

## CASTLE CREEK WATERSHED MANAGEMENT PROJECT

### INSTRUCTIONS TO BIDDERS

#### **PRE-BID SITE WALK**

A pre- bid site walk will be available upon request by contacting Tucker Kautz at 585-396-1450 or 585-397-4007. It is strongly recommended that Bidders attend the site walk to become familiar with the site conditions. Ignorance of apparent conditions, due to failure to attend, shall not be justification for any change order, should a contract be awarded.

#### **RESTRICTED COMMUNICATIONS**

Pursuant to State Finance Law §139-j and §139-k, the solicitation includes and imposes certain restrictions on communications between the Ontario County Soil & Water Conservation District ("District") and a Bidder during the procurement process. A Bidder is restricted from contacting other than designated staff from the earliest notice of intent to solicit offers through final award and approval of the contract by the District ("restricted period") unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). District employees are required to obtain certain information when contacted during the restricted period. The designated staff contact is **Tucker Kautz** or his representative, telephone (585) 396-1450 or 585-397-4007. Bidders responding to the RFB must familiarize themselves with these State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the Bid Form.

#### **BID DOCUMENTS**

In making copies of Bid Documents (RFB, Plans, Drawings, Project Manual, etc. as applicable to the Project) available, the District does so only for the purpose of obtaining Bids on the Work and does not confer permission or a license or grant for any other use. Only the documents obtained from the official source should be relied upon. The only "official source" is the District office located at 480 N. Main St. Canandaigua, NY 14424.

The Bidder's attention is directed to the fact that all applicable Federal, State and Local laws, rules and regulations, whether referenced specifically or not, shall apply to any Contract issued under the RFB, and they are assumed to be included in these Specifications as if they were written out in full. Citations of codes, industry or other reference standards are also assumed to be included as if they were written out in full.

#### **PREPARATION OF BIDS**

Each Bid shall be submitted at the time and place set forth in the Notice to Bidders on the Bid Forms provided. All requested information on the Bid Forms must be completely filled in with ink or typewriter.

Each Bidder shall familiarize itself with all documents and references in the RFB and will be held responsible to fully comply therewith. The submission of a Bid acknowledges that the Bidder has examined the Site and taken into consideration all items, which affect the Work and that the Bidder has examined any Plans and Specifications included or referenced in the RFB.

The successful Contractor is required to pay the **prevailing hourly wage rates** and supplements throughout the term of the contract pursuant to New York State Labor Law. Certified payrolls **MUST** be submitted with each invoice for the District to make any payment(s).

The Bidder shall take into account in its Bid pricing all labor, insurance and all other costs, including but not limited to all changes in Prevailing Wage rates and applicable Supplements that may be forthcoming during the time the contract is in force. The Bid price submitted shall be exclusive of Federal, State and Local taxes as the District is exempt.

Attention of Bidders is also particularly called to Section 103-d of the General Municipal Law of the State of New York on Non-Collusive Bidding.

## **SUBMISSION OF BIDS**

All Bids must be submitted upon the forms furnished in the RFB to the Ontario County Soil & Water Conservation District, at the District office located at 480 North Main Street, Canandaigua, NY 14424 up to and including **12:00 P.M., prevailing time on August 7th, 2024. Bids will be publicly read aloud by the District Staff on August 7th, 2024 at 1:00 PM.**

Bids must be sent by email and plainly marked with the Project Title "**Castle Creek Water Management Project**". Bidders are cautioned that it is the responsibility of each individual Bidder to assure that its Bid is in the possession of the responsible official or his or her designated alternate prior to the Bid submission deadline. The District is not responsible for delays of any nature by mail and/or delivery services.

The Contractor shall agree to finish the Work by the completion date indicated in the RFB, if any, or as negotiated and specified in the Contract. The Contractor shall provide all required insurance coverages with the District named as additionally insured. Contractor shall hold the District harmless against any defects in workmanship or materials which appear within one year from the final completion of the Work and acceptance by the District.

Bidders shall submit the following documents:

1. Bid Form
2. Non-Collusive Affidavit
3. Disclosure of Prior Non-Responsibility Determinations
4. Corporate Resolution and Seal, as applicable
5. Bidders Statement on Sexual Harassment

A corporation submitting a Bid must include a copy of a Resolution of its Board of Directors authorizing the making of said Bid, and certified as a true and correct copy by the Secretary of said Corporation. Corporations shall affix their Corporate Seal to the Bid. Bids submitted by partnerships should be signed by all partners unless proof of the signatory partner's authorization to sign is provided (e.g. copy of partnership agreement). Attorneys-in-fact who sign a Bid or Bonds must file with each a certified copy of their Power of Attorney.

