

# PART II INSTRUCTIONS TO BIDDERS

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## **PART II INSTRUCTIONS TO BIDDERS**

### **SECTION 1 – PREPARATION AND SUBMISSION OF BIDS**

Bids shall be prepared on the forms included in Part III, Bid Forms. All bid forms shall be properly executed and all blank spaces shall be filled in. Any modifications to Bidder-supplied information shall be initialed by the Bidder. Failure to comply with these requirements may, at the discretion of the District, be grounds for rejection of the bid.

Any changes by the Bidder to the District-printed bid forms may, at the discretion of the District, be grounds for rejection of the bid.

All forms in Part III, Bid Forms shall be submitted in their entirety in a sealed envelope. The sealed "Bid" envelope shall be in the District's possession by the time stipulated in the Notice Inviting Bids, Part I. Partial or incomplete bids will not be considered. Bids shall be in strict conformity with Parts I, II, and III for District Project 400-57-0001 and any Addenda thereto.

Each bid shall be enclosed in a sealed envelope distinctly marked "Bid" and bearing the District's project number, title as given, and the name and address of the Bidder. Bids shall either be (1) delivered in person at the Twain Harte Community Services District, 22912 Vantage Pointe Drive, Twain Harte, California, during normal business hours, being 8 a.m. to 4 p.m., Monday through Friday, or, (2) mailed to "Twain Harte Community Services District, 22912 Vantage Pointe Drive, Twain Harte, CA 95383, Attention: Secretary of the District" by the time and date restrictions listed in Part I, Notice Inviting Bids.

Where "days" is used in the Project Documents it shall mean calendar days unless stated otherwise.

Each bid shall show the full legal name and business address of the Bidder, including street address if it differs from its mailing address, and shall be signed with the usual signature of the person or persons authorized to bind the Bidder and shall be dated. Bids by a partnership or joint venture shall list the full names and addresses of all partners or joint ventures. The state of incorporation and corporate number shall be provided. The name of each signatory shall be typed or otherwise clearly imprinted below each signature where requested. When requested by the District, satisfactory evidence of the authority of any signatory on behalf of the Bidder shall be furnished.

The preparation of a bid shall be by and at the expense of the Bidder.

Bids shall be firm for sixty (60) days from and after the stated closing time, or until a Contract is fully executed by the District and a Bidder, whichever is earlier.

### **SECTION 2 – EXAMINATION OF DOCUMENTS AND EXPLANATION TO BIDDERS**

The Project Documents consist of Notice Inviting Bids (Part I), Instructions to Bidders (Part II), Bid Forms (Part III), Contract and Bonds (Part IV), General Conditions (Part V), Special Conditions (Part VI), Technical Specifications (Part VII) and Project Drawings (Part VIII).

Any Bidder planning to submit a bid is responsible for examining with appropriate care the complete Project Documents and all Addenda, and is also responsible for informing itself with respect to all conditions, which might in any way affect the cost or the performance of any work. Failure to do so will be at the sole risk of the Bidder, and no relief can be given for errors or omissions by the Bidder.

All questions relative to the Contract prior to the issuance of the Notice of Award shall be directed to Tom Trott, Twain Harte Community Services District, 22912 Vantage Pointe Drive, Twain Harte, CA 95383.

Should the Bidder find discrepancies in or omissions from the Project Documents, or should the intent or meaning of the documents appear unclear, the Bidder shall at once notify the District of such findings. Questions received less than seven (7) days prior to the date for opening of the bids may not be answered. If the Bidder asks a question within five (5) days prior to the date for opening of the bids, the Bidder shall notify the District in writing of such question before the opening of the bids. The Bidder making notifications shall be solely responsible for their timely receipt by the District. Should the Bidder find patent ambiguities in the Project Documents, the Bidder shall at once notify the District of such findings in writing prior to opening of the bids. Replies to such notification of patent ambiguities may be made in the form of Addenda, which will be issued simultaneously to all persons who have obtained a copy of the Project Documents from the District. Failure of the Bidder awarded the Contract to notify the District of such patent ambiguity shall eliminate any and all recourse, including time extensions and Contract price adjustments the Bidder may have, against the District occurring as a result or arising out of such patent ambiguity.

The Bidder, by submission of its bid, confirms it has familiarized itself with the Project Documents and has found them fit and sufficient for the purpose of preparing its bid.

Copies of the Project Documents, preliminary engineering and geotechnical reports (if any), are available for examination without charge during normal business hours (8 a.m. – 4 p.m., Monday through Friday) at the office of the:

Twain Harte Community Services District  
22912 Vantage Pointe Drive  
Twain Harte, CA 95383

At the time each Bidder obtains a copy of the Project Documents, it shall designate the address to which Addenda are to be sent. Such address shall be a street address. If the Bidder obtains the Project Documents online, the Bidder shall provide such address via email to the Project Manager at [ttrott@twainhartecsd.com](mailto:ttrott@twainhartecsd.com). Post office boxes alone are not acceptable. The Bidder shall also supply the telephone number, fax number, and email address.

