

INSTRUCTIONS TO BIDDERS

PART I - GENERAL

1.1. SECTION INCLUDES

1.1.1 These Instructions to Bidders include the following Sections:

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1.2. INTERPRETATION

1.2.1 For these Instructions to Bidders, unless defined in Article 1.2.3, below, all terms shall have the same meanings as defined in the Contract Definitions.

1.2.2 For greater certainty, Part 11 - Disputes of the General Conditions applies to the Contract but does not apply to this Tender.

1.2.3 For the Instructions to Bidders:

1.2.3.1 "Bidder" means an individual, partnership or corporation that provides a Bid in response to the City's Tender.

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1.2.3.2 "Tender" means the City's request for Bids as outlined in the Invitation to Bid and these Instructions to Bidders but does not include the Contract.

1.2.3.3 "Tender Documents" means all documents listed in the Invitation to Bid.

1.3. SUBMISSION OF BIDS

1.3.1 The provisions of the Agreement on Internal Trade, Part IV, Chapter Five - Procurement and Annex 502.4, (AIT) apply to this Tender.

1.3.2 Each Bid shall be submitted in a sealed package clearly marked with the Bidder's name, address and the Tender Number.

1.3.3 The Bid shall be valid for a period of 45 days from the closing date of this Tender or such other period as may be agreed by the Bidder and the City.

1.3.4 Submission of a Bid gives the City the irrevocable right to require the Bidder to execute the Contract and perform the Work.

1.4. FORM OF BIDS

1.4.1 Each Bid shall include a Bid Form with the blank spaces filled in.

1.4.2 The Tender Sum must be written in words as well as figures, and must be for a sum in Canadian Dollars including all tariffs, freight, duties and taxes (other than the Goods and Services Tax). The Goods and Services Tax must be shown as a separate amount unless otherwise specifically stipulated. In the event of a discrepancy between an amount written in words and an amount written in figures, the amount written in words shall be deemed the intended amount.

1.4.3 Bids must be written in English.

1.4.4 The City may reject Bids that are unsigned, incomplete, conditional, illegible, unbalanced, obscure, irregular, or not in complete compliance with the Tender Documents.

1.4.5 For unit prices, if there is a discrepancy found between the unit price and the extended amount, the unit price shall be deemed to represent the intention of the Bidder. The City shall be entitled to recalculate the Tender Sum using the unit prices and such recalculated Tender Sum shall be incorporated in the Bid.

1.4.6 Bids shall not be withdrawn, modified or clarified after being deposited with Materials Management unless such withdrawal, modification or clarification is made in writing and received by Materials Management prior to the time and date specified for the closing of this Tender. Any withdrawal, modification or clarification of the Bid must be duly executed in the same manner as the Bid Form. If the withdrawal, modification, or clarification is sent by facsimile, it must be followed by a letter of confirmation duly executed in the same manner as the Bid Form delivered to the

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address for the City in the Invitation to Bid within five Working Days of the faxed notice of the withdrawal, modification or clarification.

- 1.4.7 If a Bidder wishes to modify the Tender Sum, the Bidder may do so in accordance with Article 1.4.6, by issuing a written statement of the amount that is to be added to, or deducted from, the Tender Sum indicated on the Bid Form without stating the original Tender Sum or the revised Tender Sum. Unless otherwise stated, the modifying amount is deemed to exclude G.S.T.
- 1.4.8 Notwithstanding the foregoing, the City shall be entitled to accept a Bid in such form as the City in its sole discretion deems acceptable.

1.5. DISPUTES AND PAST PERFORMANCE

- 1.5.1 The City has an administrative directive that deals with contracting with parties who are in a dispute with the City that may need to be resolved through litigation or arbitration. The City may reject a Bid submitted by a Bidder or an affiliate or associate of a Bidder who is in a dispute with the City that may need to be resolved through litigation or arbitration. For the purpose of this section, an affiliate or associate shall have the same meaning as defined in the *Business Corporations Act*, R.S.A. 2000, c. B-9.
- 1.5.2 The City may reject a Bid submitted by a Bidder if the City determines that a Bidders' performance or the performance of an affiliate or associate of a Bidder on previous contracts with the City is unsatisfactory and the City's Materials Management Section has advised the Bidder or its affiliate or associate of this determination.

