

SECTION 00 20 00
INSTRUCTIONS TO BIDDERS
ARTICLE 1 DEFINITIONS

- § 1.1 Terms used in these Instructions to Bidders shall have the meanings assigned to them in the General Conditions and Supplementary Conditions.
- § 1.2 Alternate Bid (or Alternate;) is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted. See Section 01 23 00 Alternates, if applicable.
- § 1.3 Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which Work may be added or from which Work may be deleted for sums stated in Alternate Bids.
- § 1.4 Bid Deadline means the date and time on or before which Bids must be received, as designated in the Invitation to Bids and which may be revised by Addenda.
- § 1.5 Bidding/Proposing Period means the span of time between the date of the Solicitation Document and the time and date set for receipt of Offers.
- § 1.6 Estimated Quantity means the estimated quantity of an item of Unit Price Work.
- § 1.7 Lump Sum Bid means the sum stated in the Bid for which Bidder offers to perform the Work described in the Bidding Documents, but not including Unit Price Items or Alternates.
- § 1.8 Base Bid Total is the sum of the Unit Price, Lump Sum Bid and or if pertinent to the alternates if stated in the bidding documents or scope of work.
- § 1.9 Planholder means an entity to have received a complete set of Bidding Documents and who has provided a street address for receipt of any pre-bid communications.
- § 1.10 Apparent Low Bidder is the Bidder whose Base Bid, when added to the specific Alternates DC Water intends to accept, yields the lowest sum of Base Bid and Alternates.
- § 1.11 Successful Bidder is the lowest responsible Bidder who is qualified, and responsive to whom DC Water makes an award.
- § 1.12 Task Order Contract means a contract for services that does not procure or specify a firm quantity of services and that provides for issuance of orders for the performance of tasks during the period of the contract.
- § 1.13 Indefinite Quantity Contract (IDIQ) provides for an indefinite quantity, within stated limits, of specific services or supplies to be furnished during a fixed period .

ARTICLE 2 BIDDER'S REPRESENTATIONS

- § 2.1 The Bidder by making a Bid represents that:
- § 2.1.1 The Bidder has read and understands the Bidding Documents and Contract Documents, to the extent that such documentation relates to the Work for which the Bid is submitted, and for other portions of the Project, if any, being bid concurrently or presently under construction.
- § 2.1.2 The Bid is made in compliance with the Bidding Documents.
- § 2.1.3 The Bidder has visited the site, become familiar with local conditions under which the Work is to be performed and has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents.
- § 2.1.4 The Bid is based upon the materials, equipment and labor of systems required by the Bidding Documents without exception.

- § 2.1.5** The Bidder has fully acquainted himself with conditions as they exist and fully understands the complexities and restrictions attending the execution of the work included in the Bid Documents.
- § 2.1.6** Bidder has carefully studied all reports of exploration and test of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which has been identified in Section 00 30 00. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purpose. Bidder acknowledges that DC Water does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bidding Documents with respect to Underground Facilities at or contiguous to the site.
- § 2.1.7** Bidder has satisfied himself as to the nature of the work, the condition of existing buildings, structures, roadways, underground facilities and the topographical conformation of the ground, the geographical character, quality and quantity of the materials to be encountered, the character of the equipment, machinery, landscape, vegetation, planting and any other facilities needed for preliminary work and during the prosecution of the work. In addition, the general and local conditions, the construction hazards, and all other matters, including, but not limited to, the labor situation can in any way affect the work under the contract and including all safety measures.
- § 2.1.8** If the Bidder makes or obtains any additional examinations, investigations, explorations, tests, and studies and obtains 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 or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Bidder and safety precautions and program incident thereto and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents shall be at the cost of the Bidder.
- § 2.1.9** Bidder acknowledges that he has satisfied himself as to the feasibility and meaning of the plans, drawings, specifications and other contract documents for the construction of the work and that he accepts all terms, conditions and stipulations contained herein
- § 2.1.10** Bidder is familiar with and is satisfied as to all federal, state, district and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.
- § 2.1.11** Bidder has given DC Water written notice of all conflicts, errors, ambiguities or discrepancies that Bidder has discovered in the Contract Documents and the written resolution thereof by DC Water is acceptable to Bidder, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- § 2.1.12** The Bidder expressly understands and agrees that the failure to receive or examine any form, instrument or document or to visit the site to become acquainted with field conditions, shall in no way relieve the Bidder from any obligation with respect to the Bidder's proposal
- § 2.1.13** Bidder is aware of the general nature of the Work to be performed by DC Water and others at the site that relates to Work for which this Bid is submitted as indicated in the Contract Documents and is prepared to work in cooperation with DC Water and other contractors performing work on or adjacent to the site.
- § 2.1.14** This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or

rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over DC Water.

- § 2.1.15 Bidder must ensure that its employees, officers, advisers, agents or subcontractors do not place themselves in a position that may, or does give rise to an actual, potential or perceived conflict of interest between the interests of DC Water and the Bidder's interests during the procurement process. Conflict of interest means having an interest (whether personal, financial or otherwise), which interferes or may be perceived as interfering with the ability of the Bidder to submit a fair and objective bid.
- § 2.1.16 Bidder shall not at any time in the course of the procurement process, be it before or after the award of the Contract, grant or promise any direct or indirect benefit, whether of financial or other nature, to any official, agent, servant or employee of, or any person otherwise engaged by DC Water.

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 COPIES

- § 3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Advertisement or Invitation to Bid in the number and for the deposit sum, if any, stated therein.
- § 3.1.2 Bidders shall use complete sets of Bidding Documents in preparing Bids; DC Water shall not assume responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- § 3.1.3 DC Water may make copies of the Bidding Documents available on the above terms for the purpose of obtaining Bids on the Work. No license or grant of use is conferred by issuance of copies of the Bidding Documents.
- § 3.1.4 Full size prints of the Contract Drawings with Bid Documents may be obtained during the bidding period from:

Procurement/Material Management Department
DC Water
5000 Overlook Avenue, SW
Washington D.C. 20032
202-787-2036

Full-size prints cost \$2.50 per sheet, or the cost of half-size set, whichever is greater. They may be purchased by company check, certified check or postal money order made payable to "DC Water". Only complete sets of Drawings, including Project Manual, will be available, and the costs of full-size prints shall not be refundable.

- § 3.1.5 After the Contract is awarded, DC Water will furnish the Contractor, at no charge, ___ sets of prints (full or reduced size at DC Water's option) of the Contract Drawings and ___ additional copies of the Specifications.
- § 3.1.5.1 DC Water will also furnish the Contractor, at no charge, one complete set of reproducible of the Contract Drawings.
- § 3.1.5.2 Contractor shall furnish to his own forces and to each subcontractor, manufacturer, and material and equipment supplier such copies of the drawings and Contract Documents as may be required for their respective items of work.

§ 3.1.6 The following forms are available in fillable format from the District of Columbia, Office of Contracting and Procurement (<http://ocp.dc.gov/DC/OCP>).

§ 3.1.6.1 Tax Certification Affidavit

§ 3.1.7 A Bid Document Checklist (Section 00 40 25) is provided to assist the Bidder in determining what document and in what order are to be submitted.

§ 3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

§ 3.2.1 The Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being bid concurrently or presently under construction to the extent that it relates to the Work for which the Bid is submitted, shall examine the site and local conditions, and shall at once report to DC Water errors, inconsistencies or ambiguities discovered.

§ 3.2.2 Prospective Bidders and Sub-bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the DC Water by 2:00 p.m. at least ten (10) calendar days prior to the date for receipt of Bids. All questions about the meaning or intent of the Bidding Documents and the Contract Documents shall be submitted to “dets-construction.bid.inquiry@dcwater.com”, in writing. Writer must state the Project Name and the IFB Number in the Subject Line of the in the inquiry. Interpretations or clarifications considered necessary in response to questions will be issued by Addenda. Questions received less than 10-days prior to the date for opening of Bids may not be answered. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other planholders by addendum to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

§ 3.2.3 Interpretations, corrections and changes of the Bidding Documents will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon them.

§ 3.2.4 If a conflict, discrepancy, contradiction, or inconsistency occurs within or between the Specifications and the Drawings; the resolution of same during the bidding phase and/or construction phase, the following order of hierarchy and control shall apply and prevail:

§ 3.2.4.1 As between figures, dimensions, or numbers given on drawings and any scaled measurements, the figures, dimensions, or numbers shall govern;

§ 3.2.4.2 As between large scale drawings and small scale drawings, the larger scale drawings shall govern;

§ 3.2.4.3 As between the technical specifications and drawings; the technical specifications shall govern.

§ 3.2.4.4 Shop Drawings and Submittals: Shop drawings and other submittals from the Contractor, subcontractors, or suppliers do not constitute a part of the Contract Documents.

§ 3.2.4.5 The above requirements notwithstanding, seek clarification from DC Water in case of conflict between locations of items.

§ 3.2.5 As a general rule, no consideration will be given to requests for clarifications submitted in the last week before the closing date.

§ 3.3 ADDENDA

§ 3.3.1 Addenda will be transmitted to all who are known by the issuing office to have received a complete set of Bidding Documents. Addenda may be facsimile transmitted

to all who are known to have received a complete set of bidding documents at the time of said facsimile transmission.

- § 3.3.2 Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.
- § 3.3.3 Addenda will be issued no later than five (5) calendar days prior to the date and time for receipt of Bids except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.
- § 3.3.4 Each Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.
- § 3.3.5 Addendum will also be posted on DC Water Web Site at
“http://vendor.dewater.com/view_sols.cfm”

ARTICLE 4 EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- § 4.1 It is the responsibility of each Bidder, before submitting a Bid, to
 - § 4.1.1 Thoroughly examine all Documents pertaining to the work, the location, accessibility and general character of the site of the work;
 - § 4.1.2 Visit the site to become familiar with local conditions that may affect cost, progress, performance, or furnishing of the Work;
 - § 4.1.3 Consider Federal, State, and local Laws and Regulations that may affect cost, progress, performance, or furnishing of the Work;
 - § 4.1.4 Study and carefully correlate Bidder’s observations with the Contract Documents; and
 - § 4.1.5 Notify DC Water of all conflicts, errors, or discrepancies discovered in the Contract Documents by Bidder.
- § 4.2 Bidders may obtain admission for the purpose of inspection of the existing site during the hours of 9:00 a.m. to 3:00 p.m. on Monday through Friday, except holidays.
- § 4.3 Failure on part of any bidder to thoroughly investigate said job conditions will not be accepted as proper basis for considering an alleged error in his bid or for payment of extras under, or revisions to, the Contract.
- § 4.4 No allowance will be made subsequently in this connection on behalf of the Contractor, for any error or negligence on his part to comply with above, inadvertently or otherwise.
- § 4.5 Prospective bidders may contact _____ at (202) 787 - _____. To schedule an inspection of the work site.