### SECTION 3 – SITE INSPECTION AND CONDITIONS

In addition to examination of the Project Documents, each prospective Bidder shall become fully informed regarding all existing and expected conditions and matters which could affect any work or performance of any work.

The Bidder shall investigate and acquaint itself with the nature and location of work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling, and storage of materials; availability and quality of labor, water, and electric power; availability and condition of roads; climatic conditions and seasons; river hydrology and river stages; physical conditions at the work sites and the Project

areas as a whole; topography and ground surface conditions; equipment and facilities needed preliminary to and during performance of the Contract; and all other matters that can in any way affect performance of the Contract. The failure of the Bidder to acquaint itself with any applicable condition will not relieve it from the responsibility for properly estimating either the difficulties or the costs of successfully performing the Contract.

Where the District has made investigations of conditions in areas where work is to be performed under the Contract, such investigations are made only for the purpose of study and design. The use of such investigations shall be at the sole risk of the Bidder. Any such investigations in these Project Documents are provided for the benefit of Bidders, and Bidders shall assume all risks concerning use of the investigations in preparing their bids. The Bidder shall make whatever other reasonable investigations as are necessary to determine to the Bidder's satisfaction, the character and amount of work to be performed.

The District assumes no responsibility whatsoever in respect to the sufficiency or accuracy of its investigations, the records thereof, or of the interpretations set forth therein or made by the engineer thereof; and there is no warranty or guaranty, either expressed or implied, that the conditions indicated by such investigations or records thereof are representative of those existing throughout such areas, or any part thereof, or that unforeseen development may not occur, or that materials other than, or in proportions different from those indicated, may not be encountered.

All Project work is located on property owned by the District. Bidders may access the Project site at will.

Any failure to fully investigate the site or the foregoing conditions shall not relieve the Bidder from responsibility by estimating properly the difficulty or cost of successfully performing any work. Neither the District nor any of the District's representatives or agents assumes any responsibility for any verbal representation regarding all existing and excepted site conditions.

#### SECTION 4 – ADDENDA TO THE PROJECT DOCUMENTS

The District may modify any provision or part of the documents at any time prior to three (3) days before closing time, provided that the closing time set forth in Part I, Notice Inviting Bids, may be extended by the District at any time prior to said closing time. Such revisions, if any, will be in the form of Addenda, which will be issued as set forth in this Part II, Section 2, Examination of Documents and Explanation to Bidders.

Contractor failure to properly acknowledge all Addenda issued (including if none) may, at the discretion of the District, be grounds for rejection of the bid. This acknowledgement shall be provided by completing and signing the form included in Part III, Bid Forms, Section 1, Bid, herein. Each Bidder shall submit this acknowledgement as a part of its bid, but in no circumstances will the acknowledgement be accepted subsequent to the closing time for bids.

#### SECTION 5 – REGISTRATION OF CONTRACTORS

All Bidders and their Subcontractors must be registered and qualified to perform public work pursuant to Section 1725.5 of the California Labor Code. Bids will not be accepted nor any contract entered into without proof that the Bidder and its subcontractors are registered with the California Department of Industrial Relations to perform public work pursuant to California Labor Code Section 1725.5, subject to limited legal exceptions.

All Bidders shall have the required license(s) under the provisions of Chapter 9, Division 3, of the Business and Professions Code of the State of California to do the type of work contemplated in the Project and shall be skilled and regularly engaged in the general class or type of work called for under the Contract.

Each Bidder shall set forth in its bid the number, classification, and date of expiration of such license(s).

#### SECTION 6 – SCHEDULE OF BID

The quantities included in the bid are estimates of the work to be completed.

Bids shall be prepared on the form contained in Part III, Bid Forms, Section 2, Schedule of Bid. The total bid shall constitute full compensation for furnishing all materials and doing all work in the Contract. Bids must be provided for both Base Bid items and Additive Bid Items.

No substitution of materials, methods, or listed alternatives not specified in the Specifications shall be permitted.

#### SECTION 7 – NOT USED

#### SECTION 8 – COMPARISON OF BIDS

Bids will be compared on the basis of the total bid stated in Part III, Section 2, Schedule of Bid.

For the purpose of initial evaluation of bids, the following will be utilized in resolving arithmetic discrepancies and conflicts found on the face of the bidding schedule as submitted by Bidders:

- a. In case of discrepancy between unit price and extended price, the unit price will govern and will be used to correct the extension of unit prices.
- b. Apparent errors in addition of lump-sum and extended prices will be corrected.
- c. If no monetary symbol (\$ or ¢) is entered with a unit price, lump sum, or extension, a dollar sign (\$) will be assumed to be the Bidder's intent.

