

**SECTION 00101
INSTRUCTIONS TO OFFERORS**

1. Defined Terms

- 1.1. The term "Owner" hereinafter is defined as the City of Friendswood and is used interchangeably with the term "the City." Both terms are synonymous and refer to the City.
- 1.2. The term "Offeror" means one who submits a Proposal directly to Owner, as distinct from a sub-offeror, who submits a proposal to an Offeror. The term "Successful Offeror" means, on the basis of Owner's evaluation as hereinafter provided, the Offeror submitting a proposal that represents, in the Owner's opinion, the best value to the City. The term "Proposal Documents" includes the Invitation to Propose, Instructions to Offerors, the Proposal, and the proposed Contract Documents (including all Addenda issued prior to receipts of proposals).
- 1.3. The term "Engineer" hereinafter is defined as the professional designer or consultant and is used interchangeably with the term "Consultant". Both terms are synonymous and refer to the City.
- 1.4. The term "E-bid System" refers to the CivCast USA. This is a web-based system that provides all Proposal Documents electronically to potential Offerors and forms the pathway for interested Offerors to submit proposals in response to the advertisement and invitation. The term "e-bid" and/ or "electronic bid" means the Offerors' electronic proposal submitted to the Owner by way of the E-bid System. The terms "electronic bid" or "e-bid" are used inter-changeably to describe the above proposal process to submit an authorized proposal to the City in response to an Invitation to Propose.
- 1.5. The term "Project Management software" means the City's web-based contract administration and construction records management system used by involved parties to administer the project. This system serves as the web-accessed centralized information distribution hub for communications and document management, pay application processing and record repository for all project documentation. Operational instructions for this system will be issued to the successful Offeror at the pre-Construction Meeting.
- 1.6. All other definitions set out in the Contract Documents are applicable to terms used in the Proposal Documents.
- 1.7. Unless otherwise expressly provided herein, all references to "day(s)" shall mean consecutive calendar day(s).
- 1.8. The term "Alternate(s)" or "Add Alternate(s)" as used here interchangeably is defined as an additive work item that may be selected or rejected by the Owner based solely on the Owner's acceptance or rejection of the price proposed for this item. Alternate prices shall include all labor, material, equipment and overhead costs to perform the work as specified, complete in place. When selected by the Owner, the costs for an Alternate shall be added to the Base Proposal and made a part of the Contract price

2. Copies of Proposal Documents

- 2.1. Complete sets of electronic Proposal Documents are available for download. A Plan Holder will be notified immediately, by email, of any Addendums added to the project.

- 2.2. The Offeror accepts sole responsibility for ensuring that he obtains a full set of these documents by executing a full and complete download of the project documents. Downloading Proposal Documents automatically ensures receipt of any and all subsequent communications from the City and its Consultant.
 - 2.3. Complete sets of Proposal Documents must be used in preparing Proposals; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Proposal Documents including, but not limited to all Addenda issued prior to opening the proposals.
 - 2.4. Owner and Engineer, in making copies of Proposal Documents available on the above terms, do so only for the purpose of obtaining Proposals on the Work, and do not confer a license or grant for any other use.
 - 2.5. Proposal Documents include, but are not limited to, construction documents, selection criteria and the weighted value for each criterion, estimated budget, project scope, estimated project completion date, and other documents required herein, e.g., Section 00145 Cost Proposal Form.
3. Examination of Contract Documents and Site
 - 3.1. It is the responsibility of each Offeror before submitting a Proposal, to (a) examine the Proposal Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c) consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully correlate Offeror's observations with the Contract Documents, and (e) notify Engineer of all conflicts, errors, omissions or discrepancies in the Contract Documents, (f) to recognize and plan for use of the City's "Project Management" software to administer the construction process and perform the work of the project.
 - 3.2. Any reports of explorations and tests of conditions at the site which have been utilized by the Engineer in preparation of the Contract Documents will be made available to Offerors for review, but such reports are not part of the Contract Documents. Offeror may not and should not rely upon the accuracy of the data contained in such reports, interpretations or opinions contained therein, or the completeness thereof, for the purposes of proposing or construction.
 - 3.3. Information and data reflected in the Contract Documents with respect to underground utilities, equipment or other underground facilities at or contiguous to the site is based upon information and data furnished to Owner and Engineer by owners of such underground facilities or others, and Owner does not assume responsibility for the accuracy or completeness thereof.
 - 3.4. Before submitting a Proposal, each Offeror will, at Offeror's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and underground facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work and which Offeror deems necessary to determine its Proposal prices for performing and furnishing the Work in accordance with the Contract Time, Contract Price and other terms and conditions of the Contract Documents.

