

OVERVIEW OF CONTRACT DOCUMENTS

1. General:

The City of Middleton follows the Engineers Joint Contract Documents Committee (EJCDC) recommendations in the preparation of Contract Documents. EJCDC is a combination of engineering societies including NSPE, ACEC, ASCE, and CSI that have jointly developed recommended Contract Documents for use by the Engineering profession. It is also important to note that the General Conditions have been approved and endorsed by The Associated General Contractors of America.

These Documents establish the rights and responsibilities of each party in a fair and equitable system responsive to established trends.

The General Conditions are reprinted directly by EJCDC. Other sections of the Documents are based upon EJCDC recommendations and suggestions all developed to work together to form the composite document.

2. Bidding Requirements:

Bidding Requirements include:

- a. Advertisement to Bid
- b. Instructions to Bidders

The format EJCDC Documents are such that the Bidding Requirements are not part of the Contract Documents. After the Agreement is signed, the Bidding Requirements are no longer relevant as their substance pertains only to relationships before the Award of Contract. As such, the Bidding Requirements should not contain basic contractual requirements. These are intended for the Agreement, General Conditions, Supplementary Conditions, and Drawings and Specifications. The Bid should be attached as an exhibit to the Agreement in order for it to be included as part of the Contract Documents.

3. Bidding Documents:

Bidding Documents include:

- a. Bid
- b. Bid Security

Between Bid date and Agreement date no modifications can be made to Contract Documents.

The Bidding Documents will need to be amended or supplemented for each project. Modifications must be carefully prepared as terms are used uniformly throughout, and their provisions carefully integrated. No change should be made until its full effect on the rest of the documents has been considered. Following is a summary of what should be in the various documents:

Bidding Requirements and Documents (Ad, Instructions to Bidders, Bid, Bid Security) - Information and guidance for all Bidders, but nothing that will govern performance of work and completion of project.

Agreement - Basic information as to time, price, retainage, and description of the project.

General Conditions - Fundamental provisions that affect the rights and duties of the parties and which are typical of most projects. These provisions should be considered "cast in stone" and they should not be changed without consulting a department head and/or City attorney.

Supplementary Conditions - Language to modify the fundamental relationship between parties, to supplement the framework of the General Conditions, or to change, add to, or clarify the language of the General Conditions.

Any language in the Supplementary Conditions should refer directly to the General Conditions and should be numbered accordingly.

Section 100 - General Requirements - Contain all the general requirements of construction specifications, those provisions that are work-related, pertain to the performance of the work, are strictly administrative or procedural in nature, or have a common application to other sections of the Specifications.

The substance of the General Requirements falls generally into three categories:

- (1) administrative requirements, such as summary of work, allowances, coordination, alternates (materials, equipment or price), substitution and product options, project meetings, and project close-out;
- (2) work-related provisions, such as temporary facilities, cutting and patching, and cleaning; and
- (3) general provisions applicable to more than one section, such as general stipulations regarding equipment, traffic control, easements, etc.

Specifications - Sections 100 through 700 consist of technical specifications organized per City format.

Drawings - The Bidding Documents define the word "Drawings." The word "Plans" is not used. In preparing Bidding Documents and especially specifications, use the word "Drawings."

4. Contract Documents:

Contract Documents include:

- a. Agreement
- b. Addenda
- c. Bid (as attached to the Agreement)
- d. Documentation accompanying Bid when attached to Agreement
- e. Post bid documentation when attached to Agreement
- f. Notice to Proceed
- g. Bonds
- h. General Conditions
- i. Supplementary Conditions
- j. Specifications, Drawings, and Exhibits as identified in the Agreement
- k. Amendments, modifications, and supplements issued on or after the effective date of the Agreement.

PREPARATION OF CONTRACT DOCUMENTS

1. GENERAL.

It is intended that contracts for public construction within the City of Middleton will use the standard forms within the City of Middleton Standard Specifications and Construction Contract Documents, latest revision. The standards have been written to eliminate the need for extensive copying of the standard specifications and detail drawings for each contract. Use of these documents will also provide a consistent set of expectations for designers, contractors and inspectors on all public works projects within the City.