The District will recalculate the total bid based on the resolution of any arithmetic discrepancies and conflicts found. The lowest bid will be determined after any required recalculations.

Any bid that, in the opinion of the District, is so unbalanced between the various Contract items as to be detrimental to the best interests of the District will be rejected.

#### SECTION 9 – BIDDER'S STATEMENT OF SUBCONTRACTORS

In the form entitled Section 4, Bidder's Statement of Subcontractors, provided within Part III of this Project Manual, and pursuant to Section 4100 et seq. of the Public Contract Code, the Bidder shall submit the name, California State License Board (CSLB) license number, city, and state of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to the Project Documents, in

an amount in excess of one-half of one percent (½%) of the bid total as set forth in the Schedule of Bid, Part III, Section 2. The prime contractor shall indicate the portion that will be done by each such subcontractor for each such portion as is defined by the subcontractor in its bid.

Failure to list subcontractors in Part III, Bid Forms, Section 4, Bidder's Statement of Subcontractors, is an express statement by the Bidder that it will perform that portion of the work with its own forces. The prime contractor may not substitute any person or subcontractor for a listed subcontractor without first obtaining written permission of the District's General Manager pursuant to provisions of Section 4107 of the Public Contract Code.

#### SECTION 10 – QUALIFICATION OF BIDDERS

If Bidder is a corporation, it shall submit its state of incorporation and corporate number in addition to its business address; if a partnership or joint venture, full names of all partners or joint venturers shall be given in the form included herein as Part III, Bid Forms, Section 1, Bid.

The District expressly reserves the right to reject any bid if it determines that the Bidder's business and technical organization, financial resources, safety information, plant and equipment to be used in performing work, or lack of successful experience in performing similar work is such that it is not in the District's best interest to accept the Bidder's bid.

Contractors or subcontractors who have been determined to have violated any public work laws and who are declared ineligible to perform work on public works projects by the Labor Commissioner as set forth in the Labor Code of the State of California, Section 1777.1 or 1777.7, are ineligible to bid or be awarded a contract for any public works project or to perform work as a subcontractor on a public works project.

#### SECTION 11 – CERTIFICATION OF COMPLETION REQUIREMENTS

By signing Part III, Bid Forms, Section 1, Bid, the Bidder acknowledges acceptability of the construction time frame as set forth in Part IV, Contract and Bonds, Section 1, Contract, "Time of Performance." The time specified for this work shall be deemed to start from the receipt of the Notice to Proceed. Contractor must submit a reasonable construction schedule describing how the Contractor will meet the construction time frame requirements.

#### SECTION 12 – BID SECURITY

No bid will be considered unless it is accompanied by bid security in the form of cash, a certified check or a cashier's check, payable to the order of the Twain Harte Community Services District, for a sum not less than ten percent (10%) of the bid total as set forth in the Bidder's Schedule of Bid, Part III, Section 2, or a Bidder's bond in the same amount executed as surety by a corporation acceptable to the District and authorized to issue such surety bond in the State of California. Such bond shall be in conformity with the form included as Section 9 of Part III, Bidder's Bond, of the Project Documents.

Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the District beyond 60 days from the time the award is made.

### SECTION 13 – BIDDER'S MODIFICATION AND WITHDRAWAL OF BIDS

A Bidder may, without prejudice to itself, modify or withdraw its bid by written request, provided that the request is received by the District prior to the time when bids are to be received. Following withdrawal of its bid, the Bidder may submit a new bid, provided that such new bid is received prior to the stated closing time.

### SECTION 14 – BID OPENING AND AWARD OF CONTRACT

Bids will be kept unopened until the time stated for opening of bids. At such time, the contents of each bid will be made public. No responsibility shall attach to the District or any of its officers, employees, or representatives for the premature opening of a bid. All Bidders or their authorized representatives are invited to be present at the bid opening.

After opening the bids and prior to award of the Contract, the District will review the bids submitted and make a determination of the responsiveness of bids received. If the District Board of Directors or General Manager determines any bid to be nonresponsive, it reserves the rights to reject any or all bids. The District reserves the rights to reject any or all bids and to waive any non-material irregularities or omissions in bids received.

The successful Bidder will be notified in writing by the District of the Award of Contract as soon as practical and within ten (10) days after opening of bids. Accompanying the District's Notice of Award will be the Contract, in duplicate, which the successful Bidder will be required to sign and return together with the Performance Bond, Payment Bond, and the required number of copies of insurance certificates and endorsements to the District within ten (10) days following receipt of such Notice of Award. The District will promptly determine whether such Contract, bonds, and insurance certificates and endorsements are acceptable, and upon such determination will forward a fully signed copy of the Contract to the successful Bidder. The District may issue a Notice to Proceed at any time prior to or after forwarding the Contract. The failure of any Bidder to whom the District may award the Contract as aforesaid to sign and return to the District the Contract, together with the required Performance Bond, Payment Bond, and insurance certificates and endorsements within the specified time period, shall entitle the District to declare a breach of Contract by such Bidder, to award the Contract to another Bidder, and to declare a forfeiture of the Bidder's bid security accompanying the bid.

