SECTION II

INSTRUCTIONS TO BIDDERS

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# COPIES OF BIDDING DOCUMENTS

* 1. Complete sets of the Bidding Documents are accessible through the City of Clearwater website at address: <https://www.myclearwater.com/Business-Development/Doing-Business-with-the-City>. Bidding Documents may include, but are not limited to, plans, specifications, bond forms, contract form, affidavits, bid/proposal form, and addendums.
  2. Complete sets of Bidding Documents must be used in preparing bids. Neither the City nor the Engineer shall be liable for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents, by Bidders, sub-bidders, or others.

# QUALIFICATION OF BIDDERS

* 1. Each prospective Bidder must pre-qualify to demonstrate, to the complete satisfaction of the City of Clearwater, that the Bidder has the necessary facilities, equipment, ability, financial resources, and experience to perform the work in a satisfactory manner. An application package for pre-qualification may be obtained by contacting the City of Clearwater, Public Works Department, Construction Management Division, PO Box 4748, Clearwater, Florida 33758-4748 (mailing address); 100 South Myrtle Avenue, Clearwater, Florida 33756-5520 (street address) or by phone at (727) 562-4750. Pre-qualification requirement information is also available on the City of Clearwater website at address:

<https://www.myclearwater.com/My-Government/City-Departments/Public-Works>.

Contractors seeking to pre-qualify for bidding as a General Contractor must complete the pre-qualification process at least two weeks (ten business days) before the bid opening date. Bidders currently pre-qualified by the city do not have to make reapplication. It is the Contractor’s responsibility to confirm pre-qualification status before a Bid Opening.

The Contractor shall include copies of their current license/registration with the State of Florida and Pinellas County (if applicable) with their bid response.

# EXAMINATION OF CONTRACT DOCUMENTS AND SITE

* 1. It is the responsibility of each Bidder, before submitting a Bid, to:
     + - 1. examine the Contract Documents thoroughly
         2. visit the site to become familiar with local conditions that may in any manner affect cost, progress, performance or furnishing of the work
         3. consider and abide by all applicable federal, state and local laws, ordinances, rules and regulations; and
         4. study and carefully correlate Bidder's observations with the Contract Documents, and notify Engineer in writing of all conflicts, errors, or discrepancies in the Contract Documents.
  2. For the purposes of bidding or construction, bidder may rely upon the accuracy of the technical data contained in reports of explorations and tests of subsurface conditions at the site which have been utilized by the Engineer in the preparation of the Contract Documents, but not upon non‑technical data, interpretations or opinions contained therein or for the completeness thereof. Drawings relating to physical conditions of existing surface and subsurface conditions (except Underground Facilities) which are at or contiguous to the site and which have been utilized by the Engineer in preparation of the Contract Documents, may be relied upon by Bidder for accuracy of the technical data contained in such drawings but not upon the completeness thereof for the purposes of bidding or construction.
  3. Information and data reflected in the Contract Documents with respect to Underground Facilities at or contiguous to the site are based upon information and data furnished to the City and Engineer by owners of such Underground Facilities or others, and the City does not assume responsibility for the accuracy or completeness thereof unless expressly provided in the Contract Documents.
  4. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders on subsurface conditions, Underground Facilities, other physical conditions, possible conditions, and possible changes in the Contract Documents due to differing conditions appear in the General Conditions.
  5. Before submitting a Bid, each Bidder shall, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing the work in accordance with the time, price and other terms and conditions of the Contract Documents.
  6. On request in advance, City will provide each Bidder access to the site to conduct such explorations and tests at Bidder's own expense as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the site to its former condition upon completion of such explorations and tests.
  7. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by the Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by the Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by the City unless otherwise provided in the Contract Documents.
  8. The submission of a Bid will constitute an unequivocal representation by the Bidder that the Bidder has complied with every requirement of these Instructions to Bidders and that, without exception, the Bid is premised upon performing and furnishing the Work required by the Contract Documents by such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of performance and furnishing of the work.