Within forty-eight (48) hours after the opening of Bids, the apparent three (3) lowest Bidders, if directed by the District Manager must submit additional information, including but not limited to financial or experiential information for a responsibility determination, proposed project schedule, proposed staffing, etc. Failure to submit the information may result in declaration of Bidder as non-responsive and ineligible for a Contract award.

No Bid shall be withdrawn for a period of forty-five (45) days subsequent to the opening of Bids without the consent of the District Manager. If the Bid is accepted, by its submission of a Bid, Bidder agrees to enter into the Contract in the form contained in the Contract documents within ten (10) business days of the Intent to Award date.

## **BASIS OF AWARD**

The District reserves the right to award the contract to the Lowest Responsive and Responsible Bidder(s) on a total bid basis. Furthermore, the District reserves the right not to award any or all items with or without re-soliciting for the work in the future. The term "Lowest Responsive and Responsible Bidder" as used herein shall mean the Bidder whose price is determined by the District to be the lowest of those Bidders determined to possess the skill, ability, expertise, experience, qualifications, integrity and other qualities necessary for the faithful performance of the Work.

Bidders may be further investigated by the District to determine if they are responsible, qualified and eligible to perform the Work. The investigation of a Bidder may include, among other factors, whether the organization is adequate in size, is authorized to do business in the jurisdiction where the Project is located, has had sufficient and successful previous experience, and whether available labor, equipment, financial resources, expertise, and other factors are adequate to assure Owner that the Work will be completed in accordance with the terms of a contract. The amount of other work to which the Bidder is committed may also be considered.

Pursuant to State Finance Law §139-j and §139-k, the District is required to make a determination of the responsibility of any Bidder. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4-year period, the Bidder is debarred from obtaining governmental Procurement Contracts. Bidders must familiarize themselves with these State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the Disclosure of Prior Non-Responsibility Determinations.

No Contract will be awarded to any individual or entity not properly registered to do business in the State of New York in accordance with applicable New York laws.

In evaluating Bids, the District reserves the right to consider the qualifications of only those Bidders whose Bids follow the prescribed requirements and therefore are considered responsive. The District reserves the right to reject the Bid of any Bidder that is non-responsive or that the District considers non-responsible if they do not possess the qualities set forth herein as evaluated through the Qualifications Statement, Disclosure of Prior Non-Responsibility Determinations, and any additional information requested or investigation done by the District. The District reserves its rights to waive any informality or reject any or all Bids with or without advertising for new Bids, if in the best interest of the District.

The District, at its sole discretion, has the right but not the obligation, to waive minor irregularities. The District reserves the right to reject any and all Bids.

Failure of the Bidder receiving a Notice of Award to comply with any term or condition of the RFB, may result in forfeiture of the Bid Security to the District as liquidated damages.

## **NOTICE OF AWARD AND EXECUTION OF CONTRACT**

If a contract is to be awarded, the District will give the Lowest Responsive and Responsible Bidder(s) a Notice of Award within five (5) calendar days, after the actual date of the opening of the Bids.

Subsequent to a Notice of Award to the Lowest Responsive and Responsible Bidder(s), unsigned copies of the Contract and all other applicable Contract Documents will be delivered to the Awardee. Within ten (10) business days, after the date of receipt of such Contract Documents, the Awardee shall execute and return to the District all copies of the Contract and all other applicable Contract Documents, including without limitation, required certificates of insurance. Thereafter, upon all required reviews and approvals, the District will deliver one fully signed executed to Contractor. The District shall incur no obligations, contractual or otherwise, unless and until the District both executes the Contract and delivers to the Contractor a written Notice to Proceed. Failure to submit all required documentation may result in disqualification of the Bidder as non-responsible and forfeiture of Bid Security.

## **QUESTIONS & ADDENDA**

All questions about the meaning or intent of the RFB may be submitted, until **3pm, August 2nd, 2024**. Questions submitted prior to the deadline shall be responded to through the Addendum process. Questions submitted after the deadline shall receive no response. Submit questions in writing on company letter head with contact information (name, fax, email and phone number of person asking question) to: Tucker Kautz, Senior District Technician by telephone (585)396-1450 or [tucker.kautz@ontswcd.com](mailto:tucker.kautz@ontswcd.com).

