

BIDDING REQUIREMENTS

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1. INSTRUCTIONS TO BIDDERS

1.1 The City of Farmington, New Mexico, ("OWNER") is requesting Bids for the construction as announced in this Bid. Unless otherwise stated in the Contract Documents, Engineering for this project along with Contract Documents were completed by the City of Farmington, Municipal Annex Building, 805 Municipal Drive, Farmington, New Mexico.

1.2 Bids shall only be submitted using the City's online bidding system. Mailed, emailed, or faxed bids will not be accepted and will be returned unopened.

2. DOCUMENTS

2.1 The Contract Documents contain the provisions required for the construction of the Project. Information obtained from an officer, agent, employee of the OWNER or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the Contract.

2.2 Documents shall include the following standard specifications unless otherwise stated:

2.2.1 New Mexico Standard Specifications for Public Works Construction, latest edition;

and

2.2.2 City of Farmington Technical Specifications and Construction Standards, latest revision, which are available on the City of Farmington website. <http://fmtn.org/DocumentCenter/View/18746/Full-Final-Signed-Tech-Spcs-1-30-19>

3. QUESTIONS

3.1 Submit all questions about the bid documents to the OWNER in writing no later than the Question Cutoff Date provided in the Event Details. Corrections or clarifications shall be made by addendum. Oral clarifications will not be binding.

4. PREPARATION OF BIDS

4.1 Bids shall not contain any recapitulations of the work to be done. Alternate proposals will not be considered unless called for.

4.2 Bids by a corporation must be executed in the corporate name by the president or vice-president (or other corporate officer accompanied by evidence of authority to sign).

4.3 Bids by partnership must be executed in the partnership name and signed by a general partner.

4.4 The CONTRACTOR shall be licensed under the proper classification(s) as outlined under the State of New Mexico's Construction Industries Division Rules and Regulations (latest edition). A CONTRACTOR not having the minimum license at the time of Bid opening shall be considered a non-responsive Bidder and their Bid will be rejected.

4.5 Each addendum shall be made a part of the Contract Documents to the same extent as though contained in the original documents and itemized listings thereof. Each Bidder shall acknowledge receipt of each addendum in the space provided on the Invitation to Bid.

4.6 Pursuant to Section 13-1-108 NMSA 1978, the total amount Bid shall exclude all applicable taxes including applicable state gross receipts tax or applicable local option tax. The OWNER will pay for any taxes due on the Contract and will pay any increase in applicable taxes which become effective after the date the Contract is entered into in addition to the Bid total based upon separate billings which the successful Bidder shall submit with each request for payment. Taxes shall be shown as a separate amount on such billing or request for payment and shall separately identify each tax being billed.

4.10 To assist the OWNER with budget preparation, the Bidder shall complete Bidder's Estimate of Taxes (Form AF-4), and shall identify by name each tax Bidder believed to be applicable to this Contract and shall estimate the amount of each tax which will be charged on the entire Contract.

5. BID SECURITY

5.1 Each Bid must be accompanied by a Proposal Guarantee (Form AF-6) payable to the OWNER for the amount stipulated in the Invitation to Bid which shall be certified check, cashier's check, money order, or Bidders' Surety Bond executed by a bona fide Surety Company authorized to transact business in the State of New Mexico on the form provided in the Bid documents. When the Agreement is executed, the guarantees of the unsuccessful Bidders may be returned upon Bidder's request. The Proposal Guarantee of the successful Bidder will be retained until the payment bond and performance bond have been executed and approved, after which it may be returned upon the successful Bidder's request. Attorneys-in-fact who sign Bid Bonds must file with each bond a certified and effective dated copy of their power of attorney.

6. SUBCONTRACTORS AND MANUFACTURERS

6.1 Pursuant to Section 13-4-31 through 13-4-43 NMSA 1978, the Bidder shall submit the following information for each Subcontractor (Form AF-5) who will perform work or labor or render service to the CONTRACTOR in or about the construction Project in an amount in excess of the listing threshold specified in the Invitation to Bid:

- (a) name of the Subcontractor;
- (b) City or County of the Subcontractor;

- (c) nature of the work which will be done by the Subcontractor (Category of Work).

6.2 This listing threshold is five thousand dollars (\$5,000) or one-half of one percent of the architect's, engineer's, or OWNER's estimate of the total Project cost, whichever is greater. There shall be only one name submitted for each classification as defined by the CONTRACTOR in his Bid.

6.3 The Bidder may be required to establish the reliability and responsibility of the proposed Subcontractors or of any manufacturer to furnish and perform the work in accordance with the Contract Documents and completion schedule, and may also be required to require performance and payment bonds of some or all Subcontractors in conformance with Sec. 13-4-37 NMSA 1978.