REVIEW AND DELETE SECTIONS THAT DO NOT APPLY AND RENUMBER

- § 4.6 No Pre-Bid Conference is scheduled for this project.
- § 4.6 A Pre-Bid Conference will be conducted on _____. The Conference will begin at _____ and end at _____. The Conference will be held in Room _____ of the _____. All attendees are required to make reservations for this Conference by submitting to “**dets-construction.bid.inquiry@dewater.com**” the name, title and firm name of the attendee(s), by 3:00 p.m. on _____.
- § 4.6 A Mandatory Pre-Bid Conference will be conducted on _____. The Conference will begin at _____ and end at _____. The Conference will be held in Room _____ of the _____. All attendees are required to make reservations for this Conference by submitting to “**dets-construction.bid.inquiry@dewater.com**” the name, title and firm name of the attendee(s), by 3:00 p.m. on _____. Bid proposal from not attendees of the mandatory pre-bid conference will not be accepted.

- § 4.6.1 The purpose of this meeting is to exchange general information concerning the project and to receive questions from prospective bidders and suppliers that have arisen during the preparation of bids.
- § 4.6.2 It is not intended to be a forum for determining the acceptability of construction methods, materials, equipment, etc.
- § 4.6.3 If detailed technical questions are asked, they will be taken under advisement; no attempt will be made to answer them at this conference.
- § 4.6.4 Any official response to questions raised at the meeting will be in the form of a future addendum, which will be issued, as soon as practicable.
- § 4.6.5 Statements made at this pre-bid conference are not legally binding on DC Water unless an addendum is issued as a result thereof.
- § 4.6.6 Copies of the attendance sheet will not be provided.
- § 4.7 No Pre-Construction walk-through is scheduled for this project.
- § 4.8 Notice is hereby given that DC Water has determined that all prime contractor bidders for the project herein must be pre-qualified prior to submitting a bid on the project.
- § 4.9 Only those pre-qualified prime contractors shall be permitted to bid the work.

ARTICLE 5 SUBSURFACE CONDITIONS AND PHYSICAL CONDITIONS

- § 5.1 Reference is made to the General Conditions and to the Section 00 30 00 for identification of, and the extent to which Bidder is entitled to rely on, the following:
- § 5.1.1 Reports of explorations and tests of subsurface conditions at the site shall be utilized in preparation of the Contract Documents.
- § 5.1.2 Drawings of physical conditions in or relating to existing surface and subsurface conditions (except underground facilities) which are at or contiguous to the site shall be utilized in preparation of the Contract Documents.
- § 5.1.3 Copies of such reports and drawings will be made available by DC Water to any Bidder upon request and signing a release.
- § 5.1.4 Underground Facilities: Information and data reflected in the Contract Documents with respect to underground facilities at or contiguous to the site are based upon information and data furnished to DC Water by owners of such underground facilities or others, and DC Water disclaim responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.
- § 5.1.5 Additional Information: Before submitting a Bid, each Bidder shall, at Bidder'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 Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents.
- § 5.1.6 On request five (5) days in advance, DC Water will provide each Bidder access to property owned by DC Water to conduct such explorations and tests as each bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the site to its former condition upon completion of such explorations. Bidder shall provide DC Water with a copy of their Certificate of Insurance and has named DC Water as an additional insured.
- § 5.1.7 Arrangements for Site Visits for explorations and testing shall be made by calling _____ (Contact Person) _____ 202-787-_____.

- § 5.1.8 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 and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor.

ARTICLE 6 BIDDING PROCEDURES

§ 6.1 PREPARATION OF BIDS

- § 6.1.1 Bids shall be submitted on the original forms included with the Bidding Documents.
- § 6.1.2 All blanks on the bid form shall be filled and legibly executed in a non-erasable medium. A bid price shall be indicated for each bid item, adjustment unit price item, contingent bid item, and unit price item listed therein, or the words “No Bid”, “No Charge”, “No Change”, or other appropriate phrase shall be entered.
- § 6.1.3 Sums shall be expressed in both words and figures. In case of discrepancy, the amount written in words shall govern.
- § 6.1.4 Interlineations, alterations and erasures must be initialed and dated by the signer of the Bid.
- § 6.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change."
- § 6.1.6 Bid Pricing: The Bidder shall complete the schedule of unit prices included in the Bid Form and shall accept all fixed unit prices listed therein.
- § 6.1.7 The Schedule of Prices (does not depict any Bid Items/ does depict Bid Items) that are subject to an Alternate Bid Provision...
- § 6.1.8 The Schedule of Prices in the Bid Form may include a specified dollar amount allowance. The Bidder shall include this allowance in his total Bid. Use of the allowance may only be authorized by the DC water in accordance with the procedures defined in these documents.
- § 6.1.9 The Total Bid will be determined as the sum of the products of the estimated quantity of each item and the unit price bid. The final Contract Price will be subject to adjustment according to final measured, used, or delivered quantities as defined in these documents and the unit prices in the Bid will apply to such final quantities, except that unit prices will be subject to change by Change Order as stipulated the General and Supplementary Conditions.
- § 6.1.10 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall make no additional stipulations on the bid form nor qualify the Bid in any other manner.
- § 6.1.11 Each copy of the Bid shall state the legal name of the Bidder and the nature of legal form of the Bidder. The Bidder shall provide evidence of legal authority to perform within the jurisdiction of the Work. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder. A Bid by partnership must be executed in the partnership name and signed by a partner. Bids by joint ventures shall be signed by each participant in the joint venture or by a representative of the joint venture, accompanied by evidence of authority to sign for the joint venture.

- § 6.1.12 The names of all persons signing shall be legibly printed below their signatures. A Bid by a person who affixes to his signature the word “president”, “secretary”, “agent”, or other designation without disclosing his principal may be held to be the Bid of the individual signing. When requested by DC Water, evidence of the authority of the person signing shall be furnished.
- § 6.1.13 DC Water utilizes the Data-Universal-Numbering-System (D-U-N-S) which is the numbering system designated and maintained by the Dun & Bradstreet Corporation. Bidders classified as business entities shall submit their D-U-N-S number as part of their Bid. D-U-N-S numbers are not issued to individuals. Bidders bidding as individuals shall submit their Social Security numbers with their Bid. Each Bidder shall submit with its Bid the Contractor Identification Number Form (See Section 00 45 01).
- § 6.1.14 Acknowledge the receipt of the Addenda in the space provided on the Bid Form.
- § 6.1.15 Sign the Bid Form manually in ink. If bidder is a partnership, the bid shall be signed by one or more of the partners, and the names and addresses of all partners shall be entered upon or attached to the Bid Form. If the Bidder is a corporation, an authorized officer shall sign the bid, name of the office he/she holds or the capacity in which he/she acts for such corporation, and the corporate seal affixed to the Bid Form. In the case of an individual Bidder, such individual Bidder shall sign the Bid Form.
- § 6.1.16 The Bidder shall identify those portions of the bid which it deems to be confidential, proprietary information or trade secrets, and provide justification why such materials shall not be disclosed by DC Water. All such materials shall be clearly indicated by stamping the pages on which such information appears, at the top and bottom thereof with the word “CONFIDENTIAL”. Such materials stamped “CONFIDENTIAL” must be easily separable from the non-confidential sections of the bid. All such materials so indicated shall be reviewed by DC Water and any decision not to honor a request for confidentiality shall be communicated in writing to the bidder. For those bids which are unsuccessful, all such confidential materials shall be returned to the bidder. Prices, makes and model or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available after bid opening, regardless of any designation of confidentiality made by the bidder.
- § 6.1.17 A bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be provided on the Bid Form.
- § 6.1.18 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be provided on the Bid Form.
- § 6.1.19 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.
- § 6.1.20 A Bid by an individual shall show the Bidder’s name and business address.
- § 6.1.21 If the bidder is a joint venture/partnership, it shall submit with its bid a duly notarized venture/partner-executed irrevocable Power of Attorney that designates one of the ventures as a Management Sponsor along with a signed copy of the Joint Venture/Partnership Agreement. The Management Sponsor shall be empowered to execute the bid on behalf of the bidder and to act for and bind the bidder in all matters relating to the bid. The Power of Attorney shall specifically state that each venture/partner shall be jointly and severally liable for any and all of the duties and

obligations of the bidder that is assumed under the bid and under any contract arising there from. The Management Sponsor on behalf of the joint venture/partnership in its legal name shall execute the bid. The Joint Venture Documents shall identify the consent of surety and insurance underwriters. The official address of the joint venture must be provided on the Bid Form.

§ 6.2 BID SECURITY

- § 6.2.1 Each Bid shall be accompanied by a bid security in the form and amount required if so stipulated in the Instructions to Bidders. The Bidder pledges to enter into a Contract with the DC Water on the terms stated in the Bid and will, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising there under. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the DC Water.
- § 6.2.2 If a surety bond is required, it shall be written on the provided Bid Bond Form (See Section 00 40 20), provided in the Bidding Documents, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.
- § 6.2.3 The DC Water will have the right to retain the bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds, if required, have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn or (c) all Bids have been rejected.
- § 6.2.4 Each prime contract bid shall be accompanied by a bid security in the amount of 5% of the total of the Base Bid and all net additive Alternate Bids. The bid security shall be a bid bond issued by a Surety Company authorized to do business in the District of Columbia and listed in the latest issue of U.S. Treasury Circular 570, or a certified check or cashier's check, payable to **“DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY”**.
- § 6.2.5 DC Water will retain the bid guaranty of the second and third lowest responsible bidders for a period of ninety (90) days after bid opening pending the execution of the contract documents by the successful bidder. Except as noted above, the bid guaranty of unsuccessful bidders will be returned to them within ten (10) business days after award of the contract or rejection of all bids.
- § 6.2.6 The bid security of the successful Bidder will be retained until a contract satisfactory to the DC Water has been executed and a Performance Bond has been furnished by the successful Bidder.
- § 6.2.7 If a successful Bidder fails or refuses either to enter into a Contract for the Work or to furnish the Performance Bond, the Bidder's bid security shall be forfeited to DC Water.

