

NOTE: All of this bound information must be kept intact and, together with any addenda issued, must be returned with the bid, otherwise the bid may be considered informal.

A non-refundable deposit of Seventy-Five Dollars (\$75.00), will be required for each set of plans and specifications.

CITY OF CLEVELAND, OHIO

STANDARD FORM OF INVITATION TO BID, GENERAL CONDITIONS, SPECIFICATIONS AND BID FOR A PUBLIC IMPROVEMENT

Mayor's Office of Capital Projects

PART A - INSTRUCTIONS TO BIDDERS

A-1. ADVERTISEMENT.

In accordance with Ordinance Nos. 1570-11 and 1571-11, passed by the Council of the City of Cleveland, December 5, 2011, and signed by the Mayor, December 9, 2011, an advertisement for proposals for the City of Cleveland Construction Contract for CUY-West 6th St. Streetscape, PID 89722 (W. Lakeside Ave. to W. St. Clair Ave.) and CUY-Professor St. Intersections, PID 90218 for the Mayor's Office of Capital Projects of the City of Cleveland, appears in the City Record under dates of January 30, 2013, February 6, 2013, and February 13, 2013.

A-2. BIDS.

Sealed bids endorsed CUY-West 6th St. Streetscape, PID 89722 (W. Lakeside Ave. to W. St. Clair Ave.) and CUY-Professor St. Intersections, PID 90218

will be received at the office of the Commissioner of Purchases and Supplies, Room 128, City Hall, Cleveland, Ohio 44114, until 2:00 o'clock noon, official time, February 27, 2013, and thereafter will be publicly opened and read in the Council Chamber, City Hall.

A-3. FORM OF BID.

Every bid must be made upon the blank form of bid attached hereto; must give the price of each and every item of the work bid on, in figures, and must contain the full name of every person, firm or corporation interested in the bid, and the address of the person, firm or the president and secretary of the corporation bidding; and if a corporation, the bid must give the name of the State in which it is incorporated.

A-4. NAME OF BIDDER.

Each bid must be clearly signed with the full name and address of each person, firm or corporation interested in it. In case of a partnership, the firm name and address and name and address of each individual party must be given.

A-5. SIGNATURE OF BIDDER.

The firm, corporation or individual name of the bidder must be signed by the bidder in the space provided for the signature on the bid blank. In case of a corporation, the title of the officer signing must be stated, and each officer must be thereunto duly authorized. In the case of a partnership, the signature of at least one of the partners must follow the firm name, using the term "member of firm". In case of an individual, use the term "doing business as" or "sole owner".

A-6. BIDDER'S AFFIDAVITS.

Each bidder is required to submit with his bid an affidavit stating that neither he nor his agents, nor any other party for him has paid or agreed to pay, directly or indirectly, any person, firm or corporation any money or valuable consideration for assistance in procuring or attempting to procure the contract herein referred to, and further agreeing that no such money or reward will be hereafter paid. This affidavit must be on a form provided by the City which may be obtained from the Commissioner of Purchase and Supplies.

A-7. BID BOND, CERTIFIED OR CASHIER'S CHECK.

Each bid shall be accompanied by a bid bond signed by a surety company authorized to do business in Ohio, or by a cashier's check or certified check on a solvent bank, which bond or check shall be in the sum of 5% of the amount of the bid. Said bond or check shall be given as security that if the bid is accepted, a contract will be entered into and the performance of it properly secured.

A-8. DISPOSITION OF BID BOND, CERTIFIED OR CASHIER'S CHECK.

- A. The bid bond, certified or cashier's check shall be forfeited and the principal amount of said bid bond shall be paid to the City, or said check shall be surrendered to the City as the agreed amount of liquidated damages in case of failure to enter into contract as above described. The bid bond or check will be released or returned to the bidder in case his bid is rejected.
- B. In case his bid is accepted, the bid bond or certified or cashier's check will be returned after the contract has been signed and the performance bond herein required has been furnished and approved by the City. The bid bond or certified or cashier's check of the next lowest responsible bidder will be retained until the lowest responsible bidder has signed and secured the performance of his contract, or if he fails so to do, said bid bond or check shall be further retained until the second lowest responsible bidder shall have signed and properly secured the contract awarded to him; and in default thereof the bid bond or certified or cashier's check shall be forfeited to the City as liquidated damages.

