

SECTION 00 21 13

INSTRUCTIONS TO BIDDERS

1.1 BIDDING DEFINITIONS

- A. The Bid Documents consist of the Advertisement for Bids, Instructions to Bidders, the Bid and all accompanying Bid forms, Bid security or bond, Contract Monitoring Division employment requirements, the Drawings, the Project Manual, and all Addenda issued prior to receipt of Bids.
- B. Addenda are written or graphic instruments issued by the City prior to the receipt of Bids which modify or interpret the Bid Documents by additions, deletions or other changes.
- C. A Bid is a complete and properly executed offer, submitted in accordance with the Bidding requirements, to provide products and services and to perform the Work in accordance with the requirements of the Contract Documents.
- D. The Total Bid Price is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bid Documents and it shall include the entire cost of all Work necessary for a complete and fully operational structure or facility in accordance with the requirements of the Contract Documents.
- E. A Bidder is a person or entity who submits a Bid.
- F. All definitions set forth in the General Conditions (Section 00 72 00) and in other Contract Documents are applicable to the Bid Documents.

1.2 DRAWING INDEX

- A. The Drawings, entitled "19TH AVENUE (STATE ROUTE 1) COMBINED CITY PROJECT" and dated December 2019, are incorporated as Contract Documents. Refer to the Drawings for Index of Drawings.

1.3 BIDDING CONTACT INFORMATION

- A. For obtaining Bid Documents, and submittal of Bids and other required bidding and contract documents, contact the following "Contract Administration Division":

Contract Administration Division
San Francisco Public Works
City and County of San Francisco
1155 Market Street, 4th Floor
San Francisco, California 94103
Telephone: 415-554-6229

- B. For technical questions on the Bid Documents, scheduling of special field visits, and submittal of Request for Product Substitutions, contact the following "Project Engineer/Architect":

Josef Munoz
San Francisco Public Works
City and County of San Francisco
1680 Mission Street, 3rd Floor
San Francisco, CA 94103
Telephone: 415-554-8284
Josef.Munoz@sfdpw.org

- C. For questions on CMD bid documents and submittal of required CMD Forms, contact the following "Contract Compliance Officer":

Finbarr Jewell
Contract Compliance Officer
Contract Monitoring Division
30 Van Ness Avenue, 5th Floor
San Francisco, CA 94102
Telephone: 415-558-4080
Finbarr.Jewell@sfgov.org

1.4 ISSUANCE OF BID DOCUMENTS

- A. Bid Documents may be obtained from Contract Administration Division and downloaded from DPW website as described in the Advertisement for Bids.
- B. A full set of Bid Documents is available for inspection during business hours without charge at the Contract Administration Division. Bidders may be allowed to perform inspection only, but not to inspect and perform bid take offs. The Bid Documents are also available for inspection at various builders' exchanges and agencies. For a current distribution list of such agencies contact the Contract Administration Division.

1.5 EXAMINATION OF BID DOCUMENTS AND SITE

- A. Before submitting a Bid, Bidder shall carefully examine the Bid Documents, visit the Site, and fully inform themselves of existing conditions and limitations, including all items described in the Bid Documents. No consideration will be granted for any alleged misunderstanding of the materials to be furnished, Work to be performed or of actual conditions at the Site, it being understood that the tender of a Bid carries with it the agreement to complete all Work and comply with all conditions specified herein and indicated in the Bid Documents.
- B. All special Site access for facility inspection and subsurface investigations shall be requested, approved and scheduled through the Project Engineer/Architect.
1. Persons requesting special site access must identify the Bidder being represented, who must be on file with the San Francisco Public Works as a plan holder.
 2. No discussion, dissemination of information or clarification of the Bid Documents will be given during Site access. A City representative must accompany each person or group requesting special site access.
 3. Length of time of tours, number of tours per day and areas open for special Site access are limited and must be scheduled in advance.
 4. No adjustment in the Contract Sum will be allowed because of a Bidder's inability to gain access to the Site during the Bid period.
- C. Reference Documents are available to Bidders as described in Section 00 31 00.
- D. The submission of a Bid will constitute an incontrovertible representation by Bidder of the following:

1. Bidder has complied with every requirement of this Article "Examination of Bid Documents and Site";
 2. the Total Bid price is premised upon performing and furnishing the Work required by the Contract Documents without exception;
 3. the Contract Documents are sufficient in scope and detail to accurately describe all terms and conditions for the performance of the Work; and
 4. it is understood that information about hazardous materials, physical or other conditions or obstructions, indicated on the Bid Documents, has been obtained with reasonable care and has been recorded in good faith. There is no express or implied warranty that such information is correctly shown. Bidder must take into account the possibility that actual conditions affecting cost or quantities of Work may differ from those indicated on the Bid Documents.
- E. Bidder shall give due consideration to the intricate and difficult conditions which involve coordinating and interfacing with other contractors at the Site and which may affect the scheduling of the Work.
- F. Bidder shall include in its Total Bid Price the entire cost of all Work necessary for a complete and fully operational structure or facility in accordance with the requirements of the Contract Documents.

