

Tracking No. 17100052

CONTRACT DOCUMENTS

**CITY OF LINCOLN, NEBRASKA,
LANCASTER COUNTY,
LINCOLN - LANCASTER COUNTY
PUBLIC BUILDING COMMISSION**

**Annual Supply
Power and Hand Tools
Bid No. 17-245**

**Fastenal
3201 N. 23rd
Lincoln, NE 68521
(402) 476-7900**

**CITY OF LINCOLN-LANCASTER COUNTY, NEBRASKA and
LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION
CONTRACT TERMS**

THIS CONTRACT, made and entered into by and between **Fastenal, 3201 N. 23rd, Lincoln, NE 68521**, hereinafter called "Contractor", and the City of Lincoln, Nebraska, a municipal corporation, and the County of Lancaster, Nebraska, a political subdivision of the State of Nebraska, and the Lincoln-Lancaster County Public Building Commission hereinafter called the "Owners".

WHEREAS, the Owners have caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

Power and Hand Tools, Bid No. 17-245

and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the Owners, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, the Owners, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Responses, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the Owners have agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute and complete all Work included in and covered by the Owners' award of this Contract to the Contractor, such award being based on the acceptance by the Owner of the Contractor's Proposal, or part thereof, as follows:

Agreement to full proposal

2. The Owners agree to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the Owners:

"Contracted Vendors" shall mean all vendors who contract or who have contracted with the Owners pursuant to Bid No. 17-245 for Annual Supply - Power and Hand Tools. "Contracts" shall mean the collective contracts entered into between the Owners and the Contracted Vendors pursuant to Bid No. 17-245 for Annual Supply - Power and Hand Tools.

The Owners will pay for products/service, according to the Line Item pricing as listed in Contractors Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract. The Owners shall order on an as-needed basis for the duration of the contract. The cost of products or services for Contracts for County agencies shall not exceed \$25,000.00 during the contract term without approval by the Board of Commissioners. The cost of products or services for Contracts for City Departments shall not exceed \$130,000.00 during the contract term without approval. The cost of products or services for Contracts for the Public Building Commission shall not exceed \$5,000.00 during the contract term without approval by the Board of the Public Building Commission.

3. Equal Employment Opportunity. In connection with the carrying out of this project, the contractor

shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

4. E-Verify. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
5. Termination. This Contract may be terminated by the following:
 - 5.1) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
 - 5.2) Termination for Cause. The Owners may terminate the Contract for cause if the Contractor:
 - 5.2.1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or commodities.
 - 5.2.2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
 - 5.2.3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the Owners will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
6. Independent Contractor. It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the Owners and employees of the Owners shall not be deemed to be employees of the Contractor. The Contractor and the Owners shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the Owners' employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
7. Owner Inclusion. It is understood and agreed by all parties that "Owner/s" shall include the City of Lincoln, Lancaster County, Nebraska and Lincoln-Lancaster County Public Building Commission. Whenever in the Contract documents, including the instructions to bidders, specifications, insurance requirements, bonds, and terms and conditions or any other documents which are a part of the Contract, a singular entity is referenced (i.e., "the City" or "the County" or "Building Commission") it shall mean the "Owners" encompassing the City of Lincoln, Lancaster County and Lincoln-Lancaster County Building Commission.
8. Audit Provision: The Contractor shall be subject to an audit and shall, upon request, make available to the Public Building Commission or a contract auditor hired by the Public Service Commission, copies of all financial and performance related records and materials related to this Agreement, as allowed by law.

9. Period of Performance. This Contract shall be effective upon execution by all parties. The term of the Contract shall be a one (1) year term with the option to renew for three (3) additional one (1) year terms.

10. The Contract Documents comprise the Contract, and consist of the following:
 1. Contract Terms
 2. Accepted Proposal/Response
 3. Specifications
 4. Instructions to Bidders
 5. Sales Tax Exemption Form 13
(Note: This form cannot be used for the WATER Division of the City of Lincoln. The WATER Division is taxable per Reg. 066.14A or applicable laws.)
 6. Notice to Bidders

The herein above mentioned Contract Documents form this Contract and are a part of the Contract as if hereto attached. Said documents which are not attached to this document may be viewed at: lincoln.ne.gov - Keyword: Bid - Awarded or Closed bids.

