

Request for Quotation 29248,1

Title **RFP29248 - IC2022A22 Consultant Inspection Services**
 Amendment Date **01-JUN-2022 12:36:21**
 Amendment Description **Updated Additional Instructions and Part IV SOW**

Preview Date **Not Specified** Open Date **01-JUN-2022 12:36:21**
 Close Date **27-JUN-2022 23:59:59** Award Date **Not Specified**
 Time Zone

Note **Suppliers To Download Parts I, II, and Appendix B, go to the top right corner and click on the arrow of the drop down menu and select "Printable View," then click "Go". This will download a PDF File which contains:**

Part I: Instructions to Bidders
Part II - Terms and Conditions
Appendix B - Insurance and bonding

The following items can be accessed via their respective Adobe PDF files:

Part I: Additional Instructions to Bidders (Updated via addenda no 1)

Part IV: Scope of Work (Updated via addenda no 1)

Appendix A - OSDI Requirements

Appendix C - Submission Forms

Exhibit A - Position Descriptions

Exhibit B - Inspection Support Services Pricing Page

Exhibit C - Accessing Online Portal - Online Discussion

Pre-bid Registration

Addendum no 1 - Updated Additional Instructions and Part IV SOW

Please submit your response to:

Company **Washington Suburban Sanitary Commission**
 Buyer **Song, Nola**
 Location **Washington Suburban Sanitary Commission**
14501 Sweitzer Lane
Laurel, MD
United States
 Phone **Not Specified**
 Email **Nola.Song@wsscwater.com**

When submitting your response, please include the following information.

Your Company Name	
Address	
Contact Details	
Response Valid Until	

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1 Header Information

1.1 General Information

Title **RFP29248 - IC2022A22 Consultant Inspection Services**

Description **It is the intent of the Washington Suburban Sanitary Commission (Commission) to establish a Contract for Professional Services. The Consultant shall provide contractor personnel in the Commission's Pipeline Construction Division (PCD), and/or other areas as requested by WSSC, who meet the Job Description requirements for the position classifications listed below:**

- **Inspector I**
- **Inspector II**
- **Paving Inspector**
- **Contract Manager**
- **Compaction Inspector**
- **House Connection Specialist**

Deadline for questions June 17, 2022 at 2:00 PM via Online discussions.

Amendment Date **01-JUN-2022 12:36:21**

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Preview Date **Not Specified** Open Date **01-JUN-2022 12:36:21**

Close Date **27-JUN-2022 23:59:59** Award Date **Not Specified**

Time Zone Buyer **Song, Nola**

Quote Style **Blind** Email **Nola.Song@wsscwater.com**

Outcome **Standard Purchase Order**

Note Suppliers To Download Parts I, II, and Appendix B, go to the top right corner and click on the arrow of the drop down menu and select "Printable View," then click "Go". This will download a PDF File which contains:

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Part I: Additional Instructions to Bidders (Updated via addenda no 1)
 Part IV: Scope of Work (Updated via addenda no 1)
 Appendix A - OSDI Requirements
 Appendix C - Submission Forms
 Exhibit A - Position Descriptions
 Exhibit B - Inspection Support Services Pricing Page
 Exhibit C - Accessing Online Portal - Online Discussion
 Pre-bid Registration
 Addendum no 1 - Updated Additional Instructions and Part IV SOW

1.2 Terms

Ship-To Address **W0567
 14501,Sweitzer Lane,
 Laurel, MD 20707
 United States**

Bill-To Address **W0567
 14501,Sweitzer Lane,
 Laurel, MD 20707
 United States**

1.3 Attachments

Name	Data Type	Description
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Name	Data Type	Description
Part I - Additional Instructions to Bidders	File	Proposal submittal format
Addendum no 1	File	Revised Additional Instruction and Part IV Scope of Work
Part IV - Scope of Work	File	SOW
Exhibit C	File	Online Portal Instructions
Pre-bid Instructions	File	Pre-bid instructions and Registration
Appendix A	File	OSDI Requirement
Appendix C	File	Submission Forms
Exhibit A	File	Position Descriptions
Exhibit B - Pricing page	File	Excel pricing page

1.4 Response Rules

This negotiation is governed by all the rules displayed below.

- Negotiation is restricted to invited suppliers
- Suppliers are allowed to respond to selected lines
- Suppliers are required to respond with full quantity on each line
- Suppliers are allowed to provide multiple responses
- Buyer may close the negotiation before the Close Date
- Buyer may manually extend the negotiation while it is open

2 Price Schedule**2.1 Line Information**

Display Rank As **Win/Lose**
 Ranking **Price Only**
 Cost Factors **None**

Line	Item, Rev	Target Quantity	Unit	Response Quantity	Unit Price	Amount	Promised Date
1 Contractor Inspection Services		1	EAC H				

2.2 Line Details**2.2.1 Line 1 Contractor Inspection Services**

Category **54.541.541990** Start Price (USD) **Not Specified**
 Need-By Date **Not Specified** Target Price (USD) **Not Specified**
 Ship-To Address **W0567**
14501,Sweitzer Lane,
Laurel, MD 20707
United States

Contract Terms and Conditions

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Terms and Conditions

PART I

INSTRUCTIONS TO BIDDERS

1. COMPLIANCE WITH COMMISSION PROCUREMENT REGULATIONS

The Commission's Procurement Regulations, WSSC Code of Regulations, Title 6, Chapter 6.15, are incorporated into this Solicitation and made a part of this Solicitation by reference. The Procurement Regulations can be viewed online at <https://wssc.district.codes/Code/6.15>.