1.6 QUESTIONS ON BID DOCUMENTS, ADDENDA, SUBSTITUTIONS

- A. Questions on Bid Documents: Prior to receipt of Bids, should a Bidder find discrepancies, ambiguities, or conflicts in the Bid Documents, or should there be doubt as to meaning of a provision or requirement, the Bidder shall notify at once the City in writing using the Questions on Bid Documents (QBD) form (Section 00 21 14), issued with the Bid Documents as a fillable Word file, and submit the same by email to the Project Engineer/Architect as specified on the form. The City may not answer questions received less than 10 calendar days prior to the date for opening Bids.
- B. Addenda: Interpretations or clarifications considered necessary by the City in response to QBDs will be issued by written Addenda to all Bidders of record. Only questions answered by formal written Addenda will be binding; oral and other interpretations or clarifications will be without legal effect.
1. The City may also issue Addenda to modify the Bid and/or Contract Documents as deemed necessary or advisable by the City.
 2. Each Bidder shall be responsible for ascertaining, prior to submittal of its Bid, that it has received all issued Addenda. Bidders shall acknowledge Addenda by number and date received using Section 00 43 20 (Acknowledgement of Receipt of Addenda). Refer to Section 00 43 20 for additional instructions.
- C. Substitutions: The products specified in the Bid Documents establish a minimum standard of required type, function and quality that substitutions must meet to be considered acceptable to the City. To obtain acceptance of unspecified "or equal" products, systems, materials, or services, Bidders shall submit a completed QBD form accompanied by a Request for Substitution form (Section 00 49 18) and required supporting documentation. The City will consider properly-completed substitution requests submitted no later than 10 calendar days prior to the date for opening bids. After that date, the City will not accept substitution requests during the Bid period.
1. The burden of proof of the merit of the proposed substitute item is upon the Bidder. Insufficient information will be grounds for rejection of a proposed substitution.
 2. The City's decision of approval or disapproval of a proposed substitute item will be final and conclusive as to all Bidders.
 3. If the City approves a proposed substitute item, such approval will be set forth in an Addendum issued to all prospective Bidders.

4. Refer to Article "Information to be Submitted after Bid Opening" for requirements regarding requests for substitution submitted by the successful Bidder after award of the Contract.
5. Bidders must base their Bids on materials, products, services and systems specified in the Contract Documents or listed by name in Addenda.

1.7 PRE-BID CONFERENCE

- A. A pre-bid conference will be held at the place and no later than the date and time specified in the Advertisement for Bids for discussion of the Contract Documents and specific project requirements, and the City's Local Business Enterprise and surety bond programs. The City's representatives will be present at the pre-bid conference to receive questions. Subsequently, an Addendum incorporating the City's responses to questions will be issued, if deemed necessary by the City.
- B. Bidders are encouraged to attend the pre-bid conference. In accordance with Chapter 14B requirements, all bidders shall submit documented good faith efforts with their bids and attendance at a pre-bid conference is required as one of the good faith outreach steps. If a Bidder does not attend the pre-bid conference, it will receive zero points for the pre-bid conference good faith outreach step on Form 2B.

1.8 BID SECURITY

- A. A Bid Security, in an amount equal to 10 percent of the total Bid Price, shall be submitted with each Bid. The City will reject as non-responsive any Bid submitted without the necessary Bid Security.
- B. The bid security may be in the form of a corporate surety bond, a certified check payable on sight to the City and County of San Francisco (for Bid Security amounts less than or equal to \$15,000), or an irrevocable standby letter of credit, on a bank or trust company doing business and having an office in the State of California, having a combined capital and surplus of at least \$50,000,000, and subject to supervision and examination by Federal or State authority, as provided for in San Francisco Administrative Code ("Administrative Code") section 6.21(a)(4).
- C. If a Bidder uses a Bid Bond for its Bid Security, the Bidder must use a hardcopy version of the Bid Bond form provided by the City (Section 00 43 13) or an exact, true and correct photocopy of such form. The Bid Bond form may not be retyped, reformatted, transcribed onto another form, or altered in any manner except for the purpose of completing the form. A Bidder's failure to use the City's Bid Bond form may result in rejection of the Bidder's Bid.
- D. If a Bid Bond is submitted, the Bond must be duly executed on behalf of the surety in accordance with applicable law. If an attorney-in-fact executes the Bid Bond on behalf of the surety, a copy of the current power of attorney bearing the notarized signature of the appropriate corporate officer shall be included with the Bid Bond. Submitted Bid Bonds must contain ORIGINAL signatures of both surety and principal. Bid Bonds which do not contain original signatures (photocopies are not acceptable) will be rejected. In addition, the surety executing the Bid Bond must be legally authorized to engage in the business of furnishing surety bonds in the State of California, and must have either a current A.M. Best Rating of not less than "A-, VIII" or shall be listed in the current version of the United States Department of the Treasury's Listing of Approved Sureties (Department Circular 570).
- E. If an irrevocable standby letter of credit is submitted, Bidder must submit the letter on a form provided by the City. If Bidder intends to submit an irrevocable letter with its Bid, it must notify the Contract Administration Division at least 5 working days prior to the date of Bid opening.

- F. If the successful Bidder fails to execute the Contract and/or furnish all items required by the Bid Documents within the time limits specified, the City may reject such Bidder's Bid and select the next apparent lowest responsible Bidder until all Bids have been exhausted or the City may reject all Bids. The Bidder whose Bid is rejected for such failure(s) shall be liable for and forfeit to the City the amount of the difference, not to exceed the amount of the Bid Security, between the amount of the Bid of the Bidder so rejected and the greater amount for which the City procures the Work.