§ 6.3 SUBMISSION OF BIDS

- § 6.3.1 Bidder's Representation: The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement concerning examination of the Contract Documents and the site, that without exception the Bid is premised upon performing and furnishing the Work required by 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.
- § 6.3.2 All copies of the Bid, the bid security, if any, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address and, if applicable, the designated portion

of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "**SEALED BID ENCLOSED**" on the face thereof. The Bid Envelope shall be identified on the upper left-hand corner with the following words:

"IFB # _____,"

"To be opened at 2:00 pm on (date) _____".

- § 6.3.3 Bids shall be deposited at the designated location prior to the time and date for receipt of Bids. Bids received after the time and date for receipt of Bids will be returned unopened. In determining the exact time, the designated clock will be the date and time-stamp clock located at the designated location.
- § 6.3.4 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.
- § 6.3.5 Oral, telephonic, telegraphic, and facsimile or other electronically transmitted bids will not be considered.
- § 6.3.6 DC Water shall attempt to make reasonable accommodations; under no circumstances shall DC Water be held liable for Bidder's failure to submit its Bid by the stated time. Bidders are encouraged to allow additional time for waiting in line(s), obtaining passes from Security, finding parking spaces, etc.
- § 6.3.7 Bids shall be submitted on the Bidding Documents forms furnished as a separate packet with the Contract Documents.
- § 6.3.8 All blank spaces in the bid must be properly filled in, and the phraseology must not be changed. Any space left blank, any unauthorized addition, condition, limitation, or provision attached to the bid may render it non-responsive and may cause its rejection. Alterations by erasure or interlineations must be explained or noted on the bid over the signature of the bidder. Mistakes may be crossed out and correction inserted in adjacent, but correction must be initialed in ink by the person signing the Bid. **(No modification of a bid will be considered).**
- § 6.3.9 All prices and notations must be typed or written in ink. Bids must not be written in pencil.
- § 6.3.10 Deliver Bids to the Department of Procurement Services, 2nd Floor, DC Water, Central Operations Facility, 5000 Overlook Avenue, S.W., Washington D.C. 20032 or as stated on the Bid Forms and Proposal Cover..
- § 6.3.11 The Bid Opening will be held in the **Conference Room** at the Visitors Center, 5000 Overlook Avenue, S.W., Washington D.C. 20032.
- § 6.3.12 **UNFORESEEN OFFICE CLOSURE:** If, at the time of the scheduled bid opening, Procurement Department is closed due to uncontrolled events such as fire, snow, ice, wind, earthquake or building evacuation; the bid opening will be postponed until 2:00 p.m. on the next normal business day. Bids will be accepted until that date and time.

REVIEW 6.3.13 AND DELETE IF NOT REQUIRED (TYPICALLY USED FOR EMERGENCY CONTRACT WORK) AND COORDINATE WITH ARTICLE 36

- § 6.3.13 Contractor shall submit with his bid, Page ERPM-1, complete with the names, titles, phone numbers and pager numbers for the primary contact and two (2) alternate points of contact who all have the authority to initiate the mobilization for emergency work under this Contract. Additionally the Contractor shall complete and submit pages ERP-C1 through ERP-C5 with the job descriptions and names of the crewmembers and the equipment to be used by each of the _____ () crews during Emergency Work. Oral,

telephonic, telegraphic, facsimile or other electronically transmitted bids will not be considered.

§ 6.4 MODIFICATION OR WITHDRAWAL OF BID

- § 6.4.1 Bids shall be submitted at the time and place indicated in the Invitation to Bid, or at the modified time and place indicated by Addendum, if required.
- § 6.4.2 Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids. Bids received after the time and date for receipt of Bids will be returned unopened.
- § 6.4.3 Bid may not be modified, withdrawn or canceled by the Bidder during the stipulated time period following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting a Bid.
- § 6.4.4 Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder. Written confirmation over the signature of the Bidder shall be received, and date- and time-stamped by the receiving party on or before the date and time set for receipt of Bids. A change shall be so worded as not to reveal the amount of the original Bid.
- § 6.4.5 Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.
- § 6.4.6 If, within twenty-four (24) hours after Bids are opened, any Bidder files a duly signed, written notice with DC Water and promptly thereafter demonstrates to the reasonable satisfaction of DC Water that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid Security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work to be provided under the Contract Documents.
- § 6.4.7 Bid security shall be in an amount sufficient for the Bid as resubmitted.
- § 6.4.8 Bid Results: After the bid opening, bid results will not be released until after the notice of the award has been issued.

ARTICLE 7 CONTRACT TYPE

§ 7.1 Lump Sum Contracts

- § 7.1.1 Comparison of Bids: Bids on Lump Sum Contracts will be compared on the basis of the lump sum price bid, adjusted for alternate prices bid, if any.

§ 7.2 Unit Price Contracts

- § 7.2.1 Comparison of Bids: Bids on Lump Sum Contracts will be compared on the basis of a total estimated price, arrived at by taking the sum of the estimated quantities of such items, in accordance with DC Water's Estimate of Quantities set forth in the Schedule of Prices, multiplied by the corresponding unit prices, and including any lump sum bids on individual items and allowance items.
- § 7.2.2 Variations of Quantities: Bidders are warned that the Estimate of Quantities on the various items of work and materials is approximate only, given solely to be used as a uniform basis for the comparison of bids, and is not to be considered part of this contract. The quantities are required to complete the contract work may be less or more than so estimated, and if so, no action for damages or for loss of profits shall accrue to the contractor by reason thereof.
- § 7.2.3 Overruns: The terms and conditions pertinent to overruns of unit price items are set forth in Article 11 of the General Conditions.

ARTICLE 8 CONSIDERATION OF BIDS

§ 8.1 OPENING OF BIDS

- § 8.1.1 A public opening of the bids will be conducted.
- § 8.1.2 An abstract of the bids will not be made available to the Bidders.
- § 8.1.3 Except as otherwise permitted by law, no Bid, or part thereof, may be withdrawn, cancelled or modified for a period of **ninety (90)** calendar days after the time and date designated in the Invitation to Bid.

§ 8.2 REJECTION OF BIDS

- § 8.2.1 DC Water shall have the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced, front loaded, or conditional Bids, and to reject the Bid of any Bidder if DC Water believes that it would not be in the best interest of DC Water to make an award to that Bidder. A Bid not accompanied by a required bid security or by other data required by the Bidding Documents, or a Bid which is in any way incomplete or irregular is subject to rejection. Causes for rejection of proposals include but are not limited to:
 - § 8.2.1.1 Submittal of an irregular proposal;
 - § 8.2.1.2 Submittal of more than one proposal from the same partnership, firm or corporation;
 - § 8.2.1.3 Failure by bidder to submit the bid prior to the stated time and date for receipt of bids;
 - § 8.2.1.4 Failure by Bidder to furnish satisfactory bid guarantee;
 - § 8.2.1.5 Failure by Bidder to provide all information required of the bid forms;
 - § 8.2.1.6 Failure by Bidder to demonstrate good faith efforts in obtaining participation by certified WBE/DBE/MBE firms;
 - § 8.2.1.7 Determination by DC Water that Bidder is not qualified to accomplish the project work;
 - § 8.2.1.8 Determination by DC Water that the Bidder has placed conditions on or has qualified their proposal;
 - § 8.2.1.9 Discovery of any alteration, interlineations or erasure of any project requirement by the Bidder;
 - § 8.2.1.10 Evidence of collusion among bidders.
- § 8.2.2 DC Water reserves the right to waive any informality or irregularity discovered in any proposal, which in DC Water's judgment best serves DC Water's interest. In the situation where an extension of a unit price is found to be incorrect, the stated unit price and correct extension will govern. In the event of a discrepancy between the written and numeral values, the written value shall take precedence.
- § 8.2.3 Proposals meeting the following criteria are subject to consideration as being irregular:
 - § 8.2.3.1 If the proposal is on a form other than that furnished by DC Water.
 - § 8.2.3.2 If the form furnished by DC Water is altered.
 - § 8.2.3.3 If there are unauthorized additions, conditional or alternate pay items or irregularities of any kind that make the proposal incomplete, indefinite, or otherwise ambiguous.

- § 8.2.3.4 If the proposal does not contain a unit price for each pay item listed in the proposal, except in the case of authorized pay items, for which the Bidder is not required to furnish a unit price.
- § 8.2.3.5 If the proposal contains unit prices that are obviously unbalanced.
- § 8.2.3.6 If the proposal is not accompanied by the Bid guarantee specified herein.

§ 8.3 ACCEPTANCE OF BID (AWARD)

- § 8.3.1 The DC Water reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced, or conditional Bids and to reject the bid of any Bidder if DC Water believes that it would not be in the best interest of DC Water to make an award to that Bidder. It is the intent of the DC Water to award a Contract to a qualified responsible Bidder. Determination of qualified responsible Bidder shall be based on the Bid Packet submitted, interviews, reference check and provided that the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The DC Water shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the DC Water judgment, is in the DC Water's own best interests.
- § 8.3.2 The DC Water shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and Alternates accepted.
- § 8.3.3 Contractors who have paid liquidated damages or penalties to DC Water for failing to comply with the schedule of any project in the last five years may be disqualified from this project, subject to an appeal to the DC Water where the Contractor demonstrates that (1) subsequent to the project which resulted in penalties the Contractor completed two similar projects or demonstrably similar projects in a timely fashion; and (2) that the factors which lead to delays and penalties in the first instance no longer exist. Payment of liquidated damages or penalties may also be defined as "having been found by the DC Water to be in non-compliance with the project schedule and negotiating a financial settlement for the project in which value was returned to the DC Water, either via change orders or 'work-in-kind' or other recognized manner". The Contractor under consideration shall respond to this clause in the Contractor's Qualification Statement.
- § 8.3.4 DC Water may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work for which that identity must be submitted as provided herein. DC Water also may consider the operating costs, maintenance requirements, performance data, and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data are required to be submitted prior to the Notice of Award.
- § 8.3.5 DC Water may conduct such investigations as DC Water deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, suppliers, and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to DC Water's satisfaction within the prescribed time.
- § 8.3.6 All Bids will remain subject to acceptance for the number of days set forth above; but DC Water may, at its sole discretion, release any Bid and return the bid security prior to that date.
- § 8.3.7 When DC Water gives a Notice of Award to the Successful Bidder it will be accompanied by three (3) unsigned counterparts of the Agreement. Within ten (10) days, the Successful Bidder shall sign, leaving the dates blank, and deliver the required number of counterparts of the Agreement and with the power of attorney (undated).

Within ten (10) days thereafter, DC Water shall execute all copies of the Agreement submitted by Contractor (Successful Bidder), and shall insert the date of contract on the Agreement and power of attorney.

