

## GENERAL INSTRUCTIONS TO BIDDERS

IB-1. EXAMINATION OF CONTRACT DOCUMENTS. Before submitting a Proposal, all Bidders shall examine the complete Contract documents, including Form of Proposal, Form of Bidder's Bond, Form of Contract Bond, Addenda, Contract and General and Detail Plans, **all of which are part of the Contract documents.**

IB-2. DETERMINATION OF NON-RESPONSIBLE BIDDER. Contracts will not be awarded to any Bidder or Contractor who is determined to be not responsible by the City Commission of the City of Fargo.

A Contractor may be determined to be a non-responsible Bidder for any one or more of the following reasons:

1. Inadequate financial resources to perform the Contract;
2. Inadequate experience, organization, or technical resources to perform the Contract;
3. Uncompleted work which the City of Fargo (the "City") determines might hinder or prevent prompt completion of additional work;
4. Default under previous or existing Contracts;
5. Failure to repay monies due the City resulting from overpayments;
6. Unsatisfactory performance on previous work or current contract(s), including but not limited to: (a) Noncompliance with contract requirements, or Engineer's directives; (b) failure to complete work on time; (c) instances of substantial corrective work prior to acceptance; (d) instances of completed work that requires acceptance at reduced pay; and (e) production of non-specification work or materials; and
7. Any other facts or circumstances showing a reasonable likelihood of inability to perform the Contract.

IB-3. ADDENDA. Answers to all questions, inquiries, and requests for additional information will be issued only to those obtaining documents. Bidders may, during the bidding period, be advised by addenda of additions, deletions from, or changes to the requirements of the Contract documents. The City is not responsible for the authenticity or correctness of oral interpretations of the Contract documents or for information obtained through other than addenda. Receipt of addenda shall be considered part of the Contract documents.

Questions concerning the Proposal must be made in writing at least forty-eight (48) hours in advance of the time set for bid opening, exclusive of Sundays and legal holidays. The City Engineer will respond in writing to all inquiries twenty (20) hours before the time set for bid opening to all Bidders or Contractors obtaining Contract documents. In no event will questions be answered if made within twenty-four (24) hours prior to bid opening.

IB-4. INVESTIGATION BY BIDDERS. Bidders must satisfy themselves by personal investigation and by such other means as they may think necessary or desirable, as to the location of and the conditions affecting the proposed work and as to the cost thereof. No information derived from maps, plans, specifications, profiles, or drawings, or from verbal statements by any official and/or other representative of the City, will relieve the

Contractor from any risk or from fulfilling all of the terms of the Contract. The accuracy of the Contractor's interpretation of the facts disclosed by any preliminary investigations that may have been made by the City is not guaranteed. The Contractor shall not, at any time, make claims to additional payments or considerations on account of any misunderstanding regarding the nature or amount of the work to be done.

IB-4.1. Underground Utilities. Contractors are responsible for damage to any underground or overhead piping, wiring or other utility property, occurring during any excavation or construction by Contractor. The Contractor, before commencing any excavation or construction shall locate the previously mentioned underground property by contacting the following:

North Dakota One-Call

800-795-0555

IB-5. LEGAL CONDITIONS. Bidders are required to comply with the laws of the State of North Dakota and the City of Fargo Municipal Code.

IB-5.1. Federal Taxes. The City is exempt from Federal Tax on the transportation of property, and the Bidder or Contractor shall not include such taxes.

IB-5.2. State Taxes. The current income clearance number issued by the State Tax Department shall be furnished by the Contractor to the City.

IB-5.3. Addenda Acknowledgement, Bond, and License Requirements. All bids must be in a sealed envelope plainly marked with the name and number of the Improvement District or Project, and attached to the outside of the bid envelope must be **A SEPARATE ENVELOPE CONTAINING A LIST OF ALL ADDENDA TO THE PLANS AND SPECIFICATIONS AND AN ACKNOWLEDGEMENT BY THE BIDDER OF RECEIPT OF SUCH ADDENDA, AND THE CONTRACTOR'S LICENSE OR CERTIFICATE OF RENEWAL. THE SEPARATE ENVELOPE SHALL ALSO CONTAIN A BIDDER'S BOND IN THE AMOUNT OF 5% OF THE FULL AMOUNT OF THE BID** executed by the bidder as principal and by a surety, conditioned that if the principal's bid is accepted and the Contract awarded to the principal, the principal, within 10 days after notice of award, shall execute a Contract in accordance with the terms of the bid and a contractor's bond as required by law and the regulations and determinations of the City Commission. Countersignature of a bid bond is not required under this section.