1.9 STATUTORY BIDDING REQUIREMENTS

- A. Pursuant to Administrative Code section 6.21(a)(9), Bidder must submit on the Proposed Subcontractors Form attached to the Bid forms (refer to Section 00 43 36) information regarding Subcontractors that Bidder intends to employ to perform Work in an amount in excess of one-half of one percent, or \$10,000, whichever is greater. Bidder shall list only one such Subcontractor for each portion of the Work. Bidder shall complete and submit the Proposed Subcontractors Form with its Bid.
- B. Pursuant to Section 4104 of the California Public Contract Code, Bidder must provide the following information with its Bid for each listed subcontractor: i) the name of business; ii) the location of the place of business; iii) portion of work that will be performed by the subcontractor; and iv) the California contractor license number of each subcontractor who will perform work
 - 1. An inadvertent error in listing the California contractor license number for each subcontractor listed number shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected contractor's license number is submitted within 24 hours after the bid opening and provided the corrected contractor's license number corresponds to the submitted name and location for that subcontractor.
 - 2. Failure to complete the required forms as described above, e.g., if the box on the form is blank, the Bidders failure to provide the required information may result in a determination that the Bid is non-responsive.
- C. **Bidder shall provide DIR Registration Number for the Bidder and all identified subcontractors and ensure that such subcontractors are currently registered with the California Department of Industrial Relations under California Labor Code section 1725.5.**
- D. In conformance with Public Contract Code Section 7106, a Noncollusion Affidavit (Section 00 45 80) is included with the Bid Form. Signing the Bid Form shall also constitute signature of the Noncollusion Affidavit.
- E. Bidder shall complete and submit with its Bid a Highest Prevailing Wage Rate Certification form (Section 00 45 60) certifying its intention to comply with Section A7.204 of the San Francisco Charter, Administrative Code section 6.22(e), and California Labor Code section 1770 *et. seq.*
- F. Pursuant to Administrative Code section 6.22(n), Bidder shall complete and submit with its Bid a Certificate of Bidder Regarding Apprenticeship Training Program form (Section 00 45 65).
 - 1. Pursuant to section 1777.5 of the California Labor Code the above apprenticeship program requirements shall not apply if Bidder's Total Bid Price is \$30,000 or more or if the Contract Time is 20 days or more.
- G. **This Contract is subject to the requirements of Administrative Code Chapter 12X,** which prohibits the City from entering into any Contract with a Contractor that has its United States headquarters in a state ("Covered State") with laws that perpetuate discrimination

against LGBT populations or where any or all of the work on the contract will be performed in any of those states. Bidders are hereby advised that Bidders, which have their United States headquarters in a state on the Covered State List, as that term is defined in Administrative Code Section 12X.3, or where any or all of the work on the contract will be performed in a state on the Covered State List may not enter into contracts with the City. A list of states on the Covered State List can be found at: <https://oag.ca.gov/ab1887>. Bidder shall certify compliance with this requirement by submitting with its Bid a Certificate of Bidder Regarding Contracting in States that Allow Discrimination Against LGBT Individuals form (Section 00 45 78).

- H. Contractor License: In accordance with the provisions of the California Business and Professions Code section 7028.15, a bid submitted to the City by a contractor who does not hold the license(s) required to perform the Work, issued in accordance with chapter 9 of the Business and Professions Code, shall be considered non-responsive and shall be rejected by the City. Failure of the Bidder to obtain proper and adequate licensing for award of the Contract shall constitute a failure to execute the Contract and shall result in the forfeiture of the Bidder's Bid Security. Bidder must be properly licensed at all times during the performance of the Work. Bidder shall list on the Bid Form its current contractor license number
 - 1. Refer to the Drawings for Contractor's license requirements.
- I. Pursuant to chapter 12B and chapter 14B of the Administrative Code, each Bidder shall execute and submit with its Bid the Certification of Bidder Regarding Nondiscrimination in Contracts and Benefits form attached to the Bid forms (refer to Section 00 45 70). If a Bidder fails to submit the form as required, then the Bidder may be deemed non-responsive and its Bid may be rejected.
 - 1. Refer to Section 00 73 73 for nondiscrimination contracting requirements.
 - 2. As a condition precedent to award of the Contract, Bidder shall execute the Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits form (refer to CMD website) and submit the completed form and required documentation within 5 working days after the official date of Bid opening to the CMD for approval.
 - 3. If said form is not submitted timely or the CMD determines that Bidder is non-compliant, then Bidder may be deemed non-responsive and its Bid may be rejected.

1.10 DEBARMENT AND SUSPENSION CERTIFICATION REQUIREMENTS

- A. Bidder shall complete and submit with its Bid the Certification of Bidder Regarding Debarment and Suspension form (Section 00 45 82).
- B. Bidder further agrees by submitting its Bid that it will require its subcontractors, lower-tier subcontractors and suppliers to complete and submit to the City within **seven (7) working days** after the date of the City's notification of the lowest Bidder the Certification of Subcontractor, Lower-Tier Subcontractor or Supplier Regarding Debarment and Suspension form (Section 00 49 14) for lower tier covered transactions of \$25,000 or more.
- C. The inability of Bidder or its subcontractors, lower-tier subcontractors or suppliers to provide the above certifications will not necessarily result in denial of award of the Contract. In the event that Bidder or its subcontractor, lower-tier subcontractor or supplier is unable to provide such certification because it currently violates or has previously violated conditions of the certification, a description of each instance of violation and explanation shall be attached to its certification. The certification or explanation will be considered in connection with the City's determination whether to award the Contract. However, failure of Bidder or its subcontractors, lower-tier subcontractors or suppliers to furnish a certification or an explanation may disqualify such Bidder from eligibility for award of the Contract.

