

SECTION 002113 - INSTRUCTIONS TO BIDDERS

PART 1 - DEFINITIONS

- A. Bidding Documents include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Advertisement to Bid, Instruction to Bidders, the Bid Form, Supplementary Bid Forms and other sample bid and contract forms.
- B. The Contract Documents include the executed Contract Forms between the Owner and Contractor and that Agreement's Exhibits, Contractor's executed Bid Form, executed Supplementary Bid Forms, Conditions of the Contract (General and other Conditions), Drawings, Specifications and all Addenda issued prior to execution of the Contract.
- C. Definitions set forth in the General Conditions of the Contract of Construction, or in other Contract Documents are applicable to the Bidding Documents.
- D. Addenda are written or graphic instruments issued by the Architect prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.
- E. A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.
 - 1. Wherever the word "Bid" occurs in the documents, it refers to Bidders Proposal.
- F. The Base Bid is an amount stated on the Bid for which the Bidder offers to perform the Work described in the Bidding Documents.
- G. An Alternate is an amount stated on the Bid Form to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted by the Owner.
- H. A Unit Price is an amount stated on the Bid Form as a price per unit of measurement for materials, equipment or services for a portion of the Work as described in the Bidding Documents.
- I. A Bidder is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.
- J. A Sub-bidder is a person or entity who submits a Bid to a Bidder for materials, equipment or labor for a portion of the Work.

PART 2 - BIDDER'S REPRESENTATIONS

- A. The Bidder by making a Bid represents that:
 - 1. The Bidder has read and understands the Bidding Documents, to the extent that such documentation relates to the Work for which the Bid is submitted, and for other portions of the Project, if any, being Bid concurrently or presently under construction.
 - 2. The Bid is made in compliance with the Bidding Documents.
 - 3. The Bidder has visited the site, become familiar with local conditions under which the Work is to be performed and has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents.
 - 4. The Bid is based upon the materials, equipment and systems required by the Bidding Documents without exception.

- B. Each Bidder is required to form an individual opinion of the quantities and character of construction work by personal examination of the site and all existing facilities where the project work is to be done, and of the plans and specifications relating to it by such means as is preferred. Each Bidder shall inspect accessible concealed areas of existing construction, provided no significant permanent damage is inflicted upon the property. Lack of knowledge about conditions in accessible concealed areas shall not be the basis for additional cost claims at a later time.

PART 3 - BIDDING DOCUMENTS

3.1 COPIES

- A. Bidding Documents are available as detailed in the Advertisement for Bids.

3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

- A. The Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being Bid concurrently or presently under construction to the extent that it relates to the Work for which the Bid is submitted, shall examine the site and local conditions, and shall at once report to the Architect errors, inconsistencies or ambiguities discovered. All reports shall be in writing.
- B. No interpretation of the meaning of the Bidding Documents, existing conditions, or of the scope of Work will be made verbally. Provide every request for such interpretation in writing, addressed to the Architect and to be given consideration must be received at least eight (8) working days prior to the date of the Bid Opening.
- C. Interpretations, corrections and changes of the Bidding Documents will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner will not be binding, and Bidders are not required to rely upon them.
- D. The Bidding Documents for this project have been prepared using certain existing construction documents furnished by the Owner, which pertain to the construction of the existing conditions, and limited observations obtained by the Architect at the project site.
 - 1. More extensive investigations of existing conditions, including disassembly or testing of existing building components, was not undertaken by the Architect.
 - 2. Portrayal of such existing conditions obscured or concealed from the Owner or Architect's view prior to the start of this Project's construction activities, is based on reasonable implications and assumptions. The Owner and Architect do not imply or guarantee to the Bidders, in any way, that such portrayals are accurate or true existing conditions.
- E. If there is any inconsistency in the Drawings or between the Drawings and the Specifications or between or within any of the Contract Documents, unless otherwise ordered in writing by the Owner, the Contractor shall provide or abide by the better quality of, or the greater quantity of, Work, materials or services for the benefit of the Owner.

3.3 EQUIVALENTS

- A. Each Bidder shall base his Bid upon the materials and equipment described in the Bidding Documents to the fullest extent possible.
- B. In the specifications, two or more kinds, types, brands, or manufacturers or materials may be named. They shall be regarded as the required standard of quality, and overall, are judged to be equivalent by the Architect. The Bidder may select one of these named items as the basis for his Bid or, if the Bidder desires to use any other kind, type, brand, or manufacturer or material other than those named in the specification,

he shall indicate in writing, when requested, and prior to the award of the Contract, what kind, type, brand, or manufacturer he proposes in lieu of the named specified item(s).

