

HENNEPIN HEALTHCARE SYSTEM INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION PROJECTS

ARTICLE 1 DEFINITIONS

§1.1 *General Definitions*

Definitions set forth in the applicable General Conditions of the Contract for Construction.

§ 1.2 *Bidding Documents* include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Invitation to Bid, Instructions to Bidders, Supplementary Instructions to Bidders, the bid form, and other sample bidding and contract forms included or referenced in the Project Manual or other specifications. The proposed Contract Documents consist of the Agreement between Hennepin Healthcare System and Contractor, which may include, Conditions of the Contract (General, Supplementary and other Conditions including but not limited to Hennepin Healthcare's standard terms and conditions), Drawings, Specifications and all Addenda issued prior to execution of the Contract.

§ 1.3 *Addenda* are written or graphic instruments issued by the Architect or other consultant prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.

§ 1.4 A *Bid* is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 The *Base Bid* is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which Work may be added or from which Work may be deleted for sums stated in Alternate Bids.

§ 1.6 An *Alternate Bid (or Alternate)* is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

§ 1.7 A *Unit Price* is an amount stated in the Bid as a price per unit of measurement for materials, equipment or services or a portion of the Work as described in the Bidding Documents.

§ 1.8 A *Bidder* is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.

§ 1.9 A *Sub-bidder* is a person or entity who submits a bid to a Bidder for materials, equipment or labor for a portion of the Work.

§ 1.10 A *Materials Bid* (if provided) represents tangible property to be purchased for purposes of the bid project and not tools of the trade to be used by bidder on additional projects. Materials bids shall be submitted as tax exempt.

ARTICLE 2 BIDDER'S REPRESENTATIONS

§ 2.1 The Bidder by making a Bid represents that:

§ 2.1.1 The Bidder has read and understands the Bidding Documents or Contract Documents, to the extent that such documentation relates to the Work for which the Bid is submitted, and for other portions of the Project, if any, being bid concurrently or presently under construction.

§ 2.1.2 The Bid is made in compliance with the Bidding Documents.

§ 2.1.3 The Bidder has visited the site, become familiar with local conditions under which the Work is to be performed and has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents.

§ 2.1.4 The Bid is based upon the materials, equipment and systems required by the Bidding Documents without exception.

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 COPIES

§ 3.1.1 Bidders may obtain complete sets of the Bidding Documents from Hennepin Healthcare's Supply Chain Management or the named Architect or consultant.

§ 3.1.2 Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the Advertisement or Invitation to Bid, or in supplementary instructions to bidders.

§ 3.1.3 Bidders shall use complete sets of Bidding Documents in preparing Bids; neither Hennepin Healthcare System nor Architect, or consultant issuing bid specifications assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

§ 3.1.4 Hennepin Healthcare System and Architect, Hennepin Healthcare or consultant issuing bid specifications may make copies of the Bidding Documents available on the above terms for the purpose of obtaining Bids on the Work. No license or grant of use is conferred by issuance of copies of the Bidding Documents.

§ 3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

§ 3.2.1 The Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being bid concurrently or presently under construction to the extent that it relates to the Work for which the Bid is submitted, shall examine the site and local conditions, and shall at once report to the Architect, Hennepin Healthcare or consultant issuing bid specifications, errors, inconsistencies or ambiguities discovered.

§ 3.2.2 Bidders and Sub-bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the Architect, Hennepin Healthcare or consultant issuing bid specifications at least seven days prior to the date for receipt of Bids.

§ 3.2.3 Interpretations, corrections and changes of the Bidding Documents will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon them.

§ 3.2.4 Hennepin Healthcare System and Architect, or consultant issuing bid specifications will not be responsible for verbal answers to inquiries regarding the interpretation of the Drawings and Specification.

§ 3.3 SUBSTITUTIONS

§ 3.3.1 The materials, products and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

§ 3.3.2 No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the Architect, Hennepin Healthcare or consultant issuing bid specifications at least ten days prior to the date for receipt of Bids. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work, including changes in the work of other contracts that incorporation of the proposed substitution would require, shall be included. The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's Hennepin Healthcare's or consultant's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.3 If the Architect, Hennepin Healthcare or consultant issuing bid specifications approves a proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.

§ 3.3.4 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

§ 3.3.5 Substitution of materials, equipment and systems indicated in the Specifications as "no substitutions allowed" will not be considered by the Architect, Hennepin Healthcare or consultant issuing bid specifications.

§ 3.3.6 Substitution requests shall be submitted on a duplicate of the form provided in the Project Manual.