- D. Bidder agrees by submitting its Bid that, should bidder be awarded the Contract, bidder shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this Contract, unless authorized by the City.
- E. The certifications (Sections 00 45 82 and 00 49 14) are a material representation of fact upon which reliance is placed when the City determines to enter into this Contract.
 - 1. Contractor shall provide immediate written notice to the City if any time Contractor learns that its certification or the certification of a lower tier participant was erroneous when submitted or has become erroneous by reason of changed circumstances.
- F. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this Article "Debarment and Suspension Certification Requirements", shall have the meanings set forth in the "Definitions" and "Coverage" sections of rules implementing Federal Executive Order 12549.
- G. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.
- H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this Article "Debarment and Suspension Certification Requirements". The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- I. Except for transactions authorized under Paragraph C of this Article "Debarment and Suspension Certification Requirements", if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this Contract, in addition to other remedies available, the City or other government agency may terminate this Contract for cause or default.

1.11 CONTRACTOR BIDDER QUALIFICATIONS

- A. As a condition to the award of the Contract, apparent low Bidder, and any other Bidder so requested, shall submit to the Contract Administration Division the information required by this Article "Contractor Bidder Qualifications" regarding the qualifications and experience of Bidder and certain proposed key team members and entities (i.e., Subcontractors and/or Suppliers) proposed to perform the Work. Failure to timely provide and furnish complete information prior to contract award may result in a determination that Bidder is not responsible and result in the rejection of Bidder's bid. No award will be made until a Bidder submits complete qualification information to the City.
 - 1. Specifically, the Bidder shall submit with its Bid (i) a completed Bidder's Qualifications form (Section 00 45 13), as required by Subparagraph "Bidders' Qualification Statement" below; and (ii) a completed and executed Release and Waiver Agreement (Section 00 45 16).
 - 2. To evaluate Bidder's ability to perform the Work in accordance with the Contract Documents to the City's satisfaction, the City may conduct reasonable investigations and reference checks of Bidder, proposed Subcontractors, Suppliers, key personnel

and other persons and organizations as City deems necessary to assist in its evaluation of Bidder's Bid and to establish Bidder's responsibility.

B. Bidders' Qualification Statement. Submit sufficient information on the Bidder's Qualification form (Section 00 45 13), and additional sheets as necessary, to demonstrate to the satisfaction of the City that Prime Contractor and Subcontractors have successfully completed projects identified in subparagraph 1.11.B.2, below, as a minimum. (Addendum No. 1)

1. A minimum of five (5) pavement renovation and sewer pipeline replacement projects is required to satisfy this requirement, but more projects may be used, provided they were during the last ten (10) years and meet the other requirements of the contract.
2. The projects listed on the Bidder's Qualifications form used to demonstrate the experience shall satisfy the following criteria. Clearly identify on the form, for each Project, under "Project Description/Scope of Work," which of the criteria ("a" through "d") are being met by the specific project.
 - a. Three (3) pavement renovation and sewer pipeline replacement projects within the past ten (10) years.
 - b. Three (3) pavement renovation projects in an urban environment within the past ten (10) years.
 - c. Three (3) sewer replacement projects of pipelines up to 36-inch diameter with substantial completion dates within the last eight (8) years from the bid date of this contract, including satisfactory installation of at least one thousand (1,000) linear feet to 21-inch (minimum) diameter sewer pipe at a depth of at least 10 feet (includes excavation and shoring support) per project.

OR

Satisfactory installation of at least one thousand (1,000) linear feet of 12-inch (minimum) diameter sewer pipe at a depth of at least 10 feet (includes excavation and shoring support) per project for the City and County of San Francisco with substantial completion within the last three (3) years from the bid date of this contract.

- d. Three (3) watermain pipeline projects with substantial completion dates within the last eight (8) years from the bid date of this contract, including satisfactory installation of a minimum of at least two thousand (2,000) linear feet of 8-inch (minimum) or larger diameter underground ductile iron pipe with restrained push-on joints for water distribution or transmission main per project for the City and County of San Francisco.

C. Experience Statements. The apparent low Bidder and any other Bidder so requested shall submit to the Contract Administration Division within **seven (7) working days after the date of the City's notification of the lowest Bidder sufficient information on completed Experience Statement forms (Section 00 49 12), and additional sheets as necessary, to demonstrate to the satisfaction of the City the qualifications and experience of the key personnel / team members and Subcontractors identified below. Submit a separate Experience Statement for each key person and Subcontractor identified below:**

1. **Project Manager Qualifications: The "Project Manager" is the individual responsible for managing overall contract for the work to be performed.** The Project Manager shall have General Contractor experience managing pavement renovation and sewer pipeline replacement projects including, but not limited to responsibility for schedule, budget, and managing subcontractors and shall demonstrate that s/he has provided the **primary management role on at least two (2) pavement renovation and pipeline replacement projects in the past 10 years.**