3.4 ADDENDA

- A. All bid addenda will be transmitted to plan holders via email to registered Plan Holders.
- B. Copies of Addenda will be made available for inspection wherever Bidding Documents are on File for that purpose.
- C. Addenda will not be issued later than five (5) working days prior to the time specified for receipt of Bids, except any Addendum withdrawing the request for Bids or one which includes postponement of the time for receipt of Bids.
- D. Each Bidder shall ascertain upon submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt on the Bid Form.

3.5 TAX LIABILITY

- A. Bidders are exempt from payment of manufacturer's excise taxes for materials purchased for the exclusive use of the Owner, provided that manufacturer has complied with rules and regulation of the Commissioner of Internal Revenue Service.
- B. New York State Sales Tax does not apply to this project. Contractors are exempt from payment on purchase of materials for the execution of this Contract and such taxes shall not be included in Bids. Exemption Certificates will be provided upon request.
- C. All other taxes shall be included in the Bid.

3.6 PRE-BID CONFERENCE

- A. There will be a Pre-bid Conference as detailed in the Preliminary Schedules. A lack of representation at the Pre-bid Conference will not be justification for additional costs due to unforeseen conditions during the construction phases of the Contract.

PART 4 - BIDDING PROCEDURES

4.1 PREPARATION OF BIDS

- A. Bids shall be submitted on forms identical to the Bid Forms contained in this Project Manual, or submitted using unaltered and legible copies thereof.
- B. All blanks on the Bid Form shall be legible executed in a non-erasable medium.
- C. Sums shall be expressed in both words and figures. In case of discrepancy, the amount written in word shall govern.
- D. Interlineations, alterations and erasures must be initialed by the signer of the Bid.
- E. Bid all requested alternates. If no change in the Base Bid is required, enter "No Change."
- F. Each copy of the Bid Form shall state the legal name of the Bidder and the nature of legal form of the Bidder. The Bidder shall provide evidence of legal authority to perform within the jurisdiction of the Work. Each Bid Form copy shall be signed by the person or persons legally authorized to bind the Bidder to a Contract. A

Bid by a corporation shall further give the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder.

4.2 BID SECURITY

- A. Each Bid must be accompanied by a certified bank check of the Bidder, or a Bid Bond prepared by a surety company licensed in New York State.
 - 1. Bid Security shall be provided in the amount of five (5) percent of the dollar amount of the Base Bid.
 - 2. Bid security shall be payable to The Village of Mt. Kisco.
 - 3. If certified check is utilized, the Bidder shall provide written confirmation from a licensed New York State Surety company that Performance and Payment Bonds will be available to said Bidder for this project.
 - 4. The apparent successful Bidder, upon failure or refusal to furnish the required Performance and Payment Bonds and execute a Contract within forty-five (45) calendar days after receipt of notice of the acceptance of Bid, shall forfeit the Bid Security as liquidated damages for such failure to refusal, and not as a penalty.
 - 5. The successful Bidder shall have the Bid Security returned upon execution of an Owner/Contractor Agreement.
 - 6. Unsuccessful Bidders shall have their Bid Security returned following the execution of the Owner/Contractor Agreement or the 45 day period following the Bid Opening, whichever occurs first.
 - 7. The Bid Security shall not be forfeited to the Owner in the event the Owner fails to comply with subparagraph 6.2.
- B. Surety Bond shall be written on AIA Document A310, Bid Bond, and the attorney-in-fact that executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.
- C. Owner will have the right to retain the Bid Security of Bidders to whom an award is being considered until either:
 - 1. The Contract has been executed and bonds, when required, have been furnished;
 - 2. The specified time has elapsed so that Bids may be withdrawn or;
 - 3. All Bids have been rejected.

4.3 SUBMISSION OF BIDS

- A. All copies of the Bid, the Bid Security, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address and, if applicable, the designated Contract for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.
 - 1. If Bidder submits for different Contracts, each shall be submitted individually and so labeled for that Contract.
- B. Bids shall be deposited at the designated location prior to the time and date indicated in the Invitation to Bidders for receipt of Bids. Bids received after the time and date for receipt of Bids will be rejected and returned unopened.
 - 1. The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.
 - 2. Oral, telephonic, telegraphic, facsimile or other electronically transmitted Bids will not be considered.
- C. Bids not exhibiting original signatures or seals will not be accepted as a responsive Bid.

