



# **BAGUIO WATER DISTRICT**

**"Serving mankind is serving God"**

## **BIDDING DOCUMENTS**

### **DRILLING OF ZIGZAG PRODUCTION WELL AT KENNON RD., CAMP 7, BAGUIO CITY**

#### **VOLUME 1 OF 2**

**TENDER PROCEDURES, GENERAL CONDITIONS  
OF CONTRACT, SPECIAL CONDITIONS OF  
CONTRACT, BILL OF QUANTITIES  
AND FORMS/QUALIFICATION  
INFORMATION**

**October 2022**

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# *Section I. Instructions to Bidders*

## **1. Scope of Bid**

- 1.1. The BWD invites Bids for the implementation of Drilling of Zigzag Production Well at Kennon Rd., Camp 7, Baguio City as described in the Bid Data Sheet (**BDS**). The name and identification number of the Contract is provided in the **BDS**.
- 1.2. The successful Bidder will be expected to complete the Works by the intended completion date for each project as indicated in the **SCC (SPECIAL CONDITIONS OF CONTRACT)** Clause 1.20.
- 1.3. The BWD has an approved budget in the amount indicated in the **BDS**.

## **2. Corrupt, Fraudulent, and Coercive Practices**

- 2.1. The BWD requires that the Bidders and Contractors shall observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the BWD:
  - a. defines, for purposes of this provision, the terms set forth below as follows:
    - i. "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby, and similar acts as provided in Republic Act 3019;
    - ii. "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the BWD, and includes collusive practices among Bidders (prior to or after Bid submission) designed to establish Bid prices at artificial, non-competitive levels and to deprive the BWD of the benefits of free and open competition;
    - iii. "collusive practices" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the BWD, designed to establish Bid prices at artificial, non-competitive levels; and
    - iv. "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;
    - v. "obstructive practice"
      - (aa) deliberately destroying, falsifying, altering, or concealing of evidence material to an administrative proceeding or

investigation or making false statements to investigators in order to materially impede an administrative proceeding or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigations; or from pursuing such proceedings or investigation; or

(bb) an act intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity of any foreign government/foreign or international financing institution herein.

- b. will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract; and
  - c. will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded Contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing or, or in executing, a Contract.
- 2.2. Further, the BWD will seek to impose the maximum penalties for civil and criminal liability available under the applicable law on individuals and organizations deemed to be involved in corrupt or fraudulent practices.
- 2.3. Furthermore, the BWD reserves the right to inspect and audit records and accounts of a contractor in the Bidding for and performance of a contract themselves or through independent auditors as reflected in the **GCC** (**GENERAL CONDITIONS OF CONTRACT**) Clause 32.

### 3. Conflict of Interest

- 3.1. All Bidders found to have conflicting interests shall be disqualified to participate in the procurement at hand, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described in paragraphs (a) through (c) and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (f) below:
- a. A Bidder has controlling shareholders in common with another Bidder;
  - b. A Bidder receives or has received any direct or indirect subsidy from any other Bidder;
  - c. A Bidder has the same legal representative as that of another Bidder for purposes of this Bid;
  - d. A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder or influence the decisions of the BWD regarding this bidding process. This will include a firm or an organization who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for

the preparation related to procurement for or implementation of the project if the personnel would be involved in any capacity on the same project;

- e. A bidder submits more than one bid in this bidding process. However, this does not limit the participation of subcontractors in more than one bid;
  - f. A Bidder who participated as a consultant in the preparation of the design or technical specifications of the goods and related services that are the subject of the Bid; or
  - g. A Bidder who lends, or temporary seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project.
- 3.2 In accordance with Section 47 of the IRR-A of R.A. 9184, all Bidding Documents shall be accompanied by a sworn affidavit of the Bidder that it is not related to the head of the BWD, members of the BAC, the Technical Working Group (TWG), the BAC Secretariat and the end-user, by consanguinity or affinity up to the third civil degree. On the part of the bidder, this Clause shall apply to the following persons:
- a. If the Bidder is an individual or a sole proprietorship, to the Bidder himself;
  - b. If the Bidder is a partnership, to all its officers and members;
  - c. If the Bidder is a corporation, to all its officers, directors, and controlling stockholders;
  - d. If the bidder is a cooperative, to all its officers, directors, and controlling shareholders or members; and
  - e. If the Bidder is a joint venture (JV), the provisions of items (a), (b), or (c) of this Clause shall correspondingly apply to each of the members of the said JV, as may be appropriate.

Relationship of the nature described above or failure to comply with this Clause will result in the automatic disqualification of a Bidder.

#### **4. One Bid Per Bidder**

Each Bidder shall submit only one Bid per project on which he desires to participate in, either individually or as a partner in a JV.

#### **5. Eligible Bidders**

- 5.1 Unless otherwise indicated in the **BDS**, the following persons shall be eligible to participate in this bidding:
- a. Duly licensed Filipino citizens/sole proprietorships;
  - b. Partnerships duly organized under the laws of the Philippines and of which at least sixty percent (60%) of the interest belongs to citizens of the Philippines;

- c. Corporations duly organized under the laws of the Philippines, and of which at least sixty percent (60%) of the outstanding capital stock belongs to citizens of the Philippines;
  - d. Cooperatives duly organized under the laws of the Philippines,
  - e. Persons/entities forming themselves into a JV, *i.e.*, a group of two (2) or more persons/entities that intend to be jointly and severally responsible or liable for a particular contract: Provided, however, that in accordance with Letter of Instructions No. 630 (LOI 630). Filipino ownership or interest of the joint venture concerned shall be at least seventy-five percent (75%): Provided, however, That in accordance with Executive Order No. 65 (EO 65), s. 2018,<sup>46</sup> Filipino ownership or interest of the joint venture concerned shall be at least sixty percent (60%);<sup>47</sup> Provided, further, That joint ventures in which Filipino ownership or interest is less than seventy-five percent (75%) may be eligible where the structures to be built require the application of techniques and/or technologies which are not adequately possessed by a person/entity meeting the sixty percent (60%)<sup>48</sup> Filipino ownership requirement: Provided, finally, That in the latter case, Filipino ownership or interest shall not be less than twenty-five percent (25%). For this purpose, Filipino ownership or interest shall be based on the contributions of each of the members of the joint venture as specified in their JVA.
- 5.2 Foreign bidders may be eligible to participate in the procurement of Infrastructure Projects when provided for under any Treaty or International or Executive Agreement as provided in Section 4 of RA 9184 and its IRR.
- 5.3 Government corporate entities may be eligible to participate only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not attached agencies of the Procuring Entity.
- 5.4 Unless otherwise provided in the **BDS**, the Bidder must have completed, within the period specified in the Invitation to Bid, an SLCC that is similar to the contract to be bid, and whose value, adjusted to current prices using the Philippine Statistics Authority (PSA) consumer price indices, must be at least fifty percent (50%) of the ABC. Provided, however, that contractors under Small A and Small B categories without similar experience on the contract to be bid may be allowed to bid if the cost of such contract is not more than the Allowable Range of Contract Cost (ARCC) of their registration based on the guidelines as prescribed by the PCAB.
- A contract shall be considered “similar” to the contract to be bid if it has the same major categories of work and completed within the relevant period stated in the Invitation to Bid. The Procuring Entity may clarify in the Bidding Documents what is regarded as major categories of work.
- The SLCC shall be supported by an Owner’s Certificate of Final Acceptance issued by the project owner other than the contractor or a final rating of at least Satisfactory in the Constructors Performance Evaluation System (CPES). In case of contracts with the private sector, an equivalent document shall be submitted.
- 5.5 The computation of a prospective bidder’s NFCC must be at least equal to the ABC to be bid, calculated as follows:

NFCC = [(Current assets minus current liabilities) (15)] minus the value of all outstanding or uncompleted portions of the projects under ongoing contracts including awarded contracts yet to be started coinciding with the contract to be bid.

The values of the domestic bidder's current assets and current liabilities shall be based on the latest Audited Financial Statements submitted to the BIR.

For purposes of computing the foreign bidders' NFCC, the value of the current assets and current liabilities shall be based on their Audited Financial Statements prepared in accordance with international financial reporting standards.

## 6. Bidder's Responsibilities

6.1 The Bidder or its duly authorized representative shall submit a sworn statement in the form prescribed in Section VI. Forms and Qualification Information as required in **ITB** Clause 14.

6.2 The Bidder is responsible for the following:

- a. Having taken steps to carefully examine all of the Bidding Documents;
- b. Having acknowledged all conditions, local or otherwise, affecting the implementation of the contract;
- c. Having made an estimate of the facilities available and needed for the contract to be bid, if any;
- d. Having complied with its responsibility to inquire or secure Supplemental/Bid Bulletin(s) as provided under **ITB** Clause 11.1 and 11.3.
- e. Ensuring that it is not "blacklisted" or barred from bidding by the GOP or any of its agencies, offices, corporations, or LGUs, including foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
- f. Ensuring that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
- g. Authorizing the Head of the Procuring Entity or its duly authorized representative/s to verify all the documents submitted;
- h. Ensuring that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the Bidder in the bidding, with the duly notarized Secretary's Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture; to participate, submit the bid, and to sign and execute the ensuing contract accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution or Secretary's Certificate, whichever is applicable;

- i. Complying with the disclosure provision under Section 47 of RA 9184 in relation to other provisions of RA 3019; and
- j. Complying with existing labor laws and standards, in the case of procurement of services. Moreover, bidder undertakes to:

- (i) Ensure the entitlement of workers to wages, hours of work, safety and health and other prevailing conditions of work as established by national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable.

In case there is a finding by the Procuring Entity or the DOLE of underpayment or non-payment of workers' wage and wage-related benefits, bidder agrees that the performance security or portion of the contract amount shall be withheld in favor of the complaining workers pursuant to appropriate provisions of Republic Act No. 9184 without prejudice to the institution of appropriate actions under the Labor Code, as amended, and other social legislations.

- (ii) Comply with occupational safety and health standards and to correct deficiencies, if any.

In case of imminent danger, injury or death of the worker, bidder undertakes to suspend contract implementation pending clearance to proceed from the DOLE Regional Office and to comply with Work Stoppage Order; and

- (iii) Inform the workers of their conditions of work, labor clauses under the contract specifying wages, hours of work and other benefits under prevailing national laws, rules and regulations; or collective bargaining agreement; or arbitration award, if and when applicable, through posting in two (2) conspicuous places in the establishment's premises; and

- k. Ensuring that it did not give or pay, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of BWD.

Failure to observe any of the above responsibilities shall be at the risk of the Bidder concerned.

6.3 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents. Unless otherwise indicated in the **BDS**, failure to furnish all information or documentation required in the Bidding Documents shall result in the rejection of the bid and the disqualification of the Bidder.

It shall be the sole responsibility of the Bidder to determine and to satisfy itself by such means as it considers necessary or desirable as to all matters pertaining to the contract to be bid, including: (a) the location and the nature of this Project; (b) climatic conditions; (c) transportation facilities; and (d) other factors that may affect the cost, duration, and execution or implementation of this Project.

6.4 The Procuring Entity shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder out of the data furnished by the procuring entity.



- 6.5 The Bidder shall bear all costs associated with the preparation and submission of his bid, and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 6.6 Before submitting their bids, the Bidder is deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of the Philippines which may affect this Project in any way.
- 6.7 The Bidder should note that the Procuring Entity will accept bids only from those that have paid the nonrefundable fee for the Bidding Documents at the office indicated in the Invitation to Bid.

## **7. Origin of Goods**

Unless otherwise indicated in the **BDS**, there is no restriction on the origin of goods other than those prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

## **8. Subcontracting**

Unless otherwise specified in the **BDS**, the Bidder may subcontract portions of the Works to an extent as may be approved by BWD and stated in the **BDS**. However, subcontracting of any portion shall not relieve the Bidder from any liability or obligation that may arise from the contract for this Project.

Subcontractors must submit the documentary requirements under **ITB** Clause 14 and comply with the eligibility criteria specified in the **BDS**. In the event that any subcontractor is found by the Procuring Entity to be ineligible, the subcontracting of such portion of the Works shall be disallowed.

The Bidder may identify the subcontractor to whom a portion of the Works will be subcontracted at any stage of the bidding process or during contract implementation. If the Bidder opts to disclose the name of the subcontractor during bid submission, the Bidder shall include the required documents as part of the technical component of its bid.

## **9. Pre-Bid Conference**

- 9.1 If so specified in the **BDS**, a pre-bid conference shall be held at the venue and on the date indicated therein, to clarify and address the Bidders' questions on the technical and financial components of this Project.
- 9.2 Bidders are encouraged to attend the pre-bid conference to ensure that they fully understand the Procuring Entity's requirements. Non-attendance of the Bidder will in no way prejudice its bid; however, the Bidder is expected to know the changes and/or amendments to the Bidding Documents discussed during the pre-bid conference. The Pre-Bid Conference is open to prospective bidders.
- 9.3 Any statement made at the pre-bid conference shall not modify the terms of the Bidding Documents unless such statement is specifically identified in writing as an amendment thereto and issued as a Supplemental/Bid Bulletin.
- 9.4 The BWD may organize a site visit concurrently with the Pre-Bid Conference.

- 9.5 The Pre-Bid Conference shall discuss, clarify and explain, among other things, the eligibility requirements and technical and financial components of the contract to be Bid including questions and clarifications raised by the prospective bidders before and during the Pre-Bid Conference. The minutes of the Pre-Bid Conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference and shall not made available to prospective bidders not later than five (5) days upon written request.

Decisions of the BAC amending any provision of the Bidding Documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.

- 9.6 Pre-bid conference may be conducted in person or face-to- face through video conferencing, webcasting, or similar technology, or a combination thereof. Procuring Entities with videoconferencing capabilities that have manufacturers, suppliers, distributors, contractors and/or consultants that also have video conferencing capabilities may conduct their pre-bidding conferences electronically. The Pre-Bid Conference is open to prospective bidders.

