



GOOCHLAND COUNTY, VIRGINIA INSTRUCTIONS TO BIDDERS **For** **PROCUREMENT OF CONSTRUCTION AND RELATED SERVICES**

The general instructions, rules and conditions which follow apply to procurement of construction and construction related services conducted by Goochland County, unless otherwise specified. Bidders are expected to inform themselves fully as to all applicable terms, conditions, instructions, requirements and specifications, before submitting bids. Failure to do so will be at the bidder's own risk, and relief cannot be secured on the plea of error.

Subject to all laws, policies, resolutions and regulations of Virginia and Goochland County, and all applicable rules, regulations and limitations, if any, imposed by federal law, bids submitted in response to a solicitation issued by Goochland County will bind bidders to the conditions and requirements herein set forth, unless otherwise expressly specified in the solicitation.

SECTION 1: DEFINITIONS

- 1.1.** “*Bid*” means the offer of a bidder to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.
- 1.2.** “*County*” means Goochland County, Virginia and its agencies, officials, employees, agents and designated representatives.
- 1.3.** “*Contractor*” and “*General Contractor*” shall have the same meaning as “Successful Bidder,” as set forth below.
- 1.4.** “*Contract Award*” means the date on which the Goochland County Board of Supervisors approves the award of the Contract.
- 1.5.** “*Contract Documents*” or “*Contract*” is defined in paragraph 3 of the Builder’s Agreement and Section 1.1.1 of the General Conditions.
- 1.6.** “*Contract Execution*” means the later of Contract Award or the date by which the Contract Documents have been executed by County.
- 1.7.** “*Informality*” means a minor defect or variation of a bid from the exact requirements of a solicitation, which does not affect the price, quality, quantity or delivery schedule for the goods or services or construction being procured.
- 1.8.** “*Install*” describes operations at the Project site including the actual unloading, temporary storage, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning and similar operations.
- 1.9.** “*Installer*” is a contractor or another entity engaged by contractor, either as an employee, subcontractor, or contractor of lower tier, who performs a particular construction activity including installation, erection, application, or similar operations. Installers are required to be experienced in the operations they are engaged to perform.

a) The term “experienced”, when used with the term “installer”, means having successfully completed a minimum of 5 previous projects similar in size and scope to this project, being familiar with the special requirements indicated, and having complied with requirements of authorities having jurisdiction.

b) Trades. Using terms such as “carpentry” does not imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as “carpenter.” It also does not imply that requirements specified apply exclusively to trades people of the corresponding generic name.

c) Assigning Specialists. Certain sections of the specifications require that specific construction activities shall be performed by specialists who are recognized experts in those operations. The specialists must be engaged for those activities, and their assignments are requirements over which Contractor has no option. However, the ultimate responsibility for fulfilling contract requirements remains with Contractor.

d) These requirements shall not be interpreted to conflict with enforcing building codes and similar regulations governing the work. It is also not intended to interfere with local trade-union jurisdictional settlements and similar conventions.

1.10. “*Invitation for Bid*” or “*IFB*” means the competitive sealed bidding procurement process by which a request is made to prospective bidders for their quotation on goods or services desired by County. An IFB incorporates by reference the specifications and contractual terms and conditions applicable to the procurement.

1.11. “*Owner*” refers to Goochland County, Virginia and its agencies, officials, employees, agents and designated representatives. This term is interchangeable with the term “County.”

1.12. “*Professional*” refers to the architectural or engineering firm that represents County to perform surveillance of the construction of the Contract improvements.

1.13. “*Purchasing Agent*” or “*Purchasing Director*” means the head of the County’s Purchasing Department, or a designated contact person acting for her or at her direction.

1.14. “*Regulations*” includes laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, as well as rules, conventions, and agreements within the construction industry that control performance of the work.

1.15. “*Responsible Bidder*” means a bidder having the capability in all respects to perform fully the contract requirements, and who has the moral and business integrity and reliability which will assure timely, good faith performance of the contract sought to be procured, and who has been pre-qualified, if required. See Section 2.19.

