CITY OF OVERLAND PARK

**PROJECT NAME**

**(PROJECT NUMBER)**

INSTRUCTIONS FOR PROPOSAL

IP-1 The City of Overland Park, Kansas will receive sealed proposals from prequalified contractors for construction, reconstruction, or maintenance work in the City of Overland Park, Kansas, such work known as [PROJECT NAME (Project No. )]. The general scope of the Project is [ ].

All proposals shall be made on forms provided in this bound volume of contract documents. All appropriate blanks shall be filled in and shall be signed by the appropriate individual on behalf of him/herself or the entity submitting the proposal. Each proposal shall be enclosed in a sealed envelope plainly marked “Proposal for \_\_\_\_\_\_\_\_\_.” The proposal shall be addressed to:

CITY OF OVERLAND PARK, KANSAS

Attention: Project Engineer

8500 Santa Fe Drive

Overland Park, Kansas 66212

The following are required contract provisions for the project:

IP-2. DEFINITIONS:

a. All definitions set forth in the General Conditions or in other contract documents are applicable to the Proposal Documents.

b. “Alternative Proposal” (or “Alternate”) means an amount stated in the Proposal to be added to or deducted from the amount of the Base Proposal if the corresponding change in the work, as described in the Proposal Documents, is accepted.

c. “Base Proposal” means the sum stated in the Proposal for which the Respondent offers to perform the work described in the Proposal Documents as the base, to which work may be added or from which work may be deleted for sums stated in Alternate Proposals.

d. “City” means the City of Overland Park, Kansas.

e. “Contractor” shall mean the entity entering into the contract for the performance of the work covered by the contract, together with its duly authorized agents or legal representatives.

f. “Proposal” shall mean the offer of the Respondent submitted on the prescribed form setting forth the prices for the work to be performed (and the City reserves the right to reject any and all proposals).

g. “Proposal Documents” shall mean all documents related to a Respondent's submitting a Proposal, including, but not limited to, the advertisement for Proposals, if applicable, Instructions to Respondents, the Proposal form, and the proposed Contract documents, including any addenda issued prior to receipt of Proposals. At the City's option, Respondents may be required to complete and submit a prequalification statement.

h. “Respondent” shall mean any individual, partnership, corporation, association or other entity submitting a Proposal for the work.

i. “Successful Respondent” means the person or entity who is determined and declared by the City to have submitted the lowest and best responsible Proposal in conformity with the terms of the Proposal Documents.

j. “Unit Price” means an amount stated in the Proposal as a price per unit of measurement for materials or services as described in the Proposal Documents or in the proposed contract documents.

IP‑3. RESPONDENT'S REPRESENTATIONS: Each Respondent by making its Proposal represents that:

a. It has read and understands the Proposal Documents, and its Proposal is made in accordance therewith.

b. It has visited the site, has familiarized itself with the local conditions under which the work is to be performed, has reviewed all published reports, inspections and other documents relating to the project and has correlated its observations with the requirements of the proposed contract documents.

c. Its Proposal is based upon the materials, systems and equipment required by the Proposal Documents without exception.

d. It has familiarized itself with state, federal law and local ordinances, regulations, and permitting requirements which may affect cost and/or progress or performance of the work.

IP‑4. PROPOSAL DOCUMENTS: Respondents shall use complete sets of Proposal Documents in preparing Proposals; neither the City nor the consultant assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Proposal Documents.

The City in making copies of the Proposal Documents available does so only for the purpose of obtaining Proposals on the work and does not confer a license or grant for any other use.

IP‑5. DEFECTS IN PROPOSAL DOCUMENTS: Respondents shall promptly notify the City of any errors, omissions, discrepancies or inconsistencies (hereinafter "defects") which they may discover upon examination of the Proposal Documents or of the site and local conditions. Respondents will not be permitted to take advantage of any such defect.

Respondents requiring clarification or interpretation of the Proposal Documents shall make a written request which shall reach the consultant at least seven days prior to the date for receipt of Proposals.

