

**PART I**  
**INSTRUCTIONS TO BIDDERS**



**FC-6260**  
**Peachtree Creek South Fork Relief Storage and Pumping Stations**

**PART I**

**INSTRUCTIONS TO BIDDERS**

**1. SOLICITATION/NOT AN OFFER**

This solicitation does not constitute an offer by the City of Atlanta (the "City") to enter into an agreement and is not an offer that can be accepted by the Bidder to form an agreement. No language contained anywhere in this solicitation should be construed or interpreted to convey an offer to enter into agreement with the City. The terms of this solicitation are to be considered as a whole. However, no terms may be considered in whole or in part to constitute an offer to enter into an agreement with the City.

**This solicitation is only an invitation for offers from interested Bidders and no offer shall bind the City.**

This solicitation is an invitation for the Bidder to make an offer to the City in the form of a Bid. No offer made in response to the terms and conditions of this solicitation may include any terms and conditions which can bind the City to any contractual Agreement until such time as the Agreement has first been awarded by the City to the most responsible and responsive bidder whose bid meets the material requirements and criteria set forth in the solicitation and is accepted and fully executed and sealed by agents of the City designated on the signature page of the Agreement included in the solicitation. The term of your offer must conform to all applicable federal and local laws, including all ordinances of the City and all requirements of the solicitation.

**YOUR OFFER IS A FIRM OFFER AND MAY NOT BE WITHDRAWN EXCEPT AS AUTHORIZED IN THE CODE OF ORDINANCES OF THE CITY OF ATLANTA.**

Your response to this solicitation is a firm offer, which the City may accept or reject in whole or in part without any further action on your part. The acceptance of your offer by the City will form an Agreement, which is enforceable against you. **Your offer may not be withdrawn except under the terms and conditions specified in the Procurement and Real Estate Code of the City of Atlanta as codified in Part 5, Chapter 5 of the Code of Ordinances of the City of Atlanta.**

**2. RECEIPT AND OPENING OF BIDS**

Sealed Bids for the construction of **FC-6260, Peachtree Creek South Fork Relief Storage and Pumping Stations** will be received by designated staff of the Department of Procurement, Suite 1900, City Hall South, 55 Trinity Avenue, S.W., Atlanta Georgia 30303, no later than **1:59 p.m., EST**, (as verified by the Bureau of National Standards) on **Monday, December 3, 2012**.

**ABSOLUTELY NO BID WILL BE ACCEPTED AFTER 1:59 P.M.**

All Bids received by the time and date established above will be opened and publicly read.

**3. PREPARATION OF BIDS**

All Bids must be submitted on bid document forms supplied by the City and shall be subject to all requirements of the Agreement Documents. All Bids must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the Bid by the Bidder.

Lump sum, unit price, and extensions of unit prices must be entered in the appropriate spaces provided on the Bid Schedule/Bid Form. Unit prices shall include an appropriate allocation of overhead and other indirect costs so that the summation of unit price extensions and lump sum items represents the total bid amount. In the case of any Bid item for which a fixed amount predetermined by the City has already been entered on the Bid Schedule, the amount so entered shall be conclusive of all Bidders as the price for such item, and shall not be revised unless the City directs a change in the Scope of Work affecting the item to which such amount relates.

The City may consider as irregular any conditional bid or any Bid on which there is an alteration of, or departure from, the Bid Schedule hereto attached and at its option may reject the same.

Erasures or other changes in the Bids must be explained or noted over the signature of the Bidder. Failure to do so shall render the Bidder as non-responsive and cause rejection of the Bid.

Failure to execute the Bid Schedule/Bid Form documents may render the Bidder as non-responsive and cause rejection of the Bid.

**4. GEORGIA UTILITY CONTRACTOR'S LICENSE**

The Bidder shall provide a Bidder's Georgia Utility Contractor's License Number on the outside of the Sealed Envelope. A utility Contractor's License Number held by a

Subcontractor or issued by another state does NOT fulfill this requirement in lieu of the Bidder's Georgia Utility Contractor's License. Failure to provide the Bidder's Georgia Utility Contractor License Number on the outside of the Sealed Envelope will result in a rejection of the Bid at the Opening. The Bidder is required to submit the certificate included in Exhibit B.

**5. HOW TO SUBMIT BIDS**

The Bid and required submittals, including the Bid Schedule, the Bid Documentation, the Bid Form, the acknowledgment of each Addendum, the Bid Bond Guarantee, the Power of Attorney for the attorney-in-fact signing the Bid Guarantee, the Affidavit, Office of Contract Compliance forms/certificates, and other documents as required in these Agreement documents may be photocopied for submission of Bids. Submit the **original and six (6)** copies of the Bid and required attachments.

The complete package of Bid documents shall be enclosed in envelopes (outer and inner), both of which shall be sealed and clearly labeled with the project name and numbers, name of Bidder and date and time of bid opening in order to guard against premature opening of the Bid.

