

INSTRUCTIONS TO BIDDERS

B-01. Form of Proposal and Signature. The proposal shall be submitted on the form provided by the District. If the proposal is made by an individual it shall be signed and his full name and address shall be given; if it is made by a Firm it shall be signed with the co-partnership name by a member of the firm, who shall also sign his own name, and the name and address of each member shall be given; and if it is made by a corporation the name of the corporation shall be signed by its duly authorized officer or officers, and the names and titles of all officers of the corporation shall be given.

B-02. Preparation of the Proposal. Blank spaces in the proposal shall be properly filled. The phraseology of the proposal must not be changed and no additions shall be made to the items mentioned therein. Conditions, limitations or provisos attached to a proposal will cause its rejection. Alterations by erasure or interlineation must be explained or noted in the proposal over the signature of the Bidder. Alternative proposals will not be considered unless specifically provided via Addendum. A Bidder may withdraw his proposal before the hour fixed for opening bids, without prejudice to himself. No proposal received after the time named or at any place other than the place stated in the Notice Inviting Bids (or Bidding Information sheet) will be considered. All bids will be opened and declared to be present at the opening. The District reserves the right to waive any informality in any bid, to reject any or all proposals, to reject one part of a proposal and accept the other, and to make award to the lowest responsible Bidder as the interest of the District may require.

The Non-Collusion Declaration, Subcontractor's List naming each subcontractor who will perform work or labor or render service to the Contractor in an amount in excess of one-half of one percent (1/2 of 1%) of the Contractor's total bid, and Bid Bond or Certified or Cashier's Check, and all required forms shall be submitted with the proposal at time of bid. Pursuant to the Iran Contracting Act of 2010 (Pub. Cont. Code § 2200-2208), contracts of one million dollars (\$1,000,000) or more shall require bidder to submit the Iran Contract Act Certification with the proposal at time of bid. Where bonds are required, the Bidder shall name in his proposal the surety or sureties, which have agreed to furnish said bonds.

B-03. Lowest Responsible Bidder. In selecting the lowest responsible Bidder, consideration will be given to the general competency of the Bidder for the performance of the work covered by the proposal, and the bidder's financial standing, if requested. To receive favorable consideration, a bidder must present evidence satisfactory to the District that he or his associates are personally competent to manage the proposed undertaking and to carry it forward to a successful conclusion. Professional integrity and honesty of purpose shall be essential requirements.

A showing of adequate financial resources may be requested by the District, but will not alone determine whether a bidder is competent to undertake the proposed work. Each bidder must furnish a record of past performance and experience in the form required. To this end, each proposal, except as noted below, shall be supported by a statement of the bidder's experience on the form provided. This form, completely filled out, must be submitted along with the proposal. Incomplete or false statements submitted in connection with a proposal may, at the option of the Board of Directors of the District, be sufficient cause for its rejection. The District shall be the final authority with regard to whether a bid is responsive to the call for bids and as to whether a bidder is a responsible bidder under the conditions of his bid.

B-04. Equalizing Factors. Whenever applicable, equalizing elements or factors not specifically mentioned or provided for herein, such as costs of transportation, inspection (including salaries and travel and subsistence expenses), installation, and operation, or any other factor or element in addition to that of price which would affect the total cost or value to the District will be taken into consideration in comparing bids for award of contract.

B-05. Certified or Cashier's Check or Bond. As a guarantee of good faith, each bidder shall submit with his proposal an unconditional certified or cashier's check drawn on a solvent state or national bank, or he may furnish a bond, utilizing the District's Bid Bond form BB-1, with a company acceptable to the District in the sum stated in the Notice Inviting Bids, payable to the Eastern Municipal Water District, said check or bond to be held uncollected until it becomes subject to disposal as herein provided. Any condition or limitation placed upon said check or bond may render it informal and may, at the option of the Board result in the rejection of the proposal under which such check is submitted. Original Bid Bond (BB-1) must include Notary Public Acknowledgement for Surety and Contractor. If a Bidder to whom an award is made fails or refuses to execute the contract and furnish the required bond, all within the time stated in Section B-6 hereof, said check or bond and the monies represented thereby shall be and remain the property of the District and shall be subject to deposit with the Treasurer of the District as other monies belonging to the District, the amount thereof being agreed to by the Bidder as liquidated damages due the District on account of the delay in the execution of the contract and bond, and in the performance of the work thereunder, resulting from such failure or refusal. Original Bid bond (BB-1) shall remain on file at the District with the original bid proposal and be returned upon written request only. Certified checks shall be returned at the expiration of 60 days from the date of opening bids.

B-06. Execution of Contract. A Bidder to whom the award is made shall execute and return a written contract with the District on the form of Agreement attached hereto and furnish good and approved bond as required in the following paragraph, all in accordance with the provisions hereof and within the time stated in the Notice Inviting Bids (or Bidding Information sheet) or such additional time as may be allowed by the Engineer. The District will return a copy of the fully executed contract upon completion by the General Manager.

