

**DOCUMENT 00 21 00**

**INSTRUCTIONS TO BIDDERS**

**1. RECEIPT OF BIDS**

Sealed bid proposals will be received by City of San Bruno at the Office of the City Clerk, located at 567 El Camino Real, San Bruno, California, no later than **DAY, DATE at TIME**. **The bid proposal shall be in two opaque sealed 10” x 13” envelopes labeled Bid Proposal, PROJECT TITLE, Project No. xxxxx, Envelope “A” and Envelope “B” containing the following documents:**

**Envelope A – Bid Submittals**

- 1) **00 41 00** Bid Proposal (Notarized)
- 2) **00 41 70** Addenda Acknowledgement
- 3) **00 43 13** Proposal Guarantee (Bid Bond), Cash, Cashier’s or Certified Check
- 4) **00 43 36** Subcontractor List
- 5) **00 45 14** Bidder Registration and Certification
- 6) **00 45 19** Non-collusion Affidavit (Notarized)

**Envelope B – 00 45 13 Statement of Qualifications (SOQ) for Construction Work**

All bid envelopes will be time-stamped to reflect their submittal time. The City will reject all bids received after the specified time and will return such bids to the bidders unopened. Bidders must submit bids in accordance with this Document. Bidder’s failure to submit all required documents strictly as required entitles the City to reject the bid as non-responsive. Bidder shall provide written responses to any questions or requests for information made by the City as part of the bid evaluation process after submission of the bid.

**2. BID FORMS**

The City will reject as non-responsive any bid not submitted on the required forms. Bids must be complete and legible. Bidders must complete all bid items and supply all information required by the bidding documents. The City reserves the right in its sole discretion to reject any bid as non-responsive as a result of any error or omission in the bid. Bidders may not modify the bid forms or qualify their bids. Bidders must submit clearly and distinctly written bids. Bidders must clearly make any changes in their bids by crossing out original entries, entering new entries, and initialing new entries. The City reserves the right to reject any bid not clearly written.

**3. BID SECURITY**

Bidders must submit with their bids either cash, a cashier’s check, or certified check from a responsible bank in the United States, or corporate surety bond furnished by a surety authorized to do business in the State of California, of not less than ten percent (10%) of the total bid price payable to the City of San Bruno. All bidders choosing to submit a surety bond must submit it on the required form, Document 00 41 00 (Bid

Proposals). The City will reject as non-responsive any bid submitted without the necessary bid security.

The City may retain bid securities and bid bonds of all bidders for a period of 90 days after award or full execution of the contract, whichever occurs first. Upon full execution of the contract, and upon request by bidder, the City will return to the respective unsuccessful bidders their bid securities and bid bonds.

#### **4. SUBCONTRACTORS LIST**

All bidders must submit with their bids the required information on all subcontractors in Document 00 43 36 (Subcontractor List) for those subcontractors who will perform any portion of the work, including labor, rendering of service, or specially fabricating and installing a portion of the work of improvement according to detailed drawings contained in the plans and specifications, in excess of one half of one percent of the total bid, pursuant to Section 4104 of the Public Contract Code. Violation of this requirement may result in the bid being deemed non-responsive and not being considered.

#### **5. MANDATORY PRE-BID CONFERENCE**

The City will conduct a mandatory Pre-Bid Conference at t on **DAY, DATE at TIME at the San Bruno City Hall, 567 El Camino Real, San Bruno.** Please RSVP to 650-616-7065. Each bidder may be represented at the Pre-Bid Conference. Each representative shall sign an attendance sheet identifying the bidder represented.