The Contractor and the Owners hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the Owners do hereby execute this contract upon completion of signatures on:

Vendor Signature Page
City of Lincoln Signature Page
Lancaster County Signature Page
City of Lincoln-Lancaster County Public Building Commission Signature Page

Vendor Signature Page

CONTRACT
Annual Supply
Power and Hand Tools
Bid No. 17-245
City of Lincoln, Lancaster County and
City of Lincoln-Lancaster County Public Building Commission
Fastenal

EXECUTION BY CONTRACTOR

IF A CORPORATION:

Attest:

Secretary Seal

Fastenal
Name of Corporation

3201 Nth 25th Lincoln, NE 68521
Address

By: Jeremiah Merckel
Duly Authorized Official

General Manager
Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

Address

By: _____
Member

By: _____
Member

IF AN INDIVIDUAL:

Name

Address

Signature

City of Lincoln Signature Page

**CONTRACT
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City of Lincoln, Lancaster County and
City of Lincoln-Lancaster County Public Building Commission
Fastenal**

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

CITY OF LINCOLN, NEBRASKA

City Clerk

Chris Beutler, Mayor

Approved by Executive Order No. _____

dated _____

Lancaster County Signature Page

CONTRACT
Annual Supply
Power and Hand Tools
Bid No. 17-245
City of Lincoln, Lancaster County and
City of Lincoln-Lancaster County Public Building Commission
Fastenal

EXECUTION BY LANCASTER COUNTY, NEBRASKA

Contract Approved as to Form:

The Board of County Commissioners of
Lancaster, Nebraska

Deputy Lancaster County Attorney

dated _____

**Lincoln-Lancaster County Public Building Commission
Signature Page**

**CONTRACT
Annual Supply
Power and Hand Tools
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City of Lincoln-Lancaster County Public Building Commission
Fastenal**

EXECUTION BY LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION

ATTEST:

Public Building Commission Attorney

Chairperson, Public Building Commission

dated _____

ANNUAL SUPPLY POWER AND HAND TOOLS

1. SCOPE OF SERVICES AND GENERAL INFORMATION

- 1.1 Furnish and deliver hand tools, power tools and related hardware items for the term of the agreement as ordered by the City of Lincoln, Lancaster County and Lincoln/Lancaster County Public Building Commission (hereinafter referred to as the Owners).
 - 1.1.1 Wherever in this document a singular entity is referenced (i.e., "the City", "the Building Commission" or "the County") it shall mean the Owners encompassing all three (3) entities.
- 1.2 Term of agreement shall be one (1) year from date of agreement, with option to renew for three (3) additional one (1) year terms.
- 1.3 The Owners purchased approximately \$130,000.00 in hand tools, power tools and related items over the previous year.
 - 1.3.1 This contract does not guarantee any purchases by the Owners.

2. INQUIRIES

- 2.1 Bidder shall submit bid documents and all supporting material via e-bid.
 - 2.1.1 The CD/Flash Drive or link to the Vendor's Online Catalog (on company letterhead) shall be submitted as indicated herein.
- 2.2 All inquiries regarding these specifications shall be directed via e-mail or faxed request to Sharon Mulder, Assistant. Purchasing Agent (smulder@lincoln.ne.gov) or fax: (402)441-6513.
 - 2.2.1 These inquiries and/or responses shall be distributed to prospective bidders electronically as an addenda.
 - 2.2.2 Purchasing shall only reply to written inquiries received within five (5) calendar days of bid opening.
 - 2.2.3 No direct contact is allowed between Vendor and other City staff throughout the bid process.
 - 2.2.3.1 Failure to comply with this directive may result in Vendor bid being rejected.

3. PRICING

- 3.1 Pricing will be based on the price list provided in the Line Items of the e-bid and the cost of all other tools which will be copied onto a CD/Flash Drive or link to the Vendor's Online Catalog (on company letterhead) and mailed or hand-delivered to the Purchasing office prior to bid closing or prices provided via viewing the link to the Online Catalog (provide on company letterhead and attach in the Response Attachment section when submitting the e-bid response).
- 3.2 This is a non-exclusive contract and the Owners reserve the right to obtain separate bids on special or large quantity purchases.

4. ORDERS

- 4.1 Orders for stock and non-stock items will be placed by the Owners on an as-needed basis.

- 4.1.1 Vendor shall notify Owners immediately of the projected delivery day for stock and non-stock items which are not available for next day delivery.
- 4.2 Bidder shall indicate in the Attribute section of the e-bid any means by which electronic orders will be accepted and bidder's capability to enhance the Owners electronic ordering capability.

5. DELIVERIES

- 5.1 All deliveries should be made to the departments on the next business day after order is placed.
 - 5.1.1 If order cannot be made on the next business day, the sales rep will contact the person placing the order and provide the revised shipping date and reason for delay.
- 5.2 Bidders shall list their delivery schedule for orders in the Attribute section of the e-bid.