§ 8.4 CANCELLATION OF AWARD

§ 8.4.1 At any time prior to execution of a contract, DC Water reserves the right to cancel the award for any reason without liability to the Bidder, with the exception of the return of the bid guaranty, at any time prior to execution of the contract.

ARTICLE 9 POST- BID INFORMATION

§ 9.1 BID EVALUATION

§ 9.1.1 Estimated quantities in the Schedule of Prices are established to help assure a balanced and fair evaluation of the Bid, and may not reflect the actual or expected quantities to be provided under this Contract. Bids will be evaluated to establish the lowest Total Bid established by the quantities and unit prices in the Schedule of Prices, and to establish unit prices to be used throughout the contract.

§ 9.1.2 Any discrepancy between a numerical price and a price written in words shall be resolved in favor of the price as written in words. Any discrepancy between the unit price multiplied by the quantity and a corresponding total price figure set forth in the Schedule of Prices shall be resolved in favor of a total price reached by multiplying the unit price by the quantity. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

§ 9.1.3 Estimated quantities in the Schedule of Prices are established to help assure a balanced and fair evaluation of the Bid, and may not reflect the actual or expected quantities to be provided under this Contract.

§ 9.1.3.1 The Total Daily Cost per Crew will be used as an evaluation to establish the lowest Total Bid established by the quantities and Crew unit prices in the Schedule of Prices. See Section 01 12 00 "Task orders" under Measurement and Payments for additional information.

§ 9.1.4 Bidders in contention for contract award may be asked to attend a Post-Bid Interview.

§ 9.2 SUBMITTALS

§ 9.2.1 The Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, after notification of selection for the award of a Contract, furnish to the DC Water in writing:

§9.2.1.1 a designation of the Work to be performed with the Bidder's own forces;

§9.2.1.2 names of the manufacturers, products, and the suppliers of principal items or systems of materials and equipment proposed for the Work; and names of persons or entities

§9.2.1.3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

§ 9.2.2 The Bidder will be required to establish to the satisfaction of DC Water the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

§ 9.2.3 Prior to the execution of the Contract, DC Water will notify the Bidder in writing if DC Water, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the DC Water has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, (1) withdraw the Bid or (2) submit an

acceptable substitute person or entity with an adjustment in the Base Bid or Alternate Bid to cover the difference in cost occasioned by such substitution. The DC Water may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

- § 9.2.4 Persons and entities proposed by the Bidder and to whom DC Water have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of DC Water.

§ 9.3 PROTEST

- § 9.3.1 Any protest to this Invitation and/or award of a Bidder there for shall be made in accordance with the Notice of Emergency Rulemaking/Interim Procurement Rules. Adopted October 3, 1996, titled #96-05 Resolution of the Board of Directors of the District of Columbia Water and Sewer Authority, or any successor rules as may be adopted by the Board.
- § 9.3.2 DC Water shall attempt to resolve all bid disputes between the Bidder and DC Water after informal discussions have taken place between the Bidder and DC Water, with the intention that the dispute be resolved at the lowest DC Water level, subject to management approval.
- § 9.3.3 Bid protests directed to the terms, conditions, or form of a proposed procurement action must be received by the DC Water through delivery of the written protest to the Contracting Officer not later than ten (10) calendar days prior to the date established for opening of bids, except that an initial protest that arises based on an amendment to an invitation to Bid must be delivered to the Contracting Officer not later than ten (10) calendar days prior to the date established for opening of bids, or four (4) calendar days after the date the amendment was issued, whichever is later.
- § 9.3.4 Written bid protest regarding an award decision must be received by the Contracting Officer within five (5) working days of when the protester knew or should have known of the facts and circumstances upon which the protest is based.
- § 9.3.5 Only Bidders or prospective Bidders may file a bid protest.
- § 9.3.6 Bid protests delivered after the time period specified above shall be deemed by the Contracting Officer to be untimely and may be denied on that basis unless the Contracting Officer concludes the issues raised by the protest involve fraud, gross abuse of the procurement process, or otherwise indicate substantial prejudice to the integrity of the procurement process.
- § 9.3.7 Bid protests shall be written and shall, at a minimum, include the name and address of the protestor; an identification of the proposed procurement; a description of the nature of the protest; identification of the provisions of the solicitation, regulation, or law upon which the protest is based, and a statement of the specific relief requested.
- § 9.3.8 Protest shall be filed at:
- District of Columbia Water and Sewer Authority
Central Operations Facility
General Manager's Office
5000 Overlook Avenue, S.W.
Washington, D.C. 20032-5397
- § 9.3.9 Except as otherwise provided in the Contract, DC Water Procurement Regulations applies to all claims or disputes which cannot be disposed of by agreement of the Parties of the Contract.

ARTICLE 10 PERFORMANCE BOND AND PAYMENT BOND

§ 10.1 BOND REQUIREMENTS

- § 10.1.1 Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising there under. Bonds may be secured through the Bidder's usual sources.
- § 10.1.2 The cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be included in the Bid in determining the Contract Sum.
- § 10.1.3 If the DC Water requires that bonds be secured from other than the Bidder's usual sources, changes in cost will be adjusted as provided in the Contract Documents.
- § 10.1.4 Contractor shall furnish Performance and Payment Bonds in an amount equal to one hundred percent (100%) of the total Contract price as security for the faithful performance of this Contract, and for the payment of all persons performing labor or furnishing materials in connection with this contract.
- § 10.1.5 Additional payment protection shall be required in connection with any modification effecting an increase in price under the contract for which a bond is required pursuant to the above if:
- § 10.1.5.1 The modification is for new or additional work, which is beyond the scope of the existing contract;
- § 10.1.5.2 The modification is pursuant to an existing provision of the contract and is expected to increase the contract price by \$50,000 or twenty-five percent (25%) of the original total contract price, whichever is less.
- § 10.1.6 The penal amount of the additional bond protection shall generally be such that the total payment bond protection is not less than one hundred percent (100%) of the contract price as revised by both the modifications requiring such additional protection, and the aggregate of any previous modification.
- § 10.1.7 Additional protection may be secured either by increasing the bond protection provided by the existing surety or sureties or by obtaining an additional payment bond from a new surety.
- § 10.1.8 The performance bond shall remain in full force and effect throughout the guaranty period(s).

§ 10.2 TIME OF DELIVERY AND FORM OF BONDS

- § 10.2.1 The Bidder shall deliver the required bonds to the DC Water not later than ten (10) days of the issuance of the Notice of Intent to Award. If the Work is to be commenced prior thereto in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the DC Water that such bonds will be furnished and delivered in accordance with this Section.
- § 10.2.2 The bonds shall be written on the provided Performance Bond Form and Payment Bond Form (See Section 00 61 10 and 00 61 20), provided in the Project Manual in the amount of the Contract Sum.
- § 10.2.3 The bonds shall be dated on or after the date of the Contract.
- § 10.2.4 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

ARTICLE 11 FORM OF CONTRACT BETWEEN DC WATER AND CONTRACTOR

- § 11.1 Unless otherwise required in the Bidding Documents, the Contract for the Work will be written on the provided Contract Form (See Section 00 50 00), provided in the Contract Documents.

- § 11.2 The successful bidder, upon notification by DC Water of the DC Water’s intent to award a Contract, shall execute and deliver a Contractor’s Contract, Payment Bond, Performance Bond and evidence of all required insurance as described in the Project Manual.
- § 11.3 Selection as the qualified responsible bidder does not provide any contractual or equitable rights to that bidder. Any such rights shall accrue only if and when the DC Water and the Bidder execute a binding contract. The DC Water reserves the right to negotiate with all bidders in any manner necessary to best serve the interest of the DC Water. If the DC Water fails to reach an agreement with the qualified responsible bidder, the DC Water may commence negotiations with an alternative bidder or reject all bids and issue a new invitation to Bid.
- § 11.4 Appointed: Once a Contract has been entered into between the successful Bidder and DC Water, the contract shall not be transferable to another contractor or subcontractor without the full and written consent of DC Water.

ARTICLE 12 COLLUSIVE AGREEMENTS

- § 12.1 Each Bidder submitting a Bid for any portion of the work contemplated by the documents on which bidding is based shall execute and attach thereto an affidavit substantially in the form herein provided (See Section 00 45 03), to the effect that he has not colluded with any other person, firm or corporation in regard to any Bid submitted.
- § 12.2 Before, executing any subcontract the successful Bidder shall submit the name of any proposed subcontractor for prior approval and an affidavit substantially in the form provided herein.

ARTICLE 13 BIDDER’S QUALIFICATION AND FINANCING DOCUMENTATION

- § 13.1 Each Bidder shall submit on the AGC Standard Form No. 717E, “**Standard Questionnaires and Financial Statement for Bidders**”, his experience record in the constructing the type of improvements embraced in the Contract Documents, and his organization and equipment available for the work contemplated and when specifically requested, a detailed financial statement for the most recently completed fiscal year. This form must be notarized and is available from the Associated General Contractors of American, Inc. The following additional supplemental information shall be provided:
- § 13.1.1 Provide a list of equipment and key personnel to be used for the proposed project.
- § 13.1.2 Provide a summary of work experience which is required by this project.
- § 13.1.3 Provide a list of at least ___ (__) contracts of similar size and complexity all of which was under the firm’s contractual responsibility and completed within the past ___ (__) years. Each entry shall include scheduled completion date and actual completion date, and contact information for the agency/owner, architect/engineer and references with phone numbers.
- § 13.1.4 Provide a Work-in-Progress Schedule: Provide a complete work-in-progress schedule for all work under contract, showing % complete, notice of any claims in process, resolved, or anticipated and anticipated completion date along with the contract completion date.
- § 13.1.5 List all of the surety/bonding companies you utilized in the last five (5) years.
- § 13.1.6 Have you ever been declared in default under a performance bond in the last five years? If so, describe the circumstances and which surety/bonding company was involved. Include the name and contact person of the project owner(s).
- § 13.1.7 Do you currently have any legal action pending which could impact your ability to perform this Project? If yes, please explain.

OR

- § 13.1 Each Bidder shall submit a “**Contractor’s Qualification Statement**”; see Section 00 40 30. This form must be notarized.

- § 13.2 Each Bidder shall submit a Contractor’s Qualification Statement (Section 00 40 30) in a separate envelope marked with IFB Number, Bidder’s name and with the notation “**BIDDER’S QUALIFICATION STATEMENT ENCLOSED**”.
- § 13.3 Each Bidder shall submit a current financial statement by a Certified Public Accountant in a separate envelope marked with IFB Number, Bidder’s name and with the notation “**FINANCIAL STATEMENT ENCLOSED**”.
- § 13.4 DC Water will make investigations as deemed necessary to determine the responsibility and qualifications of the Bidder, and the Bidder shall furnish DC Water all such information and data for this purpose as the DC Water may request.
- § 13.5 DC Water reserves the right to reject any Bid where an investigation of the available evidence or information does not satisfy the DC Water that the Bidder is qualified to carry out properly the terms of the contract.

