

INSTRUCTIONS TO BIDDERS

1.0 RECEIPT AND OPENING OF BIDS

Sealed bids in duplicate for the **Layon Municipal Sanitary Landfill, Access Road and Sewer System, Project No. SWMD-09-03, will be received and time stamped by the Receiver – Gershman, Brickner & Bratton, Inc., in its capacity as Receiver for the Division of Solid Waste Management of the Department of Public Works, pursuant to the Order of the United States District Court of Guam at the Solid Waste Management Division – GBB Receiver Office, 2nd Floor, Solid Waste Management Building, Department of Public Works, 542 N. Marine Corps Dr., Tamuning, Guam, 96913 until 2:00 p.m., on September 4, 2009 local Guam time.** Bids will be publicly opened and read aloud shortly afterwards at the same location.

Bids shall be made on the forms furnished by the Government and shall be enclosed in a sealed envelope addressed to the Receiver – Gershman, Brickner & Bratton, Inc. and endorsed with the name of the Bidder and the title **“Layon Municipal Sanitary Landfill, Access Road and Sewer System, Project No. SWMD-09-03”**.

Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No Bidder may withdraw a bid within ninety (90) calendar days after the actual date of the opening thereof.

Attention is called to the fact that Bidders not only offer to assume the obligations and liabilities imposed upon the Contractor in the Contract, but expressly make certain of the representations and warrants made therein. No effort is made to emphasize any particular provision of the Contract, but Bidders must familiarize themselves with every provision and its effect.

2.0 TIME OF COMPLETION

The Contractor shall commence work on or before the date specified in the Notice to Proceed. **The Project shall be completed within five hundred (500) calendar days, complete and ready for use.** In the event the Contractor does not complete the Work within the time specified, liquidated damages will be assessed as stated in Section 5 of the Special Provisions.

3.0 CONTRACT DOCUMENTS

It is hereby mutually agreed that the following list of Instruments, Plans, Specifications and Documents which are attached hereto, bound herewith or incorporated herein by reference, shall constitute the Contract Documents, all of which are made a part hereof, and collectively evidence and constitute the Contract between the Parties hereto and they are as fully a part of the Contract as if they were set out verbatim and in full herein and are designated as follows.

1. Invitation for Bid
2. Instructions to Bidders
3. Bid Form
4. Bid Bond
5. Schedule of Values
6. Non-Collusion Affidavit
7. Affidavit Disclosing Ownership and Commissions
8. Certification of Non-Segregated Facilities
9. Bidder's Statement on Previous Contracts Subject to EEO Clause
10. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
11. Formal Contract
12. Performance and Payment Bond
13. Special Provisions
14. General Conditions
15. General Scope of Work
16. Prevailing Wage Rates
17. Technical Specifications
18. Addenda
19. Plans
20. Environmental Protection with Erosion Control Plan
21. Stormwater Pollution Prevention Plan

An additional four (4) sets of drawings and specifications will be furnished to the successful Bidder without additional charge.

4.0 PREPARATION OF BID

The Bidder must submit his bid on the forms furnished by the Government or copies thereof, and forms where required, shall be signed in ink. All blank spaces in the bid forms must be correctly filled in where indicated and the Bidder must state the prices in words and numerals for which he proposes to do each item of the Work contemplated or furnish each item of the materials required. In case of conflict between words and numerals, the words, unless obviously incorrect, will govern.

Erasures or other changes in a bid must be explained or noted over the signature of the Bidder. Bids containing any conditions, omissions, unexplained erasures or alterations or items not called for in the bid or irregularities of any kind may be rejected by the Government as being incomplete

The Bidder shall sign his bid in the blank space provided therefor. If this bid is made by a partnership or corporation, the name and address of the partnership or corporation shall be shown, together with the names and addresses of the partners or officers. If the bid is made by a partnership, it must be acknowledged by one of the partners, if made by a corporation, it must be acknowledged by one of the authorized officers thereof. If this bid is made by a limited liability

company (LLC) or liability company (LC), the name and address of the LLC or LC shall be shown, together with the names and addresses of the partners or officers. If the bid is made by a LLC or LC, it must be acknowledged by one of the authorized principals thereof.