## **10. Content of the Bidding Documents**

- 10.1 The set of Bidding Documents comprises the documents listed in the table below:

### **VOLUME 1**

Section I. Instruction to Bidders

Section II. Bid Data Sheet

Section III. General Conditions of Contract

Section IV. Special Conditions of Contract

Section V. Bill of Quantities

Section VI. Forms and Qualification Information

### **VOLUME 2**

Section I. Technical Specifications

Section II. Special Provisions

Section III. Standard Drawings & Project Signs

- 10.2 Bidders should note that the BWD will only accept Bids from Bidders that have purchased the Bidding Documents from the BWD-BAC Project Secretariat.**

## **11. Clarification and Amendment of Bidding Documents**

- 11.1 Bidders may request for clarification(s) on any part of the Bidding Documents or for an interpretation thereof. Such a request must be in writing and submitted to the BWD-BAC Projects, No. 3 Purok BWD, Barangay Marcoville, Baguio City at least ten (10) calendar days before the deadline set for the submission and receipt of Bids. The BAC shall respond to the

said request by issuing a Supplemental/Bid Bulletin, duly signed by the BAC Chairperson, to be made available to all those who have properly secured the Bidding Documents from the BWD, at least seven (7) calendar days before the deadline for the submission and receipt of Bids.

- 11.2 Supplemental/Bid Bulletins may be issued upon the BWD's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than seven (7) calendar days before the deadline for the submission and receipt of Bids. It is the responsibility of the BWD to notify in writing and through posting in the website of the BWD and the Government Electronic Procurement System (G-EPS) the said documents to all those who have properly secured the Bidding Documents. Any modification to the Bidding Documents shall be identified as an amendment. Bidders who have submitted Bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their Bids.
- 11.3 Any Supplemental/Bid Bulletin issued by the BAC shall also be posted on the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the Procuring Entity concerned, if available, and at any conspicuous place within the premises of the Procuring Entity. It shall be the responsibility of all Bidders who secure the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, Bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids in accordance with **ITB** Clause 24.

## **12. Cost of Bidding**

The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the BWD will in no case be responsible or liable for those costs.

## **13. Language of Bid**

The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the BWD, shall be written in English.

For Foreign Bidders, the documents may be substituted by the appropriate equivalent documents in English, if any, issued by the country of the bidder concerned. Otherwise, it must be accompanied by a translation of the documents in English issued by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines.

## **14. Documents Comprising the Bid: Eligibility and Technical Components**

- 14.1 Unless otherwise indicated in the **BDS**, the **first envelope** shall contain the **eligibility and technical** components, to wit:

### **I. CLASS "A" DOCUMENTS**

#### **A. LEGAL DOCUMENTS**

1. Registration certificate from the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for

sole proprietorship, or Cooperative Development Authority (CDA) for cooperatives.

2. Mayor's/ Business permit issued by the city or municipality where the principal place of business of the prospective bidder is located, or the equivalent document for Exclusive Economic Zones or Areas.

In cases of recently expired Mayor's/Business permits, it shall be accepted together with the official receipt as proof that the bidder has applied for renewal within the period prescribed by the concerned local government unit: *Provided*, That the renewed permit shall be submitted as a post-qualification requirement in accordance with Section 34.2 of the IRR of RA 9184.

3. Tax clearance per Executive Order No.398, series of 2005, as finally reviewed and approved by BIR;

## **B. TECHNICAL DOCUMENTS**

1. PhilGEPS Certificate of Registration and membership in accordance with Section 8.5.2 of the IRR of RA 9184, except for foreign bidders participating in the procurement by a Philippines Foreign Service Office or Post, which shall submit their eligibility documents under Section 23.1 of this IRR: *Provided*, That the winning bidder shall register with the PHILGEPS in accordance with Section 37.1.14 of the IRR of RA9184.
2. Statement of the prospective bidder of all its ongoing government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid within the relevant period as provided in the Bidding Documents. The statement shall include, for each contract, the following:
  - a) name of the contract
  - b) date of the contract
  - c) contract duration
  - d) owner's name and address
  - e) nature of work
  - f) contractor's role (whether sole contractor or partner in a JV) and percentage of participation
  - g) total contract value at award
  - h) date of completion or estimated completion time
  - i) total contract value at completion, if applicable;
  - j) percentages of planned and actual accomplishments, if applicable;
  - k) value of outstanding works, if applicable;

- l) the statement shall be supported by the notices of award and/or notices to proceed issued by the owners; and
  - m) the statement shall be supported by the Constructors Performance Evaluation System (CPES) rating sheets, and/or certificates of completion and owner's acceptance, if applicable;
3. Valid Philippine Contractors Accreditation Board (PCAB) license or Special PCAB License in case of Joint Ventures, and registration for the type and cost of the contract to be bid.
  4. An SLCC that is similar to the contract to be bid, and whose value, adjusted to current prices using the Philippine Statistics Authority (PSA) consumer price indices, must be at least fifty percent (50%) of the ABC. Provided, however, that contractors under Small A and Small B categories without similar experience on the contract to be bid may be allowed to bid if the cost of such contract is not more than the Allowable Range of Contract Cost (ARCC) of their registration based on the guidelines as prescribed by the PCAB.

The SLCC shall be supported by an Owner's Certificate of Final Acceptance issued by the project owner other than the contractor or a final rating of at least Satisfactory in the Constructors Performance Evaluation System (CPES). In case of contracts with the private sector, an equivalent document shall be submitted.

5. Bid security in accordance with **ITB** Clause 18 in any of the following:

Form of Bid Security	Amount of Bid Security (Not less than the required percentage of the ABC)
Cash, cashier's/manager's check, bank draft/guarantee issued by a universal or commercial bank	2%
Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	2%
Surety bond callable upon demand issued by a surety or insurance company duly certified by the insurance company duly certified by the Insurance Commission as authorized to issue such security.	5%
<b>OR Bid Securing Declaration</b> , which states, among others, that the bidder, shall enter into a Contract with the procuring entity and furnish the required performance security	

<p>within ten (10) calendar days, or less, as indicated in the bidding documents, from the receipt of the Notice of Award, and committing to pay the corresponding fine and be suspended for a period of time from being disqualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as required in the guidelines issued by the Government Procurement Policy Board (GPPB).</p>	
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The Bid Security may be in any of the above forms. Failure to enclose the required bid security in the form and amount prescribed herein shall automatically disqualify the bid concerned.

6. Omnibus sworn statement in accordance with Section **25.3** of the IRR of RA 9184 which shall be executed by the prospective bidder or its duly authorized representative stating the following:
  - I. The signatory is the duly authorized representative of the prospective bidder, and granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary’s Certificate, whichever is applicable;
  - II. It is not “blacklisted” or barred from bidding by the GoP or any of its agencies, offices, corporations, or LGUs, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the GPPB;
  - III. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
  - IV. It is authorizing the HoPE or his duly authorized representative/s to verify all the documents submitted;
  - V. It complies with the disclosure provision under Section 47 of RA 9184 and its IRR, in relation to other provisions of R.A. 3019;
  - VI. It complies with existing labor laws and standards;
  - VII. It complies with the responsibilities of a prospective or eligible bidder provided in the PBDs;
  - VIII. It did not give or pay, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

7. Project Requirements:

- a. Organizational chart for the contract to be bid;
- b. List of contractor's personnel (viz: Project Manager, Project Engineers, Materials Engineers, and Foremen, etc.), to be assigned to the contract to be bid, with their complete qualifications and experience data; and
- c. List of contractor's equipment units, which are owned, leased, and/or under purchase agreements, supported by proof of ownership or certification of availability of equipment from the equipment lessor/vendor for the duration of the project, as the case may be. The contractor shall have the following equipment with at least one unit each: rotary / down the hole drilling rig, 6-wheeler support truck, ten-wheeler truck, service vehicle, portable generator set, portable welding machine, and submersible pump/motor, and other tools needed for accomplishing the project.

**C. FINANCIAL DOCUMENTS**

1. Audited financial statements, showing, among others, the prospective bidder's total and current assets and liabilities stamped "received" by the Bureau of Internal Revenue (BIR) or its duly accredited and authorized institutions, for the preceding calendar year, which should not be earlier than two (2) years from bid submission
2. The prospective bidder's computation of Net Financial Contracting Capacity (NFCC).

**II. CLASS "B" DOCUMENT**

If applicable, the joint venture bidders shall submit a Joint Venture Agreement in accordance with RA 4566 and its IRR.

Each partner of the joint venture shall submit his or her respective PHILGEPS Certificates of Registration in accordance with Section 8.5.2 of the IRR of RA 9184. The submission of technical and financial eligibility documents by any of the joint venture partners constitutes compliance: Provided, that the partner responsible to submit the NFCC shall likewise submit the Statement of all its ongoing contracts and Audited Financial Statements.

- 14.2 The second envelope (Financial Proposal) shall contain all the required documents for infrastructure projects under Section 25.3 of the IRR of R.A. 9184 and the following additional:

- a. Financial Bid Form, which includes bid prices and the bill of quantities, in accordance with ITB Clauses 15.1, 15.2, 15.3 and 15.4.
- b. Detailed estimates including a summary sheet indicating the unit prices of construction materials, labor rates and equipment rentals used in coming up with the Bid
- c. Cash flow by the quarter and payments schedule

All Financial Proposals that exceed the ABC as indicated in the **BDS**, shall be rejected.

**15. Bid Prices**

- 15.1. The contract shall be for the entire Works covering this project, as described in **ITB1.1**, based on the priced Bill of Quantities submitted by the Bidder.
- 15.2. The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Bids not addressing or providing all of the required items in the Bidding Documents including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a "0" (zero) or a dash (-) for the said item would mean that it is being offered for free to the Government, except those required by law or regulations to be provided for.
- 15.3. All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, prior to the deadline for submission of Bids, shall be included in the rates, prices, and total Bid price submitted by the Bidder.
- 15.4. For the given scope of work in the contract as awarded, all Bid prices shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances as indicated in the **BDS** and specified in **GCC** Clause 46 and its corresponding **SCC** provision.

**16. Currencies of Bid and Payment**

- 16.1. Subject to applicable laws and unless otherwise specified in the **BDS**, all Bid prices shall be quoted in Philippine Pesos. However, for purposes of bid evaluation, bids denominated in foreign currencies shall be converted to Philippine currency based on the exchange rate prevailing on the day of the Bid opening.
- 16.2. All contracts shall be denominated and payable in Philippine Pesos.

**17. Bid Validity**

- 17.1. Bids shall remain valid for the period specified in the **BDS** which shall not exceed one hundred twenty (120) days from the date of the opening of Bids.
- 17.2. Should it become necessary to extend the validity of the bids and bid securities beyond one hundred twenty (120) calendar days, BWD shall request in writing all those who submitted bids for such extension before the expiration date therefor. Bidders, however, shall have the right to refuse to grant such extension without forfeiting their bid security.

**18. Bid Security**

- 18.1. The Bidder shall furnish, as part of the Bid, a Bid Security in local currency in the forms and amount specified in the **BDS**.
- 18.2. As indicated in the **BDS**, the Bidder may choose:

Form of Bid Security	Amount of Bid Security (Not less than the required percentage of the ABC)



Cash, cashier's/manager's check, bank draft/guarantee issued by a universal or commercial bank	2%
Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	2%
Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	5%
<b>OR Bid Securing</b> which states, among others, that the bidder, shall enter into a Contract with the procuring entity and furnish the required performance security within ten (10) calendar days, or less, as indicated in the bidding documents, from the receipt of the Notice of Award, and committing to pay the corresponding fine and be suspended for a period of time from being disqualified to participate in any government procurement activity in the event it violates any of the conditions stated therein as required in the guidelines issued by the Government Procurement Policy Board (GPPB).	

The Bid Security may be in any of the above forms. Failure to enclose the required bid security in the form and amount prescribed herein shall automatically disqualify the bid concerned.

- 18.3. In case of a bank guarantee, the Bid Security shall be submitted using the form under Section VI of this bidding documents. The form must include the complete name of the Bidder. The Bid Security should be valid for a period of 120 calendar days from date of opening of bids.
- 18.4. Any Bid not accompanied by an acceptable Bid Security shall be rejected by the BWD. The Bid Security of a JV, if in the form of a Bank Guarantee must define as “Bidder” all JV partners and list them in the following manner: a JV consisting of “\_\_\_\_\_,” “\_\_\_\_\_,” and “\_\_\_\_\_”.
- 18.5 No Bid Securities shall be returned to Bidders after the opening of Bids and before the contract signing, except to those that failed to comply with any of the requirements to be submitted in the first bid envelope of the Bid or were post-disqualified and submitted a written waiver of their right to file a motion for reconsideration and/or protest. Without prejudice on the forfeiture of bid securities, bid securities shall be returned only after the bidder with the

Lowest Calculated Responsive Bid (LCRB) has signed the contract and furnished the performance security but in no case later than the expiration of the Bid Security validity period indicated in **ITB** Clause 18.3.

18.6 The Bid Security may be forfeited:

(a) if a Bidder:

- i. withdraws its Bid during the period of Bid validity;
- ii. does not accept the correction of errors pursuant to ITB Clause 27.3(b);
- iii. has a finding against the veracity of the required documents submitted in accordance with ITB Clause 29.3;
- iv. submission of eligibility requirements containing false information or falsified documents;
- v. submission of bids that contain false information or falsified documents, or the concealment of such information in the bids in order to influence the outcome of eligibility screening or any other stage of the public bidding;
- vi. allowing the use of one's name, or using the name of another for purposes of public bidding;
- vii. withdrawal of a bid, or refusal to accept an award, or enter into contract with the Government without justifiable cause, after the Bidder had been adjudged as having submitted the LCRB;
- viii. refusal or failure to post the required performance security within the prescribed time;
- ix. refusal to clarify or validate in writing its bid during post-qualification within a period of seven (7) calendar days from receipt of the request for clarification;
- x. any documented attempt by a Bidder to unduly influence the outcome of the bidding in his favor;
- xi. failure of the potential joint venture partners to enter into the joint venture after the bid is declared successful; or
- xii. all other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.