- 3.5. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands, access thereto or contractual arrangements for use by the Contractor required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by Owner unless otherwise provided in the Contract Documents.
 - 3.6. The submission of a Proposal will constitute an incontrovertible representation by Offeror that Offeror has complied with every requirement of this Article 3, that without exception the Proposal is premised upon performing and furnishing all of the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in, required by or reasonably inferred from the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
4. Interpretations and Addenda
 - 4.1. All questions about the meaning or intent of the Contract Documents are to be directed to City of Friendswood Engineering Department, or posted to CivCast. Interpretations or clarifications considered necessary by the City in response to such questions will be issued by Addenda delivered or transmitted by electronic means to all registered Offerors via CivCast and posted on CivCast and the City's website. Questions received less than five (5) days prior to the date for opening of Proposals may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
 - 4.2. Addenda may also be issued to modify the Proposal Documents as deemed advisable by Owner or Consultant. Addenda will automatically be made available to all registered Offerors via CivCast and will be posted on CivCast and the City's website.
5. Contract Time
 - 5.1. The number of days in which the Work is to be Substantially Completed, as set forth in the Proposal form and the Standard Form of Agreement, subject to such extension of time as may be due under the terms and conditions of the Contract Documents ("Contract Time"). All references to "time" or "days" shall be interpreted as consecutive calendar days.
6. Liquidated Damages and Early Completion Bonus
 - 6.1. Provisions for liquidated damages and early completion bonus, if any, are set forth in the Standard Form of Agreement.
7. Substitute or "Or-Equal" Items
 - 7.1. The Proposal must be on the basis of the selected materials and equipment described in the Plans or specified in the Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Plans or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by the Contractor if acceptable to Consultant. Application for such acceptance will not be considered by Consultant until after the Agreement becomes effective. All "or-equal" references shall be interpreted to mean "or approved equal". The procedure for submission of any such application by Contractor and consideration by Consultant is set

forth in the Contract Documents.

8. Proposal Form

8.1. The Proposal form (Section 00145 – Cost Proposal Form) is included with the Proposal Documents when downloaded. This Document must be printed and signed, as required below, and then uploaded as an Attachment to the Proposal.

All E-bids and physical proposals must be submitted via CivCast or submitted in person. All blanks on the Proposal form must be completed or filled in. The Offeror shall propose for all Alternates, if any. Incomplete Proposals may be cause for rejection.

8.2. Proposals by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature. **Once executed, the document is to be uploaded as an attachment to the Proposal.**

8.3. Proposals by partnerships must be executed in the partnership name and signed by a general partner, whose title must appear under the signature, and if a corporate general partner, executed as required above for corporations and the official address of the partnership must be shown below the signature. All names must be typed or printed below the signature. **Once executed, the document is to be uploaded as an attachment to the Proposal.**

8.4. The Offeror shall acknowledge receipt of all Addenda (the number of which must be filled in on the Proposal form).

8.5. The address and telephone number for communications regarding the Proposal must be shown on the Proposal form.

8.6. Proposal Security and Bonds: Security Bond in the form of Cashier's Check, Certified Check, or Proposal Bond payable to the City of Friendswood in the amount of 5% of the total cost proposal must accompany each proposal. Offerors submitting proposals electronically through the CivCast system shall scan and upload a copy of the sealed Proposal Bond as an attachment to their proposals. However, the **original Proposal Bond must be received in the City Secretary's Office before the proposal opening, else the Proposal will not be considered.**

9. Submission of Proposals

9.1. The place, date and/or time designated for opening Proposals may be changed in accordance with applicable laws, codes and ordinances. Any such changes to the Proposal Schedule shall be made by Addenda.

9.2. Electronic Proposals shall be submitted via CivCast. **Proposals submitted after the proposal date and time will be rejected.**

9.3. Physical proposals shall be submitted in-person at City Hall (910 S. Friendswood Drive, Friendswood, TX 77546) addressed to the City Secretary.

