

## **INSTRUCTIONS TO BIDDERS**

### 1. **Defined Terms**

The terms used in these Instructions to Bidders have the meanings assigned to them in the General Conditions. The term "Bidder" is defined as one who submits a Bid to the Village. The term "Successful Bidder" is as defined as the lowest qualified, responsible, and responsive Bidder, to whom the Village awards the Contract.

### 2. **Copies of Bidding Documents**

The Plan Specifications, and Contract Documents (PS & CD, which include the Official Notice; Instructions to Bidders; General and Supplementary Conditions; Special Provisions; Addenda; Specifications; Plans; Drawings; Pre-Qualification Statement; completed Bonds and Bid Forms of the Successful Bidder; and all amendments, modifications, Change Orders, and supplements issued on or after the Effective Date of the Agreement) are on file at the office of the Village Engineer/Director of Public Works. Bidders may examine them and/or may obtain complete sets at this office, as stated in the Official Notice.

Each Bidder shall consider the foregoing PS & CD, applying to this work, as a part of every Bid which he submits and shall consider the PS & CD as a part of every Agreement subsequently executed for doing the work referred to herein, as fully as though they had been set forth in the body of the Bid and the Agreement.

### 3. **Qualification Statement**

The Village will require each Bidder to show satisfactory evidence: 1) that he has been regularly engaged in the business of constructing the work described in the PS & CD; 2) that he is qualified and competent to perform the work described in the PS & CD; 3) that he is fully prepared with the necessary capital to commence the work or furnish the material, without delay, after the date of award of the Contract to him; and 4) that he is prepared to complete the work within the time specified in the PS & CD and in accordance with the Agreement.

Bidders may fulfill the above requirement by submitting a copy of their current year Prequalification Forms (if they have not already done so) and their completed Qualification Statement on the form provided by the Engineer in these PS & CD, at least 7 calendar days prior to the bid opening.

#### 4. Examination of Contract Documents and the Site

Bidders must satisfy themselves, by personal examination of the location of the proposed work, and by such other means as they prefer, as to the character of the work to be done and the intent of the PS & CD. After the submission of the Bid, the Village will not entertain any complaint or claim of misunderstanding with regard to the schedule of quantities or to the nature of the work to be done.

Neither the Village, its officers, agents, or employees make any representation as to the existence or nature of surface or subsurface difficulties, obstructions, or obstacles which the Successful Bidder may encounter in the course of completing the work, whether shown on the Plans or not. The Bid price for the work described by the PS & CD must cover satisfactory completion thereof on this condition. In no event shall a Bidder hold the Village, its officers, agents, or employees responsible for the accuracy of test borings, if furnished, heretofore or hereafter made, or any representations as to the nature of the soil. The result of any borings made by the Village are available to Bidders for such information as they may derive therefrom, subject to the condition hereinabove specified.

Bidders must acquaint themselves, when necessary, with the condition of the ground on and through which they are to do the work, to determine whether any excavation may be in rock, hard-pan, quick-sand or soft ground, and the existence and nature of all surface or sub-surface difficulties, obstructions or obstacles, whether or not shown on the Plans. Bidders should be familiar with all of the requirements of the PS & CD for this work, so that they can submit an intelligent Bid.

#### 5. Bid Signature

Bidders must state in their Bids their full name and business address. If an incorporated company, Bidders must list the name of the State, which has incorporated the company under its laws. The State of Wisconsin must have licensed this company to do business, prior to award of this Contract for the work described in the PS & CD. The party properly authorized to submit the Bid must sign it.

If a Bidder does not sign his Bid, the signee must attach a Power of Attorney, evidencing the authority to sign the Bid in the name of the person for whom he has signed it.

The signee of a Bid for a corporation shall indicate the correct corporate name thereof and shall include the signature of the president or other authorized officer of the corporation, manually written below the corporate name following the word "By (name, title) \_\_\_\_\_". If the signee of such a Bid is other than the President or

Vice-President of the corporation, this signee shall attach a certified copy of a resolution of the Board of Directors, evidencing the authority of such official to sign the Bid. Such Bid should also bear the attesting signature of the secretary of the corporation and the impression of the corporate seal.

For Bids of a partnership, all of the partners, or an attorney-in-fact, shall sign the Bid. If signed by an attorney-in-fact, he should attach to the Bid a Power of Attorney, executed by the partners, evidencing authority to sign the Bid.

## 6. Bid Form and Submittal

Each Bidder must seal his Bid in an envelope, upon which he shall plainly state the title of the work for which he submits the Bid. Along with the Bid, the Bidder must submit the cash deposit, bid bond, or certified check. The Bidder should deliver or mail the Bid to the Department of Public Works, 675 North Green Bay Road, at or before the time specified in the Official Notice.

The Village will only consider Bids which are made out on the regular form furnished by the Engineer, and which include a quotation for all required Bid items. When the Village does not require quotations on all items in the schedule of quantities,

Bidders should insert the words "No Bid" in the appropriate space provided. Bids must contain a price, which is both adequate and reasonable for each and every item named in the schedule of quantities on the Bid form. The Village will reject unbalanced bids. The Bidder shall specify in words and in figures (in case of discrepancy, the written words shall govern) a unit price and a total price for each of the separate items listed in the Bid and, where required, for the total sum for which he will perform all of the work or furnish all of the material specified. All writing shall be done in ink. The Village, at its discretion, will compare Bids, in whole or in part, on a unit basis.

The Bidding shall be as set forth on the Bid Form. Each Bid Item shall include all of the Contractor's costs, such as transportation, insurance, bonds, delays, labor, machinery, tools, rigging, brushes, and all materials necessary to repair, clean, and paint the structure in strict conformity with the requirements of these Specifications.