- a. On the Experience Statement form (Section 00 49 12), identify the Project Manager and the projects and include a description of his or her role on the listed projects.
2. **Project Superintendent Qualifications:** **The “Project Superintendent” is the individual responsible for construction work to be performed.** The Project Superintendent shall have General Contractor experience constructing pavement renovation and sewer pipeline replacement projects, including, but not limited to, managing other superintendents, scheduling subcontractor crews, and implementing a worker safety program. In addition, The Project Superintendent shall have a minimum five (5) years of experience, and have served as the construction superintendent on a minimum of three (3) pipeline projects with substantial completion dates within the last eight (8) years from the bid date of this contract, including satisfactory installation of at least one thousand (1,000) linear feet of 21-inch (minimum) diameter sewer pipe at a depth of at least 10 feet (includes excavation and shoring support) per project.
 - a. On the Experience Statement form (Section 00 49 12), identify the Project Superintendent and the projects and include a description of his or her role on the listed projects.
3. **Cured-In-Place Liner (CIPL) Pipe Subcontractor Qualifications:** The subcontractor responsible for installing CIPL pipe shall have successful installation experience of CIPL in wastewater or storm collection systems installed in the US of at least twelve thousand (12,000) feet of 36-inch diameter or larger in equivalent circular size within the last five (5) years. Of this quantity, at least 2,000 feet must be non-circular or irregular-shaped cross sections. The installations must have been in service for at least two (2) years at the time of Bid Opening.
4. **Traffic Control Subcontractor Qualifications:** The subcontractor responsible for traffic control throughout the duration of the project shall have experience working in an urban environment and shall meet the minimum qualifications and certification requirements listed in the Traffic Control Specifications, Section 01 55 26.
5. **OCS Subcontractor Qualifications:** In the event the SFMTA cannot perform the work to locally de-energize OCS wires when the Contractor has scheduled work, the Contractor shall provide as-needed OCS system isolation support by a qualified Contractor with a minimum of 2 projects in contracting and construction overhead contact system work in San Francisco Municipal Railway’s system within the last 5 years to be considered a qualified Contractor. The contractor will be required to hold licenses and appropriate bonds for conducting work on overhead lines. The contractor must also be previously approved by SFMTA overhead lines management, contact Charles Drane at (415) 554-9209 or charles.drane@sfmta.com.
6. **Project Safety Representative (PSR) Qualifications:** Contractor’s Project Safety Representative (PSR) shall meet the requirements as specified in Specification Section 01 35 45 – Health and Safety Criteria.
- D. **Key Team Members Qualifications.** The City will promptly notify the apparent low Bidder in writing if the City, after due investigation, has any reasonable objection to any such proposed person proposed in response to Paragraph "Experience Statements" above, and will request the apparent low Bidder to submit an acceptable substitute without an increase in Bid price.
 1. If the apparent low Bidder declines or fails to make such substitution within 10 working days from the date of the City’s request, the City may proceed to award the Contract to the responsible Bidder who submitted the next lowest responsive Bid and

proposes to use acceptable persons. Declining to make requested substitutions may constitute, as determined by the City at its sole discretion, Bidder's refusal to enter into the Contract and result in forfeiture of the Bid Security of such Bidder.

2. Any person listed for whom the City does not make a written objection before award of the Contract will be deemed acceptable to the City, subject to revocation of such acceptance after the effective date of the Agreement as provided in Section 00 72 00 (refer to Paragraphs 3.04, 3.05 and 4.01).
3. No acceptance by the City of any such person shall constitute a waiver of the right of the City to reject defective work.
4. In the event that the Contractor seeks to substitute a key team member during the performance of the contract, the Contractor shall submit, at least 7 days prior to engaging the person, an Experience Statement (Section 00 49 12) to the City in the same manner as described above for the City's review and acceptance. The substitution is subject to the approval of the City Representative based upon qualifying experience on similar projects. Failure to obtain the City's acceptance shall not constitute a cause for delay. In addition, the City may exercise its right to stop the Work under Paragraph 2.03 of the General Conditions (Section 00 72 00) until such time as the Contractor engages persons possessing skills and qualifications acceptable to the City.

1.12 LOCAL BUSINESS ENTERPRISE (LBE) PROGRAM

- A. Bidders' attention is directed to the City Non-Discrimination and Subcontracting requirements for this Contract as specified in CMD Attachment 1 and in accordance with Administrative Code Chapter 14B. Refer to CMD Attachment 1. CMD Attachment 1 may be found at the following website: <http://sfgsa.org/index.aspx?page=6135>
- B. An LBE Subcontracting Participation Requirement under Chapter 14B shall apply to this Contract. Refer to Supplementary Instructions to Bidders: Local Business Enterprise (LBE) Program (Section 00 22 11) for more details.

1.13 LOCAL HIRING REQUIREMENTS

- A. The San Francisco Local Hiring Policy for Construction, San Francisco Administrative Code section 6.22(g), will apply to this Contract, if awarded. Refer to Section 00 73 30 for information regarding local hiring requirements, including but not limited to local hiring forms that must be submitted after Contract award and prior to Notice to Proceed. In addition, the Office of Employment and Workforce Development ("OEWD") maintains a "Q&A" regarding the Policy, which is available on OEWD's website at: www.oewd.org.

1.14 SUBMISSION AND OPENING OF BIDS

- A. Bids shall be submitted at Contract Administration Division no later than the date and time, and at the place specified in the Advertisement for Bids, or as subsequently specified if changed by Addendum.
 1. The deadline for submitting Bids will be the time stated in the Advertisement for Bids, exactly, the time to be determined per United States Official Time (Pacific), accessed at: www.time.gov
 2. The City may decline to accept Bids received after the specified date and time.
- B. Bidder shall fill in all blanks as appropriate on the Bid Form (Section 00 41 00) and shall submit with its Bid the forms listed in the Bidding Forms Checklist (Section 00 40 13) properly completed and executed as needed.
- C. The City reserves the right in its sole discretion to allow the successful Bidder a period of time reasonable under the circumstances after Bid opening, which shall be no more than 14

days unless extended in writing by the City, to submit additional forms or documents required by the City and to reject the Bid if such forms or documents are not properly submitted within the time allotted by the City.

