CITY OF FULLERTON of the STATE OF CALIFORNIA

INVITATION TO BID for

Construction of State College Boulevard Grade Separation Project P-45660

Plans and Specifications are available at Consolidated Reprographics. Please be advised that there is an additional charge for delivery. Upon payment of the purchase price, they become the property of the purchaser and may not be returned for refund.

You may access the plans through the following website under Public Planroom:

www.crplanwell.com

For help accessing and ordering, please contact a Planwell Administrator at 714.424.8525.

Sealed Proposals for *Construction of State College Boulevard Grade Separation Project,* in accordance with the Plans and Specifications, will be received at the office of the City Clerk, Fullerton City Hall, 303 West Commonwealth Avenue, Room 104, Fullerton, CA 92832 until **2:00 p.m., Monday, November 4, 2013,** and shortly thereafter on this same day, they will be publicly opened and read in the City Council Chambers.

No Bid will be accepted unless it is made on a Bid Schedule form furnished by the Engineering Department contained within the Specifications.

Bids are required for the entire work as described by the Contract Documents published with the INVITATION TO BID.

The time of completion of contract shall be 1,250 **calendar days** as defined in the Special Conditions. Liquidated Damages, are also defined in the Special Conditions.

The Engineer's estimate for this project is \$38 million.

A non-mandatory pre-bid conference will be held at **10 a.m., Thursday, October 10, 2013**, in the City Council Chambers, Fullerton City Hall.

Each bid must be accompanied by a certified or cashier's check, or bidder's bond, made payable to the City of Fullerton, for an amount equal to at least 10% of the amount bid, such guarantee to be forfeited should the bidder to whom the contract is awarded fail to enter into the contract.

In addition, a Performance Bond in the amount of 100% of the bid, and a Labor and Materials Bond in the amount of 100% of the bid shall be required of the successful bidder prior to entering into a contract. The City will permit substitution of approved securities for monies retained on this project in accordance with Section 9-3.2 of the Standard Specifications for Public Works Construction ("Green Book"), 2009.

The Contractor shall also provide Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance, Workers' Compensation, and if necessary, Umbrella/Excess Liability to the minimum limits as defined in the Special Conditions with Certificates of Insurance for each form of coverage.

This project is federally funded and the Contractor shall conform to the requirements of the Davis Bacon Act. Should there be a conflict between Federal and State prevailing wage rates, the Contractor shall pay the higher of the two.

THIS PROJECT IS SUBJECT TO THE "BUY AMERICA" PROVISIONS OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 AS AMENDED BY THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991.

Bidders are advised that, as required by federal law, the State has established a statewide overall DBE goal. This City of Fullerton federal-aid contract is considered to be part of the statewide overall DBE goal. The City of Fullerton is required to report to Caltrans on DBE participation for all Federal-aid contract each year so that attainment efforts may be evaluated.

Bidders are advised that, as required by federal law, the State has established a statewide overall DBE goal. This City of Fullerton Federal-Aid contract is considered to be part of the statewide overall DBE goal. The City of Fullerton is required to report to Caltrans on DBE participation for all Federal-Aid contract each year so that attainment efforts may be evaluated. The City of Fullerton has established a **Disadvantaged Business enterprise (DBE) goal of 13%** for this project.

No contract will be awarded to any contractor who has not been licensed in accordance with the provisions of Chapter 9 of Division III of the State Business and Professions Code, Section 7,000, et seq. The Contractor shall possess the appropriate legal and necessary licenses required to complete the work as shown in this contract at the time the contract is awarded.

For this contract, the contractor shall possess Classification "A" license at the time the bid is submitted.

A contractor is prohibited from working on this contract with any subcontractor who is ineligible to perform work pursuant to Section 1777.1 or 1777.7 of the Labor Code.

Section 4.02.010 of the Fullerton Municipal Code requires that all contractors and sub-contractors shall obtain a City Business Registration Certificate. The contract will not be executed until the contractor and sub-contractor(s) obtain such certificate from the Business Registration Office at City Hall, 303 West Commonwealth Avenue, Room 104, Fullerton, CA 92832.

The successful Bidder shall perform work equivalent to at least thirty percent (30%) of the total amount of the construction work at the site; and, perform the work on the site with its own staff and equipment, owned or rented or without operators.