A-9. EXPLANATIONS, WRITTEN AND ORAL.

Should a bidder find any discrepancy in or omission from the drawings or specifications, or should he be in doubt as to their meaning, he shall at once notify the Commissioner of Purchases and Supplies, who will send written instructions to all bidders. The City will not be responsible for any oral instructions.

A-10. UNACCEPTABLE BIDS.

No bid will be accepted from, or contract awarded to, any person, firm or corporation that is in arrears or is in default to the City of Cleveland upon any debt or contract, or that is a defaulter as surety or otherwise, upon obligation to said City, or has failed to perform faithfully any previous contract with the City.

A-11. EVIDENCE OF ABILITY TO DO WORK.

Bidders must present evidence to the Director, when required to do so, that they are fully competent and have the necessary facilities and pecuniary resources to deliver the material and complete the work to be performed hereunder in a satisfactory manner and within the time specified.

A-12. APPROXIMATE QUANTITIES.

Where bids are based on estimated quantities it is understood that the estimates are prepared by the city officials for the purpose of comparison of bids, and that the estimated quantities are not guaranteed but are approximate only, and the City reserves the right to increase or diminish the same, or to omit any one or more items, at the unit price bid, as the Director may deem desirable.

A-13. EXAMINATION OF SITE WORK.

- A. Bidders shall satisfy themselves as to the existing conditions of the premises where the work is to be done and of the nature of the ground at the site of the proposed work, and pay particular attention to any soil condition that may affect the progress or performance of the work. The City makes no guarantee, either express or implied, as to ground conditions.
- B. Subject to the convenience of the City, prospective bidders may be permitted to explore the site by making borings or digging test pits. In such event, the work shall be done at the sole expense and risk of the bidder, and he shall maintain and restore the site to a condition of safety.

A-14. MATERIALS, SAMPLES, ETC.

- A. Before any contract is awarded, the bidder may be required to furnish a complete certified statement of the origin, composition and manufacture of any or all materials to be used in the work, together with samples, which required samples may be subjected to the tests provided for in these specifications to determine their quality and fitness for work.
- B. For samples of materials that may be required to be furnished by bidders prior to the opening of bids, see "Detail Specifications".

A-15. CONSIDERATION OF BIDS.

All bids received in conformity with these contract documents shall, as soon as practicable, be tabulated and shall become a public record.

A-16. REJECTION OR ACCEPTANCE OF BIDS.

The City, through the Board of Control, reserves the right to reject any or all bids, and any part or parts of any bid and also the right to waive any informalities in the bid. In awarding a contract, the City reserves the right to consider all elements entering into the question of determining the responsibility of the bidder. Any bid which is incomplete, conditional, obscure, or which contains additions not called for, or irregularities of any kind, may be cause for rejection of bid.

A-17. WITHDRAWAL OF BID.

No bid will be allowed to be withdrawn after it has been deposited with the Commissioner of Purchases and Supplies.

A-18. TIME OF AWARD.

Unless further time is required for analysis of the bids or investigation of the responsibility of any bidder and in the absence of a limitation upon the time of acceptance set forth in the bid, the Board of Control of the City of Cleveland will ordinarily make an award or reject all bids received hereunder not later than the second regular meeting of said Board following the opening of bids. Any extension of time beyond the date fixed by the successful bidder or the fourth regular meeting of the Board of Control, whichever event shall first occur, shall be subject to agreement between said bidder and the Board of Control.

A-19. SURETY BOND.

The Contractor shall furnish an indemnity bond to the City of Cleveland in the full amount of the contract price, as a guarantee of good faith on behalf of the Contractor that the terms of these contract documents shall be complied with in every particular. Said bond shall be subject to the approval of the Department of Law of the City of Cleveland, Ohio.

A-20. RELEASE OF BOND.

