

## 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. Bid—the documents submitted by Bidder in response to the Invitation to Bid that includes Bidder's Pricing to perform the work set forth in the Bidding documents.

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

1.3. Issuing Office--is Civil Engineering Consultants, Inc. and where the bidding procedures are to be administered.

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

1.5. "Owner" shall mean the Cobb County-Marietta Water Authority (CCWMA), party of the first part to the Contract Agreement, or its authorized and legal representatives.

1.6. "Engineer" shall mean Civil Engineering Consultants, Inc.

1.7. "Contractor" shall mean the party of the second part to the Contract Agreement or the authorized and legal representative of such party.

1.8. "Work" and "Project" shall mean the entire completed construction required to be furnished under the Contract Documents.

1.9. "Products" shall mean materials or equipment permanently incorporated into the Project.

1.10. "Provide" shall mean to furnish and install.

### 2. Copies of Bidding Documents

2.1. Complete sets of the Bidding Documents may be obtained from the Engineer. Bidding Documents are open for inspection to prospective bidders at Civil Engineering Consultants, Inc. 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. Owner reserves the right to reject any Bidder who does not satisfy the Owner as to its ability to successfully perform the Work.

3.2. To demonstrate current qualifications to perform the Work, each Bidder must submit with the bid detailed written evidence, such as financial data, previous experience,

present commitments and other such data as defined in the Statement of Bidder's Qualifications (SBQ).

3.3. 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.

3.4 Bidder shall be a licensed Utility Contractor in the State of Georgia at the time Bids are submitted.

3.5 The Owner may make such investigations as it deems necessary to determine the ability of the Bidder to perform the work and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request, including information on subcontractors that are intended to perform work on the project. By submission of his bid the Bidder acknowledges the right of the Owner to make such investigations, to contact references and utilize this information as a basis of determining award of the contract. The Owner reserves the right to reject any Bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

3.6 The minimum experience criteria to be considered a responsible Bidder are as follows:

3.6.1. Satisfactory completion of three graded areas of similar size with BMPs and permitted in accordance with the Georgia General Stormwater Permit;

3.6.2. At least two of these three projects must have been completed between January 1, 2007 and June 30, 2010 one of these three projects may still be in progress;

3.7 Key Personnel - The Bidder must demonstrate that the proposed Project Manager and Project Superintendent shall meet the following criteria: The Proposed Project Manager or the proposed Project Superintendent shall have been involved in at least one of the listed projects described in 3.6.1 above.

3.8 Adequate demonstration of the above listed project qualifications for the Bidder, if required, shall be provided at the time of bid on the Statement of Bidder's Qualifications form contained in these Specifications with accompanying company resumes, marketing brochures and individual project descriptions as required. Current reference names and contact telephone numbers shall be provided at the time of bid for the listed projects. Adequate demonstration of the qualification of the proposed Project Manager and Project Superintendent shall be provided at the time of bid in the form of personnel resumes.

3.9 The Bidder shall, as a part of its Bid, submit a list of similar projects it has successfully completed with a contact reference for each project. The contact reference shall be a current employee of the Owner of that project. The Bidder shall also provide, for the projects mentioned above and the proposed Project Superintendent, any history of litigation, arbitration, or other related mediation actions. All project experience information shall be required to be notarized.

#### **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.

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

4.2.1. Those reports of explorations and tests of subsurface conditions at or contiguous to the site which have been utilized by Engineer in preparation of the Contract Documents. Bidder may rely upon the general accuracy of the "technical data" contained in such reports but not upon other data, interpretations, opinions or information contained in

such reports or otherwise relating to the subsurface conditions at the site, nor upon the completeness thereof for the purposes of bidding or construction.

4.2.2. Those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site that have been utilized by Engineer in preparation of the Contract Documents. Bidder may rely upon the general accuracy of the "technical data" contained in such drawings but not upon other data, interpretations, opinions or information shown or indicated in such drawings or otherwise relating to such structures, nor upon the completeness thereof for the purposes of bidding or construction.

4.2.3. Copies of such reports and drawings will be made available for review to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in Paragraph 4.02 of the General Conditions has been identified and established in Paragraph SC-4.02 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion drawn from any "technical data" or any such data, interpretations, opinions or information.

4.3. Information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities or others, and Owner and Engineer do not assume responsibility for the accuracy

or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

4.4. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to sub-surface 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 and 4.03 of the General Conditions.

4.5. Before submitting a Bid each Bidder will be responsible to obtain such additional or 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.

4.6. 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 drilled or augured holes with a neat cement grout and clean up and restore the site to its former conditions upon completion of such explorations, investigations, tests and studies.

4.7. Reference is made to the Supplementary Conditions for the identification of the general nature of any work that is to be performed at the site by Owner or others (such as utilities and other prime contractors) that relates to the work for which a Bid is to be submitted. On request,

Owner will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such work.

4.8. 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.

4.9. The provisions of ITB-4.1 through 4.8, inclusive, do not apply to Asbestos, Polychlorinated biphenyls (PCBs), Petroleum, Hazardous Waste or Radioactive Material 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 to be incorporated in the Work are to be obtained and paid for by Contractor.