1.16. “*Responsive Bidder*” means a bidder who has submitted a bid or proposal which conforms in all material respects to the IFB.

1.17. “*Services*” means any work performed by a contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

1.18. “*Solicitation*” means the process of notifying prospective bidders that County wishes to receive bids on a set of requirements to provide goods or services. The notification of County requirements may consist of public advertising, the mailing of an IFB or the public posting of notices.

1.19. “*State*” means Virginia.

1.20. “*Successful bidder*” means the lowest responsive and responsible bidder to whom a contract is awarded as a result of a competitive sealed bidding procedure conducted by County.

SECTION 2: TERMS, CONDITIONS and INSTRUCTIONS FOR PROCUREMENT

2.01. Sealed Bids. Bids must be submitted in a sealed envelope. Bidders are required under Virginia contractor licensing laws (Virginia Code § 54.1-1112) to show evidence of their

contractor's license. Bidders shall place on the outside of the envelope containing the bid the following information:

IFB# 2021-17
FOR: Hickory Haven and Samary Forest Sanitary Sewer
License No. Class Expires

Each bidder is solely responsible for delivering its bid to the correct location on or before the date and time on which bids are scheduled to be received by County. Any bid/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/modification is considered a late bid/modification. A late bid/modification cannot be considered for award.

2.02. Bid Bond. Each bid submitted shall be accompanied by a bid bond in an amount equal to five percent (5%) of the Total Base Bid.

- i. The bid guarantee may be either (i) a certified or cashier's check made payable to "Goochland County, Virginia," or (ii) a bid bond made payable to "Goochland County, Virginia." The bid guarantee shall be for the purpose of promising and guaranteeing that the bidder will not withdraw its bid for a period of 60 days following bid opening. The proceeds of the bid guarantee shall be and remain the sole property of County, as liquidated damages, should the successful bidder fail to execute the Agreement, and provide proof of all required insurance and endorsements and all required payment and performance bonds.
- ii. The bid guarantees of all except the three lowest bidders will be returned within ten days after bid opening. The remaining bid guarantees will be returned as soon as County has received a fully-executed contract, or within 75 days after bid opening, whichever occurs first.
- iii. An attorney-in-fact who executes a bid guarantee must file with the guarantee a certified and dated copy of the written power of attorney which authorizes them to act.
- iv. In lieu of a bid bond, a bidder may furnish a cashier's check or cash escrow in the face amount required for the bid bond. If approved by the County Attorney, a bidder may furnish a personal bond, property bond or bank or savings and loan association's letter of credit on certain designated funds in the face amount required for the bid bond. Approval shall be granted only upon a determination by the County Attorney that the alternative form of security proffered affords protection to County equivalent to a corporate surety's bond.

2.03. Bid Mistake. A bidder may withdraw a bid from consideration after bid opening if the Total Base Bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith and the mistake was a clerical mistake as opposed to a judgmental mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of the bid, if the unintentional arithmetic error or unintentional omission clearly can be shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

- i. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid

which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

- ii. The bidder shall give notice in writing to the Purchasing Agent of a claim of right to withdraw a bid, within two (2) business days after the conclusion of the opening of the bids, and shall submit original work papers with such notice.
- iii. If the Purchasing Agent denies the withdrawal of the bid, she shall notify the bidder in writing, stating the reasons for the decision; in that event, the Purchasing Agent, or her designee, shall award the Contract to the bidder at the bid price, provided such bidder is responsible and responsive.

2.04. Building Code. The Virginia Uniform Statewide Building Code applies to the Work and is administered by the local Building Official.

2.05. Contract Award. Public notice of the Intent to Award this Contract, or the announcement of the decision to award this Contract, shall be given in the following manner: posting of a written notice on the bid board located on the main floor of the Goochland County Administration Building and on eVA (Virginia's state procurement website) at www.eva.virginia.gov and the County website at www.goochlandva.us. Tabulations of bids are a matter of public record and are available upon request.

2.06. County Rights. County reserves the right to accept or reject any or all bids in whole or in part and to waive any informality in the bid.