7. WITHDRAWAL OF BIDS

7.1 Any Bid may be withdrawn prior to the scheduled time for the opening of Bids or authorized postponement thereof. Any Bid received after the time and date specified shall not be considered. No Bidder may withdraw a bid after the Bid opening until the time for award stipulated below has expired. Should there be reasons why the Contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the OWNER and the Bidder.

8. OWNER'S INVESTIGATIONS

8.1 The OWNER may make such investigations as it deems necessary to determine the ability of the Bidder to perform the Work. The Bidder may be requested to complete and submit a Statement of Bidder's Qualifications (Form AF-8) and shall furnish to the OWNER all such requests. The OWNER reserves the right to reject any Bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the OWNER that such Bidder is properly qualified to carry out the obligations of the Agreement and to complete the work contemplated by it; and such rejection shall not give rise to a cause of action against the OWNER or Engineer, or impose a requirement upon the OWNER or Engineer to divulge the information upon which such rejection is based.

9. NOTICE OF AWARD

9.1 Within sixty (60) days after the time announced for opening Bids, the OWNER may act either to accept a Bid or to reject all Bids. A conditional, qualified or unbalanced Bid may, at the discretion of the OWNER, be rejected. Failure by the OWNER to accept a Bid within the said time, or such additional time as the apparent lowest responsive Bidder shall agree to extend his Bid, shall constitute rejection of all Bids. The OWNER may waive any informalities or minor defects or reject any and all Bids.

9.2 The OWNER may, unless otherwise noted on the Bid Proposal, award separate Contracts for the work contained in each Bid Proposal, or, in the interest of continuity, to

one CONTRACTOR for two or more Bid Proposals.

9.3 The acceptance of a Bid will be evidenced by a Notice of Award (Form AF-9) in writing signed by a duly authorized representative of the OWNER and delivered to the Bidder whose Bid is accepted, in the manner provided for giving written notices (reference paragraph 17.1 of the Conditions of Contract). No other act of the OWNER shall constitute acceptance of a Bid. The acceptance of a Bid shall obligate the Bidder whose Bid is accepted to acknowledge acceptance of the Notice of Award, furnish a performance bond and a labor, material and tax payment bond, if required, and execute the Contract (reference paragraphs 14 of the Bidding Requirements, and Section 1 of the Conditions of Contract, definition for "Contract Documents") and any or all other documents.

10. PERFORMANCE AND PAYMENT BONDS

10.1 A performance bond and a labor, material and tax payment bond (Forms AF-11, AF-12), each in the amount of 100 percent of the Contract Price, with a corporate surety approved by the OWNER, will be required for the faithful performance of the Contract on the forms provided by the OWNER.

10.2 Attorneys-in-fact who sign the payment bond and performance bond must file with each bond a dated, certified and effective copy of their power of attorney.

11. AUTHORIZATION TO DO BUSINESS

11.1 The successful Bidder(s) will be required, prior to execution of the Contract, to carry out all procedures required by anyone having jurisdiction over the site of the Work to gain authorization to do business in that jurisdiction.

12. EXECUTION OF CONTRACT

12.1 The party to whom the Contract is awarded will be required to execute the Agreement (Form AF-10) and obtain the performance bond and labor, material and tax payment bond and other required Contract Documents within ten (10) calendar days from the date when the Notice of Award is delivered to the Bidder. The Notice of Award shall be accompanied by the necessary Agreement, bond forms and other required Contract Documents. In case of failure of the Bidder to execute the Agreement, the OWNER may, at his option, consider the Bidder in default, in which case the Proposal Guarantee accompanying the proposal shall become the property of the OWNER.

12.2 The OWNER, within ten (10) days of receipt of acceptable performance bond and labor, material and tax payment bond, Agreement, and other required Contract documents, shall sign the Agreement and return to such party a certified copy of the Contract. Should the OWNER not execute the Agreement within such period, the Bidder may by written notice withdraw his signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER.

12.3 The Contract Documents shall be executed with one (1) original which shall be held by the City of Farmington City Clerk. Electronic copies shall be distributed to the Contractor, City of Farmington Purchasing Division and the City of Farmington using department.

13. CONTRACT TIME - LIQUIDATED DAMAGES

13.1 The number of days for completion of the Work and provisions for liquidated damages, if any, are set forth in the Invitation to Bid and are incorporated by reference into the Contract Documents.

14. QUANTITIES

14.1 The quantities set forth in the Bid Proposal are estimated quantities on which Bids will be compared and which will be the basis for award of Contract. Payment will be made for the Work actually performed. The OWNER reserves the right to increase or decrease quantities by any reasonable amount to suit the best interest of the OWNER.