Any interpretation, correction or change of the Proposal Documents will be made by addendum. Interpretations, corrections or changes of the Proposal Documents made in any other manner will not be binding, and Respondents shall not rely upon such interpretations, corrections and changes.

IP‑6. SUBSTITUTIONS: The materials, products and equipment described in the Proposal Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

No substitution will be considered prior to receipt of Proposals unless written request for approval has been received by the consultant at least seven (7) days prior to the date for receipt of Proposals. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or other work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Respondent. The consultant’s decision of approval or disapproval of a proposed substitution shall be final.

If the consultant approves any proposed substitution prior to receipt of Proposals, such approval will be set forth in a written addendum. Respondents shall not rely upon approvals made in any other manner.

No substitutions will be considered after the contract award unless specifically provided in the contract documents (see GC-58).

IP‑7. ADDENDA: Written addenda will be mailed or delivered to all who are known by the consultant to have received a complete set of Proposal Documents.

Copies of written addenda will be made available for inspection wherever Proposal Documents are on file for that purpose.

No written addenda will be issued later than four (4) days prior to the date for receipt of Proposals except an addendum withdrawing the request for Proposals or one which includes postponement of the date for receipt of Proposals.

Each Respondent shall ascertain prior to submitting its Proposal that it has received all written addenda issued, and it shall acknowledge its receipt in its Proposal.

IP‑8. INSURANCE:

a. General: The Contractor shall secure and maintain, throughout the duration of this Contract, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Contractor shall provide certificates of insurance and renewals thereof on forms provided by the City or on forms acceptable to the City. The City shall be notified by receipt of written notice from the insurer or the Contractor at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate.

Respondents are referred to Article GC‑36 of the General Conditions for additional insurance information.

b. Notice of Claim Reduction of Policy Limits: The Contractor, upon receipt of notice of any claim in connection with the Contract, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability.

The Contractor shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by the Contract Documents) if the Contractor’s limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Contractor shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

c. Commercial General Liability:

Limits –

|  |  |
| --- | --- |
| General Aggregate: | $2,000,000 |
| Products / Completed Operations Aggregate: | $2,000,000 |
| Personal & Advertising Injury: | $1,000,000 |
| Each Occurrence: | $1,000,000 |

Policy MUST include the following conditions:

1. Pollution Liability (Applicable only to contracts involving pollutants such as asbestos & lead abatement, sludge or other waste abatement, etc.)

**2. NAME CITY OF OVERLAND PARK AS “ADDITIONAL INSURED”**

d. Automobile Liability: Policy shall protect the Contractor against claims for bodily injury and/or property damage arising from the ownership or use of any owned, hired and/or non‑owned vehicle.

Limits (Same as Commercial General Liability) -

Combined Single Limits, Bodily Injury and Property Damage - Each Accident:

Policy MUST include the following condition:

**NAME CITY OF OVERLAND PARK AS “ADDITIONAL INSURED”**

e. Workers' Compensation: This insurance shall protect the Contractor against all claims under applicable state workers' compensation laws. The Contractor shall also be protected against claims for injury, disease or death of employees which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:

Workers' Compensation: Statutory

Employer's Liability:

Bodily Injury by Accident $100,000 each accident

Bodily Injury by Disease $500,000 policy limit

Bodily Injury by Disease $100,000 each employee

f. Industry Ratings: The City will only accept coverage from an insurance carrier who offers proof that it:

1. Is authorized to do business in the State of Kansas;

2. Carries a Best's policy holder rating of A- or better; and

3. Carries at least a Class VIII financial rating, **or**

4. Is a company mutually agreed upon by the City and Contractor.

g. Subcontractors' Insurance: If a part of the Contract is to be sublet, the Contractor shall either:

1. Cover all subcontractors in its insurance policies, **or**

2. Require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss as and in the minimum amounts designated.

Whichever option is chosen, contractor shall indemnify and hold harmless the City as to any and all damages, claims or losses, including attorney's fees, arising out of the acts or omissions of its subcontractors.

