



INVITATION FOR BID (IFB)

FRANCHISE AGREEMENT TO USE AND OCCUPY THE STREETS, ALLEYS, AND OTHER PUBLIC GROUNDS OF THE TOWN OF LEESBURG

ISSUE DATE: Friday, February 3, 2023

BIDS DUE: Wednesday, February 15, 2023; 3:00 p.m.

DELIVERY ADDRESS: Town of Leesburg, Virginia
Town Attorney's Office
25 West Market Street
Leesburg, VA 20176

CONTACT: Carmen Smith
Town Attorney's Office
Town of Leesburg, Virginia
Phone: 703-669-1420
Email: legalbids@leesburgva.gov

NOTICE OF ADDENDA: Any addenda to this IFB will be posted on the Town's Bid Board (<http://www.leesburgva.gov/bidboard>) and will only be emailed to those firms who have REGISTERED on this site. It is the firm's responsibility to provide a correct email address and to be aware of any addenda.

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I. PURPOSE

The Town of Leesburg ("Town") is accepting bids from individuals or businesses desiring to use and occupy the streets, alleys, and other public grounds in the Town of Leesburg, as now existing or as may hereafter be laid out, for the construction, maintenance and operation therein of a system of pipes, mains, connections, meters and other equipment and appliances necessary or convenient for the transmission, distribution and sale of natural gas in and to any part of the Town of Leesburg.

II. BIDDER QUALIFICATIONS

A Qualified Bidder will be that individual, business, or organization who proposes to use and occupy the streets, alleys, and other public grounds in the Town of Leesburg, as now existing or as may hereafter be laid out, for the construction, maintenance and operation therein of a system of pipes, mains, connections, meters and other equipment and appliances necessary or convenient for the transmission, distribution and sale of natural gas in and to any part of the Town of Leesburg.

A general overview of the company shall be provided with the bid. Submit a qualification statement addressing the specialized knowledge and technical competence of the company, key personnel and equipment that may be used in the execution of this contract. Provide the names and individual personal resumes of key team members and supervision.

III. FRANCHISE TERM

The Franchise Agreement will be for a period of thirty (30) years.

IV. BID SUBMITTAL INSTRUCTIONS

Bids must be emailed to the Town Attorney's Office at legalbids@leesburgva.gov no later than 3:00 p.m. on Wednesday, February 15, 2023.

In accordance with Virginia Code §§15.2-2101 and 15.2-2105, the public hearing/bid announcement will be held on Tuesday, February 28, 2023 at 7:00 p.m. in the Council Chambers of Town Hall, 25 W. Market Street, Leesburg, VA 20176.

Bids in the form of telegrams, telephone, facsimiles or telex messages will not be accepted. The same person, firm, or corporation may submit only one bid. The submittal of more than one bid shall be cause for rejection by the Town of all bids submitted by the person, firm, or corporation.

The Town shall have the right to reject any bid that does not provide all requested information.

Each copy of the Bid shall include the legal name of the Bidder and a statement that the Bidder is a sole proprietor, partnership, corporation, or other legal entity. 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 and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the

Bidder. A bid submitted by a foreign corporation shall be accompanied by evidence of authorization to conduct business in Virginia.

V. AWARD CRITERIA

The Town intends to award a franchise agreement to the highest responsive, responsible bidder whose bid conforms to the terms and conditions set forth in the Invitation for Bid.

The Town reserves the right to accept or reject any bids, award in whole or in part, to make multiple awards, or to waive informalities in the process of awarding this franchise.

The contents of the bid submitted by the successful bidder will become a part of any franchise awarded as a result of this IFB. The successful bidder shall be expected to sign a franchise agreement with the Town.

VI. QUESTIONS AND INQUIRIES

Unless otherwise instructed, the Contact is the sole point of contact for questions concerning this IFB. Questions concerning this IFB must be made in writing to the Contact listed on the cover page of the IFB. **Questions must be received by 5:00 p.m. on Monday, February 6, 2023.**

A formal addendum responding to all questions received by the deadline will be made available no later than five business days before the bid due date. Additional clarifications to the specifications will also be in the form of a written addendum. All addenda will be posted on the Town's website. Such addenda will become part of the contract documents. Verbal instructions are not binding and will not form a part of the bid documents. It is the bidder's responsibility to obtain all addenda from the Town's website: <http://www.leesburgva.gov/bidboard>.

VII. GENERAL TERMS AND CONDITIONS

A. General Terms and Conditions

1. **Bid Binding for One Hundred Twenty (120) Days:** Bidder agrees that this Bid shall be valid and may not be withdrawn for a period of one hundred twenty (120) calendar days after the due date.
2. **Receipt of Bids:** Bids shall be received in accordance with Virginia Code §§ 15.2-2101 and 15.2-2102.
3. **Acceptance or Rejection of Bids:** The Town reserves the right to accept or reject any or all bids in whole or in part and to waive minor informalities in the process of awarding this franchise agreement.
4. **Competition Intended:** It is the Town's intent that this invitation for bid permits competition. It shall be the Bidder's responsibility to advise the Procurement Officer in writing if any language, requirements, specifications, etc., or any combinations thereof, inadvertently restricts or limits the requirements stated in this IFB to a single source. The Procurement Officer must receive such notification at least ten (10) business days before the due date.
5. **Understanding of Specifications:** Bidders shall thoroughly examine and be familiar with the franchise agreement. The failure or omission of any Bidder to receive or examine this document shall in no way relieve any Bidder of obligations with respect to this bid or the subsequent franchise agreement. The submission of a bid shall be taken as prima facie evidence of compliance with this paragraph.
6. **Inquiries Concerning Specifications:** Questions concerning this IFB must be made in writing to the Procurement Contact listed on the cover page of the IFB.
7. **ADA Reasonable Accommodation Clause:** If you need any reasonable accommodation for any type of disability in order to participate in this procurement, please contact the Procurement Officer at least ten (10) business days before the bid due date.
8. **Costs Incurred in Responding:** This solicitation does not commit the Town to pay any costs incurred in the preparation and submission of bids, or to procure or offer a lease for space defined herein.
9. **Economic Non-Discrimination:** During the term of the franchise agreement, Bidder agrees to 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make

reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

10. **Employment Discrimination Prohibited:** During the term of this franchise agreement, the Bidder agrees as follows:
 - a. The Bidder will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Bidder, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, will state that such Bidder is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Bidder will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

11. **Disposition of Bids:** All materials submitted in response to this IFB will become the property of the Town. One (1) copy of each bid shall be retained for official files and will become a public record. These records will be available for public inspection after award of the franchise. It is understood that the bid will become a part of the official file on this matter without obligation on the part of the Town except as to the disclosure restrictions contained in Section 12. "Trade Secrets and Proprietary Information Disclosure".
12. **Trade Secrets and Proprietary Information Disclosure:** In compliance with the Town's Procurement Policies, all bids will be available for public inspection. Trade secrets and proprietary information submitted by a bidder in connection with procurement shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, the bidder must invoke the protection of this section before or upon submission of the data or other materials, and must identify the specific area or scope of data or other materials to be protected and state the reasons why protection is necessary. An all-inclusive statement that the entire bid is proprietary is unacceptable. A statement that the costs are to be protected is unacceptable.
13. **Laws and Regulations:** The Bidder's attention is directed to the fact that all applicable Commonwealth of Virginia laws, municipal ordinances and the rules and regulations of all authorities having jurisdiction over the franchise agreement shall

apply to the franchise throughout, and they will be considered to be included in the franchise the same as though herein written out in full.

14. **License Requirement:** All firms doing business for the Town are required to be licensed in accordance with the Town's "Business, Professional, and Occupational Licensing (BPOL) Tax" Ordinance. Wholesale and retail merchants without a business location in Leesburg, VA are exempt from this requirement. Questions concerning the BPOL Tax should be directed to the Department of Finance, telephone **703-771-2753**. Indicate the BPOL license number on the bid form.
15. **Ethics in Public Contracting:** The Bidder agrees that it will adhere to Article 6 – "Ethics in Public Contracting" requirements set forth in the Virginia Public Procurement Act.
16. **Safety:** All contractors and subcontractors performing services for the Town are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupation Health Standards and any other applicable rules and regulations. Also, all contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this franchise.
17. **Termination of Franchise:** Nothing set forth herein waives Town's right to terminate this Franchise for default. All provisions set forth in the Rules, Regulations and Minimum Standards under Chapter 3, I, s. regarding franchise termination are incorporated herein by reference.
18. **Non-Assignment of Franchise:** The Bidder shall not assign the franchise, or any portion thereof, without the advanced written permission of the Town of Leesburg, such permission not to be unreasonably withheld.
19. **Discrimination Prohibited; Participation of Small and Minority-Owned Business:** The Town shall not discriminate against a bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.
20. **Collusion Among Bidders:** More than one bid from an individual, firm, partnership, corporation or association under the same or different name will be rejected. Reasonable grounds for believing that a bidder has an interest in more than one bid for the work contemplated will cause rejection of all bids in which the bidder is interested. Any or all bids will be rejected if there is any reason for believing that collusion exists among the bidders. Participants in such collusion may not be considered in future bids for the same work. The signer of the bid must declare that all persons, companies and parties interested in the franchise as principals are named therein; that the bid is made without collusion with any other person, persons, company or parties submitting a bid; that it is in all respects fair and in good faith

without collusion or fraud; and that the signer of the bid has authority to contractually bind the Bidder. See Bidder Submission Form.

21. **Town Employees:** No employee of the Town shall be admitted to any share or part of this franchise or to any benefit that may arise there from.
22. **Qualification of Bidders:** Each bidder may be required, before the award of any franchise, to show to the complete satisfaction of the Town that it has the necessary facilities, abilities, and financial resources to conduct its business specified herein in a satisfactory manner, and the bidder may also be required to show past history and reference which will enable the Town to be satisfied as to the bidder's qualifications. Failure to qualify according to the foregoing requirements will justify bid rejection.
23. **Protest Of Award Or Decision To Award:** A bidder may protest an award or decision to award a franchise under procedures as set forth in the Virginia Public Procurement Act.
24. **Ethics In Public Contracting:** This specification incorporates by reference, but is not limited to, the provisions of law contained in the Virginia Conflict of Interest Act, the Virginia Governmental Frauds Act, Articles 2 and 3 of Chapter 10 of title 18.2 of the Code of Virginia, as amended, and the Town Procurement Policy.
25. **Faith-Based Organizations:** The Town of Leesburg does not discriminate against faith-based organizations.
26. **Site Visits:** The Town of Leesburg will accommodate visits to the Site coordinated 48 hours in advance.