§ 3.4 ADDENDA

§ 3.4.1 Addenda will be transmitted to all who are known by the issuing office to have received a complete set of Bidding Documents.

§ 3.4.2 Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

§ 3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

§ 3.4.4 Each Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 PREPARATION OF BIDS

§ 4.1.1 Bids shall be submitted on the forms included with the Bidding Documents. Any modification of the Bid Form beyond providing the requested information may result in rejection of the Bid.

§ 4.1.2 All blanks on the bid form shall be legibly executed in a non-erasable medium.

§ 4.1.3 Sums shall be expressed in both words and figures. In case of discrepancy, the amount written in words shall govern.

§ 4.1.4 Interlineations, alterations and erasures must be initialed by the signer of the Bid.

§ 4.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change." Failure to bid an Alternate may result in rejection of the Bid.

§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall make no additional stipulations on the bid form nor qualify the Bid in any other manner.

§ 4.1.7 Each copy of the Bid shall state the legal name of the Bidder and the nature of legal form of the Bidder. The Bidder shall provide evidence of legal authority to perform within the jurisdiction of the Work. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder.

§ 4.2 BID SECURITY

§ 4.2.1 Only if specifically requested in the bid documents, each Bid shall be accompanied by a certified check, cashier's check or corporate surety bond in an amount equal to five (5%) percent of the Base Bid, pledging that the Bidder will enter into a contract with Hennepin Healthcare System on the terms stated in the Bid and will furnish bonds as described hereunder in Article 7 covering the faithful performance of the Contract and the payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to Hennepin Healthcare System as liquidated damages, not as a penalty.

§ 4.2.2 If a surety bond is required, it shall be written on AIA Document A310, Bid Bond, or on a corporate surety company form using language in conformance thereto, unless otherwise provided in the Bidding Documents, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.

- .1 Bid security shall be made payable to Hennepin County and Hennepin County Medical Center without conditions
- .2 Bid bonds shall be duly executed by the Bidder as a principal and issued by a corporate surety company authorized to do business in the State of Minnesota
- .3 The attorney-in-fact who executes a surety bond on behalf of the surety shall affix to the bond a certified and current copy of the attorney-in-fact's power of attorney, which shall include the attorney-in-fact's current business address and telephone number.

§ 4.2.3 Hennepin Healthcare System will have the right to retain the bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds, if required, have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn or (c) all Bids have been rejected.

§ 4.3 SUBMISSION OF BIDS

§ 4.3.1 All copies of the Bid, the bid security, if any, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

§ 4.3.2 Bids shall be deposited at the designated location prior to the time and date for receipt of Bids. Bids received after the time and date for receipt of Bids will be returned unopened.

§ 4.3.3 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

§ 4.3.4 Oral, telephonic, telegraphic, facsimile or other electronically transmitted bids will not be considered.

§ 4.4 MODIFICATION OR WITHDRAWAL OF BID

§ 4.4.1 A Bid may not be modified, withdrawn or canceled by the Bidder for a period of sixty (60) days following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting a Bid.

§ 4.4.2 Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder. Written confirmation over the signature of the Bidder shall be received, and date- and time-stamped by the receiving party on or before the

date and time set for receipt of Bids. A change shall be so worded as not to reveal the amount of the original Bid.

§ 4.4.3 Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

§ 4.4.4 Bid security, if required, shall be in an amount sufficient for the Bid as resubmitted.

ARTICLE 5 CONSIDERATION OF BIDS

§ 5.1 OPENING OF BIDS

At the discretion of Hennepin Healthcare System, if stipulated in the Advertisement or Invitation to Bid, the properly identified Bids received on time will be publicly opened and will be read aloud. An abstract of the Bids may be made available to Bidders.

§ 5.2 REJECTION OF BIDS

Hennepin Healthcare System shall have the right to reject any or all Bids. A Bid not accompanied by a required bid security or by other data required by the Bidding Documents, or a Bid which is in any way incomplete or irregular is subject to rejection.

§ 5.3 ACCEPTANCE OF BID (AWARD)

§ 5.3.1 Subject to approval by Owner's Board of Directors, and in certain cases subject to approval by the Hennepin County Board, it is the intent of Hennepin Healthcare System to award a Contract to the lowest qualified Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. Nothing herein shall preclude Hennepin Healthcare System, in its sole discretion, from providing additional funds as it deems necessary. Hennepin Healthcare System shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in Hennepin Healthcare System's judgment, represents the best value to Hennepin Healthcare System.