In the event of such failure, the District will suffer damage, the amount of which is difficult, if not impossible, to ascertain; and the District shall, therefore, be entitled to retain the amount of such cashier or certified check submitted by the Bidder as bid security, or to enforce the provisions of the Bidder's Bond in the amount thereof, as liquidated damages for such breach of Contract, as provided by applicable law.

### SECTION 15 – RELIEF OF BIDDERS

Should a Bidder claim a mistake was made in its bid, the Bidder shall give the Secretary of the District written notice within five (5) business days after bid opening of the alleged mistake, and detail in said notice the circumstances under which the mistake occurred, all in accordance with Public Contract Code, Section 5103. Final determination of relief of Bidders shall be made by the District Board of Directors. Should the District Board of Directors accept the Bidder's claim for relief, the Bidder will be released from all obligations and further requirements, and its bid security will be returned as applicable.

## SECTION 16 – BONDS

The Bidder to whom the Contract award is made shall, at the time of execution of the Contract, furnish to the District a Performance Bond and a Payment Bond, executed as surety by a corporation acceptable to the District and authorized to issue such surety bonds in the State of California. Such bonds shall be substantially in the form included in Sections 2 and 3, respectively, of Part IV of the Project Documents. Such Performance Bond and Payment Bond shall be for one hundred percent (100%) of the bid total as set forth in the Bidder's Schedule of Bid, Part III, Section 2. The entire cost of these bonds shall be borne by the successful Bidder.

If the surety on any bond furnished by the Contractor is declared bankrupt, or becomes insolvent, or its right to do business is terminated, or it ceases to meet the requirements of the above paragraph, the Contractor shall, within five (5) business days thereafter, notify the District and substitute another bond and surety, both of which must be acceptable to the District.

## SECTION 17 – NONDISCRIMINATION IN EMPLOYMENT

Contracts for work under this Bid will obligate the Contractor and subcontractors not to discriminate in employment practices.

## SECTION 18 – AGREEMENT TO ASSIGN (BIDDERS)

The Bidder's attention is directed to the provisions of Government Code Section 4552, which requires that in submitting a bid to a public purchasing body, Bidders offer to assign all rights arising from violations of antitrust regulations to the public entity if the bid is accepted. In pertinent part, Government Code Section 4552, reads as follows:

In submitting a bid to a public purchasing body, the Bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from the purchase of goods, materials, or services by the Bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Bidder.

## SECTION 19 – PROJECT DOCUMENTS TO SUCCESSFUL BIDDER

The Bidder to whom award is made may obtain three (3) sets of Project Documents for the work at no extra cost. It is the Contractor's responsibility to provide its own set(s) of conformed Project Documents.

## SECTION 20 – BID PROTESTS

Any protest of the proposed award of Contract to the Bidder with the lowest responsive bid must be submitted in writing to the Secretary of the District, no later than 4 p.m. of the second (2<sup>nd</sup>) business day following the date of the Bid opening. All protests shall comply with the following procedures:

1. The initial protest must contain a complete statement of the basis for the protest.



2. The protest must state the facts and refer to the specific portion of the document or the specific statute that form the basis for the protest. The protest must include the name, address, and telephone number of the person representing the protesting party.
3. The party filing the protest must concurrently transmit a copy of the initial protest to the Bidder deemed the lowest Bidder.
4. The party filing the protest must have actually submitted a Bid on the Project. A subcontractor of a party filing a Bid on this Project may not submit a Bid Protest. A party may not rely on the Bid Protest submitted by another Bidder, but must pursue its own protest in a timely manner.
5. The procedure and time limits set forth in this Section are mandatory and are the Bidder's sole and exclusive remedy in the event of a Bid Protest. The Bidder's failure to fully comply with these procedures shall constitute a waiver of any right to further pursue the Bid Protest, including filing of a challenge of the award pursuant to the California Public Contract Code, filing of a claim pursuant to the California Government Code, or filing of any other legal proceedings.
6. The District shall review all timely protests prior to formal award of the Contract. The District shall not be required to hold an administrative hearing to consider timely protest, but may do so at the option of the General Manager. At the time of the District Board of Directors' consideration of the award of the Contract, the District Board will also consider the merits of any timely protests. The District Board of Directors may either accept the protest and award the Contract to the next lowest Bidder, or reject the protest and award to the lowest Bidder.
7. These bid protest procedures shall not limit the District Board of Directors' or the General Manager's ability to reject all bids.