The standard specifications and detail drawings have been drafted to cover most of the work typical of public construction in the City of Middleton. In unique situations where the standard specifications and detail drawings will not adequately address the needs of the project, the designer should modify the standard specifications through the special provisions (Section 700) and through the addition of detail drawings as necessary.

The documents contain various instructional Notes to Specifiers (NTS), highlighted in yellow. It is intended that these be removed from the final docs that comprise the Project Manual.

2. PREPARATION OF PROJECT MANUAL.

The project manual will contain both the bidding and contract documents. As noted above, during the bidding period, the blank contract documents are provided for the reference of the Bidder. After execution of the agreement, the contract documents are in effect and the bidding documents have no meaning. Preparation of the project manual should include the following:

a. Table of Contents

As indicated by the yellow highlighting, the project title and number should be filled in. After preparation of the Advertisement to Bid, Bid form, Agreement, Supplementary Conditions, and Special Provisions, the number of pages in each of those sections should also be filled in. Other yellow highlighted areas indicate documents that may or may not be listed in the project manual's Table of Contents, depending on their need.

b. Advertisement to Bid

As indicated by the yellow highlighting, the project title and number, MSIP project number, and other information pertinent to the specific project, should be filled in. Unless otherwise directed by the City, specify a non-refundable cost of **\$15** to download bid documents (project manual and drawings).

If this is being used for other than a City project (e.g. federal or state), the specification writer should consider whether there may be a need for a pre-bid conference, bid bond value in excess of 5% of the bid, and time within which bids are subject to acceptance.

c. Instructions to Bidders

As written, the Instructions to Bidders is intended to be used without modification for each public contract. Since it will not require modification, it is incorporated into the project manual by reference (note asterisk in the Table of Contents).

d. Bid

As indicated by the yellow highlighting, the project title and number, MSIP project number, and time of bid opening are to be filled in prior to posting on QuestCDN. If any addenda are issued during the bidding period, the Bidder should note the addenda

received in the blanks provided on the online form. Page B-4 illustrates the basic layout of the bid form. Pages B-5 through B-8 include additional blanks to be filled in by the Bidder.

The City intends that bids be uploaded using QuestCDN's Virtu-Bid (vBid) service. See instructions for how to create a Virtu-Bid form on QuestCDN in the document with file name (01.7) QuestCDN Instructions - vBid Upload.pdf.

e. Bid Bond

As written, the Bid Bond is intended to be used without modification for each public contract. It is included in the project manual because it will need to be filled in by the Bidder, and returned with the Bid. QuestCDN allows Bid Bonds in PDF format to be attached to the submitted electronic bid.

f. Agreement

As indicated by the yellow highlighting, there are several blanks that will need to be filled in by the preparer. In Article 1.01, there is a choice between providing a project number or a contract number, since few projects have both. The City prefers use of its five digit project number be provided here.

In Article 4.03, provide amounts for Liquidated Damages based on estimated identifiable costs City may incur, as suggested by descriptions in 4.03 A.1. and 2.

After preparation of the Supplementary Conditions and Bid, the number of pages should be provided by the preparer in Article 9.01. The preparer should also include pertinent information related to soils exploration report(s), and other exhibits as applicable.

g. Construction Performance Bond

As written, the Performance Bond is intended to be used without modification for each public contract. It is included in the project manual because it will need to be filled in by the Contractor, and returned with the Contract Documents.

h. Construction Payment Bond

As written, the Payment Bond is intended to be used without modification for each public contract. It is included in the project manual because it will need to be filled in by the Contractor, and returned with the Contract Documents.

i. General Conditions

As previously noted, the General Conditions are not intended to be changed. Since the General Conditions will not require modification, it is to be incorporated as a PDF directly into the Project Manual in its entirety. (Note double asterisk in the Table of Contents.)

Preparer can obtain a copy of the EJCDC C-700, Standard General Conditions of the Construction Contract, 2013 in PDF format from the City Engineer (it is not posted online), with the understanding that the City has a Limited Nonexclusive License for use, as described on p 2 of the License Agreement at the front of the EJCDC document.

j. Supplementary Conditions

The Supplementary Conditions modify the General Conditions, and will need to be modified for each project. The Supplementary Conditions included in the City's standards are generally sufficient for most projects, with a few required edits.

