

II. INSTRUCTIONS TO BIDDERS

1. Except as otherwise provided herein, the Instructions to Bidders, Proposal Form, and all Specifications, drawings and other documents referred to herein shall be a part of the contract.

2. DEFINITIONS

A. The term "Bidder" or "Contractor" shall mean the corporation, partnership, or individual proposing or under contract to furnish the service, material, labor and/or equipment listed in the specifications.

B. The term "City" shall mean the City of Ashtabula.

C. "Calendar day" shall mean every day shown on the calendar.

D. "City Manager" shall mean the Ashtabula City Manager or his duly authorized representative.

3. PROPOSAL

To be entitled to consideration, a proposal must be made in accordance with the following instructions:

A. Preparation: Each proposal shall be submitted on the forms furnished by the City. All signatures shall be clearly and legibly written in long hand. No oral, telegraphic or telephonic proposal or modifications will be considered. Each proposal shall show the break down for each item as directed on the Proposal-Contract Form. All bids shall be considered informal which contains items not specified in the Proposal-Contract Form.

Prices of material and equipment shall include hauling and delivery to any place designated on the City's purchase order, within the corporate limits of the City. In the event of a discrepancy between unit bid prices and extensions thereof, the unit bid price shall govern.

B. Names of Bidders: Each bid shall give the full business address of the Bidder and be signed by him with his usual signature. Bids by partnerships shall furnish the full names of all partners and shall be signed with the partnership name by one of the members of the partnership or by an authorized representative, followed by the signature and title of the person signing.

Bids by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and title of the President, Secretary, or other person authorized to bind it in the matter. The name of each person signing shall also be typed or printed below the signature. A bid by a person who affixes to his signature the word "President", "Secretary", "Agent", or other title without disclosing his principal, may be held to the bid of the person unless he provides evidence of the authority that he is signing in behalf of a corporation or partnership.

C. **Delivery:** The bid shall be sealed in an envelope, addressed to:

City of Ashtabula
4717 Main Avenue
Ashtabula, Ohio 44004

and delivered to the office of the City Manager on the date set forth in the legal advertisement. The sealed envelope shall also bear the name of the Bidder, the general item or items bid on, and the date the bids are to be opened. Proposals will be received until the date and time specified in the legal advertisement. Bids will be opened and read immediately thereafter, in the Manager's Office, First Floor, Municipal Building.

- D. **Bid to Include All Work:** Each bid shall include all work described in the Instructions to Bidders, Specifications, Proposal Forms and any or all drawings, maps, charts or graphs.
- E. **Withdrawal of Proposal:** Permission will not be given to withdraw or modify any proposal after it has been deposited as provided above. Negligence on the part of a Bidder in preparing the bid confers no right for the withdrawal of the bid after it has been opened.
- F. **Acceptance or Rejection of Proposal:** The City reserves the right to accept any part of any bid and reject all or parts of any and all bids, and waive any informalities in bidding at any time within sixty (60) days after the same are opened as provided above. The City reserves the right to reject any or all bids. In determining the award, each item, if so specified, may be considered and awarded separately.
- G. **Proposal Bond or Check:** Each proposal must be accompanied by a cashier's or certified check or by a proposal bond signed by a surety company, authorized to do business in the State of Ohio, in the amount of One Hundred dollars (\$100.00) and made payable to the City of Ashtabula as a guarantee that the contract will be honored in the event it is awarded to the Bidder, and as a guarantee that the Bidder to whom the contract is awarded will sign all documents necessary to formalize the contract.

- H. Forfeiture of Check or Proposal Bond:** If the Bidder to whom the contract is awarded shall fail to honor the contract, or fail to sign any documents necessary to formalize the contract, The deposit accompanying the proposal shall be forfeited to the City as liquidated damages. The work may then be re-advertised or awarded to another Bidder selected by the City.
- I. Specifications:** Specifications and Proposal forms are minimum and will be used as a basis for comparison of the bids only.
- J. Informal Proposals:** Proposals will be considered informal and may be rejected for the following reasons:
1. If the proposal is on a form other than that furnished by the City or if the form is altered or any part thereof detached; and
 2. If there are unauthorized additions, conditional or alternate bids, or other irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning; and
 3. If the Bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award. (This does not exclude a bid limiting the maximum gross amount of awards acceptable to any one Bidder at any one bid letting provided that any selection of award will be made by the City.); and
 4. If the proposal does not contain a unit price for each item.