# INTERPRETATIONS AND ADDENDA

* 1. All questions as to the meaning or intent of the Contract Documents are to be directed in writing to the Engineer. Interpretations or clarifications considered necessary by the Engineer in response to such questions will be issued by Addenda, via the Jiffy Reprographics Plan Room to all parties recorded by the Plan Room as plan holders having received the Bidding Documents. Questions received after the time frame specified on the pre-bid meeting agenda, prior to the date for opening of Bids, may not be answered. Only information provided by formal written Addenda will be binding. Oral and other interpretations of clarifications will be without legal effect.
  2. Addenda may also be issued to modify the Bidding Documents as deemed advisable by the City or Engineer.

# BID SECURITY OR BID BOND

* 1. Each Bid must be accompanied by Bid Security made payable to the City of Clearwater in an amount equal to ten percent (10%) of the Bidder’s maximum Bid price and in the form of a certified or cashier’s check or a Proposal/Bid Bond (on form provided in Section V) issued by a surety meeting the requirements of the General Conditions.
  2. The Bid Security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required Payment and Performance bonds, whereupon the Bid Security will be returned. If the Successful Bidder fails to execute, deliver the Agreement and furnish the required Bonds within ten (10) days after the award of contract by the City Council, the City may annul the bid and the Bid Security of the Bidder will be forfeited. The Bid Security of any Bidder whom the City believes to have a reasonable chance of receiving the award may be retained by the City until the successful execution of the agreement with the successful Bidder or for a period up to ninety (90) days following bid opening. Security of other Bidders will be returned approximately fourteen (14) days after the Bid Opening.
  3. The Bid Bond shall be issued in the favor of the City of Clearwater by a surety company qualified to do business in, and having a registered agent in, the State of Florida.

# CONTRACT TIME

* 1. The number of consecutive calendar days within which the work is to be completed is set forth in the Technical Specifications.

# LIQUIDATED DAMAGES

* 1. Provisions for liquidated damages are set forth in the Contract Agreement, Section V.

# SUBSTITUTE MATERIAL AND EQUIPMENT

* 1. The contract, if awarded, will be on the basis of material and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or equal" item may be furnished or used, application for its acceptance will not be considered by the Engineer until after the effective date of the Contract Agreement. The procedure for submittal of any such application is described in the General Conditions and as supplemented in the Technical Specifications.

# SUBCONTRACTORS

* 1. If requested by the City or Engineer, the Successful Bidder, and any other Bidder so requested, shall, within seven (7) days after the date of the request, submit to the Engineer an experience statement with pertinent information as to similar projects and other evidence of qualification for each Subcontractor, supplier, person and organization to be used by the Contractor in the completion of the Work. The amount of subcontract work shall not exceed fifty percent (50%) of the Work except as may be specifically approved by the Engineer. If the Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, supplier, other person or organization, he may, before recommending award of the Contract to the City Council, request the Successful Bidder to submit an acceptable substitute without an increase in Contract Price or Contract Time. If the Successful Bidder declines to make any such substitution, the City may award the contract to the next lowest and most responsive Bidder that proposes to use acceptable Subcontractors, Suppliers, and other persons and organizations. Declining to make requested substitutions will not constitute grounds for sacrificing the Bid Security to the City of any Bidder. Any Subcontractor, supplier, other person or organization listed by the Contractor and to whom the Engineer does not make written objection prior to the recommendation of award to the City Council will be deemed acceptable to the City subject to revocation of such acceptance after the Effective Date of the Contract Agreement as provided in the General Conditions.
  2. No Contractor shall be required to employ any Subcontractor, supplier, person, or organization against whom he has reasonable objection.

