

GENERAL CONDITIONS

STANDARD IFB

These General Conditions form a part of the contract documents.

DEFINITIONS

All terms are defined in the General or Compliance Conditions.

Addendum (plural **addenda**) means an addition, correction, deletion, or clarification to or of the specification document that is issued to prospective bidders prior to the opening of bids.

Awardee means the bidder awarded a contract as a result of its response to this Invitation for Bid.

Bid means a response submitted pursuant to this Invitation for Bid, compliant with all of the requirements of the specification documents.

Bidder means a party or entity that submits a bid in response to this Invitation for Bid.

General Superintendent means the General Superintendent of the Chicago Park District. The General Superintendent shall represent and act for the Park District in all matters pertaining to this contract in conjunction therewith. The term General Superintendent shall include any person designated in writing by the General Superintendent to act in his/her stead with respect to this contract and shall also include, with respect to any actions taken prior to the award of this contract, the Director of Purchasing.

Losses means, individually and collectively, liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which in any way arise out of or relate to any act, error or omission of bidder, bidder's breach of the Agreement or to bidder's negligent or otherwise wrongful acts or omissions, or those of its officers, agents, employees, consultants, subcontractors or licensees.

- 1.01 COMPLIANCE WITH ALL LAWS:** The awarded bidder(s) shall comply with all applicable laws, ordinances, executive orders and regulations of the federal, state, local and city government, which may in any manner affect the performance of this contract.
- 1.02 LAW GOVERNING:** This solicitation, any bid submitted pursuant to, and any contract resulting from this solicitation shall be governed and construed according to the laws of the State of Illinois.
- 1.03 CONFLICTS OF INTEREST:** No member of the governing body of the Chicago Park District or other unit of government, and no other officer, employee or agent of the Chicago Park District who exercises any functions or responsibilities in connection with the carrying out of the project shall have any personal interests, direct or indirect, in this contract. The awarded bidder covenants that he/she presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this contract pertains, and which would conflict in any manner or degree with the performance of its work thereunder. The awarded bidder further covenants that in its performance of this contract no person having any such interest shall be employed.
- 1.04 ETHICAL CONDUCT:** It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or in any other solicitation or proposal thereof. The awardee agrees to comply with the provisions of the State Officials and Employees Ethics Act, 5ILCS 430/1-1 *et seq.*, and Chapter III (Ethics) of the Chicago Park District Code.

1.05 NON-DISCRIMINATION

- 1.05.01** During the performance of this contract, the awardee agrees that it shall not discriminate against any worker, employee or applicant, or any member of the public, on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental handicap, unfavorable discharge from military services, parental status, or sexual orientation. Upon request of the Chicago Park District, the awardee also agrees to submit in writing a plan demonstrating compliance with equal employment opportunity laws and Chicago Park District policy requiring equal employment opportunity to all. Awardee further agrees that this clause will be incorporated by the contractor in all contracts entered into with suppliers of materials or services, subcontractors, and all labor organization furnishing skilled, unskilled and craft union skilled labor, or any other person or organization performing labor or services in connection with this contract.
- 1.05.02** Awardee shall comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., as amended, and any rules and regulations promulgated in accordance therewith, including, but not limited to the Equal Employment Opportunity Clause, Illinois Administrative Code, Title 44, Part 750 (Appendix A), which is incorporated herein by reference. Furthermore, the awardee shall comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended.
- 1.05.03** The awardee and subcontractors will furnish such reports and information as may be required in order to demonstrate compliance. In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any such laws, rules, regulations or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the awardee may be declared ineligible for further contracts of the Chicago Park District. Other such sanctions may be imposed and remedies invoked as otherwise provided by law.