4. BIDDERS

- A. Competency of Bidders:** No bid will be considered unless the Bidder submitting the same shall furnish evidence satisfactory to the City Manager that he has the necessary equipment, ability and financial resources to fulfill the conditions of the contract and specifications. Previous experiences and responsibility of the Bidders will be considered in awarding the contract. No contract will be awarded to any Bidder who is in arrears to the City upon debt or contract, or who is in default as surety or otherwise upon any obligation to the City.
- B. Disqualification of Bidders:** Any of the following reasons may be considered as being sufficient for the disqualification of a Bidder and the rejection of his proposal or proposals:
1. More than one proposal for the same work from an individual, firm, or corporation under the same or different name.
 2. Evidence of collusion among Bidders. Participants in such collusion will receive no recognition as Bidders for any further work of the City until any such participant shall have been reinstated as qualified Bidder.
 3. Bid prices which obviously are unreasonable.

5. WRITTEN AND ORAL EXPLANATIONS

Should a Bidder find discrepancies in, or omissions from, the drawings or specifications, or should he be in doubt as to their meaning, he shall at once notify the City, which may send written instructions to all Bidders. The City will not be responsible for any oral instructions.

6. ADDENDUM OR MODIFICATION

Any addendum or modification issued during the time of bidding shall be covered in the proposal and in closing a contract such addendum or modification will become part thereof. In the event any such addendum or modification is issued by the City within 72 hours of the time set forth the closing of bids, excluding Saturdays, Sundays, and legal holidays, the time for submitting bids shall be extended one week, with no further advertising of bids.

7. TAX EXEMPTIONS

The City is exempt from federal excise and transportation taxes and Ohio State sales tax. Prices quoted should not include either federal excise or Ohio State sales tax. Tax exemption certificates covering these taxes will be furnished whenever necessary.

The transportation tax is not applicable on any purchase consigned to the City and no tax exemption certification is required. If, for any reason, a contemplated purchase would not be tax exempt, this fact will be indicated in the specifications, and such taxes may be included in the price or shown as a separate item in the proposal.

8. DISCRIMINATION

In the hiring of employees for the performance of work under this contract or any subcontract, neither the Contractor, Subcontractor, nor any person acting in their behalf shall by reason of race, creed, color, age, sex or handicap, discriminate against any citizen of the State in the employment of any laborer or worker who is qualified and available to perform the work to which the employment relates. Neither the Contractor, Subcontractor, nor any person acting in their behalf shall in any manner discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, color, age, sex, or handicap.

9. INSURANCE

If the specifications indicate insurance is required, then the contractor shall obtain and pay for liability insurance in limits specified thereof to protect the contractor and City against any claims arising out of any operations conducted in connection with this contract. The policy shall carry a rider giving a one-month cancellation notice to the City. This policy shall include contractual liability insurance as applicable to the Contractor's obligations and shall name the City as an insured.

10. LIABILITY

The Bidder shall defend, indemnify, and save harmless the City and its officers and agents from all claims, demands, payments, suits, actions, recoveries and judgments of every description, whether or not well founded in law, brought or recovered against it, by reason of any act or omission of said Bidder, his agents, subcontractors, or employees, in the execution of the contract, or for the use of any patented inventions by said Bidder, and a sum sufficient to cover aforesaid claims may be retained by the City from monies due or to become due to the Bidder under contract, until such claims shall have been discharged.

11. ROYALTIES AND LICENSE FEES

The Bidder shall pay all royalties and license fees. The Bidder herein agrees to assume and save the City, its officers and agents harmless from liability of any kind or nature whatsoever, arising out of the use by the City, its officers and agents of any appliance, apparatus or mechanism, which may be furnished or installed by the Bidder under the terms of this contract including patent or copyright infringement and to defend the City from any and all such liabilities whether or not such claims are well founded in law.