## **6. Interpretations and Addenda**

6.1. All questions about the meaning or intent of the Bidding Documents are to be directed to Engineer. Every request for such interpretation and all questions must be made in writing and addressed to **Civil Engineering Consultants, Inc., Attention: Nolan L. Johnson, Jr., P.E., 1225 Johnson Ferry Road, Suite 855, Marietta, Georgia 30068**. In lieu of mail, questions may be made by e-mail to **butch@cecincga.com** or fax to **770-977-4289**. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by an Addendum mailed or delivered to all parties recorded by Issuing Office as having received the Bidding Documents. Questions received less than seven days prior to the date for opening of Bids shall not be answered. Only questions answered by formal written Addenda will 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 obligation 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 an informality.

## 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 percent (5%) of the total amount 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 the 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 fifteen 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 sixtieth 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.

7.3. Failure of Bidder to provide qualification information, if requested, within 10 days of notification of request, shall be grounds for forfeiting of the Bid Security of that 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 A.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.

#### **10. Substitute and "Or Approved 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 approved equal" items which have not received approval of the Engineer. The procedure and timing for submission of any substitution by Contractor and consideration by Engineer is set forth in Paragraph 6.05 of the General Conditions.

#### **11. Subcontractors, Suppliers and Others**

11.1. 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. The 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 Bid 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.

11.2 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.B of the General Conditions.

#### **12. Bid Form**

12.1. The Bid Form is included with the Bidding Documents.

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

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 with the bid form. State contractor license number must also be shown on the Contractor's License Certificate.

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. 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. 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) and name and address of Bidder, and accompanied by the Bid security, Statement of Bidders Qualifications, Contractor's License Certification, Non-collusion Affidavit of Bidder, Bid Form, Corporate Certificate, Volume I of the Specifications, and other required documents for a complete, responsive and responsible bid. 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.

### **14. Modification of Bids**

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

### **15. Opening of Bids**

15.1. Bids will be opened and (unless obviously non-responsive) read aloud publicly at the place where Bids are to be submitted. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the effective date of the Contract.

15.2. The Owner is not obligated to consider a Bidder's proposal, if Bidder is not on record with the Issuing Office as having attended the Pre-Bid Conference and received complete Bidding Documents from the Issuing Office.

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

### **16. Bids to Remain Subject to Acceptance**

All Bids will remain subject to acceptance for sixty days after the day of the Bid opening, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to that date. Owner shall release any Bid and return the Bid Security if a Bidder requests the withdrawal of its Bid and basis of withdrawal is in accordance with O.C.G.A. § 36-91-52.

## **17. Award of Contract**

17.1. Owner reserves the right to reject 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. In the event a Bid is rejected by Owner or a Bidder is permitted by Owner to withdraw its Bid, Owner reserves the right to preclude such Bidder from resubmitting a Bid at any subsequent re-bidding of the Work. 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.

17.2. In evaluating Bids, Owner will consider the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements as indicated in the Advertisement for Bid, 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.

17.3. 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.

17.4. 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.

17.5. If the contract is to be awarded, it will be awarded to responsible and responsive Bidder submitting the lowest Base Bid whose evaluation by Owner indicates to Owner that the award will be in the best interests of the Project.

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

## **18. 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 in the form as shown on Exhibits B and C of the Contract Documents.

## **19. 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 fifteen 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 fifteen days of the Owner's receipt from the Contractor of the following documents in proper form: the required number of executed counterparts of the Agreement, the Bonds, the oath pursuant to O.C.G.A. § 36-91-21(e), the Certification of Insurance, and any other documents required by the Bidding Requirements, Owner shall deliver one fully signed counterpart to the Contractor. Each counterpart is to be accompanied by a complete set of the Drawings with appropriate identification. Contractor shall provide "Contractor Affidavit and Agreement" and any required "Subcontractor Affidavits" with the signed Agreement and other required Contract Documents to the Owner for Execution of the Agreement.

## **20. 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.

## **21. Permits and Easement Status**

21.1. All anticipated federal, state and local permits which are required for the Project which are the responsibility of the Owner have been obtained.

21.2. All anticipated rights of way and easements required for the Project which are the responsibility of the Owner have been obtained.

## **22. Georgia Security and Immigration Compliance Act**

22.1. Contractors and Subcontractors who enter into contracts with public employers are required to register and participate in the

Federal Work Authorization Program to verify work eligibility information of new employees. Bidders are required to fill out the following forms located in the Bidding Documents attesting to their status under this program and that they will pass on the same requirements to their Subcontractors as required in O.C.G.A. 13-10-90 and 13-10-91; Georgia Department of Labor 300-10-1:

22.1.1 Affidavit Verifying Status for Cobb County-Marietta Water Authority Public Benefit Application.

22.1.1 Security and Immigration Compliance Act Certification.

22.2 Pursuant to Code of Georgia 13-10-90 et. seq., the Georgia Security and Immigration Compliance Act of 2006, the following forms located in the Bidding Documents shall be completed prior to Award:

22.2.1 Contractor Affidavit and Agreement

22.2.2 Subcontractor Affidavit and Agreement

22.3 Contractor understands and agrees that compliance with the requirements of O.C.G.A. 13-10-90, O.C.G.A. 13-10-91, and Georgia Department of Labor Rule 300-10-1 are conditions of this Agreement.

22.4 Contractor further agrees that such compliance shall be attested by Contractor and its Subcontractors by execution of the appropriate Contractor Affidavit and Agreement and Subcontractor Affidavit forms included in the Contract Documents.