ARTICLE 14 WAGES AND SALARIES

- § 14.1 Attention of Bidders is particularly called to the requirement concerning the payment of not less than the District of Columbia Living Wage Act.

OR [SELECT THE WAGE ACT THAT IS REQUIRED FOR YOUR PROJECT AND THEN DELETE THE WAGE ACT SECTION(S) THAT DOES NOT APPLY TO YOUR PROJECT]

- § 14.1 Attention of Bidders is particularly called to the requirement concerning the payment of not less than the prevailing wage and salary rates specified in the Contract Documents and the conditions of employment with respect to certain categories and classifications of employees.
- § 14.2 All construction contractors performing physical work on the jobsite are subject to the Davis Bacon Wage Determination which requires the submission of weekly Certified Payroll. All certified payrolls from contractors at any tier shall be submitted to DC Water through the automated online reporting system.
- § 14.3 Davis Bacon Wage Determination requirements shall flow down to all contractors, at any tier, performing work onsite.
- § 14.4 The Work Classifications used in the weekly Certified Payrolls shall conform to the job classifications in the Wage Determination, to include Work Classification Group number, if applicable.
- § 14.5 Each Certified Payroll must be accompanied by a Statement of Compliance as required by Federal requirements (see B Appendices to the Project Manual), signed by the person who pays or supervises the payment of the persons employed under the contract.
- § 14.6 A designated DC Water employee or Third Party Compliance Officer will perform periodic onsite visits to question tradesmen regarding the accuracy of information contained in the certified report.
- § 14.7 General Wage Decision No. shall be referred in Section 00 76 00 “Labor Provisions” and are bound herein and contain pertinent to the specific wage rates.
- § 14.8 Any Wage Determination issued after the execution date of the Contract shall not be applicable to this Contract.

ARTICLE 15 ANTI-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE

- § 15.1 Attention of Bidders is particularly called to the requirement for ensuring that employees, applicants for employment, subcontractors are not discriminated against or intimidated in the performance of work or any other activity required under the Contract because of their race, sex, color, national origin or religion.
- § 15.2 “The Contractor:

- § 15.2.1 Shall not discriminate in any manner against any employee or applicant for employment in violation of Section 211 of the District of Columbia Human Rights Act (D.C. Law 2-38; D.C. Code Anno. Section 1-2512);
- § 15.2.2 Shall include a similar clause in every subcontract, except subcontracts for standard commercial supplies or raw materials; and
- § 15.2.3 Shall, along with all subcontractors, post in a conspicuous place, available to employees and applicants for employment, a notice setting forth the provisions of anti-discrimination clause set out in Section 251 of the district of Columbia Human Rights Act (D.C. Code Anno. Section 1-2522)”.
- § 15.3 Bidder shall comply with this provision by submitting with its Bid to DC Water a completed Equal Employment Opportunity Certificate and a Non-Segregated Facilities Certificate (See Section 00 45 18).

ARTICLE 16 DC WATER WORKS: A LOCAL HIRING INITIATIVE

- § 16.1 The Contractor and each first and second tier construction and professional services subcontractor with a contract over \$300,000 must participate in the DC Water’s Local Hiring Initiative. The Initiative shall include weekly certified payroll reports and monthly collection of employment statistics. Every Contractor, first and second tier construction subcontractor with a contract over \$500,000 must have an Apprenticeship Program as approved by their home state and provide report data to DC Water and/or its representative as requested. This data will include, but may not be limited to specific information about project employees as well as apprenticeship program statistics.
- § 16.2 Employment data will be collected through an automated online reporting system. The Contractor and its first and second tier subcontractors meeting the inclusion thresholds for construction or professional services must submit a project personnel roster that identifies each employee working on the project, whether onsite or offsite, by city, state of residence, and zip code. Each employee must also be designated by one of a minimum of four general labor classifications, to be determined by DC Water,
- § 16.3 The successful Contractor shall provide a DC Water Works Employment Plan (See Section 00 45 20) thirty (30) days after contract award. Each construction subcontractor with a contract over \$300,000 shall provide an Employment Plan with the submission of the Subcontract Approval Request by the prime contractor. The Employment Plan will list all new jobs anticipated as a result of the project, and the projected salary range and hiring date for each anticipated position. Contractor will provide a quarterly update of the Employment Plan to DC Water, and make use of the DC Water Works Job Center to the maximum extent practical.

OR [SELECT THE TEXT APPROPRIATE FOR YOUR PROJECT AND THEN DELETE THE TEXT THAT DOES NOT APPLY TO YOUR PROJECT]

- § 16.3 Each service Contractor with a contract over \$300,000 shall provide a DC Water Works Employment Plan (See Section 00 45 20) with the submission of its Contracting Plan. The Employment Plan will list new jobs anticipated as a result of the project, and the projected salary range and hiring dates for each anticipated position. Contractors will provide a quarterly update of the Employment Plan to DC Water, and make use of the DC Water Works Job Center to the maximum extent practical.
- § 16.4 Each construction trade Contractor or subcontractor performing apprentice-able trades, with a contract over \$500,000 shall operate an apprenticeship program in accordance with the requirements of the state in which its principal place of business is located. The ratio of apprentice to journeymen shall be no less than one (1) apprentice to three (3) journeymen. Contractor shall make a copy of their program available upon request, along with related

materials, as necessary. Program operation may be audited at any time by individuals authorized by DC Water.

§ 16.5 Contractor agrees to provide additional employment data as may reasonably be requested for presentation in DC Water's Employment Report to the Board of Directors and others on a periodic basis at no additional cost to the project.

§ 16.6 The Contractor shall ensure this requirement is included in its first tier subcontracts and that the requirement flows down to second tier subcontractors.

ARTICLE 17 EQUAL EMPLOYMENT OPPORTUNITY

§ 17.1 Attention of Bidders is particularly called to the requirement for ensuring that employees and applicants for employment are not discriminated against because of their race, sex, color, national origin or religion.

§ 17.2 Bidder shall comply with this provision by submitting with its Bid to DC Water a completed certification of assurance of compliance with equal employment opportunity goals (See Section 00 45 17).

ARTICLE 18 CLASS "A" BUSINESS LICENSE

§ 18.1 Bidders are on notice that D.C. Law 17-219 has amended Title 17 of the District of Columbia Municipal Regulations to add a new Chapter 39 (General Contractor/Construction Manager). This Chapter imposes licensing requirements on General Contractors and Construction Managers (as defined in such chapter) working in the District of Columbia, establishes five (5) classes of licenses.

§ 18.2 Each Bidder will be required to have a Class A license prior to submission of a bid.

§ 18.3 Bidder shall provide a copy of license with the bid proposal.

ARTICLE 19 CORPORATE REGISTRATION

§ 19.1 All foreign companies (i.e., those companies not located in the District of Columbia) contracting to do business with DC Water must have a registered agent in the District of Columbia. If you do not have a registered agent, contact the Department of Consumer and Regulatory Affairs at 202-442-4400, or go to the District of Columbia's Department of Consumer and Regulatory Affairs website at <http://dcra.dc.gov>. The relevant documents, instructions and customer service assistance are available from the above locations.

§ 19.2 DC Water will not enter into a contract with a firm unless the firm has a registered agent.

§ 19.3 Bidder shall provide a copy of the Corporate Registration with the bid proposal.

ARTICLE 20 DEBARMENT

§ 20.1 The Bidder shall be in compliance with the provisions set forth in the Debarment Regulations, 49 CFR 29 (US DOT/FHWA), 40 CFR 32 (US EPA) and D.C. Law 6-85 (Procurement Practices Act of 1985) and shall certify at the time of the bid opening that it or anyone associated therewith in any capacity of owner, director, officer, principal investigator, project director, manager, auditor, or any positions involving the administration of District of Columbia or Federal Funds is not suspended, debarred, or voluntarily excluded from or otherwise determined ineligible to receive award of or performance on DC Water's and/or federally-funded projects.

§ 20.1.1 If Bidder cannot certify to the foregoing, it shall submit a written explanation of why such certification cannot be provided.

§ 20.1.2 If at any time the Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, it shall provide immediate written notification to DC Water.

- § 20.1.3 Bidder agrees that it will not knowingly subcontract to any company or person which/who is debarred, suspended, declared ineligible, or voluntarily excluded from participation on DC Water's and/or federally-funded projects.
- § 20.1.4 The Bidder, when subcontracting, or when soliciting for subcontractors, shall require from the subcontractor(s) the form titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transaction" (See Section 00 45 15) without modification or abridgement.
- § 20.1.5 The Bidder is apprised that if it subcontracts knowingly with a company or person which/who is suspended, debarred, ineligible, or voluntarily excluded from participation on DC Water's or federally-funded projects, in addition to other remedies available to the District of Columbia and the Federal Government, DC Water may terminate the Contract for cause or default.
- § 20.1.6 The foregoing requirements apply equally to suppliers, vendors, materialmen, et al.
- § 20.1.7 The Bidder shall comply with this provision by submitting with its Bid a completed Debarment Status Statement (See Section 00 45 14).

ARTICLE 21 COMBINED BUSINESS TAX REGISTRATION

- § 21.1 The low Bidder must be REGISTERED with the District of Columbia's Department of Finance and Revenue and the Department of Employment Services (DOES).
- § 21.2 If registered; submit your Tax Registration and a copy of your compliance certificate with DOES with your bid proposal.
- § 21.3 If not registered and you are the low bidder, obtain your Tax Registration and the D.O.E.S. as soon as possible after the bid opening; but must be obtained prior to the anticipated Notice of Award date. Form FR-500, "Combined Business Tax Registration Application" has been provided in the Appendix for your use.

ARTICLE 22 TIME FOR RECEIVING BIDS

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

ARTICLE 23 SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- § 23.1 No portions of the Contract shall be sublet or otherwise disposed of except with the written approval of DC Water. Such approval, when given, shall not be construed to relieve Contractor of its duties and responsibilities for completion of the Work in accordance with the Contract Documents.
- § 23.2 The Bidder shall complete the form entitled "Subcontracting Approval Request" (Section 00 45 23) for the permission to sublet or otherwise dispose of any portion of the Contract and shall be submitted with the contract bid. A request shall be submitted for each proposed Subcontractor, including second and lower tier subcontractors, and shall be accompanied by assurance that the Labor Standard Provisions set forth in the Contract Documents will comply to labor performed on all Work encompassed by the request. Subcontractors must be registered with the District of Columbia's Department of Finance and Revenue and the Department of Employment Services (DOES). Contractor shall submit the subcontractor's Tax Registration and a copy of their compliance certificate with DOES with the approval request.
- § 23.3 An experience statement shall be provided with each request, with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor.