Written clarifications or interpretations will be issued by Addenda before the Bid Opening date. Only questions answered by written Addenda will be binding. Oral and other clarifications or interpretations will be without legal effect. Addenda will be mailed via certified mail, with return receipt requested or overnight delivery, to all parties recorded as having received the RFB from the official source.

Each Bidder must be responsible for determining that it has received all Addenda issued and shall acknowledge receipt of all Addenda on the Bid Form.

### **SPECIFICATIONS**

Ontario County Soil & Water Conservation District ("District") is soliciting for services to complete a water retention project in the Town of Geneva, Ontario County, NY. All work is to be done under the supervision of the District to the satisfaction of MRB and NYSDEC.

The proposed work is more fully described in the attached documents. The Site Location Map identifies the project locations. The movement of all material on site and from the staging areas is the Contractor's responsibility. The sites will be left free of debris and a final grade achieved. The Contractor is responsible for locating and protecting all utilities.

Contractor will be required to provide Certificates of Insurance naming the District as an additional insured, on all liability policies, for the coverages and minimum amounts as specified in the Contract template enclosed in the RFB.

Contractor will be required to satisfy NYS Prevailing Wage requirements. Bid pricing should include a total estimated job cost.

**BID FORM**

**TO:** Ontario County Soil & Water Conservation District  
 c/o Tucker Kautz, Senior District Technician  
 480 N. Main St. Canandaigua, NY 14424

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
 (Name of Firm or Corporation submitting Bid)  
 having a principal place of business at \_\_\_\_\_

proposes to perform all Work and furnish all labor and equipment necessary for the **Castle Creek Water Management Project**, in accordance with the RFB for the same dated **August 7<sup>th</sup> 2024**, on file in the office of the Ontario County Soil & Water Conservation District. The undersigned declares that the Bid is made without collusion and in compliance with the Procurement Lobbying Law; that the Bidder has carefully examined all Bid Documents and informed itself fully of all conditions pertaining to the Work and the place where it is to be performed; and that he or she has full authority to submit the Bid on behalf of the above-named entity.

DESCRIPTION	TOTAL PRICE
<b>Total Bid</b>	\$ _____
Total price in words: _____	

Amount shall be shown in both words and figures where indicated. In case of discrepancy, the amount shown in words shall govern.

The District reserves the right to award the contract to the lowest responsive and responsible Bidder(s) on a total bid basis. Furthermore, the District reserves the right not to award any or all items with or without re-soliciting for the work in the future. The District reserves its rights to waive any informality or reject any or all Bids with or without soliciting new Bids, if in the best interest of the District.

If a Contract is awarded to the entity submitting the Bid, the undersigned hereby agrees the entity will enter into a Contract within ten (10) business days of the Notice of Intent to award, to abide by all the terms and conditions of the Bid Documents and the Contract, and to complete the Work by **October 15, 2025** (Dependent upon DEC permit approval and weather conditions) at the price listed above. The undersigned agrees that extra work or omitted work, if any, shall be performed as directed and will be paid for, in accordance with the Contract Documents.

\_\_\_\_\_  
 (Signature of Individual, Partner or Listing of Corporate Name)

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 (Signature of Corporate Officer or additional Partner, if applicable)

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 (Signature of additional Partner, if applicable)

\_\_\_\_\_  
 (Date)

**ACKNOWLEDGMENT OF RECEIPT OF ADDENDA**

[Complete as applicable]

Addendum #1 \_\_\_\_\_

Date Received

\_\_\_\_\_  
Signature of Recipient

Addendum #2 \_\_\_\_\_

Date Received

\_\_\_\_\_  
Signature of Recipient

(INDIVIDUAL ACKNOWLEDGEMENT - CONTRACTOR)

STATE OF NEW YORK ) SS.

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, the subscriber, personally appeared \_\_\_\_\_ to me personally known, and known to me to be the same person described in and who executed the within instrument, and he/she duly acknowledged to me that he/she executed the same.

\_\_\_\_\_  
Notary Public

(PARTNERSHIP ACKNOWLEDGEMENT)

STATE OF NEW YORK ) SS.

