

INSTRUCTIONS TO BIDDERS

"Owner(s)" shall mean any, all, or a combination of the City of Lincoln, County of Lancaster, Nebraska, Lincoln-Lancaster County Public Building Commission, and/or the West Haymarket Joint Public Agency.

1. **BIDDING PROCEDURE**

- 1.1. Bidders shall use the electronic bid system for submitting solicitation responses and must complete all required fields.
- 1.2. **EBID/IONWAVE REGISTRATION**
Bidders must be registered on the Owner's Ebid site to submit a response to any solicitation.
 - 1.2.1 To register in Ebid, click on this link: <https://col.ionwave.net/Login.aspx>
 - 1.2.2. Click on "Supplier Registration" in blue box and follow the instructions to complete the registration.
- 1.3. Solicitation responses will not be accepted after the closing time and date.
- 1.4. Bidders should include any deviations of the solicitation documents and the proposed replacement language on company letterhead and attach in the Response Attachment tab in Ebid. Failure to include deviations with the solicitation response will indicate the Bidder agrees to all terms and conditions outlined in the solicitation documents with no exceptions. The Owner reserves the right to accept or reject the deviations according to the best interests of the Owner. Deviations that are not acceptable to the Owner and not negotiable, may result in the Bidder being deemed as "non-responsive" and rejection of the response.
- 1.5. Bidders shall not attempt to influence or discuss this solicitation with any Owner employee, elected official, agent, or evaluator other than the Purchasing Staff through the award process.
 - 1.5.1 Failure to follow this requirement may result in immediate disqualification of your response.
 - 1.5.2 From the date the solicitation is issued until the award notification is issued, communication is limited to the Purchasing staff. After the award notification is issued, the Bidder may communicate with individuals of the Owner responsible for negotiating the contract.
- 1.6. The Owner reserves the right to reject a response, withdraw an award notification, or terminate a contract if it is determined there has been a violation of these purchasing procedures.
- 1.7. If bidding on a construction contract, the Owner's most current Standard Specifications for Municipal Construction shall apply, found at: <https://www.lincoln.ne.gov/Owner/Departments/LTU/Transportation/Standards/Standard-Specs>.

2. **CLARIFICATION OF BIDDING DOCUMENTS**

- 2.1 Bidders shall promptly notify Purchasing staff of any ambiguity, inconsistency, or error which they may discover upon examination of the bidding documents.
- 2.2 Questions regarding the meaning, interpretation or clarification of any solicitation provision should be submitted through Ebid under the Questions tab. The Owner is not obligated to respond to questions that are received after the Question Cutoff date and time in Ebid.
- 2.3 Changes made to the bidding documents may be issued electronically via addendum in Ebid. Addendums are issued by Purchasing prior to the closing date for solicitations which modify or interpret the bidding document by addition, deletion, clarification, or correction.
- 2.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on the Owner; and Bidders shall not rely upon such interpretations or changes.

3. **INDEPENDENT PRICE DETERMINATION**

- 3.1 By electronically signing and submitting a response, the Bidder agrees the submitted pricing has been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been submitted in the response have not been knowingly disclosed by the Bidder prior to the solicitation opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a response for the purpose of restricting competition.

4. **BRAND NAMES/ALTERNATES**

- 4.1 If alternates are allowed, it is the Bidder's responsibility to identify any alternate items and prove to the satisfaction of the Owner that said item is equal to, or better than, the product specified.
 - 4.1.1 Alternate items shall be stated in the appropriate space in Ebid Line Item, or if the Ebid Line Item does not contain blanks for alternates, Bidder should attach a statement in Ebid on Company letterhead identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data, and any other information necessary for an evaluation.
 - 4.1.2 Bidders must indicate any variances by item number from the bidding document no matter how slight.
- 4.2 If alternates are not stated in the response, it will be assumed that the item being provided fully complies with the Owner's solicitation documents.