(b) if the successful Bidder:

- i. fails to sign the contract in accordance with **ITB** Clause 33;
- ii. fails to furnish performance security in accordance with **ITB** Clause 34

## 19. Alternative Proposals by Bidders

- 19.1 Alternative Bids shall be rejected. For this purpose, alternative bid is an offer made by a Bidder in addition or as a substitute to its original bid which may be included as part of its original bid or submitted separately therewith for

purposes of bidding. A bid with options is considered an alternative bid regardless of whether said bid proposal is contained in a single envelope or submitted in two (2) or more separate bid envelopes.

- 19.2 Bidders shall submit offers that comply with the requirements of the Bidding Documents, including the basic technical design as indicated in the drawings and specifications. Unless there is a value engineering clause in the **BDS**, alternative bids shall not be accepted.
- 19.3 Each Bidder shall submit only one Bid, either individually or as a partner in a JV. A Bidder who submits or participates in more than one bid (other than as a subcontractor if a subcontractor is permitted to participate in more than one bid) will cause all the proposals with the Bidder's participation to be disqualified. This shall be without prejudice to any applicable criminal, civil and administrative penalties that may be imposed upon the persons and entities concerned.

## 20. Format and Signing of Bid

- 20.1 Bidders shall submit their bids through their duly authorized representative using the appropriate forms provided in Section VI. Forms and Qualification Information on or before the deadline specified in the **ITB** Clause 22 in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under **ITB** Clause 14.1, and the second shall contain the financial component of the bid.
- 20.2 Forms as mentioned in **ITB** Clause 20.1 must be completed without any alterations to their format, and no substitute form shall be accepted. All blank spaces shall be filled in with the information requested.
- 20.3 The Bidder shall prepare and submit an original of the first and second envelopes as described in **ITB** Clause 14. In the event of any discrepancy between the original and the copies, the original shall prevail.
- 20.4 Each and every page of the bid, except for unamended printed literature, shall be signed, and each and every page thereof shall be initialed, by the duly authorized representative/s of the Bidder. Each and every page of the Bid Form, including the Bill of Quantities, under Section V hereof, shall be signed by the duly authorized representative/s of the Bidder. Failure to do so shall be a ground for the rejection of the bid.
- 20.5 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

## 21. Sealing and Marking of Bids

- 21.1 Unless otherwise indicated in the **BDS**, Bidders shall enclose their original eligibility and technical documents described in **ITB** Clause 14 in one sealed envelope marked "ORIGINAL - TECHNICAL COMPONENT", and the original of their financial component in another sealed envelope marked "ORIGINAL - FINANCIAL COMPONENT", sealing them all in an outer envelope marked "ORIGINAL BID".
- 21.2 All envelopes shall:
  - a. contain the name of the contract to be bid in capital letters;

- b. bear the name and address of the Bidder in capital letters;
- c. be addressed to the Procuring Entity's BAC in accordance with **ITB** Clause 1.1;
- d. bear the specific identification of this bidding process indicated in the **ITB** Clause 1; and
- e. bear a warning "DO NOT OPEN BEFORE..." the date and time for the opening of bids, in accordance with **ITB** Clause 22.

Unsealed or unmarked envelopes shall be rejected. However, bid envelopes that are not properly sealed and marked as required in the Bidding Documents, shall be accepted provided that the bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. The BAC shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked bid, or for its premature opening.

## **22. Deadline for Submission of Bids**

Bids must be received by the BWD-BAC Projects, No. 3 Purok BWD, Brgy. Marcoville, Baguio City **on or before November 07, 2022 at 10:00AM.**

## **23. Late Bids**

Any Bid submitted after the deadline for submission and receipt of Bids prescribed by the BWD, pursuant to **ITB** Clause 22 shall be declared "Late" and shall not be accepted by the BWD. The BAC shall record the minutes of Bid Submission and Opening, the Bidder's name, its representative and the time the late bid was submitted.

## **24. Modification and Withdrawal of Bids**

- 24.1. The Bidder may modify its Bid after it has been submitted the same; provided that the modification is received by the BWD prior to the deadline prescribed for submission and receipt of Bids. The Bidder shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed, properly identified, linked to its original bid marked as "TECHNICAL MODIFICATION" or "FINANCIAL MODIFICATION" and stamped "received" by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the Bidder unopened.
- 24.2. A Bidder may, through a Letter of Withdrawal, withdraw its Bid after it has been submitted, for valid and justifiable reason/s; provided that the Letter of Withdrawal is received by the BWD-BAC Projects prior to the deadline prescribed for submission and receipt of Bids. The Letter of Withdrawal shall be executed by the authorized representative of the bidder identified in the Omnibus Sworn Statement, a copy of which should be attached to the letter.
- 24.3. Bids requested to be withdrawn in accordance with **ITB** Clause 24.2 shall be returned unopened to the Bidders. A Bidder who has acquired the bidding documents may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the BAC before the deadline for submission and receipt of Bids. A Bidder that withdraws its Bid shall not be permitted to submit another Bid, directly or indirectly, for the same contract.

- 24.4. No Bid may be modified after the deadline for submission of Bids. No Bid may be withdrawn in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified by the Bidder on the Bid Form. Withdrawal of a Bid during this interval may result in the forfeiture of the Bidder's Bid Security, pursuant to the **ITB** Clause 18.6, and the imposition of administrative, civil and criminal sanctions as prescribed by R.A. 9184 and its IRR-A.

## **25. Opening and Preliminary Examination of Bids**

- 25.1 The BAC shall open the bids immediately after the deadline for the submission and receipt of bids in public, as specified in the BDS. In case the Bids cannot be opened as scheduled due to justifiable reasons, the BAC shall take custody of the Bids submitted and reschedule the opening of Bids on the next working day or at the soonest possible time through the issuance of a Notice of Postponement to be posted in the PhilGEPS website and the website of the Procuring Entity concerned.
- 25.2 Unless otherwise specified in the BDS, the BAC shall open the first bid envelopes and determine each Bidder's compliance with the documents prescribed in ITB Clause 14, using a non-discretionary "pass/fail" criterion. If a Bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as "failed". Otherwise, the BAC shall rate the said first bid envelope as "passed".
- 25.3 Unless otherwise specified in the BDS, immediately after determining compliance with the requirements in the first envelope, the BAC shall forthwith open the second bid envelope of each remaining eligible Bidder whose first bid envelope was rated "passed." The second envelope of each complying Bidder shall be opened within the same day. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or patently insufficient, and/or if the submitted total bid price exceeds the ABC unless otherwise provided in ITB Clause 14, the BAC shall rate the bid concerned as "failed." Only bids that are determined to contain all the bid requirements for both components shall be rated "passed" and shall immediately be considered for evaluation and comparison.
- 25.4 Letters of Withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Bidder unopened.
- 25.5 All members of the BAC who are present during bid opening shall initial every page of the original copies of all bids received and opened.
- 25.6 In the case of an eligible foreign bidder as described in ITB Clause 5.2, Section 8.5.2 of the IRR of RA 9184 would govern.
- 25.7 For joint venture, compliance with ITB Clause 14.1.II is required.
- 25.8 The Procuring Entity shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price (per lot, if applicable, and/or including discount, if any), bid security, findings of preliminary examination, and whether there is a withdrawal or modification; and (b) attendance sheet. The BAC members shall sign the abstract of bids as read.
- 25.9 The Bidders or their duly authorized representatives may attend the opening of bids. The BAC shall ensure the integrity, security, and confidentiality of all submitted bids. The Abstract of Bids as read and the minutes of the Bid Opening shall be made

available to the public upon written request and payment of a specified fee to recover cost of materials.

25.10 To ensure transparency and accurate representation of the bid submission, the BAC Secretariat shall notify in writing all Bidders whose bids it has received through its PhilGEPS-registered physical address or official e-mail address. The notice shall be issued within seven (7) calendar days from the date of the bid opening.

## **26. Process to be Confidential**

Members of the BAC, including its staff and personnel, as well as its Secretariat and TWG, are prohibited from making or accepting any kind of communication with any bidder regarding the evaluation of their bids until the issuance of the Notice of Award.

## **27. Detailed Evaluation and Comparison of Bids**

27.1 The BWD BAC Projects will evaluate and compare, in detail, only the Bids that are rated “passed” during the opening and preliminary examination of bids, pursuant to ITB Clause 25, in order to determine the Lowest Calculated Bid.

27.2 In evaluating the Bids to get the Lowest Calculated Bid for the BWD shall undertake the following:

- a. The detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and
- b. The ranking of the total bid prices as so calculated from the lowest to highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.

27.3 To determine the Lowest Calculated Bid the BAC shall use a non-discretionary “pass/fail” criteria, as stated in the Invitation to Bid, which shall include a consideration of the following:

a. Completeness of the bid. Unless the **BDS** allows partial bids, bids not addressing or providing all of the required items in the Bidding Documents including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a zero (0) or a dash (-) for the said item would mean that it is being offered for free to the Procuring Entity, except those required by law or regulations to be provided for; and

b. Arithmetical corrections. Consider computational errors and omissions to enable proper comparison of all eligible bids. It may also consider bid modifications. Any adjustment shall be calculated in monetary terms to determine the calculated prices.

27.4 Based on the detailed evaluation of bids, those that comply with the above-mentioned requirements shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, discounts and other modifications, to identify the Lowest Calculated Bid. Total calculated bid prices, as evaluated and corrected for computational errors,

discounts and other modifications, which exceed the ABC shall not be considered, unless otherwise indicated in the BDS.

- 27.5 The Procuring Entity's evaluation of bids shall be based on the bid price quoted in the Bid Form, which includes the Bill of Quantities.
- 27.6 Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all Bidders shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.
- 27.7 In case of discrepancies between: (a) bid prices in figures and in words, the latter shall prevail; (b) total price per item and unit price for the item as extended or multiplied by the quantity of that item, the latter shall prevail; (c) stated total price and the actual sum of prices of component items, the latter shall prevail; (d) unit cost in the detailed estimate and unit cost in the bill of quantities, the latter shall prevail.

## **28. Preference for Provincial Bidders**

The Project is not a provincial project as defined in Section 44 of the IRR-A of R.A. 9184. Provincial bidders shall not be given the right to match the Lowest Calculated Bid.

## **29. Post Qualification of the Lowest Calculated Bid**

- 29.1 The BWD shall conduct post qualification to determine whether the Bidder that is evaluated to have the Lowest Calculated Bid complies with and is responsive to all requirements and conditions for eligibility and of the Bidding for the contract. The determination shall use non-discretionary "pass/fail" criteria and be based upon examination, verification and validation of the documentary evidence of the Bidder's eligibility/qualifications submitted by the Bidder pursuant to Eligibility Documents and the Technical and Financial Proposals for **ITB** Clause 14. If the said Bidder passes the post-qualification, his Bid shall be declared as the Lowest Calculated and Responsive Bid (LCRB).
- 29.2 The Procuring Entity shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid (LCB) complies with and is responsive to all the requirements and conditions specified in **ITB** Clauses 5 and 14.
- 29.3 Within five (5) calendar days from receipt by the bidder of the notice from the BAC that the bidder shall submit its latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS) and other appropriate licenses and permits required by law and stated in the BDS.

Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the bidder for award: Provided, That in the event that a finding against the veracity of any of the documents submitted is made, it shall cause the forfeiture of the Bid Security in accordance with Section 69 of the IRR of RA 9184.

- 29.4 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted pursuant to **ITB** Clause 14,

as well as other information as the Procuring Entity deems necessary and appropriate, using a non-discretionary “pass/fail” criterion.

- 29.5 If the BAC determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the Lowest Calculated Responsive Bid, and recommend to the Head of the Procuring Entity the award of contract to the said Bidder at its submitted price or its calculated bid price, whichever is lower or in the case of quality-based evaluation procedure, submitted bid price or its negotiated price, whichever is lower.
- 29.6 If, however, the BAC determines that the bidder with the Lowest Calculated Bid/Highest Rated Bid fails the criteria for post-qualification, it shall immediately notify the said bidder in writing of its post-disqualification and the grounds for it.
- 29.7 Immediately after the BAC has notified the first bidder of its post-disqualification, and notwithstanding any pending request for reconsideration thereof, the BAC shall initiate and complete the same post-qualification process on the bidder with the second Lowest Calculated Bid/Highest Rated Bid. If the second bidder passes the post qualification, and provided that the request for reconsideration of the first bidder has been denied, the second bidder shall be post-qualified as the bidder with the LCRB or HRRB.
- 29.8 If the second bidder, however, fails the post-qualification, the procedure for post qualification shall be repeated for the bidder with the next Lowest Calculated Bid/Highest Rated Bid, and so on until the LCRB or HRRB, as the case may be, is determined for award, subject to Section 37 of the IRR of RA 9184.
- 29.9 The post-qualification process shall be completed in not more than twelve (12) calendar days from the determination of the Lowest Calculated Bid/Highest Rated Bid. In exceptional cases, the post-qualification period may be extended by the HoPE, but in no case, shall the aggregate period exceed forty-five (45) calendar days for Goods and Infrastructure Projects.

In case of post-disqualification of the bidder with the lowest calculated bid/highest rated bid, the BAC shall be given the same fresh period to conduct the post qualification of the next lowest calculated bid/highest rated bid until a bidder is post qualified or failure of bidding is declared based on Section 35.1(c) of the IRR of RA 9184.

### **30. Right of the BWD to Reject any or All Bids**

- 30.1 Notwithstanding the eligibility or post-qualification of a bidder, the BWD reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said bidder, or that there has been a change in the Bidder’s capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility and bidding requirements, statements or documents, or any changes in the situation of the Bidder which will affect its capability to undertake the project so that it fails the preset eligibility or bid evaluation criteria, the BWD shall consider the said Bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.
- 30.2 The BWD reserves the right to reject any and all bids, declare a failure of bidding, or not award the contract in the following situations:



- a. If there is prima facie evidence of collusion between appropriate public officers or employees of the BWD, or between the BWD BAC Projects and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
- b. If the BAC is found to have failed in following the prescribed bidding procedures; or
- c. For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the Government as follows: (i) if the physical and economic conditions have significantly changed so as to render the project no longer economically, financially or technically feasible as determined by the head of the BWD; (ii) if the project is no longer necessary as determined by the head of the BWD; and (iii) if the source of funds for the project has been withheld or reduced through no fault of the BWD.

