

SECTION 00200

INSTRUCTIONS TO BIDDERS

1. General

Instructions to Bidders are also contained in other parts of these Contract Documents and apply with equal force to the instructions set forth in these Instructions to Bidders. All Bidders shall comply with every requirement, obligation, responsibility, and provision imposed on the Contractor by these Contract Documents even though said requirements, obligations, responsibilities, and provisions shall be complied with by the Contractor in part or in total prior to the opening of bids or the award of the Contract. If any Bidder fails to comply in every respect with any condition imposed on the Bidder or the Contractor, as the case may be, it is understood and agreed that the bid submitted may be declared by the Owner, at the sole discretion of the Owner without recourse, as non-responsive, and the Owner may award the Contract to the next lowest responsive and responsible bidder, or all bids may be rejected.

Definitions of terms used in these Instructions to Bidders and other Contract Documents are contained in the General Conditions of these Contract Documents.

2. Proposal Requirements and Conditions

The Bidder's attention is directed to Section 2, Proposal Requirements and Conditions, of the General Conditions of these Contract Documents which contains specific instructions to, and information for, Bidders. The instructions and information contained in said Section 2 are supplemented by that set forth herein and in other parts of these Contract Documents.

3. Qualification of Bidders

The Bidder must be capable of performing the work covered by these Contract Documents in a satisfactory manner and within the time specified. The Bidder shall furnish with his Bid, on forms contained in the Proposal, information and evidence required by the Owner for the Owner's use in determining the Bidder's qualifications for performing the work. The Bidder shall promptly furnish all additional information, evidence, or statements requested by the Owner, after the bids have been opened and evaluated, or his bid may be declared non-responsive.

If the Bidder is a subsidiary, division, or corporation, 50 percent or more of whose ownership is held by another corporation, firm, or person, the Bidder shall furnish the same information, evidence, and statements on the principal owner that is required to be submitted by the Bidder to the Owner by these Contract Documents.

The information and evidence required to be submitted by the Bidder shall include, but not be limited to: (1) financial statements; (2) list of subcontractors;

(3) list of Bidder experience; and (4) lists of construction equipment available to the Bidder for performing the work.

4. Responsibility of Bidder to Inform Himself as to All Conditions Relating to the Work and the Project

The Bidder, by and through the submission of his Bid, agrees that he shall be held responsible: (1) for examining and fully understanding the Scope of Work, the Contract Documents, and all requirements thereof; (2) for having examined the site, the location, and the route of all proposed work; (3) for having familiarized himself fully with the construction schedule, site constraints, and the contractor's access requirements to the site; (4) for having satisfied himself as to the character of the work, the location, the surface and underground obstructions, the nature of the ground, subsurface water conditions, and all other subsurface conditions, and all other physical characteristics of the work and conditions relating thereto, in order that he may include in the prices bid, all costs pertaining to the work and thereby provide for the satisfactory completion thereof, including the removal, relocation, or replacement of any objects or obstructions which will be encountered in the performance of the work (based on the Unit Price descriptions in the Specifications).

If Bidders fail to fully understand any clause or requirement of these Contract Documents, inquiry in writing must be made of the Engineer for his interpretations of the Contract Documents five (5) calendar days in advance of the submission of a bid. Failure on the part of Bidders to thoroughly acquaint themselves with the work to be performed and the conditions under which it will be performed shall not be considered as a valid excuse for claims of any kind after the award of the Contract.

5. Familiarity with Laws and Regulations

The Bidder is required to be familiar with all Federal, State, and Local laws, ordinances, rules, and regulations that in any manner affect the work. Ignorance on the part of the Bidder shall not, in any way, relieve him from responsibility for compliance with said laws and regulations or any of the provisions of these Contract Documents.

The Bidder's attention is directed to the fact that all applicable Federal, State, and Local laws, ordinances, rules, and regulations and the regulations of any agency of government having jurisdiction over the work, or any part thereof, shall apply to the work or the performance thereof, and that said laws and regulations shall be a part of these Contract Documents, the same as if herein repeated.

