

OHIO TURNPIKE COMMISSION

ADDENDUM NO. 2

CONTRACT NO. 70-12-02

**EMBANKMENT REHABILITATION PROJECT
FOUR MILE HOUSE ROAD APPROACHES M.P. 88.15,
CARLEY ROAD APPROACHES M.P. 94.70,
KARBLER ROAD APPROACHES M.P. 98.10,
SANDUSKY COUNTY, OHIO**

OPENING DATE: (AS PREVIOUSLY EXTENDED) 2:00 P.M. (E.D.T.), SEPTEMBER 19, 2012

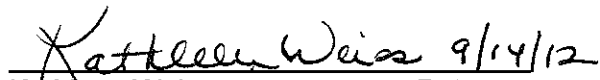
ATTENTION OF BIDDERS IS DIRECTED TO:

**ANSWERS TO QUESTIONS RECEIVED THROUGH
12:00 P.M., SEPTEMBER 14, 2012**

**MODIFICATIONS TO THE CONTRACT DOCUMENTS
BID FORM PAGE OTC-BF-2
AND
GENERAL CONDITIONS PAGE OTC-GC-86**

Issued by the Ohio Turnpike Commission September 14, 2012. Issuance authorized by Robin Carlin, Deputy Executive Director, and Kathleen Weiss, General Counsel

 9/14/12
Robin Carlin Date

 9/14/12
Kathleen Weiss Date

**OHIO TURNPIKE COMMISSION
ADDENDUM NO. 2
CONTRACT NO. 70-12-02**

ANSWERS TO QUESTIONS RECEIVED THROUGH 12:00 P.M., SEPTEMBER 14, 2012

Q#8 The Commission has significantly changed the indemnity language in article 16.1.1. Is it the Commission's interpretation of the change in this language to make the Contractor responsible for the Commission's attorneys' fees and defense costs even where the Contractor is not found to be the party liable for the injury or loss?

The Commission has changed the indemnity provision (article 16.1.1) to include liability for loss of revenue. Is it the Commission's interpretation that this includes a loss of toll revenue resulting from maintenance of traffic issues, accidents or shut downs?

The Commission has changed the indemnity provision by requiring the Contractor to waive its immunity under the workers compensation statute (Article 16.1.3). Please explain why this language was changed and what damage, claim, cost or loss is now covered that was not covered by the prior indemnity provision (article 16.1).

A#8 *Article 16 of the General Conditions obligates the Contractor to defend the Commission from claims where liability stems from conduct attributable to the Contractor. The Contractor's indemnity obligation for loss of revenue pertains to liability claimed against the Commission for a party's loss of revenue stemming from conduct attributable to the Contractor. If such allegations concerning the conduct of the Contractor for which a claim is brought against the Commission turn out to be false or baseless, then the Contractor may seek whatever remedies it would have against the claimant, just as it would do for the same claim brought against itself. The indemnity provision requiring the Contractor to waive the immunity derived from compliance with the workers' compensation statute between the Commission and the Contractor is not intended for public improvement contracts. This Addendum No. 2 deletes the waiver of immunity in Article 16.1.3.*

Q#9 Will there be revised proposal sheets as well (ones that had quantities changed)?

A#9 *This Addendum No. 2 revises page BF-2 of the Bid Form to reflect the corrected quantities.*

**MODIFICATIONS VIA ADDENDUM NO. 2 TO THE CONTRACT DOCUMENTS FOR
CONTRACT NO. 70-12-02**

MODIFICATIONS TO THE BID FORM:

The following changes are made to the Bid Form for Contract No 70-12-02:

(Bidders are advised to utilize the attached replacement Bid Form page BF-2)

Changes to the Bid Form:

Deletions are shown with ~~strikethrough~~ text
Additions are shown with ***bold italicized*** text.

Page BF-2: Under Ref. No. 9, Item No. 202, "FENCE REMOVED," revise the Approx. Quantity from ~~970~~ to ***1,371*** FT

Under Ref. No. 16, Item No. 607, "FENCE, TYPE 47, AS PER PLAN," revise the Approx. Quantity from ~~970~~ to ***1,371*** FT.

Under Ref. No. 25, Item No. 511, "CLASS C CONCRETE, HEADWALL," revise the Approx. Quantity from ~~4.8~~ to ***2.4*** CY.

MODIFICATIONS TO THE GENERAL CONDITIONS:

The following changes are made to the General Conditions for Contract No. 70-12-02:
(Bidders are advised to utilize the attached replacement page to the General Conditions).
Deletions are shown with ~~strikethrough~~ text

Article 16.1.3 on Page OTC -GC- 86 is amended as follows:

16.1.3 Conditions. The provisions of this Article 16, Indemnification, shall survive the expiration or termination of this Agreement. Should the Commission elect to have the Contractor defend one or more of the Indemnified Parties, the Commission shall have the right, but not the obligation, to associate in such defense, whether directly or through outside legal counsel, or both. Nothing herein shall require the Contractor to reimburse the Commission for damages or liabilities solely caused by the negligent acts, errors or omissions of one or more of the Indemnified Parties. This Paragraph S, Indemnification, is intended to be, and shall be construed as consistent with, and not in conflict with Ohio Revised Code Section 2305.31 — ~~Between the parties for purposes of fulfilling the Contractor's indemnity obligations hereunder, the Contractor waives any immunity derived from compliance with the Workers' Compensation Laws of the State of Ohio.~~ The obligations of the Contractor hereunder shall not be limited by the types, terms, conditions, or limits of liability of any insurance purchased and maintained by the Contractor. The indemnification obligations of the Contractor under this Article 16, Indemnification, shall not extend to the liability of the Architect/Engineer, the Architect/Engineer's consultants, agents, representatives or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and any other responsibility of the Architect/Engineer, except to the extent covered by the Contractor's insurance.