15. COLLUSION-GENUINE BID

15.1 The Bidder, by submitting a Bid, certifies that the Bid is genuine and is not sham or collusive, or made in the interest, or in the behalf of any person not named as Bidder, and that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the Bidder has not in any manner sought by collusion to secure himself an advantage over any other Bidder.

16. LICENSE OR ROYALTY FEES

16.1 Both license and royalty fees for products or for a process must be paid directly by the CONTRACTOR.

17. PREFERENCES AND STANDARDS FOR PROCESSES, MATERIALS AND EQUIPMENT

17.1 Unless specified in the Contract Documents, the OWNER has no preference for any process, type of equipment or kinds of material but will consider all processes, types of equipment or kinds of material offered which meet specifications on an equal competitive basis if they are in fact equal to those specified and will accomplish the purpose intended. The OWNER reserves the right to be the sole judge as to whether or not a different process type of equipment or kind of material offered is in fact the equal to that specified.

18. PROJECT FINANCE

18.1 Any Contract awarded under this Invitation for Bid shall be subject to the

appropriation of funds by the OWNER's City Council.

19. WAGE RATES AND NON-DISCRIMINATION IN EMPLOYMENT

19.1 The Bidder's attention is directed to the fact that wages to be paid on this project shall not be less than the prevailing wage rates as listed by the New Mexico Labor and Industrial Division and (where applicable) the prevailing Federal Wage Rate Decision listed by the U.S. Department of Labor and in effect at the time of this Contract. It shall be the Bidder's responsibility to inform himself thoroughly of all state, federal, and local laws and statutes pertaining to the employment of labor, the freedom of organization, and the conditions of employment and shall strictly adhere to such laws and regulations as are applicable. There shall be no discrimination because of race, color, national origin, ancestry, religion, sex, age, physical or mental handicap, spousal affiliation, sexual orientation, gender identity, serious medical condition or legal political affiliation in the employment of persons qualified by training and experience for work under this Contract.

20. FEDERAL ASSISTED CONSTRUCTION CONTRACTS

20.1 NOTICE OF REQUIREMENT FOR CERTIFICATION OF NON-SEGREGATED FACILITIES

20.1.1 Bidders are cautioned as follows: By signing the Contract for which this Bid is solicited, the Bidder will be deemed to have signed and agreed to the provisions of the "Certification to Non-segregated Facilities" as contained in the Specifications for this Project.

20.2 NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS

20.2.1. A certification of Non-segregated Facilities, as required by the May 28, 1968 order (33 F.R. 7808, May 28, 1968; 41 CFR Part 60-1, et seq) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a federally assisted construction contract exceeding Ten Thousand Dollars (\$10,000.00) which is not exempt from the provisions of the Equal Opportunity clause.

20.2.2. CONTRACTORS receiving federally assisted construction contract awards exceeding Ten Thousand Dollars (\$10,000.00) which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective Subcontractors for supplies and construction contracts where the subcontracts exceed Ten Thousand Dollars (\$10,000.00) and are not exempt from the provisions of the Equal Opportunity clause.

20.2.3. Certification by Bidder regarding Equal Employment Opportunity must be submitted with each Bid.

20.3 DEBARMENT, SUSPENSION, AND INELIGIBILITY

20.3.1 By submitting a response to this solicitation (RFQ/Bid/RFP) the business (Bidder/Offeror/Contractor) represents and warrants that it is not debarred, suspended, or placed in ineligibility status under the provisions of Federal Executive Order 12549.

21. EQUAL EMPLOYMENT OPPORTUNITY

21.1 During the performance of this Contract, the CONTRACTOR agrees as follows:

21.1.1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap, age or serious medical condition. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selecting for training, including apprenticeship.

21.1.2. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices as provided setting forth the provisions of this nondiscrimination clause.

21.1.3. The CONTRACTOR will, in all solicitations or advertisements for employment placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap, age or serious medical condition.

21.1.4. The CONTRACTOR will send to each labor union or representative of workers with which he has collective bargaining agreements or other contracts or understandings, a notice advising the labor union or worker's representative of the CONTRACTORS' commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

21.1.5. The CONTRACTOR will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

21.1.6. The CONTRACTOR will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules,

regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to CONTRACTOR's books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

21.1.7. In the event of the CONTRACTOR's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the contracting agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

22. COMPLIANCE WITH FEDERAL REGULATIONS

22.1 The CONTRACTOR agrees to comply with any Federal Statutes or Regulations which are applicable to this Project including, but not limited to, the following:

22.1.1. All labor standards including those relating to the payment of wages, working conditions, anti-kickback prohibitions and equal employment, and in particular:

22.1.1.1. The provisions of Title 29 of the Office of the Secretary of Labor of the United States Government, Part 3, entitled "Contractors and Subcontractors on Public Building or Public Work Financed in whole or in part by loans or grants from the United States" (29 CFR Part 3);

22.1.1.2. The provisions of 29 CFR Part 5 entitled "Labor Standard Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction" as well as the "Labor Standard Provisions Applicable to Non-construction Contracts Subject to Contract Work Hours and Safety Standards Act".