IP‑9. TAXES: It is the intent of the City to supply the Contractor with a Project Exemption Certificate for use in purchasing materials and supplies used on the project. The Contractor shall, in preparing its Proposal, omit from its computed costs all sales and compensation taxes. Upon issuance of a Kansas tax exemption number, two (2) copies of the Project Exemption Certificate (Form PR-74a) will be forwarded to the Contractor. Upon completion of the project, the City will provide the State of Kansas with the project completion date and the State will issue a Project Completion Certification. This will be forwarded to the Contractor who must sign and return it to the City. All invoices must be retained by the Contractor for a period of five (5) years and are subject to audit by the Kansas Department of Revenue. Final payment will not be made to the Contractor until the City has received the Project Completion Certification from the Contractor along with a Consent of Surety Company to Final Payment.

IP‑10. LIQUIDATED DAMAGES: In case of failure on the part of the Contractor to effect completion within the time specified, the City shall have the right to deduct from the total compensation otherwise due the Contractor as liquidated damages based on the full proposal price of the agreement, fixed and agreed to in advance, according to the following schedule:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Contract Amount | | |  | Liquidated Damages |
| $0 | to | $50,000 |  | $250.00 |
| $50,000 | to | $100,000 |  | $400.00 |
| $100,000 | to | $500,000 |  | $800.00 |
| $500,000 | to | $1,000,000 |  | $1,000.00 |
| $1,000,000 | to | $2,000,000 |  | $1,750.00 |
| $2,000,000 | to | $5,000,000 |  | $2,500.00 |
| $5,000,000 | to | $10,000,000 |  | $3,500.00 |
| $10,000,000 | to | $20,000,000 |  | $5,500.00 |
| $20,000,000 | and up |  |  | $6,000.00 |

for each 24‑hour calendar day, including Sundays and holidays, the work remains incomplete over the specified completion time. **(THE CITY RESERVES THE RIGHT TO ADJUST THE SCHEDULE OF LIQUIDATED DAMAGES, PRIOR TO ADVERTISING FOR PROPOSALS, BASED ON THE SCOPE AND URGENCY OF THE PROJECT.)**

In the event moneys being retained by the City shall not be sufficient to cover the amount of any liquidated damages, City may sue for and recover compensation for damages for nonperformance of this Contract at the time stipulated herein and provided for.

IP‑11. BONDS: The Contractor to whom the work is awarded will be required to furnish a Performance Bond, Maintenance Bond, and a Labor and Material Payment Bond in the forms hereinafter provided in an amount equal to 100 percent (100%) of the amount of the agreement to be awarded in each case in addition to any other bonds as may be required by the contract documents. With each bond there shall be filed with the City one copy of "Power of Attorney" certified to include the date of the bonds.

IP‑12. INDEMNIFICATION: The Contractor shall be required to indemnify and hold the City harmless as set forth in Article GC‑31 of the General Conditions.

IP‑13. NON‑DISCRIMINATION, AFFIRMATIVE ACTION AND SEXUAL HARASSMENT: The Contractor shall comply with Article GC‑65 of the General Conditions.

IP‑14. APPOINTMENT OF SERVICE AGENT: Kansas Statutes Annotated 16‑113 requires that non‑resident contractors appoint an agent for the service of process in Kansas. The executed appointment must then be filed with the Secretary of State, Topeka, Kansas. Any Successful Respondent domiciled outside the State of Kansas must comply with these statutory requirements.

IP‑15. SUBCONTRACTING: As provided in Article GC-34, the Contractor may utilize the services of subcontractors on those parts of the work which, under normal contracting practices, are performed by subcontractors.

IP‑16. CONFLICT OF INTEREST: 31 USCS Section 1352 requires all subgrantees, contractors, subcontractors and consultants who receive federal funds via the City to certify that they will not use federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any federal contract, grant, loan or cooperative agreements.

In addition, contract applicants, recipients and subrecipients must file a form disclosing any expenditures they make for lobbying out of non‑federal funds during the contract period. Necessary forms are available from the City Engineer and should be returned to the City with other contract documents. It is the responsibility of the general contractor to obtain executed forms from any subcontractors who fall within the provisions of the Code and to provide the City with the same.