# BID/PROPOSAL FORM

* 1. The Bid/Proposal Form is included with the Contract Documents and shall be printed in ink or typewritten. All blanks on the Bid/Proposal Forms must be completed. Unit Prices shall be to no more than two decimal points in dollars and cents. The Bidder must state in the Bid/Proposal Form in words and numerals without delineation’s, alterations or erasures, the price for which they will perform the work as required by the Contract Documents. Bidders are required to bid on all items in the Bid/Proposal form. The lump sum for each section or item shall be for furnishing all equipment, materials, and labor for completing the section or item as per the plans and contract specifications. Should it be found that quantities or amounts shown on the plans or in the proposal, for any part of the work, are exceeded or should they be found to be less after the actual construction of the work, the amount bid for each section or item will be increased or decreased in direct proportion to the unit prices bid for the listed individual items.
  2. Bids by corporations shall be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal shall be affixed. The corporate address and state of incorporation shall be shown below the Signature. If requested, the person signing a Bid for a corporation or partnership shall produce evidence satisfactory to the City of the person's authority to bind the corporation or partnership.
  3. Bids by partnerships shall be executed in the partnership name and signed by a general partner, whose title shall appear under the signature and the official address of the partnership shall be shown below the signature.
  4. All names shall be typed or printed below the signature.

# SUBMISSION OF BIDS

* 1. Sealed Bids shall be submitted at or before the time and at the place indicated in the Advertisement for Bids and shall be submitted in a sealed envelope with the project name and number on the bottom left hand corner. If forwarded by mail, the Bid shall be enclosed in another envelope with the notation "Bid Enclosed" on the face thereof and addressed to the City of Clearwater, attention Purchasing Manager. Bids will be received at the office indicated in the Advertisement until the time and date specified. Bids in any other form will not be accepted.
  2. The sealed bid envelope shall contain, but not be limited to, the Proposal/Bid Bond and corresponding Power of Attorney, Affidavit, Non-Collusion Affidavit, Proposal (pages one and two), Addendum Sheet, Bidder’s Proposal, Scrutinized Companies and Business Operations with Cuba and Syria Certification Form, and E-Verify form.

# MODIFICATION AND WITHDRAWAL OF BIDS

* 1. Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered as described in the Advertisement of Bids. A request for withdrawal or a modification shall be in writing and signed by a person duly authorized to do so. Withdrawal of a Bid will not prejudice the rights of a Bidder to submit a new Bid prior to the Bid Date and Time. After expiration of the period for receiving Bids, no Bid may be withdrawn or modified.
  2. After a bid is received by the City, the bidder may request to modify the bid for typographical or scrivener's errors only. The bidder must state in writing to the City that a typographical or scrivener's error has been made by the bidder, the nature of the error, the requested correction of the error, and what the adjusted bid amount will be if the correction is accepted by the City. The City reserves the right at its sole discretion to accept, reject, or modify any bid.

# REJECTION OF BIDS

* 1. To the extent permitted by applicable State and Federal laws and regulations, the City reserves the right to reject any, and all Bids, and to waive any, and all informalities. Grounds for the rejection of a bid include but are not limited to a material omission, unauthorized alteration of form, unauthorized alternate bids, incomplete or unbalanced unit prices, or irregularities of any kind. Also, the City reserves the right to reject any Bid if the City believes that it would not be in the best interest of the public to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the City. The City reserves the right to decide which bid is deemed to be the lowest and best in the interest of the public.

# DISQUALIFICATION OF BIDDER

* 1. Any or all bids will be rejected if there is any reason for believing that collusion exists among the bidders, the participants in such collusion will not be considered in future proposals for the same work. Each bidder shall execute the Non-Collusion Affidavit contained in the Contract Documents.

# OPENING OF BIDS

* 1. Bids will be opened and read publicly at the location and time stated in the Advertisement for Bids. Bidders are invited to be present at the opening of bids.

# LICENSES, PERMITS, ROYALTY FEES AND TAXES

* 1. The Contractor shall secure all licenses and permits (and shall pay all permit fees) except as specifically stated otherwise in the Technical Specifications. The Contractor shall comply with all Federal and State Laws, County and Municipal Ordinances and regulations, which in any manner effect the prosecution of the work. City of Clearwater building permit fees and impact fees will be waived except as specifically stated otherwise in the Technical Specifications.
  2. The Contractor shall assume all liability for the payment of royalty fees due to the use of any construction or operation process, which is protected by patent rights except as specifically stated otherwise in the Technical Specifications. The amount of royalty fee, if any, shall be stated by the Contractor.
  3. The Contractor shall pay all applicable sales, consumer, use, and other taxes required by law. The Contractor is responsible for reviewing the pertinent State Statutes involving the sales tax and sales tax exemptions and complying with all requirements.
  4. The City of Clearwater is exempt from state sales tax on materials purchased by the City and incorporated into the WORK. The City of Clearwater reserves the right to implement the Owner Direct Purchase (ODP) Option, as may be indicated in the Scope of Work Description in Section IV – Technical Specifications and as defined in Section III – General Conditions.