6. Time for Completion and Liquidated Damages

6.1 It is understood and agreed that time is of the essence of the Contract and the Bidder agrees to complete the work within the contract time specified in the Proposal, the Contract, and other Contract Documents.

6.2 Should the Contractor fail to complete the work under these Contract Documents within the time specified in the Proposal, the Contractor shall pay to the Owner,

as liquidated damages and not as a penalty, the amount specified in the Proposal per calendar day of default unless extensions of time granted by the Owner specifically provide for the waiving of liquidated damages.

7. Addenda

If a Bidder is in doubt as to the meaning of any of the Contract Documents or if he finds discrepancies or ambiguities in, or omissions from any of the Contract Documents, he shall immediately submit a written request at least five (5) calendar days in advance of the bid opening date to the Engineer for interpretation or clarification. Said request by the Bidder and reply by the Engineer in the form of an addendum shall be in conformance with the provisions of these Contract Documents. All addenda shall become a part of these Contract Documents and shall be attached to the front cover of this bound volume submitted by the Bidder as his bid. The issuance of a written addendum by the Engineer shall be the only method whereby an interpretation or clarification will be made. No oral clarifications by the Owner or the Engineer will be made. Each Bidder shall be bound by all addenda, whether or not received by him.

8. Preparation of Bids

All bids shall be submitted on the prescribed forms contained in this bound volume and shall include all items listed in the Table of Contents of this volume and all addenda. All blank spaces of the Proposal and required accompanying documents, certifications, and statements shall be filled in handwritten in ink or typewritten, and completed as required by the provisions of these Contract Documents. Failure by the Bidder to fill in and complete all blanks and to supply all required information, documents, certifications, and statements may render the bid non-responsive, at the Owner's sole discretion without recourse, and the Owner may award the Contract to the next lowest responsive, responsible bidder or all bids may be rejected.

- 8.1 Proposal:** The Proposal bound in this volume, together with other documents, certifications, and statements required with the submission of the bid, shall be the form on which the bid is submitted and may not be removed from this bound volume. Alternately the contractor may only submit the bid documents provided separately with these specifications. Items such as bid bonds may be stapled to the appropriate pages in the documents. Modification of the Proposal or accompanying documents, certifications, and statements, may render the bid non-responsive.

The Bidder must sign the Proposal in the space provided for the signature. If the Bidder is an individual, the words "doing business as _____" or "Sole Owner" should appear beneath such signature. In the case of partnership, the signature of at least one of the partners must follow the firm name, and the words "Member of the Firm" should be written beneath such signature. If the Bidder is a corporation, the title of the officer signing the Proposal in behalf of the corporation must be stated, and evidence of his authority to sign the Proposal must be submitted.

- 8.2 Proposal:** The total base bid for the work described in these Contract Documents shall be the sum of the prices bid for the individual bid items in the Schedule I - Base Bid Items. Any Additive Alternate may be included in the Contract at the option of the City.

The amount of the total price or total unit price bid for each individual bid item in the Schedule I - Base Bid Items will determine the lowest bid subject to qualification and other requirements of these Contract Documents, and the City may make multiple awards to the lowest bidder for each individual bid item.

The City reserves the right to make one award to the bidder whose total base bid (the sum of the bid prices bid for the individual bid items in Schedule I – Base Bid Items) is the lowest, subject to qualification and other requirements of these Contract Documents.

- 8.3 Sales Taxes:** The attention of the Bidder is directed to the laws of the State of Tennessee. The Bidder shall include all applicable state and local sales taxes in the price bid. The Bidder will be required to comply with all applicable laws and to file any required exemption certificates.
- 8.4 Statement of Equipment:** The Bidder shall fill out the Statement of Equipment, providing all the data requested on the form.
- 8.5 Financial Statement:** The successful Bidder shall be required to submit a Financial Statement prior to award of the contract, if requested.
- 8.6 Statement of Bidder's Qualifications:** The Bidder shall fill out the Statement of Bidder's Qualifications, providing all the data requested on the form.
- 8.7 Affidavit:** The Bidder shall fill out and properly execute the Affidavit contained in the Proposal.