**Bids must be addressed to:**

Adam L. Smith, Esq., CPPO, CPPB  
Chief Procurement Officer  
Department of Procurement  
55 Trinity Avenue, S.W. Suite 1900  
Atlanta, GA 30303-0307

**6. EXECUTION OF BIDDING DOCUMENTS**

A complete set of Bidding Documents have been bound separately from the agreement forms and Specifications for the use of Bidders. Bidders shall submit their Bids, together with the bid guarantee and all forms which the Bidder is required to sign, executed in the appropriate manner as set forth below:

- a. If the Bidder is a corporation, all documents requiring execution by the Bidder shall be signed by the president or vice-president of the corporation, whose signature shall be attested by the secretary or assistant secretary of the corporation and the corporate seal affixed.
- b. If the Bidder is an individual, he or she shall sign the documents and his or her signature shall be notarized by a notary public.

- c. If the Bidder is an individual doing business under a trade name, all documents shall be signed by the Bidder whose signature shall be followed by either, "doing business as," or "trading as," followed by the trade name of the Bidder's business, and notarized by a notary public.
- d. If the Bidder is a partnership, all forms shall be executed by placing the name of the partnership followed by "By: (the name of the partner executing)" followed by the word "Partner," and notarized by a notary public.
- e. If the Bidder is a joint venture, each party to the joint venture shall execute the Bidding Documents in the manner set forth in items a, b, c, or d of this article of the Instructions to Bidders as appropriate for this type of organization.
- f. If the Bidder is a Joint Venture, all other documents in the Bidding Documents shall be executed by one of the parties to the joint venture, as provided by Article 4 of the Joint Venture Statement, in the same manner as the executed said Joint Venture Statement.

**7. FAILURE TO BID**

Your failure to respond to this Invitation to Bid may result in the removal of your company from the City's Bid list.

**8. ERRORS IN BIDS**

Bidders and their authorized representatives are expected to fully familiarize themselves with the conditions, requirements, and Specifications before submitting Bid. Failure to do so will be at the Bidder's own risk. In case of error in extension or prices in the Bid, the unit prices(s) shall govern.

**9. DISQUALIFICATION OF BIDDERS**

Any of the following may be considered as sufficient for disqualification of a Bidder and the rejection of the Bid:

- a. Submission of more than one Bid for the same work by an individual, firm, partnership or Corporation under the same or different name(s);
- b. Evidence of collusion among Bidders;
- c. Previous participation in collusive bidding on Work for the City;
- d. Submission of an unbalanced Bid, in which the prices quoted for same items are out of proportion to the prices for other items;

- e. Lack of competency of Bidder (the Agreement will be awarded only to a Bidder(s) rated as capable of performing the Work; the City may declare any Bidder ineligible at any time during the process of receiving Bids or awarding the Agreement where developments arise which, in the opinion, the City adversely affect the Bidder's responsibility; however, the Bidder will be given an opportunity by the City to present additional evidence before final action is taken;
- f. Lack of responsibility as shown by past Work judged from the standpoint of workmanship and progress; financial irresponsibility, including but not limited to, leaving retainage in City account;
- g. Uncompleted Work for which the Bidder is committed by Agreement, which in the judgment of the City, might hinder or prevent the prompt completion of Work under this Agreement if awarded to such Bidder; and
- h. Being in arrears on any of his existing or prior contracts with the City or in litigation which the City thereon or having defaulted on a previous contract with the City.

**10. REJECTION OF BIDS**

Bids may be considered irregular and may be rejected if they show omissions, alterations of forms, addition not called for, conditions limitations, unauthorized alternate Bids or other irregularities of any kind. The City reserves the right to waive any informalities or irregularities of Bids.

**11. FAILURE TO PERFORM**

If for any reason the Contractor fails to perform any of the Work required by the Specifications, or if the Work performed is not as specified, the City reserves the absolute right to have such Work performed by other persons and deduct the cost thereof from the Bid price of the company under Agreement.

**12. PRICING SHEET (REQUIRED SUBMITTAL)**

Unit prices shall include an appropriate allocation of overhead, other indirect costs and profits so that the summation of unit price extensions and lump sum items represents the total Bid amount. In the case of any Bid item for which a fixed amount predetermined by the City has already been entered on the Bid Schedule, the amount so entered shall be conclusive of all Bidders as the price for such item, and shall not be revised unless the City directs a change in the Scope of the Work affecting the item to which such amounts relates. Award will be based on the total fixed unit cost for all items aggregated.

**13. BID GUARANTEE (REQUIRED SUBMITTAL)**

Bidders are required to furnish a Bid Guarantee in the amount of five percent (5%) of the total Bid amount. Bidders offering alternative Bids shall provide a guaranty for the largest total Bid amount. At the option of the Bidder, the guaranty may be a certified check payable to the order of the City or a bid bond in the form attached. The bid bond shall be secured by a guaranty or a surety company listed in the latest issue of U.S. Treasury Circular 570. The amount of such bid bond shall be within the maximum amount specified for such company in Circular 570. No Bid shall be considered unless it is accompanied by the required guaranty. Bid Guarantee shall insure the execution of the Agreement and the furnishing of the performance and payment bonds and insurance by the successful Bidder as required by the Agreement Documents. The Bid Guarantee of the Bidders submitting the five (5) lowest total Bid amounts for the Agreement will be retained either until the successful Bidder has signed the Agreement and furnished performance and payment bonds and certificates of insurance, or until the ninetieth (90th) calendar day after the Bid opening date, whichever is sooner. Other Bid Guarantees will be returned within ten (10) calendar days after the Bid opening date. Bid Guarantees being held pending the signing of the Agreement and furnishing other documents will be returned within three (3) calendar days thereafter. Each Bidder agrees that if it is awarded the Agreement and fails to execute the Agreement and to furnish the other documents required within five (5) days, the City will retain the Bid Guarantee as liquidated damages and not as a penalty.