30.3 In addition, the Procuring Entity may likewise declare a failure of bidding when:

- a. No bids are received;
- b. All prospective Bidders are declared ineligible;
- c. All bids fail to comply with all the bid requirements, fail post-qualification; or
- d. The Bidder with the LCRB refuses, without justifiable cause, to accept the award of contract, and no award is made in accordance with Section 40 of the IRR of RA 9184.

### **31. Award Criteria**

31.1. Subject to **ITB** Clause 29, the BWD shall award the contract to the successful Bidder whose Bid has been determined to be the LCRB.

### **32. Notice of Award**

32.1. Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award duly received by the Bidder or its representative personally or by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to the Procuring Entity.

Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:

- a) Submission of the following documents within ten (10) calendar days from receipt of the Notice of Award:
  - i. In the case of procurement by a Philippine Foreign Service Office or Post, the PhilGEPS Registration Number of the winning foreign Bidder; or
  - ii. Valid PCAB license and registration for the type and cost of the contract to be bid for foreign bidders when the

Treaty or International or Executive Agreement expressly allows submission of the PCAB license and registration for the type and cost of the contract to be bid as a pre-condition to the Notice of Award;

- b) Posting of the performance security;
- c) Signing of the contract; and
- d) Approval by higher authority, if required, as provided in Section 37.3 of the IRR of RA 9184.

**33. Signing of the Contract**

The winning bidder shall post the required performance security and enter into a contract with BWD within ten (10) calendar days from receipt by the winning bidder of the Notice of Award.

The Procuring Entity shall enter into contract with the winning Bidder within the same ten (10) calendar day period provided that all the documentary requirements are complied with.

The following documents shall form part of the contract:

- (a) Contract Agreement;
- (b) Bidding Documents;
- (c) Winning Bidder’s bid, including the Technical and Financial Proposals, and all other documents/statements submitted
- (d) Performance Security;
- (e) Notice of Award of Contract; and
- (f) Other contract documents that may be required by existing laws and/or specified in the **BDS**.

**34. Performance Security**

- 34.1. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security prior to the signing of the contract.
- 34.2. The Performance Security shall be denominated in Philippine Pesos and posted in favor of the Procuring Entity in an amount not less than the percentage of the total contract price in accordance with the following schedule:

Form of Performance Security	Amount of Performance Security (Not less than the Percentage of the Total Contract Price)
(a) Cash or cashier’s/manager’s check issued by a Universal or Commercial Bank.	Ten percent (10%)

(b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
(c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty percent (30%)

- 34.3. The performance security shall be denominated in Philippine Pesos and posted in favor of BWD, which shall be forfeited in the event that it is established that the winning bidder is in default in any of its obligations under the contract.
- 34.4. The performance security shall remain valid until the issuance by BWD of the Certificate of Final Acceptance,
- 34.5. The performance security may be released by BWD after the issuance of the Certificate of Final Acceptance subject to the following conditions:
  - BWD has no claims filed against the contract awardee or the surety company;
  - It has no claims for labor and materials filed against the contractor; and
  - Other terms of the contract

**35. Notice to Proceed**

- 35.1 BWD shall issue the Notice to Proceed together with a copy or copies of the approved contract to the successful bidder within seven (7) calendar days from the date of approval of the contract by the appropriate government approving authority. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the successful bidder.

**36. Advance Payment**

- 36.1 The BWD will provide an Advance Payment on the Contract Price as stipulated in the Conditions of Contract, subject to the maximum amount stated in **GCC** Clause 37.1

**37. Protest Mechanism**

Decision of the procuring entity at any stage of the procurement process may be questioned in accordance with Section 55 of the Revised Implementing Rules and RA 9184

## *Section II. Bid Data Sheet*

### **Bid Data Sheet**

<b>ITB Clause</b>	
1.1	<p>The <b>BWD</b> is a Government Owned and Controlled Corporation created under PD 198 mandated to provide safe and potable water to all its concessionaires within Baguio City.</p> <p>The name of the Contract is:</p> <ul style="list-style-type: none"> <li>• DRILLING OF ZIGZAG PRODUCTION WELL AT KENNON RD., CAMP 7, BAGUIO CITY</li> </ul>
1.3	The Funding Source is <b>BWD</b> .
9	<p>The Date and Venue of the Pre-Bid Conference is:</p> <p><b>October 26, 2022 at 9:00AM</b> through videoconference using the Zoom application with Meeting ID: 452 718 8447 and Password: 9Buvqr.</p> <p><b>Bidders who have secured bid documents and paid the corresponding non-refundable bid fee shall be allowed to attend the pre-bid conference.</b></p>
11	<p>Any request for clarification shall be addressed to:</p> <p><b>Baguio Water District</b>  <b>Purok BWD, No. 003, Brgy. Marcoville, Baguio City</b></p> <p><b>Thru:</b></p> <p><b><u>ATTY. MA. LUISA C. TENEDERO</u></b>  <b>Chairperson, BAC-Projects</b>  <b>Tel Nos. 442-4929</b></p>
5,14	Only eligible bidders are allowed to submit bids to the BWD BAC Projects.
14,15	<p>The ABC is: Php6,039,804.32</p> <p>Any Bid with a Financial Proposal exceeding this amount will be rejected.</p>
15.3	All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, prior to the deadline for submission of Bids, shall be included in the rates, prices, and total Bid price submitted by the Bidder.
15.4	For the given scope of work in this project, all Bid prices shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances.
17	Bids shall be valid for a period of 120 calendar days from the date of opening of bids.

18.2	<p>The Bid Security in any of the following form:</p> <ul style="list-style-type: none"> <li>(a) Cash, manager's check, cashier's check issued by a universal or commercial bank: 2%;</li> <li>(b) Bank draft/guarantee or irrevocable letter of credit issued by a universal or commercial bank: provided however that it shall be confirmed or authenticated by a universal or commercial bank, if issued by a foreign bank: 2%;</li> <li>(c) Surety Bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security: 5%; or</li> <li>(d) Bid Securing Declaration as required in the guidelines issued by the Government Procurement Policy Board (GPPB).</li> </ul>
18.3	Bid securities shall be valid for a period of 120 calendar days from opening of bids.
18.6	Additional grounds for forfeiture of the Bid Security
21.2.d	The specific identification of this bidding process is implementation of the drilling of Zigzag Production Well at Kennon Rd., Camp 7, Baguio City.
22	<p>The address for submission of bids is:</p> <p><b>BWD BAC Projects</b>  <b>Baguio Water District</b>  <b>Purok BWD, No. 003, Brgy. Marcoville, Baguio City.</b></p> <p>The deadline for Submission of Bids is <b>on or before November 07, 2022 at 10:00AM.</b></p>
25	The date and time of Bid opening is on November 07, 2022 at 10:00AM. on through videoconference using the Zoom application with Meeting ID: 452 718 8447 and Password: 9Buvqr
11	Clarification of Bidding Documents
34	<p>To guarantee the faithful performance by the winning bidder of its obligations under the contract, it shall post a Performance Security prior to the signing of the contract in any of the following form:</p> <ul style="list-style-type: none"> <li>a. cash or cashier's or manager's check issued by a Universal or Commercial Bank: 10%</li> <li>b. bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided however that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank: 10%</li> <li>c. surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security: 30%</li> </ul>

## *Section III. General Conditions of Contract*

### **Definitions**

- 1.1. For purposes of this Clause, boldface type is used to identify defined terms.
- 1.2. The **Arbiter** is the person appointed jointly by the BWD and the Contractor to resolve disputes in the first instance, as provided for in **GCC** Clause 20.1.
- 1.3. **Bill of Quantities** refers to a list of the specific items of the Work and their corresponding unit prices, lump sums, and/or provisional sums.
- 1.4. The **BWD** is the party who employs the Contractor to carry out the Works stated in the **SCC**.
- 1.5. The **BWD's Representative** refers to the Head of the BWD or his duly authorized representative, identified in the **SCC**, who shall be responsible for supervising the execution of the Works and administering this Contract.
- 1.6. The **Completion Date** is the date of completion of the Works as certified by the BWD's Representative, in accordance with **GCC** Clause 47.1.
- 1.7. The **Contract** is the contract between the BWD and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in **GCC** Clause 2.3.
- 1.8. The **Contract Price** is the price stated in the Letter of Acceptance and thereafter to be paid by the BWD to the Contractor for the execution of the Works in accordance with this Contract.
- 1.9. **Contract Time Extension** is the allowable period for the Contractor to complete the Works in addition to the original Completion Date stated in this Contract.
- 1.10. The **Contractor** is the juridical entity whose proposal has been accepted by the BWD and to whom the Contract to execute the Work was awarded.
- 1.11. The **Contractor's Bid** is the signed offer or proposal submitted by the Contractor to the BWD in response to the Bidding Documents.
- 1.12. **Days** are calendar days; months are calendar months, the days of which shall be the exact number of days in each particular month.
- 1.13. **Dayworks** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- 1.14. A **Defect** is any part of the Works not completed in accordance with the Contract.
- 1.15. **Force Majeure** is defined in **GCC** Clause 19.1.
- 1.16. The **Defects Liability Certificate** is the certificate issued by BWD's Representative upon correction of defects by the Contractor.
- 1.17. The **Defects Liability Period** is one (1) year period between project completion and final acceptance within which the Contractor assumes the

responsibility to undertake the repair of any damage to the Works at his own expense.

- 1.18. **Drawings** are graphical presentations of the Works. They include all supplementary details, shop drawings, calculations, and other information provided or approved for the execution of this Contract.
- 1.19. **Equipment** refers to all facilities, supplies, appliances, materials or things required for the execution and completion of the Work provided by the Contractor, as specified in the **SCC**, and which shall not form or are not intended to form part of the Permanent Works.
- 1.20. The **Intended Completion Date** refers to the date specified in the **SCC** when the Contractor is expected to have completed the Works. The Intended Completion Date may be revised only by the BWD's Representative by issuing an extension of time or an acceleration order.
- 1.21. **Materials** are all supplies, including consumables, used by the Contractor, as specified in the **SCC**, for incorporation in the Works.
- 1.22. The **Notice to Proceed** is a written notice issued by the BWD or the BWD's Representative to the Contractor requiring the latter to begin the commencement of the work not later than a specified or determinable date.
- 1.23. **Permanent Works** are all permanent structures and all other project features and facilities that are required to be constructed and completed in accordance with this Contract which shall be delivered to the BWD and which shall remain at the Site after the removal of all Temporary Works.
- 1.24. **Plant** refers to the machinery, apparatus, and the like intended to form an integral part of the Permanent Works.
- 1.25. The **Site** is the place provided by the BWD where the Works shall be executed and any other place or places which may be designated in the **SCC**, or notified to the Contractor by the BWD's Representative as forming part of the Site.
- 1.26. **Site Investigation Reports** are those that were included in the Bidding Documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- 1.27. **Slippage** is a delay in work execution occurring when actual accomplishment falls below the target as measured by the difference between the scheduled and actual accomplishment of the Work by the Contractor as established from the work schedule. This is actually described as a percentage of the whole Works.
- 1.28. **Specifications** mean the description of Works to be done and the qualities of materials to be used, the equipment to be installed and the mode of construction.
- 1.29. The **Start Date**, as specified in the **SCC**, is the date when the Contractor is obliged to commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- 1.30. A **Subcontractor** is any person or organization to whom a part of the Works has been subcontracted by the Contractor, as allowed by the BWD, but not any assignee of such person.

- 1.31. **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Permanent Works.
- 1.32. **Work(s)** refer to the Permanent Works and Temporary Works to be executed by the Contractor in accordance with this Contract, including (i) the furnishing of all labor, materials, equipment and others incidental, necessary or convenient to the complete execution of the Works; (ii) the passing of any tests before acceptance by the BWD's Representative; (iii) and the carrying out of all duties and obligations of the Contractor imposed by this Contract as described in the **SCC**.

## **2. Interpretation**

- 2.1 In interpreting the Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of this Contract unless specifically defined. The BWD's Representative will provide instructions clarifying queries about the Conditions of Contract.
- 2.2 If sectional completion is specified in the **SCC**, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3 The documents forming an integral part of this Contract shall be in the following order of priority:
  - a. Contract Agreement;
  - b. Instructions to Bidders;
  - c. Addenda to the Bidding Documents, if any;
  - d. Specifications;
  - e. Drawings;
  - f. Special Conditions of Contract;
  - g. General Conditions of Contract; and

## **3. Governing Language and Law**

- 3.1 This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and other documents pertaining to this Contract that are exchanged by the parties shall be written in English.
- 3.2 This Contract shall be interpreted in accordance with the laws of the Republic of the Philippines.

## **4. Communications**

Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when



received by the concerned party, whether through personal service, registered mail or facsimile transmission.

## **5. Possession of Site**

- 5.1 The BWD shall grant the Contractor possession of so much of the Site as may be required to enable it to proceed with the execution of the Works. If the Contractor suffers delay or incurs cost from failure on the part of the BWD to give possession in accordance with the terms of this clause, the BWD's Representative shall give the Contractor a Contract Time Extension and certify such sum as fair to cover the cost incurred, which sum shall be paid by BWD.
- 5.2 If possession of a portion by the BWD is not given within a reasonable time, the BWD will be deemed to have delayed the start of the relevant activities. The resulting adjustments in contract time to address such delay shall be in accordance with **GCC Clause 45**.
- 5.3 The Contractor shall bear all costs and charges for special or temporary right-of-way required by it in connection with access to the Site. The Contractor shall also provide at his own cost any additional facilities outside the Site required by it for purposes of the Works.
- 5.4 The Contractor shall allow the BWD's Representative and any person authorized by the BWD's Representative access to the Site and to any place where work in connection with this Contract is being carried out or is intended to be carried out.

