

1. SCOPE OF WORK

The work under this Contract shall consist of the items listed in the Proposal, including all incidentals necessary to fully complete the project in accordance with the Contract Documents.

2. RECEIPT AND OPENING OF BID PROPOSALS

- A. Sealed bid proposals will be received as indicated in the Advertisement for Bids and opened and read aloud at the offices of the Oakland County Water Resources Commissioner.
- B. Proposals must be submitted only on forms provided by Owner. All blank spaces for bid prices must be filled in, in ink or typewritten, and the bid form must be fully executed when submitted and not modified in any way.
- C. Proposals must be enclosed in a sealed envelope marked:

Oakland County Water Resources Commissioner
Building 95 West – One Public Works Drive
Waterford, Michigan 48328-1907
Project: (Fill in project name)
Bid Opening: Month xx, 20xx
Attention: (Fill in Manager's name)

Shall be delivered to the Office of the Oakland County Water Resources Commissioner on or before the time specified in the Advertisement for Bids.

The Bidder's name and address shall be clearly identified on the outside of the sealed envelope.

- D. Proposals shall be made in full conformity with all the instructions, requirements and conditions set forth in the Information for Bidders and in the Drawings, Specifications and other Contract Documents. Bids are firm, and no bid may be withdrawn for a period of ____ days after opening of bids. Withdraw of the bid will result in the forfeiture of the Bidder's Bid Bond.
- E. **Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered and will be returned to the Bidder unopened.** This material requirement is not subject to waiver by Owner.
- F. Bidders are strongly encouraged to hand-deliver their bids to the Office of the Oakland County Water Resources Commissioner. Email and facsimile bids shall not be considered. Bids delivered by certified, registered or express mail will be accepted, however, subject to the following conditions:
- 1) The sealed envelope containing the Proposal shall be enclosed in a separate envelope plainly marked on the outside with the notation "PROPOSAL ENCLOSED".

- 2) Bidder is responsible to make all necessary inquiries to ensure delivery of its Bid to the appropriate person(s) at the offices of the Oakland County Water Resources Commissioner.
- 3) Submit 2 unbound hard copies of the bid (1 original and 1 copy) and 1 electronic copy on a flash drive or other electronic media.

3. ESCROW BID DOCUMENTS

The three (3) lowest Bidders will be required to place their Bid Documents in escrow within one (1) business day of the Bid opening in accordance with the attached Escrow Bid Documents Provision Specification. In addition, Owner reserves the right to require additional Bidders to place their Bid documents in escrow also, as provided in the attached Escrow Bid Documents Specification. Such additional Bidders will be notified within 24 hours of the Bid. Contractors bidding this project are required to maintain all bid notes, take offs, and other Bidding Documents required for inclusion in the Escrow Bid Documents. Failure to submit the Escrow Bid Documents as required may result in a rejection of the Bid.

4. DEFINITIONS

Certain terms used in the Contract Documents shall have the meanings indicated in the General Conditions and Supplementary Conditions which are part of the Contract Documents.

5. INSPECTION OF SITE, INSPECTION OF CONTRACT DOCUMENTS, PLANNING AND ANALYSIS

- A. Before submitting a proposal, each Bidder is responsible for inspecting the site of the proposed work, and the surrounding premises, to arrive at a clear understanding of the conditions under which the work is to be performed.
- B. Before delivery of its proposal, each Bidder is held to have compared the conditions of the site where work is to be performed with the Contract Documents and to have satisfied itself as to the conditions of the site and surrounding premises, including any obstructions, all excavating, filling in, and quantities, and any other conditions affecting the carrying out of the work, including the weather conditions of the project area. Each Bidder must obtain first-hand information concerning the available facilities for receiving, transporting, handling and storing construction equipment and materials and concerning other local conditions that may affect its work. Each Bidder must acquaint itself with the character and extent of the operations of the Owner and any other contractors in the area of the work, so that the Bidder can plan its work accordingly.
- C. Bidders must estimate the quantity of materials, labor and equipment required for the work by examination of the site and a review of the Contract Documents including Addenda, and by carefully considering all other relevant factors. Bidder warrants that by submitting its Bid, it had no misunderstanding concerning the quantities or nature of the work to be performed, and the Bidder will assert no such claim asserting such a misunderstanding.
- D. No allowances or extra payment will be made to Contractor because of costs or

expenses occasioned by Contractor's failure to comply with the provisions of this section, or by reason of error or oversight on the part of the Bidder, or on account of interference by the activities of the Owner or any other contractor where those activities are apparent, or are made known to the Bidders during the bidding process.

