

INSTRUCTIONS TO BIDDERS

1. **Defined Terms.**

Terms used in these Instructions to Bidders which are defined in the Standard General Conditions of the Construction Contract have the meanings assigned to them in the General Conditions.

Certain additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.

1.1. Bidder--one who submits a Bid directly to Owner as distinct from a sub-bidder, who submits a bid to a Bidder.

1.2. Issuing Office--the office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

1.3. Successful Bidder--the lowest, responsible and responsive Bidder to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award.

2. **Copies of Bidding Documents.**

2.1. Complete sets of the Bidding Documents may be obtained from the Issuing Office. Bidding Documents are open for inspection to prospective bidders at the Issuing Office for the purpose of review in order to determine if the prospective bidders wish to obtain Bidding Documents.

2.2. Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents, whether obtained from the Owner, Engineer, Issuing Office, or other sources.

2.3. Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

3. **Qualifications of Bidders.**

3.1. Prequalification: Contractors will be pre-qualified prior to mandatory pre-bid conference. In lieu of purchasing a full set of plans and specifications, pre-bid qualification forms will be provided at no cost to interested bidders. After completion of the pre-qualification requirements, the information will be evaluated and contractor will be either pre-qualified or deemed not to meet the minimum requirements for bidding. After contractors have been pre-qualified, plans can be purchased for bidding purposes. Pre-qualification forms are included in section PQR. All information must be provided and completed as instructed in order to evaluate qualifications.

3.2. The Bidder will be required to provide evidence of compliance with the requirements of O.C. GA 43 - 14 (Construction Industry Licensing Board Acts and Rules and Regulations) with respect to the requirements of the code. Failure of Bidder to provide such information, if requested, within 10 days of notification of request, shall be grounds for forfeiting of the bid security of that Bidder.

4. **Examination of Contract Documents and Site.**

4.1 It is the responsibility of each Bidder before submitting a Bid:

4.1.1. To examine thoroughly the Contract Documents and other related data identified in the Bidding Documents (including "technical data" referred to below);

4.1.2. To visit the site to become familiar with and satisfy Bidder as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work;

4.1.3. To consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work;

4.1.4. To study and carefully correlate Bidder's knowledge and observations with the Contract Documents and such other related data; and

4.1.5 To promptly notify Engineer of all conflicts, errors, ambiguities or discrepancies which Bidder has discovered in or between the Contract Documents and such other related documents. This includes, but is not limited to, review of the Bid Tab quantities for project as shown. Contractor shall review the plans and all bid tab items/quantities and report any discrepancies immediately to the Engineer.

4.2. Reference is made to the Supplementary Conditions for identification of:

4.2.1. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Contract Documents due to differing or unanticipated conditions appear in Paragraphs 4.02, 4.03 and 4.04 of the General Conditions.

4.3. Before submitting a Bid each Bidder will be responsible for obtaining such supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

4.4. On request, Owner will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies as each Bidder deems necessary for submission of a Bid. Bidder must fill all holes and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.

4.5. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and the written resolutions thereof by Engineer is acceptable to Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

4.6. The provisions of 4.1 through 4.5, inclusive, do not apply to Hazardous Environmental Conditions covered by Paragraph 4.06 of the General Conditions.

5. Availability of Lands for Work, etc.

The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment or storage of materials and equipment outside the permanent and temporary construction easements to be incorporated in the Work are to be obtained and paid for by the Contractor. Easements for permanent structures or permanent changes in existing facilities as well as temporary construction easements are to be obtained and paid for by the Owner unless otherwise provided in the Contract Documents.

The Engineer shall apply for all known applicable permits relating to this project. It is not anticipated that any delays will result as a result of not obtaining any permit relating to the Work; however, Contractor should note that some limited portion of the land may not be available and should be prepared to make modification to the project work sequencing if delays to the permit process occur. Engineer will inform Contractor immediately upon notification of these delays.

6. Interpretations and Addenda.

6.1. All questions about the meaning or intent of the Bidding Documents are to be directed to Engineer. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Issuing Officer as having received the Bidding Documents. Questions received less than 72 hours prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be addressed and be binding. Oral and other interpretations or clarifications will be without legal effect.

6.2. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Owner or Engineer.

6.3. Failure of any Bidder to receive any such addendum or interpretations shall not relieve such bidder from any obligations under his Bid as submitted.

6.4. Failure of any Bidder to acknowledge any such addendum or interpretations shall not relieve such Bidder from any obligation under his Bid as submitted, if Bidder has knowledge of any such addendum, or interpretations. If Bidder has knowledge of any such addendum or interpretation but fails to acknowledge, this will be considered a formality.