1.06 MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE PARTICIPATION

- 1.06.01** The awardee shall comply with the Compliance Conditions of this contract, which governs minority- and women-owned business enterprise programs ("MBE" and/or "WBE"), and requires the awardee's compliance with the Park District's goal of awarding not less than 25% of the aggregate dollar value of all contracts to qualified MBEs and 5% to qualified WBEs. Chapter XI, Section F of the Code of the Chicago Park District establishes the Minority- and Women-Owned Business Enterprise program. A copy of this ordinance is available from the Chicago Park District, Department of Purchasing, 541 North Fairbanks Court, 3rd Floor, Chicago, Illinois 60611; (312) 742-5380.
- 1.06.02** During the term of the contract and any extension thereof, the awardee shall complete and submit quarterly MBE/WBE Utilization Reports.
- 1.07 WARRANTIES, LAWS AND REGULATIONS:** In addition to the warranties provided by law, the bidder hereby expressly represents and warrants:
- 1.07.01** That all goods and services delivered hereunder will conform in all respects with all manufacturer and seller warranties, and with the terms of this solicitation, including any drawings, specifications or standards incorporated herein, or with any samples furnished, and that they will be free from latent and patent defects in materials, workmanship and performance, and will be free from such defects in design. In addition, bidder warrants that said goods and services are suitable for, and will perform in accordance with, the purposes that are expressly specified in this solicitation. The Chicago Park District may return any nonconforming or defective items to the awardee or require correction or replacement of the item at the time the defect is discovered, all at the awardee's risk and expense. Bidder agrees that this warranty shall survive inspection, acceptance, and payment.
- 1.07.02** That the goods and/or services furnished hereunder (including all labels, packages and containers for said goods) comply with all applicable standards, rules and regulations in effect under the requirements of all federal, state, and local laws, rules and regulations as applicable, including the Occupational Safety and Health Act, as amended, with respect to design, construction, manufacture or use for their intended purpose of said goods or

services. Awardee shall furnish "Material Safety Data Sheets" in compliance with the Illinois Toxic Substances Disclosure to Employees Act.

- 1.07.03** That no article sold and delivered hereunder shall infringe any trademark, trade name, patent, copyright, or application therefore. In the event any article sold and delivered hereunder shall be covered by any trademark, trade name, patent, copyright, or application therefore, awardee shall indemnify, defend and hold harmless the Chicago Park District, its commissioners, officers, employees and agents from any and all loss, cost, or expense on account of any and all claims, suits, or judgments on account of the use or sale of such article in violation of rights under such trademark, trade name, patent, copyright, or application.
- 1.07.04** That nothing contained herein shall exclude or affect the operation of any implied warranties otherwise arising in favor of the Chicago Park District.
- 1.07.05** That all goods delivered shall be free and clear of all liens, claims or encumbrances of any kind.
- 1.08 INDEMNIFICATION:** Awardee does hereby assume all responsibility for and agrees to indemnify, save, and hold harmless, and, at the Park District's option, defend the Park District, its Commissioners, officers, employees, volunteers, contractors and agents (collectively, the "indemnitees") against any and all losses, claims, damages, liabilities, actions, suits, proceedings, costs, or expenses that the indemnitees may suffer, incur, or sustain, or for which it or they may become liable (including, but not limited to, mechanic's liens, personal or bodily injury to or death of persons, loss or damage to property or property rights, or claims for employees, subcontractors, agents or servants of the awardee) resulting from, arising out of, or relating to any negligence or initial misconduct in the performance of the awardee under this agreement. The obligation to indemnify the Park District shall survive the termination or expiration of this agreement.
- 1.09 PREVAILING WAGE RATES:** The awardee shall pay prevailing wages. As a condition of making payment to the awardee, the Chicago Park District may request that the awardee submit an affidavit or other evidence to the effect that not less than the prevailing hourly wage rate is being paid to those employed on contracts, in accordance with Illinois law.
- 1.10 COOPERATIVE PROCUREMENT WITH OTHER JURISDICTIONS**
- 1.10.01** The awardee agrees to provide products and/or services to any coterminous unit of local government. Sales will be made in accordance with the prices, terms, and conditions of this Invitation for Bid and any subsequent term contract.
- 1.10.02** Any unit of local government participating in this contract must be a party to a cooperative purchasing agreement with the Park District, or must obtain prior written approval of the Director of Purchasing of the Chicago Park District. The Park District shall notify the contractor of jurisdictions requesting participation.
- 1.10.03** All sales to other jurisdictions will be made on purchase orders issued by that jurisdiction. All receiving, inspection, payments, and other contract administration will be the responsibility of the ordering jurisdiction.
- 1.11 SELF PERFORMANCE:** The contractor shall perform, manage, and/or supervise at least 25% of the work of the contract with its own forces.
- 1.12 ASSIGNMENT:** The contract may not be subcontracted or assigned by the awardee, in whole or in part, without the prior written consent of the Director of Purchasing of the Chicago Park District. Such consent, if granted, shall not relieve the contractor of any responsibilities under the contract.
- 1.13 INVENTORY:** The awardee shall be required to maintain, or to have available, an inventory sufficient to provide the materials specified within the number of calendar days offered in the bid.
- 1.14 CONTRACT AMENDMENTS:** The Chicago Park District may from time to time request changes in the scope of services to be performed under this contract. Such changes, including any increase or

decrease in the amount of the awardee's compensation, which are mutually agreed upon by and between the Park District and the awardee, shall be incorporated in written amendments to the contract. No changes, amendments, modifications, cancellation or discharge of the proposed contract, or any part hereof, shall be valid unless in writing and signed by parties hereto, or their respective successors.