- E. For bidding purposes, the Bidder is responsible for evaluating the compatibility of proposed construction methods with the Contract Documents, and soil and site information. Bidders must carefully study and compare all portions of the Contract Documents and must notify the Engineer, in writing, prior to the deadline for pre-bid questions, of any concerns, questions, apparent ambiguities, conflicts, incompatibilities, apparent errors, or other discrepancies evident in the Contract Documents.
- F. The successful Bidder must complete the work under whatever conditions it may create by its own actions or inactions, sequence of construction, construction means and methods, or other conditions it may create or cause to be created at no additional cost to Owner.

6. UNDERGROUND CONDITIONS

- A. The Engineer performed investigations and issued reports which are available to the Contractor.
- B. Bidders only may rely on technical data contained in such reports except where indicated otherwise in the Contract Documents. Evaluations, analyses, recommendations, or conclusions contained in such reports shall not be relied upon in formulating any Bid for the work. This data is offered to the Bidders as information about underground and site conditions only at the locations at which any soil borings, sampling, or other data collection were made. The Owner does not represent or warrant that the underground conditions encountered at or near the site during construction will generally or specifically conform to underground conditions described in the data in these borings or any accompanying descriptive report.
- C. Each Bidder and the Contractor awarded the project shall draw their own conclusions as to site, underground or soil conditions from their own experience, independent knowledge and investigation of the site, and they should each secure such other and additional information and data as they consider necessary or desirable to check and supplement the provided underground data for specific locations. The Contractor is required to complete the work under any job or field condition which was present and/or ascertainable prior to Bidding.
- D. All Bidders that seek to conduct any additional underground or site exploration or testing must do so at their own expense as necessary. Such Bidders must contact the Owner and obtain its written permission before proceeding.
- E. Any additional exploration conducted by Bidders must be performed in a manner which precludes unnecessary disruption of the soils or which impedes construction operations and must be performed in compliance with the Mineral Well Act, Act No. 315 of the Public Acts of 1969, as amended, MCL 319.211, et. seq. Any Bidder performing exploration work must restore all areas of exploration to its original condition. By entering the site to conduct such investigation and testing, the Bidder agrees to indemnify, defend

and hold harmless all of the persons identified in the indemnity provisions of the General and Supplementary Conditions to the full extent of the indemnity obligation set forth in those Contract Documents.

7. AWARD OF CONTRACT

- A. The Contract, if awarded, will be awarded to the lowest, responsive, and responsible bidder, subject to the final approval by the Oakland County Water Resources Commissioner or the Drain Board of the _____ Drainage District. The Contract will be awarded subject to receipt of funds to finance the project and acquisition of easements, during which time the proposal guarantees of the lowest three responsive, responsible Bidders will be held.
- B. The party to whom the Contract is awarded will be required to execute the Agreement and obtain the Performance Bond, Labor and Material Bond and Maintenance and Guarantee Bond and shall provide proofs of insurance coverage in accordance with the Contract Documents within ten (10) calendar days of the delivery date of the Notice of Award to the successful Bidder. The necessary Agreement and Bond forms shall accompany the Notice of Award. If the Contractor awarded the project fails to execute the Agreement, submit Performance Bond, Labor and Material Bond and Maintenance and Guarantee Bond and provide proofs of insurance coverage in accordance with the Contract Documents within ten (10) calendar days of the delivery date of the Notice of Award, the Owner may declare the Contractor in default, in which case the Proposal Guarantee accompanying the Proposal will be forfeited to the Owner.