ATTACHMENTS

BID FORM: OTC-BF-2

GENERAL CONDITIONS: OTC-GC-86

Receipt of Addendum No. 2 to Contract
No. 70-12-02 is hereby acknowledged:

(Firm Name)

(Signature)

(Printed Name)

Date: _____

BID FORM CONTRACT NO. 70-12-02

Ref. No.	Item No.	Item Description	Approx. Quantity	Unit	Unit Cost	Extended Bid Amount
		ROADWAY (Ref. Nos. 1 - 18)				
1	201	CLEARING AND GRUBBING	LUMP	LUMP		
2	201	TREE REMOVED, 18-INCH	7	EACH		
3	202	PIPE REMOVED	503	FT		
4	202	CATCH BASIN REMOVED	12	EACH		
5	202	GUARDRAIL REMOVED FOR REUSE	4,927	FT		
6	202	APPROACH SLAB REMOVED	281	SY		
7	202	CURB REMOVED	489	FT		
8	202	PAVEMENT REMOVED	8	SY		
9	202	FENCE REMOVED	970-1,371	FT		
10	203	EXCAVATION, AS PER PLAN	50,081	CY		
11	203	GRANULAR EMBANKMENT, AS PER PLAN	37,597	CY		
12	203	EMBANKMENT, AS PER PLAN	7,971	CY		
13	606	GUARDRAIL REBUILT, TYPE 5, USING STEEL POSTS	4,661	FT		
14	606	ANCHOR ASSEMBLY, TYPE A	12	EACH		
15	606	BRIDGE TERMINAL ASSEMBLY, TYPE 1	12	EACH		
16	607	FENCE, TYPE 47, AS PER PLAN	970-1,371	FT		
17	630	REMOVAL OF GROUND MOUNTED SIGN AND REERECTION	4	EACH		
18	SPECIAL	AGGREGATE (NO. 57 STONE), AS PER PLAN - 12" DRAINAGE LAYER	500	CY		

TOTAL - ROADWAY

		EROSION CONTROL (Ref. Nos. 19 - 24)				
19	659	SEEDING AND MULCHING	8,669	SY		
20	659	REPAIR SEEDING AND MULCHING	321	SY		
21	659	WATER	16.8	MGAL		
22	670	SLOPE EROSION PROTECTION, TYPE B	6,031	SY		
23	832	STORM WATER POLLUTION PREVENTION PLAN	LUMP	LUMP		
24	832	EROSION CONTROL	27,066	EACH	##	\$ 27,066.00

TOTAL - EROSION CONTROL

		DRAINAGE (Ref. Nos. 25 - 30)				
25	511	CLASS C CONCRETE, HEADWALL	4-8 2.4	CY		
26	601	ROCK CHANNEL PROTECTION TYPE D WITH FILTER	17.2	CY		
27	603	12" CONDUIT, TYPE C, PER ODOT 707.33	387	FT		
28	604	CATCH BASIN, No. 3A	12	EACH		
29	605	4" SHALLOW PIPE UNDERDRAINS 707.31, AS PER PLAN	3,385	FT		
30	SPECIAL	PRECAST REINFORCED CONCRETE OUTLET	12	EACH		

TOTAL - DRAINAGE

other intangible property right. The Contractor shall not be required to defend, indemnify, or hold harmless the Indemnified Parties when the claimed infringement occurs in materials provided to the Contractor by the Commission.

16.1.3 Conditions. The provisions of this Article 16, Indemnification, shall survive the expiration or termination of this Agreement. Should the Commission elect to have the Contractor defend one or more of the Indemnified Parties, the Commission shall have the right, but not the obligation, to associate in such defense, whether directly or through outside legal counsel, or both. Nothing herein shall require the Contractor to reimburse the Commission for damages or liabilities solely caused by the negligent acts, errors or omissions of one or more of the Indemnified Parties. This Paragraph S, Indemnification, is intended to be, and shall be construed as consistent with, and not in conflict with Ohio Revised Code Section 2305.31. ~~Between the parties for purposes of fulfilling the Contractor's indemnity obligations hereunder, the Contractor waives any immunity derived from compliance with the Workers' Compensation Laws of the State of Ohio.~~ The obligations of the Contractor hereunder shall not be limited by the types, terms, conditions, or limits of liability of any insurance purchased and maintained by the Contractor. The indemnification obligations of the Contractor under this Article 16, Indemnification, shall not extend to the liability of the Architect/Engineer, the Architect/Engineer's consultants, agents, representatives or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and any other responsibility of the Architect/Engineer, except to the extent covered by the Contractor's insurance.