2.07. Equipment. Unless otherwise noted, any equipment bid shall be new, unused, of current production and standard to the manufacturer. Where any part or nominal appurtenances of equipment are not described it shall be understood that all equipment and appurtenances standard to or recommended by the manufacturer for complete and safe use shall be included as part of this bid.

2.08. FOIA. Except as provided herein, or by applicable law, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person in accordance with the Virginia Freedom of Information Act and the Virginia Public Procurement Act.

- i. Cost estimates relating to a proposed procurement transaction, prepared by or for County, shall not be open to public inspection.
- ii. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that County decides not to accept any of the bids and to reopen the Contract, postpone the Contract or not contract at all. Otherwise, competitive sealed bid records shall be open to public inspection only after award of the Contract.
- iii. Any inspection of procurement transaction records shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- iv. Trade secrets and proprietary information submitted by a bidder in connection with a procurement transaction shall not be subject to public disclosure; however, the bidder must invoke the protections of Goochland County Code § 11-39 IMMEDIATELY UPON SUBMISSION of the data or other materials, and must specifically designate the data or other materials to be protected and state the reasons why protection is necessary. County will not be liable for any damages sustained by a bidder who fails to follow the procedures designated by Virginia Freedom of Information Act, the Virginia Public Procurement Act, and the Goochland County Code as being prerequisite to protection of trade secrets or proprietary information.

2.09. Goochland Code. The Contract Documents are governed by the applicable provisions of the Goochland County Purchasing Code, as amended.

2.10. Immigration. Contractor certifies that it does not, and will not during the performance of the Contract, employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

2.11. Indemnification. Contractor agrees to save, defend, hold harmless, and indemnify County, and all of its officials, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, actions, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with Contractor's negligent or wrongful acts, errors or omissions in the performance or nonperformance of the work called for by the Contract Documents, including such acts, errors or omissions of Contractor's employees, servants, or agents.

2.12. Modification or Withdrawal. Modification of or corrections to bids are not acceptable after the bid receipt time has passed. Erroneous bids may be reclaimed or superseded any time prior to the bid due date and time. Any new bid must be marked as required in paragraph 2.01 with the additional notation "Supersedes all previous submissions."

- i. Any bidder may withdraw or modify its bid, by a writing containing the original signature of the bidder, which writing must be received by County prior to the date and time set for submission of bids. Withdrawal or modification shall be delivered by one of the following means: (i) hand delivery by the bidder itself, a courier, or other delivery service; (ii) by mail (no consideration shall be given to any postmark); or (iii) by email or facsimile received prior to the date and time set for submission of bids, followed by written confirmation containing the original signature of the bidder, where County is able to determine that the written confirmation was or has been sent out by the bidder prior to the date and time set for submission of the bids, or (iv) by marking(s) on the exterior of the bid submission envelope, but only if the marking is dated and includes the original signature of the bidder. If written confirmation of an email or facsimile communication is not, in fact, received by County within five days following the date and time set for submission of bids, no consideration will be given to the requested withdrawal or modification.
- ii. Written withdrawals or modifications of bids should not reveal the bid price contained in the previously submitted sealed bid, but should simply provide the desired addition, subtraction or modification, so that the final price or terms of the bid will not be known to County until the sealed bids are opened.

2.13. MSDS. A Material Safety Data Sheet (MSDS) is required for all chemicals proposed to be furnished as a result of this bid. The MSDS must: list all ingredients which constitute more than 1% of the product (.1% for known or suspected carcinogens); identify the product by common or chemical name; provide physical and chemical characteristics of any hazardous components; list any known acute or chronic health effects; and specify exposure limits, precautionary measures, and emergency and first aid procedures.