9. Bid Security

Each bid must be accompanied by a certified check or Bid Bond on the prescribed form included herein or an approved form in an amount not less than five percent (5%) of the amount of the bid, duly executed by the Bidder as principal and having as surety thereon a surety company acceptable to the Owner and the Owner's attorney and authorized to write such Bid Bond under the laws of the State of Tennessee. The certified checks or Bid Bonds of all unsuccessful Bidders, except the three lowest Bidders, will be returned after the opening of bids. The certified checks or Bid Bonds of the three lowest Bidders will be returned after the Owner and the accepted Bidder have executed the Contract and the accepted Bidder has filed an acceptable Contract Bond; or if the award of the Contract has not been made within 60 days after the date of the opening of bids, upon demand of any Bidder at any time thereafter, provided that he has not been notified of the acceptance of his bid.

Attorneys-in-Fact of other officers who sign bid bonds for a surety company must file with such bonds a certified copy of his power of attorney authorizing him to sign said bonds.

10. Obligation of Bidders

It is the obligation of the Bidder prior to submitting his bid:

- (1) To fully satisfy himself, using whatever means and methods he considers necessary or convenient, as to the requirements of these Contract Documents and the work covered hereunder.
- (2) To read and to be thoroughly familiar with the Drawings and other Contract Documents.
- (3) To comply with all requirements and provisions of these Contract Documents.
- (4) To make, from his own personal knowledge and experience, or professional advice, his own investigation of subsurface conditions.
- (5) To satisfy himself that the Drawings and other Contract Documents are adequate for the work to be performed hereunder.
- (6) To complete the Proposal and all accompanying documents, certifications, and statements as specified in these Contract Documents.

The failure of the Bidder to understand or comply with these obligations shall not relieve him from any responsibilities, duties, or obligations imposed by any provision of these Contract Documents. It is understood and agreed that the Bidder will not make any claims against the Owner or the Engineer for the Bidder's failure to comply with these requirements and that failure to comply may render the bid non-responsive at the Owner's sole discretion without recourse.

11. Submission of Bids

Each bid shall be submitted on the Proposal Form as furnished herein, together with a suitable bid security and with the required documents, certifications and statements, herein described.

Each bid must be submitted in a sealed envelope. In compliance with all the requirements of Chapter No. 135, Public Acts of 1945 of the General Assembly of the State of Tennessee, and House Bill No. 2180 (Public Chapter No. 882) known as the Contractor's Licensing Act of 1976, the envelope must also bear on the outside the following:

- (1) Name of the bidder
- (2) Address of the bidder
- (3) Name of Project for which bid is submitted;
- (4) Bidder's License Number and State of Registration
- (5) Bidder's License Date of Registration

- (6) Bidder's License Category or Classification; License Amount; and
- (7) Bidder's License Expiration Date.
- (8) The names of the bidder's Subcontractors for electrical, plumbing and heating, ventilating and air conditioning work (no more than one in each category) must also appear on the face of the envelope with the license classification, license number and expiration date shown for each one.

All envelopes containing bids that are not marked as described above will be declared non-responsive, will not be opened, will be returned to the Bidder unopened, and will be handled as described in Paragraph 14 herein.

If the bid is forwarded by mail, the sealed envelope containing the Proposal shall be enclosed in another envelope addressed to the Owner, care of the City Engineer, Development Resource Center, 1250 Market Street, Suite 2100, Chattanooga, Tennessee 37402.

12. Modification of Bids

Bid modifications will be accepted from Bidders if addressed to the Owner and received prior to the opening of the bids.