8. INTERPRETATION OF CONTRACT DOCUMENTS

- A. Neither Owner nor the Engineer will give verbal instructions prior to the award of the Contract. Any verbal statements regarding the Contract by any person are not authorized and do not constitute representations, warranties, modifications, agreements, or promises, express or implied, and may not be relied upon by Bidders.
- B. Bidders seeking explanations regarding the project or the Contract Documents must submit written requests to the Engineer, and if explanations are necessary, a reply will be made in the form of an Addendum, a copy of which will be forwarded to all parties that have taken out Contract Documents. The determination of the necessity of explanations will be in the sole discretion of the Engineer and Owner and no obligation to provide a reply or addendum will be implied.
- C. Questions, comments, or concerns of any Bidder regarding bidding or the Contract Documents or the project, must be submitted in writing and in advance of the opening of bids per the time period specified in the Advertisement
- D. Addenda issued to Bidders prior to the date of receipt of proposals shall become a part of the Contract Documents and all proposals shall include the work described in each and every Addenda issued.

9. NAME AND STATUS OF BIDDER

- A. The name and legal status of the Bidder, that is, as a corporation, limited liability

company, partnership, limited partnership or individual, must be stated in the Proposal.

- B. The place of residence of Bidder, or the office address in the case of a firm or company with county and state, must be stated in the Proposal.
- C. Unless the legal status of the Bidder is an Individual, the signature(s) of the signing official(s) must be accompanied by the appropriate Resolution or Certificate Form found at the end of the Proposal, properly executed, authorizing the official(s) to sign both the Proposal Form and the Contract. Failure to submit this form is basis for rejecting the Bid.

10. QUALIFICATION OF BIDDERS AND SUBCONTRACTORS

- A. Except as otherwise reserved herein, Owner will only award the Contract to a responsible Bidder. A finding that the Contractor is not responsible in connection with this project shall not necessarily preclude the Bidder from bidding and performing work on other projects for the Owner.
- B. Factors to be considered in determining whether Owner's standard of responsibility has been met shall include, but not be limited to, whether the Contractor has:
 - 1) The appropriate financial, material, equipment, facilities, and personnel resources and expertise available, or the ability to obtain them, necessary to indicate it is capable of meeting all contractual requirements;
 - 2) A satisfactory record of performance;
 - 3) A satisfactory record of integrity;
 - 4) Qualified legally to contract with Owner and has supplied all necessary information in connection with the inquiry concerning responsibility.
 - 5) If Contractor has been deemed non-responsible in the past, provided a detailed explanation of its remedial actions subsequent to the determination to address any concerns expressed by the authority making the declaration such that the authority would consider awarding a contract to the Contractor, notwithstanding past concerns about Contractor's performance.
- C. The Contractor must supply information requested by Owner concerning the responsibility of the Bidder. If the Bidder fails to supply the requested information, the Owner must base the determination of responsibility upon any available information or may find the Bidder non-responsible if such failure is unreasonable. A finding that the Bidder has failed to make a required disclosure or submitted false information may result in immediate disqualification of the Bidder.
- D. Within 10 days after bids are received by the Owner, the Contractor who has submitted the low bid must, upon request of the Owner, complete and submit to the Owner the following:
 - 1) MIOSHA Form 300 – "Log of Work-Related Injuries" for the last 3 years.