1.6. THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

- 1.6.1 All documents submitted to the City will be subject to the protection and disclosure provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25 ("FOIP"). FOIP allows persons a right of access to records in the City's custody or control. It also prohibits the City from disclosing the Bidder's personal or business information where disclosure would be harmful to the Bidder's business interests or would be an unreasonable invasion of personal privacy as defined in sections 16 and 17 of FOIP. Bidders are encouraged to identify what portions of their Bids are confidential and what harm could reasonably be expected from its disclosure. However, the City cannot assure Bidders that any portion of a Bid can be kept confidential under FOIP if the City is required to disclose any such record as a result of a direction by a regulatory authority pursuant to FOIP.

1.7. ELECTRONIC DOCUMENTS

- 1.7.1 The electronic version of the Tender Documents are provided for information purposes only. The City recommends that Bidders review the printed paper version of the Tender Documents distributed by Materials Management of the City and the City of Edmonton Design and Construction Standards posted on the City website.

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- 1.7.2 The City recommends that Bidders review the electronic postings regularly for addenda.

1.8. CHANGES TO TENDER DOCUMENTS

- 1.8.1 The Bidder shall carefully examine the Tender Documents. Any errors, omissions, discrepancies or clauses requiring clarification shall be reported in writing to the City at least five days prior to the Tender closing date. If necessary, the City will respond to errors, omissions, discrepancies or clauses in the Tender Documents requiring clarification by way of addenda.
- 1.8.2 If no errors, omissions, discrepancies or clauses requiring clarification are reported to the City at least five days prior to the Tender closing date, the City shall be entitled to determine, in its sole discretion, the intent of the Tender Documents.
- 1.8.3 No implied obligation of any kind by or on behalf of the City shall arise from anything in the Tender Documents. The express obligations contained in the Tender Documents and made by the City are and shall be the only obligations that apply.
- 1.8.4 Without limiting the generality of Article 1.8.3, the Tender Documents supersede all communications, negotiations, agreements, representations and warranties either written or oral relating to the subject matter of the Tender made prior to the Tender closing date, and no changes shall be made to the Tender Documents except by written addenda.
- 1.8.5 Any addenda issued by the City with respect to the Tender shall form part of the Tender Documents and the cost for doing the work therein shall be included in the Tender Sum.

1.9. BID REQUIREMENTS

- 1.9.1 Bidders shall be actively engaged in the line of work required to perform the Work and shall be able to refer to work of a similar nature performed by them. Bidders should be fully conversant with the general technical phraseology in the English language of the lines of work required to perform the Work.
- 1.9.2 Each Bidder shall review the Tender Documents and confirm that it is in possession of a full set of Tender Documents when preparing its Bid.
- 1.9.3 Bid Forms shall be properly executed in full compliance with the following requirements:
- 1.9.3.1 the signatures of persons executing the Bid Form must be in their respective handwriting; and
 - 1.9.3.2 if the Bid Form is submitted by a corporation, the full name of the corporation shall be accurately printed immediately above the signatures of its duly authorized officers and the corporate seal shall be affixed;

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- 1.9.3.3 if the Bid Form is submitted by a partnership, the firm name or business name shall be accurately printed above the signature of the firm and the Tender shall be signed by a partner or partners who have authority to sign for the partnership;
 - 1.9.3.4 if the Bid Form is submitted by an individual carrying on business under a name other than its own, its business name together with its name shall be printed immediately above its signature; or
 - 1.9.3.5 if the Bid Form is submitted by a sole proprietor who carries on business in its own name, the proprietor shall print its name immediately below its signature.
- 1.9.4 Bids received from agents representing principals must be accompanied by a Power of Attorney duly executed by the said principals showing that the agents are duly authorised to sign and submit the Bid and have full power to execute the Contract on behalf of their principals. The execution of the Contract will bind the principals and have the same effect as if it were duly signed by the principals.

