

## **INSTRUCTIONS TO BIDDERS**

### **1. Bid Preparation and Submission**

- a. Bidders are expected to examine the specifications, drawings, all instructions and, the construction site. Failure to do so will be at the bidders' risk.
- b. All bids must be submitted on the forms provided by the municipality. Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidders name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid.
- c. Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.
- d. All blank spaces under the page(s) headed "Bid Form" must be filled in with ink or typewriter in both words and figures indicating the lump sum for each respective bid item. The bid total shall also be entered in words and figures.
- e. In case of a discrepancy between a lump sum written in words and one entered in figures, the price written in words shall govern.
- f. In case of a discrepancy between the bid total written in words and that entered as a figure, the adjusted figure shall govern.
- g. The estimated quantities are not guaranteed and can be adjusted as needed during the project, but are given as a basis for the comparison of bids.

### **2. Explanation and Interpretation to Prospective Bidders**

- a. Any questions or clarifications will be received by the town of Chelsea until **Wednesday, August 23<sup>th</sup> at 12:00 Noon** so that needed clarifications can be transmitted to all bidders in a timely manner prior to the bid deadline.

### **3. Addendum to Invitation for Bids**

- a. If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

### **4. Errors and/or Inconsistencies in Contract Documents**

- a. By submitting a bid, a prospective bidder/contractor certifies that it shall assert no claim, cause of action, litigation, or defense against the Municipality unless notice was provided to the Municipality

in writing of any error or inconsistency discovered in the plans, proposal, specifications, and/or contract documents immediately upon discovery of such error or inconsistency.

## **5. Availability of Lands for Work, Etc.**

- a. The municipality shall be responsible for acquiring any easements for work which is to be done outside of the highway right of way. The contractor shall be responsible for any additional rights of entry for their convenience which are beyond the limits of construction.

## **6. Familiarity with Laws, Ordinances and Regulations**

- a. By submitting a bid an entity certifies that it is familiar with all Federal, State and local laws, ordinances and regulations which affect in any way the materials, equipment, haul roads used in or upon the work, the conduct of the work, and the persons engaged or employed in the performance of the work to be performed pursuant to the contract.
- b. By submitting a bid an entity certifies that it shall forthwith report in writing to the Municipality any provision in the plans, proposal, specifications or proposed contract that the bidder/contractor believes is in conflict with or inconsistent with any Federal, State or local law, ordinance, or regulation.
- c. By submitting a bid a prospective Bidder certifies that if, during its investigation of the work in the process of preparing its bid, it discovers or encounters subsurface or latent physical conditions at a project site differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, it shall notify in writing the Municipality of the specific differing conditions immediately upon discovering or encountering the differing site conditions.
- d. An entity further certifies that if it fails to notify the Municipality of any differing site conditions as described above, it shall waive any and all rights that it might have to additional compensation from the Municipality for additional work as a result of the differing site conditions and that it shall not bring a claim for additional compensation because of differing site conditions.
- e. By submitting a bid a prospective bidder/contractor certifies that no claim or defense of ignorance or misunderstanding concerning Federal, State or local laws, ordinances and/or regulations will be employed by a bidder/contractor or considered by the Municipality in claims, litigation, alternative dispute resolution procedures, or other matters concerning the contract for which the bid is submitted.

## **7. Late Submissions, Modifications, and Withdrawal of Bids**

- a. Any bid received at the place designated in the solicitation after the exact time specified for receipt will not be considered.
- b. Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a.) of this provision.
- c. The only acceptable evidence to establish the time of receipt at the Municipality is the time/date stamp of the Municipality on the proposal wrapper, or other documentary evidence of receipt maintained by the municipality.

- d. Bids may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before the exact time set for opening of bids: provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized agent if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

## **8. Bid Opening**

All bids received by the date and time specified in the solicitation will be publicly opened and total bid amounts read aloud. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present. In the event of unforeseen circumstances (severe weather, etc.) the Municipality reserves the right to postpone the reading of the bids for that contract. All bids for a contract will be opened at the same time and location at a later date.

