

**SECTION 2 - BID REQUIREMENTS AND CONDITIONS
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SECTION 2 BID REQUIREMENTS AND CONDITIONS

2-1 BID FORM

The City shall furnish to each prospective Bidder a bid form which, when properly completed and executed, shall be submitted as the Bidder's Bid for the Work. All Bids shall be submitted on the City-furnished bid form to be valid and accepted. Bids that are not submitted on the City-furnished bid form shall be rejected. The completed bid form shall be in English and legible, and shall be properly signed in longhand by the Bidder, if an individual, by a member of a partnership, by an officer of a corporation authorized to sign contracts on behalf of the corporation, or by an agent of the Bidder. If submitted by a corporation, the Bid shall show the name of the state under the laws of which the corporation is chartered or organized.

The Bid shall be made on the bid form in clearly legible figures as follows:

2-1.01 Unit Price Bid

Where the bid for an item of work is to be submitted on a unit price basis, the Bidder shall bid a unit price as total compensation for completion of one unit of the work described under that item. This price shall be multiplied by the Estimated Quantity included in the bid form to derive a total bid price for that item. The total amount bid for a unit price contract shall be entered on the space provided on the bid form as a grand total of all individual items.

The Estimated Quantities included on the bid form are approximate and are only included in the bid form as a basis for comparison of Bids. The City does not, expressly or by implication, represent or agree that the actual amount of work shall equal the approximate Estimated Quantities. Payment shall be made for the actual quantity of Work performed in accordance with the Contract. The City reserves the right to increase or decrease the amount of any class or portion of the Work, or to omit portions of the Work, as may be deemed necessary or advisable in the sole discretion of the City. Any major bid item with an increase or decrease greater than 25%, the unit price bid shall be adjusted. See Section 9-8.02, "Payment for Changes – Unit Prices", of these Specifications.

2-1.02 Lump Sum Bid

Where the bid for an item of work is to be submitted on a "Lump Sum" or "Job" basis, a single lump-sum price shall be submitted in the appropriate place on the bid form. Items bid on a lump-sum basis shall result in a complete structure, operating plant, or system, in satisfactory working condition with respect to the functional purposes of the installation, as described in the Contract, and no extra compensation shall be paid for anything omitted but fairly implied.

2-1.03 Allowances

Where specific allowance items have been entered on the bid form by the City, the total amount entered on the bid form shall be included in the Total Bid Price. However, the total amount to be paid for the Work included in the Allowance shall be the amount of the Allowance actually utilized in the course of completing the Work.

2-2 PREPARATION AND SUBMISSION OF BIDS

By submission of a Bid, the Bidder acknowledges acceptance of the nature and location of the Work, the general and local conditions, conditions of the site, the character, quality and scope of work to be performed, the availability of labor, electric power, water, the kind of surface and subsurface materials on the site, the materials and equipment to be furnished, and all requirements of the Contract or other matters which may affect the Work or the cost. Any failure of a Bidder to become acquainted with all of the available information concerning conditions shall not relieve the Bidder from the responsibility for estimating properly the difficulties or cost of the Work.

The Bidder declares by the submission of a Bid that the Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the Bid is genuine and not collusive or a sham; that the Bidder has not directly or indirectly induced or solicited any

other Bidder to put in a false or sham Bid, and has not directly or indirectly colluded or agreed with any Bidder or anyone else to put in a sham Bid or to refrain from bidding; that the Bidder has not directly or indirectly sought by agreement, communication, or conference with anyone to fix the Bid price or the Bid price of any other Bidder, or to fix any overhead, profit, or cost element of such Bid price or that of any other Bidder, or to secure any advantage against the City, anyone interested in the Bid as principal, or those named within the Bid; that all statements contained in the Bid are true; that the Bidder has not directly or indirectly submitted a Bid price or any breakdown thereof or the contents thereof, or divulged information or data relative thereto, to any other person, partnership, corporation or association, except to person or persons as have a direct financial interest in the Bidder's general business.

Bid prices shall include everything necessary for the completion of the Work and fulfillment of the Contract, including but not limited to furnishing all materials, equipment, tools, excavation sheeting, bracing and supports, plant, labor and services, except as may be provided otherwise in the Contract. Bid prices shall include all Federal, State, and local taxes, and all other fees and costs not expressly paid for by the City as stated in the Special Provisions.

The Bid shall be submitted in a sealed envelope as directed in the Notice to Contractors. The Bidder shall plainly mark the exterior of the envelope in which the Bid is submitted to indicate that it contains a Bid for the project for which the Bid is submitted, and the date of the Bid opening therefore.

Bids submitted in envelopes that are not properly marked shall be rejected.