Pursuant to the provisions of the California Public Contract Code Section 4104 every Bidder shall in the bid set forth:

- 1. The name and location of the place of business (address) of each subcontractor who will perform work or labor or render service to the Bidder in or about the work in an amount in excess of one-half of one percent of the Bidder's total bid; and
- 2. The portion of the work that will be done by each subcontractor. The Bidder shall list only one subcontractor for each portion of work as defined by the Bidder in its bid.
- 3. The percent of total contract amount of the work, which will be done by each such subcontractor.
- 4. Each subcontractor must comply with the contract.

Bidder shall complete and submit with the bid the "LIST OF SUBCONTRACTORS" with the above requested information.

If the Bidder fails to specify a subcontractor for any portion of the work to be performed under the contract in excess of one-half of one percent of the Bidder's total bid, or if the Bidder specifies more than one (1) subcontractor for the same portion of the work to be performed under the contract in excess of one-half of one percent of the Bidder's total bid, the Bidder agrees to perform that portion. If Bidder utilizes a subcontractor not listed in LIST OF SUBCONTRACTORS, for work that is over one half of one percent, the City will exercise Section 4110 of the California Public Contract Code and penalize the Bidder ten percent of the involved subcontract.

The successful Bidder shall not, without the express written consent of the City, either:

- 1. Substitute any person, firm, or corporation as subcontractor in place of the subcontractor designed in the original bid; or
- 2. Permit any subcontract to be assigned or transferred; or
- 3. Allow it to be performed by anyone other than the original subcontractor listed in the bid.

Each Bidder shall set forth in its bid the name and location of the place of business (address) of each subcontractor certified as a minority, woman or disabled veteran business enterprise who will perform work or labor or render service to the prime contractor in connection with the performance of the contract.

Bidder shall not assign any interest it may have in any Agreement with the City, nor shall Bidder assign any portion of the work under any such Agreement with a value in excess of one-half of one percent of Agreement price to be sub-contracted to anyone other than these subcontractors listed in the "LIST OF SUBCONTRACTORS," except by prior written consent of City. City's consent to any assignment shall not be deemed to relieve Bidder of its obligations to fully comply with its obligations under its Agreement with the City. Bidder with its own forces shall perform minimum of 30% (calculated as a percentage of the total cost of the project) under this Agreement. Bidder shall also include in its subcontract agreements the provisions of its Agreement with City including the stipulation that each subcontractor shall maintain adequate insurance coverage compatible to the insurance coverage required of the Bidder.

All bids are to be compared on the basis of the City Engineer's estimate of the quantities of work to be done. If the City Council makes an award, it will be to the *lowest responsible bidder*. For Unit Price bids, in the event there is a discrepancy between the extension and the unit cost, the unit cost will prevail.

Bidders may file a "protest" of a Bid with City's Public Works / City Engineer. In order for a Bidder's protest to be considered valid, the protest must:

- ➤ Be filed in writing within five (5) calendar days after the bid opening date;
- Specify, in detail, the grounds of the protest and the facts surrounding the protest;
- > Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each of these requirements, it will be rejected as invalid.

The successful Bidder must deliver acceptable Performance and Payment Bonds and the signed Agreement on or before the tenth (10th) calendar day after receipt of the Agreement by the CONTRACTOR, which will be issued with or shortly after the CITY's Notice of Award. Failure of the Bidder to deliver acceptable Performance and Payment Bonds and the signed Agreement on or before the tenth (10th) calendar day after receipt of the Agreement may result in the forfeiture of the Bid Bond or Bid Security and the CITY awarding the contract to the next lowest responsible bidder.

By Resolution No. 6173, the City Council adopted the general prevailing rate of per diem wages as determined and published by the State Director of the Department of Industrial Relations, pursuant to Sections 1770, 1773, and 1773.1 of the California Labor Code. Copies of these rates, the Federal Wage Rates, and the latest revisions thereto are on file in the office of the City Engineer and are available for review upon request. The contractor shall also comply with Sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 as required by the California Labor Code.

In the awarding of the contract, the City shall give equal opportunity to all bidders, regardless of sex, race, creed, color, national, or ethnic origin.

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate. Each subcontract signed by the bidder must include this assurance.

The City Council reserves the right to reject any and all bids, to waive any informality in the bidding, and to accept any bid or portion thereof, by order of the City Council of the City of Fullerton.

Any questions regarding this bid package may be referred to Ron Bowers, Engineering Department at 714.738.6322.

Donald K. Hoppe Director of Engineering