- 2) MIOSHA Form 300A - "Summary of Work-Related Injuries & Illnesses" for the last 3 years.
- E. In addition to meeting the criteria set forth in this Article, and the submission of the required information requested herein, the ability of the Contractor and its identified Subcontractors to proficiently handle technical issues, safety, scheduling, and administrative issues as demonstrated by its past performance on projects for the Owner, as well as projects for other public agencies, will be considered in determining whether a Contractor is a responsible contractor for this project. Past performance issues to be considered include, but are not limited to, the following:
- 1) Failure to adhere to and/or comply with Contractor's obligations in the Contract Documents
 - 2) Failure to follow administrative procedures and provisions in the Contract Documents
 - 3) Submission of false claims or falsely inflated claims
 - 4) Failure to prosecute the work in accordance with the Plans and Specifications included in the Contract Documents
 - 5) Failure to follow bidding instructions.
- F. The Bidder shall promptly submit upon request by the Owner, any additional information necessary to satisfy the Owner that the Bidder is adequately prepared to fulfill the Contract.
- G. The existence of any judgment, citation, default, finding of non-responsibility or other negative information disclosed by Contractor in its Experience and Qualification Statement or independently discovered by Owner, or Contractor's failure to provide the certifications required by this Article, will be considered, among all other factors, in determining whether a Contractor is a responsible Bidder for this project. As part of its response, Contractor may submit an explanation of the facts giving rise to the judgment, citation, default, or negative finding, or reasons why the required certifications cannot be provided, and ask Owner to deem the Contractor both responsive and responsible notwithstanding such facts or omissions.
- H. The requirements identified above are not an exhaustive or exclusive list of all qualifications required of the Contractor, its Subcontractors, or personnel. The minimum requirements indicated above are in addition to any other requirements contained elsewhere in the Contract Documents and/or typically considered under state or federal procurement law.
- I. Owner may, when circumstances warrant, accept any Bidder as a responsible Bidder despite its failure to meet all of the minimum standards set out herein. To the extent that special circumstances exist which a Bidder believes render the Bidder a qualified and responsible Bidder for this project, despite the failure to meet one or more of the standards for qualification set out herein, the Bidder may submit a notarized sworn statement explaining the special circumstances and requesting consideration of its Bid.

Notwithstanding the foregoing, Owner has no obligation to consider such special circumstances, or to disregard the requirements set forth in this Article and elsewhere in the Contract Documents and deem the Bidder responsible.

- J. Bidder must attend a pre-award conference to satisfy the Owner that the Bidder is adequately prepared to fulfill the Contract.
- K. If a Bidder who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility setting forth the basis of the finding will be prepared by the Owner upon request. A copy of the determination will be sent promptly to the non-responsible Bidder. The final determination will be made part of the bid file.
- L. The Contractor must self-perform at least _____% (typically 51%) of the construction trade work as determined by dollar value. This does not include General Conditions.

11. CONTRACTOR AND SUBCONTRACTOR INFORMATION AND LISTING

- A. Bidder must provide a completed Experience and Qualification Statement (DC-118) with its bid. Additional qualification information as requested by Owner shall be submitted within 10 days after bids are received by the Owner including but not limited to a completed Experience and Qualification Statement (DC-118) for each and every Subcontractor who will work on the project.
- B. Bidders shall submit with their bid a list by name, trade and scope of work each and every Subcontractor who will perform Work with a value in excess of 10 % of Bid Total.

12. PRELIMINARY SCHEDULE

- A. Each Bidder shall submit with their bid a Preliminary Schedule demonstrating the Bidder's plan to complete the construction work within the time allowed in the Agreement and to achieve the completion of any milestones identified in the Contract Documents. The requirements of the Preliminary Schedule are described in the General Specification.
- B. Failure to provide the requested schedule may result in the Contractor being declared non-responsive.
- C. The Bidder's Preliminary Schedule shall be based on a Notice to Proceed date identified in the Proposal.

13. ADDITIONAL BIDDING INFORMATION

The Advertisement, which precedes the "Information for Bidders" and the Contract Documents as defined in the General Conditions may contain additional bidding information and is considered a part of these instructions.

14. EQUALS AND SUBSTITUTIONS

Anticipated proposed Equals and Substitutions shall not be the basis for any bid pricing. For the

purpose of bidding, Bidders shall base their bid on the design and any specified products. Equals or Substitutions may be submitted for consideration after the award of the Contract. Approval of proposed Equals or Substitutions are discretionary, and Contractor waives the right to make a claim on that basis. Bidders shall not assume that any contemplated Equal or Substitutions will be approved. The Contractor will be responsible for Engineer Fees for review, analysis, tests and/or all other costs necessary to review, analyze and/or implement a proposed Substitution regardless of whether the proposal is approved.