The Contractor's bond will not be released until all of the provisions of the contract have been fulfilled.

~~**A-21. BID DISCOUNTS – APPLICABLE TO BIDS FOR GOODS AND SERVICES PURCHASE CONTRACTS AND PUBLIC IMPROVEMENT CONTRACTS IN EXCESS OF TEN THOUSAND DOLLARS (\$10,000).**~~

~~a. Bid Discounts under Sections 187.03 and 187.05. If the bid of any prime contractor that is a CSB, MBE, FBE or a CSB, MBE or FBE joint venture is no more than five percent (5%) higher than the lowest actual bid for a contract that is not from a CSB, MBE, FBE or a CSB, MBE or FBE joint venture, the contracting department shall apply a Bid Discount of five percent (5%) to the CSB, MBE, FBE or CSB, MBE or FBE joint venture bid for the purpose of establishing a Comparison Bid. The City of Cleveland shall use the following ranking in determining who receives the preference:~~

1. Where the disparity study has determined that a disparity exists, the bid discount shall go to the bidders who are certified by the City as members of the specific MBE/FBE group for which the proven disparity exists. No other bidders shall receive any preference under Sections 187.03 and 187.05 at the prime contractor level.
2. Where no disparity has been proven, or when no bids are received from groups for which a proven disparity exists, the bid discount shall go to certified CSB bidders certified by the City as located within the city limits of Cleveland. No other bidders shall receive any preference under Sections 187.03 and 187.05 at the prime contractor level.
3. Where no disparity has been proven, or when no bids are received from groups for which a proven disparity exists, and no bids were received from certified CSB firms certified by the City as located within the city limits of Cleveland, the bid discount shall go to Certified CSB bidders certified by the City as located within Cuyahoga County. No other bidders shall receive any preference under Sections 187.03 and 187.05 at the prime contractor level.
4. In addition to any bid discounts at the prime contractor level, all prime contractors shall receive a bid discount of 5% of the total dollar amount of all CSB, MBE and/or FBE certified by the City that the prime contractor properly documents as subcontractors in their bid, for the purpose of establishing a Comparison Bid.
5. The total Bid Discount awarded to any bidder on a bid pursuant to Sections 187.03 and 187.05 shall not exceed \$50,000.00.

b. Bid Discounts under Section 187A.02(a): Application of Bid Discount—A Contracting Department shall apply a Bid Discount of two percent (2%) to a bid received from a Local Producer (LPE); two percent (2%) to a bid received from a Local Food Producer (LPE); and two percent (2%) to a bid received from a Local Sustainable Business (SUBE); provided that the maximum total Bid Discount applied under Section 187A.02 (a) shall not exceed four percent (4%). Bid Discounts applied under Section 187A.02 (a) shall be in addition to any Bid Discount applied under Sections 187.03 and 187.05. The maximum amount of any Bid Discounts applied under this Section 187A.02 (a) shall not exceed \$50,000.

c. Maximum Cumulative Amount of All Bid Discounts:

The maximum cumulative amount of all Bid Discounts that may be applied to the bid under Sections 187.03, 187.05, and 187A.02 shall not exceed \$75,000.00, or nine percent (9%), whichever is lower.

d. Comparison Bid to Determine Lowest and Best Bidder:

The City shall determine the Comparison Bid by totaling all applicable Bid Discounts under Sections 187.03, 187.05, and 187A.02. The City shall use the Comparison Bid in determining the lowest and best or lowest responsible bidder for the purpose of awarding the contract. If more than one CSB, MBE, FBE, LPE, SUBE or CSB, MBE, FBE LPE, SUBE joint venture prime contractor in the respective category submits a bid that is no more than five percent (5%) higher than the lowest actual bid that is not from a CSB, MBE, FBE, LPE, SUBE or from a CSB, MBE, FBE, LPE, SUBE joint venture, the contracting department shall recommend the CSB, MBE, FBE, LPE, SUBE, or CSB, MBE, FBE, LPE, SUBE joint venture submitting the lowest bid, after the inclusion of all applicable prime and subcontractor discounts, as the lowest and best or lowest responsible bidder.