Any Bidder may modify his bid by telegraphic communication at any time prior to the opening of bids, provided such telegraphic communication is received by the Owner prior to the opening of bids, and, provided further, the Owner is satisfied that a written confirmation of the telegraphic modification over the signature of the bidder was mailed prior to the opening of bids. The telegraphic communication should not reveal the bid price but should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is not received within two (2) calendar days from the opening of bids, no consideration will be given to the telegraphic modification.

13. Withdrawal of Bids

Any bid may be withdrawn prior to the time scheduled in the Advertisement for Bids for the opening thereof. A bid may also be withdrawn 60 days after the date of the opening of the bids, provided that the Bidder has not been notified that his bid has been accepted.

14. Opening of Bids

Bids will be publicly opened and read aloud at the time and place stated in the Advertisement for Bids. The officer whose duty is to open them will decide when the specified time has arrived, and no bids received thereafter will be considered. No responsibility will be attached to any officer for the premature opening of a bid not properly addressed and identified. Bidders or their authorized agents are invited to be present.

15. Right to Accept or Reject Bids

Bids which contain modifications to the Contract Documents, or which are incomplete, unbalanced, conditional, or obscure, or which contain additions not requested or irregularities of any kind, or which do not comply in every respect with the "Instructions to Bidders" and other Contract Documents, may be declared non-responsive and rejected at the sole discretion of the Owner without recourse. The Owner reserves the right to waive any informality, to evaluate the bids, to reject any or all bids, and to re-advertise for bids.

16. Non-responsive Bids

Any bid that does not fully comply, in every respect, with all provisions, instructions, conditions, and requirements of these Contract Documents may be declared to be non-responsive by the Owner, at the Owner's sole discretion and without recourse, and the Owner may award the Contract to the next lowest responsive and responsible Bidder, or all bids may be rejected.

A bid may be declared by the Owner to be non-responsive for, but not limited to, any of the following reasons:

- (1) Failure to fill out all blanks and complete the Proposal and required accompanying documents, certifications, and statements.
- (2) Modification or alteration of the Proposal or other Contract Documents.
- (3) Failure to furnish adequate information for the Owner to determine if the Bidder is qualified.
- (4) Submission of a qualified or conditional bid.
- (5) Failure to furnish information, evidence, and statements of the principal Owner when the Bidder is owned 50 percent or more by another firm, corporation, or person.
- (6) Submission of unrealistic data, erroneous data, inaccurate data, or data that cannot be documented or substantiated.
- (7) Lack of adequate financial resources and capabilities.
- (8) Failure to comply with the requirements of Article 20 of Instructions to Bidders.

17. Disqualification of Bidders

17.1 One Proposal: Only one Proposal from a person, firm, partnership, or corporation under the same or under different names will be considered. If it is believed that a Bidder is interested in more than one Proposal for the work involved, all Proposals in which such a Bidder is interested will be declared non-responsive and will be rejected.

17.2 Collusion Among Bidders: If it is believed that collusion exists among the Bidders, the Proposals of all participants in such collusion will be declared non-

responsive and will be rejected. Participants in such collusion will not be considered in future Proposals for the same work.

- 17.3 Debarred or Suspended Contractors:** Bidders debarred or suspended under Chattanooga City Code, Part II, Chapter 2, Article XX (Ordinance No. 8259), or who are debarred or suspended by operation of any other applicable state or federal law or regulation, are not eligible to be contractors or subcontractors to this contract.
- 17.4 Affidavit of No Collusion by Bidder:** All bidders are required to execute a notarized affidavit of No Collusion by Bidder, and a bidder who fails to do so will be disqualified.

18. Criteria for Evaluation of Bids

A contract will be awarded, if it is awarded, to the lowest responsible and responsive bidder who submits the lowest bid for each individual bid item in Schedule I in accordance with the Contract Documents. It is understood and agreed that the Owner will determine, without recourse, which Bidder is the lowest responsible and responsive Bidder for each individual bid item. The Owner reserves the right to award a single contract to the Bidder whose total base bid (the sum of the prices bid for the individual bid items in Schedule I – Base Bid Items) is the lowest. In determining the Bidder or Bidders who will receive awards, the following specific criteria will be considered.