5.0 BID SECURITY

Each bid must be accompanied by a deposit in the amount of not less than fifteen percent (15%) of the total amount bid. Such deposit may be in the form of a bid bond, cashier's check or certified check made payable to the Treasurer of Guam. Such checks or bid bonds will be returned to all except the three lowest Bidders within ten (10) working days after the opening of bids, and the remaining checks or bid bonds will be returned promptly after the Receiver – Gershman, Brickner & Bratton, Inc., in its capacity as Receiver for the Division of Solid Waste Management of the Department of Public Works, pursuant to the Order of the United States District Court of Guam and the accepted Bidder have executed the Contract, or if no award has been made within 90 calendar days after the date of the opening of bids, upon demand of the Bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid. Should the successful Bidder fail or refuse to execute and deliver the Contract, performance and payment bond, insurance policies, Guam Contractor's license, and Guam Business license required within **fifteen (15) calendar days** after acceptance of his bid, he shall forfeit to the Government of Guam as liquidated damages for such failure or refusal, the security deposited with his bid.

If a bid bond is used as Bid Security, the surety company executing the bid bond must appear on the U.S. Treasury's most current list Circular 570 and be authorized to transact business on Guam.

6.0 NON-COLLUSION AFFIDAVIT

Each person submitting a bid for any portion of the Work covered by the bid documents shall execute an affidavit, in the form provided with the bid, to the effect that he has not colluded with any other person, firm or corporation in regards to any bid submitted. Such affidavit shall be attached to the bid.

7.0 RIGHT TO ACCEPT AND REJECT BIDS

The Government reserves the unqualified right, in its sole and absolute discretion, to reject any and all bids, or to accept that bid or combination of bids, if any, which in its sole and absolute judgment will under all circumstances best serve the Government's interests. In the event that the successful Bidder fails to execute the Contract upon his part or to furnish satisfactory surety upon the Performance and Payment Bond and insurance policies, the Government, after declaring forfeited the Bid Security reserves the option to accept the bid of any other Bidder within ten (10) calendar days from such default, in which case such acceptance shall have the same effect as to such Bidder as though he was the originally successful Bidder.

8.0 METHOD OF AWARD

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Bidding procedure involving only a BASE BID:

If the base bid is within the amount of funds available to finance the construction Contract, Contract award will be made to that responsible, responsive Bidder submitting the low base bid.

9.0 COMPETENCY OF BIDDERS

The Bidder shall present satisfactory evidence that he has sufficient experience and he is fully prepared with necessary capital, material, machinery and skilled workmen and supervision staff to carry out the Contract satisfactorily.

Accordingly, the Bidder must submit for review the following information. Forms similar to the attached Bidder Qualification Forms can be used. The Confidential Bidder Qualification Form can be submitted in a sealed envelope within the sealed bid package if the Bidder desires to keep the financial information confidential. The Contracting Officer reserves the right to investigate the information submitted, as is deemed necessary, before a Contract is awarded, and to disqualify any Bidder if deemed in the best interest of the Government.

- a) Experience on similar work.
- b) Past performance of firm in accomplishing projects in agreed time.
- c) Availability of plant, machinery and other equipment necessary for work.
- d) Quality of work presently performed for Government of Guam, federal, and private projects.
- e) Contractor's diligence in carrying out responsibility.
- f) Record of good owner-contractor relationship.
- g) Previous record of bids qualification.
- h) Quality of supervisory personnel and areas of their performance.
- i) Record of past performance of contracts including record of default and nonpayment of obligations.
- j) Financial resources.

Financial resources report shall be dated not more than six (6) months prior to bid opening, must be prepared by a certified accountant and shall contain at least the following information:

- 1) Total Assets
- 2) Total Liabilities
- 3) Total Current Assets
- 4) Total Current Liabilities
- 5) Bonding Capability
- 6) Financial Statements including Balance Sheets and Income Statements for Last Two Years

10.0 MODIFICATIONS PRIOR TO DATE SET FOR OPENING BIDS

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The right is reserved, as the interest of the Government may require, to revise the specifications or drawings or both prior to the date set for opening bids. Such revisions, if any, will be announced by an addendum or addenda to this Invitation for Bid. If the addenda are of a nature which requires material changes in quantities or prices to be bid or both, the date set for opening bids may be postponed by such number of days as in the opinion of the issuing officer will enable Bidders to revise their bids. In such cases, the addendum will include an announcement of the new date for opening bids.

11.0 REPRESENTATION REGARDING GRATUITIES AND KICKBACKS

The Bidder, Offeror or Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in Section 11107 (Gratuities and Kickbacks) of the Guam Procurement Regulations (found at Title 2 Guam Administrative Regulations, Division 4).