All Bidders, except a bidder on a municipal, rural, and industrial water supply project authorized for funding under Public Law No. 99-294 [100 Stat. 426; 43 U.S.C. 390a], must be licensed for the full amount of the bid, as required by N.D. Cent. Code Section 43-07-05. A copy of the Contractor's License or Certificate of Renewal thereof, issued by the Secretary of State, must be enclosed in the bid bond envelope as required under N. D. Cent. Code Section 43-07-12. A Contractor must be the holder of a license at least ten (10) days prior to the date set for receiving bids to be a qualified bidder.

No bid may be read or considered if it does not fully comply with these requirements and any deficient bid submitted must be resealed and will be returned to the Bidder immediately.

The City Commission reserves the right to reject any and all bids and rebid the project until a satisfactory bid is received.

IB-6. FORMS OF PROPOSALS. All Proposals must be upon forms furnished by the City or a substitute computer-printed spreadsheet. The package must be enclosed in a sealed envelope and deposited with the City Auditor identifying the name of the Bidder and its contents. The Proposal must be signed by the principal or an authorized representative, with such authority properly evidenced.

IB-6.1 Computer-Printed Bid Schedule. The Bidder may substitute a computer-printed spreadsheet bid schedule for the Bid Schedule found in the Proposal. The substitute schedule shall be attached to the last page of the Bid Schedule in the Bidder's Proposal.

The following information shall appear on top of each page of the computer-printed bid schedule:

1. Improvement District Number or Project Number;
2. Type, Description of Work (i.e., Sanitary Sewer, Water Main, Storm Sewer and Incidentals);
3. Page Number; and
4. Bidder's Name and Address.

The substitute bid schedule shall be printed on 8 ½ "x 11" paper and the words and numerals shall be clear and legible. Each page shall be numbered, and contain the same bid items as the corresponding Bid Schedule in the Proposal. Column headings shall be the same as those in the City-furnished Bid Schedule.

Each bid item shall be separated from the bid items above and below it by one or more blank spaces. Solid lines for separating columns and items are not required, but dashed lines may be placed either vertically or horizontally.

The total sum of the bid shall be entered at the bottom of the last page of the computer-printed schedule, and entered in ink in the Total Sum Bid block on the last page of the City's Bid Schedule.

The Bidder, or authorized representative, shall sign the substitute bid schedule in ink on the last page of the computer printout. The signer's name and title shall be printed below or beside the signature. The person signing the schedule shall sign and complete the Affidavit in the Bidder's Proposal.

In case of discrepancies between item descriptions or quantities in the Bid Schedule in the Proposal and those in the computer-printed bid schedule, the Bid Schedule in the Proposal will govern.

IB-7. FILLING IN BIDS. All prices must fully cover all items for which Proposals are herein asked. Any Proposal submitted on items not included in the proposal form shall be grounds for rejection of the entire proposal.

IB-8. CAUSES OF REJECTION. The City Commission may reject any and all bids if in its opinion the best interests of the City will be served thereby. Bids may be considered irregular and may be rejected if:

1. The Proposal is not properly signed.
2. The Bidder fails to provide any of the required documents.
3. There are unauthorized additions, conditional or alternate bids, or irregularities of any kind which may make the Proposal's meaning incomplete, indefinite, or ambiguous.
4. A price per unit cannot be determined from the Proposal, except in the case of authorized alternate pay items.
5. It is determined that the unit prices are materially unbalanced to the potential detriment of the City.

IB-9. WITHDRAWALS. A bid may be withdrawn at any time prior to the expiration of the period during which Proposals may be submitted by written request of the Bidder, to the City Auditor, which request must be signed in the same manner and by the same person or persons who signed the Proposal. No bid can be withdrawn thereafter.

IB-10. BIDDER'S BOND. Each Proposal shall be accompanied by a bond to the City. Such bond shall be enclosed in the separate sealed envelope with the Contractor's license and addenda acknowledgement documents. The amount of the bond shall be at least 5% of the amount of the bid.

Said bond shall be executed by the Bidder or Contractor as principal and a surety company authorized to do business in the State of North Dakota as surety.

IB-11. CONTRACT. The successful Bidder will be required to execute a written Contract and furnish a good and approved bond as herein specified within ten (10) days after receiving such Contract for execution. The Contract shall be, in its general provisions, in the form attached hereto and made a part of these requirements.

A corporation to which a Contract is awarded will, before the Contract is finally executed, if deemed desirable by the City Commission, be required to furnish certificates as to its corporate existence and evidence that the officer signing the Contract is duly authorized to do so on behalf of the corporation.