Attorneys-in-fact who sign bid bonds must file with the bond a certified and effectively dated copy of their power of attorney.

**14. STATEMENT OF BIDDER'S QUALIFICATIONS (REQUIRED SUBMITTAL)**

The statement of Bidder's Qualifications must be filled out completely, signed by the Bidder, and notarized.

The City shall have the right to require such additional information, as it deems necessary to evaluate the ability of the Bidder to successfully perform the Work.

The City reserves the right to reject any Bidder who does not satisfy the City as to his ability to successfully perform the Work, previous pre-qualification notwithstanding.

The cause for rejection shall include:

- a. Non-compliance of the Bidder with the requirements of an equal employment opportunity in contracting program as may be prescribed by ordinance;
- b. Non-compliance by the Bidder with the requirements of a minority and female business enterprise participation program as may be prescribed;



- c. Inadequate quality, availability and adaptability of the supplies or services to the particular use required; or
- d. Unacceptable number and scope of conditions attached to the Bid by the Bidder, if any.

**15. AFFIDAVIT (REQUIRED SUBMITTAL)**

1) The affidavit must be filled in completely, signed by the Bidder, and notarized. Violation of the statements set forth in this affidavit may be grounds for rejection of Bid, or termination of Agreement by the City, as appropriate, as well as other appropriate remedies as provided by local, state, and federal statutes.

- 2) Along with bid submittal, bidders must submit all required affidavits to the City in compliance with the Georgia Security and Immigration Compliance Act of 2006. Please note that an affidavit is required for the contractor and for each subcontractor identified by the contractor as shown in Appendix "E".

**16. EQUAL BUSINESS OPPORTUNITY PROGRAM (REQUIRED SUBMITTAL)**

The Bidder shall complete the Equal Business Opportunity ("EBO") Program documents in accordance with the instructions included in APPENDIX A, REQUIREMENTS OF THE OFFICE OF CONTRACT COMPLIANCE, and shall properly execute the documents.

A determination by the City that misstatements have been made by the Bidder in this document shall cause rejection of Bid or termination of Agreement, as appropriate and shall be grounds for other remedies available under City ordinances, and state or federal statutes.

**17. AUTHORIZATION TO TRANSACT BUSINESS (REQUIRED SUBMITTAL)**

If the Contractor is a corporation or corporations combined to form a joint venture, the corporation or members of the joint venture team, prior to Agreement execution, must submit documentary evidence from the Secretary of State that the corporation is in good standing and that the corporation is authorized to transact business in the State of Georgia.

**18. BUSINESS NON-DISCRIMINATION POLICY**

The City prefers to do business with firms or institutions that include representation of minorities and women at all levels.

**19. EQUAL EMPLOYMENT OPPORTUNITY (“EEO”) IN PURCHASING AND CONTRACTING**

To be eligible for award of this Agreement, the Bidder must certify and fully comply with the requirements, terms, and conditions of the section on EEO.

**20. CONTRACT EMPLOYMENT REPORT**

Upon award of an Agreement with the City, the successful Bidder must submit a Contract Employment Report (“CER”) and supplemental information as required to comply with the paragraph, “Monitoring of EEO Policy, Requirements of the Office of Contract Compliance.”

**21. FIRST SOURCE JOBS POLICY EMPLOYMENT AGREEMENT  
(REQUIRED SUBMITTAL LOCATED IN APPENDIX A)**

The Bidder shall acknowledge and implement the First Source Jobs Policy.

**22. BID FORM; BID SCHEDULE; BID DATA; CHECKLIST (REQUIRED SUBMITTAL)**

The Bidder must complete and execute all sections of the Bidding documents.

**23. ESCROW BID DOCUMENTS**

This solicitation requires that the three (3) low bidders submit, within three (3) business days, one copy of all documentary information generated in preparation of bid prices for this project. This material is hereinafter referred to as "Escrow Bid Documents". The Escrow Bid Documents of the successful bidder will be held in escrow for the duration of the Agreement and warranty period. Escrow Bid Documents of the other bidders will be returned to the bidders following award and execution of the respective Agreement.

The successful bidder agrees, as a condition of award of the Agreement, that the Escrow Bid Documents constitute all of the information used in preparation of his bid, and that no other bid preparation information shall be considered in resolving disputes, claims or negotiation of change orders to the Agreement.

Nothing in the Escrow Bid Documents shall change or modify the terms or conditions of the Agreement Documents.

## Ownership

The Escrow Bid Documents are, and shall always remain, the property of the Bidder, subject only to joint review by the City and the Bidder, as provided herein.