1.15 CONTRACT MODIFICATIONS AND SUBSTITUTIONS

- 1.15.01** No product substitution may be made during the course of the contract without the written consent of the Director of Purchasing.
- 1.15.02** Products not specifically listed herein may be added to this contract. The Purchasing Department will notify the contracted vendor in writing of the additional items, and request a written price quote. Such item(s) may be added to the contract only if the prices are competitive with current market prices and said items are approved by the Director of Purchasing in the form of a written modification signed by both the contracted vendor and the Chicago Park District.
- 1.15.03** Any such item(s), either substituted or added, which are delivered by the contracted vendor without a properly executed contract modification signed by the Director of Purchasing, are delivered entirely at the vendor's risk. Consequently, in the event that the Park District does not execute such a modification, the contracted vendor hereby releases the Chicago Park District from any liability whatsoever to pay for any items delivered prior to the contracted vendor's receipt of the fully signed modification.
- 1.15.04** The Director of Purchasing reserves the right to seek competitive pricing information on said item(s) from other suppliers and to procure such item(s) in a manner that serves the best interest of the Chicago Park District.

1.16 MODEL CHANGES

- 1.16.01** If, during the life of this contract or any extension thereto, the manufacturer discontinues or makes substantive changes to the specifications of any product covered under this contract, the awardee shall provide prompt written notice to the Department of Purchasing of the Chicago Park District. Said notice shall include the complete revised specifications for the revised product or for any product offered as a subsequent model or replacement.
- 1.16.02** The awardee shall furnish any subsequent or replacement models at the same discount level as the products originally bid.
- 1.16.03** The Park District reserves the right to reject any proposed change in model and specs and to terminate without cost the future performance of this contract.

1.17 PURCHASE ORDERS: A valid order exists only when a written purchase order has been issued and the following two conditions have been met:

- 1.17.01** A typed purchase order number appears in the designated space on the purchase order.
- 1.17.02** The signature of the General Superintendent or the Director of Purchasing (or designees) appears in the designated space on the purchase order.

1.18 TRANSPORTATION: All shipments are to be made "F.O.B. Destination." It is understood that title to the merchandise will not transfer until the merchandise is received at the delivery destination.

1.19 DELIVERIES: The Chicago Park District will issue individual purchase orders to order materials listed in this contract. Each purchase order will state which materials are to be delivered, the quantities, the delivery location, the delivery date and the hours during which delivery will be accepted. **The Park District will not be responsible for goods delivered and/or services performed on its account without a specific written purchase order.**

- 1.19.01** Deliveries shall be made to the location(s) specified on the purchase order.