12.0 REPRESENTATION REGARDING ETHICAL STANDARDS FOR GOVERNMENT EMPLOYEES AND FORMER GOVERNMENT EMPLOYEES

The Bidder, Offeror or Contractor represents that it has not knowingly influenced and promises that it will not knowingly influence a Government employee to breach any of the ethical standards set forth in Chapter 11 (Ethics in Public Contracting) of the Guam Procurement Act.

13.0 DISCLOSURE OF MAJOR SHAREHOLDERS AND COMMISSIONS

As a condition of bidding, any partnership, sole proprietorship, limited liability company, liability company or corporation doing business with the Government of Guam shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares in said partnership, sole proprietorship, limited liability company, liability company or corporation at any time during the twelve (12)-month period immediately preceding submission of a bid. The affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship, limited liability company, liability company or corporation which have been held by each such person during the twelve (12)-month period. In addition, the affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the bid for the Bidder and shall also contain the amounts of any such commission, gratuity or other compensation. The affidavit shall be open and available to the public for inspection and copying, and shall be submitted on or before the bid opening. ***Failure to submit the affidavit concerning shareholder disclosure and commissions shall be deemed nonresponsive and cause for rejection of the bid upon opening.***

14.0 SUBCONTRACTORS

The Bidder is specifically advised that any person, firm, or other party to whom it proposes to

award a subcontract under the Contract must be acceptable to the Contracting Officer and shall be required to submit all documentation as specified in the Contract Documents. A list of the proposed subcontractors and the work they are to perform must be submitted with the bid documents at the bid opening. Additional information regarding the subcontractors may be required after the bid opening.

15.0 METHOD OF BIDDING

This Contract will be solicited with a single fixed-price lump sum bid.

16.0 CONDITIONS OF WORK

Each Bidder must inform himself fully of the conditions relating to the services required and the employment of labor thereon. Failure to do so will not relieve a successful Bidder of his obligation to furnish all materials and labor necessary to carry out the provisions of the Contract. Insofar as possible, the Contractor, in carrying out his Work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

17.0 OBLIGATION OF BIDDER

At the time of the opening of bids, each Bidder will be presumed to have inspected the Project site and to have read and to be thoroughly familiar with the plans and Contract Documents (including all addenda). The failure or omission of any Bidder to inspect the Project site, or examine any Contract form, instrument or document shall in no way relieve any Bidder from any obligation in respect to his bid.

18.0 DISQUALIFICATION OF BIDDERS

Any one or more of the following causes may be considered as sufficient for the disqualification of the Bidder and the rejection of his bid or bids. The following causes are not the exclusive list of causes for disqualification of Bidders.

- (a) Non-attendance by a representative for the Bidder at either the mandatory pre-bid conference or at least one of the two field trips to the Project site. It is mandatory that the Bidder attend at least one of the two field trips. The representative of the Bidder must be an employee of the Bidder or a person who has written authorization from the Bidder to represent him at the pre-bid conference and the field trip. The Bidder can be represented at the mandatory pre-bid conference by one of its employees via telephone. The Bidder must notify the Receiver at least two working days before the pre-bid conference they will be represented via telephone. The Bidder will be given a phone number and access code to call into the pre-bid conference. However, the mandatory field trip to the Project site must be physically attended by a representative of the Bidder. If a Bidder is not properly represented at both the mandatory pre-bid conference and at least one of the field trips, they will be disqualified from submitting a bid.
- (b) More than one bid for the same Work from an individual, firm, partnership, limited liability

- company, liability company or corporation under the same or different names.
- (c) Unbalanced Bid Schedule of Values in which the prices for some items are out of proportion to the prices for other items.
 - (d) Lack of competency as revealed by the financial statements, experience, plant and equipment statements or other information submitted as required by Section 9.0 Competency of Bidders.
 - (e) Lack of responsibility as shown by past work judged from the standpoint of workmanship and progress.
 - (f) Failure to submit the required Bid Security.

19.0 TELEGRAPHIC MODIFICATION

Any Bidder may modify his bid by telegraphic communication at any time prior to the scheduled closing time for receipt of bids, provided such telegraphic communication is received by the Owner prior to the closing time, and, provided further, the Owner is satisfied that a written confirmation of the telegraphic modification over the signature of the Bidder was mailed prior to the closing time. The telegraphic communication should not reveal the bid price but should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is not received within two calendar days from the closing time, no consideration will be given to the telegraphic modification.

