

**Document 00100**  
**INSTRUCTIONS TO BIDDERS**

ARTICLE 1- DEFINED TERMS

- 1.1 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:
- A. Bidder- The individual or entity who submits a Bid directly to Owner.
  - B. Issuing Office- The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
  - C. Successful Bidder- The lowest responsible Bidder submitting a responsive Bid to whom Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award.

ARTICLE 2- COPIES OF BIDDING DOCUMENTS

- 2.1 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement or Invitation to Bid may be obtained from the Issuing Office.
- 2.2 Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 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.

ARTICLE 3- QUALIFICATIONS OF BIDDERS

- 3.1 To demonstrate Bidder's qualifications to perform the Work, within five days of Owner's request Bidder shall submit written evidence such as financial data, previous experience, present commitments, and such other data as may be called for below. Each Bid must contain evidence of Bidder's qualification to do business in the state where the project is located or covenant to obtain such qualifications prior to award of the contract.

ARTICLE 4- EXAMINATION OF BIDDING DOCUMENTS, OTHER RELEATED DATA, AND SITE

- 4.1 Subsurface and Physical Conditions  
*Section Not Used*
- 4.2 Underground Facilities
- A. Information and data shown or indicated in the Bidding 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, including Owner, or others.
- 4.3 Hazardous Environmental Condition
- A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that Engineer has used in preparing the Bidding Documents.
  - B. Copies of reports and drawings referenced in paragraph 4.3. A will be made available by Owner 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 4.06 of the General Conditions has been identified and established in paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data,

interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

- 4.4 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 Bidding documents due to differing or unanticipated conditions appear in paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work appear in paragraph 4.06 of the General Conditions.
- 4.5 On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.
- 4.6 Reference is made to Article 7 of the Supplementary Conditions for the identification of the general nature of other 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 other work.
- 4.7 It is the responsibility of each Bidder before submitting a Bid to:
  - A. Examine and carefully study the Bidding Documents, including any Addenda and the other related data identified in the Bidding Documents;
  - B. Visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
  - C. Become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, or performance of the Work;
  - D. Carefully study all reports of explorations and test of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and carefully study all reports and drawings of a Hazardous Environmental Condition, if any, at the Site which have been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions; Obtain and carefully study (or assume responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;
  - E. Agree at the time of submitting its Bid that no further examinations, Investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;
  - F. Become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
  - G. Correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all

additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

- H. Promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
- I. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

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

#### ARTICLE 5- PRE-BID CONFERENCE

5.1 Representatives of Owner and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. Engineer will transmit to all prospective Bidders of record such Agenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

#### ARTICLE 6- SITE AND OTHER AREAS

6.1 The Site is identified in the Bidding 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. Easements for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Bidding Documents.

#### ARTICLE 7- INTERPRETATIONS AND ADDENDA

7.1 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing. 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 Engineer as having received the Bidding Documents. Questions received less than ten days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.2 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer.

#### ARTICLE 8- BID SECURITY

8.1 Bid must be accompanied by Bid security made payable to Owner in an amount of 5 percent of Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond (on the form attached) issued by a surety, meeting the requirements of paragraphs 5.01 and 5.02 of the General Conditions.

- 8.2 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security 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 Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may annul the Notice of Award and the 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 seven days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.
- 8.3 Bid security of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

#### ARTICLE 9- CONTRACT TIMES

- 9.1 The number of days within which, or the dates by which, the Work is to be substantially completed and (b) also completed and ready for final payment are set forth in the Bid Form.

#### ARTICLE 10- LIQUIDATED DAMAGES

- 10.1 Provisions for liquidated damages, if any, are set forth in the Bid Form.