The City stipulates and expressly acknowledges that the Escrow Bid Documents, as defined herein, constitutes trade secrets. This acknowledgment is based on the City's express understanding that the information contained in the Escrow Bid Documents is not known outside the bidder's business, is known only to a limited extent and only by a limited number of employees of the bidder, is safeguarded while in bidder's possession, is extremely valuable to bidder and could be extremely valuable to bidder's competitors by virtue of it reflecting bidder's contemplated techniques of construction. City acknowledges that the bidder expended substantial sums of money in developing the information included in the Escrow Bid Documents and further acknowledges that it would be difficult for a competitor to replicate the information contained therein. City further acknowledges that the Escrow Bid Documents and the information contained therein are made available to City only because such action is an express prerequisite to award of the Agreement. City acknowledges that the Escrow Bid Documents include a compilation of information used in the bidder's business, intended to give the bidder an opportunity to obtain an advantage over competitors who do not know of or use the contents of the documentation. City agrees to safeguard the Escrow Bid Documents, and all information contained therein, against disclosure to the fullest extent permitted by law.

## Purpose

Escrow Bid Documents will be used to assist in the negotiation of price adjustments and change orders and in the settlement of disputes, claims and other controversies. They will not be used for pre-award evaluation of the Bidder's anticipated methods of construction or to assess the Bidder's qualifications for performing the work.

## Format and Contents

Bidders may submit Escrow Bid Documents in their usual cost estimating format. It is not the intention of this specification to cause the bidder extra work during the preparation of the bid, but to ensure that the Escrow Bid Documents will be adequate to enable complete understanding and proper interpretation for their intended use. The Escrow Bid Documents shall be in the language (e.g., English) of the Specifications.

It is required that the Escrow Bid Documents clearly itemize the estimated costs of performing the work of each bid item contained in the bid schedule. Bid items should be separated into sub-items as required to present a complete and detailed cost estimate and allow a detailed cost review. The Escrow Bid Documents shall include all quantity takeoffs, crew, equipment, calculations of rates of production and progress, copies of quotations from subcontractors and suppliers, and memoranda, narratives, consultant's reports, add/deduct sheets, and all other information used by the bidder to arrive at the

prices contained in the bid proposal. Estimated costs should be broken down into the bidder's usual estimate categories such as direct labor, repair labor, equipment operation, equipment ownership, expendable materials, permanent materials, and subcontract cost as appropriate. Plant and equipment and indirect costs should be detailed in the bidder's usual format. The Bidder's allocation of plant and equipment, indirect costs, contingencies, markup and other items to each bid item shall be included.

The EBDs shall clearly show in calculations, text, or both, the relationship between baseline indications presented in the Agreement Documents and assumptions that form the basis for the Bidder's means, methods, equipment selection, rates of production, and costs.

All costs shall be identified. For bid items amounting to less than ten thousand dollars (\$10,000), estimated unit costs are acceptable without a detailed cost estimate, providing that labor, equipment, materials, and subcontracts, as applicable, are included and provided that indirect costs, contingencies, and markup, as applicable, are allocated.

Bid documents provided by the City should not be included in the Escrow Bid Documents unless needed to comply with the requirements of this provision.

### Submittal

The Escrow Bid Documents shall be submitted by the three lowest bidders in a sealed container within seventy-two (72) hours after the time of receipt of bids. The ESCROW BID DOCUMENTATION CERTIFICATION shall be enclosed in a separate envelope and attached to the outside of the EBD container so as to be readily accessible to the City without having to open the document container. The bidder will obtain the completed ACKNOWLEDGEMENT OF DELIVERY certification, from the City and will deliver the acknowledgment and a copy of the Escrow Bid Documentation Certification, Attachment 5, which accompanied the Escrow Bid Documents, to the City within said seventy-two (72) hour period. The container shall be clearly marked on the outside with the bidder's name, date of submittal, project name and the words "Escrow Bid Documents".

The Escrow Bid Documents shall be accompanied with the Escrow Bid Documentation Certification, signed by an individual authorized by the bidder to execute the bidding proposal, stating that the material in the Escrow Documentation constitutes all the documentary information used in preparation of the bid and that he has personally examined the contents of the Escrow Bid Documents container and has found that the documents in the container are complete. Prior to award, Escrow Bid Documents of the apparent successful bidder will be examined, organized and inventoried by representatives of the City, together with members of the Contractor's staff who are knowledgeable in how the bid was prepared.

This examination is to ensure that the Escrow Bid Documents are authentic, legible and complete. It will not include review of, and will not constitute approval of, proposed construction methods, estimating assumptions, or interpretations of Agreement Documents. Examination will not alter any condition(s) or term(s) of the Agreement.

If the Agreement is not awarded to the apparent successful bidder, the Escrow Bid Documents of the bidder next to be considered for award shall be processed as described.

Timely submission of complete Escrow Bid Documents is an essential element of the bidder's responsibility and a prerequisite to Agreement award. Failure to provide the necessary Escrow Bid Documents will be sufficient cause of the City to reject the bid.