1.10. BID SECURITY

- 1.10.1 The Bidder is required to submit Bid Security in favour of the City equal to 10% of the Tender Sum (which sum excludes GST) as a guarantee that, if awarded the Tender, the Bidder will enter into a Contract within the specified time frame and submit the Performance Bond as required by the Contract. The Bid Security may be in the form of a Bid Bond (in the form attached), a certified cheque, or an irrevocable letter of credit.
- 1.10.2 The Bid Security of the unsuccessful Bidders will be returned as soon as possible after the successful Bidder is notified or, if no Bidder is successful, after such decision is reached by the City.
- 1.10.3 The City will not pay any interest on the Bid Security.

1.11. PERFORMANCE BOND AND LABOUR AND MATERIAL BOND

- 1.11.1 The successful Bidder shall provide at its own expense a Performance Bond to guarantee the successful Bidder's faithful performance of the Contract, and protect the City against any losses or damage arising by reason of failure of the successful Bidder to faithfully perform the Contract.
- 1.11.2 The Performance Bond is to be issued by a Surety Company licensed in the Province of Alberta and satisfactory to the City in the amount of 50% of the Contract Sum.
- 1.11.3 The Performance Bond shall remain in force as a maintenance bond for the period specified in the General Conditions after the date a Construction Completion Certificate has been issued by the City.

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- 1.11.4 The Performance Bond shall be in the form set out in the Tender Document or in such other form as may be acceptable to the City.
- 1.11.5 The City may consider alternate forms of performance security in lieu of the Performance Bond. The Bidder should advise the City of its proposed alternate form of performance security and obtain the City's approval prior to submitting a Bid.
- 1.11.6 If the Work is with respect to a "project", as defined in the *City Transportation Regulation*, AR 301/80, the successful Bidder shall provide at its own expense a Labour and Material Bond in the amount of 50% of the Contract Sum.

1.12. INSURANCE

- 1.12.1 Bids should include a Certificate of Insurance in a form acceptable to the City certifying that the insurance as required in the General Conditions of the Contract is in place or, if the required insurance is not in place, a letter from the Bidder's Insurance Broker certifying that the required insurance will be issued to the Bidder if the Bidder is the successful Bidder.
- 1.12.2 The City may obtain Course of Construction Insurance for the property incorporated in the Work as more specifically outlined in the Additional Instructions to Bidders.

1.13. COMMENCEMENT AND COMPLETION OF WORK

- 1.13.1 The successful Bidder shall commence the Work within ten Working Days after the City gives notice to proceed with the Work and shall complete the Work by the date specified in the Invitation to Bid.

1.14. WORK SITE CONDITIONS

- 1.14.1 The Bidder shall carefully examine the Work Site before submitting a Bid and shall satisfy itself as to the nature and location of the Work, local site conditions, the nature and quality of materials to be used, the equipment and facilities needed before and during the execution of the Work, and all matters which may in any way affect the Work.
- 1.14.2 The Bidder is fully responsible for obtaining all information required for the preparation of its Bid and for the execution of the Work.
- 1.14.3 The Bidder shall not rely upon any oral information provided to it by the City or its representatives.

1.15. EQUIPMENT

- 1.15.1 If required in the Bid Form, the Bidder shall list the equipment it intends to use in the Work. The words "As Required" or similar wording will not be sufficient to describe the equipment.

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1.16. SUBCONTRACTORS

- 1.16.1 The Subcontractors listed on the List of Subcontractors supplied with the Bid are the Subcontractors that the Bidder shall use to perform the subcontract work described.
- 1.16.2 The Drawings and specific clauses of the Specifications have been arranged into various sections to better describe the Work to be carried out under this Contract. The successful Bidder shall be solely responsible for the Work under the Contract and for the allocation of the Work to Subcontractors.