The City shall use the Comparison Bid amount determined by applying the bid discounts described in Articles A 16A, and A 16B, above for evaluation purposes only; the City shall use the actual bid amount for the purposes of bid approval and contract award.

e. City of Cleveland Certification required: For the purpose of determining a bidder's eligibility for bid discounts, the City shall only consider bidders with valid certificates issued by the City of Cleveland's Office of Equal Opportunity. The certifications must be active on the date and time of the deadline for bid submission. Expired certification holders and pending certifications cannot be considered for calculation of bid discounts. Certifications from other public or private entities cannot be considered.

~~A 22. GOOD FAITH PARTICIPATION—APPLICABLE TO BIDS FOR GOODS AND SERVICES PURCHASE CONTRACTS AND PUBLIC IMPROVEMENT CONTRACTS IN EXCESS OF TEN THOUSAND DOLLARS (\$10,000).~~

~~Bidders are required to actively participate and demonstrate good faith in attempting to meet all OEO goals for this procurement. A good faith effort to meet certified CSB, MBE, and/or FBE subcontractor participation goals as established in this contract is of the essence of the contract.~~

~~Good faith participation shall include:~~

- ~~1. Active cooperation in making and documenting a serious effort to gain and maintain participation from certified businesses at or above the specific goals set for this procurement;~~
- ~~2. Achieving or exceeding the CSB/MBE/FBE goals set for this particular procurement and/or documenting the practical steps taken by the bidder in attempting to comply;~~
- ~~3. Active attendance and participation in all prebid meetings, Notice to Proceed meetings, and progress meetings during the contract;~~
- ~~4. Active compliance and cooperation with Project Monitors from OEO and/or the Department; and,~~
- ~~5. Timely and accurate submittals of all required forms, including, but not limited to, electronic monitoring forms, employment reports and certified payrolls if applicable.~~

~~The final determination of good faith effort shall be made by the Office of Equal Opportunity based upon each bidder's actions as documented in the required forms and as verified by OEO follow-up.~~

~~A-23 — Cleveland Area Business Code Notice to Bidders & Schedules — APPLICABLE TO BIDS FOR GOODS AND SERVICES PURCHASE CONTRACTS AND PUBLIC IMPROVEMENT CONTRACTS IN EXCESS OF TEN THOUSAND DOLLARS (\$10,000).~~

~~Sections 187 and 187A of the Codified Ordinances of the City of Cleveland Ohio, the Cleveland Area Business Code, in its entirety, whether reproduced in whole or in part within these documents, as well as the Cleveland Area Business Code Notice to Bidders & Schedules included in this bid document, shall become part of any contract awarded pursuant to this Invitation to Bid. Compliance with Section 187 and 187A is of the essence of the contract.~~

A-24 SUBCONTRACTING:

a. Any and all proposed subcontractors, whether City certified or not, must be divulged and listed in the sealed bid. Include all proposed subcontractors on OEO Schedule 2. A Schedule 3 is also required for each proposed subcontractor that is CSB, MBE, FBE, LPE, or SUBE certified. However, a Schedule 3 is not required for proposed subcontractors who are not City-certified as a CSB, MBE, FBE, LPE, or SUBE.

b. If OEO Schedule 2 is not included in the bid documents, you must submit a proposed subcontractor list on a separate, signed sheet of paper, listing the name, address, type of work or materials, and total subcontractor amount for each and every subcontractor that you propose to use on the contract.

c. All proposed subcontractors listed in your bid must receive written Board of Control approval in advance. The subcontractors you propose in your sealed bid will be considered the subcontractors that you will use in the contract if awarded to you. See Article B-11 regarding the City's Sub-contractor Addition and Substitution Policy and Procedure. The City also reserves the right to approve an award, but not approve a proposed subcontractor.

d. The City maintains a list of Vendors Ineligible to Contract or Subcontract with the City at the City of Cleveland website: <http://www.city.cleveland.oh.us>. It is each bidder's responsibility to propose only eligible contractors. The City cannot approve a subcontractor whose name appears in this listing.