12. ASSIGNMENT OF CONTRACT

The Bidder who is awarded a contract shall not assign, transfer, convey, sublet or otherwise dispose of said contract, or his right, title or interest in or to the same, or any part thereof, without previous consent in writing from the City Manager, endorsed on or attached to the contract.

13. CANCELLATION

Should the materials supplied or delivered to the City under this contract fail, at any time, to meet the specifications required by the contract, then in such event, the City may cancel this contract upon written notice to the Bidder.

14. CONTROL OF WORK

The City Manager, or his designated agent, will decide:

- All questions which may arise as to the quality and acceptability of materials furnished, services rendered and work performed and as to the rate of progress of any such work;
- All questions which may arise as to the interpretation of the plans or specifications; and
- All questions as to the acceptable fulfillment of the contract on the part of the Contractor and as to compensation.

15. CLAIMS FOR ADJUSTMENT AND DISPUTES

If, in any case, the Contractor deems that additional compensation is due him for work or material not clearly covered in the contract or on ordered by the City Manager as extra work, as defined herein, the Contractor shall notify the City Manager in writing of his intention to make claim for such additional compensation before he begins the work on which he bases the claim. If such notification is not given and the City Manager is not afforded proper facilities by the Contractor for keeping strict account of actual costs as required, then the Contractor hereby agrees to waive any claim for such additional compensation. Such notice by the Contractor, and the fact that the City Manager has kept account of the cost aforesaid, shall not in any way be construed as providing or substantiating the validity of the claim. If the claim, after consideration by the City Manager is found to be just, it would be paid as extra work in the amount as approved by the City Manager.

16. DURATION OF CONTRACT

The duration of the contract shall be for the period stated in the specifications, and shall include all material, equipment, and/or services ordered or delivered during the period. All prices quoted shall be for a definite fixed price unless otherwise noted in the specifications.

17. PURCHASES

After a contract has been signed, it shall only become operative upon delivery of a duly signed purchase order to the Bidder. The City shall only be obligated under the contract to the extent of such order. The City shall not be liable for any claims in the event that the total quantity of material ordered under the contract should prove to be greater or less than the estimated amount in the specifications.

18. DELIVERY (where applicable)

The Bidder agrees to make deliveries of supplies and materials within a reasonable period from the time purchase orders are received. Reasonable time is estimated to be thirty (30) to forty-five (45) days. If deliveries are not made within such period, then the City may purchase such items in the open market; and if the price paid by the City shall be greater than the contract price, the bidder agrees to reimburse the City for any loss or losses that the City may thereby sustain. Delivery time for vehicles and equipment may be extended beyond thirty (30) to forty-five (45) days, provided the Bidder has noted the delivery time in the appropriate space on the Proposal Form.

19. PAYMENT OF INVOICES

Invoices will be due and payable within thirty (30) days of receipt of the invoice by the City. All invoices should be mailed to the attention of the City Manager. Payments, as provided in the specifications, may be made on a basis of estimated partial completion of work or delivery.

20. CONTRACT BOND (where applicable)

The successful Bidder will be required to furnish the approved bond for the faithful performance of the contract in the amount of one hundred percent (100%) of the contract price. Such bond shall be that of an approved surety company or personal bond upon which the sureties are persons not interested in the contract, or if interested, collateral security shall be furnished, all of which is to be to the satisfaction of the City Manager. In lieu of a performance bond, the City may elect to hold the Bid Deposit Check, submitted with the bid proposal, until the contract has been fulfilled. Any deviation from the required one hundred percent (100%) figure will be noted in the specifications.

21. GENERAL (where applicable)

Contractors shall furnish all labor, equipment, materials, services and supplies necessary to complete the proposed work. All work shall be performed according to all standards of good workmanship complete in every detail. Contractors shall coordinate their work with the work of others and upon completion, remove tools, equipment, waste and debris and leave the site in broom-clean condition. Contractors shall warrant all materials and equipment with the normal and usual warranties, including, where applicable, warranties of merchantability and fitness for a particular purpose.