- 18.1** The Bidder shall maintain a permanent place of business. This requirement applies to the Bidder where the Bidder is a division of a corporation, or where the Bidder is owned, 50 percent or more, by a person, corporation, or firm.
- 18.2** The Bidder shall demonstrate that he has adequate construction management experience and sufficient equipment resources to properly perform the work under, and in conformance with, these Contract Documents. This evaluation will be based upon a list of completed or active projects and a list of construction equipment available to the Bidder to perform the work.
- 18.3** The Bidder shall demonstrate that he is familiar with the work covered by these Contract Documents.
- 18.4** The Bidder shall demonstrate that he has financial resources of sufficient strength to meet the obligations incident to the performance of the work covered by these Contract Documents. The Bidder shall complete the financial statement in the Proposal form. The ability to obtain the required Performance and Payment Bonds will not alone demonstrate adequate financial capability.

The Bidder may demonstrate financial capability by submitting a suitable financial statement of an Equity Partner, provided an agreement is executed binding the Bidder and said Equity Partner, jointly and severally, to fulfill all duties, obligations, and responsibilities of the Contractor covered by these Contract Documents if the Contract is awarded to the Bidder. The agreement shall be submitted with the Bid and shall be satisfactory to the Owner's Attorney, or the bid may be declared non-responsive.

18.5 The Bidder shall furnish all data required by these Contract Documents. Failure to do so may result in the Bid being declared non-responsive. Acceptance of the Bidder's documentation and substantiation or Contract Award by the Owner does not relieve the Bidder of liability for nonperformance as covered in the Contract Documents; nor will the Bidder be exempted from any other legal recourse the Owner may elect to pursue.

19. Award of Contract

Following the opening of bids, the Engineer will evaluate the proposals. After completion of the evaluation of the proposals the Engineer will recommend to the Owner that the Bidder who is both responsive and responsible and whose bid totals the lowest number of dollars, for each individual bid item in Schedule I, should be awarded a contract. The Owner reserves the right to award a single contract to the Bidder whose total base bid (the sum of the prices bid for the individual bid items in Schedule I – Base Bid Items) is the lowest. The Engineer will notify all Bidders in writing of the Owner's intent to award a contract or contracts. The City Council in an open public session will pass a Resolution of award of the contract or contracts to the recommended bidder(s).

20. Liquidated Damages for Failure to Enter into Contract

The certified check or Bid Bond filed with and as a part of the Proposal will be forfeited to the Owner as agreed upon as liquidated damages if the Bidder to whom the Contract is awarded shall fail to execute the appropriate Contract Documents within ten (10) days following written notice to him that such forms are ready for execution.

21. Execution of Contract

Each Bidder to whom a Contract is awarded will be required to execute, in seven (7) counterparts, the prescribed Contract form, Performance Bond form, and Payment Bond form within ten (10) days from the date of notice to him that such forms are ready for execution.

22. Security for Faithful Performance of Contract

Simultaneously with his delivery of the executed Contract form to the Owner, the Bidder to whom the Contract has been awarded shall deliver to the Owner an executed Performance Bond on the prescribed form in the amount of one hundred percent (100%) of the total amount of the accepted total bid as security for the faithful performance of his Contract, including meeting performance guarantees and for the repair and/or replacement of defective or deficient work for a period of one (1) year after the date of final acceptance of the work. At the same time, the successful Bidder shall deliver to the Owner an executed Payment Bond on the prescribed form in the amount of one hundred percent (100%) of the total amount of the accepted total bid as security for the payment of all persons performing labor or furnishing materials in connection therewith. The surety on said bonds or other security shall meet the requirements of these

Contract Documents and shall be satisfactory to the Owner and the Owner's Attorney.

END OF SECTION