment Bond, covering the faithful performance of the contract and the payment of obligations arising thereunder in a penal sum equal to 100 percent of the amount of the contract sum. Said bonds shall remain in effect for 12 months after date established as start of one year guarantee period. Premiums shall be included and paid for by the Contractor.
 - a) The bidder shall deliver the required bonds to the Owner not later than the date of execution of the Contract.
- .3 The bond must be issued by a surety company authorized by the Ohio Department of Insurance to transact business in the State of Ohio. The bond must be issued by a surety capable of demonstrating a record of competent underwriting, efficient management, adequate reserves, and sound investments.
- .4 Bonds shall be signed by an authorized agent of an acceptable Surety Bonding Company and by the bidder. (Affix Corporate Seals to each copy.)
- .5 Surety Bonding Company bonds shall be supported by credentials showing the Power of Attorney of the agent, and a certificate showing the legal right of the bonding Company to do business in the State of Ohio, and a financial statement of the Surety.
- .6 The Bid Guaranty, as applicable, shall be in the name of or payable to the order of the Owner.
- .7 The name and address of the Surety and the name and address of the Surety's Agent should be typed or printed on each bond.

18. Execution of the Contract

- .1 Subsequent to the award, and within 10 days after the prescribed Form of Agreement is presented for his signature, the Awardee shall execute and deliver them to the Owner, in such number of counterparts as the Owner may require.

- .2 The failure of the Awardee to execute the Contract and to supply the required bonds when the Agreement is presented for signature, or within such extended period as the Owner may grant, based upon reasons determined adequate by the Owner, shall constitute a default; and the Owner may either award the Contract to the next responsible bidder or readvertise for bids. In the event of a default, the Owner shall have the right to declare the amount of the bid security forfeited. It shall be a further condition that the Owner shall not collect more on a defaulted bid than the difference between the defaulted bid amount and the bid of the firm to which the award is made, after giving due weight and consideration to alternatives accepted.
- .3 In the event the bidder withdraws the bid or fails to execute a satisfactory Contract and furnish a satisfactory Contract Performance Bond and Labor and Material Payment Bond with a surety company in accordance with these Instructions To Bidders within 5 days after a contract has been awarded to such a bidder by the Owner, said Owner may declare such certified or cashier's check or bid bond forfeited to the Owner for extra costs incurred by reason of delay of the project and obtaining acceptable prices from another bidder.

19. Time of Commencement and Completion

- .1 The Contractor shall commence Work within 5 days after the effective date of the Contract, or when notified in writing to proceed, and shall complete the Work within the time limitations established in the Contract.

20. Public Records

- .1 Interested firms should be advised that the Owner is subject to Ohio's public records laws. The Owner cannot guarantee the confidentiality of statements, financial records, or business records that are submitted by a firm to the Owner. The Owner may be required to make such records publicly available. The law does provide for certain exemptions from disclosure requirements, including an exemption for confidential proprietary information and for bid submissions prior to acceptance. While this exemption may not always include a firm's financial and business records, we ask that you clearly stamp "Confidential and Proprietary Information" upon each page of each financial and/or business record that you believe to be confidential information. Such a stamp does not guarantee that your documents will be exempt from disclosure requirements, but will assist the Owner in responding to any public records requests.

21. Tax Exempt

- .1 The Owner is a political subdivision of the State of Ohio. Building materials that the successful bidder purchases for incorporation into the Project will be exempt from state sales and use taxes if the successful bidder provides a properly

completed sales tax exemption certificate, executed by the successful bidder and the Owner, to the vendors or suppliers when the materials are acquired. The Owner will execute properly completed certificates on request.

22. Contract Durations

- .1 Each bidder and his proposed subcontractors shall have the ability to meet the Project Schedule. The final construction schedule will be issued by the Contractor. Established target dates, either material delivery and work completion, are to be met and the manpower and material required to meet these dates are to be included in the Contractor's bid. This schedule will be further refined with Contractor's input after the Contract is awarded.

23. Prevailing Wages

- .1 OMITTED

ANTI-COLLUSION AFFIDAVIT

STATE OF OHIO)
) ss.
COUNTY OF SUMMIT)

_____, of lawful age, being first sworn on oath say, that he/she is the agent authorized by the bidder to submit the attached bid. Affiant further states that the bidder has not been a party to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; or with any state official or employees to quantity, quality, or price in the prospective contract, or any other terms of said prospective official concerning exchange of money or other thing of value for special consideration in the letting of contract; that the bidder/contractor had not paid, given or donated, or agreed to pay, give or donate to any officer or employee either directly or indirectly in the procuring of the award of a contact pursuant to this bid.

Signed: _____

Before me, a Notary Public of the State of Ohio, personally came _____, _____ (title) _____, of _____ (name of company) _____, bidder herein, who said that he/she testifies that the above information is a true and accurate statement. In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal on this _____ day of _____, 2023. An oath was administered.

Notary Public (or Clerk or Judge) _____

My commission expires _____

DELINQUENT PERSONAL PROPERTY TAX AFFIDAVIT

STATE OF OHIO)
) ss.
COUNTY OF SUMMIT)

I, _____, having affirmed under oath that at the time of bid for **Barberton CSD Paving Project** to be opened May 24, 2023 was submitted on _____, 2023, delinquent personal property taxes in the amount of \$_____ (Dollars) were due and unpaid to the County of Summit including interest in the amount of \$_____ (Dollars) and penalties in the amount of \$_____ (Dollars). This document when given to the County Auditor shall satisfy the requirements of ORC 5719.042.

(Name of Individual Company)

(Taxes Filed Under the Name of)

(Signature)

(Complete Address)

(Telephone)

Before me, a Notary Public of the State of Ohio, personally came _____, _____ (title) _____, of _____ (name of company) _____, bidder herein, who said that he/she testifies that the above information is a true and accurate statement. In Testimony Whereof, I have hereunto subscribed my name and affixed my official seal on this _____ day of _____, 2023. An oath was administered.

Notary Public (or Clerk or Judge) _____

My commission expires _____

**Barberton CSD Paving Project
Bid Submission Form**

Contractor Name: _____

Owner Name: _____

Contractor Address: _____

Contact Person Name: _____

Contact Person Phone: _____

Contact Person Email: _____

Cost Proposal:

- | | |
|---------------------|--------------|
| ● New Asphalt Lot | Total: _____ |
| ● New Asphalt Drive | Total: _____ |
| ● Overlay | Total: _____ |

Grand Total: _____

By signing below, the bidder acknowledges that it is a competent firm capable of providing the work requested, is properly licensed for providing the work specified, has read this ITB, understands it, and agrees to the terms and conditions. Bidder hereby agrees to furnish item(s), at the price proposed, pursuant to all requirements and specifications contained in this document, upon receipt of notification of award. Bidder further agrees that the language of this document shall govern in the event of a conflict with its bid. The undersigned, being duly authorized to sign bid documents and act on behalf of the bidder in an official capacity, certifies that the item offered in this Invitation for Bid meets or exceeds the specification, terms, and conditions as described herein without exceptions.

Name (printed): _____

Signature: _____

Date: _____