

**SECTION 00 21 13 INSTRUCTIONS TO BIDDERS
DEVELOPER AWARDED CONTRACTS
FOR PUBLICLY BID PROJECTS ONLY**

1. Defined Terms

1.1. Certain additional terms used in these INSTRUCTIONS TO BIDDERS have the meanings indicated below which are applicable to both the singular and plural thereof.

1.1.1. Bidder: Any person, firm, partnership, company, association, or corporation acting directly through a duly authorized representative, submitting a bid for performing the work contemplated under the Contract Documents.

1.1.2. Successful Bidder: The responsible and responsive Bidder to whom Developer/City (on the basis of City's evaluation as hereinafter provided) makes an award.

2. Copies of Bidding Documents

2.1. Neither Developer/City nor Engineer shall assume any responsibility for errors or misinterpretations resulting from the Bidders use of incomplete sets of Bidding Documents.

2.2. Developer/City and Engineer in making copies of Bidding Documents available do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license or grant for any other use.

3. Prequalification of Bidders (Prime Contractors and Subcontractors)

3.1. All Bidders and their subcontractors are required to be prequalified for the work types requiring prequalification at the time of bidding. Bids received from contractors who are not prequalified (even if inadvertently opened) shall not be considered. Prequalification requirement work types and documentation are available by accessing all required files through the City's website at: <https://apps.fortworthtexas.gov/ProjectResources/>

3.1.1. Paving – Requirements document located at;

Resources/Construction Documents/Contractor Prequalification/TPW Paving Contractor Prequalification Program

3.1.2. Roadway and Pedestrian Lighting – Requirements document located at;

Resources/Construction Documents/Contractor Prequalification/TPW Roadway and Pedestrian Lighting Prequalification Program

3.1.3. Water and Sanitary Sewer – Requirements document located at;

02 - Construction Documents/Contractor Prequalification/Water and Sanitary Sewer Contractor Prequalification Program

3.2. Each Bidder unless currently prequalified, must be prepared to submit to City within seven (7) calendar days prior to Bid opening, the documentation identified in Section 00 45 11, BIDDERS PREQUALIFICATIONS.

3.2.1. Submission of and/or questions related to prequalification should be addressed to the City contact as provided in Paragraph 6.1.

3.3. The City reserves the right to require any pre-qualified contractor who is the successful bidder(s) for a project to submit such additional information as the City, in its sole discretion may require, including but not limited to manpower and equipment records, information about key personnel to be assigned to the project, and construction schedule, to assist the City in evaluating and assessing the ability of the successful bidder(s) to deliver a quality product and successfully complete projects for the amount bid within the stipulated time frame. Failure to submit the additional information, if requested, may be grounds for rejecting the successful bidder as non-responsive.

3.4. In addition to prequalification, additional requirements for qualification may be required within various sections of the Contract Documents.

3.5. Special qualifications required for this project include the following: N/A

4. Examination of Bidding and Contract Documents, Other Related Data, and Site

4.1. Before submitting a Bid, each Bidder shall:

4.1.1. Examine and carefully study the Contract Documents and other related data identified in the Bidding Documents (including "technical data" referred to in Paragraph 4.2. below). No information given by Developer/City or any representative of the Developer/City other than that contained in the Contract Documents and officially promulgated addenda thereto, shall be binding upon the Developer/City.

4.1.2. Visit the site to become familiar with and satisfy Bidder as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

4.1.3. Consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work.

- 4.1.4. Be advised, City, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration of award.
- 4.1.5. Study all: (i) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) that have been identified in the Contract Documents as containing reliable "technical data" and (ii) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in the Contract Documents as containing reliable "technical data."
- 4.1.6. Be advised that the Contract Documents on file with the City shall constitute all of the information which the City will furnish. All additional information and data which the City will supply after promulgation of the formal Contract Documents shall be issued in the form of written addenda and shall become part of the Contract Documents just as though such addenda were actually written into the original Contract Documents. No information given by the City other than that contained in the Contract Documents and officially promulgated addenda thereto, shall be binding upon the City.
- 4.1.7. Perform independent research, investigations, tests, borings, and such other means as may be necessary to gain a complete knowledge of the conditions which will be encountered during the construction of the project. Bidder must fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.
- 4.1.8. Determine the difficulties of the Work and all attending circumstances affecting the cost of doing the Work, time required for its completion, and obtain all information required to make a proposal. Bidders shall rely exclusively and solely upon their own estimates, investigation, research, tests, explorations, and other data which are necessary for full and complete information upon which the proposal is to be based. It is understood that the submission of a proposal is prima-facie evidence that the Bidder has made the investigation, examinations and tests herein required. Claims for additional compensation due to variations between conditions actually encountered in construction and as indicated in the Contract Documents will not be allowed.
- 4.1.9. Promptly notify Developer of all conflicts, errors, ambiguities or discrepancies in or between the Contract Documents and such other related documents. The Contractor shall not take advantage of any gross error or omission in the Contract Documents, and the Developer shall be permitted to make such corrections or interpretations as may be deemed necessary for fulfillment of the intent of the Contract Documents.