2-3 EXAMINATIONS OF PLANS, SPECIFICATIONS, AND SITE OF WORK

The Bidder shall examine carefully the site of the proposed Work and the Plans, Specifications and Bid Documents, and shall be satisfied as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered. The submission of a Bid shall be conclusive evidence that the Bidder is satisfied through the Bidder's own investigation as to the conditions to be encountered; the character, quality, quantity and scope of work to be performed; and the materials and equipment to be furnished.

If material discrepancies or apparent material errors are found in the Plans and Specifications prior to the date of bid opening, an Addendum may be issued (see Section 2-9, "Addenda", in this Section of these Specifications). Otherwise, in figuring the Work, Bidders shall consider that any discrepancies or conflict between Plans and Specifications shall be governed by Section 4-1, "Intent of Contract Documents".

2-4 SUBSURFACE CONDITIONS

Where investigations of subsurface conditions have been made by the City with respect to subsurface conditions, utilities, foundation, or other structural designs, and that information is shown in the Plans, it represents only a statement by the City as to the character of materials which have actually been encountered by the City's investigation. This information is only included for the convenience of Bidders.

Investigations of subsurface conditions are made for the purpose of design only. The City assumes no responsibility with respect to the sufficiency or accuracy of borings or of the log of test borings or other preliminary investigations or of the interpretation thereof. There is no guaranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the Work, or any part of it, or that unanticipated conditions may not occur. When a log of test borings is included in the Plans, it is expressly understood and agreed that said log of test borings does not constitute a part of the Contract. The log of test borings represents only an opinion of the City as to the character of the materials to be encountered, and is included in the Plans only for the convenience of the Bidders. Making information available to Bidders is not to be construed in any way as a waiver of the provisions of the first paragraph of this Section, and Bidders shall satisfy themselves through their own investigations as to conditions to be encountered.

2-5 CONTRACTORS/SUBCONTRACTORS REQUIRED TO BE LICENSED

The Bidder shall be licensed under the provisions of Chapter 9, Division 3, of the Business and Professions Code to do the type of work contemplated in the project, and shall be skilled and regularly engaged in the general class or type of work called for under the contract. The specific type of license required shall be indicated in the “Notice to Contractors”. Unless specified otherwise in the Special Provisions, the Bidder shall indicate the license number and class in the space provided for that purpose on the bid form.

All Subcontractors engaged to perform portions of the Work shall be licensed under the provisions of Chapter 9, Division 3, of the Business and Professions Code to do the type of work for which they are subcontracted, and shall be skilled and regularly engaged in the general class or type of work called for under their subcontracts.

Attention is also directed to the provisions of Public Contract Code Section 20103.5, which addresses Contractor licensing requirements. The City may not award the Contract if it cannot be verified that the low Bidder is an appropriately licensed Contractor at the time of Contract award.

2-6 COMPETENCY OF BIDDERS

It is the intention of the City to award a Contract only to a Bidder who furnishes satisfactory evidence that the Bidder has the requisite experience and ability, and has sufficient capital, facilities, and plant to enable the Contractor to prosecute the Work successfully and promptly, and to complete the Work within the time stated in the Contract.

If required by the Special Provisions, a statement of experience and business standing, together with that of all Subcontractors that were designated in the Bid, shall be submitted on a City-provided form by the three (3) apparent low Bidders within seven (7) days after the opening of Bids. To determine the experience of a Bidder, any relevant evidence shall be considered that the Bidder, or personnel, has satisfactorily performed on other contracts of similar nature and magnitude or difficulty.

2-7 JOINT VENTURE BIDS

If two or more prospective Bidders desire to bid jointly as a joint venture on a single project, the joint venture Bid shall be accompanied by a notarized copy of a valid license issued to the joint venture by the Contractor’s State License Board. If a copy of the joint venture license is not filed with the Bid, the Bid shall be rejected.

2-8 SUBCONTRACTORS

Except as noted in the Special Provisions, the Contractor shall perform, with the Contractor's own organization and with workers under the Contractor's immediate supervision, work of a value not less than fifty percent (50%) of the value of original Total Contract Price less “Specialty Items”. “Specialty Items” may be performed by subcontract and the cost of any “Specialty Items” so performed may be deducted from the original Total Contract Price before computing the amount of work required to be performed by the Contractor. Where an entire item is subcontracted, the value of work subcontracted shall be based on the Contract item bid price. When a portion of an item is subcontracted, the value of work subcontracted shall be based on the estimated percentage of the contract item bid price, determined from information submitted by the Contractor, subject to approval by the City. In accordance with the Subletting and Subcontracting Fair Practices Act, of the Public Contract Code, Section 4100 et seq., each Bidder shall list in the bid form:

- The name and the location of the place of business of each Subcontractor whom the Bidder proposes to perform work or labor or render service to the prime Contractor in or about the construction of the Work, or a Subcontractor licensed by the State of California who, under subcontract to the prime Contractor, is proposed by the Bidder to specially fabricate and install a portion of the Work according to detailed drawings contained in the Contract, in an amount in excess of one-half of one percent (0.5%) of the Total Bid or, in the case of a Bid for the construction of streets or highways, including bridges, in excess of one-half of one percent

(0.5%) of the Bidder's Total Bid or ten thousand dollars (\$10,000), whichever is greater.