- 1) In SC-1.01.A.17, include the names of each drawing to be considered part of the Contract Documents. If there are numerous drawings with the same general title,

it would be sufficient to refer to them as “General Title”, pages X through X, inclusive. This listing should also refer to the applicable Standard Detail Drawings, as well as any project specific detail drawings that may be bound in the project manual.

- 2) SC-1.01.A.53 should be modified to list the Owner’s consultants on the project. This will include consulting engineers, material testing consultants, resident project representatives, etc.
- 3) If subsurface condition report(s) were used in preparing the drawings and specifications, modify the first paragraph C under SC-4.02 to describe the subsurface condition report(s) used and delete the second paragraph C. If no subsurface condition report was used in preparing the drawings and specifications, delete the first paragraph C under SC-4.02, and use the second paragraph C.

k. Standard Specifications

As written, the Standard Specifications are intended to be used without modification for each public contract. Sections 100 through 600 are incorporated into the project manual by reference (note asterisks in the Table of Contents).

l. Special Provisions

In unique situations where the standard specifications will not adequately address the needs of the project, the designer should modify the standard specifications as necessary through the inclusion of Special Provisions (Section 700).

m. Standard Detail Drawings

As drafted, the Standard Detail Drawings are intended to be used without modification for each public contract. They are incorporated into the project manual by reference (note asterisks in the Table of Contents). Standard Detail Drawings applicable to the project should be listed in the Supplementary Conditions as noted above.

n. Project Detail Drawings

In unique situations where the standard detail drawings will not adequately address the needs of the project, the designer should provide additional detail drawings as necessary.

o. Exhibits to the Agreement

As listed in the Table of Contents and Agreement, the project manual should include a copy of the referenced exhibits. As applicable, these may typically include soils investigation report(s), and permits obtained by other than the Contractor.

3. TIMES IN THE BIDDING DOCUMENTS.

- a. Section 4.01 of the General Conditions (EJCDC, 2013) provides that, “In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening...” By implication, this allows for:

- 1) 35 days for Bids to remain subject to Notice of Award, the written notice by Owner to a Bidder of Owner’s (conditional) acceptance of the Bid;
- 2) 15 days for Bidder to sign Agreement; and
- 3) 10 days for Owner to sign and return.

All days are calendar days.

The Supplementary Conditions in 4.01 modify 35 days to 60** days, which extends the total time between Bid Opening and commencement of Contract Times. The City standard document templates reflect this change in the following locations:

Advertisement for Bid	Change "subject to acceptance for 85 days after"
Instructions to Bidders (I-8.02)	Change "or 85 days after the bid opening"
Instructions to Bidders (I-19.08)	Change "Notice of Award within 60 days after"
Bid (B-2.01)	Change "subject to acceptance for 85 days after"
Supplementary Conditions (SC-4.01)	Change "'sixtieth day' to 'eighty-fifth day.'"

** For State or Federal projects requiring more time, this time should be increased to 90 days (or other time, as appropriate).

- b. Article 8.02 of the Instructions to Bidders requires that the Successful Bidder execute and deliver the Contract Documents and furnish the required Contract security within 15 days after the Notice of Award. The City has found 15 days to work well in most cases. If 15 days is too long or too short for Bidder to return signed Agreement, appropriate changes must be made in the following locations:

Advertisement for Bid	Change "85 days" and "15 days"
Instructions to Bidders (I-8.02)	Change "15 days"
Instructions to Bidders (I-21.01)	Change "within 15 days thereafter"
Bid (B-2.01)	Change "within 15 days after"
Supplementary Conditions (SC-4.01)	Change "sixtieth day" to overall total time allowed

- c. Article 21.01 of the Instructions to Bidders requires that within 15 days of the Notice of Award, the successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required Bonds and insurances. See par 4.b. above if changes are needed.

It also requires that within 10 days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of Drawings with appropriate identification. If 10 days is too long or too short for the City to return the signed Agreement, changes must be made in the following locations:

Instructions to Bidders (I-21.01)	Change "within 10 days thereafter"
Supplementary Conditions (SC-4.01)	Change "sixtieth day" to overall total time allowed