- D. Envelopes containing Bids shall be sealed, addressed to Director of Public Works, and designated as "Bid for 19TH AVENUE (STATE ROUTE 1) COMBINED CITY PROJECT (San Francisco Public Works Contract No. 1000005832)." Envelopes shall bear the name and address of the Bidder.
- E. Bids that are mailed or sent by messenger service shall have the previously described envelope placed inside an envelope addressed as described in Paragraph A of this Article "Submission and Opening of Bids". It shall be Bidder's responsibility to see that Bids are sent in sufficient time to be received at that address and taken to the place of the Bid opening prior to the time specified in the Advertisement for Bids.
 - 1. Oral, telephonic, electronic mail (email), or facsimile Bids are invalid and will not be accepted.
- F. Bids that are in any way conditional or which make alterations, omissions, or qualifications to the terms of the Bid or Bid Documents may be rejected as incomplete or qualified.
- G. All Bid data, except signatures, shall be typed or printed legibly in non-erasable ink, with all strikeouts and corrections initialed by the person signing the Bid.
- H. Each Bid shall show the full business address of the Bidder and be executed with its usual signature. A Bid by a partnership shall furnish the full names of all partners and shall be signed in the partnership name by one member of the partnership or by an authorized representative, followed by the signature and title of the person signing. A Bid by a corporation, with corporate seal affixed, shall be executed with the legal name of the corporation, followed by the name of the state of incorporation, and the signature and title of the person executing. The name and title of the person executing shall also be typed or printed below the signature. When required by the City, satisfactory evidence of the authority of the officer executing on behalf of the corporation shall be furnished. **Bidder shall furnish satisfactory evidence that the Bidder is currently registered with the California Department of Industrial Relations as required by California Labor Code section 1725.5.**
- I. The City reserves the right after opening Bids to reject any or all Bids, and to waive any minor irregularity in a Bid.
- J. A bid may be rejected if the City determines that any of the bid item prices are materially unbalanced to the potential detriment of the City.
- K. Bids will be opened and read in public on the date Bids are received; subsequently, the City will furnish Bid tabulations to a Bidder who requests said information.
 - 1. Bidders requesting information on the Bid results shall make such requests in writing at least 24 hours after the receipt of Bids to Contract Administration Division.

1.15 INFORMATION TO BE SUBMITTED AFTER BID OPENING

- A. After the Bid Opening, required Bidders shall submit properly completed and executed Supplementary Bid Forms within the specified time and to the appropriate person as listed in the Supplementary Bidding Forms Checklist (Section 00 49 00) and as described below.
- B. Within **seven (7) working days** after the date of the City's notification of the lowest Bidder, the low Bidder, and any other Bidder so requested, shall submit the following:

1. Certification of Subcontractor, Lower-Tier Subcontractor or Supplier Regarding Debarment and Suspension form (Section 00 49 14) completed by each subcontractor, lower-tier subcontractor and supplier for lower tier covered transactions of \$25,000 or more.
 2. Certificate of Subcontractor Regarding Apprenticeship Training Program form (Section 00 49 15) completed by each subcontractor who employs journeymen or apprentices in an apprenticeable craft or trade if Bidder's Total Bid Price is \$30,000 or more or if the Contract Time is 20 days or more. If the subcontractor's Work involves one or more apprenticeable trades which are declared on Section 00 49 15 to be a signatory to a recognized apprenticeship or training program, written proof of status must be submitted for each such trade.
- C. Refer to Supplementary Instructions to Bidders: Local Business Enterprise (LBE) Program (Section 00 22 11) for additional CMD submittal requirements after bid opening.
- D. Refer to Article "Bidder's Qualifications" of this Section 00 21 13 for additional qualifications submittal requirements after Bid opening.
- E. Refer to Section 00 22 30 - Escrow Bid Documents for additional submittal requirements after Bid opening.
- F. Requests For Product Substitution: If the successful Bidder wishes to propose an "or equal" or other product substitution after Bid opening, said Bidder must make such request within the time limit following the date of the Award as specified on the Request for Substitution form (Section 00 49 18). Requests shall be granted or denied at the City's sole discretion. Refer to Section 00 49 18 and Specifications Section 01 25 13.

1.16 WITHDRAWAL OR REVISION OF BID

- A. Prior to the deadline for Bid opening, a submitted Bid may be revised or withdrawn by notice to Contract Administration Division. Such notice shall be in writing and signed by Bidder and, to be effective, must be received on or before the deadline for Bid opening.
1. A revised Bid shall be worded so as to not reveal the amount of the original Bid's Total Bid Price. Bid Security shall be in an amount sufficient for the Bid as revised or resubmitted.
 2. A withdrawn Bid may be submitted on or before the deadline for Bid opening.
- B. Those Bids not withdrawn prior to the scheduled time for receipt of Bids shall not be withdrawn or modified for a period of 90 days thereafter.

1.17 OBJECTIONS TO BID DOCUMENTS, BID PROTESTS

- A. Failure by a Bidder to comply with the procedures set forth in this Paragraph will render any Objection or Protest inadequate and may result in its rejection by the City.
- B. The City will accept and consider the following types of Objections and Protests if they are timely submitted and meet all other applicable requirements of this Paragraph:
1. Written Objections to any provision or legal requirement set forth in or imposed by the Bid and Contract Documents by a prospective Bidder that are apparent, or reasonably discoverable, prior to the submission of Bids;
 2. Bid Protests submitted by a Bidder after Bid opening against another Bidder or Bidders; and
 3. Protests submitted by a Bidder whose Bid has been rejected by the City based on a determination by the City that the Bid is non-responsive and/or the Bidder is not responsible.