7. **Bid Security.**

7.1. Each Bid must be accompanied by a Bid Bond (on the form attached) with good and sufficient surety or sureties approved by the owner and meeting the requirements of Paragraph 5.01 of the General Conditions, for faithful acceptance of the contract, payable to, in favor of, and for the protection of the OWNER in an amount equivalent to five (5%) of the total amount of the bid tabulation option identified as *Phase 1-9*, payable by the terms of the contract in lieu thereof, in the form of a certified check, cashier's check, or cash in equal amount. Bidders who submit Bid Security in the form of a certified check, cashier's check, or cash are bound by the "Terms of Bid Bond" as if submitted on the attached "Bid Bond" form.

7.2. The Bid security of Successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security and Certifications of Insurance and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within ten (10) days after the Notice of Award, Owner may annul the Notice of Award and Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the seventh day after the Effective Date of the Agreement or the ninety-first day after the Bid opening whereupon Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven days after the Bid opening, if requested by the Respective Bidder.

8. **Contract Times.**

The number of days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the term "Contract Times" is defined in Paragraph 1.01 (14) of the General Conditions) are set forth in the Agreement and incorporated therein by reference in the attached Bid Form.

9. **Liquidated Damages.**

Provisions for liquidated damages are set forth in the Agreement. (AG Article 3 – Section 3.2)

10. Substitute and "Or-Equal" Items.

The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement. The procedure for submission of any such application by Contractor and consideration by Engineer is set forth in Paragraph 6.05 of the General Conditions and may be supplemented in the General Requirements.

11. Subcontractors, Suppliers and Others.

If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers and other persons and organizations (including those who are to furnish the principal items of material and equipment) to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening submit to Owner a list of all such Subcontractors, Suppliers and other persons and organizations proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person or organization if requested by Owner. An Owner or Engineer who after due investigation has reasonable objection to any proposed Subcontractor, Supplier, other person or organization, may before the Notice of Award is given request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder shall submit an acceptable substitute, that Bidder's price will be increased (or decreased) by the difference in cost occasioned by such substitution and Owner may consider such price adjustment in evaluating Bids and making the contract award.

If apparent Successful Bidder declines to make any such substitution, Owner may award the contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers and other persons and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the Bid security of any Bidder. Any Subcontractor, Supplier, other person or organization listed and to whom Owner or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in Paragraph 6.06 of the General Conditions.

12. Bid Form.

12.1. The Bid Form is included with the Bidding Documents; additional copies or digital media may be obtained from the issuing Office. (Note: if Bid Forms are revised by addenda, it is Contractor's responsibility to ensure that correct forms are included on final bid submittal. Engineer assumes no responsibility for Contractor's bid submittal.)

12.2. All blanks on the Bid Form must be completed by printing in ink or by electronically produced.

12.3. Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.

12.4. Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

12.5. All names must be typed or printed in ink below the signature.

12.6. The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).

12.7. The address and telephone number for communications regarding the Bid must be shown.

12.8. Evidence of authority to conduct business as an out-of-state corporation in the state where the Work is to be performed shall be provided in accordance with Paragraph 3 above. State contractor license number must also be shown.

12.9. Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. Any bid not bearing the bidder's utility contractor license number issued by the State of Georgia Construction Industry Licensing Board will not be considered by the Owner. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form. Any bid which is not properly prepared and accompanied by required certifications may be rejected by the Owner.

13. **Bid Format**

The project will be divided into phases for bidding purposes. The priority of work will be as follows:

- Phase I – Roadway Construction*
- Phase II – Sewer Construction (Phase I)*
- Phase III – Rehabilitation of Dam Network*
- Phase IV – Clearing of Entire Delineated Areas on Project*
- Phase V – Lots C, D, E Grading*
- Phase VI – Lots F, G Grading*
- Phase VII – Lot H Grading*
- Phase VIII – Lot I, J/K Grading*
- Phase IX – Lots L, M, N, O Grading*
- Phase X – Sewer Construction (Phase II)*
- Phase XI – Water Main Construction*

All work awarded will be based on award to ONE Contractor. Work will not be split to multiple Contractors based on low bid for individual phases.

The bid process will be as follows - GSDA has a budget for maximum monies available for construction in 2009-1020. Since the construction market is so volatile during this time, the bids have been set up to provide the fairest and most flexible means of selecting the most responsible, low bidder for monies available. Bid Tabulations have been numbered and all bidders will be required to complete all forms so that each option can be evaluated.