- a. The City reserves the right to schedule and organize the Pre-Bid Conference to minimize disruption to surrounding facilities and congestion. See also Document 00 31 32, para. 5.1. Any bidder wishing to investigate subsurface conditions or otherwise conduct invasive investigations, explorations, test, or studies at this site shall schedule such examinations with the City by obtaining an approved Encroachment Permit from the City's Public Services Department prior to the investigation. An Encroachment Permit is not required for Bidders who intend only to observe site conditions and not conduct such examinations.
- b. Bidders are encouraged to submit written questions in connection with the Pre-Bid Conference. The City will transmit to all parties recorded as having received bidding documents such addenda as the City in its discretion considers necessary in response to written questions. Bidders shall not rely on oral statements. Oral statements will not be binding or legally effective.

#### **6. OTHER REQUIREMENTS PRIOR TO BIDDING**

Submission of bid signifies bidder's careful examination of the bidding documents and the complete understanding of the nature, extent, and location of the work to be performed. As a condition to bidding, bidder must complete tasks listed in Document 00 52 00 (Contract Agreement), Article 5. Submission of a bid shall constitute bidder's express representation to the City that bidder has fully completed these tasks.

## **7. EXISTING DRAWINGS AND GEOTECHNICAL DATA**

Bidders may examine any available existing conditions information (e.g., record documents, specifications, studies, drawings of previous work on site) by giving the City reasonable advance notice, as well as applicable environmental assessment information (if any) regarding the project. Document 00 31 32 (Geotechnical Data and Existing Conditions) applies to all supplied existing conditions information and geotechnical reports and all other information supplied regarding existing conditions either above ground or below ground. The City will make copies available for a fee of printing and handling. A bidder must give 2 days advanced notice if copies are desired.

## **8. ADDENDA**

Bidders must direct all questions about the meaning or intent of the bidding documents to City's Department of Public Services, Administration & Engineering, in writing. Interpretations or clarifications considered necessary by the City in response to such questions will be issued by addenda mailed, faxed, or delivered to all parties recorded by the City as having received bidding documents. The addenda will be written and will be issued to each bidder to the address or fax number supplied to the City by the bidder. The City may not answer questions received less than 10 days prior to the date for opening Bids. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. However, the City may, upon inquiry by the bidder, orally direct bidder's attention to specific provisions of the contract documents which cover the subject of the inquiry.

In addition:

- a. The addenda may also be issued to modify the bidding documents as deemed advisable by the City.
- b. The addenda shall be acknowledged by number with signature in Document 00 41 00 (Bid Proposal) and shall be part of the contract documents. A complete listing of the addenda may be secured from the City.

## **9. SUBSTITUTIONS**

Bidders must base their bids on products and systems specified in the contract documents or listed by name in the addenda.

- a. Except as provided in paragraph 9.c below, the City will consider substitution requests only for "or approved equal" items. Bidders wanting to use "or approved equal items" may submit Document 00 43 25 (Substitution Request Form) no later than 7 days after the issuance of the Notice of Award. After that date, the City will not accept "or approved equal" substitution requests. To assess "or approved equal" acceptability of product or system, submittals of substitutions shall contain the information required in Document 00 43 25 and set forth in Section 01 60 00 (Product Requirements) of the contract documents. Insufficient information will be grounds for rejection of substitution. The City shall, within a reasonable period of time after having received a request for substitution, issue in writing its decision as to whether the proposed substitute item is an "or approved equal" item for compatibility to City systems, durability, or quality. The City's decision shall be conclusive on all bidders.

- b. Approved substitutions shall be listed in the addenda and become part of the contract documents.
- c. Substitutions may be requested after submitting bids and Award of Contract only in accordance with Section 01 60 00 (Product Requirements) of the contract documents.
- d. As a limitation on bidder's privilege to substitute "or approved equal" items, the City has found that certain items are designed as City standards and certain items are designed to match existing items in use on a particular public improvement either completed or in the course of completion. As to such items, the City will not permit substitution. As a further limitation on bidder's privilege to substitute items, the City has found that certain necessary items are only available from one source. As to such items, the City will not permit substitution. **[NONE]**

## **10. WAGE RATES**

Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the contract, as determined by Director of the State of California Department of Industrial Relations, are on file at the City's office and are deemed included in the bidding documents. Upon request, the City will make copies available to any interested party. Also, the bidders shall post the applicable prevailing wage rates at the job site. The California Department of Industrial Relations is at <http://www.dir.ca.gov/>

## **11. EQUAL EMPLOYMENT OPPORTUNITY**

Bidder shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical conditions, disability, or any other reason.