2.14. Negotiations. If the bid determined to be the lowest responsive and responsible bid exceeds available funds, County may, at its discretion, negotiate with that bidder to obtain a contract price within available funds (Goochland County Code § 11-27). The process for negotiating with an Apparent Low Bidder, should the lowest bid exceed available funds, shall be, as follows: County and/or its designated representative, and the Apparent Low Bidder, together, will review the Project and attempt to find mutually agreeable proposed changes that will effectively reduce the

cost of the Project. The Apparent Low Bidder will present documented and substantiated proposed deductions in the Project cost for each potential Project change, which will allow County to re-evaluate each proposed deduction. The parties will endeavor to negotiate a reasonable price for the entire Project which does not exceed available funds. In the event that such negotiations fail, County may terminate negotiations with the Apparent Low Bidder and repeat the foregoing process with the next lowest responsive and responsible bidder, until a successful contract can be negotiated within available funds or until negotiations appear useless, at which time all negotiations will be terminated.

2.15. No Arbitration. It is expressly agreed that nothing under the Contract shall be subject to arbitration or mediation, and any references to arbitration or mediation are expressly deleted from the Contract Documents.

2.16. No Assignment. The Successful Bidder is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of the Contract or its right, title, or interest therein, or its power to execute the Contract to any other persons, company, or corporation without the previous consent and approval in writing by County.

2.17. No Collusion. Each bidder is and shall be subject to the provisions of the Virginia Governmental Frauds Act. In compliance with this law, each bidder is required to submit a certification that its bid, or any claim resulting therefrom, is not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce, or any act of fraud punishable under the Act. Any bidder who knowingly makes a false statement on the Certificate of No Collusion shall be guilty of a felony, as provided in the Virginia Code. A notarized Certificate of No Collusion must be submitted with the bid. A Certificate is included in the IFB Form.

2.18. Non-Discrimination & Faith-Based Organizations. In the solicitation and awarding of contracts, the County does not discriminate against faith-based organizations or any other bidder or offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment.

2.19. Non-responsible Bidder. Awards shall be based on determination of the lowest responsive and responsible bidder. No contract may be awarded to a bidder who is determined by the Purchasing Agent to be non-responsible. In determining the responsibility of a bidder, the following criteria will be considered:

- A. The ability, capacity or skill of the bidder to perform the contract or provide the services required;
- B. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- C. The character, integrity, reliability, reputation, judgment, experience and efficiency of the bidder;
- D. The quality of performance on previous contracts or services for the County or others;
- E. The previous and existing compliance by a bidder with laws and ordinances relating to the contract or service;
- F. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- G. The quality, availability, and adaptability of the goods or services to the particular use required;
- H. The number and scope of any conditions attached to the bid;

- I. Whether the bidder is in arrears to County on a debt or contract or is in default on a surety to County, and whether the bidder's County taxes or assessments are delinquent;
- J. Such other information as may be secured by the Purchasing Agent, that has a bearing on the decision to award the contract.

Upon request by County, it shall be the responsibility of each bidder to ensure that the bid submitted contains information sufficient to enable County to evaluate each of the above-referenced criteria.

2.20. Notice. When County is required by the Contract Documents to give written notice, demand or other communication to Contractor, County's notice, demand or communication shall be deemed to be given when it is deposited in the United States mail, postage pre-paid, and addressed to the address of Contractor stated in the Builder's Agreement or at such other address as Contractor designates in writing to County.

2.21. Only One Bid. More than one bid from an individual, firm, partnership, corporation, affiliate, or association under the same or different names, received in response to a single solicitation, will be rejected. Reasonable grounds for believing that a bidder is interested in more than one bid or proposal for a solicitation both as a bidder and as a subcontractor for another bidder will result in rejection of all bids or proposals in which the bidder is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two or more bidders submitting a bid or proposal for the work.

2.22 Pandemic Operations. Bidder agrees to abide by, and to guarantee its employees, subcontractors, and their employees abide by, all state, federal and local rules and regulations regarding pandemic operations and procedures, including but not limited to social distancing, face covering, testing, isolation, quarantine, and proper notification and disclosure requirements, when entering County property or facilities or interacting with County employees

2.23 Permits and Licenses. All permits, business fees, local licenses and fees, including a Goochland County business license, and taxes or similar assessments shall be obtained by and paid for by Contractor. Building permit fees will be waived by County, but Contractor still must apply for and obtain all required building permits.

2.24. Prices. All prices submitted must be FOB Destination - Freight Prepaid and Allowed. In the case of error in the extension of prices, the unit price shall govern.