15. OWNER CONTROLLED INSURANCE PROGRAM

Owner may provide an Owner Controlled Insurance Program ("OCIP") for this project. If provided, Bidders, including Subcontractors and vendors, will include the cost of the insurance required by the Contract Documents, including those in the General Conditions and Supplementary Conditions in their Bid Proposal. Eligible Contractors, Subcontractors and vendors are required to enroll in, and be approved for the OCIP program prior to starting work on the project. If approved and enrolled in the OCIP, the insurance costs and mark up on the insurance of the Contractor, Subcontractors and vendors will be deducted from the Contract Price using a deductive change order for the lines of insurance coverage provided in the OCIP. Determination of the lowest Bidder will be made with the cost of insurance included in the Bid, pursuant to the General and Supplementary Conditions of the Contract. The OCIP information is identified in an Appendix to the Contract Documents. Copies of the OCIP Policy documents are attached to the Contract Documents. In submitting a Bid for this project, Bidders, including Subcontractors and vendors, accept the terms of the OCIP and the coverage shown in the attached policy documents. Any other insurance coverages deemed necessary by Bidder shall be obtained by Bidder at Bidder's exclusive cost and expense and no premiums for additional coverage shall be charged to Owner.

16. PROPOSAL GUARANTEE (BID BOND)

- A. Each proposal shall be accompanied by a Bid deposit in the form of a certified check, a cashier's check or Bid Bond executed by the Bidder and a qualified, acceptable Surety Company, payable to the Oakland County Water Resources Commissioner and/or _____ Drainage District, in the amount of Five Percent (5%) of the accompanying Bid, as guarantee on the part of the Bidder that it will, if called upon to do so, enter into a Contract in the form of the Contract Documents, perform the work required by the Contract Documents, at the prices stated, and furnish acceptable surety for its faithful and entire fulfillment.
- B. The Bid deposits of all, except the three (3) lowest Bidders, will be returned within 48 hours after the Bids are opened. The Bid deposits of the apparent second and third lowest Bidders that the Owner has retained will be returned after the signed Contract has been delivered and the required bonds and insurance of the Contractor have been finally approved by the Owner, or after rejection of all Bids.

17. GUARANTEE BONDS

- A. In addition to the Bid Bond, the Contractor shall furnish the Owner the following bonds prior to the Contract being executed:
- 1) A Performance Bond in an amount at least equal to 100% of the Contract Price

as security for faithful performance on the Contract.

- 2) A separate Labor and Material Payment Bond in an amount at least equal to 100% of the Contract Price as security for payment of all persons performing labor and furnishing materials in connection with the Contract.
- 3) A Maintenance and Guarantee Bond in an amount at least equal to 100% of the Contract Price.

18. BOND REQUIREMENTS

A. All bonds required of Bidder or Contractor shall meet the following requirements:

- 1) The Bidder or Contractor shall pay the premiums.
- 2) The form of the bonds shall be as appended herewith (NOTE: the form of Bid Bond is NOT incorporated in the Contract Documents).
- 3) The surety on the bonds shall be a corporate bonding company named on the current list of Surety Companies acceptable on Federal Bonds as published in the U.S. Treasury Department Circular Number 570. In the event that the surety is ever delisted on the cited Circular, Owner may, in Owner's sole discretion, demand and Contractor shall provide replacement Bonds from a then listed surety at no additional cost to Owner
- 4) The surety shall be a corporate bonding company authorized and admitted to transact business in Michigan and subject to service of process and personal jurisdiction in Michigan. A copy of the certificate issued by the State of Michigan evidencing such authorization shall be furnished to Owner.
- 5) The surety shall be a corporate bonding company, which is otherwise satisfactory to Owner. Without limiting the other factors upon which Owner may determine the acceptability of a surety, Owner specifically reserves the right to reject any surety which has denied, delayed or obstructed payment or discharge of the sureties' obligations under a prior bond in favor of Owner.
- 6) Attorneys-in-Fact who sign bonds must file with each bond a certified copy of a currently effective and dated Power of Attorney.
- 7) The Owner may, but is not obligated to, require the substitution of any of the bonds by Bidder or Contractor upon the occurrence of any of the events referred to herein and in the General Conditions or Supplementary Conditions.
- 8) Providing the bonds required hereunder shall not establish that a Bidder is qualified, responsive or responsible, and shall not limit Owner's right to review Bidder's qualifications and reject any Bid.

