

RELEASE FOR DELIVERY OF CONSULTANT DOCUMENTS

IN ELECTRONIC FORM

The Delaware Department of Transportation, hereinafter referred to as the DEPARTMENT, has requested that _____ hereinafter referred to as the CONSULTANT, provide certain electronic documents prepared by the CONSULTANT, hereinafter referred to as the ELECTRONIC DOCUMENTS, to _____, hereinafter referred to as the REQUESTOR for the REQUESTOR'S use with regards to _____ hereinafter referred to as the PROJECT, for the following purposes:

- Pre-bid activities
- Bidding purposes
- Construction activities
- Coordinating with another project (e.g., land development)
- Other _____

The DEPARTMENT and the CONSULTANT have agreed to provide the ELECTRONIC DOCUMENTS subject to the following conditions and acknowledgements, to which the REQUESTOR accepts and agrees to be bound:

1. ELECTRONIC DOCUMENTS consist only of the following files:

- ASCII data files with coordinates and elevations for proposed points as selected by the engineer.
- Design file, in DGN format, that contains 3D triangles representing the existing surface compatible with software currently used by the DEPARTMENT. Note: the existing file is based on the date when the surveys were performed and may not reflect any subsequent changes due to new developments, natural changes (erosion, flooding), utility installations or other projects within the limits.
- Design file, in DGN format, that contains 3D feature lines for the proposed design, compatible with software currently used by the DEPARTMENT. The 3D feature lines are for the proposed top surface elevation only. Note: These files represent the proposed conditions at a point in the DEPARTMENT'S Project Development Process and may not reflect any subsequent changes as a result of the Project Development Process or as-built conditions.
- Other _____

2. To the extent that by its agreement with the DEPARTMENT or otherwise, the CONSULTANT has any common law rights including copyright in the ELECTRONIC DOCUMENTS and any paper version thereof, the CONSULTANT retains such right and by this Agreement only grants the REQUESTOR a non-exclusive license to use for informational purposes only for the PROJECT.

3. The ELECTRONIC DOCUMENTS are provided as a convenience to the REQUESTOR at the request of the DEPARTMENT in connection with the REQUESTOR'S bidding, responsibilities and/or obligations relating to the PROJECT. The DEPARTMENT shall not be construed to have performed any services in connection with the REQUESTOR'S use of the ELECTRONIC FILES provided and shall have no liability for any aspect of their use and has no contractual relationship with the REQUESTOR in connection with their use, other than as set forth in this Agreement.

4. All parties agree that the ELECTRONIC DOCUMENTS are not, nor shall they be construed to be, a product or products. It is specifically agreed by the REQUESTOR that there are no warranties of any kind in such ELECTRONIC DOCUMENTS or in the media in which they are contained, either expressed or implied, including any warranty of merchantability or warranty of fitness. Any warranty of merchantability or warranty of fitness is expressly waived by the REQUESTOR.

5. It is understood by the REQUESTOR that the media in which any ELECTRONIC DOCUMENTS are transmitted can deteriorate over time and under various conditions. In addition, any conversion of the format is solely the responsibility of the REQUESTOR. The REQUESTOR understands and agrees that the conversion of ELECTRONIC DOCUMENTS from the format provided by the DEPARTMENT to some other format may introduce errors or other inaccuracies. The REQUESTOR therefore agrees to confirm the accuracy of any converted ELECTRONIC DOCUMENTS before using them. The REQUESTOR agrees to accept all responsibility for any errors or inaccuracies and to release the DEPARTMENT and the CONSULTANT and its SUBCONSULTANTS from any liability or claims for recovery of damages or expenses arising as the result of such errors or inaccuracies.

6. The REQUESTOR shall, in addition to the other obligations set forth herein, be obligated to remove the DEPARTMENT'S, the CONSULTANT'S and/or the SUBCONSULTANT's title block from the copy of the ELECTRONIC DOCUMENTS used by the REQUESTOR.

7. The REQUESTOR agrees not to use, or allow others to use, the ELECTRONIC DOCUMENTS, in whole or in part, for any purpose or project other than as stated above without the express prior written permission of the DEPARTMENT and the CONSULTANT.

8. The REQUESTOR agrees to waive any and all claims for liability against the DEPARTMENT, the CONSULTANT, and its SUBCONSULTANTS resulting in any way from use of the ELECTRONIC DOCUMENTS or from any failure by the REQUESTOR to comply with the requirements of this Agreement.

9. The REQUESTOR further agrees to indemnify and save harmless the DEPARTMENT, the CONSULTANT, and its SUBCONSULTANTS and each of their partners, officers, shareholders, directors and employees from any and all claims, judgments, suits, liabilities, damages, costs or expenses (including reasonable defense and attorney fees) arising as the result of the REQUESTOR'S failure to comply with any of the requirements of this Agreement and/or the REQUESTOR'S use of the ELECTRONIC DOCUMENTS.
10. The DEPARTMENT's providing of the ELECTRONIC DOCUMENTS is not in any way a representation or commitment that the REQUESTOR has been or will be awarded any portion of the scope of work for the PROJECT.

DEPARTMENT:

Signature: _____ Date: _____

Print Name: _____

Title: _____

CONSULTANT:

Signature: _____ Date: _____

Print Name: _____

Title: _____

Company: _____

REQUESTOR:

Signature: _____ Date: _____

Print Name: _____

Title: _____

Company: _____