2.25. Questions. County will assume no responsibility for oral instruction or interpretation. Any question regarding the procurement solicitation shall be in writing (electronic transmission is preferred) and directed to **Wanda St. P. Tormey, Purchasing Director. Questions must be received by 12:00 noon on July 9, 2021.** Questions submitted beyond the time specified above may be left unanswered if sufficient time does not allow a response to all prospective bidders without causing an unacceptable delay in the process. Any material change will be submitted to all bidders through issuance of an addendum and will be posted on the bid board, eVA at www.evavirginia.gov, and the Goochland County website at www.goochlandva.us under Finance and Purchasing.

2.26. Receipt Time. The time of receipt of a bid at the specified location is the time/date stamp of such location on the bid wrapper or other documentary evidence of receipt maintained by the specified location. No consideration will be given to date of postmark.

2.27. Site Visit. Each bidder must carefully examine all Contract Documents prior to submission of a bid. In addition, each bidder, prior to submission of a bid, must use whatever means necessary to satisfy itself of the extent and requirements of the Project and of the actual conditions under which the Project is to be performed. Comprehensive or detailed information of existing site

conditions may not be included in the Contract Documents; therefore, prior to bid submission, Contractor must visit and examine the Site. Submission of a bid shall be deemed evidence that the bidder has visited the Site of the Project, that the bidder has familiarized itself with existing conditions at the Site (including, without limitation, areas for storage of materials and equipment), and that the bidder is satisfied that it can construct the Project, in accordance with the Contract Documents, for the price(s) specified within its bid. Contractors will not be allowed or provided additional compensation as relief from the consequences of an error in their bids, including, without limitation, errors which are attributable to conditions or factors which could have been identified by thorough examination of the Site and the Contract Documents (including, without limitation, boring reports and subsurface condition reports, if available) prior to submission of a bid.

2.28. Specifications. The specifications are intended to indicate the character, quality and/or performance of the goods or services desired. Unless qualified by the provision "No Substitute," the name of a brand, manufacturer or catalog designation does not restrict the bidder to that brand or manufacturer. Alternates to the specified goods or service will be considered to the extent that such action is deemed in the best interest of County.

2.29. Subcontract Requirements. Contractor shall include the following in every Subcontract over \$10,000:

Non-discrimination Clause:

During the performance of this contract, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to its normal operation. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Also, Contractor, in all solicitations or advertisements for employees placed by or on behalf of it, will state that it is an equal opportunity employer.

Drug-Free Workplace Clause

During the performance of this Contract, Contractor agrees as follows: (i) to provide a drug-free workplace for its employees; (ii) to post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in its workplace and specifying the actions that will be taken against employees for violations of such prohibition; and (iii) state in all solicitations or advertisements for employees placed by or on behalf of it that it maintains a drug-free workplace. For the purposes of this paragraph, "drug-free workplace" means a site for the performance of work done in connection with the contract awarded to it in accordance with this procurement transaction, where Contractor's employees are prohibited from engaging in the unlawful manufacture, sale distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

2.30. SWAM. It is the County's policy to facilitate the establishment, preservation and strengthening of small businesses and businesses owned by women and minorities (SWAM) and to encourage their participation in the County's procurement activities. Toward that end, County encourages SWAM businesses to compete for County projects. In addition, the County strategy encourages all bidders to provide for the participation of SWAM businesses through partnerships, joint ventures, subcontracts, or other contractual opportunities on projects. Bidders are asked, as part of their submission, to describe any planned use of such businesses in fulfilling this contract.

2.31. Tax Exemption. County is exempt from the payment of federal and state taxes. Prices bid must be net, exclusive of taxes. Include only taxes applicable to the Project in this bid.

2.32. Transacting Business in Virginia. Bidder must be authorized to transact business in Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Virginia Code or as otherwise required by law. Bidder shall not allow its existence to lapse or its certificate of authority or registration to transact business in Virginia to be revoked or canceled at any time during this Contract. County may void any Contract if Bidder fails to remain in compliance with the provisions of this section.

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Revised: 10/19/2020