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, the subscriber, personally appeared \_\_\_\_\_ - to me personally known, who being duly sworn and is known to be a member of the partnership of \_\_\_\_\_, described in and who executed the foregoing instrument, and he/she acknowledged to me that he/she executed the same as and for the act and deed of the said partnership.

\_\_\_\_\_  
Notary Public

(CORPORATE ACKNOWLEDGEMENT)

STATE OF NEW YORK ) SS.

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, the subscriber, personally appeared \_\_\_\_\_ to me personally known, who being by me duly sworn, did depose and say that he/she is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in, and which executed, the within instrument; that he/she knows the seal of the said corporation; the seal affixed to said instrument is such corporation seal; that it was so affixed by the order of the Board of Directors of said corporation and that he/she signed his/her name thereto by like order.

\_\_\_\_\_  
Notary Public

**NON-COLLUSION CERTIFICATION**

(a) “By submission of the bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- (1) The prices in the Bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor.
- (2) Unless otherwise required by law, the prices which have been quoted in the Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
- (3) No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a Bid for the purpose of restricting competition.”

(b) A Bid shall not be considered for award nor shall any award be made where the provisions of (a)(1)(2) and (3) above have not been complied with; provided however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the Bid a signed statement which sets forth in detail the reasons therefore. Where (a)(1)(2) and (3) above have not been complied with, the Bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the Bid is made, or her designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a Bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being proposed, does not constitute, without more, a disclosure within the meaning of subparagraph (a)(1) of the certification.

Any Bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a Bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such Bid contains the certification referred to in subparagraph (a)(1) of their certification, shall be deemed to have been authorized by the board of directors of the Bidder, and such authorization shall be deemed to include the signing and submission of the Bid and the Non-Collusion Certification as the act and deed of the corporation or other business entity submitting the Bid.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

NAME

\_\_\_\_\_

TITLE

\_\_\_\_\_

BUSINESS NAME

\_\_\_\_\_



**DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS**

(See instructions on next page before completing the form.)

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Name and Title of Person Submitting the Form: \_\_\_\_\_

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):                                  No                  Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle):  
No                  Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):          No                  Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below and attach additional pages as necessary.

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility: \_\_\_\_\_

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):          No                  Yes

6. If yes, please provide details below and attach additional pages as necessary.

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding of Contract: \_\_\_\_\_

Basis of Termination or Withholding: \_\_\_\_\_

Offeror certifies that all information provided to the Governmental Entity with respect to State Finance Law §139- k is complete, true and accurate.

By: \_\_\_\_\_  
Signature

Date: \_\_\_\_\_

## **Instructions for Completing the Disclosure of Prior Non-Responsibility Determinations**

### **Background:**

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. The information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offeror must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offeror” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offeror fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offeror that fails to timely disclose accurate or complete information under the section, unless a finding is made that the award of the Procurement Contract to the Offeror is necessary to protect public property or public health safety, and that the Offeror is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

### **Instructions:**

The Ontario County Soil & Water Conservation District includes the disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitations, as applicable, for Procurement Contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract, Supplement or Change Order. The document must accompany each Bid, Letter of Interest, or Proposal submitted by all Offerors.

**BIDDER'S STATEMENT ON SEXUAL HARASSMENT**

**IN ACCORDANCE WITH NEW YORK STATE FINANCE LAW §139-I**

In accordance with State Finance Law §139-I, which generally prohibits the County from entering into contracts pursuant to the bid process with persons who fail to submit a certification affirming compliance with New York Labor Law §201-g, the bidder submits the following certification under the penalty of perjury:

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the Labor Law.

\_\_\_\_\_

Name of Bidder

\_\_\_\_\_

Signature of Authorized Official

\_\_\_\_\_

Printed or Typed Name of Official and Title

\_\_\_\_\_

Date

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_

Notary Public

## **BIDDER'S CHECKLIST**

Listed below are the items to be enclosed in your sealed envelope clearly marked with the RFB title:

1. Bid and Acknowledgement forms [corporations must affix a **Corporate Seal** to them].
2. Non-Collusion Certification.
3. For corporations, a Resolution of Board of Directors, authorizing the making of the Bid, and certified as a true and correct copy by the Secretary of the corporation.
4. Corporations not incorporated in the State of New York must provide Certificate of Authority from the New York State Department of State.
5. Bidder's Statement on Sexual Harassment

If all required documents are not submitted, your Bid may be deemed non-responsive.