6. BACK ORDERS AND RETURNS

- 6.1 Back-orders of Stock Items must be held to a minimum, and shall not exceed 3% of total items ordered (97%) fill rate.
- 6.2 A repeated pattern of back orders of Stock Items may be cause of cancellation of the agreement.
- 6.3 Stock Items shipped in error must be replaced at vendor's expense within one (1) business day of notification.
- 6.4 Any item delivered which is found to be damaged or incomplete must be repaired or replaced within four (4) working days of notification.

7. CD/FLASH DRIVE TOOL LIST

- 7.1 Proposers shall submit their complete CD/Flash Drive or link to the Vendor's Online Catalog (on company letterhead) tool list with pricing for all items via mail or hand-delivered to the Purchasing Office prior to bid closing.
- 7.2 Purchasing Division may restrict certain items listed in the vendor's full-line catalog or CD/Flash Drive or link to the Vendor's Online Catalog (on company letterhead) tool list which are normally bid due to volume or category, or which are of a quality level not suitable for the departments' applications.
- 7.3 Upon award of the contract, successful Vendors shall supply and delivery a CD/Flash Drive or link to the Vendor's Online Catalog (on company letterhead) tool list with all pricing to all Owner Agencies and Departments as requested.
 - 7.3.1 If CD's or Flash Drives are delivered, then purchasing requests four (4) additional CD/Flash Drives.

8. REPORTS

- 8.1 Vendors shall indicate in the attribute section of the e-bid under "Available Reports", their capability to generate various formats of reports.
 - 8.1.1 Upon request, the Vendor shall provide usage reports in the appropriate format showing all purchases made by the individual

departments.

9. TOOL WARRANTIES

- 9.1 All tools shall carry a one (1) year warranty against defects in material and workmanship.
- 9.2 In addition, mechanics tools shall carry an unconditional lifetime warranty.
- 9.3 Vendor shall state all applicable warranty terms and conditions in the Attribute section of the e-bid, including any satisfaction guarantees offered directly by the vendor.

10. VENDOR ADDED SERVICES

- 10.1 Owners seek assistance from the vendor to improve, modernize and enhance the procurement and delivery of tools.
- 10.2 Owners may request the vendor to participate in workshops and vendor exhibits to assist in familiarizing the departments with the vendors' products and the ordering process.
- 10.3 Vendors may suggest additional services they are particularly capable of performing, such as tool repairs.
- 10.4 A complete description of these added vendor services shall be typed on your company letterhead, labeled "Additional Services", and attached to the Response Attachments section of the e-bid.

11. INVOICES AND PAYMENT

- 11.1 All orders shall be billed to the individual City of Lincoln, Lancaster County and City of Lincoln – Lancaster County Public Building Commission agency placing the order.
- 11.2 Vendor must verify the identity of the person placing an order and receive an authorized signature for all tools picked up and delivered (NO EXCEPTIONS).
- 11.3 Payment shall be made to vendor based on statements listing the ordering agency, order number and name listed as valid signature received.

12. SUBMITTAL REQUIREMENTS

- 12.1 Full-line of tools on CD/Flash Drive or link to the Vendor's Online Catalog (on company letterhead) which shows the list price of all tools available for the Owners.
 - 12.1.1 The CD/Flash Drive may be mailed or hand delivered but it **must** be here at time of bid closing.
 - 12.1.2 When sending the CD/Flash Drive it **must** be in a format that is readable by the Purchasing Division - preferably a PDF format.
- 12.2 The following information shall be attached to the Response Attachment section of your e-bid.
 - 12.2.1 A complete explanation of all exceptions to this bid detailed on company letterhead.
 - 12.2.2 A listing of any additional services offered to the Owners.

13. EVALUATION CRITERIA

- 13.1 Award of bid will be made to the most responsive Bidder whose response

complies with the requirements of this bid and any addenda, except for such minor defects as may be waived by the Owners.

- 13.2 Evaluation criteria for responsiveness will include, but not be limited to:
 - 13.2.1 Number and names of tool manufacturers represented by your company;
 - 13.2.2 Billing, delivery, return policies, and other provisions offered to the Owners;
 - 13.2.3 Any additional services, warranties, etc., offered by the bidder of benefit to the Owners; and
 - 13.2.4 Results of the prices as listed for the 30 items in the Line Item section of the e-bid and up to 30 more items selected from the CD/Flash Drive or link to the Vendor's Online Catalog (on company letterhead) tool list required.
 - 13.2.4.1 Additional 30 items will be selected at random.
 - 13.2.4.2 The price for these items will be computed by using the CD/Flash Drive or link to the Vendor's Online Catalog (on company letterhead) tool list price submitted by the vendor prior to bid closing.
- 13.3 The Owners prefer to have a prime vendor for all items requested but may split the award based on the results of the pricing and discounts submitted.