1.17. PRIME COST SUMS

- 1.17.1 The Bidder shall include in its Tender Sum any Prime Cost Sum as indicated on the Bid Form or in a schedule attached to the Bid Form. The Goods and Services Tax associated with this Prime Cost Sum shall be shown as a separate amount.
- 1.17.2 Overhead and profit will be allowed on the actual cost of Work relating to a Prime Cost Sum at the time of invoicing in accordance with Section 5.3 - Valuation of Change of the General Conditions.
- 1.17.3 The unexpended portion of a Prime Cost Sum shall be deducted from the Contract Sum.

1.18. OPTIONAL, SEPARATE AND DELETE PRICE SUBMISSIONS

- 1.18.1 If required, the Bidder shall provide prices, with the Goods and Services Tax shown as a separate amount, for all portions of the Work specified as Optional, Separate or Delete in the Bid Form and in the schedules attached to the Bid Form.
- 1.18.2 The City shall have the right to accept any or all price submissions for portions of the Work specified as Optional, Separate or Delete.
- 1.18.3 The portion of Bid evaluation based on price may consider the Optional, Separate, and Delete price submissions as well as the Tender Sum.

1.19. IMPORTING AND GOODS AND SERVICES TAXES

- 1.19.1 The Bidder shall include in the Tender Sum all relevant fees, charges, penalties, or duties levied in importing any equipment, services or Products for the performance of the Work, unless otherwise specifically stipulated.
- 1.19.2 The Goods and Services Tax is to be quoted as a separate amount on all taxable supplies. Zero-rated and exempt supplies are to be noted separately.
- 1.19.3 The City may reject a Bid that does not comply with the tax-related instructions.

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- 1.19.4 It is the responsibility of the Bidder to determine the correct amounts and classifications of all fees, charges, penalties, or duties.

1.20. ENVIRONMENTAL RESPONSIBILITY ACKNOWLEDGEMENT

- 1.20.1 The successful Bidder will be required to sign an environmental acknowledgement which confirms the environmental responsibilities in performing the Work. The Contractor's environmental responsibilities are outlined in the Contractor's Environmental Responsibilities Package – Construction and Maintenance.

1.21. PERMIT AND INSPECTIONS

- 1.21.1 The Bidder shall include in its Tender Sum the cost of building and other permits and inspections required by any governmental or other authority having jurisdiction.

1.22. SUCCESSFUL BIDDER

- 1.22.1 The City reserves the right to award a Contract to any Bidder, and not necessarily the lowest Bidder. The City also reserves the right to not award a Contract pursuant to this Tender.
- 1.22.2 Award of Contract by the City occurs once the Bidder receives written confirmation of acceptance from Materials Management on behalf of the City.
- 1.22.3 The successful Bidder shall:
- 1.22.3.1 provide the Performance Bond and, if required, the Labour and Materials Bond within 14 days of receiving notice of confirmation of acceptance of the Bid,
 - 1.22.3.2 provide a Certificate of Insurance and
 - 1.22.3.3 execute and return the Contract to the City within seven days of receipt.
- 1.22.4 Upon the successful Bidder complying with Article 1.22.3, the Bid Security will be returned to the Bidder.
- 1.22.5 If the successful Bidder fails to comply with Article 1.22.3, the City may retain the Bid Security. This forfeiture of a successful Bidder's Bid Security shall not be construed as a waiver of any rights or remedies which the City may have against the Bidder for loss or damages incurred or suffered in excess of the amount of the Bid Security.

1.23. RETURN OF TENDER DOCUMENTS

The Tender Documents remain at all times the property of the City. Bidders shall return Tender Documents issued by Materials Management within ten days of contract award or the decision by the City not to award a Contract pursuant to this Tender. Bidders not returning Tender Documents within this time frame shall forfeit their document deposit.