§ 5.3.2 Hennepin Healthcare System shall have the right to determine the low bidder based on the sum of the Base Bid alone.

§ 5.4 NON-COLLUSION CLAUSE

§ 5.4.1 More specifically, Bidder affirms as follows:

- .1 The prices in Bidder's proposal have been arrived at independently, without consultation, communications or agreements, for the purpose of restricting competition, as to any matter relating to such prices with any other vendor of the goods or services described in the invitation to bid;
- .2 The Bidder has not communicated the contents of its proposal to any person other than an employee, officer, partner, or agent of the Bidder or its surety on any bond furnished with the proposal nor has the Bidder authorized, directly or indirectly, any person whomsoever to do so; nor will the Bidder communicate said contents or authorize

directly or indirectly, any person whomsoever to do so prior to the official opening of the proposal;

- .3 No attempt has been made or will be made by the Bidder to induce any other person to submit a proposal for the purpose of restricting competition;
- .4 Bidder understands that applicable laws provides that collusive bidding shall be punishable by a fine not to exceed Ten Thousand Dollars (\$10,000.00) or imprisonment for a period up to five (5) years, or both.

ARTICLE 6 POST-BID INFORMATION

§ 6.1 CONTRACTOR'S QUALIFICATION STATEMENT

Bidders to whom award of a Contract is under consideration shall submit to the Architect, upon request, a properly executed AIA Document A305, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted as a prerequisite to the issuance of Bidding Documents.

§ 6.2 SUBMITTALS

§ 6.2.1 The Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, after notification of selection for the award of a Contract, furnish to Hennepin Healthcare System through the Architect or consultant in writing:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the manufacturers, products, and the suppliers of principal items or systems of materials and equipment proposed for the Work; and
- .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

§ 6.2.2 The Bidder will be required to establish to the satisfaction of the Architect and/or Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

§ 6.2.3 Prior to the execution of the Contract, the Architect or consultant will notify the Bidder in writing if either Hennepin Healthcare System or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If Hennepin Healthcare System or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, (1) withdraw the Bid or (2) submit an acceptable substitute person or entity with an adjustment in the Base Bid or Alternate Bid to cover the difference in cost occasioned by such substitution. Hennepin Healthcare System may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

§ 6.2.4 Persons and entities proposed by the Bidder and to whom Hennepin Healthcare System and/or Architect have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of Hennepin Healthcare System and/or Architect.

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND (NOT REQUIRED)

§ 7.1 BOND REQUIREMENTS

§ 7.1.1 If awarded the Contract, and if required in the bid documents, the Bidder shall furnish a performance bond and a payment bond in accordance with Minnesota Statutes, Sections 574.26-574.32. The performance bond shall be for the use and benefit of Hennepin Healthcare and shall provide for the completion of the Contract according to its terms. The payment bond shall be for the use and benefit of all persons furnishing labor and materials engaged under or to perform the Contract. Each bond shall be written for the full amount of the Contract price.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

§ 7.1.3 If Hennepin Healthcare System requires that bonds be secured from other than the Bidder's usual sources, changes in cost will be adjusted as provided in the Contract Documents.

§ 7.2 TIME OF DELIVERY AND FORM OF BONDS

§ 7.2.1 The Bidder shall deliver the required bonds to Hennepin Healthcare System not later than fifteen days following the date of execution of the Contract. If the Work is to be commenced prior thereto in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to Hennepin Healthcare System that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

§ 7.2.2 The performance and payment bonds shall be written on Hennepin Healthcare System specified form, or on a corporate surety company form using language in conformance thereto.

§ 7.2.3 The bonds shall be dated on or after the date of the Contract.

§ 7.2.4 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney, which shall include the attorney-in-fact's current business address and telephone number. The sureties and reinsuring companies shall be authorized to conduct business in the State of Minnesota and be listed in the current Department of the Treasury Circular No. 570 with an underwriting limitation equal to or greater than the penal sum of the bonds to be furnished.

ARTICLE 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

The Agreement pursuant to bid awards will be either Hennepin Healthcare standard terms and conditions, Modified AIA Document A101 Standard Form of Agreement Between Owner and Contractor, or combination thereof.

ARTICLE 9 OBLIGATIONS OF BIDDER

§ 9.1 EXAMINATION OF THE SITE AND DOCUMENTS

§ 9.1.1 Each Bidder is obligated to thoroughly examine and study all Contract Documents, Bid and Contract Forms, and Bidding Requirements and to visit the site, to fully inform the Bidder as to all conditions, requirements and other factors which will affect the Bid or execution of the work under the Contract Documents. By submitting a Bid, the Bidder represents that the Bidder has made such an examination and study, understands the requirements of the Contract Documents and Bidding Requirements, is familiar with the site and site conditions and that the Bid is made in conformance with all requirements.