## **6. The Contractor's Obligations**

- 6.1 The Contractor shall carry out the Works properly and in accordance with this Contract. The Contractor shall provide all supervision, labor, local materials, Plant and Contractor's Equipment, which may be required. All Materials and Plant on Site shall be deemed to be the property of the BWD.  
  
The type of materials and/or equipment proposed to be purchased, supplied and used by the Contractor shall be first approved by BWD and shall not be substituted anytime during the entire duration of the Contract except only in meritorious cases as may be permitted and duly approved by BWD.
- 6.2 The Contractor shall commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program of Work submitted by the Contractor, as updated with the approval of the BWD's Representative, and complete them by the Intended Completion Date.
- 6.3 The Contractor shall be responsible for the safety of all activities and its employees on the Site.
- 6.4 The Contractor shall carry out all instructions of the BWD's Representative that comply with the applicable laws where the Site is located.
- 6.4 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, to carry out the supervision of the Works. The BWD will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are equal to or better than those of the personnel listed in the Schedule.

- 6.6 If the BWD's Representative asks the Contractor to remove a member of the Contractor's staff or work force, for justifiable cause, the Contractor shall ensure that the person leaves the Site within seven (7) days and has no further connection directly or indirectly with the Work in this Contract.
- 6.7 During Contract implementation, the Contractor shall abide at all times by all labor laws, including child labor related enactments, and other relevant rules.
- 6.8 The Contractor shall submit to the BWD for consent the name and particulars of the person authorized to receive instructions on behalf of the Contractor.
- 6.9 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the BWD between the dates given in the schedule of other contractors particularly when they shall require access to the Site. The Contractor shall also provide facilities and services for them during this period. The BWD may modify the schedule of other contractors, and shall notify the Contractor of any such modification thereto.
- 6.10 Should anything of historical or other interest or of significant value be unexpectedly discovered on the Site, the Contractor shall notify the BWD's Representative of such discoveries and carry out the BWD's Representative's instructions in dealing with them.

## **7. Performance Security**

- 7.1 The Performance Security shall be submitted to the BWD not later than the date specified in the Letter of Acceptance and shall be issued in an amount and form as specified in the **SCC** Clause 7.1, and denominated in Philippine currency in which the contract price is payable. The Performance Security shall be valid until the issuance of a Certificate of Completion of works.
- 7.2 The Contractor, by entering into the Contract with the BWD, acknowledges the right of the BWD to institute action pursuant to Act 3688 against any subcontractor be they an individual, firm, partnership, corporation, or association supplying the Contractor with labor, materials and/or equipment for the performance of this Contract.

## **8. Sub-Contracting**

Subcontracting shall be allowed in this project as specified in **ITB** Clause 8.

## **9. Liquidated Damages**

- 9.1 The Contractor shall pay liquidated damages to the BWD at the rate per day stated in **SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the **SCC**. The BWD may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of this Contract, the BWD shall rescind or terminate this Contract, without prejudice to other courses of action and remedies available to it.
- 9.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer of the BWD shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment,

calculated from the date of payment to the date of repayment, at the rates to be indicated in the contract.

**10. Site Investigation Reports**

The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports supplemented by any information obtained by the Contractor.

**11. The BWD, Licenses and Permits**

BWD shall, if requested by the Contractor, assist him in applying for permits, licenses or approvals, which are required for the Works.

**12. Contractor’s Risk and Warranty Security**

12.1 The Contractor shall assume full responsibility for the Works from the time project construction commenced up to final acceptance by the BWD and he shall be held responsible for any damage or destruction of the Works except those occasioned by *force majeure* as defined and specified in GCC Clause 19.1. The Contractor shall be fully responsible for the safety, protection, security, and convenience of his personnel, third parties, and the public at large, as well as the Works, Equipment, installation, and the like to be affected by his construction work.

12.2 The defects liability period for infrastructure projects shall be one year from project completion up to final acceptance by the BWD. During this period, the Contractor shall undertake the repair works, at his own expense, of any damage to the Works on account of the use of materials of inferior quality within ninety (90) days from the time the Head of the BWD has issued an order to undertake repair. In case of failure or refusal to comply with this mandate, the BWD shall undertake such repair works and shall be entitled to full reimbursement of expenses incurred therein upon demand, judicial or otherwise.

In case the Contractor fails to comply with the preceding paragraph, it shall suffer perpetual disqualification from participating in any public bidding and its property or properties shall be subject to attachment or garnishment proceedings to recover the costs. All payables of the BWD in the Contractor’s favor shall be offset to recover the costs.

12.3 After final acceptance of the Works by the BWD, the Contractor shall be held responsible for failure of the completed project within one (1) year from final acceptance, except those occasioned by *force majeure* and those caused by other parties.

12.4 The Contractor shall be required to put up a warranty security in the form of cash, bank guarantee, letter of credit, GSIS or surety bond callable on demand, in accordance with the following schedule:

Form of Warranty	Minimum Amount in Percentage (%) of Total Contract Price
1. Cash or letter of credit issued by a Universal or Commercial Bank: Provided however that the Letter of Credit shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank	Five Percent (5%)

2. Bank guarantee confirmed by a Universal or Commercial Bank	Ten Percent (10%)
3. Surety bond callable upon demand issued by GSIS or a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security	Thirty Percent (30%)

- 12.5    The warranty security shall be stated in Philippine Pesos and shall remain effective during the applicable warranty period provided in GCC Clause 12.3.
- 12.6    In case of structural defects/failure occurring during the one (1) year warranty period, the BWD shall undertake the necessary restoration or reconstruction works and shall be entitled to full reimbursement by the parties found to be liable, of expenses incurred therein upon demand judicial or otherwise, without prejudice to the filing of appropriate administrative, civil, and/or criminal charges against the responsible persons as well as the forfeiture of the warranty security posted in favor of the BWD.

For purposes of this clause, the term “structural defects” shall mean major faults/flaws/deficiencies in one or more key structural elements of the Works that may lead to structural failure of the completed elements or structure. The term “structural failures” is defined as an occurrence where one or more key structural elements in an infrastructure facility fails or collapses, thereby rendering the facility or part thereof incapable of withstanding the design loads, and/or endangering the safety of the users or the general public.

**13. BWD’s Risk**

- 13.1    From the Start Date until the Certificate of Final Acceptance has been issued, the following are risks of the BWD:
- a.      The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:

i.        any type of use or occupation of the Site authorized by the BWD after the official acceptance of the works; or

ii.        negligence, breach of statutory duty, or interference with any legal right by the BWD or by any person employed by or contracted to him except the Contractor.

b.      The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the BWD or in the BWD’s design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

**14. Insurance**

- 14.1    The Contractor shall, under his name and at his own expense, obtain and maintain, for the duration of this Contract, the following insurance coverage:
- a.      Contractor’s All Risk Insurance;

- b. Transportation to the project Site of Equipment, Machinery, and Supplies owned by the Contractor;
- c. Personal injury or death of Contractor's employees; and
- d. Comprehensive insurance for third party liability to Contractor's direct or indirect act or omission causing damage to third persons.

14.2 The Contractor shall provide evidence to the BWD's Representative that the insurances required under this Contract have been affected and shall, within a reasonable time, provide copies of the insurance policies to the BWD's Representative. Such evidence and such policies shall be provided to the BWD through the BWD's Representative.

14.3 The Contractor shall be responsible in notifying the insurers of changes in the nature, extent, or program for the execution of the Works and ensure the adequacy of the insurances at all times in accordance with the terms of this Contract and shall produce to the BWD's Representative the insurance policies in force including the receipts for payment of the current premiums.

The above insurance policies shall be obtained from any reputable insurance company approved by BWD.

14.4 If the Contractor fails to obtain and keep in force the insurances referred to in this clause or any other insurance which he may be required to obtain under the terms of this Contract, the BWD may obtain and keep in force any such insurances and pay such premiums as may be necessary for the purpose. From time to time, the BWD may deduct the amount it shall pay for said premiums including twenty five percent (25%) therein from any monies due, or which may become due, to the Contractor, without prejudice to the BWD exercising its right to impose other sanctions against the Contractor pursuant to the provisions of this Contract.

14.5 In the event the Contractor fails to observe the above safeguards, the BWD may, at the Contractor's expense, take whatever measure is deemed necessary for its protection and that of the Contractor's personnel and third parties, and/or order the interruption of dangerous Works. In addition, the BWD may refuse to make the payments under GCC Clauses 39 and 40 until the Contractor complies with the said Clauses.

14.6 The Contractor shall immediately replace the insurance policy obtained as required in this Contract, without need of the BWD's demand, with a new policy issued by a new insurance company acceptable to the BWD for any of the following grounds:

- a. The issuer of the insurance policy to be replaced has:
  - i. become bankrupt;
  - ii. been placed under receivership or under a management committee;
  - iii. been sued for suspension of payment; or
  - iv. been suspended by the Insurance Commission and its license to engage in business or its authority to issue insurance policies cancelled; or

- v. Where reasonable grounds exist that the insurer may not be able, fully and promptly, to fulfill its obligation under the insurance policy.

## **15. Termination for Default of Contractor**

15.1 The BWD shall terminate this Contract for default when any of the following conditions attend its implementation:

- a. Due to the Contractor's fault and while the project is on-going, it has incurred negative slippage of fifteen percent (15%) or more in accordance with Presidential Decree 1870, regardless of whether or not previous warnings and notices have been issued for the Contractor to improve his performance;
- b. Due to its own fault and after this Contract time has expired, the Contractor incurs delay in the completion of the Work after this Contract has expired; or
- c. The Contractor:
  - i. abandons the contract Works, refuses or fails to comply with a valid instruction of the BWD or fails to proceed expeditiously and without delay despite a written notice by the BWD;
  - ii. does not actually have on the project Site the minimum essential equipment listed in the Bid necessary to prosecute the Works in accordance with the approved Program of Work and equipment deployment schedule as required for the project;
  - iii. does not execute the Works in accordance with this Contract or persistently or flagrantly neglects to carry out its obligations under this Contract;
  - iv. neglects or refuses to remove materials or to perform a new Work that has been rejected as defective or unsuitable; or
  - v. sub-lets any part of this Contract without approval by the BWD.
- d. All materials on the Site, Plant, Equipment, and Works shall be deemed to be the property of the BWD if this Contract is rescinded because of the Contractor's default.

## **16. Termination for Default of BWD**

16.1 The Contractor may terminate this Contract with the BWD if the works are completely stopped for a continuous period of at least sixty (60) calendar days through no fault of its own, due to any of the following reasons:

- a. Failure of the BWD to deliver, within a reasonable time, supplies, materials, right-of-way, or other items it is obligated to furnish under the terms of this Contract; or

- b. The prosecution of the Work is disrupted by the adverse peace and order situation, as certified by the Armed Forces of the Philippines Provincial Commander and approved by the Secretary of National Defense.

## **17. Termination for Other Causes**

- 17.1 The BWD may terminate this Contract, in whole or in part, at any time for its convenience. The Head of the BWD may terminate this Contract for the convenience of the BWD if it has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, force majeure as defined and specified in GCC Clause 19.1 or changes in law and National Government policies.
- 17.2 The BWD or the Contractor may terminate this Contract if the other party causes a fundamental breach of this Contract.
- 17.3 Fundamental breaches of Contract shall include, but shall not be limited to, the following:
  - a. The Contractor stops work for twenty-eight (28) days when no stoppage of work is shown on the current Program of Work and the stoppage has not been authorized by the BWD's Representative;
  - b. The BWD's Representative instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within twenty-eight (28) days;
  - c. The BWD shall terminate this Contract if the Contractor is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Contractor, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the BWD and/or the Contractor. In the case of the Contractor's insolvency, any Contractor's Equipment which the BWD instructs in the notice is to be used until the completion of the Works;
  - d. A payment certified by the BWD's Representative is not paid by the BWD to the Contractor within eighty-four (84) days from the date of the BWD's Representative's certificate;
  - e. The BWD's Representative gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the BWD's Representative;
  - f. The Contractor does not maintain a Performance Security, which is required;
  - g. The Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the GCC Clause 9.1; and
  - h. In case it is determined prima facie by the BWD that the Contractor has engaged, before or during the implementation of the contract, in

unlawful deeds and behaviors relative to contract acquisition and implementation, such as, but not limited to, the following:

- i. corrupt, fraudulent, collusive and coercive practices as defined in **ITB** Clause 2.1.a;
- ii. drawing up or using forged documents;
- iii. using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
- iv. any other act analogous to the foregoing.

17.4 The LWUA or the BWD, as appropriate, will seek to impose the maximum civil, administrative and/or criminal penalties available under the applicable law on individuals and organizations deemed to be involved with corrupt, fraudulent, or coercive practices.

17.5 When persons from either party to this Contract gives notice of a fundamental breach to the BWD's Representative in order to terminate the existing contract for a cause other than those listed under **GCC** Clause 17.3, the BWD's Representative shall decide whether the breach is fundamental or not.

17.6 If this Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

## **18. Procedures for Termination of Contracts**

18.1 The following provisions shall govern the procedures for the termination of this Contract:

- a. Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the BWD shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- b. Upon recommendation by the Technical staff, the Head of the BWD shall terminate this Contract only by a written notice to the Contractor conveying the termination of this Contract. The notice shall state:
  - i. that this Contract is being terminated for any of the ground(s) aforementioned, and a statement of the acts that constitute the ground(s) constituting the same;
  - ii. the extent of termination, whether in whole or in part;
  - iii. an instruction to the Contractor to show cause as to why this Contract should not be terminated; and
  - iv. special instructions of the BWD, if any.

The Notice to Terminate shall be accompanied by a copy of the Verified Report;

- c. Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Contractor shall submit to the Head of the BWD



a verified position paper stating why the contract should not be terminated. If the Contractor fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the Head of the BWD shall issue an order terminating the contract;

- d. The BWD may, at any time before receipt of the Bidder's verified position paper to withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Contractor's receipt of the notice;
- e. Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the Head of the BWD shall decide whether or not to terminate this Contract. It shall serve a written notice to the Contractor of its decision and, unless otherwise provided in the said notice, this Contract is deemed terminated from receipt of the Contractor of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate; and
- f. The Head of the BWD may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the Head of the BWD.