If the bidder's proposal is based on subcontracting any part of the work, each subcontractor, whose total subcontract price exceeds five percent (5%) percent of the total Agreement price proposed by the bidder, shall provide separate Escrow Bid Documents to be included with those of the bidder. These documents will be opened and examined in the same manner and at the same time as the examination described above for the apparent successful bidder.

If the Bidder wishes to subcontract any portion of the work after award, the City retains the right to require the Bidder to submit Escrow Bid Documents from the subcontractor before the subcontract is approved.

Escrow Bid Documents submitted by unsuccessful bidders will be returned unopened, unless opened as provided above, following award of the Agreement.

### Storage

One (1) full original set of the Bid Documents will be placed in escrow, for the life of the Agreement, in a mutually agreeable institution. The cost of storage will be paid by the Bidder and a key with an access authorization card, which will be the property of the City until final close-out and settlement of all disputes. If at any time either party wishes to exercise their right to review the escrowed materials, notice will be given to the other parties.

### Examination

The Escrow Bid Documents shall be examined by both the City and the successful Bidder, at any time deemed necessary by either the City or the successful Bidder, to assist in the negotiation of price adjustments and change orders, or the settlement of disputes.

## **24. PRE-BID INSPECTION**

Prior to submission of a Bid, the Bidder shall have made a thorough examination of the Work Site. The Bidder shall become informed as to the nature of the proposed construction, the kind of facilities required to carry out the construction, labor conditions, and all other matters that may affect the cost and time of completion of the Work upon which it bids.

The Bidder shall make itself familiar with all of the Agreement documents and other instructions before submitting its Bid, in order that no misunderstanding shall exist in regard to the nature and character of the Work to be done. No allowance shall be made for any claims that the Bid is based on incomplete information as to the nature and character of the site or the Work involved.

The Contractor, by execution of the Agreement, shall in no way be relieved of any obligation under it due to its failure to receive or examine any form or legal instrument or to visit the site and acquaint itself with the conditions there existing, and the City shall be justified in rejecting any claims based on facts regarding that which the Contractor should have known as a result thereof.

## **25. ADDENDA AND INTERPRETATIONS**

All questions by prospective Bidders as to the interpretations of the Bidding Documents must be submitted in writing to: Anthony Stanley, Contracting Officer, City of Atlanta, Department of Procurement, 55 Trinity Avenue, S.W. Suite 1900, Atlanta, Georgia 30303, or emailed to [adstanley@atlantaga.gov](mailto:adstanley@atlantaga.gov), and must be received by **3:00p.m. EST on Friday, November 16, 2012**. Every interpretation made to a Bidder will be in the form of an addendum to the Bidding Documents, and when issued, will be on file in the Department of Procurement. In addition, all addenda will be mailed to each person holding Bidding Documents, but it shall be the Bidder's responsibility to make inquiry as to the addenda issued. All such addenda shall become part of the Agreement and all Bidders shall be bound by such addenda, whether or not received by the Bidders.

The City shall not be bound by any information, explanation, clarification, or any interpretation, oral or written, by whomsoever made, that is not incorporated into an addendum to the Bidding Documents. No response shall be made to inquiries received later than **3:00p.m. EST on Friday, November 16, 2012**.

## **26. PRE-BID CONFERENCE & SITE VISIT**

A Pre-bid Conference will be held on **Tuesday, November 13, 2012 at 10:00 a.m.**, in the Bid Conference Room of the Department of Procurement at 55 Trinity Avenue, Atlanta, GA 30303, Room 1900. At that time, the general requirements of the project will be discussed. Any additional questions raised by Bidders will be discussed.

A work site visit will be held for all potential bidders on **Wednesday, November 14, 2012 at 9:30 a.m. to 11:30 a.m.**, located at 2061 Liddell Drive, NE, Atlanta, Georgia 30324.

General requirements of the project will be discussed at the Pre-bid Conference. Also discussed will be questions regarding preparation and submission of Bids and general contractual requirements. Bidders will be allowed to ask questions. **Oral answers to questions during the Pre-bid Conference will not be authoritative.**

It should be emphasized, however, that nothing stated or discussed during the course of this conference shall be considered to modify, alter or change the requirements of the Bidding Documents, unless it shall be subsequently incorporated into an addendum to the Bidding Documents.

## **27. TIME FOR RECEIVING BIDS**

Sealed Bids for this project will be received by designated staff of the Department of Procurement, Suite 1900, City Hall South, 55 Trinity Avenue, S.W., Atlanta, GA 30303, no later than 1:59 p.m. EST, (as verified by the Bureau of National Standards) on **Monday, December 3, 2012. ABSOLUTELY NO BIDS WILL BE RECEIVED AFTER 1:59 P.M. ON THE RESPECTIVE DATE.** All Bids received by the time and date set forth will be opened publicly and read at **2:00 p.m.** in the Department of Procurement Bid Conference Room, Suite 1900, at the aforementioned address.

Bids received prior to the advertised hour of opening will be kept secured and sealed. The contracting officer whose duty it is to open them will decide when the specified time has arrived, and no Bid received thereafter will be considered, except that when a Bid arrives by mail after the time fixed for opening, but before the reading of all other Bids is completed, and it is shown to the satisfaction of the City that the non-arrival on time was due solely to delay in the mail for which the Bidder was not responsible, such Bid will be received and considered.