4.2. Reference is made to Section 00 73 00 – Supplementary Conditions for identification of:

- 4.2.1. those reports of explorations and tests of subsurface conditions at or contiguous to the site which have been utilized by Developer in preparation of the Contract Documents. The logs of Soil Borings, if any, on the plans are for general information only. Neither the Developer nor the Engineer guarantee that the data shown is representative of conditions which actually exist.
- 4.2.2. those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site that have been utilized by Developer in preparation of the Contract Documents.
- 4.2.3. copies of such reports and drawings will be made available by City to any Bidder on request. Bidder is responsible for any interpretation or conclusion drawn from any "technical data" or any other data, interpretations, opinions or information.
- 4.3. The submission of a Bid will constitute an incontrovertible representation by Bidder (i) that Bidder has complied with every requirement of this Paragraph 4, (ii) that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents, (iii) that Bidder has given Developer written notice of all conflicts, errors, ambiguities and discrepancies in the Contract Documents and the written resolutions thereof by Developer are acceptable to Bidder, and when said conflicts, etc., have not been resolved through the interpretations by Developer as described in Paragraph 6., and (iv) that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.
- 4.4. The provisions of this Paragraph 4, inclusive, do not apply to Asbestos, Polychlorinated biphenyls (PCBs), Petroleum, Hazardous Waste or Radioactive Material, unless specifically identified in the Contract Documents.

5. Availability of Lands for Work, Etc.

- 5.1. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Developer.

6. Interpretations and Addenda

- 6.1. All questions about the meaning or intent of the Bidding Documents are to be directed to Developer's/City's representative. Interpretations or clarifications considered necessary by Developer in response to such questions will be issued by Addenda delivered to all parties recorded by Developer as having received the Bidding Documents. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

Address questions to:

Attn: **TIMOTHY J. WELCH, P.E., WELCH ENGINEERING, INC.**
Email: twelch@welcheng.com
Phone: **(817) 253-3682**

AND/OR

Attn: Geroge Marquez, P.E., CITY OF FORT WORTH
Email: George.Marquez@fortworthtexas.gov
Phone: **(817) 392-6826**

- 6.2. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Developer/City.
- 6.3. Addenda or clarifications may be posted via the City's document management and collaboration system site at : N/A.
- 6.4. A prebid conference may be held at the time and place indicated in the Advertisement or INVITATION TO BIDDERS. Representatives of Developer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. Developer's representative will transmit to all prospective Bidders of record such Addenda as Developer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

7. Bid Security

- 7.1. Each Bid must be accompanied by Bid Bond made payable to Developer in an amount of five (5) percent of Bidder's maximum Bid price on form attached, issued by a surety meeting the requirements as listed in the General Conditions.
- 7.2. The Bid Bond of all Bidders will be retained until the conditions of the Notice of Award have been satisfied. If the Successful Bidder fails to execute and deliver the complete Agreement within 10 days after the Notice of Award, Developer may consider Bidder to be in default, rescind the Notice of Award, and the Bid Bond of that Bidder will be forfeited. Such forfeiture shall be Developer's exclusive remedy if Bidder defaults. The Bid Bond of all other Bidders whom Developer believes to have a reasonable chance of receiving the award will be retained by Developer until final contract execution.

8. Contract Times

The number of days within which, or the dates by which, Milestones are to be achieved in accordance with the General Requirements and the Work is to be completed and ready for Final Acceptance is set forth in the Agreement or incorporated therein by reference to the attached Bid Form.

9. Liquidated Damages

Provisions for liquidated damages are set forth in the Agreement.