## **12. PLANS**

Complete sets of bidding documents must be used in preparing bids. The City assumes no responsibility for errors or misinterpretations resulting from use of incomplete sets of bidding documents. The drawings in the bidding documents are reduced scale reproductions. The amount of reduction is indicated by a note or scale bar on the drawings. Copies of full-scale drawings, including individual drawings, may be obtained from the City for the cost of reproduction, plus shipping and handling. Full-size drawings will only be made available to bidders who previously obtained a complete set of bidding documents. No return of full-size drawings is required, and no refund will be made.

### **13. DETERMINATION OF APPARENT LOW BIDDER**

- a. City will open each Bidder's Envelope A at the time and place indicated in Document 00 10 00 (Notice Inviting Bids), initially evaluate them for responsiveness, and determine an Apparent Low Bidder as specified herein. City will not open Envelopes B publicly, and except for the Apparent Low Bidder's Envelope B (or as otherwise provided in this Document 000 21 00), they will remain unopened.
- b. Apparent Low Bid will be determined as provided in Document 00 41 00 (Bid Proposal). All bidders are required to submit bids on all bid items, including any alternates.
- c. For the Apparent Low Bidder only, City will open Envelope B and evaluate the Apparent Low Bidder for responsiveness to the requirements of Document 00 4513 and for responsibility.
- d. If Apparent Low Bidder is determined to be non-responsive or non-responsible, then City may proceed to the next Apparent Low Bidder's Bid pursuant to any procedures determined in its reasonable discretion, and proceed for all purposes as if this Apparent Low Bidder were the original Apparent Low Bidder.

### **14. EVALUATION OF BIDDER RESPONSIBILITY**

The City will evaluate bidder's responsibility and compliance with the requirements of the contract documents. The City will notify Apparent Low Bidder in writing of any deficiencies found and will provide Apparent Low Bidder the opportunity to respond in writing with reasonable clarifications, but will not allow any changes to the bid price and amount.

### **15. BID EVALUATION**

The City reserves the right, in its sole discretion, to waive any inconsequential defects or minor irregularities in the bids. The City also reserves the right, in its sole discretion, to reject any or all bids and to re-bid the project. The City reserves the right, in its sole discretion, to reject any or all nonconforming, non-responsive, unbalanced, or conditional bids, and to reject the bid of any bidder if the City believes that it would not be in the best interest of the project to make an award to that bidder, whether because the bid is not responsive or the bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the City. For purposes of this paragraph, an "unbalanced bid" is one having nominal prices for some work items and enhanced prices for other work items.

- a. In evaluating bids, the City will consider bidders' qualification, whether or not the bids comply with the prescribed requirements, unit prices and other data, as may be requested in Document 00 41 00 (Bid Proposal) or prior to the Notice of Award.
- b. Subject to any pre-qualification process for the bidders, the City may otherwise conduct reasonable investigations and reference checks of bidder, proposed subcontractors, suppliers and other persons and organizations, as the City deems

necessary to assist in the evaluation of any bid. The City shall also have the right to communicate directly with bidder's surety regarding bidder's bonds.

- c. Discrepancies between the multiplication of units of work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum or any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between written words and figures will be resolved in favor of the words.
- d. Quantities stated in the bidding documents are approximate only and are subject to correction upon final measurement of the work, and are subject further to the rights reserved by the City to increase or diminish the amount of work under any classification as advantages to design or as construction needs require.
- e. Bids shall be deemed to include the written responses of the Bidder to any questions or requests for information of Owner made as part of Bid evaluation process after submission
- f. The City may determine whether a bidder is qualified, responsive or responsible in its sole discretionary judgment.