## **28. BID MODIFICATION AND WITHDRAWAL**

Bids may be modified after they have been submitted, but only before the Bid opening date and time. Modifications must be signed by the Bidder and must be received by the City no later than the Bid opening time and date. Modifications should not reveal the total Bid amount, but should identify the addition and subtraction or other modification in a manner in which the prices will not be known by the City until the sealed Bid is opened.

Bids may be withdrawn after they have been submitted, but only before the Bid opening date and time. Withdrawn bids may be resubmitted, but only in the manner in which the Bid was originally submitted. Withdrawals must be signed as stipulated above for modification. Bids may not be withdrawn between the Bid opening time and date and **one**

***hundred eighty (180) calendar days*** thereafter, except as may be agreed upon by a written agreement between the Bidder and the City.

## **29. BID EVALUATION**

- a. Each Bid timely received and in the City's hands at the time set forth for the Bid opening shall constitute an offer to perform the Agreement on the terms and conditions thereof, in strict accordance with the Agreement documents, and all other requirements, all for the Bid total. For good cause and valuable consideration, the sufficiency of which is acknowledged by submittal of a Bid, each Bidder promises and agrees that its Bid shall be irrevocable for a period of ***one hundred eighty (180) calendar days*** after the Bid opening and will not be withdrawn or modified during that time. The City may accept any Bid by giving the Bidder Written Notice of acceptance during that time. If necessary, the period of time specified may be extended by written agreement between the City and the Bidder or Bidders concerned.
- b. After the Bids have been opened and before any award is made, the City will evaluate the Bid process, the Bid total, the supplements to the Bid form, Bidder's experience, financial data, Local Preference Program, proposed Subcontractors and equipment manufacturers and other data relating to Bidders' responsibility and qualifications to perform the Agreement satisfactorily.
- c. All extension of the unit prices shown and the subsequent addition of extended amounts may be verified by the City. In the event of a discrepancy between the unit price bid and the extension, the unit price will be deemed intended by the Bidder and the extension shall be adjusted. In the event of a discrepancy between the sum of the extended amounts and the bid total, the sum of the extended amounts shall govern.
- d. Bidder may be required to submit, in writing, the addresses of any proposed Subcontractors or Equipment manufacturers listed on the Bid, and to submit other material information relative to proposed Subcontractors or Equipment manufacturers. The City reserves the right to disapprove any proposed Subcontractor or Equipment manufacturers whose technical or financial ability or resources or whose experience are deemed inadequate.
- e. The City reserves the right to reject any Bid the prices of which appear to be unbalanced, and to reject any or all Bids, or parts thereof, if it determines, in its sole discretion, that such rejection is in the best interest of the City. Where only a single responsible and responsive Bid is received, the City may in its sole discretion, elect to conduct a price or cost analysis of the Bid. Such Bidder shall cooperate with such analysis and provide such supplemental information as may be required. The determination whether to enter into an Agreement with such sole Bidder shall be solely within the City's discretion and not dependent upon performance of a price or cost analysis.
- f. Bids will be evaluated on the basis of determining the lowest Bid total of a Bidder, not including alternates, whose Bid is responsive to the Invitation to Bid and who is



determined to be technically, financially and otherwise responsible to perform the Agreement satisfactorily, and to meet all other requirements of the Bidding Documents relating thereto. Any Bid may be rejected if it is determined by the City to be non-responsive, provided, however, that the City reserves the right to waive any irregularities or technicalities which it determines, within its sole discretion, to be minor in nature and in the interest of the public. Furthermore, any Bid may be rejected if it is determined by the City, in its sole discretion, that the bidder is not capable of performing the Agreement satisfactorily based upon review of its experience and technical and financial capabilities, or the failure of such bidder to provide information requested relating to such determination. Additionally, the City reserves the right to disqualify Bids, before and after the bid opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of any Bidder(s).

- g. The City intends to award the Agreement at the earliest practicable date to the lowest responsive, responsible Bidder(s), provided that the Bid is within the funds available for the project. The City reserves the right to award the Agreement to multiple Bidders. In addition, the City reserves the right to reject any and/or all Bids if it determines, in its sole discretion, that the public interest will be best served by doing so.
- h. A Pre-award Conference may be conducted with the apparent low Bidder(s) to review general requirements of the Bidding Documents.

### 30. **AWARD CRITERIA**

Award will be made after evaluating the prices, responsiveness and responsibility of each Bidder.