## **19. Force Majeure, Release From Performance**

- 19.1 For purposes of this Contract the terms "*force majeure*" and "fortuitous event" may be used interchangeably. In this regard, *force majeure* shall be interpreted to mean an event which the Contractor could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Contractor.
- 19.2 If this Contract is discontinued by an outbreak of war or by any other event entirely outside the control of either the BWD or the Contractor, the BWD's Representative shall certify that this Contract has been discontinued. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all works carried out before receiving it and for any Work carried out afterwards to which a commitment was made.
- 19.3 If the event continues for a period of eighty-four (84) days, either party may then give notice of termination, which shall take effect twenty-eight (28) days after the giving of the notice.
- 19.4 After termination, the Contractor shall be entitled to payment of the unpaid balance of the value of the Works executed and of the materials and Plant reasonably delivered to the Site, adjusted by the following:
  - a. any sum to which the Contractor is entitled under **GCC** Clause 26.1;
  - b. the cost of his suspension and demobilization;
  - c. any sum to which the BWD is entitled.
- 19.5 The net balance due shall be paid or repaid within a reasonable period of time from the notice of termination.

## **20. Resolution of Disputes**

- 20.1 If the Contractor believes that a decision taken by the BWD's Representative was either outside the authority given to the BWD's Representative by this Contract or that the decision was wrongly taken, the decision shall be referred to the Arbiter named in the **SCC** Clause 20.1 within fourteen (14) days of the notification of the BWD's Representative's decision.
- 20.2 Any and all disputes arising from the implementation of this Contract covered by the R.A. 9184 and its IRR-A shall be submitted to arbitration in the Philippines according to the provisions of Republic Act 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004": *Provided, however,* That, disputes that are within the competence of the Construction Industry Arbitration Commission to resolve shall be referred thereto. The process of arbitration shall be incorporated as a provision in this Contract that will be executed pursuant to the provisions of the Act and its IRR-A: *Provided, further,* That, by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution. Additional instructions on resolution of disputes, if any, shall be indicated in the **SCC**.

## **21. BWD's Representative's Decisions**

- 21.1 Except where otherwise specifically stated, the BWD's Representative will decide on contractual matters between the BWD and the Contractor in the role representing the BWD.
- 21.2 The BWD's Representative may delegate any of his duties and responsibilities to other BWD employees duly designated in writing by the Head of BWD, except to the Arbiter, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

## **22. Approval of Drawings and Temporary Works by the BWD's Representative**

- 22.1 All Drawings prepared by the Contractor for the execution of the Temporary Works, are subject to prior approval of the BWD's Representative before its use.
- 22.2 The Contractor shall be responsible for design of Temporary Works.
- 22.3 The BWD's Representative's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 22.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, when required by the BWD.

## **23. Acceleration and Delays Ordered by the BWD's Representative**

- 23.1 When the BWD wants the Contractor to finish the works before the Intended Completion Date, the BWD's Representative will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the BWD accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the BWD and the Contractor.
- 23.2 If the Contractor's Financial Proposals for acceleration are accepted by the BWD, they are incorporated in the Contract Price and treated as a Variation.

## **24. Extension of the Intended Completion Date**

- 24.1 The BWD's Representative shall extend the Intended Completion Date if a Variation is issued which makes it impossible for the Intended Completion Date to be achieved by the Contractor without taking steps to accelerate the remaining work, which would cause the Contractor to incur additional costs. Unless specified in the **SCC**, no payment shall be made for any event which may warrant the extension of the Intended Completion Date.
- 24.2 The BWD's Representative shall decide whether and by how much to extend the Intended Completion Date within twenty-one (21) days from date of Contractor's request for a decision thereto after fully submitting all supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

## **25. Right to Vary**

- 25.1 The BWD's Representative with the prior approval of the BWD may instruct Variations, up to a maximum cumulative amount of ten percent (10%) of the original contract cost.
- 25.2 Variations shall be valued as follows:
  - a. At a lump sum price agreed between the parties;
  - b. where appropriate, at rates in this Contract;
  - c. in the absence of appropriate rates, the rates in this Contract shall be used as the basis for valuation; or failing which
  - d. at appropriate new rates, equal to or lower than current industry rates and to be agreed upon by both parties and approved by the Head of the BWD.

## **26. Contractors Right to Claim**

- 26.1 If the Contractor incurs cost as a result of any of the events under **GCC** Clause 13, the Contractor shall be entitled to the amount of such cost. If as a result of any of the said events, it is necessary to change the Works, this shall be dealt with as a Variation.

## **27. Dayworks**

- 27.1 Subject to **GCC** Clause 41, and if applicable as indicated in the **SCC**, the Dayworks rates in the Contractor's Bid shall be used for small additional amounts of work only when the BWD's Representative has given written instructions in advance for additional work to be paid for in that way.
- 27.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the BWD's Representative. Each completed form shall be verified and signed by the BWD's Representative within two (2) days of the work being done.
- 27.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

## **28. Early Warning**

- 28.1 The Contractor shall warn the BWD's Representative at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The BWD's Representative may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 28.2 The Contractor shall cooperate with the BWD's Representative in making and considering proposals on how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the BWD's Representative.

## **29. Program of Work**

- 29.1 Within the time stated in the SCC, the Contractor shall submit to the BWD's Representative for approval a Program of Work showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 29.2 An update of the Program of Work shall show the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 29.3 The Contractor shall submit to the BWD's Representative for approval an updated Program of Work at intervals no longer than the period stated in the SCC 29.1. If the Contractor does not submit an updated Program of Work within this period, the BWD's Representative may withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program of Work has been submitted.
- 29.4 The BWD's Representative's approval of the Program of Work shall not alter the Contractor's obligations. The Contractor may revise the Program of Work and submit it to the BWD's Representative again at any time. A revised Program of Work shall show the effect of any approved Variations; and if allowed, any Compensation Event.
- 29.5 When the Program of Work is updated, the Contractor shall provide the BWD's Representative with an updated cash flow forecast.
- 29.6 All Variations shall be included in updated Program of Work produced by the Contractor.

## **30. Management Conferences**

- 30.1 Either the BWD's Representative or the Contractor may require the other to attend a Management Conference. The Management Conference shall review the plans for remaining work and deal with matters raised in accordance with the early warning procedure.
- 30.2 The BWD's Representative shall record the business of Management Conferences and provide copies of the record to those attending the Conference and to the BWD. The responsibility of the parties for actions to

be taken shall be decided by the BWD's Representative after the Management Conference and shall be stated in writing to all who attended the Conference.

### **31. Bill of Quantities**

- 31.1 The Bill of Quantities shall contain items of work for the construction, installation, testing, and commissioning of work to be done by the Contractor.
- 31.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.
- 31.3 If the final quantity of any work done differs from the quantity in the Bill of Quantities for the particular item and is not more than twenty five percent (25%) of the original quantity, provided the aggregate changes for all items do not exceed ten percent (10%) of the Contract price, the BWD's Representative shall make the necessary adjustments to allow for the changes subject to applicable laws, rules, and regulations.
- 31.4 If requested by the BWD's Representative, the Contractor shall provide the BWD's Representative with a detailed cost breakdown of any rate in the Bill of Quantities.

### **32. Instructions, Inspections and Audits**

- 32.1 The BWD's personnel shall at all reasonable times during construction of the Work be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of the construction.
- 32.2 If the BWD's Representative instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no defect, the test shall be a Compensation Event.
- 32.3 The Contractor shall permit the BWD to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by BWD.

### **33. Identifying Defects**

- 33.1 The BWD's Representative shall check the Contractor's work and notify the Contractor of any defects that are found. Such checking shall not affect the Contractor's responsibilities. The BWD's Representative may instruct the Contractor to search uncover defects and test any work that the BWD's Representative considers below standards and defective.

### **34. Cost of Repairs**

- 34.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Liability Period shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

### **35. Correction of Defects**

- 35.1 The BWD's Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which begins at Completion

Date up to final acceptance by the BWD, unless otherwise specified in the **SCC**. The Defects Liability Period shall be extended for as long as defects remain to be corrected.

- 35.2 Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified in the BWD's Representative's notice.
- 35.3 The Contractor shall correct the defects which he notices himself before the end of the Defects Liability Period.
- 35.4 The BWD shall certify that all defects have been corrected. If the BWD considers that correction of a defect is not essential, he can request the Contractor to submit a quotation for the corresponding reduction in the Contract Price. If the BWD accepts the quotation, the corresponding change is a Variation.

### **36. Uncorrected Defects**

- 36.1 The BWD shall give the Contractor at least fourteen (14) days' notice of his intention to use a third party to correct a Defect. If the Contractor does not correct the Defect himself within the period, the BWD may have the Defect corrected by the third party. The cost of the correction will be deducted from the Contract Price.
- 36.2 The use of a third party to correct defects that are uncorrected by the Contractor will in no way relieve the Contractor of its liabilities and warranties under the Contract.

### **37. Advance Payment**

- 37.1 The BWD shall, upon a written request of the contractor which shall be submitted as a contract document, make an advance payment to the contractor in an amount not to exceed fifteen percent (15%) of the total contract price, to be made in lump sum or, at the most two, installments the schedule of which shall be indicated in the contract.
- 37.2 The advance payment shall be made only upon the submission to and acceptance by the BWD of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee or a surety bond callable upon demand, issued by a surety or insurance company duly licensed by the Insurance Commission and confirmed by the BWD.
- 37.3 The advance payment shall be repaid by the Contractor by deducting a percentage equal to that used for the advance payment from periodic progress payments to be made to the Contractor.
- 37.4 The contractor may reduce his standby letter of credit or guarantee instrument by the amounts refunded by the Monthly Certificates in the advance payment.

### **38. Progress Payments**

- 38.1 The Contractor may submit a request for payment for Work accomplished. Such request for payment shall be verified and certified by the BWD's Representative. Except as otherwise stipulated in the **SCC**, materials and equipment delivered on the site but not completely put in place shall not be included for payment.

- 38.2 The BWD shall have the right to deduct from the Contractor's progress billing such amount as may be necessary to cover third party liabilities, as well as uncorrected discovered defects in the project.
- 38.3 Payments shall be adjusted by deducting therefore the amounts for advance payments and retention. The BWD shall pay the Contractor the amounts certified by the BWD's Representative within twenty-eight (28) days from the date each certificate was issued. Unless otherwise indicated in the **SCC**, no payment of interest for delayed payments and adjustments shall be made by the BWD.
- 38.4 Items of the Works for which a price of "0" (zero) has been entered will not be paid for by the BWD and shall be deemed covered by other rates and prices in the Contract.

### **39. Payment Certificates**

- 39.1 The Contractor shall submit to the BWD's Representative monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 39.2 The BWD's Representative shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.
- 39.3 The value of Work executed shall:
  - a. be determined by the BWD's Representative;
  - b. comprise the value of the quantities of the items in the Bill of Quantities completed; and
  - c. include the valuations of approved variations.
- 39.4 The BWD's Representative may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

### **40. Retention**

- 40.1 The BWD shall retain from each payment due to the Contractor an amount equal to ten percent (10%) of the contract price.
- 40.2 Progress payments are subject to retention of ten percent (10%) referred to as the "retention money." Such retention shall be based on the total amount due to the Contractor prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of Works, as determined by the BWD, are completed. If, after fifty percent (50%) completion, the Work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall again be imposed using the rate specified therefore.
- 40.3 The total "retention money" shall be due for release upon final acceptance of the Works. The Contractor may, however, request the substitution of the retention money for each progress billing with irrevocable standby letters of credit from a commercial bank, bank guarantees or surety bonds callable on demand, of amounts equivalent to the retention money substituted for and acceptable to the BWD, provided that the project is on schedule and is

satisfactorily undertaken. Otherwise, the percentage retained shall be made. Said irrevocable standby letters of credit, bank guarantees and/or surety bonds, to be posted in favor of the BWD shall be valid for a duration to be determined by LWUA or BWD and will answer for the purpose for which the retention is intended, *i.e.*, to cover uncorrected discovered defects and third-party liabilities.

- 40.4 On completion of the whole Works, the Contractor may substitute retention money with an “on demand” Bank guarantee in a form acceptable to the BWD.

## **41. Variation Orders**

- 41.1 Variation Orders may be issued by the BWD to cover any increase/decrease in quantities, including the introduction of new work items that are not included in the original contract or reclassification of work items that are either due to change of plans, design or alignment to suit actual field conditions resulting in disparity between the preconstruction plans used for purposes of bidding and the “as staked plans” or construction drawings prepared after a joint survey by the Contractor and the BWD after award of the contract, provided that the cumulative amount of the Variation Order does not exceed ten percent (10%) of the original project cost. The addition/deletion of Works should be within the general scope of the project as bid and awarded. A Variation Order may either be in the form of a Change Order or Extra Work Order.
- 41.2 A Change Order may be issued by the BWD’s representative to cover any increase/decrease in quantities of original Work items in the contract.
- 41.3 An Extra Work Order may be issued by the BWD’s representative to cover the introduction of new work necessary for the completion, improvement or protection of the project which were not included as items of Work in the original contract, such as, where there are subsurface or latent physical conditions at the site differing materially from those indicated in the contract, or where there are duly unknown physical conditions at the site of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the Work or character provided for in the contract.
- 41.4 Any cumulative Variation Order beyond ten percent (10%) shall be subject of another contract to be bid out if the works are separable from the original contract. In exceptional cases where it is urgently necessary to complete the original scope of work, the Head of the BWD may authorize the Variation Order beyond ten percent (10%) but not more than twenty percent (20%) subject to the guidelines to be determined by the GPPB: *Provided, however*, That appropriate sanctions shall be imposed on the designer, consultant or official responsible for the original detailed engineering design which failed to consider the Variation Order beyond ten percent (10%).
- 41.5 In claiming for any Variation Order, the Contractor shall, within seven (7) calendar days after such work has been commenced or after the circumstances leading to such condition(s) leading to the extra cost, and within twenty-eight (28) calendar days deliver a written communication giving full and detailed particulars of any extra cost in order that it may be investigated at that time. Failure to provide either of such notices in the time stipulated shall constitute a waiver by the contractor for any claim. The preparation and submission of Variation Orders are as follows:



- a. If the BWD's representative believes that a Change Order or Extra Work Order should be issued, he shall prepare the proposed Order accompanied with the notices submitted by the Contractor, the plans therefore, his computations as to the quantities of the additional works involved per item indicating the specific stations where such works are needed, the date of his inspections and investigations thereon, and the log book thereof, and a detailed estimate of the unit cost of such items of work, together with his justifications for the need of such Change Order or Extra Work Order, and shall submit the same to the BWD's Representative.
- b. The BWD's Representative, upon receipt of the proposed Change Order or Extra Work Order shall immediately instruct the technical staff of the BWD to conduct an on-the-spot investigation to verify the need for the Work to be prosecuted. A report of such verification shall be submitted directly to the BWD's Representative.
- c. The BWD's Representative, after being satisfied that such Change Order or Extra Work Order is justified and necessary, shall review the estimated quantities and prices and forward the proposal with the supporting documentation to the Head of BWD or its duly authorized official for consideration.
- d. If, after review of the plans, quantities and estimated unit cost of the items of work involved and the Internal Audit of BWD recommends approval thereof, the BWD's Representative, believing the Change Order or Extra Work Order to be in order and taking into consideration the recommendation, shall approve the same.
- e. The timeframe for the processing of Variation Orders from the preparation up to the approval by the Head of the BWD, or its duly authorized official shall not exceed thirty (30) calendar days.