22.1.2. Those concerning relocation and related payments to in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC 4601 et seq;

22.1.3. The National Environmental Policy Act of 1969, as amended (42 USC 4321 et seq);

22.1.4. The Clean Air Act, as amended (42 USC 1857-1858 a);

- 22.1.5. The Federal Water Pollution Control Act, as amended (33 USC 1251-1376);
- 22.1.6. The National Historic Preservation Act of 1966, as amended (16 USC 470 et seq);
- 22.1.7. The Wild and Scenic Rivers Act (16 USC 1271-1281); 22.1.8. The Endangered Species Act of 1973, as amended (16 USC 1531 et seq);
- 22.1.9. The Historic Sites, Buildings and Antiquities Act, as amended (16 USC 461 et seq);
- 22.1.10. The Americans with Disabilities Act of 1990 (P.L.101-336, July 26, 1990), and any regulations adopted pursuant thereto;
- 22.1.11. The National Flood Insurance Act of 1968, as amended.
- 22.1.12. The National Pollutant Discharge Elimination System Regulations for Storm Water Discharges, 40 CFR Parts 122,123 and 124.

23. SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

23.1 In order to protect the lives and health of his employees, the CONTRACTOR shall comply with all pertinent provisions of the Contract Work Hours and Safety Standards Act as amended, commonly known as the Construction Safety Act and also known as the Williams-Steiger Occupational Safety and Health Act of 1970, together with the regulations promulgated in 29 CFR, Parts 1901 through Parts 1919.

24. BID OPENING PROCEDURE

24.1 The person or persons opening the Bids will do the following for each Bid submitted:

- 24.1.1. Announce the name of the Bidder, the number of the Bidder's New Mexico Contractors license, and the number of the Bidder's New Mexico Public Works Registration.
- 24.1.2. Check for acknowledgment of Addenda.
- 24.1.3. Check for Proposal Guarantee.
- 24.1.5. Check other requirements on Invitation to Bid.
- 24.1.6. Read Bid aloud.

24.2 If any of the foregoing requirements have not been met, the Bid shall be read after the deficiency or deficiencies have been announced and noted. The OWNER reserves the right to waive any condition, requirements, or technicality in the deficient Bid, this being entirely at the discretion of the OWNER.

25. PROTEST DEADLINE

25.1 Any protest by a Bidder must be timely and in conformance with Section 13-1-172, NMSA, 1978 and applicable procurement regulations. The fifteen (15) day protest period for responsive Bidders shall begin on the day following the City's written notification to all responding Bidders. Protests must be written and must include the name and address of the protestor and the number assigned to this Bid by the City. It also must contain a statement of grounds for protest including appropriate supporting exhibits. The timely protest must be delivered to:

Chief Procurement Officer
Central Purchasing Division
City of Farmington
800 Municipal Drive (Mailing Address) OR
805 Municipal Drive (Physical Location)
Farmington, NM 87401-2663

26. DEFINITIONS

26.1 The definitions, as described in the Conditions of Contract, included in these bidding documents, shall also be applied and used for bidding purposes.

27. BRIBES; GRATUITIES AND KICKBACKS

27.1 By law (Section 13-1-191, NMSA, 1978) the City is required to inform Bidders of the following: (1) it is a third-degree felony under New Mexico law to commit the offense of bribery of a public officer or public employee (Section 30-24-1, NMSA, 1978); (2) it is a third-degree felony to commit the offense of demanding or receiving a bribe by a public officer or public employee (Section 30-24-2, NMSA, 1978); (3) it is a fourth-degree felony to commit the offense of soliciting or receiving illegal kickbacks (Section 30-41-1, NMSA, 1978); (4) it is a fourth-degree felony to commit the offense of offering or paying illegal kickbacks (Section 30-41-2, NMSA, 1978).

28. CONFLICT OF INTEREST

28.1 Offeror warrants that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of service under this contract.

28.2 Offeror must notify the City's Chief Procurement Officer if any employee(s) of the requesting department or the Central Purchasing Division have a financial interest in the

Offeror. If yes, the Offeror must specify the employee(s) name in their proposal.

28.3 If federal funding utilized for this construction project, the Purchasing Division will notify the using department of the conflict. The using department will notify the funding agency of the conflict.