- A. The **responsiveness** of a Bidder is determined by the following:
  - 1. A timely and effective delivery of all services, materials, documents, and/or other information required by the City;
  - 2. The completeness of all material, documents and/or information required by the City; and
  - 3. The notification of the City of methods, services, supplies and/or equipment that could reduce cost or increase quality.
- B. The **responsibility** of a Bidder is determined by the following:
  - 1. The ability, capacity and skill of the Bidder to perform the Agreement or provide the Work required;
  - 2. The capability of the Bidder to perform the Agreement or provide the Work promptly, or within the time specified without delay or interference;
  - 3. The character, integrity, reputation, judgment, experience and efficiency of the Bidders;
  - 4. The quality of performance of previous contracts or work;

5. The previous existing compliance by the Bidder with laws and ordinances relating to the Agreement or Work;
6. The sufficiency of the financial resources and ability of the Bidder to perform Agreement or provide the Work;
7. The compliance of the Bidder with the requirements of Division II, Equal Employment Opportunity (EEO), and Division 12, Minority and Female Business Enterprises, of the City's Department of Procurement;
8. The quality, availability and adaptability of the supplies or contractual Work to the particular use required; and
9. The successful Bidder shall assume full responsibility for the conduct of his agents and/or employees during the time such agents or employees are on the premises for the purpose of performing the Work herein specified.

### **31. SURETY BONDS**

Regarding submission of surety bonds prior to or subsequent to the Bid submission, the following requirements pertain:

- a. Any surety bond submitted in accordance with the Bid or Agreement requirements must be issued by a corporate surety company satisfactory to the City and authorized to act as such in the State of Georgia;
- b. Such bonds shall conform to the forms provided with the Bid Documents and be completed in accordance with the instructions thereon; and
- c. In accordance with Georgia law, and upon award of the Agreement, separate performance and payment bonds shall be required of the successful Bidder, each in an amount not less than the total amount payable under the Agreement.

The payment bond shall remain in effect for the period required under Georgia law for the payment bonds on public construction agreements. Reference is made to the bond forms and the Agreement Documents for additional particulars of the terms required in the bonds. In the case of any inconsistency between the Bond Forms and Georgia law, the law shall control. Finally, alterations, extension of the time allowed for performance, extra and additional Work, and other changes authorized under the Agreement may be made without notice to or consent of the surety or sureties.

### **32. POWER OF ATTORNEY**

Attorneys-in-fact who sign agreement bonds must file with each bond a certified copy of their power of attorney with the appropriate effective date.

### **33. INSURANCE REQUIREMENTS**

The Contractor shall procure and maintain during the life of this Agreement, Workmen's Compensation, Public Liability, Property Damage, Automobile Liability insurance and any other insurance necessary to satisfy the requirements of the Agreement Documents.

**34. LAWS AND REGULATIONS**

The Bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Agreement throughout, to the extent that such

**35. AGREEMENT TERMS**

Contractor shall commence Work within ten (10) calendar days after Notice to Proceed ("NTP") and Substantial Completion shall be achieved within four hundred and forty (440) days from issuance of NTP; and Final Completion shall be achieved as defined in the General Conditions, or at such time as may comprise the Agreement Time as defined under the Agreement.

**36. LIQUIDATED DAMAGES**

The performance of the Work under Agreement within the specified time is essential to the City's economic interests. The attention of potential Bidders is directed to the provisions of the Agreement Documents, which establish the basis for liquidated damages to be paid to the City in the event that the Work is not completed on schedule.

**37. EXECUTION OF AGREEMENT**

Each Bidder agrees that, it is awarded a Agreement (the form of which attached to this ITB at Part X and must be fully executed and provided as a submittal in the a Bidder's Bid), it will, in addition to the executed Agreement, be required to submit additional documentation (e.g.) insurance/bonds, etc.) after such award pursuant to notice provide by City. If within three (3) days of receiving such notice, the successful Bidder fails to comply with the notice and submit additional requested documentation, City may retain the Bid Guarantee as liquidated damages and not as a penalty.

**38. PRE-CONSTRUCTION CONFERENCE**

A pre-construction conference may be held with the successful Bidder and all known Subcontractors at a time and place set by the City.

### 39. SUBSTITUTIONS

Whenever a Material, article, or piece of Equipment is identified on the Plans or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended to establish a standard, and any Material, article, or Equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable, provided the Material, or Equipment so proposed is, in the opinion of the Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer's written approval.

Whenever the design is based on a specific product of a particular manufacturer or manufacturers, the manufacturer(s) will be shown on the Drawings and/or listed in the Specifications. Any item other than those so designated shall be considered a substitution.

If the manufacturer is named in the Drawings and/or detailed Specifications as an approved manufacturer, products of that manufacturer meeting all Specification requirements are acceptable.

Approval of any substitution will be made under the following provisions:

- A. If the term "OR EQUAL" follows the names of approved manufacturers, then other manufacturers desiring approval may submit the product to the Engineer for approval during the bidding phase. The manufacturer should include the following items in this pre-submittal:
  - (1) Descriptive literature, including information on Materials used, minimum design standards features, manufacturing processes and facilities, and similar information, which will indicate experience and expertise in the manufacture of the product being evaluated;
  - (2) Performance Specifications applicable to the manufacturer's standard design, which indicate the level of performance to be expected from the product;
  - (3) A complete set of submittal Drawings of similar Equipment that has been completed and placed into operation;
  - (4) A list of existing installations of equipment similar in type and size;
  - (5) Evidence of technical ability of the manufacturer to design and manufacture Equipment and systems meeting project requirements. Evidence submitted shall include, at a minimum, descriptions of engineering and manufacturing staff capabilities;
  - (6) Information required to satisfy specified experience requirements or a copy of the bond to be submitted in lieu of experience;