14. CONTRACTOR INSURANCE

- 14.1 The awarded Vendor shall furnish the Owners with a Certificate of Insurance in the kinds and minimum amounts as detailed in the attached "Insurance Requirements for all City Contracts" at time of award.
- 14.2 All certificates of insurance shall be filed with the Owners on the standard Accord Certificate of Insurance form showing specific limits of insurance coverage required and showing City of Lincoln as "Named Additional Insured" as pertains to these services.

INSTRUCTIONS TO BIDDERS

City of Lincoln, Nebraska, County of Lancaster, Public Building Commission

E-Bid

1. BIDDING PROCEDURE

- 1.1 Sealed bid, formal and informal, subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8th St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing the City of Lincoln, Lancaster County and Building Commission, hereafter referred to as "Owners" the materials, supplies, equipment or services shown in the electronic bid request.
- 1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields. If you do not care to bid, please respond to the bid request and note your reason.
- 1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.
- 1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.5 Bids received after the time and date established for receiving bids will be rejected.
- 1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.
- 1.7 If bidding on a construction contract, the City's Standard Specifications for Municipal Construction 2011 shall apply.
 - 1.7.1 Bidders may obtain this document from the City's Design Engineering Division of the Public Works & Utilities Department for a small fee.
 - 1.7.2 Said document can be reviewed at Design Engineering or the office of the Purchasing Division.
 - 1.7.3 Said document is available on the web site.
<http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspec/index.htm>

2. BID SECURITY

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bidder's bond, may be required to be submitted with this bid document, as indicated on the bid.
 - 2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing Office at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 to be received within three (3) days of bid closing.
 - 2.1.2 If bid security is not received in the Office of the Purchasing Division as stated above, the vendor may be determined to be non-responsive.
- 2.2 If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful Bidder(s) as follows:
 - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the Owners.
 - 2.4.2 For all other contracts: upon approval by the Owners of the executed contract and bonds.
- 2.5 Owners shall have the right to retain the bid security of Bidders to whom an award is being considered until either:
 - 2.5.1 A contract has been executed and bonds have been furnished.
 - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
 - 2.5.3 All bids have been rejected.
- 2.6 Bid security will be forfeited to the Owners as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this specification document:
 - 2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided by the Owners, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this specification document.

3. BIDDER'S REPRESENTATION

- 3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the specification documents, and the bid has been made in accordance therewith.
- 3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

4. CLARIFICATION OF SPECIFICATION DOCUMENTS

- 4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the specification documents.
- 4.2 Bidders desiring clarification or interpretation of the specification documents for formal bids shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of formal bids.
- 4.3 Changes made to the specification documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.
- 4.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on the Owners; and Bidders shall not rely upon such interpretations or changes.

5. ADDENDA

- 5.1 Addenda are instruments issued by the Owners prior to the date for receipt of bids which modify or interpret the specification document by addition, deletion, clarification or correction.
- 5.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.
- 5.3 No formal bid addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

6. INDEPENDENT PRICE DETERMINATION

- 6.1 By signing and submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. ANTI-LOBBYING PROVISION

- 7.1 During the period between the bid advertisement date and the contract award, Bidders, including their agents and representatives, shall not lobby or promote their bid with any member of the City or County staff or officers except in the course of Owner sponsored inquiries, briefings, interviews, or presentations, unless requested by the Owners.

8. BRAND NAMES

- 8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the Owners that said item is equal to, or better than, the product specified.
- 8.3 Bids for alternate items shall be stated in the appropriate space on the e-bid form, or if the proposal form does not contain blanks for alternates, Bidder MUST attach to its bid document on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.
- 8.4 The Bidder must indicate any variances by item number from the specification document no matter how slight.
- 8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with the Owners' bidding documents.

9. DEMONSTRATIONS/SAMPLES

- 9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the Owners.
- 9.2 Such demonstration can be at the Owners delivery location or a surrounding community.
- 9.3 If items are small and malleable, the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by the Owners of acceptable goods. The Bidder must indicate how samples are to be returned.