- C. Objections Prior to Submission of Bids. Should a prospective Bidder object on any ground to any provision or legal requirement set forth in the Bid and Contract Documents (including all Addenda), including but not limited to Objections based on allegations that: (i) the Bid or Contract Documents are unlawful in whole or in part; (ii) one or more of the requirements of the Bid or Contract Documents is onerous, unfair or unclear; (iii) the structure of the Bid Documents does not provide a correct or optimal process for the solicitation of the Work; (iv) the Bid or Contract Documents contain one or more ambiguity, conflict, discrepancy or other error; or (v) the Bid or Contract Documents unnecessarily precludes alternative solutions to the Work, the prospective Bidder must provide timely written notice of Objection as set forth below.
1. **An Objection must be in writing and must be received by the City no later than 10 calendar days prior to the date of Bid opening.** If an Objection is mailed, the prospective Bidder bears the risk of non-delivery within the required time period. Objections should be transmitted by Certified Mail-Return Receipt Requested or by other means that objectively establish the date of receipt by the City. Telephoned Objections will not be considered.
 2. Objections shall be transmitted to Contract Administration Division.
 3. The Objection shall state the basis for the Objection, refer to the specific requirement or portion of the Bid or Contract Documents at issue, and shall describe the modification to the Bid or Contract Documents sought by the prospective Bidder. The Objection shall also include the name, address, telephone number, and email address of the person representing the prospective Bidder.
 4. The City, at its discretion, may make a determination regarding an Objection without requesting further documents or information from the prospective Bidder who submitted the Objection. Accordingly, the initial Objection must include all grounds of objection and all supporting documentation or evidence reasonably available to the prospective Bidder at the time the Objection is submitted. If the prospective Bidder later raises new grounds or evidence that were not included in the initial Objection, but which could have been raised at that time, then the City may not consider such new grounds or new evidence.
 5. Upon receipt of a timely and proper Objection, the City will review the Objection and conduct an investigation as it deems appropriate. As part of its investigation, the City may consider information provided by sources other than prospective Bidder. At the completion of its investigation, the City will provide a written determination to the prospective Bidder who submitted the Objection. If required, the City may extend the Bid opening date to allow sufficient time to review and investigate the Objection, and issue Addenda to all Bidders incorporating any necessary changes to the Bid or Contract Documents.
 6. Objections not received within the time and manner specified will not be considered. **A Bidder's failure to provide the City with a written Objection as specified above on or before the time specified above shall constitute a complete and irrevocable waiver of the ground(s) of objection and forfeit the Bidder's right to raise such ground(s) of objection later in the procurement process, in a Government Code Claim, or in other legal proceedings.**
 7. A Bidder may not rely on an Objection submitted by another Bidder, but must timely pursue its own Objection.
- D. Bid Protest Against Another Bidder. A Bidder may file a protest with the City against another Bidder or Bidders subject to the provisions of this Paragraph. The procedures and time limits set forth in this Paragraph are mandatory and are a Bidder's sole and exclusive remedy in protesting other Bidders' Bids. **Failure to comply with these procedures shall constitute a waiver of any right to pursue the Bid Protest, including filing a Government Code claim or other legal proceedings.** Bid Protests shall be subject to the following time limitations, restrictions and procedures.
1. A Bid Protest shall be in writing and shall be received by the City no later than 5:00 p.m. on the 5th working day after the date of Bid opening. If a Bid Protest is mailed,

the Bidder filing the Protest bears the risk of non-delivery within the required time period. Protests should be transmitted by Certified Mail-Return Receipt Requested or by other means that objectively establish the date of receipt by the City. Telephoned Protest will not be considered.

2. The Bidder filing the Protest must concurrently transmit a copy of the initial Protest document and any attached documentation to the other Bidder(s) who may be adversely affected by the outcome of the Protest.
 3. The City will provide the protested Bidders with 5 working days from their receipt of a Bid Protest to respond to the Protest.
 4. Bid Protests, responses, and supplemental information, if any, shall be transmitted to Contract Administration Division.
 5. The Bid Protest shall state the basis for the Protest and provide supporting evidence, refer to the specific portion(s) of the Bid that forms the basis of the Protest, and include the name, address, telephone number, and email address of the person representing the prospective Bidder.
 6. The City, at its discretion, may make a determination regarding a Protest without requesting further documents or information from the prospective Bidder who submitted the Protest. Accordingly, the initial Protest submittal must include all grounds of Protest and all supporting documentation or evidence reasonably available to the prospective Bidder at the time the Protest is submitted. If the prospective Bidder later raises new grounds or evidence that were not included in the initial Protest submittal, but which could have been raised at that time, then the City may not consider such new grounds or new evidence.
 7. Upon receipt of a timely and proper Protest, the City will review the Protest and conduct an investigation as it deems appropriate which, among other things, may include the review of information provided by or available from sources other than the protesting and protested Bidders. The City may also consider supplemental correspondence relating to the original ground(s) of Protest submitted by a protesting Bidder and/or a protested Bidder to the extent the City determines that such information will assist it in resolving the Protest. At the completion of its review and investigation, the City will provide a written determination to the Bidder who submitted the Protest, with a copy to the protested Bidder(s).
 8. Protests not received within the time and in the manner specified may not be considered.
 9. A Bidder may not rely on a Protest submitted by another Bidder, but must timely pursue its own Protest.
 10. If the City determines that a Protest is frivolous, the protesting Bidder may be determined to be non-responsible and that Bidder may be determined to be ineligible for future contract awards.
- E. Rejection of a Bid by the City. If the City determines that a Bidder's Bid is non-responsive or that a Bidder is not responsible, the City will issue a Notice of non-responsiveness and/or non-responsibility, as appropriate. Determination of the Notice will set forth the basis for the City's determination and rejection of the Bid.