If a Bidder to whom the award is made fails or refuses to enter into contract as herein provided, or to conform to any of the stipulated requirements in connection therewith, his check shall become the property of the District as provided in Section B-5 hereof, the award will be annulled, and in the discretion of the District an award may be made to the Bidder whose proposal is next most acceptable to the District; and such Bidder shall fulfill every stipulation embraced herein as if he were the party to whom the first award was made. A corporation to which an award is made will be required, before the contract is finally executed, to furnish evidence of its corporate existence and of the authority of the officer signing the contract and bond for the corporation to so sign.

B-07. Bond

(a) A Bidder to whom contract is awarded shall within the time mentioned in the preceding paragraph furnish a bond with a responsible corporate surety or corporate sureties conditioned upon the faithful performance by the said Bidder of all covenants and stipulations in the contract. Said bond shall be in the amount stipulated in the Notice Inviting Bids (or Bidding Information sheet). Bonds in amounts of \$1,000 or less shall be made in multiples of \$100; in amounts exceeding \$1,000 but not exceeding \$5,000 in multiples of \$500; in amounts exceeding \$5,000 in multiples of \$1,000; provided, that the amount of the bond shall be fixed at the lowest sum that fulfills all conditions of the contract.

(b) The surety or sureties on the bond furnished must be satisfactory to the Board. The required bond shall be furnished by the Bidder to whom contract has been awarded at his own cost and expense.

(c) Attention is invited to the provisions of the Insurance Code of the State of California with reference to the writing of insurance policies and bonds covering risks located in this State, and the premiums and commissions thereon. A Bidder to whom contract is awarded shall furnish at the time his bond is submitted for approval, satisfactory evidence that the requirements of said code have been observed.

(d) The bond furnished by the surety shall agree to acceptance by the surety of arbitration of disputes, where selected in accordance with Section F, Arbitration.

B-08. Complete Specifications and Drawings. It shall be the responsibility of the Bidder to verify the completeness of his set of specifications and drawings and neither the District nor any of its officers shall be held responsible for any omission therefrom unless such omission has been called to the attention of the District prior to the submission of bids. Bidders shall use full size drawings to prepare said bid

B-09. Addenda and/or Letter of Clarification. Bidder shall be responsible for verifying that any addenda or letter of clarification issued by the District has been investigated and received. By submitting a bid, Bidder certifies that any addenda and letters of clarification issued to these specifications, **whether acknowledged or not on the Bidding Sheets**, shall be made a part of the contract. Bidder further agrees to perform all labor and services and furnish all materials, tools and appliances necessary for completing the work called out in the addenda or letter of clarification at no additional cost to the District.

B-10. Improperly Balanced Proposals. Any proposal which in the opinion of the Engineer is so unbalanced between the various contract items as to be detrimental to the interests of the District will be rejected.

B-11. Local Conditions. Bidders shall read the specifications, any background material, examine the drawings, and make their own estimates of the existing facilities and the difficulties which will attend the execution of the work called for by the proposed contract, including local conditions, uncertainty of weather, and all other contingencies. The District will identify for Bidders the location of existing utilities located on the site of construction which require removal, relocation or protection. **AN EMPLOYEE ON THE COMPANY'S PAYROLL MUST HAVE INSPECTED THE SITE OF THE PROPOSED WORK TO BE CONSIDERED A RESPONSIVE BIDDER.** Bidders shall satisfy themselves by personal examination of the locations of the proposed work, and by such other means as they may choose as to actual conditions and requirements and as to the accuracy of the quantities stated in the Bidding Sheet. Information derived from the maps, plans, specifications, profiles, or drawings, or from the Engineer or his assistants, shall not relieve the bidder of this responsibility, and the interpretation of the data disclosed by borings or other preliminary investigations is not guaranteed by the District.

The quantities of work or materials stated in the unit price items of the Bidding Sheet are given only as a basis for the comparison of bids and the District does not expressly or by implication agree that the actual amount of work or material will correspond therewith, but reserves the right to increase or decrease the amount of any unit price item of the work as may be deemed necessary or expedient by the Engineer.

Bidders shall not at any time after the submission of a bid make or have any claim for damages or anticipated profits or loss of profit or otherwise because of any difference between the quantities of work actually done and material furnished and those stated in said unit price items of the Bidding Sheet.

Pursuant to Public Contract Code section 7104, any public works contract of a local public entity which involves digging trenches or other excavations that extend deeper than four feet below the surface shall provide for the following: (a) That the contractor shall promptly, and before the following conditions are disturbed, notify the public entity, in writing, of any: (1) Material that the contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law. (2) Subsurface or latent physical conditions at the site differing from those indicated **by information about the site made available to bidders prior to the deadline for submitting bids**. (3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract. (b) That the public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract. (c) That, in the event that a dispute arises between the public entity and the contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

B-12. Insurance. Attention is invited to the requirements set forth in SPECIFICATION - GENERAL CONDITIONS, Art. F-04 Contractor's and Subcontractor's Insurance and the Special Conditions.

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