- The portion of the Work [type of work and percentage if not one hundred percent (100%)] that shall be done by each Subcontractor. The Bidder shall list only one Subcontractor for each portion as is defined by the Bidder in the Bid.

If a Bidder fails to specify a Subcontractor for any portion of the Work to be performed under the Contract (or specifies more than one Subcontractor for the same work), the Bidder agrees that the Bidder is fully qualified and shall perform that portion of the Work. If after the award of the Contract, the Contractor subcontracts any portion of the Work, except as provided in Section 4107 or 4109 of the Act, the Contractor shall be subject to the penalties specified in Section 4111 of the Act.

A listed Subcontractor shall perform with the Subcontractor's own organization and with workers under the Subcontractor's immediate supervision, work of a value of not less than seventy-five percent (75%) of the value of each item of work for which the Subcontractor is listed.

Pursuant to Public Contract Code Section 6109, a Contractor may not perform work with a Subcontractor who is ineligible to perform work on public works projects pursuant to Labor Code Sections 1777.1 and 1777.7.

The apparent low Bidder shall submit the license numbers of all Subcontractors to the City within three (3) days, not counting Saturdays, Sundays, and holidays, of Bid opening. If the low Bidder is not the apparent low Bidder, the low Bidder shall submit the license numbers of all listed subcontractors to the City within three (3) days, not counting Saturdays, Sundays, and holidays, of the date notified.

The Contractor shall include provisions in every Subcontract that the Contract between the Contractor and the City is part of the Subcontract, and that all terms and provisions of the Contract are incorporated in the Subcontract. Copies of all Subcontracts shall be available to the City upon written request.

2-9 ADDENDA

The correction of any material discrepancies in, or material additions to/omissions from, the Plans, Specifications, or other Contract, or any interpretation thereof, during the bidding period shall be made only by an Addendum issued by the City. A copy of each Addendum issued by the City shall be mailed or delivered to each planholder listed on the City planholder list and is a part of the Contract. Any interpretation or explanation not included in the addenda shall not be considered binding.

2-10 ASSIGNMENT OF ANTITRUST ACTIONS

The Bidder is required to comply with Public Contract Code Section 7103.5(b), which addresses assignment of antitrust actions.

2-11 BID GUARANTEE

The Bid shall be accompanied by a Bid Guarantee in the form of cash, a certified check, a cashier's check, or a bidder's bond in the form provided by the City. The Bid Guarantee shall be executed by an admitted surety insurer in favor of the City, the amount of which shall be not less than ten percent (10%) of the Base Bid amount, or other security acceptable to the City. No Bid shall be considered unless accompanied by a Bid Guarantee.

The City is authorized to forfeit such Bid Guarantee as necessary to reimburse for costs incurred for failure of the successful Bidder to enter into a contract. The amount of the Bid Guarantee shall not be deemed to constitute a penalty or liquidated damages. The City is not precluded by a Bid Guarantee from recovering from the defaulting Bidder damages in excess of the amount of said Bid Guarantee incurred as a result of the failure of the successful Bidder to enter into a contract with the City for the Work.

2-12 WITHDRAWAL OF BID

A Bid may be withdrawn at any time prior to the hour fixed in the Notice to Contractors for the submission of Bids by a written request of the Bidder filed with the City at the location where the Bid was submitted. The withdrawal of a Bid shall not prejudice the right of a Bidder to file a new Bid within the time prescribed.

2-13 PUBLIC OPENING OF BIDS

Bids shall be opened and read publicly at the time and place indicated in the Notice to Contractors or in a subsequent Addendum. Bidders or their authorized representatives and other interested parties are invited to be present.

2-14 REJECTION OF BIDS

The City reserves the right to reject any and all Bids. The City reserves the right to waive irregularities in a Bid and to make an award in the best interest of the City. Bids containing omissions, erasures, alterations, conditions, or additions not called for shall be rejected.

2-15 RELIEF OF BIDDERS

Attention is directed to Public Contract Code Sections 5100 through 5107, concerning relief of Bidders and in particular to the requirement therein that if the Bidder claims a material mistake was made in its Bid, the Bidder shall give the City written notice within five (5) days after the opening of the Bids (excluding Saturdays, Sundays, or legal holidays) of the alleged mistake, explaining in the notice in detail how the mistake occurred.