- 1.19.02** The awardee shall specify the number of calendar days required for delivery after receipt of a purchase order. Prompt delivery shall be a factor for consideration in the award of the contract.
- 1.19.03** At least twenty-four hours prior to delivery, the awardee will notify the designated representative of the Park District of the scheduled delivery time at the specified Park District location, so that the Park District representative may inspect the material delivered.
- 1.19.04** The awardee shall deliver and unload -- without the assistance of Park District staff or equipment -- the ordered materials at Park District locations, when, where, and in the quantities ordered for each location, as stated in the purchase order. Deliveries shall be made between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, and shall be inside delivery, unless otherwise specified.
- 1.19.05** If applicable, awardee shall be responsible for any financial losses incurred by improper or negligent work performance at a site and shall repair or replace and pay for any replacement or damages to pavement, landscaping, lawns, new and existing structures, material, equipment, fixtures, appliances, and apparatus during the course of work, where such damage is directly due to work under this contract, or where such damage is the result of the neglect or carelessness on the part of the awardee or his employees, or on the part of the awardee's subcontractor or his employees.
- 1.20 DISCOUNTS:** Prices quoted must be net after deducting all trade and quantity discounts. Where cash discount for prompt payment is offered, the discount period shall begin with the date of receipt of a correct invoice or receipt or final acceptance of goods, whichever is later. The prompt payment discount will not be a factor in determining the award of the contract.
- 1.21 TAXES:** As a municipal body, the Chicago Park District is not subject to Federal Excise Tax, Illinois Retailer's Occupation Tax, Use Tax, or Municipal Retailer's Occupation Tax. The Illinois Department of Revenue tax exemption number for the Chicago Park District is E-998-0363-02. Upon request, the Comptroller's Office of the Park District will provide a Federal Excise Tax Exemption Certificate. The prices quoted herein shall include all other federal and/or state taxes that apply, direct and/or indirect.
- 1.22 INVOICES:** The awardee shall submit itemized original invoices in triplicate to the Comptroller's Office, Chicago Park District, 541 North Fairbanks Court, 6th Floor, Chicago, Illinois 60611. All invoices must include the purchase order number, delivery location, description of goods, materials and/or services, quantity, unit price, extended price and invoice total. Invoices submitted without the above information shall be returned to the awardee for correction. Payments shall be made in accordance with applicable provisions of the "Local Government Prompt Payment Act" (50 ILCS 505/ et seq.) unless both parties agree to a longer payment period.
- 1.23 PRICE ESCALATION:** Prices are not subject to change for the initial term of the contract.
- 1.23.01** The Director of Purchasing will consider price escalation only after an extension option has been exercised, and only when the awardee can substantiate the need for an increase by furnishing a certified statement or affidavit stating that the increase represents an increase in the costs of materials only, and in no way represents an increase for profits, labor, or other overhead. The awardee must submit evidence from the manufacturer detailing the pricing changes, the effective date for the manufacturer's pricing change(s) and any other information requested by the Director of Purchasing.
- 1.23.02** If approved by the Director of Purchasing, a properly executed contract modification must be signed by the awardee and the Chicago Park District in order to reflect the price change(s) and the effective date for the change(s). Original bid prices are in effect until the modification has been fully executed and released to the awardee.
- 1.23.03** A period of twelve (12) months must elapse between escalation requests.
- 1.23.04** The Park District reserves the right to reject any proposed price increase and to terminate without cost the future performance of this contract.

- 1.24 DEFAULT:** Time is of the essence of the contract and if delivery of acceptable items or rendering of services is not completed by the time promised, the Chicago Park District reserves the right, without liability, and in addition to its other rights and remedies, to terminate the contract by notice, effective when received by the awardee, as to stated items not yet shipped or services not yet rendered, and to secure substitute materials and/or services from any other available source. The awardee shall be liable to and promptly reimburse the Chicago Park District for any difference in price, over and above the contract price, incurred by the Park District in purchasing substitute materials and/or services, from the time of non-performance to the contract expiration date. In addition to the difference in price, the awardee shall promptly reimburse the Park District for expenses in securing alternative goods, materials or services due to the awardee's failure to meet its obligations, and for all attorney's fees and court costs incurred to seek or enforce collection of said difference, costs, fees, and expenses, or any other amounts due the Park District. The Park District reserves the right to hold back any monies due the awardee at the time of the awardee's inability or failure to perform, and to deduct from these funds any said difference, costs, fees and expenses.
- 1.25 DISPUTES:** Any dispute arising under this contract which is not disposed of shall be decided by the General Superintendent, who shall reduce his decision to writing and who shall mail or otherwise furnish a copy to the selected bidders(s). The decision of the General Superintendent shall be final and binding.
- 1.26 TERMINATION**
- 1.26.01 Termination for Convenience:** The Chicago Park District reserves the right to terminate a contract in whole or in part, without showing cause, upon giving written notice to the awardee. The Park District shall only pay for the goods delivered and accepted and/or services performed prior to the date of termination at the related contract unit prices. The awardee will not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.
- 1.26.02 Termination for Cause:** Failure on the part of the awardee to fulfill contractual obligations shall be considered just cause for termination of the contract, and the Chicago Park District shall have against the awardee all remedies provided by law and equity. The Park District shall have the option of paying for services performed and/or goods delivered and accepted by the Park District that are in compliance with the requirements of the contract documents prior to the date of termination, or the Park District may return the unused or unconsumed goods to the awardee without obligation for payment thereof or for any shipping costs associated therewith.
- 1.27 NON-APPROPRIATION OF FUNDS:** Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds. In the event that funds are not appropriated, the Park District will notify the awardee of such occurrence.
- 1.28 CHANGE OF ADDRESS OR BUSINESS INFORMATION:** The Director of Purchasing must be notified immediately of any change of address of the awardee, or change of ownership, or of any change in the awardee's business organization as described in the Economic Disclosure Statement submitted with the bid.

End of General Conditions