5. DEMONSTRATIONS/SAMPLES

- 5.1. If requested by the Owner, Bidders shall provide and/or demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request.
- 5.2. Such demonstration(s) can be at the Owner delivery location or a surrounding community.
- 5.3. If items are small and mailable and the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by the Owner of acceptable goods. The Bidder should indicate how samples are to be returned.
- 5.4. When requested, samples will be furnished at the Bidder's expense prior to the closing of the solicitation, unless another time is specified. Each sample should be labeled clearly, and identify the Bidder's name, the solicitation number and title, item number, and the brand and model number, if applicable. Samples submitted must be the commodities or equipment which would be delivered if awarded the solicitation.
- 5.5. The Owner reserves the right to request samples even though this may not have been set forth in the solicitation.
- 5.6. Samples may be destroyed in testing. If a sample is not destroyed in testing and a Bidder wishes to have the sample returned, it will be returned at the Bidder's expense upon request.
- 5.7. The sample will not be returned until thirty (30) calendar days after any protest or the execution of a contract. The Bidder shall have ten (10) calendar days to arrange for the return of the sample following any of the above dates. If no request from the Bidder is received within the above dates, the Owner reserves the right to use, donate, or surplus the samples in accordance with the Owner's policies.

6. DELIVERY (Non-Construction)

- 6.1. The Owner reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the specified time(s).
- 6.2. All prices shall be based upon inside delivery of the equipment/merchandise F.O.B. Destination to the Owner at the location specified by the Owner, with all transportation charges paid.
- 6.3. At the time of delivery, a designated Owner employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

7. WARRANTIES AND GUARANTEES

- 7.1. Warranties, guarantees, and maintenance policies should be uploaded in Ebid in the Response Attachments tab.
- 7.2. Bid specifications shall set forth warranties and guarantees. If not described therein, then as a minimum requirement of the Owner, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance of products shall be replaced at no expense to the Owner. Replacement parts of defective components shall be shipped at no cost to the Owner. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder. Work performed for services shall include a one (1) year warranty beginning upon completion of services. There shall be an additional one (1) year warranty for defects in services rendered beginning on the date that the defects are corrected.

8. BID SECURITY, (if required)

- 8.1. Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bid bond, may be required to be submitted with the solicitation, as indicated on the solicitation.
 - 8.1.1. Bid security, if required, shall be in the amount specified in the solicitation. The bid security may be scanned and attached to the Response Attachments section of your response in Ebid. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 within three (3) days of closing.
 - 8.1.2. If the bid security is not received in the office of the Purchasing Division as stated above, the Bidder may be determined to be non-responsive.
- 8.2. If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 8.3. Such bid security may be returned to the unsuccessful Bidders when the award of the solicitation is made.
 - 8.3.1. Bid security may be returned to the successful Bidder(s) as follows:
 - 8.3.2. For purchase orders, upon the delivery of all equipment or merchandise, and upon final acceptance by the Owner.
 - 8.3.3. For all other contracts, upon approval by the Owner of the executed contract and bonds.
- 8.4. Owner shall have the right to retain the bid security of Bidders to whom an award is being considered until either:
 - 8.4.1. A contract has been executed and bonds have been furnished.
 - 8.4.2. The specified time has elapsed so the solicitations may be withdrawn.
 - 8.4.3. All responses have been rejected.
 - 8.4.4. Bid security will be forfeited to the Owner as full liquidated damages, but not as a penalty, if the Bidder fails or refuses to enter a contract on forms provided by the Owner, and/or if the Bidder fails to provide sufficient bonds or insurance within the period as established in this bidding document.

9. REFERENCE CHECKS

- 9.1. The Owner reserves the right to conduct and consider reference checks. By submitting a response to this solicitation, the Bidder grants the Owner the right to contact or arrange a visit in person with any or all the Bidder's clients. Reference checks may be grounds to deem Bidder not responsible, not award, withdraw an award notification, or rescind the award of a contract.