19. PRE-BID MEETING & SITE TOUR

All Bidders must attend the pre-bid meeting. Bidders shall refer to the Advertisement (ADV-1)

found elsewhere in these specifications for pre-bid meeting and site tour requirements.

20. REJECTION OF BIDS

Owner reserves the right to reject any or all Bids. The Owner further reserves the right to waive any non-material irregularity or informality in the Bids. The Owner reserves the right to reject any Bid submitted by any Bidder that the Owner determines is not a responsive or responsible Bidder based on information supplied by the Bidder or on any other information that the Owner receives or acquires on its own, including the past experience of the Owner and/or any other public agency owner with the Bidder. Owner's rights in this regard may be exercised in Owner's sole discretion and Owner shall not have any obligation to exercise or refrain from exercising these rights.

21. OVERTIME COMPENSATION

Refer to the Labor Standards Provisions, EPA Form 5720-4 and the U.S. Department of Labor Memorandum No. 143 for further information. Labor compensation, including Overtime shall be governed by applicable local, federal and state law and regulations.

22. WORK WITHIN VARIOUS MUNICIPALITIES, CONSTRUCTION PERMITS, ROAD PERMITS, ETC.

- A. The Contractor shall conform to the various requirements of the municipality within which work is being performed and shall obtain, at its own expense, all permits required.
- B. In addition, certain public highways and subdivision roads are under the jurisdiction of the Michigan Department of Transportation, Road Commission for Oakland County, and/or the local municipality. Contractor shall obtain, at Contractor's own expense, all permits required by these organizations to use the roads under their jurisdiction.
- C. If the scope of the work requires work to be performed within other private properties/easements, Contractor shall comply with the conditions of these easements at its own expense. Applicable easement documents will be made available before work begins.

23. CONTRACT DOCUMENTS

Each Bidder is obligated to carefully review all materials included or referenced in the Contract Documents including, without limitation, the General and Supplementary Conditions. The Contract Documents are defined in the General and Supplementary Conditions and the Bidder must familiarize itself with all provisions, terms and conditions of all Contract Documents.

24. OWNER'S RESERVATION OF RIGHTS

- A. In addition to Owner's rights in Article 20 - Rejection of Bids above, Owner reserves the following rights in connection with this Invitation to Bid:
 - 1) Withdraw the Invitation to Bid at any time, in the Owner's sole discretion.
 - 2) Make an award under the Invitation to Bid in whole or in part.

- 3) Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the Invitation to Bid.
- 4) Seek clarifications and revisions of proposals.
- 5) Use proposal information obtained through site visits, management interviews and Owner's investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to the Owner's request for clarifying information in the course of evaluation and/or selection under the Invitation to Bid.
- 6) Prior to the bid opening, direct Bidders to submit proposal modifications addressing subsequent Invitation to Bid amendments.
- 7) Change any of the scheduled dates.
- 8) Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Bidders.
- 9) Waive any requirements that are not material.
- 10) Negotiate with the successful Bidder within the scope of the Invitation to Bid in the best interests of the Owner.
- 11) Conduct contract negotiations with the next responsible Bidder, should the Owner be unsuccessful in negotiating with the lowest, responsible Bidder.
- 12) Utilize any and all ideas submitted in the proposals received.
- 13) Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's proposal and/or to determine a Bidder's compliance with the requirements of the solicitation.