10. DELIVERY (Non-Construction)

- 10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise.
- 10.2 The Owners reserve the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.
- 10.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. the Owners at the location specified by the Owners, with all transportation charges paid.
- 10.4 At the time of delivery, a designated Owner employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

11. WARRANTIES, GUARANTEES AND MAINTENANCE

- 11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid:
 - 11.1.1 Manufacturer's warranties and/or guarantees.
 - 11.1.2 Bidder's maintenance policies and associated costs.
- 11.2 As a minimum requirement of the Owners, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the Owners. Replacement parts of defective components shall be shipped at no cost to the Owners. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

12. ACCEPTANCE OF MATERIAL

- 12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 12.2 Material delivered under this proposal shall remain the property of the Bidder until:
 - 12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to the Owners; and
 - 12.2.2 Material is determined to be in full compliance with the bidding documents and accepted proposal.
- 12.3 In the event the delivered material is found to be defective or does not conform to the specification documents and accepted proposal, the Owners reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.
- 12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the Owner, as required by the specification documents or purchase orders.
- 12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

13. BID EVALUATION AND AWARD

- 13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by the Owners of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.
- 13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 13.4 The bid will be awarded to the lowest responsible, responsive Bidder whose bid will be most advantageous to the Owners, and as the Owners deem will best serve the requirements and interests of the Owners.
- 13.5 The Owners reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of the Owners.
- 13.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by the Owners. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.
- 13.7 The Owners reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the Bid Proposal incomplete, indefinite or ambiguous.
- 13.8 Any governmental agency may piggyback on any contract entered into from this bid.

14. INDEMNIFICATION

- 14.1 The Bidder shall indemnify and hold harmless the Owners from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless the Owners for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of the Owners.
- 14.2 In any and all claims against the Owners or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under worker's compensation acts, disability benefit acts or other employee benefit acts.

15. TERMS OF PAYMENT

15.1 Unless stated otherwise, the Owners will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

16. LAWS

16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this proposal and any contract reached as a result of this process.

16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

17. EQUIPMENT TAX ASSESSMENT

17.1 Any bid for public improvement shall comply with Nebraska Revised Statutes Section 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

18. AFFIRMATIVE ACTION

18.1 The City of Lincoln-Lancaster County provides equal opportunity for all Bidders and encourages minority businesses, women's businesses and locally owned business enterprises to participate in our bidding process.

19. INSURANCE

19.1 All Bidders shall take special notice of the insurance provisions required for all City/County and Building Commissions contracts (see *Insurance Requirements for City, County, Building Commission*).

20. EXECUTION OF AGREEMENT

20.1 Depending on the type of service and commodity provided, one of the following methods will be employed. The method applicable to this contract will be checked below:

- a. **PURCHASE ORDER**, unless otherwise noted.
 - 1. This Contract shall consist of a City of Lincoln, Lancaster County and City-County Public Building Commission Purchase Order.
 - 2. A copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents.
- b. **CONTRACT**, unless otherwise noted.
 - 1. City, County and City-County Public Building Commission will furnish copies of a Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance (as required), surety bonds properly executed (as required), and Contract signed and dated.
 - 2. The prepared documents shall be returned to the Purchasing Office within 10 days (unless otherwise noted).
 - 3. The City, County and City-County Public Building Commission will sign and date the Contract.
 - 4. Upon approval and signature, the City, County and City-County Public Building Commission will return one copy to the successful Bidder.

21. TAXES AND TAX EXEMPTION CERTIFICATE

21.1 The Owners are generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.

22.2 The Water Division of the City of Lincoln is taxable per Reg. 066.14A and no exemption certificate will be issued.

22. CITY AUDIT ADVISORY BOARD

22.1 All parties of any City agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/order, as allowed by law.

23. **E-VERIFY**

23.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

Advertise 2 times
Saturday, September 9, 2017
Friday, September 15, 2017

City of Lincoln/Lancaster County
Purchasing Division
NOTICE TO BIDDERS

Sealed bids will be received by the Purchasing Agent of the City of Lincoln/Lancaster County, Nebraska BY ELECTRONIC BID PROCESS until: **12:00 pm, Friday, September 22, 2017** for providing the following:

Annual Supply - Power and Hand Tools
Bid No. 17-245

Bidders must be registered on the City/County's E-Bid site in order to respond to the above Bid. To register go to: lincoln.ne.gov (type: e-bid - in search box, then click "Supplier Registration").

Questions concerning this bid process may be directed to City/County Purchasing at (402) 441-8103 or purchasing@lincoln.ne.gov