Each Bidder must state in his Bid his full name and business address. If an incorporated company, he must list the state, which incorporated his company under its laws. The State of Wisconsin must license such a company to do business, prior to award of the Contract by the Village.

The schedule of quantities of the work, while the result of careful calculation, are approximate. Bidders shall assume them to be reasonably accurate, and shall use them in calculating the relative amounts of the Bid, but they are not the basis for final

payment. Each Bidder shall make his own estimate of the quantities and shall calculate his unit prices accordingly. The Village shall make payment for work performed or material furnished, according to the field measurements or to the actual count on a unit price basis, using the Unit Prices indicated on the Bid of the Successful Bidder. The Successful Bidder agrees to accept such amount in full payment for the work performed or material furnished.

The Bidder declares: 1) that he will perform all of the work at his own proper cost and expense; 2) that he will furnish all necessary material, labor, tools, machinery, apparatus, and other means of construction in the manner provided and at the time specified in the PS & CD, of which his Bid will become a part, if and when accepted; 3) that only the persons, firm, or corporation herein named have an interest in this Bid; and 4) that he submits this Bid without collusion with any person(s) or corporation(s).

## 7. Rejection of Bids

The Village Board reserves the right to reject any and all Bids, when such rejection is in the best interest of the Village; to reject the Bid of a Bidder who has previously failed to perform properly or complete on time, Contracts of a similar nature; and to reject the Bid of a Bidder who is not, in the opinion of the Village Board, in a position to perform the work specified.

## 8. Award

The Village shall award the Contract to the lowest responsive responsible bidder, usually at the Village Board meeting following the Board of Public Works meeting. The Village Clerk shall mail or deliver a Notice of Award to the Successful Bidder after this meeting. If low Bids are tied, the Village Board will select the Successful Bidder.

The Village will require the Successful Bidder to execute and deliver three copies of the Agreement, to which an approved surety or sureties shall, in accordance with the law, become bound to perform or to secure the performance of the Agreement for sums equal to the Agreement prices. The copies of this Agreement will be in the form attached hereto and the successful Bidder shall deliver them to the Village Clerk, within 15 calendar days from the date of a notice from said Clerk that the Village has awarded the Contract. In case of failure to perform the above, the Village will consider this Successful Bidder to have abandoned his Bid, and to be in default to the Village of Grafton in the full amount of the Bid Bond. It is distinctly understood and agreed by the Bidder that the Bid Bond accompanying the Bid represents the liquidated damages which the Village will suffer by reason of the Bidder's default in

properly executing the Agreement and by the need to furnish sureties after the Village has awarded the Contract.

9. Time of Completion

The Successful Bidder must complete the entire work, to the Engineer's satisfaction, in the number of days, or by the date, specified in the PS & CD.

10. Liquidated Damages

The liquidated damages for not completing the work within the time specified shall be as set forth in the Supplementary Conditions and/or the Agreement.

11. Interpretation of Documents

If any person contemplating submitting a Bid for the proposed work is in doubt as to the true meaning of any part of the PS & CD, he may submit to the Engineer a written request for an interpretation thereof. The person submitting the request will be responsible for its prompt delivery. The Engineer will make an interpretation of the proposed documents only by an Addendum, duly issued. The Village will send copies of such Addendum to each prospective Bidder and this Addendum will become a part of the PS & CD.

All Bids submitted shall include an acknowledgment of receipt of the Addenda. Oral interpretations will be without legal effect.

12. Withdrawal of Bids

A Bidder may withdraw his Bid at any time prior to the scheduled time for receipt of Bids.

Unless a longer or shorter time period is stated in the Official Notice, no Bid may be withdrawn for 60 days after the date of the Bid opening.

13. Bid Bond

A certified check or bank draft, payable to the Village of Grafton, cash, or a satisfactory Bid Bond, executed by the Bidder and a licensed surety company in an amount not less than 5 percent of the maximum Bid, shall accompany each Bid. This Bid Bond will serve as guarantee that if, the Village accepts the Bid, the Bidder will execute and file the proposed Agreement and Bonds within 15 days after the award of the Contract. The Village will consider no Bid, unless otherwise noted, unless it is

accompanied by a Bid guarantee. The Bid Bond shall be made payable to the Village of Grafton.

The Village will return the Bid deposit of all except the three lowest Bidders within three days after the opening of Bids. The Village will return the Bid deposit of the three lowest Bidders within 48 hours after it approves the executed Agreement and required bonds.

14. Wage Rates

The Contractor shall comply with all laws and regulations pertaining to the payment of wages for the work, which he performs under the Agreement.

When required by law or regulation, the Village, the Wisconsin Department of Industry, Labor, and Human Relations, or the United States Department of Labor may determine a specific wage rate for the project, or portions thereof. The Village will attach the wage scale so established, as a part of these PS & CD.

15. Public Records Law

Contractor understands that the Village is bound by the Wisconsin Public Records Law, Wis. Stats 19.21, et. seq. Pursuant to Wis. Stat. 19.36(3), Village may be obligated to produce, to a third party, the records of Contractor that are “produced or collected” by Contractor under this Agreement (“Records”). Contractor is further directed to Wis. Stat. 19.21 et. seq., for the statutory definition of Records subject to disclosure under this paragraph, and Contractor acknowledges that it has read and understands that definition. Irrespective of any other term of this Agreement, Contractor is (1) obligated to retain Records for seven years from the date of the Record’s creation, and (2) produce such Records to Village if, in Village’s determination, Village is required to produce the Records to a third party in response to a public records request. Contractor’s failure to retain and produce Records as required by this paragraph shall constitute a material breach of this Agreement, and Contractor must defend and hold the Village harmless from liability due such breach.