- (7) A complete description of field service capabilities, including the location of field service facilities which would serve the proposed facility and the number and qualifications of personnel working from that location;
  - (8) A complete list of all requirements of the Drawings and Specifications with which the manufacturer cannot conform, including reasons why alternate features are considered equivalent; and
  - (9) All other information necessary to fully evaluate the product for consideration.
- C. This pre-submittal shall reach the Engineer no later than three (3) weeks prior to the Bid date. Manufacturers will be advised of approval or rejection in writing no later than fourteen (14) days prior to the Bid date. Rejected submittals may be supplemented with additional information and resubmitted no later than one (1) week prior to the bid date. Manufacturers making supplementary submittals will be advised of approval or rejection in writing no later than three (3) days prior to the bid date.

NOTE: Bids based on Equipment, which has not received the approval of the Engineer, will render the Bidder as non-responsive and cause rejection of the Bid.

If the term "EQUAL TO" precedes the names of approved manufacturers in the Specifications, the Contractor may, after receiving the Notice to Proceed, submit Shop Drawings on the substitute product for the approval of the Engineer in accordance with General Condition 28.

Any Bidder intending to furnish substitute products is cautioned to verify that the item being furnished will perform the same functions and have the same capabilities as the item specified. The Bidder shall include in his bid the cost of accessory items; which may be required by the substitute product and any architectural, structural, mechanical, piping, electrical or other modifications required to accommodate the substitution.

Approval of the Engineer is dependent on his determination that the product offered is essentially equal in function, performance, quality of manufacture, ease of maintenance, reliability, service life and other criteria to that on which the design is based, and will require no major modifications to structures, electrical systems, control systems, or piping systems.

#### **40. ILLEGAL IMMIGRATION REFORM AND ENFORCMENT ACT FORMS**

This Request for Proposals/Invitation to Bid is subject to the Georgia Security & Immigration Compliance Act. Pursuant to the Georgia Security & Immigration Compliance Act of 2006, as amended o May 11, 2009, bidders and proponents are notified that all bids/proposals for services that are to be physically performed within the State of Georgia must be accompanied by proof of their registration with and continuing and future participation in the E-Verify program established by the United States Department of

Homeland Security. A completed affidavit (Appendix E) must be submitted on the top of the bid/proposal at the time of submission, prior to the time for opening bids/proposals. Under state law, the City cannot consider any bid/proposal which does not include a completed affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009. All bidders/proponents intending to do business with the City are responsible for independently apprising themselves and complying with the requirements of that law and its effect on City procurement and their participation in those procurement.

For additional information on the E-Verify program or to enroll in the program, go to: <https://e-verify.uscis.gov/enroll>

**41. SYSTEMATIC ALIEN VERIFICATION OF ENTITLEMENTS**

The Systematic Alien Verification of Entitlements (S.A.V.E.) Form must be completed and submitted with the Bid.

**42. SUBMITTALS**

The following submittals must be completed and submitted with each Proposal.

	<b>Required Bid Submittal Check Sheet<sup>1</sup></b>	Check (✓)
	<b>Illegal Immigration Reform and Enforcement Act Form</b>	
<b>1.</b>	<b>Bid Bond and Power of Attorney for the Attorney- in-Fact Signing the Bid Bond</b>	
<b>2.</b>	<b>Acknowledgement of Insurance and Bonding Requirements</b>	
<b>3.</b>	<b>Proof of Insurance Coverage and Bonding Capacity</b>	
<b>4.</b>	<b>Non-Collusion Affidavit Form</b>	
<b>5.</b>	<b>Non-Gratuity Affidavit</b>	
<b>6.</b>	<b>Form 1; Bidder Contact Directory</b>	
<b>7.</b>	<b>Disclosure Form and Questionnaire</b>	
<b>8.</b>	<b>Acknowledgment of Addenda</b>	

<sup>1</sup> This table is included for Bidder's convenience and may be used to track the preparation and submittal of certain required information with its Bid.

9.	<b>Bid Form</b>	
10.	<b>Systematic Alien Verification for Entitlements (S.A.V.E.)</b>	
11.	<b>Bidder Qualification Form</b>	
12.	<b>Contractor Agreement (Signed and Sealed) and if applicable copy of Joint Venture Agreement. Bidder must submit six (6) original signed Agreement Signatory Pages.</b>	
13.	<b>Miscellaneous; Documentation evidencing Proponent's authority to transact business in the State of Georgia</b>	
14.	<b>Appendix A; City's OCC Programs; Office of Contract Compliance Submittals; EBO Forms 1, 2, 3 and 4 (to be completed by Proponent and submitted with Proposal)<sup>2</sup></b>	
15.	<b>Bid Certification Form</b>	
16.	<b>Georgia Utility Contractor's License Certification</b>	

**\*\*END OF INSTRUCTIONS TO BIDDERS\*\***

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<sup>2</sup> Appendix B; Insurance and Bonding Requirements is a part of the Agreement but is not a form that is required to be completed by a Proponent.