10. Substitute and "Or-Equal" Items

The Contract, if awarded, will be on the basis of materials and equipment described in the Bidding Documents without consideration of possible substitute or "or-equal" items. Whenever it is indicated or specified in the Bidding Documents that a "substitute" or "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to City, application for such acceptance will not be considered by City until after the Effective Date of the Agreement. The procedure for submission of any such application by Contractor and consideration by City is set forth in Section 01 25 00 of the General Requirements.

11. Bid Form

- 11.1. All blanks on the Bid Form must be completed by printing in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each Bid item, alternative, and unit price item listed therein. In the case of optional alternatives, the words "No Bid," "No Change," or "Not Applicable" may be entered legibly, in ink or type, for which the Bidder proposes to do the work contemplated or furnish materials required.
- 11.2. Bids by corporations shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed. The corporate name, address and state of incorporation shall be shown below the signature.
- 11.3. Bids by partnerships shall be executed in the partnership name and signed by a partner, whose title must appear under the signature accompanied by evidence of authority to sign. The official name and address of the partnership shall be shown below the signature.
- 11.4. Bids by limited liability companies shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The name and state of formation of the firm and the official address of the firm shall be shown.
- 11.5. Bids by individuals shall show the Bidder's name and official address.
- 11.6. Bids by joint ventures shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.
- 11.7. All names shall be typed or printed in ink below the signature.

- 11.8. The Bid shall contain an acknowledgement of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 11.9. Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.
- 11.10. Evidence of authority to conduct business as a Nonresident Bidder in the state of Texas shall be provided in accordance with Section 00 43 37 – Vendor Compliance to State Law Non Resident Bidder.

12. Submission of Bids

- 12.1. Bids shall be submitted on the prescribed Bid Form and proposal form, provided with the Bidding Documents, at the time and place indicated in the Advertisement or INVITATION TO BIDDERS, addressed to City of Fort Worth Project Manager, and shall be enclosed in an opaque sealed envelope, marked with the City Project Number, Project title, the name and address of Bidder, and accompanied by the Bid security, if required, and other required documents.

13. Modification and Withdrawal of Bids

- 13.1. Bids cannot be withdrawn prior to the time set for bid opening. A request for withdrawal must be made in writing by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids. After all Bids not requested for withdrawal are opened and publicly read aloud, the Bids for which a withdrawal request has been properly filed may, at the option of the Developer/City, be returned unopened.
- 13.2. Bidders may modify their Bid by electronic communication at any time prior to the time set for the closing of Bid receipt.

14. Opening of Bids

- 14.1. Bids will be opened and read aloud publicly at the place where Bids are to be submitted. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of Bids.

15. Bids to Remain Subject to Acceptance

- 15.1. All Bids will remain subject to acceptance for the time period specified for Notice of Award and execution and delivery of a complete Agreement by Successful Bidder. Developer/City may, at their sole discretion, release any Bid and nullify the Bid security, if required, prior to that date.

16. Evaluation of Bids and Award of Contract

- 16.1. Developer/City reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced or conditional Bids and to reject the Bid of any Bidder if Developer/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 City. Developer/City also reserves the right to waive informalities not involving price, contract time or changes in the Work with the Successful Bidder. 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 of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
 - 16.1.1. Any or all bids will be rejected if Developer/City has reason to believe that collusion exists among the Bidders, Bidder is an interested party to any litigation against Developer/City, Developer/City or Bidder may have a claim against the other or be engaged in litigation, Bidder is in arrears on any existing contract or has defaulted on a previous contract, Bidder has performed a prior contract in an unsatisfactory manner, or Bidder has uncompleted work which in the judgment of the Developer/City will prevent or hinder the prompt completion of additional work if awarded.
- 16.2. Developer/City may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Contract Documents or upon the request of the Developer/City. Developer/City also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- 16.3. Developer/City may conduct such investigations as Developer/City deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Developer's/City's satisfaction within the prescribed time.
- 16.4. If the Contract is to be awarded, it will be awarded to lowest responsible and responsive Bidder whose evaluation by Developer/City indicates that the award will be in the best interests of the Developer/City.
- 16.5. Failure or refusal to comply with the requirements may result in rejection of Bid.

17. Signing of Agreement

- 17.1. When Developer issues a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement. The Contractor shall sign and deliver the required number of counterparts of the Agreement to Developer's representative with the required Bonds, Certificates of Insurance, and all other required documentation.

END OF SECTION