## **42. Contract Completion**

- 42.1 Once the project reaches an accomplishment of ninety-five (95%) of the total contract amount, the BWD may create an inspectorate team to make preliminary inspection and submit a punch-list to the Contractor in preparation for the final turnover of the project. Said punch-list will contain, among others, the remaining Works, Work deficiencies for necessary corrections, and the specific duration/time to fully complete the project considering the approved remaining contract time. This, however, shall not preclude the claim of the BWD for liquidated damages.

## **43. Suspension of Work**

- 43.1 The BWD shall have the authority to suspend the work wholly or partly by written order for such period as may be deemed necessary, due to *force majeure* or for failure on the part of the Contractor to correct bad conditions which are unsafe for workers or for the general public, to carry out valid orders given by the BWD or to perform any provisions of the contract, or due to adjustment of plans to suit field conditions as found necessary during construction. The Contractor shall immediately comply with such order to suspend the work wholly or partly.
- 43.2 The Contractor or its duly authorized representative shall have the right to suspend work operation on any or all projects/activities along the critical path

of activities after fifteen (15) calendar days from date of receipt of written notice from the Contractor to the BWD's representative, as the case may be, due to the following:

- a. There exist right-of-way problems which prohibit the Contractor from performing work in accordance with the approved construction schedule.
- b. Requisite construction plans which must be owner-furnished are not issued to the contractor precluding any work called for by such plans.
- c. Peace and order conditions make it extremely dangerous, if not possible, to work. However, this condition must be certified in writing by the Philippine National Police (PNP) station which has responsibility over the affected area and confirmed by the Department of Interior and Local Government (DILG) Regional Director.
- d. There is failure on the part of the BWD to deliver government-furnished materials and equipment as stipulated in the contract.
- e. Delay in the payment of Contractor's claim for progress billing beyond forty-five (45) calendar days from the time the Contractor's claim has been certified to by the BWD's representative that the documents are complete unless there are justifiable reasons thereof which shall be communicated in writing to the Contractor.

- 43.3 In case of total suspension, or suspension of activities along the critical path, which is not due to any fault of the Contractor, the elapsed time between the effective order of suspending operation and the order to resume work shall be allowed the Contractor by adjusting the contract time accordingly.

#### **44. Payment on Termination**

- 44.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the BWD's Representative shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the BWD exceeds any payment due to the Contractor, the difference shall be a debt payable to the BWD.
- 44.2 If the Contract is terminated for the BWD's convenience or because of a fundamental breach of Contract by the BWD, the BWD's Representative shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.
- 44.3 The net balance due shall be paid or repaid within twenty-eight (28) days from the notice of termination.
- 44.4 If the Contractor has terminated the Contract under **GCC** Clauses 16 or 17, the BWD shall promptly return the Performance Security to the Contractor.

## **45. Extension of Contract Time**

- 45.1 Should the amount of additional work of any kind or other special circumstances of any kind whatsoever occur such as to fairly entitle the contractor to an extension of contract time, the BWD shall determine the amount of such extension; provided that the BWD is not bound to take into account any claim for an extension of time unless the Contractor has, prior to the expiration of the contract time and within thirty (30) calendar days after such work has been commenced or after the circumstances leading to such claim have arisen, delivered to the BWD notices in order that it could have investigated them at that time. Failure to provide such notice shall constitute a waiver by the Contractor of any claim. Upon receipt of full and detailed particulars, the BWD shall examine the facts and extent of the delay and shall extend the contract time completing the contract work when, in the BWD's opinion, the findings of facts justify an extension.
- 45.2 No extension of contract time shall be granted the Contractor due to (a) ordinary unfavorable weather conditions and (b) inexcusable failure or negligence of Contractor to provide the required equipment, supplies or materials.
- 45.3 Extension of contract time may be granted only when the affected activities fall within the critical path of the PERT/CPM network.
- 45.4 No extension of contract time shall be granted when the reason given to support the request for extension was already considered in the determination of the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract perfection.
- 45.5 Extension of contract time shall be granted for rainy/unworkable days considered unfavorable for the prosecution of the works at the site, based on the actual conditions obtained at the site, in excess of the number of rainy/unworkable days pre-determined by the BWD in relation to the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract perfection, and/or for equivalent period of delay due to major calamities such as exceptionally destructive typhoons, floods and earthquakes, and epidemics, and for causes such as non-delivery on time of materials, working drawings, or written information to be furnished by the BWD, non-acquisition of permit to enter private properties within the right-of-way resulting in complete polarization of construction activities, and other meritorious causes as determined by the BWD's Representative and approved by the Head of the BWD. Shortage of construction materials, general labor strikes, and peace and order problems that disrupt construction operations through no fault of the Contractor may be considered as additional grounds for extension of contract time provided, they are publicly felt and certified by appropriate government agencies such as DTI, DOLE, DILG, and DND, among others. The written consent of bondsmen must be attached to any request of the Contractor for extension of contract time and submitted to the BWD for consideration and the validity of the Performance Security shall be correspondingly extended.

## **46. Price Adjustment**

Except for extraordinary circumstances as determined by NEDA and approved by the GPPB, no price adjustment shall be allowed unless otherwise specified in the **SCC**.

## **47. Completion**

- 47.1 The Contractor shall request the BWD's Representative to issue a Certificate of Completion of the Works, and the BWD's Representative will issue if the works are, to the satisfaction of BWD, indeed complete.

## **48. Taking Over**

- 48.1 The BWD shall take over the Site and the Works within seven (7) days from the date the BWD's Representative issues a certificate of Completion.

## **49. Operating and Maintenance Manuals**

- 49.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the **SCC**.
- 49.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the **SCC**, or they do not receive the BWD's Representative's approval, the BWD's Representative shall withhold the amount stated in the **SCC** from payments due to the Contractor.

# Section IV. Special Conditions of Contract

## Special Conditions of Contract

GCC Clause	
1.20	Intended Completion Date shall be 68 calendar days from the actual start of the project
1.4	The Procuring Entity is <b>Baguio Water District, Purok 3, Brgy. Marcoville, Baguio City.</b>
1.5	The <b>BWD’s Representative</b> is <b>ENGR. SALVADOR M. ROYECA, General Manager, Baguio Water District.</b>
1.25	The <b>Site</b> is located at <b>ZIGZAG KENNON RD., CAMP 7, BAGUIO CITY</b>
1.29	<b>The Start Date is within 5 days upon receipt of NTP.</b>
1.32	The <b>Works</b> consist of Drilling of Well at the site mentioned in GCC Clause 1.25.
6.1	The type of materials and/or equipment proposed to be purchased, supplied and used by the Contractor shall be first approved by BWD and shall not be substituted anytime during the entire duration of the Contract except only in meritorious cases as may be permitted and duly approved by BWD.
2.2	No sectional completion is allowed/required.
11	BWD shall, if requested by the Contractor, assist him in applying for permits, licenses or approvals, which are required for the Works.
7.1	<p>At the Contractor’s option the performance security is to be in any of the following form:</p> <p>a) cash or cashier’s or manager’s check issued by a Universal or Commercial Bank: 10%</p> <p>b) bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided however that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank: 10%</p> <p>c) surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security: 30%</p> <p>The performance security shall be posted in favor of BWD and released to the Contractor after the issuance of Certificate of Completion of the contract, provided that there are no claims for labor filed against the Contractor or the surety company.</p>
9.1	<p>Where the Contractor refuses or fails to satisfactorily complete the work within the specified contract time, plus any time extension duly granted and is in default under the contract, the Contractor shall pay the District liquidated damages, and not by way of penalty, an amount to be determined in accordance with the following formula (Section 68, RA 9184) until the work is completed and accepted or taken over by BWD:</p> <p><b>LD = 1/10 x 1% x TDD x CWI</b>  <b>WHERE:</b></p>

	LD = Liquidated Damages, in Pesos TDD = Total number of days delay CWI = Cost of the work item as per contract, in Pesos
20.1	The Arbiter for purposes of complementing GCC Clause 1.2, as appointed by BWD and the Bidder is CIAP.
27.1	Dayworks are applicable at the rate shown in the Contractor's original Bid.
29.1	The Contractor shall submit the Program of Work (PERT-CPM and Bar Chart) to the BWD's Representative within <b>15</b> days of delivery of the Letter of Acceptance.
1.8	The Funding Source is <b>BWD</b> .
37.1	The amount of the advance payment is <b>15% of the Contract Price</b> to be released to the Contractor upon submittal of all required documents.

## Section V. Bill of Quantities

WORK ITEM	DAYS	QTY	COST
<b>PHASE I</b>			
1. Mobilization of equipment, staff & accessories to project site	2	1 lot	
2. Billboard (Fabrication and Installation, 2 pieces)	1	1 lot	
3. Preparation of site and setting up of all equipment (Preparatory works for collar hole, Temfacil, foundation and mud pit canals)	2	1 lot	
4. Drilling of collar hole 17-1/2“Ø and installation of 400mmØ permanent conductor casing	10	6 m	
5. Drilling of 15” Ø(375mmØ) pilot hole using <b>Down the Hole Hammer Method</b> from 6m to 150m (Incl. reaming)	37	144 m	
<b>PHASE II</b>			
1. Geophysical borehole logging (Electric resistivity and spontaneous potential).	1	1 lot	
2. Furnishing of 250mm nominal diameter BI/Spiral welded steel casing with a min. thickness of 6mm including one (1) meter stick up pipe	-	115 m	
3. Furnishing of 250mm nominal diameter stainless steel well casing continuous slot wedge wire wound screen, slot size 1.5mm (size will depend on the result of logging)	-	<i>To be provided by BWD</i>	
4. Perforation of 250mm spiral welded casing (torch)	1	48 m	
5. Installation of casings and screens	2	151 m	
6. Furnishing and installation of 50mm x 18m G.I. gravel fill pipe and gravel packing at annulus around casing	2	135 m	
7. Well development by air lifting, 12 hours.	1	1 lot	
8. Step Draw down Pumping Test with four steps at one-hour duration each step carried out in succession with discharge rate increasing in equal fraction of expected maximum discharge.	1	1 lot	
9. Continuous constant discharge rate pumping test, 72 hours.	4	1 lot	
10. Cement grouting of annulus around 250mm casing	1	15 m	
11. Furnishing and installation of well head cap and 37.5 mm sounding tube with screw cap	1	1 lot	
12. Demobilization and cleanup of well site and restoration of removed fence	2	1 lot.	

# Section VI. Forms and Qualification Information

## Form of Bid Security (Bank Guarantee)

WHEREAS, *[insert name of Bidder]* (hereinafter called the “Bidder”) has submitted his bid dated *[insert date]* for the Drilling of Zigzag Production Well at Kennon Rd., Baguio City (hereinafter called the “Bid”).

KNOW ALL MEN by these presents that We *[insert name of Bank]* of *[insert name of Country]* having our registered office at *[insert address]* (hereinafter called the “Bank” are bound unto the Baguio Water District (hereinafter called the “Entity”) in the sum of *[insert amount]*<sup>1</sup> for which payment well and truly to be made to the said Entity the Bank binds himself, his successors and assigns by these presents.

SEALED with the Common Seal of the said Bank this \_\_\_\_ day of 20.

THE CONDITIONS of this obligation are:

- 1. If the Bidder:
  - (a) withdraws his Bid during the period of bid validity specified in the Form of Bid; or
  - (b) does not accept the correction of arithmetical errors of his bid price in accordance with the Instructions to Bidder; or
- 2. If the Bidder having been notified of the acceptance of his bid by the Entity during the period of bid validity:
  - (a) fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidders, if required; or
  - (b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders.

We undertake to pay to the Entity up to the above amount upon receipt of his first written demand, without the Entity having to substantiate his demand, provided that in his demand the Entity will note that the amount claimed by him is due to him owing to the occurrence of one or both of the two (2) conditions, specifying the occurred condition or conditions.

The Guarantee will remain in force up to and including the date 120 days after the deadline for submission of Bids as such deadline is stated in the Instructions to Bidders or as it may be extended by the Entity, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.

DATE \_\_\_\_\_ SIGNATURE OF THE BANK

WITNESS \_\_\_\_\_ SEAL

(Signature, Name and Address)

<sup>1</sup> The Bidder should insert the amount of the guarantee in words and figures, denominated in Philippine Peso. This figure should be the same as shown in the Instructions to Bidders.