## **16. AWARD**

If the contract is to be awarded, it will be awarded to the lowest responsible, responsive bidder. Such Award, if made, will be made within ninety (90) days after the opening of the Bid Proposals. Following completion of all required City procedures and receipt of all City approvals, the City will issue Document 00 51 00 (Notice of Award) to the successful bidder.

## **17. BID PROTEST**

Any bid protest must be submitted in writing to the City's Public Services Department, Administration & Engineering (Attention: City Engineer), before 5:00 p.m. of the 5<sup>th</sup> calendar day following issuance of Document 00 50 50 (Notice of Intent to Award for Construction). Time of receipt will be determined by City staff. City will use reasonable efforts to deliver by email or facsimile a copy of the Notice of Intent to Award to all bidders who submitted Bid Proposals no later than the business day after issuance, although any delay or failure to do so will not extend the bid protest deadline described above.

- a. The initial protest must contain a complete statement of the basis for the protest.
- b. The protest must refer to the specific portion of the document that forms the basis for the protest.
- c. The protest must include the name, address, and telephone number of the person representing the protesting party.
- d. Only bidders who the City determines are otherwise responsive and responsible (i.e., other than as to the specific subject of the protest) are eligible to protest a bid; protests from any other bidder will not be considered. In order to determine

whether a protesting bidder is responsive and responsible, City may evaluate all information contained in any protesting bidder's Bid Proposal, and conduct the same investigation and evaluation as City is entitled to take regarding an Apparent Low Bidder.

- e. The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
- f. The procedure and time limits set forth in this paragraph are mandatory and are bidder's sole and exclusive remedy in the event of a bid protest. Bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code Claim or legal proceedings. A bidder may not rely on a protest submitted by another bidder, but must timely pursue its own protest.

## **18. POST-NOTICE OF AWARD REQUIREMENTS**

After Notice of Award is issued, the successful bidder must execute and submit the following documents as indicated below:

- a. Submit the following documents to the City by 5:00 p.m. of the 10<sup>th</sup> day following the Notice of Award. Execution of the contract agreement by the City depends upon approval of these documents, and any other document identified in the City's Notice of Award:
  - 1) Document 00 52 00 (Contract Agreement): To be executed by successful bidder. Submit three originals, each bearing an original signature.
  - 2) Document 00 61 13.13 (Construction Performance Bond): To be executed by successful bidder and surety, in the amount set forth in Document 00 61 13. Submit one original.
  - 3) Document 00 61 13.16 (Construction Labor and Material Payment Bond): To be executed by successful bidder and surety, in the amount set forth in Document 00 61 13.16. Submit one original.
  - 4) Insurance certificates and endorsements required by Document 00 72 00 (General Conditions) Article 4. Submit one original set.
  - 5) Any other item described in Document 00 51 00 (Notice of Award).
- b. The City shall have the right to communicate directly with Apparent Low Bidder's proposed performance bond surety to confirm the performance bond. The City may elect to extend the time to receive faithful performance and labor and material payment bonds.
- c. Successful bidder's failure to submit the documents required herein, in a proper and timely manner, entitles the City to rescind its award, and to cause bidder's bid security to be forfeited as provided herein.

**19. FAILURE TO EXECUTE AND DELIVER DOCUMENTS**

If the bidder to whom the contract is awarded shall, within the period described in Paragraph 18 of this Document 00 21 00, fails or neglects to execute and deliver all required contract documents and file all required bonds, insurance certificates, and other documents, the City may, in its sole discretion, foreclose on bidder's deposit surety bond, or deposit bidder's cashier's check or certified check for collection, and retain the proceeds thereof as liquidated damages for bidder's failure to enter into the contract documents. Bidder agrees that calculating damages the City may suffer as a result of bidder's failure to execute and deliver all required contract documents would be extremely difficult and impractical and that the amount of bidder's required bid security shall be the agreed and presumed amount of the City's damages. In addition, upon such failure, the City may determine the next Apparent Low Bidder and proceed accordingly.