# IDENTICAL TIE BIDS/VENDOR DRUG FREE WORKPLACE

* 1. In accordance with the requirements of Section 287.087 Florida Statutes regarding a Vendor Drug Free Workplace, in the event of identical tie bids, preference shall be given to bidders with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the City for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none or all of the tied bidders have a drug-free workplace program. In order to have a drug-free workplace program, a contractor shall supply the City with a certificate containing the following six statements and the accompanying certification statement:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees as to the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893, or of any controlled substance law, of the United States, or of any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

I certify that this firm does/does not (select only one) fully comply with the above requirements.

# AWARD OF CONTRACT

* 1. Discrepancies between words and figures will be resolved in favor of words. Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
  2. In evaluating the Bids, the City will consider the qualifications of the Bidders, whether the Bids comply or not with the prescribed requirements, unit prices, and other data as may be requested in the Bid/Proposal form. The City may consider the qualifications and experience of Subcontractors, suppliers and other persons and organizations proposed by the Contractor for the Work. The City may conduct such investigations as the City deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons, and organizations to perform and furnish the Work in accordance with the Contract Documents to the City's satisfaction within the prescribed time.
  3. If the Contract is to be awarded, it will be awarded to the lowest responsible, responsive Bidder whose evaluation by the City indicates to the City that the award will be in the best interest of the City.
  4. Award of contract will be made for that combination of base bid and alternate bid items in the best interest of the City, however, unless otherwise specified all work awarded will be awarded to only one Contractor.
  5. The successful bidder/contractor will be required to comply with Section 119.0701, Florida Statutes, specifically to:

1. Keep and maintain public records that ordinarily and necessarily would be required by the City of Clearwater in order to perform the service;
2. Provide the public with access to public records on the same terms and conditions that the City of Clearwater would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
4. Meet all requirements for retaining public records and transfer, at no cost, to the City of Clearwater all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the City of Clearwater.

# BID PROTEST

* 1. RIGHT TO PROTEST:

Pursuant to Section 2.562(3), Clearwater Code of Ordinances, a bidder who submitted a response to a competitive solicitation and was not selected may appeal the decision through the bid protest procedures, a copy of which shall be available in the Procurement Division. A protesting bidder must include a fee of one percent of the amount of the bid or proposed contract to offset the City’s additional expenses related to the protest. This fee shall not exceed $5,000.00 nor be less than $50.00. Full refund will be provided should the protest be upheld. No partial refunds will be made.

# TRENCH SAFETY ACT

* 1. The Bidder shall comply with the provisions of the City of Clearwater’s Ordinance related to trench digging (Ordinance No. 7918-08) along with the Florida Trench Safety Act (Sections 553.60-553.64, Florida Statutes) and the provisions of the Occupational Safety and Health Administration's (OSHA) excavation safety standards, 29 C.F.R.s 1926.650 Subparagraph P, or current revisions of these laws.

# CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL MANAGEMENT MEASURES

* 1. The Bidder shall comply with the provisions of the Environmental Protection Agency (EPA) National Pollution Discharge Elimination System (NPDES) stormwater permit and implement stormwater pollution prevention plans (SWPPP’s) or stormwater management programs (both using best management practices (BMPs) that effectively reduce or prevent the discharge of pollutants into receiving waters.

1. The control of construction-related sediment loadings is critical to maintaining water quality. The implementation of proper erosion and sediment control practices during the construction stage can significantly reduce sediment loadings to surface waters.
2. Prior to land disturbance, prepare and implement an approved erosion and sediment control plan or similar administrative document that contains erosion and sediment control provisions.

NPDES Management Measures are available on City of Clearwater and EPA websites to help address construction-related Best Management Practices.