Qualification Information

NOTES:

The information to be filled in by Bidders in the following pages will be used for purposes of qualification as provided for in Part I. This information will not be incorporated in the Contract. Attach additional pages as necessary.

1. Individual Bidders or Individual Members of Joint Ventures, if applicable

1.1 Constitution or legal status of Bidder: [attach copy]

Place of registration: [insert]

Principal place of business: [insert]

Power of attorney of signatory of Bid: [attach]

1.2\* Total annual volume of construction work performed in the past five years as listed in the Eligibility Data Sheet, reflected using the currency specified for the Bid.

Annual turnover data (construction only)	
Year	Turnover in (specified currency)
1.	
2.	
3.	
4.	
5.	

1.3 Work performed as prime contractor on works of a similar nature and volume over the last ten years. Proof of completion, e.g. Certificate of Completion signed by the Employer or Owner, shall be submitted. Also list details of work under way or committed, including expected completion date.

Project Name and Country	Name of Employer and contact person	Type of work performed and year of completion	Total Value of Contract (in specified currency)
1.			
2.			

1.4 Major items of contractor’s Equipment proposed for carrying out the Works. List all information requested below.

Item of equipment	Description, make, and age (years)	Owned, leased (from whom?), or to be purchased (from whom?)
1. [Employer to specify]		
2.		
3.		

1.5\* Qualifications and experience of Project Manager proposed for administration and execution of the Contract. Attach bio-data.

Name (primary candidate and alternate)	Years of experience in similar works	Years of experience as Contract Manager
1.		
2.		

1.6\* Financial statements for the last five (5) years. Attach audited financial statements.

1.7 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attaché copies of support documents.

Source of financing	Amount in (specified currency)
1.	
2.	
3.	

1.8 Name, address, and telephone and facsimile numbers of banks that may provide references if contacted by the BWD.

1.9 Proposed Program of Work (work method and schedule). Attach descriptions, drawings and charts, as necessary, to comply with the requirements of the Bidding Documents.

**2. Joint Ventures\***

2.1 The information listed in 1.1 - 1.9 above shall be provided for each partner of the joint venture.

2.2 Attach the power(s) of attorney of the signatory(ies) of the Bid authorizing signature of the Bid on behalf of the joint venture.

2.3 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

- (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- (b) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
- (c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

**Form of Performance Security (Bank Guarantee)**

To:     Baguio Water District  
          No. 003, Purok BWD, Brgy. Marcoville, Baguio City

WHEREAS, *[name and address of contractor]* (hereinafter called the “Contractor”) has undertaken, in pursuance of Contract to execute the Drilling of Zigzag Production Well at Kennon Rd., Camp 7, Baguio City (hereinafter called the “Contract”);

AND WHEREAS, it has been stipulated by you in the said Contract that the contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS, we have agreed to give the contractor such a Bank Guarantee;

NOW THEREFORE, we hereby affirm that we are the Guarantor and responsible to you, on behalf of the contractor, up to a total of *[insert amount of Guarantee in numbers and in words]*<sup>2</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of *[amount of Guarantee]* as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of demand of the said debt from the contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between you and the contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall be valid until a date twenty-eight (28) days from the date of issue of the Certificate of Completion.

Signature and seal of the Guarantor \_\_\_\_\_

Name of Bank \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

<sup>2</sup>       An amount is to be inserted by the Guarantor, representing the percentage of the Contract Price specified in the Contract, and denominated in Philippine Peso.

**Bank Guarantee for Advance Payment**

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To:     Baguio Water District  
          No. 003, Purok BWD, Brgy. Marcoville  
          Baguio City

Gentlemen:

In accordance with the provisions of the **GCC** Clause 32 of the above-mentioned Contract, *[name and address of contractor]* (hereinafter called “the contractor”) shall deposit with BWD a Bank Guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of *[amount of Guarantee] [amount in words]*<sup>3</sup>

We, the *[Bank or Financial Institution]*, as instructed by the contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to BWD on his first demand without whatsoever right of objection on our part and without his first claim to the contractor, in the amount not exceeding *[amount of Guarantee] [amount in words]*<sup>4</sup>

We further agree that no change or addition to or other modification of the terms of the Contract or of Works to be performed there under or of any of the Contract documents which may be made between BWD and the contractor, shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until BWD receives full repayment of the same amount from the contractor.

Yours truly,

Signature and seal:

Name of Bank/Financial Institution:

Address:

Date:

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<sup>3</sup>       An amount is to be inserted by the Bank or Financial Institution representing the amount of the Advance Payment, and denominated in the specified currency of the Advance Payment as specified in the Contract.

<sup>4</sup>       An amount is to be inserted by the Bank or Financial Institution representing the amount of the Advance Payment, and denominated in the specified currency of the Advance Payment as specified in the Contract.

Affidavit of Disclosure of No Relationship

[See ITB Clause 3.2 of the Bidding Documents]

I, [name of the affiant],[state nationality], of legal age, [state status], after having been duly sworn in accordance with law, do hereby depose and state that:

- 1. I am the authorized representative of [insert name of Bidder] with office address at [insert address] an established and reputable Constructor of [insert name and/or description of the Works] for the bidding of the Drilling of Zigzag Production Well at Kennon Rd., Camp 7, Baguio City (hereinafter referred to as the “BWD”);
- 2. None of the [officers / directors / controlling stockholders / members / owners] of the [name of the Bidder] are related by consanguinity or affinity up to the third civil degree to the Head of the BWD or any of the BWD’s officers or employees having direct access to information that may substantially affect the result of the bidding, such as, but not limited to, the members of the Bids and Awards Committee (BAC), the members of the Technical Working Group (TWG), the BAC Secretariat, the members of the Project Management Office (PMO), and the designers of the project.
- 3. I am making this statement in compliance with Section 47 of the Implementing Rules and Regulations Part A of Republic Act 9184, and in accordance with the requirements of the BWD
- 4. I understand and accept that any false statement in this respect will render [name of the Bidder], and its authorized officers liable for prosecution to the full extent of the law.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, in the City of \_\_\_\_\_, Philippines.

\_\_\_\_\_  
Affiant

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, Philippines.

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

Doc. No. \_\_\_\_\_;  
Page No. \_\_\_\_\_;  
Book No. \_\_\_\_\_;  
Series of 20\_\_\_\_\_.

**Bid Form**

Date: \_\_\_\_\_  
IB<sup>5</sup> N°: \_\_\_\_\_

To: *[name and address of PROCURING ENTITY]*  
Address: *[insert address]*

We, the undersigned, declare that:

- (a) We have examined and have no reservation to the Bidding Documents, including Addenda, for the Contract *[insert name of contract]*;
- (b) We offer to execute the Works for this Contract in accordance with the Bid and Bid Data Sheet, General and Special Conditions of Contract accompanying this Bid;

The total price of our Bid, excluding any discounts offered below is: *[insert information]*;

The discounts offered and the methodology for their application are: *[insert information]*;

- (c) Our Bid shall be valid for a period of *[insert number]* days from the date fixed for the Bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (d) If our Bid is accepted, we commit to obtain a Performance Security in the amount of *[insert percentage amount]* percent of the Contract Price for the due performance of the Contract;
- (e) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from the following eligible countries: *[insert information]*;
- (f) We are not participating, as Bidders, in more than one Bid in this bidding process, other than alternative offers in accordance with the Bidding Documents;
- (g) Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the Contract, has not been declared ineligible by the Funding Source;
- (h) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed; and
- (i) We understand that you are not bound to accept the Lowest Calculated Bid or any other Bid that you may receive.
- (j) **We likewise certify/confirm that the undersigned, is the duly authorized representative of the bidder, and granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for the *[Name of Project]* of the *[Name of the Procuring Entity]*.**
- (k) **We acknowledge that failure to sign each and every page of this Bid Form, including the Bill of Quantities, shall be a ground for the rejection of our bid.**

<sup>5</sup> If ADB, JICA and WB funded projects, use IFB.

Name: \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Signed: \_\_\_\_\_

Duly authorized to sign the Bid for and on behalf of: \_\_\_\_\_

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

## Omnibus Sworn Statement

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REPUBLIC OF THE PHILIPPINES )  
CITY/MUNICIPALITY OF \_\_\_\_\_ ) S.S.

### AFFIDAVIT

I, [Name of Affiant], of legal age, [Civil Status], [Nationality], and residing at [Address of Affiant], after having been duly sworn in accordance with law, do hereby depose and state that:

**1. Select one, delete the other:**

*If a sole proprietorship:* I am the sole proprietor or authorized representative of [Name of Bidder] with office address at [address of Bidder];

*If a partnership, corporation, cooperative, or joint venture:* I am the duly authorized and designated representative of [Name of Bidder] with office address at [address of Bidder];

**2. Select one, delete the other:**

*If a sole proprietorship:* As the owner and sole proprietor or authorized representative of [Name of Bidder], I have full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for [Name of the Project] of the [Name of the Procuring Entity] [insert “as shown in the attached duly notarized Special Power of Attorney” for the authorized representative];

*If a partnership, corporation, cooperative, or joint venture:* I am granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for [Name of the Project] of the [Name of the Procuring Entity], accompanied by the duly notarized Special Power of Attorney, Board/Partnership Resolution, or Secretary’s Certificate, whichever is applicable;

3. [Name of Bidder] is not “blacklisted” or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board, by itself or by relation, membership, association, affiliation, or controlling interest with another blacklisted person or entity as defined and provided for in the Uniform Guidelines on Blacklisting;

4. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;

5. [Name of Bidder] is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;

**6. Select one, delete the rest:**

*If a sole proprietorship:* The owner or sole proprietor is not related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;



*If a partnership or cooperative:* None of the officers and members of [Name of Bidder] is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

*If a corporation or joint venture:* None of the officers, directors, and controlling stockholders of [Name of Bidder] is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

7. [Name of Bidder] complies with existing labor laws and standards; and
8. [Name of Bidder] is aware of and has undertaken the following responsibilities as a Bidder:
  - a) Carefully examine all of the Bidding Documents;
  - b) Acknowledge all conditions, local or otherwise, affecting the implementation of the Contract;
  - c) Made an estimate of the facilities available and needed for the contract to be bid, if any; and
  - d) Inquire or secure Supplemental/Bid Bulletin(s) issued for the [Name of the Project].
9. [Name of Bidder] did not give or pay directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.
10. In case advance payment was made or given, failure to perform or deliver any of the obligations and undertakings in the contract shall be sufficient grounds to constitute criminal liability for Swindling (Estafa) or the commission of fraud with unfaithfulness or abuse of confidence through misappropriating or converting any payment received by a person or entity under an obligation involving the duty to deliver certain goods or services, to the prejudice of the public and the government of the Philippines pursuant to Article 315 of Act No. 3815 s. 1930, as amended, or the Revised Penal Code.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_, 20\_\_ at \_\_\_\_\_, Philippines.

\_\_\_\_\_  
Bidder's Representative/Authorized Signatory

**SUBSCRIBED AND SWORN** to before me this \_\_\_\_ day of [month] [year] at [place of execution], Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her [insert type of government identification card used], with his/her photograph and signature appearing thereon, with no. \_\_\_\_\_ and his/her Community Tax Certificate No. \_\_\_\_\_ issued on \_\_\_\_ at \_\_\_\_.

Witness my hand and seal this \_\_\_\_ day of [month] [year].

**NAME OF NOTARY PUBLIC**

Serial No. of Commission \_\_\_\_\_

Notary Public for \_\_\_\_\_ until \_\_\_\_\_

Roll of Attorneys No. \_\_\_\_\_

PTR No. \_\_\_\_\_ *[date issued], [place issued]*

IBP No. \_\_\_\_\_ *[date issued], [place issued]*

Doc. No. \_\_\_\_\_

Page No. \_\_\_\_\_

Book No. \_\_\_\_\_

Series of \_\_\_\_\_

REPUBLIC OF THE PHILIPPINES )  
CITY OF \_\_\_\_\_ ) S.S.  
X-----X

**BID-SECURING DECLARATION**  
Project Identification No.: [Insert number]

To: *[Insert name and address of the Procuring Entity]*

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Bid Security, which may be in the form of a Bid-Securing Declaration.
2. I/We accept that: (a) I/we will be automatically disqualified from bidding for any procurement contract with any procuring entity for a period of two (2) years upon receipt of your Blacklisting Order; and, (b) I/we will pay the applicable fine provided under Section 6 of the Guidelines on the Use of Bid Securing Declaration, within fifteen (15) days from receipt of the written demand by the procuring entity for the commission of acts resulting to the enforcement of the bid securing declaration under Sections 23.1(b), 34.2, 40.1 and 69.1, except 69.1(f), of the IRR of RA No. 9184; without prejudice to other legal action the government may undertake.
3. I/We understand that this Bid-Securing Declaration shall cease to be valid on the following circumstances:
  - (a) Upon expiration of the bid validity period, or any extension thereof pursuant to your request;
  - (b) I am/we are declared ineligible or post-disqualified upon receipt of your notice to such effect, and (i) I/we failed to timely file a request for reconsideration or (ii) I/we filed a waiver to avail of said right;
  - (c) I am/we are declared as the bidder with the Lowest Calculated and Responsive Bid/Highest Rated and Responsive Bid, and I/we have furnished the performance security and signed the Contract.

**IN WITNESS WHEREOF**, I/We have hereunto set my/our hand/s this \_\_\_\_ day of *[month]* *[year]* at *[place of execution]*.

***[Insert NAME OF BIDDER’S AUTHORIZED REPRESENTATIVE] [Insert signatory’s legal capacity]***

Affiant

**SUBSCRIBED AND SWORN** to before me this \_\_ day of *[month]* *[year]* at *[place of execution]*, Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her *[insert type of government identification card used]*, with his/her photograph and signature appearing thereon, with no. \_\_\_\_\_ and his/her Community Tax Certificate No. \_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_.

Witness my hand and seal this \_\_ day of *[month]* *[year]*.

Doc. No. \_\_\_\_  
Page No. \_\_\_\_  
Book No. \_\_\_\_  
Series of \_\_\_\_.