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1.24. WORKERS' COMPENSATION

- 1.24.1 Bidders shall submit with their Bid, a letter of Account from the Workers' Compensation Board - Alberta. This letter must be current and not dated prior to 14 days of the closing date for this Tender.
- 1.24.2 Bidders who do not have an account with the Workers' Compensation Board - Alberta shall provide with their Bid evidence of a subcontractor or other company that will carry such coverage on their behalf.
- 1.24.3 If directors, partners or owners of the Contractor will be actively providing services under the Contract, then the Contractor must provide WCB coverage for those directors, partners and owners. The Contractor will provide evidence of such coverage to the City upon request.

1.25. PRODUCT APPROVALS

- 1.25.1 The Bidder must obtain approval for proposed Products that are at variance with the Specifications or Drawings prior to submitting its Bid.
- 1.25.2 The Bidder must obtain approval for equivalent Products that it proposes to substitute for trade name Products specified in the Tender Documents prior to submitting its Bid.
- 1.25.3 Bidders must submit applications for approvals under this section in writing ten days prior to the closing date of this Tender.
- 1.25.4 Applications for approvals under this section must contain sufficient data to establish that the proposed Products are in all respects equal to or better than the Products specified in the Tender Documents.
- 1.25.5 Approvals under this section shall be communicated to all Bidders by addenda.

1.26. ALTERNATIVE BIDS

- 1.26.1 The City recognizes that there may exist methods of construction or Products to perform the Work other than those described in the Tender Documents.
- 1.26.2 The City may consider alternative methods of construction or Products proposed by the Bidder provided that the Bidder has submitted:
 - 1.26.2.1 a Bid in accordance with the Tender Documents,
 - 1.26.2.2 another Bid based on alternative methods of construction or Products and
 - 1.26.2.3 sufficient descriptive information for the City to assess the proposed alternative Bid.

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- 1.26.3 In evaluating an alternative Bid, it may not be possible to evaluate alternative methods and Products on the basis of price alone and the City may use evaluation criteria other than those specified in the Tender Documents. In particular, the evaluation may involve a subjective assessment of the suitability of the alternative methods or Products and consideration of other costs.

1.27. TENDER SUM EXCEEDING BUDGET

- 1.27.1 If the best evaluated Bid provides for a Tender Sum that exceeds the amount the City has budgeted for the Work, the City may:

- 1.27.1.1 reject all Bids;
- 1.27.1.2 evaluate the Bids based on a revised Tender Sum considering any or all Optional, Separate, or Delete prices; or
- 1.27.1.3 attempt to negotiate a lower Tender Sum with the Bidder who submitted the best evaluated Bid.

- 1.27.2 If the Bid submitted by the best evaluated Bidder provides for a Tender Sum that exceeds the amount budgeted for the Work and the City negotiates with the best evaluated Bidder:

- 1.27.2.1 all statements made by the City and the Bidder in the course of negotiation are without prejudice and confidential;
- 1.27.2.2 in particular, the City's attempt to negotiate with the best evaluated Bidder does not constitute a rejection of that Bidder's Bid;
- 1.27.2.3 the City will not attempt to obtain a lower price for the same work but may attempt to obtain a lower price for an altered scope of work. In no event will the City be obliged to disclose the amount budgeted for the Work.

1.28. CERTIFICATE OF RECOGNITION (C.O.R.) SAFETY PROGRAM REQUIREMENT

- 1.28.1 The City shall reject a Bid submitted by a Bidder who has not obtained a C.O.R. or S.E.C.O.R. appropriate to their industry issued by the Alberta Construction Safety Association or other certifying partner.
- 1.28.2 Certification shall be evident by inclusion of the Bidder's name and certificate number on either the Government of Alberta Employment and Immigration's certification list or the Alberta Construction Safety Association's certification list, current at the time of closing of this Tender. Bidders may also submit a current copy of their C.O.R. or S.E.C.O.R. with their Bid.
- 1.28.3 The City shall reject a Bid submitted by a Bidder where the Bidder has only obtained a Temporary Letter of Certification (T.L.C.) appropriate to their industry.