



Date: September 1, 2016
To: Contractors, Engineers, and Other Interested Parties
From: Brad Ludens, Principal Engineer
Subject: Revisions to the General Conditions for Public Improvements

The following is a summary of revisions to the General Conditions for Public Improvements proposed by the City of Sioux Falls:

Various Sections: Corrected grammar, spelling, formatting, etc. Also added additional language to expand or clarify existing language or update references to outside standards.

Section 1.2: Edited several definitions; Added definitions for "Affiliate", "Claim", "Environmental Law", "Project Representatives", and "Substantial Completion"; Deleted definitions for "Interest Rate", "Performance Bond", and "Titles (or Headings)".

Sections 1.3 and 1.4: New sections added to take the place of deleted text at the beginning of Section 1.

Section 2.10.C: New subsection added to define a nonresponsible bidder.

Sections 2 and 3: In general, these sections were merged with the Instructions to Bidders document. The more permanent items were retained in the General Conditions, and the items that are project specific and subject to change were included in the Instructions to Bidders. Information in several subsections was updated to reflect the current business practices of the City.

Section 3.8: New section detailing the representations and warranties the Contractor agrees to provide the City as part of the award process.

Section 3.9: New section to clarify that federal rules govern on projects with federal funding sources.

Section 4.2: New section outlining procedures to follow if differing site conditions are discovered.

Section 4.8: New section defining the Contractor's standard of care in performing the work.

Section 5.1: Further defined the Engineer's authority to suspend work.

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Section 5.4: Incorporated City and DOT standard plates in the order of precedence of the contract documents.

Section 5.11: Added provisions requiring the Contractor to allow adequate time for the Engineer to inspect the work.

Section 5.16: Added provision requiring the Contractor to submit written notice to the City that the work is complete and specifying that the Contractor must complete any punch list items within the time frames specified by the Engineer.

Section 5.17: Added language specifically stating that the Contractor will provide good quality materials, and that the Contractor warrants that the work conforms to the contract requirements and will be free from defects and faults. Also revised this section to refer back to Section 500 of the City of Sioux Falls Supplemental Standard Specifications for Warranty Construction for the length of the warranty periods for the work.

Section 5.18: Clarified requirements for submitting written and oral claims for additional compensation.

Section 6.3: Deleted order of precedence of testing manuals. Added information about equipment calibration and price adjustments.

Section 7.4: Broadened to include all intellectual property rights.

Section 7.7: Added requirement for the contractor to control dust.

Section 7.9: New section to address construction over or adjacent to navigable waters.

Section 8.1: New section addressing subcontracts and the Contractor's overall responsibility for the work.

Section 8.10: Updated the schedule of liquidated damages to align with the 2015 version of the South Dakota Department of Transportation Standard Specifications for Roads and Bridges.

Section 8.11: New section addressing the Contractor's responsibility to supervise and direct the work, and specifying the Contractor's responsibility for the construction means and methods.

Section 8.15.A: Updated and added to the reasons for finding the Contractor in breach of contract.

Section 8.15.B: Added additional language about the City taking over the project in situations of breach of contract, and the City's remedies for recovering damages from the Contractor.

Section 8.16: Added additional language addressing termination of the contract for emergencies.

Section 8.17: New section outlining termination of the contract for convenience.

Section 9.4: Updated subsections B and J to clarify that the Contractor's excise tax is to be computed from the total cost of the force account work.

Section 9.6: Added language giving the City authority to withhold progress payments from the Contractor in certain situations.

Section 9.7: New section describing situations in which the City may withhold payments from the Contractor.

Section 9.8: Updated and added to the table describing stockpile payments for various materials.

Section 9.9: Added language requiring certification that all indebtedness incurred by the Contractor in connection with the work have been paid or otherwise satisfied. Added language giving the City authority to require receipts, lien waivers, etc. to prove the satisfaction of all the Contractor's obligations connected to the work. Added language addressing the City's ability to require the Contractor to obtain a bond or refund monies to the City to cover any outstanding lien or indebtedness that the City could potentially be responsible for in connection with the work.

Section 9.10: New section addressing interest payments.

Section 10: New section addressing claims and dispute procedures and remedies.

Section 11: New section addressing miscellaneous items, including funding, severability provisions, future performance, neutrality of the contract language, notices, and applicable law.