D. Bids shall be submitted in duplicate. Executed forms required for each submitted Bid are as follows:

1. Bid Form and Supplements
2. Resolution
3. Iran Divestment Act Certification
4. Bid Security
5. Certification of Bidder Responsibility
6. CDBG Bidder's Certification
7. CDBG Subcontractor's Certification
8. CDBG Section 3 Bidder's Certification
9. CDBG Subcontractor List
10. CDBG Wage Rate Certification

4.4 MODIFICATION OR WITHDRAWAL OF BID

- A. A Bid may not be modified, withdrawn or canceled by the Bidder during the stipulated time period following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting a Bid. No Bidder may withdraw a Bid within the forty-five (45) day period following the time of the Bid Opening.
- B. Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder. Written confirmation over the signature of the Bidder shall be received, and date and time-stamped by the receiving party on or before the date and time set for receipt of Bids. A change shall be so worded as not to reveal the amount of the original Bid.
- C. Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

PART 5 - CONSIDERATION OF BIDS

5.1 OPENING OF BIDS

- A. At the discretion of the Owner, the properly identified Bids received on time will be publicly opened and will be read aloud. An abstract of the Bids may be made available to Bidders.

5.2 REJECTION OF BIDS

- A. The Owner shall maintain the right to reject any or all Bids. A Bid not accompanied by the required Bid Security or by other data required by the Bidding Documents, or which is in any way incomplete or irregular is subject to rejection.

5.3 AWARD OF BID

- A. It is the intent of the Owner to award a Contract to the lowest qualified Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's own best interest.
- B. The Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the lowest Bid on the basis of the sum of the Base Bid and Alternates accepted.

PART 6 - SUPPLEMENTARY BID INFORMATION

6.1 CONTRACTOR'S QUALIFICATION STATEMENT

- A. Bidders to whom award of a Contract is under consideration shall submit to the Architect, within three (3) calendar days, a properly executed AIA Document A305, Contractor's Qualification Statement, unless such statement has been previously required and submitted as a prerequisite to the issuance of Bidding Documents.

6.2 OWNERS FINANCIAL CAPABILITY

- A. The Owner shall, at the request of the Bidder to whom award of a Contract is under consideration and no later than seven (7) days prior to the expiration of the time for withdrawal of Bids, furnish to the Bidder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Unless such reasonable evidence is furnished, the Bidder will not be required to execute the Agreement between the Owner and Contractor.

6.3 SUBMITTALS

- A. Within three (3) calendar days following the Bid Opening time, the apparent lowest Bidder, shall furnish to the Owner through the Architect the following information:
 - 1. Subcontractor list.
 - 2. Itemized identification of Work to be self-performed.
 - 3. Substitution list.
 - 4. Material and Equipment List.
 - 5. Schedule of Values.
 - 6. Cost breakdown.
- B. The Bidder will be required to establish to the satisfaction of the Owner and Architect the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.
- C. Upon request only, the apparent second and third low Bidders shall be prepared to submit the information of paragraphs 6.1 and 6.3.A.
- D. Prior to the execution of the Contract, the Bidder will be notified in writing if either the Owner or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, (1) withdraw the Bid or (2) submit an acceptable substitute person or entity. In the event of withdrawal or disqualification, Bid Security will not be forfeited.
- E. Persons and entities proposed by the Bidder and to whom the Owner and Architect have made no reasonable objection must be used on the Work for whom they were proposed and shall not be changed except with the written consent of the Owner and Architect.
- F. Any Bidder, upon failure to submit the information required in subparagraphs 6.1.A, 6.3.A, and 6.3.B in the allowed time, may have the Bid rejected. In that event, the Bidder shall forfeit the Bid Security to the Owner as liquidated damages for such failure or refusal, and not as penalty.

6.4 BOND REQUIREMENTS

- A. The Owner requires the apparent successful Bidder to furnish and deliver bonds, covering the faithful performance of the Contract Work and payment of all obligations arising thereunder duly executed by the Bidder and a surety company licensed to do business in New York State.
- B. The premiums shall be included in the Bid and paid by the Contractor. The Bidder shall proportionally distribute the costs of such bonds between the Base Bid and any Alternates.

6.5 TIME OF DELIVERY AND FORM OF BONDS

- A. The Bidder shall deliver the required bonds to the Owner through the Architect on or before the time of execution of the Owner/Contractor Agreement. Bonds shall be payable to The Village of Mt. Kisco.
- B. Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond. Both bonds shall be written in the amount of the Contract Sum.
- C. The bonds shall be dated the same as the Owner/Contractor Agreement.
- D. The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

PART 7 - FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

- A. The form of agreement between Owner and Contractor shall be based on the Owner-Contractor Agreement included herein.

END OF SECTION 002113