- § 23.4 If DC Water is providing ROCIP insurance; Bidder shall attach to the “Subcontracting Approval Request” a completed Aon Form 1a (Section 00 45 02) for the proposed subcontractor.
- § 23.5 Contractor shall submit to DC Water a certification that he will make timely payments to his subcontractors and suppliers (See Section 00 45 13).

ARTICLE 24 RESPONSIBILITIES OF THE CONTRACTOR

- § 24.1 Except as otherwise specifically stated in the Contract Documents and Technical Specifications, the Contractor shall do all the work and shall furnish all the materials, labor, tools, equipment, water, light, heat, power, transportation, and supervision necessary to complete the work required by this Contract in a responsible manner and within the time hereinafter specified. The said Contractor shall complete the entire work to the satisfaction of the DC Water standards and in accordance with the specifications and drawings herein mentioned at the prices herein agreed upon and affixed therefor. The Contractor further agrees that all work done or materials furnished shall be of the best of their respective kinds and qualities.
- § 24.2 Contractor shall examine the Bid Documents and will be familiar with the Contract Documents.
- § 24.3 Examine information concerning subsurface or other latent physical conditions. It is presented in good faith but is not intended as a substitute for personal investigation, interpretations or judgment of the Contractor.
- § 24.4 Assume the risk of encountering any subsurface or other latent physical condition that can be reasonably anticipated on the basis of documentary information provided and from inspection and examination of the site, shall be the Contractor’s responsibility.

ARTICLE 25 INSURANCES

§ 25.1 ROLLING OWNER CONTROLLED INSURANCE PROGRAM

- § 25.1.1 DC Water will be providing certain insurances as stated in specification Section 00 73 16 under the “Rolling Owner Controlled Insurance Program *(ROCIP)”.

~ OR ~

§ 25.1. ROLLING OWNER CONTROLLED INSURANCE PROGRAM

- § 25.1.1 DC Water will not be providing certain insurances under the “Rolling Owner Controlled Insurance Program *(ROCIP)” program as may be stated in specification Section 00 73 16 and Article 5 of the General Conditions (Section 00 70 00), titled “Bonds and Insurances”.

§ 25.2 CONTRACTORS PROVIDED INSURANCE

- § 25.2.1. Contractor shall provide the following insurances as stated below but not limited to:

“DELETE INSURANCE TYPE THAT IS NOT REQUIRED”

All Risk Builder’s Risk Insurance
Commercial Automobile Liability Insurance
Commercial General Liability Insurance
Umbrella Liability Insurance
Pollution Liability Insurance
Aircraft and/or Watercraft Liability Insurance
Marine Insurance
Personal Property Insurance
Professional Liability Insurance

Installation Floater Insurance
Railroad Protective Liability Insurance
Workers' Compensation Insurance (off-site only)
Workers' Compensation Insurance
Employer's Liability Insurance (off-site only)
Employer's Liability Insurance
General Liability Insurance
Excess Liability Insurance (off-site only)
Excess Liability Insurance

§ 25.2.2 .Contractor shall review Section 00 70 00, titled "General Conditions", Article 5, "Bonds and Insurances" and specification Section 00 73 16, titled "Project Insurance" for additional information.

THE FOLLOWING MODIFICATION MAY DEPEND ON IF ROCIP IS NOT PROVIDED.

In specification Section 00 73 16; delete subsection 1.4 in its entirety, titled "Rolling Owner Controlled Insurance Program (ROCIP)" and subsection 1.5, titled "Definitions", in its entirety.

In specification Section 00 73 16; delete the title of subsection 2.1 in its entirety, "DC WATER PROVIDED INSURANCE (ROCIP)" and review subsection 2.2, titled "ADDITIONAL CONTRACTOR'S PROVIDED INSURANCE" and revise subsection 2.2 to become 2.1.

ARTICLE 26 PARTICIPATION BY FOREIGN CONTRACTORS AND SUBCONTRACTORS

- § 26.1 DC Water will not consider for award any Bid, and will not consent to sublet any portions of the Contract to any subcontractor, of a foreign country during any period in which such foreign country is listed by the United States Trade Representative as discriminating against United States firms in conducting procurements for public works projects.
- § 26.2 No product of any such listed country shall be permanently incorporated into the project.
- § 26.3 This Provision applies to the participation of contractors, subcontractors and productions of countries, which have been listed by the U.S. Trade Representative.
- § 26.4 Any Contractor or Subcontractor, who is a citizen or national of a foreign country or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign county. The terms contractor and subcontractor also include any partner in a joint venture.
- § 26.5 Any product of which fifty percent (50%) or more of its cost is attributable to production or manufacturing in a foreign country shall be considered to be product of such foreign country.

ARTICLE 27 CONTRACT TIME

- § 27.1 The number of days within which, or the date by which, the Work is to be completed (the Contract Time) is set forth in the Contract.

ARTICLE 28 INTOXICATING LIQUORS AND NARCOTICS

- § 28.1 The Contractor, shall not sell and shall neither permit nor suffer the introduction or use of intoxicating liquors or narcotics upon or about the site.
- § 28.2 The requirements of the "Drug Free Workplace Act of 1988" applies to this Contract.

§ 28.3 Contractor shall submit to DC Water with his/her bid a certification that he will comply with the Drug Free Workplace Act of 1988 (See Section 00 45 04).

ARTICLE 29 LIQUIDATED DAMAGES

§ 29.1 Delay in completion of the project will jeopardize DC Water's interest; however, it is impossible to ascertain with reasonable certainty the direct/indirect real damages which DC Water could sustain if the project is not performed and completed in a timely manner.

§ 29.2 It is therefore agreed that liquidated damages will be assessed by the Contractor for each calendar day by which the Contractor fails to complete the work, or any part thereof, as set forth in the Contract.

§ 29.3 DC Water will deduct and retain out of any money due, or to become due hereunder, the amount of liquidated damages and, in case retained amounts are less than the amount of liquidated damages, the Contractor shall be liable to pay the difference upon demand by DC Water.

§ 29.4 Nothing herein shall be deemed to limit any of the rights and remedies available to DC Water or in any way to create an exclusive remedy between parties.

§ 29.5 DC Water reserves the right to pursue any and all remedies available to it in any manner permitted at law or in equity.

ARTICLE 30 GUARANTY

§ 30.1 The Contractor guarantees that completed work is free from defects due to faulty materials, equipment or workmanship.

§ 30.2 This guaranty shall be:

§ 30.2.1 Guaranty period shall start on the date of the acceptance of completion of the Task Order. (FOR IRR CONTRACTS)

OR

§ 30.2.1 Guaranty period shall start on the date of the Notice of Award, and

§ 30.2.2 For a minimum period of one (1) year from the date (s) of final completion and full acceptance of the Contract work unless otherwise specified, or

§ 30.2.3 For one (1) year from the date(s) the facility (is) or usable components thereof are put into operation if occurring within 18 months of construction completion of the Contract work.

§ 30.3 The Contractor may complete certain items of work prior to the completion of the Contract. The starting date for the guaranty period for this work shall be the date of the Certificate of Beneficial Occupancy that includes the work.

§ 30.4 The Contractor shall furnish all guaranty and warranty information with each Certificate of Beneficial Occupancy and Certificate of Substantial Completion.

§ 30.5 The performance bond shall remain in full force and effect throughout the guaranty period(s).

§ 30.6 The Contractor shall furnish DC Water with a copy of each manufacturer and supplier warranty and guaranty for equipment and equipment components, including those provided by manufacturers and suppliers covering a period greater than the required one-year guaranty period, with DC Water as beneficiary.

§ 30.7 The Contractor shall promptly, and at no additional cost to DC Water, make whatever adjustments or corrections which may be necessary to correct any defects, including any work found to be improper, incomplete or imperfect, and/or not operating or functioning in a satisfactory manner, and/or failing to perform as specified, unless such conditions are the direct result of force majeure, or DC Water negligence or failure to adequately maintain the work; and including repairs of any damage to any other portion of the project resulting from such defects in the Contract work.

- § 30.8 The Contractor shall initiate corrective repairs, replacements and adjustments as required within five (5) working days of notification by DC Water, and shall make every reasonable effort to progress on a continuing basis until work is satisfactorily completed and accepted by DC Water in writing.
- § 30.9 If the Contractor fails to complete the repairs, replacements, and/or adjustments required with two (2) weeks of notification by DC Water, the warranty period will be extended for a period of time equal to that from the date of notification by DC Water to the date that the repairs, replacements and adjustments required to place the system in full operation are completed, and the work is accepted by DC Water in writing.
- § 30.10 If the Contractor fails to initiate adjustments, repairs, corrections or associated repairs made necessary by such defects as stated herein within five (5) working days of notification by DC Water, then DC Water may elect to do so and will charge the Contractor the cost incurred.
- § 30.11 Use or acceptance of the work or any part thereof by DC Water, or any failure to use same, or any repairs, adjustments, replacements or corrections made by DC Water due to the Contractor's failure to comply with any Contract requirements shall not impair in any way the Contractor's guaranty obligations.
- § 30.12 The Contractor obligations under this Section are in addition to the Contractor's other express or implied assurances under the Contract and in **no way** diminish any other rights DC Water may have against the Contractor for faulty materials, equipment or work.

BASED ON THE TYPE OF PROJECT; SELECT THE CORRECT ARTICLE 31 FROM THE FOLLOWING TWO EDITIONS; DELETE THE ARTICLE 31 THAT IS NOT REQUIRED AND ALL RED NOTES.