#### ARTICLE 11- SUBSTITUTE AND "OR-EQUAL" ITEMS

- 11.1 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or those substitute or "or-equal" materials and equipment approved by Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function and quality to be met by any proposed substitute or "or-equal" item. No item of material or equipment will be considered by Engineer at least 15 days prior to the date for receipt of Bids. Each such request shall conform to requirements of paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

#### ARTICLE 12- SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.1 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the 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, individuals, or entities 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, individual, or entity if requested by Owner. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute.
- 12.2 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, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no 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.

- 12.2.1 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.

#### ARTICLE 13- PREPARATION OF BID

- 13.1 The Bid form is included with the Bidding Documents. Additional copies may be obtained from Engineer.
- 13.2 All blanks on the Bid form shall be completed by printing in ink or by typewriter and the Bid signed. A Bid price shall be indicated for each section, Bid item, alternative, adjustment unit price item, and unit price item listed therein, or the words "No Bid," "No Change," or "Not Applicable" entered.
- 13.3 A Bid by a corporations shall be executed in the corporate name by the president or a vice-president or other corporate office accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.
- 13.4 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown below the signature.
- 13.5 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown below the signature.
- 13.6 A Bid by an individual shall show the Bidder's name and official address.
- 13.7 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid form. The official address of the joint venture must be shown below the signature.
- 13.8 All names shall be typed or printed in ink below the signatures.
- 13.9 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 13.10 The address and telephone number for communications regarding the Bid shall be shown.
- 13.11 The Bid shall contain evidence of Bidder's authority and qualification to do Business in the state where the Project is located or covenant to obtain such qualification prior to the award of the Contract. Bidder's state contractor license number for the state of the Project, if any, shall also be shown on the Bid form.

#### ARTICLE 14- BASIS OF BID; EVALUATION OF BIDS

- 14.1 Bidders shall submit a Bid on a lump sum basis for the base Bid and include a separate price for each alternate described in the Bidding Documents as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if Owner selects the alternate. In the evaluation of Bids, alternates will be applied in the same order as listed in the Bid Form.
- 14.2 The Bid price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowances, if any, named in the Contract Documents as provided in paragraph 11.02 of the General Conditions.

- 14.3 Bid prices will be compared after adjusting for differences in the time designated by Bidders for Substantial Completion. The adjusting amount will be determined at the rate set forth in the Contract Documents for liquidated damages for failing to achieve Substantial Completion for each day before or after the desired date appearing in Article 9.

#### ARTICLE 15- SUBMITTAL OF BID

- 15.1 Each prospective Bidder is furnished one copy of the Bidding Documents with one separate unbound copy each of the Bid Form, and, if required, the Bid Bond. The unbound copy of the Bid Form is to be completed and submitted with the Bid security.
- 15.2 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Invitation to Bid and shall be enclosed in an opaque sealed envelope plainly 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, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED".

#### ARTICLE 16- MODIFICATION AND WITHDRAWAL OF BID

- 16.1 A Bid 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 prior to the date and time for the opening of Bids.
- 16.2 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.

#### ARTICLE 17- OPENING OF BIDS

- 17.1 Bids will be opened at the time and place indicated in the Advertisement or Invitation to Bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

#### ARTICLE 18- BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 18.1 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

#### ARTICLE 19- AWARD OF CONTRACT

- 19.1 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. Owner may also 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. 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.

- 19.2 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.
- 19.3 In evaluating Bids, Owner will consider 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.
- 19.4 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of subcontractors, suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of subcontractors, suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.
- 19.5 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities to perform the Work in accordance with the Contract Documents.
- 19.6 If the Contract is to be awarded, Owner will award the Contract to the Bidder whose Bid is in the best interests of the Project.

#### ARTICLE 20- CONTRACT SECURITY AND INSURANCE

- 20.1 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment Bonds and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by such Bonds.

#### ARTICLE 21- SIGNING OF AGREEMENT

When Owner gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within ten days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

#### ARTICLE 22- RETAINAGE

Provisions concerning Contractor's rights to retainage are to conform with State laws and regulations. Contractor should work directly with Owner in establishing an escrow account.

**END OF SECTION**