1.18 AWARD OF CONTRACT

- A. **In accordance with California Labor Code sections 1771.1 and 1725.5, no contract can be awarded to a Bidder without proof that the Bidder and all identified subcontractors are currently registered with the California Department of Industrial Relations.**
- B. In accordance with San Francisco Administrative Code chapter 6, no bid is accepted and no contract in excess of \$600,000 is awarded by the City until such time as the Mayor or the

Mayor's designee approves the contract for award, and the Director of Public Works then issues an order of award.

- C. Pursuant to Charter section 3.105, all contract awards are subject to certification by the Controller as to the availability of funds.
- D. The Contract, if awarded, will be awarded to the responsible Bidder who submits the lowest responsive Bid.
- E. The City will issue a written notification of award of the Contract to the successful Bidder.

1.19 CONTRACT SECURITY

- A. Article 10 of the General Conditions (Section 00 72 00) sets forth the City's requirements as to performance and payment (labor and material) bonds.
- B. When the successful Bidder delivers the executed Agreement, it must be accompanied by the required performance and payment bonds.

1.20 EXECUTION OF CONTRACT

- A. The successful Bidder shall deliver within 10 working days after the date of the City's written notification of award of the Contract the following properly completed and signed documents to Contract Administration Division.
 - 1. Contract Agreement (Section 00 52 00), 2 original copies with the successful Bidder's signature affixed thereto.
 - a. If successful Bidder is "doing business as" company, attach a copy of "dba" certificate filed with and certified by the County Clerk.
 - 2. Performance bond and payment (labor and material) bond (Section 00 61 13), 2 original copies of each.
 - 3. Insurance certificates and endorsements, 2 original copies of each, including the following:
 - a. The Contract number "1000005832" and Project title "19TH AVENUE (STATE ROUTE 1) COMBINED CITY PROJECT", the agent names and telephone numbers, and name the certificate holder as follows:

Contract Administration Division
San Francisco Public Works
1155 Market Street, 4th Floor
San Francisco, CA 94103
 - b. Name as additional insured the parties as specified in Section 00 73 16, Article "Insurance for Others".
 - c. Otherwise comply with applicable requirements as specified in Section 00 73 16.
 - 4. Corporate authority in the form of resolution or certified extract from the minutes authorizing the signatory to sign on behalf of the corporation.
 - 5. Power of Attorney authorizing signatories to execute Performance and Payment Bonds.
 - 6. **Proof that Bidder and all subcontractors are currently registered with the California Department of Industrial Relations under California Labor Code section 1725.5.**
 - 7. Proof of Status as Signatory to Apprenticeship Program or Proof of Payment if Bidder's Total Bid Price is \$30,000 or more or if the Contract Time is 20 days or more:
 - a. If successful Bidder declared that it is a signatory to a recognized apprenticeship or training program on the Certificate of Bidder Regarding

- Apprenticeship Training Program form (Section 00 45 65), successful Bidder shall submit written proof of its status as a signatory.
- b. For each subcontractor that declared it is a signatory to a recognized apprenticeship or training program on the Certificate of Subcontractor Regarding Apprenticeship Training Program form (Section 00 49 15), successful Bidder shall submit written proof of each such subcontractor's status as a signatory.
 - c. Contractor and all of its subcontractors that are not signatories to a recognized apprenticeship or training program as described herein shall be required after award of the Contract to submit with each progress payment request, beginning with the second such request, proof that successful Bidder (Contractor) or its subcontractor(s) contribute to a fund or funds to administer and conduct the apprenticeship program(s) in the area of the Site for each apprenticeable trade or craft that Contractor or its subcontractor(s) is providing labor to the Project. Such contributions shall be made on the same basis and in the same manner as the other contractors do, or, where the trust fund administrators are unable to accept such funds, Contractor and its subcontractor(s) must provide written proof of payment of a like amount to the California Apprenticeship Council.
- 8. Contractor shall submit a set of Escrow Bid Documents accompanied by a signed original Escrow Bid Documents Declaration form (Section 00 49 16) in a sealed container in accordance with Section 00 22 30 – Escrow Bid Documents.
 - 9. Contractor shall submit the appropriate bond, insurance certificates and insurance documents as required per Section 00 73 16 – Insurance Requirements.
 - 10. Contractor shall submit Local Hire Forms as specified and required per Section 00 73 30 – Local Hiring Requirements.
- B. Additionally, if not included with the Bid, the successful Bidder shall deliver to Contract Administration Division within the time limit set forth above, the required San Francisco business tax registration numbers and contractor license numbers as specified in Article "Statutory Bidding Requirements."
 - C. Failure to deliver to the San Francisco Public Works one or more of the documents listed in this Article "Execution of Contract" shall constitute a refusal to enter into the Contract and may result in forfeiture of Bidder's bid security if not submitted within the specified time frames in the Contract.
 - D. The successful Bidder must be in compliance with the Equal Benefits Provisions of Chapter 12B of the City's Administrative Code either at the time of Contract Award, or within 2 weeks of the date of Contract Award. Bidder's failure to timely obtain Chapter 12B compliance certification from CMD may result in Award of the Contract to the next lowest responsible, responsive Bidder, or re-bidding of the Contract at the discretion of the City.

END OF SECTION