Each Bid Tabulation description is as follows:

- Bid Tabulation 1: Phases I – XI (a cumulative bid of the entire project)
- Bid Tabulation 2: Phases I – IX (a partial phasing of the project excluding Phase II Sewer and Water Main Construction)
- Bid Tabulation 3: Phases I – IV (a partial phasing of the project to include Roadway Construction, Dam Rehabilitation, Clearing of the Future Grading Areas and Phase I Sewer Construction)
- Bid Tabulation 4: Phase I (Roadway Construction)
- Bid Tabulation 5: Phase II (Sewer Construction - Phase I)
- Bid Tabulation 6: Phase III (Rehabilitation of Dam Network)
- Bid Tabulation 7: Phase IV (Clearing of Entire Delineated Areas on Project)
- Bid Tabulation 8: Phase V (Lots C, D, E Grading)
- Bid Tabulation 9: Phase VI (Lots F, G Grading)
- Bid Tabulation 10: Phase VII (Lot H Grading)
- Bid Tabulation 11: Phase VIII (Lot I, J/K Grading)
- Bid Tabulation 12: Phase IX (Lots L, M, N, O Grading)
- Bid Tabulation 13: Phase X (Sewer Construction – Phase II)
- Bid Tabulation 14: Phase XI (Water Main Construction)

Bids will be evaluated beginning with Bid Tabulation 1, if low bid is within the budget of GSDA, low bid will be reviewed and Contractor will be selected from this option. If Bid Tabulation 1 low bid exceeds the GSDA budget this option will not be exercised and Bid Tabulation 2 will be evaluated. If Bid Tabulation 2 low bid is within the GSDA budget, low bid will be reviewed and Contractor will be selected from this option. If Bid Tabulation 2 low bid exceeds GSDA budget this option will not be exercised and Bid Tabulation 3 will be considered. If Bid Tabulation 3 low bid is within the GSDA budget, low bid will be reviewed and Contractor will be selected from this option. If Bid Tabulation 3 low bid exceeds the GSDA budget this option will not be exercised and Bid Tabulations 4, 5 and 6 will be combined to generate a cumulative bid that will closely match the GSDA budget (see page ITB-11 for flow chart of Bid Process).

14. Submission of Bids.

Bids shall be submitted at the time and place indicated in the Advertisement or Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, state contractor license number and accompanied by the Bid security, **ENTIRE BIDDING DOCUMENTS (EXCEPT DRAWINGS)**, and other required documents. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

15. Modification of Bids.

15.1. Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the receiving time.

16. Opening of Bids.

Bids will be opened and (unless obviously non-responsive) read aloud publicly at the place where Bids are to be submitted.

16.1. The Owner is not obligated to consider a Bidder's proposal, if Bidder is not on record with the Issuing Office as having received complete Bidding Documents from the Issuing Office.

16.2. No bid shall be considered unless a proper bid bond or other security authorized in Paragraph 7 of these Instructions To Bidders is submitted.

17. Bids to Remain Subject to Acceptance.

All Bids will remain subject to acceptance for ninety days after the day of the Bid opening, but Owner may, in its sole discretion, release the Bid and return the Bid security prior to that date.

18. Award of Contract.

18.1. A preference may be given to bidders located in Spalding County when the difference between the lowest out-of-county bid and the lowest in-county bid does not exceed 5%, and no more than \$2500 for purchases or contracts of \$50,000 or less, or 5% and \$5,000 for purchases or contracts of \$50,000.01 or more. Otherwise, bids must be awarded to the lowest responsible bidder, taking into consideration quality, performance and times of delivery. Formal bids are awarded by the Board of Commissioners upon recommendation from the County Manager. However, Spalding County reserves the right to reject any and all bids and accept the bid most favorable to the County.

18.2. Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced or conditional Bids and to reject the Bid of any Bidder if Owner believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of

doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. Owner also reserves the right to waive all informalities not involving price, time or changes in the Work and to negotiate contract terms with the successful Bidder. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

18.3. Owner reserves the right to not award the contract if the funding is not secured and not available within the time allowed for the bids to be accepted.

18.4. In evaluating Bids, Owner will consider the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award. Conditional Bids will not be accepted.

18.5. Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. Owner also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

18.6. Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

18.7. If the contract is to be awarded, it will be awarded to lowest Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of the Project. **No portion of the project will be awarded to separate bidders. The entire contract will be awarded to one contractor. The contract will be awarded based on the lowest total mathematically correct bid.**

18.8. If the contract is to be awarded, Owner will give Successful Bidder a Notice of Award within Ninety days after the day of the Bid opening.

19. **Contract Security.**

Paragraph 5.01 of the General Conditions and the Supplementary Conditions set forth Owner's requirements as to Performance and Payment Bonds. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by the required Performance and Payment

Bonds on the forms attached, Exhibits B and C of the Contract Documents.

20. Signing of Agreement.

When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within ten (10) days thereafter Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required Bonds and Certification of Insurance. Within ten days thereafter Owner shall deliver one fully signed counterpart to Contractor. Each counterpart is to be accompanied by a complete set of the Drawings and applicable documents with appropriate identification.

21. Laws and Regulations.

All applicable federal and state laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

Bid Evaluation Process