20.0 POWER OF ATTORNEY

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

21.0 ADDENDA AND INTERPRETATIONS

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any Bidder orally, and if any Bidder receives any oral interpretation from any Government employee or its representative, the oral interpretation may not be relied upon as an official statement or intention of the Government regardless of who made the statement.

Every request for any interpretation should be in writing addressed to the Contracting Officer.

In order to be given consideration, any request for interpretation must be received by the Government at least eight working days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will either be mailed by certified mail with return receipt requested to all Parties who paid for and picked up the Invitation for Bid and bid documents (at the respective addresses furnished for such purposes) or sent via facsimile or e-mail to the number or e-mail address provided to the Government at the time the Bidder picked up the Invitation for Bid. Such responses shall be sent to Bidders not less than five working days prior to the date fixed for the opening of bids. Failure of any Bidder to receive any such addendum or interpretation shall not relieve such Bidder from any obligation under his bid as submitted. All addenda so issued shall

automatically become part of the Contract Documents, whether expressly set forth in the Contract or not.

22.0 LAWS AND REGULATIONS

The Bidder's attention is directed to the fact that all applicable federal and territorial laws, regulations, rules, licensure requirements, and permit requirements of all authorities having jurisdiction over this Project shall apply to the Contract throughout, and they will be deemed to be included in the Contract and performance thereunder the same as though herein written out in full. Failure on the part of any Bidder to become aware of the applicable laws, rules, regulations, permits and licensure requirements shall not relieve the Bidder to meet such requirements and performance under the Contract if so awarded to the Bidder.

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. NUMBER OF PERSONNEL IN ORGANIZATION:

Administrative: _____ Engineering: _____ Office: _____
 Shop: _____ Field: _____ Other: _____

5. REFERENCES:

Bank(s) Maintaining Account(s):	Contact Name:	Phone No.:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Surety/Underwriter:

_____	_____	_____
_____	_____	_____

Other References:

_____	_____	_____
_____	_____	_____
_____	_____	_____

6. TYPICAL CONTRACTS COMPLETED DURING LAST FIVE YEARS:

Year	Name of Project	Architect/Engineer	Contract Amount
_____	_____	_____	_____
_____	_____	_____	_____

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_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

7. AVERAGE ANNUAL BILLING FOR LAST FIVE YEARS: \$ _____

8. TOTAL WORK IN PROGRESS AND UNDER CONTRACT: \$ _____

9. LAST MAJOR WORK UNDER CONTRACT

<u>% Completed</u>	<u>Name of Project</u>	<u>Architect/Engineer</u>	<u>Amount</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

10. LIST CURRENT PROJECTS ON WHICH YOUR FIRM IS A CANDIDATE FOR CONTRACT AWARD:

11. HAVE YOU AT ANY TIME FAILED TO COMPLETE A CONTRACT?
[] Yes [] No

ARE THERE ANY JUDGMENTS, CLAIMS OR SUITS PENDING OR
OUTSTANDING AGAINST YOU? [] Yes [] No

IF THE ANSWER TO EITHER QUESTION IS YES, SUBMIT DETAILS ON
SEPARATE SHEET. [] Yes [] No

LIST ALL LAWSUITS YOUR FIRM HAS FILED, OR WHICH YOUR FIRM IS A
DEFENDANT, IN RELATION TO CONSTRUCTION CONTRACTS IN THE LAST
FIVE YEARS:

Pursuant to information for prospective Bidders for the above mentioned proposed Project, the Bidder is submitting the information as required with the understanding that it is for the Government's use only to assist in determining the qualifications of this organization to perform the type and magnitude of work included, and further, guarantees the truth and accuracy of all statements herein made. The surety herein named, any other bonding company, bank, subcontractor, supplier, or any other persons, firms or corporations with whom we have done business, or who have extended any credit to us are hereby authorized to furnish you with any information you may request concerning our organization, including, but not limited to, information concerning performance on previous work or credit standing with any of them. We hereby release any and all such parties from any legal responsibility whatsoever of having furnished such information to you.

Name of Organization: _____

By: _____

Title: _____

Date: _____, 20____

Attested to By: _____

Title: _____

corporations with whom we have done business, or who have extended any credit to us are hereby authorized to furnish you with any information you may request concerning our organization, including, but not limited to, information concerning performance on previous work or credit standing with any of them. We hereby release any and all such parties from any legal responsibility whatsoever of having furnished such information to you.

Name of Organization: _____

By: _____

Title: _____

Date: _____, 20____

Attested to By: _____

Title: _____