ARTICLE 31 SUBCONTRACTING GOALS (MBE & WBE) (WATER PROJECTS)

- § 31.1 The resulting contract may be funded in part by the United States Government. Accordingly, this contract will be subject to all pertinent Federal requirements, inclusive of the EPA Disadvantaged Business Enterprise (DBE) Program which revises EPA's Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) program. In accordance with the DBE requirements, a Fair Share Objective for Minority and Women Business Enterprises participation in this work of 32% and 6%, respectively, has been established.
- § 31.2 The full text of the EPA DBE program can be accessed on the EPA Office of Small Business Program website at www.epa.gov/osbp. Also, reference Federal Requirements and Contract Provisions (bound herein – see Appendix), for work under the Safe Drinking Water Act, as Amended, dated July 2008, which outlines prime and subcontractor responsibilities under the EPA DBE Program. Particular emphasis should be placed on employing the six Good Faith Efforts during bidding (if prime contractor intends to award subcontracts) and prime contractor compliance with prime contractor requirements of Title 40, Part 33 – Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs.
- § 31.3 In accordance with the EPA DBE Program, Bidder shall be aware of the requirement to employ the six Good Faith Efforts during bidding (if prime contractor intends to award subcontracts) and prime contractor compliance with prime contractor requirements of Title 40, Part 33 – Participation by Disadvantaged Business Enterprises in United States Environment Protection Agency Programs.

The Bidder is required to submit with the bid, their plan and documentation of their WBE/MBE outreach efforts to comply with the Fair Share Objectives. The documentation shall describe the work which the Bidder proposed to subcontract, and initiate the work into the smallest tasks that are economically feasible and obtain the required documents for permitting.

Include in the submitted documentation minority businesses and women business enterprises that were solicited as potential subcontracting sources and the bidder's evaluation of each MBE and

WBE subcontractor proposal received. Bidder shall contact at a minimum but not limited to the following in the search for Disadvantaged Business Enterprises:

District Department of Transportation DBE Master Member Directory on
<http://ddot.dc.gov/page/disadvantaged-business-enterprises>

US Department of Transportation <http://www.dot.gov/osdbu/disadvantaged-business-enterprise/state-dot-and-dbe-program-websites>

Small Business Administration http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm

The plan must contain a list of the qualifying subcontractors and suppliers, the MBE/WBE category for each, their role in the Contract and the value of their services, as well as stating their percentage of the total contract value. The plan must be accompanied with completed DBE Outreach Certification (Section 00 40 21), Contractor's Intent to Subcontract WBE/MBE (Section 00 45 08), DBE Subcontractor Participation Form (Section 00 45 10), DBE Subcontractor Performance Form (Section 00 45 11), and DBE Subcontractor Utilization Form (Section 00 45 12), with a copy of the certification of proof of qualifying status. Bidder shall submit with the bid proposal packet his Certification of Outreach Efforts (Section 00 40 21).

The Prime Contractor cannot be considered as a participant in the Disadvantaged Business Enterprise Program.

- § 31.4 Failure to comply with these requirements may be cause to declare the bid to be non-responsive.
- § 31.5 Provide updated information immediately if any of the information changes, either before or after the award of the contract including the reason for the change.
- § 31.6 During the performance of this contract, the Contractor shall include on each invoice where Minority and Women Business Enterprise work is billed, the amount paid to, and the cumulative total paid, to each Minority and Women Business Enterprise.
- § 31.7 Contract awards are tracked through the Subcontract Approval Request process. Only M/WBE contractors with acceptable certification are counted toward participation in the program. Progress toward goal accomplishment once a contract is awarded to an M/WBE is based on verified M/WBE payments.
- § 31.8 This is a tiered program, i.e., it includes required subcontractor participation by the prime contractor, the first tier subcontractors, and the second tier subcontractors being reported. The program requires participation of all first tier construction contractors with contracts greater than or equal to \$100,000 and all first tier professional services subcontractors on a design build project with contract values greater than or equal to \$100,000. All contractors meeting the inclusion thresholds agree to participate in monthly collection of subcontracting data through an automated online reporting system.

OR

ARTICLE 31 SUBCONTRACTING GOALS (MBE & WBE) (SEWER PROJECTS)

- § 31.1 The resulting contract may be funded in part by the United States Government. Accordingly, this contract will be subject to all pertinent Federal requirements, inclusive of the EPA Disadvantaged Business Enterprise (DBE) Program which revises EPA's Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) program. In accordance with the DBE requirements, a Fair Share Objective for Minority and Women Business Enterprises participation in this work of 32% and 6%, respectively, has been established.
- § 31.2 The full text of the EPA DBE program can be accessed on the EPA Office of Small Business Program website at www.epa.gov/osbp. Also, reference Federal Requirements and Contract Provisions (bound herein – see Appendix), for work under the Federal Water Pollution Control Act, as Amended, dated July 2008, which outlines prime and subcontractor responsibilities under the EPA DBE Program. Particular emphasis should be placed on employing the six Good Faith

Efforts during bidding (if prime contractor intends to award subcontracts) and prime contractor compliance with prime contractor requirements of Title 40, Part 33 – Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs.

§ 31.3 In accordance with the EPA DBE Program, Bidder shall be aware of the requirement to employ the six Good Faith Efforts during bidding (if prime contractor intends to award subcontracts) and prime contractor compliance with prime contractor requirements of Title 40, Part 33 – Participation by Disadvantaged Business Enterprises in United States Environment Protection Agency Programs.

The Bidder is required to submit with the bid, their plan and documentation of their MBE and WBE outreach efforts to comply with the fair share objectives. The documentation shall describe the work which the Bidder proposed to subcontract, and initiate the work into the smallest tasks that are economically feasible and obtain the required documents for permitting.

Include in the submitted documentation minority businesses and women business enterprises that were solicited as potential subcontracting sources and the bidder's evaluation of each MBE and WBE subcontractor proposal received. Bidder shall contact at a minimum but not limited to the following in the search for Disadvantaged Business Enterprises:

District Department of Transportation DBE Master Member Directory on
<http://ddot.dc.gov/page/disadvantaged-business-enterprises>

US Department of Transportation <http://www.dot.gov/osdbu/disadvantaged-business-enterprise/state-dot-and-dbe-program-websites>

Small Business Administration http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm

The plan must contain a list of the qualifying subcontractors and suppliers, the MBE/WBE category for each, their role in the Contract and the value of their services, as well as stating their percentage of the total contract value. The plan must be accompanied with completed DBE Outreach Certification (Section 00 40 21), Contractor's Intent to Subcontract WBE/MBE (Section 00 45 08), DBE Subcontractor Participation Form (Section 00 45 10), DBE Subcontractor Performance Form (Section 00 45 11), and DBE Subcontractor Utilization Form (Section 00 45 12), with a copy of the certification of proof of qualifying status. Bidder shall submit with the bid proposal packet his Certification of Outreach Efforts (Section 00 40 21).

The Prime Contractor cannot be considered as a participant in the Disadvantaged Business Enterprise Program.

§ 31.4 Failure to comply with these requirements may be cause to declare the bid to be non-responsive.

§ 31.5 Provide updated information immediately if any of the information changes, either before or after the award of the contract including the reason for the change.

§ 31.6 During the performance of this contract, the Contractor shall include on each invoice where Minority and Women Business Enterprise work is billed, the amount paid to, and the cumulative total paid, to each Minority and Women Business Enterprise.

§ 31.7 Contract awards are tracked through the Subcontract Approval Request process. Only M/WBE contractors with acceptable certification are counted toward participation in the program. Progress toward goal accomplishment once a contract is awarded to an M/WBE is based on verified M/WBE payments.

§ 31.8 This is a tiered program, i.e., it includes required subcontractor participation by the prime contractor, the first tier subcontractors, and the second tier subcontractors being reported. The program requires participation of all first tier construction contractors with contracts greater than or equal to \$100,000 and all first tier professional services subcontractors on a design build project with contract values greater than or equal to \$25,000. . All contractors meeting the

inclusion thresholds agree to participate in monthly collection of subcontracting data through an automated online reporting system.

OR

ARTICLE 31 SUBCONTRACTING GOALS (MBE & WBE)

(WATER & SEWER PROJECTS)

(COMBINATION FOR IRR CONTRACTS)

- § 31.1 The resulting contract may be funded in part by the United States Government. Accordingly, this contract will be subject to all pertinent Federal requirements, inclusive of the EPA Disadvantaged Business Enterprise (DBE) Program which revises EPA's Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) program. In accordance with the DBE requirements, a Fair Share Objective for Minority and Women Business Enterprises participation in this work of 32% and 6%, respectively, has been established.
- § 31.2 The full text of the EPA DBE program can be accessed on the EPA Office of Small Business Program website at www.epa.gov/osbp. Also, reference Federal Requirements and Contract Provisions (bound herein – see Appendix), for work under the Safe Drinking Water Act and Federal Water Pollution Control Act, as Amended, dated July 2008, which outlines prime and subcontractor responsibilities under the new EPA DBE Program. Particular emphasis should be placed on employing the six Good Faith Efforts during bidding (if prime contractor intends to award subcontracts) and prime contractor compliance with prime contractor requirements of Title 40, Part 33 – Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs.
- § 31.3 In accordance with the EPA DBE Program, Bidder shall be aware of the requirement to employ the six Good Faith Efforts during bidding (if prime contractor intends to award subcontracts) and prime contractor compliance with prime contractor requirements of Title 40, Part 33 – Participation by Disadvantaged Business Enterprises in United States Environment Protection Agency Programs.

The Bidder is required to submit with the bid, their plan and documentation of their MBE and WBE outreach efforts to comply with the fair share objectives. The documentation shall describe the work which the Bidder proposed to subcontract, and initiate the work into the smallest tasks that are economically feasible and obtain the required documents for permitting.

Include in the submitted documentation minority businesses and women business enterprises that were solicited as potential subcontracting sources and the bidder's evaluation of each MBE and WBE subcontractor proposal received. Bidder shall contact at a minimum but not limited to the following in the search for Disadvantaged Business Enterprises:

- | | |
|---------------------------------------|---|
| District Department of Transportation | DBE Master Member Directory on
http://ddot.dc.gov/page/disadvantaged-business-enterprises |
| US Department of Transportation | http://www.dot.gov/osdbu/disadvantaged-business-enterprise/state-dot-and-dbe-program-websites |
| Small Business Administration | http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm |

The plan must contain a list of the qualifying subcontractors and suppliers, the MBE/WBE category for each, their role in the Contract and the value of their services, as well as stating their percentage of the total contract value. The plan must be accompanied with completed DBE Outreach Certification (Section 00 40 21), Contractor's Intent to Subcontract WBE/MBE (Section 00 45 08), DBE Subcontractor Participation Form (Section 00 45 10), DBE Subcontractor Performance Form (Section 00 45 11), and DBE Subcontractor Utilization Form (Section 00 45 12), with a copy of the certification of proof of qualifying status.

The Prime Contractor cannot be considered as a participant in the Disadvantaged Business Enterprise Program.