10. Modification and Withdrawal of Proposals

10.1. Prior to submission, E-bid Proposals may be modified or withdrawn without prejudice.

10.2. An Offeror may not modify or withdraw its Proposal by facsimile or verbal means. A withdrawn Proposal may be resubmitted prior to the designated time for opening Proposals.

10.3. If, within twenty-four (24) hours after Proposals are opened, any Offeror files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material mistake in the preparation of its Proposal, that Offeror may request to withdraw its Proposal. Thereafter, if allowed to withdraw, that Offeror will be disqualified from further proposing on the Project to be provided under the Contract Documents.

11. Opening of Proposals

11.1. Electronic and physical proposals will be opened and read aloud publicly to identify the names of the offerors and their respective cost proposals, only. Proposals, in their entirety, shall be open for public inspection after the contract is awarded, with the exception of any trade secrets or confidential information contained therein, provided Offeror has expressly identified any specific information contained therein as being trade secrets or confidential information.

12. Proposals to Remain Subject to Acceptance

12.1. All Proposals will remain subject to acceptance for ninety (90) days after the day of the Proposal opening, but Owner may, in its sole discretion, release any Proposal prior to that date.

13. Award of Contract

13.1. Owner reserves the right to reject any and all Proposals, to waive any and all informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Offeror. Owner may reject a proposal as non-responsive if:

1. Offeror improperly or illegibly completes or fails to complete all information required by the Proposal Documents;
2. Offeror fails to sign the Proposal or improperly signs the Proposal;
3. Offeror qualifies its Proposal;
4. Offeror tardily or otherwise improperly submits its Proposal;
5. Offeror fails to submit the Contractor's Qualification Statement and Technical Proposal as required under Section 3 of these Instructions to Offerors; or
6. The Proposal is otherwise non-responsive.

13.2. Best Value. The Contract is to be awarded based on provision of "Best Value" to the Owner. Within 45 days after the date the proposals are opened, the City will evaluate and rank each proposal using the following selection criteria:

1)	Cost Proposal	50%
2)	Experience with similar projects within past 5 years	10%
3)	Proposed Project Approach (Consider construction phasing and work sequence, schedule, proposed bypass pumping, and material, equipment, and delivery)	10%
4)	Experience and qualifications of key project personnel	10%
5)	Demonstrate ability to meet schedule on similar projects	10%
6)	Subcontractor qualifications and work history with general contractor	5%
7)	Quality Assurance and Safety Record	2%
8)	Current Workload	3%
	Total	100%

The City will select the Offeror that submits the proposal that offers the best value for the City based on:

- (1) the above-referenced selection criteria and the weighted value for those criteria in the request for proposal; and
- (2) its ranking evaluation.

A contract to be awarded to the Offeror providing the Best Value may be let on either a lump sum basis or a unit cost basis dependent on the Proposal format.

- 13.3 Offeror is required to submit for approval a full schedule of values for the project as component of contract negotiations.
- 13.4 Within 45 days of the date of opening the proposals, the Owner will evaluate and rank each proposal with respect to the selection criteria contained in this Competitive Sealed Proposal document. After opening and ranking, an award may be made on the basis of the proposals initially submitted, without discussion, clarification or modification, or, the Owner may discuss with the selected responder, offers for cost reduction and other elements of the responder's proposal. If the Owner determines that it is unable to reach a contract satisfactory to the Owner with the selected offeror, then the Owner will formally terminate discussions with the selected offeror and proceed to the next offeror in order of selection ranking until a contract is reached or the Owner has rejected all proposals.
- 13.5 Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Proposal.
- 13.6 Offeror Attendance. The successful Offeror or its representative may be required to attend the City Council meeting at which the contract will be considered for award. Owner will establish a schedule for the award with Offeror.

14 Contract Security

- 14.1 When the Successful Offeror delivers the executed Standard Form of Agreement to Owner, it must include the required Performance, Payment, and Maintenance Bonds (if required) by the Contract Documents. Bonds shall be on the forms provided herein.

15 Workers' Classification

- 15.1 Texas Labor Code § 214.008 authorizes a penalty of \$200 per misclassified individual to be imposed on a person who contracts for certain services with a

governmental entity and fails to properly classify their workers and subcontractors.