**20. MODIFICATION OF COMMENCEMENT OF WORK**

The City expressly reserves the right to modify the date for the commencement of work under the contract and to independently perform and complete work related to the project. The City accepts no responsibility to the contractor for any delays attributed to its need to complete independent work at the site.

**21. WITHDRAWAL OF BIDS**

Bidders may withdraw their bids at any time prior to the bid opening time fixed in this Document, only by written request for the withdrawal of the bid filed with the City at the City's office. Bidder or its duly authorized representative shall execute a request to withdraw the bid. The submission of a bid does not commit the City to award a contract for the project, to pay costs incurred in the preparation of a bid, or to procure or contract for any goods or services.

**22. INELIGIBLE CONTRACTORS AND SUBCONTRACTORS**

The City shall not accept a bid from a bidder who is ineligible to bid or work on, or be awarded, a public works project pursuant to California Labor Code Section 1777.1 or 1777.7. Bidders and the contractor who is awarded the project contract shall not utilize, or allow work by any subcontractor who is ineligible to bid or work on, or be awarded, a public works project pursuant to California Labor Code Section 1777.1 or 1777.7. (See California Public Contract Code Section 6109.) The California Division of Labor Standards Enforcement publishes a list of debarred contractors and subcontractors on the Internet at [www.dir.ca.gov/DLSE/debar.html](http://www.dir.ca.gov/DLSE/debar.html).

**23. PUBLIC RECORDS ACT REQUESTS**

- a. Per the Public Records Act, the City will make available to the public the bidder's Statement of Qualifications (if Envelope B is opened), all correspondence and written questions submitted during the bid period, all bid submissions opened in accordance with the procedures of this Document, and all subsequent bid evaluation information. All submissions not opened will remain sealed and

eventually be returned to the submitter. Except as otherwise required by law, the City will not disclose trade secrets or proprietary financial information submitted that has been designated confidential by bidder (including but not limited to the SOQ). Any such trade secrets or proprietary financial information that a bidder believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections shall not be permitted and shall be invalid. The specific information must be clearly identified as such.

- b. Upon a request for records regarding this bid, the City will notify bidder involved within 10 days from receipt of the request when the records will be made available for inspection. If the bidder timely identifies any "proprietary, trade secret, or confidential commercial or financial" information that bidder determines is not subject to public disclosure, and requests the City to refuse to comply with the records request, bidder shall take all appropriate legal action and defend the City's refusal to produce the information in all forums; otherwise the City will make such information available to the extent required by applicable law, without restriction.
- c. Information disclosed in the SOQ and the attendant submissions are the property of the City unless bidder makes specific reference to data that is considered proprietary. Subject to the requirements in the Public Records Act, reasonable efforts will be made to prevent the disclosure of information except on a need-to-know basis during the evaluation process.

#### **24. CONSTRUCTION PAYMENT BOND AND CONSTRUCTION LABOR AND MATERIALS BOND SURETY**

Documents 00 61 13.13 (Construction Performance Bond) and 00 61 13.16 (Construction Labor and Material Payment Bond) shall be executed by a surety insurer admitted in the State of California by the Department of Insurance. The City shall verify surety's admission by either: (1) printing out information from the website of the Department of Insurance confirming that the surety is an admitted surety insurer; or, (2) obtaining a certificate from the County Clerk confirming that the surety is an admitted insurer. The City shall attach such verification to Documents 00 61 13.13 and Document 00 61 13.16.

#### **25. CONFORMED CONSTRUCTION DOCUMENTS**

Following Award of Contract, the City may prepare a conformed set of contract documents reflecting addenda issued during bidding, which will, failing objection, constitute the approved set of contract documents.

#### **26. DEFINITIONS**

All abbreviations and definitions of terms used in this Document are set forth in Document 01 42 16 (Definitions).

-END OF DOCUMENT-