§ 9.1.2 In examining the site, the Bidder shall become fully informed and record all investigations as to the condition of the site and surrounding area, locations and accessibility, existing utilities and features, relocations that might be necessary to accomplish the work under the Contract, available facilities and difficulties that may be encountered therewith, other work that may be in progress thereon at the time the bid is submitted and other relevant matters which may affect the Bid or accomplishment of the work under the Contract Documents.

§ 9.2 PROMPT PAYMENT TO SUBCONTRACTOR

§ 9.2.1 Bidders are advised that Minnesota Statutes Section 471.425, subdivision 4a, requires prompt payment to Subcontractors. The law requires the prime Contractor to pay any Subcontractor within ten days of the prime Contractor's receipt of payment from the County for undisputed services provided by the Subcontractor. The law also requires the prime Contractor to pay interest of 1 ½ percent per month on any undisputed amount not paid on time to the Subcontractor.

ARTICLE 10 CONTRACT TIME

§ 10.1 The Bidder shall achieve Substantial Completion of the Work as specified in the final agreement.

ARTICLE 11 ALTERNATIVES

§ 11.1 Hennepin Healthcare System reserves the right to reinstate any alternate bid rejected at the time of contract award in the amount proposed by the successful Bidder, provide such reinstatement is made within one hundred twenty (120) days after the Bid opening. However, Hennepin Healthcare System shall not reinstate an alternate bid unless the successful Bidder, with inclusion in the contract award of any such alternate bid, would have been the successful Bidder at the time of contract award.

ARTICLE 12 PRE-BID CONFERENCE

§ 12.1 The Architect, Hennepin Healthcare or consultant issuing bid specifications may conduct a Pre-Bid Conference at the site, as per the Advertisement for Bids, for the benefit of the Bidders. All Bidders are encouraged to attend. A Small Business Enterprise (SBE) mixer, to encourage new working relationships between the Bidder and SBE sub-contractors, may occur at this time.

ARTICLE 13 WORKFORCE REQUIREMENTS

§ 13.1 Hennepin Healthcare has adopted an Affirmative Action Policy. Hennepin Healthcare is

committed to equal opportunity and affirmative action in employment. If the amount of a Bidder's proposal exceeds \$100,000.00, the Bidder, unless exempted, must submit an Affirmative Action Plan (AA Plan) within fifteen (15) business days of written notification of being the Apparent Low Bidder. The AA Plan must be complete and signed. Any additional document or other information concerning the AA Plan as requested by Hennepin Healthcare, shall be furnished by the date set forth in the communication making such request. The Contract will not be awarded unless the required Construction AA Plan and any related information has been approved by Hennepin Healthcare or a written exemption from these requirements has been granted.

§ 13.2 Hennepin Healthcare has adopted Hennepin County's minority participation goal of hiring 25% minority employees and 6% women employees for construction projects. Goals are expressed in percentages of the total hours of employment and training of women and minorities used on the project. If the goal is not met, the selected Contractor will be required to demonstrate that it has made good faith efforts to do so. A specific minority participation goal exceeding this number may be set on this project. That additional goal would appear in the invitation for bids and/or proposed contract documents.

§ 13.3 The successful bidder and all contractors and subcontractors engaged in work under the project will be required to pay not less than the prevailing wage rates for those classifications established by the Minnesota Department of Labor and Industry.

§ 13.4 Hennepin Healthcare is committed to providing equal opportunity in contracting and to a goal of increased participation of Small Business Enterprise (SBE) firms in contracting and subcontracting. A specific SBE goal may be set on this project. That goal, if any, would appear in the invitation for bids and/or proposed contract documents.

ARTICLE 14 BID ELIGIBILITY REQUIREMENTS

§ 14.1 Contractors must obtain Health Care Construction ("HCC") certification from the American Society for Healthcare Engineering and obtain status as a Certified Healthcare Constructor or ("CHC") from the American Hospital Association as a pre-condition to commencing Services at Hennepin Healthcare.

§ 14.2 Hennepin Healthcare may set additional bid eligibility requirements as pre-condition for submission of bids. In such instances, Contractors wishing to bid or submit proposals on Hennepin Healthcare construction projects must send the above-stated qualifications to the Hennepin Healthcare's Director of Facilities.