10. SOLICITATION EVALUATION AND AWARD

- 10.1. The electronic signature shall be considered an offer on the part of the Bidder. The offer shall be deemed accepted upon issuance by the Owner of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 10.2. No response shall be modified or withdrawn for a period of ninety (90) calendar days after closing date and time.
- 10.3. In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 10.4. The solicitation will be awarded to the lowest responsive, responsible Bidder whose offer will be most advantageous to the Owner, and as the Owner deems will best serve the requirements and interests of the Owner.
- 10.5. The Owner reserves the right to accept or reject any or all responses; to request rebids; to award item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities; request a best and final offer (BAFO); such as shall best serve the requirements and interests of the Owner.
- 10.6. To determine if the Bidder has the experience, qualifications, resources, and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by the Owner. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.
- 10.7. The Owner reserves the right to reject irregular responses that contain unauthorized additions, conditions, alternate responses, or irregularities that make the solicitation incomplete, indefinite or ambiguous.
- 10.8. If allowed, any governmental agency may piggyback on any purchase order or contract established from this solicitation.

11. EXECUTION OF AGREEMENT

- 11.1. Depending on the type of service or commodity provided, one of the following methods will be employed.
- 11.1.1. **PURCHASE ORDER**
A copy of the Bidder's response (or referenced solicitation number) attached and that the same, in all particulars, becomes the contract between the parties hereto that both parties thereby accept and agree to the terms and conditions of said solicitation documents.
- 11.1.2. **CONTRACT**
11.1.2.1 Owner will prepare and furnish a Contract to the successful Bidder.
11.1.2.2 The successful Bidder shall provide proof of insurance as evidenced by a Certificate of Insurance, along with endorsements and waivers (as required), surety bonds properly executed (as required), and Contract signed and dated.
11.1.2.3 The prepared documents should be returned to the Purchasing Office within 10 days (unless otherwise noted).
11.1.2.4 The Owner will sign and date the Contract when (a), (b), and (c) are completed.
11.1.2.5 Upon approval and signature, the Owner will return one electronic copy to the successful Bidder.

12. LAWS

- 12.1. The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this solicitation and any contract reached as a result of this process.
- 12.2. Bidder agrees to abide by all applicable local, state, and federal laws and regulations, including those concerning the handling and disclosure of private and confidential information from individuals and corporations as to inventions, copyrights, patents, and patent rights.
- 12.3. If there are any conflicts or inconsistencies between the Bidder's documents and the Owner's documents, the Owner's documents shall control.

13. TAX ASSESSMENT

- 13.1. Any solicitation for public improvement shall comply with Nebraska Revised Statutes Sections 77-1323 and 77-1324. In that regard, every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

14. EQUAL OPPORTUNITY

- 14.1. The Owner requires compliance with all federal, state, and local laws, rules, and regulations regarding equal opportunity for all Bidders and encourages minority businesses, women's businesses, and locally owned business enterprises to participate in our bidding process.

15. LIVING WAGE, (if applicable)

- 15.1. The Bidder shall be responsible for determining whether it is subject to the Living Wage ordinance in the event it is awarded the contract.
- 15.2. If the contract is subject to the Owner's Living Wage pursuant to Section 2.81 of the Lincoln Municipal Code, the Bidder agrees to pay all employees employed in the performance of this contract, a base wage of not less than the Owner's Living Wage. This wage is subject to change every July.

16. INSURANCE

- 16.1. Bidders shall take special notice of the insurance provisions required for Owner contracts (if applicable, see *Insurance Requirements in the Attachments tab in Ebid*).

17. TAXES AND TAX EXEMPTION CERTIFICATE

- 17.1. The Owner is generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.
- 17.2. The Water Division of the City of Lincoln is taxable per Reg. 066.14A and no exemption certificate will be issued.

18. AUDIT

- 18.1. All parties of any Owner agreement shall be subject to audit and shall make available to a contract auditor, as defined therein, copies of all financial and performance-related records and materials germane to the contract/order, as allowed by law.

19. E-VERIFY

- 19.1. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the awarded Bidder agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The winning Bidder shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The winning Bidder shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.