IB-12. CONTRACT BOND. The successful Bidder shall, within ten (10) days or such time as may be fixed by the City Commission for executing the Contract, file a contract bond with the City Auditor in a sum equal to the full amount of the Contract. Said bond shall be executed by the Bidder or Contractor as principal and a surety company authorized to do business in the State of North Dakota as surety.

The contract bond shall be made payable to the City and shall be conditioned on the Contractor's full and faithful performance of the work bid. In the event of default, the bond shall be taken and held to be fixed and liquidated damages in favor of the City and the full amount thereof may be recovered from the Contractor and its sureties in an action by the City against them on their bonds. The sufficiency of any bond filed by a Contractor shall be determined by the City Commission at the time of considering bids. If the City Commission shall at any time deem the bond of the Contractor insufficient, either in form or sufficiency of sureties, it may require the successful Bidder or Contractor to furnish a new bond. Said bond to be approved by the City Commission, within such reasonable time as the City Commission may fix and if the Bidder or Contractor shall fail to furnish such new bond within the time required after notice to do so, the Contract shall be cancelled and the contractor's bond shall be liable the same as if the Contractor had failed to perform the Contract.

- IB-13. PATENTS AND INFRINGEMENTS. The successful Bidder must protect and indemnify the City against any claim or demand for infringements on any patented article, invention, arrangement or appurtenances that may be used in connection with the construction, erection or maintenance of this work.
- IB-14. INVITATIONS. Bidders are invited to be present at the opening of the Proposals.
- IB-15. ENFORCEMENT OF SPECIFICATIONS. Copies of the specifications and plans for this work will be supplied to all assistant engineers and inspectors employed by the City. All engineers and inspectors will rigidly enforce each and every requirement of the Contract.
- IB-16. COMPLIANCE WITH LABOR STANDARDS (DAVIS-BACON ACT) REQUIRED ON CONSTRUCTION PROJECTS FINANCED WITH FEDERAL FUNDS. Contractor must comply with all requirements of the Davis-Bacon Act on applicable projects.
- IB-17. EQUAL OPPORTUNITY REGULATIONS. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin and will comply with all employment laws and regulations. Failure to do so may result in termination of the Contract and a claim against the bond. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- IB-18. COMPLIANCE WITH ENVIRONMENTAL PROTECTION REGULATIONS. Bidders are required to comply with all applicable pollution control and environmental protection regulations.
- IB-19. INSURANCE. Contractor shall secure insurance against hazards as enumerated herein. All policies shall be with companies satisfactory to the City and in amount and form as specified.

All certificates of insurance shall be on the form provided herein, and the said certificate shall state that ten (10) days written notice will be given to the City before the policy is cancelled or changed.

No Contractor or Subcontractor will be permitted to start any construction under the terms of the Contract until a certificate of all insurance as required herein is filed with the City.

IB-19.1. Public Liability and Property Damage. Contractor shall provide public liability and property damage insurance against risks resulting from the following:

- A. Operations of Contractor;
- B. Operations of Subcontractors (contingent);
- C. Completed operations;
- D. Contractual Liability (broad form); and
- E. Property damage liability including:
  - 1. Damage due to blasting;
  - 2. Damage due to collapse;
  - 3. Damage to underground facilities; and
  - 4. Broad form property damage:
    - a. Premises and operations
    - b. Contractual

The liability limits of said insurance shall be as follows:

- A. Bodily Injury
  - 1. \$1,000,000 each person
  - 2. \$1,000,000 each occurrence
  - 3. \$2,000,000 aggregate
- B. Property Damage
  - 1. \$1,000,000 each occurrence
  - 2. \$1,000,000 aggregate
  - 3. \$2,000,000 aggregate (property damage auto)

IB-19.2. Automobile Liability. The Contractor shall provide automobile liability insurance covering operation of all vehicles which are either hired, owned, or non-owned as follows:

- A. Bodily Injury
  - 1. \$1,000,000 each person
  - 2. \$1,000,000 each occurrence
- B. Property Damage Liability
  - 1. \$1,000,000 each occurrence

IB-19.3. Workmen's Compensation. The Contractor shall be insured against liability for injury to employees in accordance with the laws of the State of North Dakota. A coverage certificate shall be furnished to the City prior to the commencement of any work.

IB-19.4. Railroad Protective Liability. In the event the contemplated project encroaches on any railroad sufficiently to require permission for construction from the railroad, the successful Bidder will be required to furnish to the railroad a Railroad Protective Liability Insurance Policy in a form acceptable to that railroad.