## **9. Protests**

- a. This Section sets forth the exclusive protest remedies available with respect to this solicitation. Each Bidder, by submitting its bid, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies and agrees that the decision on any protest, as provided herein, shall be final and conclusive unless wholly arbitrary. These provisions are included in this solicitation expressly in consideration for such waiver and agreement by the Bidders. Such waiver and agreement by each Bidder are also consideration to each other Bidder for making the same waiver and agreement.
- b. A Bidder may protest any determination regarding the proposed award of a Contract by filing a notice of protest by hand delivery or courier to the Chelsea Legislative Body. Such notice shall be provided: (a) no earlier than the day of Chelsea's issuance of the Notice of Award; and (b) no later than five (5) business days after Chelsea's issuance of the Notice of Award. The notice of protest shall specifically state the grounds of the protest.
- c. Within seven (7) calendar days of the notice of protest the protesting Bidder must file with the Municipality a detailed statement of the grounds, legal authorities and facts, including all documents and evidentiary statements, in support of the protest. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protesting Bidder shall have the burden of proving its protest by clear and convincing evidence.
- d. Failure to file a notice of protest or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to protest the evaluation or qualified process and decisions there under.
- e. Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except the Chelsea Legislative Body, in its sole discretion, may decide to permit a hearing or argument if it determines that such hearing or argument is necessary for the protection of the public interest. The Chelsea Legislative Body shall issue a written decision regarding the protest within thirty (30) calendar days after it receives the detailed statement of protest. Such decision shall be final and conclusive.
- f. If the Chelsea Legislative Body concludes that the Bidder submitting the protest has established a basis for protest, the Chelsea Legislative Body will determine what remedial steps, if any, are necessary or appropriate to address the issues raised in the protest. Such steps may include, without limitation, withdrawing or revising the decisions, issuing a new solicitation or taking other appropriate actions.

## 10. Rejection of Proposals

- a. The Municipality may declare a Proposal “Informal” and hence rejected if the proposal shows any alteration of form, omissions or additions not called for in the proposal, lacks proper signatures, is a conditional bid, has alternate bids unless required in the proposal, has irregularities of any kind, has changes to the printed content, is submitted on a form not furnished by the Municipality, is incomplete, fails to acknowledge receipt of one or more addendums, or includes a clause in which the bidder reserves a right to accept or reject the contract award.
- b. The Municipality may reject a proposal at the time of bid opening or following analysis to confirm the proposal.
- c. The Municipality may reject any or all proposals, waive any or all technicalities, and/or advertise for new proposals if the municipality determines that the best interests of the Municipality, or the awarding authority, will be served.
- d. The Municipality will reject bids which fail to acknowledge the bidder’s receipt of any addendum if the addendum (addenda) contained information which substantively changed the municipality’s requirements.
- e. The Municipality will decide whether any bid prices are unbalanced above or below a reasonable cost analysis value as determined by VTrans. Proposals in which bid prices are unbalanced, mathematically and/or materially, may be rejected at the sole discretion of the Municipality. For purposes of this subsection “mathematically unbalanced bid” and “materially unbalanced bid” shall have the same meaning as in 23 CFR Part 635 – Construction and Maintenance.
- f. Prospective bidders may be disqualified for various reasons including (a) Submission of more than one proposal for the same work by an entity under the same or different names, (b) Evidence of collusion among bidders, or (c) Any other cause for suspension or debarment as detailed in the Agency’s policy and Procedures on Debarment, Code of Vermont Rules (CVR), Volume 8A, 14 010 004, pages 1-10.

## 11. Contract Award

- a. The municipality will evaluate bids in response to this solicitation without discussions and will award a contract to the lowest responsive and responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the municipality considering only price and any price related factors specified in the solicitation.
- b. Opened proposals will be considered and submitted bids confirmed on the basis of the lump sum price, bid. In the event of a discrepancy between the written bid amount and the alpha numeric figure, the written amount shall govern. In the event of a discrepancy between a unit price and the calculated extension, the product based on the unit price bid and the mathematically correct summation of the products shall govern.
- c. The municipality may reject any and all bids, waive any or all technicalities, and/or advertise for new proposals if the municipality, determines that the best interests of the municipality will be served.

- d. The municipality may reject any bid as nonresponsive if it is materially unbalanced as to the prices for the various items of work to be performed. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.
- e. A written award shall be furnished to the successful bidder within the period for acceptance specified in the bid and shall result in a binding contract without further action by either party.

### **13. Signing the Contract**

- a. The entity to which the Contract has been awarded shall sign the contract documents and return them the Municipality within 15 calendar days from the date of the Notice of Award. No contract shall be considered effective until it has been fully executed by all parties.
- b. Failure to comply with any of the requirements of these provisions relative to signing the contract shall be just cause for the annulment of the award or of the contract.
- c. If the award or the contract is annulled, the Municipality may award the contract to the next lowest responsible bidder that has submitted a proposal that complies with all the provisions required to make it formal or advertise a new request for bids for the contract(s).
- d. Failure by the contractor to sign the contract within the time provided by this Subsection shall not be reason for an extension of the contract completion date.

### **14. Taxes and Insurance Requirements**

- a. Evidence of Insurance shall be supplied with bid.

### **15. Preconstruction Conference**

- a. After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the Municipality and the Stream Alterations Engineer if applicable. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The municipality will provide the successful bidder with the date, time and place of the conference.

### **16. Contract Documents**

The following documents are included in this proposal and are effective for this contract. Proposal holders are reminded to check the contents of this proposal against the following index. In the event that you suspect or determine the proposal is incomplete, notify the town of Chelsea @ 802-234-9340.

- Invitation for Bids
- Instruction to Bidders
- Bid Proposal Form