2. DEFINITIONS

Whenever the following words occur in these Instructions to Bidders/Offerors, they shall have the following meanings.

- (a) "Bidder" means any person submitting a bid in response to an invitation for bids ("IFB") or a request for quotations ("RFQ").
- (b) "Contract Documents" means all documents which are included, attached, or referenced in a Solicitation.
- (c) "Invitation for bids" ("IFB") means all documents, whether attached or incorporated by reference, utilized for soliciting bids.
- (d) "Invitation for prequalification" ("IFP") means all documents, whether attached or incorporated by reference, utilized for prequalifying potential bidders.
- (e) "Offeror" means any person submitting a proposal to a request for proposals ("RFP") or invitation for prequalification ("IFP").
- (f) "Request for proposals" ("RFP") means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- (g) "Responsible" means a person who has the capability in all respects to perform fully the requirements stated in the invitation for bids and request for proposals, respectively, and the integrity and reliability which will assure good faith performance.
- (h) "Responsive" means a person who has submitted a bid or a proposal which fully conforms to the invitation for bids or request for proposals.
- (i) "Solicitation" means an invitation for bids, a request for proposals, a request for quotations, an invitation for pre-qualification, or any other document issued by WSSC for the purpose of soliciting bids or proposals to perform a WSSC contract.

3. WSSC'S SUPPLIER PORTAL SYSTEM

Bidders/Offerors are required to register in WSSC's Supplier Portal System in accordance with WSSC Code of Regulations, Title 6, Chapter 6.25, at the time of bid opening or proposal submission due dates. Failure to have an active supplier profile prior to this time may render the bid or proposal non-responsive. Information regarding the Supplier Portal System can be found online at <https://wssc.district.codes/Code/6.25> and www.wsscwater.com.

4. EXPLANATION OF CONTRACT DOCUMENTS TO PROSPECTIVE BIDDERS/OFFERORS

Any prospective Bidder/Offeror must carefully examine the Solicitation. If a prospective Bidder/Offeror is unclear as to the meaning or intent of any of the Contract Documents included in the Solicitation, the prospective Bidder/Offeror shall request a clarification from the Procurement Office before its bid/proposal is submitted.

All questions pertaining to the Solicitation or Contract Documents shall only be submitted by a Bidder/Offeror to the Procurement Officer identified in the Solicitation via the **Online Discussion feature in the Supplier Portal**. Questions submitted via email shall not be answered. Replies, where warranted, will be by addenda issued electronically to all parties who have downloaded the Solicitation. Questions received less than **ten (10) days** prior to the date for opening of bids or due date for receipt of proposals may not be answered. Only questions answered by formal written addenda will be binding. Questions received after this deadline may be addressed at the discretion of the Commission. Oral and other interpretations or clarifications will be without legal effect. Any information given to a prospective Bidder/Offeror by the Commission will be furnished to all prospective Bidders/Offerors via Online Discussion in the Supplier Portal.

Any information given to a prospective Bidder/Offeror by the Commission will be furnished to all prospective Bidders/Offerors.

5. SECURITY CLEARANCE REQUIRED FOR ACCESS TO PLANS AND DRAWINGS

In order to receive plans and drawings related to the Solicitation, a prospective Bidder's/Offeror's representative must first be approved through a security background investigation. The Bidder's/Offeror's representative can obtain an application for a security clearance by contacting WSSC's Procurement Office by phone, (301) 206-8288. Requests for plans and drawings can only be fulfilled for representatives having successfully completed the security investigation. Multiple representatives may gain security clearance to request plans and drawings.

Additionally, plans and drawings may be accessed through E-Builder® ASP software. A user name and password is issued by the Procurement Officer upon request. To obtain a user name and password for access, a Bidder's/Offeror's representative must first obtain a security clearance.

6. SUBMISSION OF BIDS (COMPETITIVE SEALED BIDDING)

(a) **Bid Forms**

Bids shall be submitted in accordance with the instructions in the Solicitation and shall be filled out in typewritten or written ink. If changes and erasures are made, such changes and erasures shall be clear and legible, and shall be initialed by the person signing the forms.

The bid forms may provide for submission of a price or prices for one or more items, which may be lump sum bids, alternate prices, and scheduled items resulting in a bid on a unit of construction or a combination thereof, or other bidding arrangements. Unless specifically called for, alternate bids will not

be considered.

Failure to submit a bid form or submitting an incomplete bid form with the bid may lead to the bid being deemed **non-responsive or non-responsible**.

(b) **Bid Submittals**

Bidders shall complete and submit any submittals required by the Solicitation with the bid. Failure to submit a submittal or submitting an incomplete submittal with the bid may lead to the bid being deemed **non-responsive or non-responsible**.