- § 31.4 Failure to comply with these requirements may be cause to declare the bid to be non-responsive.
- § 31.5 Provide updated information immediately if any of the information changes, either before or after the award of the contract including the reason for the change.
- § 31.6 During the performance of this contract, the Contractor shall include on each invoice where Minority and Women Business Enterprise work is billed, the amount paid to, and the cumulative total paid, to each Minority and Women Business Enterprise.
- § 31.7 Contract awards are tracked through the Subcontract Approval Request process. Only M/WBE contractors with acceptable certification are counted toward participation in the program. Progress toward goal accomplishment once a contract is awarded to an M/WBE is based on verified M/WBE payments.
- § 31.8 This is a tiered program, i.e., it includes required subcontractor participation by the prime contractor, the first tier subcontractors, and the second tier subcontractors being reported. The program requires participation of all first tier construction contractors with contracts greater than or equal to \$100,000 and all first tier professional services subcontractors on a design build project with contract values greater than or equal to \$100,000 (for water projects) and \$25,000 (for sewer projects). All contractors meeting the inclusion thresholds agree to participate in monthly collection of subcontracting data through an automated online reporting system.

ARTICLE 32 (CANNOT BE USED UNLESS GUS BASS APPROVES).

ARTICLE 32 CERTIFIED LOCAL AND LOCAL SMALL BUSINESS ENTERPRISE (LBE/LSBE) PROGRAM

- § 32.1 To facilitate and encourage the participation and utilization of certified LBE/LSBE in the procurement process for large purchases, a preference will apply to competitive solicitations for goods and services and construction and A/E services in accordance with DC Water's Business Development Plan dated June 12, 2009. The preference will be used in the evaluation of bids and proposals.
- § 32.2 The preference provides for the utilization of additional points in the evaluation of proposals and the utilization of a preference percentage reduction in price for bids. The preferences are as follows:
 - § 32.1.2.1 Preference Points for Proposals:
 - Local = 5 points
 - Small = 5 points
 - § 32.1.2.2 Preference Price Reduction for Bids:
 - Local = 5 points
 - Small = 5 points
- § 32.3 The maximum eligible preference price reduction for a single bid is a total of ten percent (10%) or \$100,000, whichever is less.
- § 32.4 Prime contractors may subcontract or joint venture with certified LBE/LSBEs. Preference consideration will be given for LBE/LSBE participation proportionate to the percentage of the LBE/LSBE's proposed participation on the contract.
- § 32.5 Any material misrepresentation on the certificate form may result in termination of the contract, contractor's liability for civil and criminal action in accordance with the law, and possible debarment.

§ 32.6 DC Water Business Development Plan can be accessed on-line at http://www.dcwasa.com/business/special_contracts.cfm, or by contacting DC Water, Department of Procurement at 202-787-2031.

§ 32.7 The bid proposal must be accompanied with completed Certified Local and Local Small Business Enterprise Program Certification Statement Form (Section 00 45 06), Contractor's Intent to Subcontract with Certified Local and Local Small Business Enterprise Form (Section 00 45 05), and Certified Local and Local Business Enterprise Intent to Subcontract Form (Section 00 45 07).

DELETE ARTICLE 33 IF NOT REQUIRED.

ARTICLE 33 PENALTIES FOR NONCOMPLIANCE WITH NPDES PERMIT NO. DC0021199

§ 33.1 DC Water, as owners and operators of the Blue Plains Advanced Waste Water Treatment Plant is subject to the conditions of National Pollutant Discharge Elimination System (NPDES) Permit No. DC0021199, copies of this permit are available.

§ 33.2 Site Preparation is subject to the NPDES General Permit for Discharge from Construction Activities Permit.

§ 33.3 The Federal Environmental Protection Agency (EPA) asserts that any permit noncompliance constitutes a violation of the Clean Water Act. The permit contains the following language regarding penalties for violations of the Act:

§ 33.3.1 “The Clean Water Act provides that any person who violates any permit condition or limitation implementing Sections 301, 302, 306, 308, or 405 of the Clean Water Act, or any permit condition or limitation implementing of such Section, or any requirement imposed in an approved pretreatment program and any person who violates any Order issued by EPA under Section 301(a) of the Act shall be subject to a civil penalty not to exceed \$25,000 per day for each violation, and to an action for appropriate relief including a permanent or temporary injunction.”

§ 33.3.2 “Any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act, any permit condition or limitation implementing any such Section, shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of such violation, or by imprisonment for not more than 1 year, or both.”

§ 33.3.3 “Any person who knowingly violates any permit condition or limitation implementing Section 301, 302, 305, 307, 308, 318, or 405 of the Clean Water Act, shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of such violation or by imprisonment for not more than three (3) years, or by both”.

§ 33.3.4 “Any person who knowingly violates any permit condition or limitation implementing Section 301, 302, 305, 307, 308, 318, or 405 of the Clean Water Act, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000, or by imprisonment of not more than 15 years, or by both.”

§ 33.4 Copies of this permit are available upon request.

DELETE ARTICLE 34 IF NOT REQUIRED. ARTICLE 34 IS APPLICABLE FOR PRORJECTS UNDER THE CLEAN WATER ACT BUT NOT REQUIRED FOR PROJECTS UNDER THE SAFE DRINKING ACT (AS PER LETTER DATED 10/25/2013 FROM THE ARMY CORPS OF ENGINEERS)

ARTICLE 34 BUY AMERICAN PROVISION

§ 34.1 The Buy American Provision of Public Law 92-217 (Section 215 of Public Law 95-500 as amended), as implemented by EPA regulations and guidelines, generally requires that preference be given to the use of domestic construction material in the performance of this contract. Bids or

proposals offering use of nondomestic construction material may be acceptable for award if DC Water waives the Buy American Provision based upon those factors that are deemed relevant, including:

- § 34.1.1 Such use is not in the public interest;
 - § 34.1.2 The cost is unreasonable;
 - § 34.1.3 The available resources of the Agency are not sufficient to implement the provisions;
 - § 34.1.4 The articles, materials or supplies of the class or kind to be used or the articles, materials or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of satisfactory quality for the particular project.
- § 34.2 DC Water may also waive the Buy American Provision if it is determined that application of this provision is contrary to multilateral government procurement agreements.
- § 34.3 Such evidence as DC Water may deem relevant shall be furnished to justify use of nondomestic construction material.
- § 34.4 In accordance with the Buy American Provision and implementing the EPA regulations and guidelines, the Contractor agrees that preference will be given to domestic construction materials by the Contractor, subcontractors, materialmen and suppliers in the performance of this Contract.
- § 34.5 In the event of a conflict, burden of proving compliance with the “Buy American Provision” shall be the sole responsibility of the Contractor.

DELETE ARTICLE 35 IF NOT REQUIRED TO PROPOSED CONTRACT

ARTICLE 35 MULTIPLE WORK SITES

§ 35.1 **If used for IDIQ Contract:** The Contractor shall maintain adequate work force with the appropriate labor, material and equipment necessary to perform all assigned Task Order work at each of the Worksites (See Section 01 12 00 Task Orders). If the Contractor fails to provide the specified crew and adequate equipment at a work site, payment for the crew that day will be reduced proportionately.

~ OR ~

§ 35.1 The Contractor shall maintain adequate work force with the appropriate labor, material and equipment necessary to perform all assigned work at each of the Worksites. If the Contractor fails to provide the specified crew and adequate equipment at a work site, payment for the crew that day will be reduced proportionately.

DELETE ARTICLE 36 IF NOT REQUIRED TO PROPOSED CONTRACT AND COORDINATE WITH ARTICLE 6.3.7

ARTICLE 36 EMERGENCY RESPONSE PLAN

§ 36.1 The Contractor shall submit with his bid, page ERPM-1, complete with the names, titles, phone numbers and pager numbers for the primary contact and two (2) alternate points of contact who all have the authority to initiate the mobilization for emergency work under this Contract. Additionally the Contractor shall complete and submit pages ERP-C1 through ERP-C5 with the job descriptions and names of the crewmembers and the equipment to be used by each of the five (5) crews during Emergency Work.

DELETE ARTICLE 37 IF NOT REQUIRED TO PROPOSED CONTRACT AND COORDINATE WITH ARTICLE 6.3.7

ARTICLE 37 FEDERAL REQUIREMENTS AND CONTRACT PROVISIONS

§ 37.1 Federal requirements and contract PROVISIONS FOR WORK UNDER Federal Requirements And Contract Provisions For Work Under the Federal Water Pollution Control Act, As Amended, dated July 2008, are bound herein (see B – Appendices to Project Manual) and are hereby made a part of this Contract. It shall be Contractor’s responsibility to fully comply with all requirements and provisions contained therein. In the event that these Specifications conflict with Federal Requirements, the Federal Requirements shall govern. Contractor shall submit documentation confirming their engagement of Disadvantaged Business Enterprise (DBE) as detailed in Federal Regulations Title 40, Part 33.

OR

§ 37.1 Federal requirements and contract PROVISIONS FOR WORK UNDER Federal Requirements And Contract Provisions For Work Under the Safe Drinking Water Act, As Amended, dated July 2008, are bound herein (see B – Appendices to Project Manual) and are hereby made a part of this Contract. It shall be Contractor’s responsibility to fully comply with all requirements and provisions contained therein. In the event that these Specifications conflict with Federal Requirements, the Federal Requirements shall govern. Contractor shall submit documentation confirming their engagement of Disadvantaged Business Enterprise (DBE) as detailed in Federal Regulations Title 40, Part 33.

§ 37.2 Coordinate with Article 6.3.7 “Submission of Bids”.

§ 37.3 EPA project sign is required for this contract.

OR

§ 37.3 EPA project sign is not required for this contract.

OR

(COMBINATION - FOR IRR CONTRACTS)

§ 37.1 Federal requirements and contract PROVISIONS FOR WORK UNDER Federal Requirements and Contract Provisions for Work Under the Safe Drinking Water Act and Federal Water Pollution Control Act, As Amended, dated July 2008, are bound herein (see B – Appendices to Project Manual) and are hereby made a part of this Contract. It shall be Contractor’s responsibility to fully comply with all requirements and provisions contained therein. In the event that these Specifications conflict with Federal Requirements, the Federal Requirements shall govern. Contractor shall submit documentation confirming their engagement of Disadvantaged Business Enterprise (DBE) as detailed in Federal Regulations Title 40, Part 33.

§ 37.2 Coordinate with Article 6.3.7 “Submission of Bids”.

§ 37.3 EPA project sign is not required for this contract.

ARTICLE 38 RECYCLED MATERIALS

§ 38.1 Contractor shall give preference in procurement to the purchase of recycled products pursuant to the EPA guidelines. Recycled products and their use shall meet all requirements of the contract specifications.

~ END SECTION 00 20 00 ~

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