16 Signing of Agreement

16.1 When Owner gives a Notice of Intent to Award to the Successful Offeror, it will be accompanied by the required number of unsigned counterparts of the Standard Form of Agreement, and the required Performance and Payment Bond forms. Within ten (10) days thereafter Contractor shall sign and deliver the required number of counterparts of the Standard Form of Agreement to Owner with the required Bonds. Owner shall deliver one fully signed counterpart to Contractor. There shall be no contract or agreement between Owner and the Successful Offeror until proper execution and attestation of the Standard Form of Agreement by authorized representatives of the Owner.

17 Pre-Proposal Conference

17.1 A pre-proposal meeting will be held as indicated in the Invitation to Propose.

18 Retainage

18.1 Provisions concerning retainage are set forth in the Contract Documents.

19 Award

19.1 The contract, if awarded, may be awarded to the eligible Offeror submitting the proposal that yields the best value to the Owner, complying with these Instructions to Offerors and other proposal requirements in the Documents. By submitting a Proposal, each Offeror agrees and consents that the Owner, in determining the Successful Offeror and its eligibility for the award, may consider the Offeror's experience conduct and performance under other contracts, reputation in the industry, safety record and other factors as stated below, which could affect the Offeror's qualifications to perform the work.

19.2 Pursuant to Statute 2269.151 of the Government Code, the City will evaluate the proposals to determine which proposal provides the best value for the Owner. In making said determination, the Owner will consider Criteria as further defined or explained in these Instructions to Offerors, including the Contractor's Qualification Statement and Safety Questionnaire, and Technical Proposal.

19.3 The average of the team member's individual rating values will be multiplied by the relative weighting points for each of the criteria below, and the total used to rank the Offerors. The Offeror with the highest ranking will be the Offeror considered the Offeror that provides the best value to the Owner and will be recommended to the City for contract award.

19.4 **Cost Proposal and Price – 50 Percent** - The Offeror with the lowest price will be rated accordingly. All other offerors will be awarded a rating value based on a weighted percentage based on the difference from the low offeror.

19.5 **Experience with similar projects within past 5 years – 10 Percent** – Offeror should provide at least three (3) references for the company and include in the references company name, contact person(s), address and telephone number for projects of similar contract price and scope within the past 5 years. Owner reserves the right to contact references for verification.

- 19.6 **Proposed project approach – 10 Percent** – Contractor should consider construction phasing, execution plan, equipment placement and use of construction limits, material storage and staging, lift station start up process and sequence, and site restoration/clean-up.
- 19.7 **Experience and qualifications of key personnel– 10 Percent** – Contractor must demonstrate the work experience and qualifications for the Project Manager and Superintendent. The evaluation is based on the number of years with the contractor, and the number of similar projects in which the employee performed task assigned to a Project Manager and Superintendent. The Offeror's reputation among other governmental entities, owners, suppliers, and sub-contractors will be considered for awarding of rating value points.
- 19.8 **Demonstrated ability to meet schedule on similar projects – 10 Percent** – Contractor must demonstrate past ability to meet contract schedule on similar projects included in this proposal. Contractor must provide a summary level schedule for past projects. Compare the Offeror firm's initial construction schedules with the final construction schedules. Based the schedules on calendar days, start with the Owner's Notice to Proceed and end with final completion of the work. Explain why if there is a disparity between the initial and final construction schedules.
- 19.9 **Experience, qualifications and work history of proposed major sub-contractors with General Contractor – 5 Percent** – A major sub-contractor is a sub-contractor that performs 5 percent or more of the Project. The contractor is required to provide references for similar projects where the subcontractor and Offeror have worked together in the last five years.
- 19.10 **Quality Assurance program and Safety Record – 2 Percent** - The Offeror and the subcontractors must provide owner with their Quality Assurance Program and Experience Modification Rate (EMR).
- 19.11 **Current Workload– 3 Percent** - Ability to commit to delivery of the project on schedule commitment to meeting the specific deadlines for the various components of the project will be awarded a rating value based on a weighted percentage based on the schedule offered. Summarize the Offeror firm's current workload and state the Offeror's availability to start construction of the project. Confirm equipment availability for the proposed work.
- 19.12 Maximum Possible Ranking Percentage = 100 Percent
- 19.13 In evaluating proposals, Owner will consider the qualifications of the Offerors, whether or not the proposals comply with the prescribed requirements, and such alternates, and other data (e.g., safety record, subcontractor qualifications, experience on similar projects, etc.), as requested in the Proposal.

END OF SECTION