(c) **Bid Bond**

If the Solicitation requires a bid bond and a Bidder fails to submit a bid bond with the bid, the bid shall be deemed non-responsive.

(d) **Multiple Unit Prices**

No Bidder will be permitted to offer more than one price for each item identified in a bid form even though it believes it has two or more products that will meet the specifications in the Solicitation. If a Bidder submits more than one price for any item, all prices for that item may be rejected at the discretion of the Chief Procurement Officer. Further, the bid may be deemed non-responsive.

(e) **Bid Submittal Limit**

A Bidder may submit only one bid in response to a Solicitation. If a Bidder submit more than one bid, the bids will be rejected and deemed **non-responsive**.

(f) **Alternate Bid**

Unless alternate bids are specifically requested in the Solicitation, they will not be accepted. Alternate bids will be rejected and deemed **non-responsive**.

(g) **Conditional Bids**

If a Bidder submits a bid that requires the Commission to accept changes or additions to the Contract Documents, the bid will be rejected and deemed **non-responsive**.

(h) **Bid Signing**

Signing of a bid shall comply with instructions in bid forms.

(i) **Bid Delivery**

Bids shall be submitted on-line through the Commission's Supplier Portal.

A Bidder shall assume full responsibility for timely submission and only one bid may be submitted. Bid submittals shall contain an Electronic Copy of Original Bid documents. Electronic Copy Bid Submittal shall be submitted on the supplier portal in the Online Discussion.

Bids shall be submitted on the forms provided and must be signed by an authorized representative of the bidder. Bids submitted in any form other than as specified herein will be deemed non-responsive and will not be considered for award.

Bids shall be concise, yet sufficiently comprehensive to set forth the bidders understanding of the required services. Bids must be organized to the structure described in these Additional Instructions.

Any bid received after the exact time for receipt will be deemed non-responsive. The bid will not be considered for award. However, an exception may be made when a late bid would have been timely but for the action or inaction of the Commission.

7. SUBMISSION OF PROPOSALS (COMPETITIVE SEALED PROPOSALS)

(a) Form And Content Of A Proposal

The Solicitation will identify the required form and contents of a proposal. Failure to submit a proposal that meets the requirements of the Solicitation may lead to the proposal being deemed **non-responsive or non-responsible**.

(b) Proposal Delivery

The Solicitation will identify the time and manner in which a proposal shall be delivered to the Commission. Any proposal received after the exact time for receipt will be deemed **non-responsive**. The proposal will not be considered for award and will be returned to the Offeror unopened. However, an exception may be made when a late proposal would have been timely but for the action or inaction of the Commission. An Offeror assumes all risks for timely delivery of a bid.

8. ACKNOWLEDGMENT OF AMENDMENTS TO THE SOLICITATION

Each Bidder/Offeror shall acknowledge receipt of any amendment to the Solicitation in accordance with the instructions stated in the amendment or otherwise stated in the Solicitation. If a Bidder/Offeror fails to acknowledge the amendment prior to the deadline for submitting a bid or proposal, the bid or proposal may be deemed non-responsive.

9. WITHDRAWAL OF A BID (COMPETITIVE SEALED BIDDING)

Prior to the time and date set for bid opening, a Bidder may withdrawal a bid by providing written notice to the Procurement Office. The written notice must be received by the Procurement Officer prior to the time and date set for bid opening for it to be effective.

No Bidder may withdraw a bid within 120 days after the actual date of the opening of the bids. Negligence on the part of the Bidder in preparing the bid confers no right for the withdrawal of the bid after it has been opened. Should there be reasons why a contract cannot be awarded within the specific period, the time may be extended by mutual agreement between the Commission and the Bidder.

10. BID MODIFICATION, MISTAKES, AND MINOR INFORMALITIES (COMPETITIVE SEALED BIDDING)

(a) Mistakes in Bids Discovered Before Bid Opening

A Bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid.

(b) Mistakes Discovered After Bid Opening but Before Award

Mistakes in bids that are discovered after the time and date set for bid opening but before award shall be resolved as follows:

- i. **Minor Informalities.** Minor informalities are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, worker and/or public safety or contractual conditions is negligible. The Procurement Officer may waive such informalities or allow the bidder to correct them depending on what is in the best interests of WSSC.
- ii. **Mistakes Where Intended Correct Bid Is Evident.** If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn.
- iii. **Mistakes Where Intended Correct Bid Is Not Evident.** A bidder may be permitted to withdraw a low bid if:
 1. A mistake is clearly evident on the face of the bid document, but the intended correction is not similarly evident; or
 2. The bidder submits objective proof which clearly and convincingly demonstrates that a mistake was made.

(c) Mistakes Discovered After Award

Mistakes shall not be corrected after award of the contract except where the Chief Procurement Officer makes a written determination that it would be unconscionable not to allow the mistake to be corrected.

11. WITHDRAWAL OF A PROPOSAL (COMPETITIVE SEALED PROPOSALS)

An Offeror may withdrawal a proposal by providing written notice to the Procurement Office. The established due date for the written notice is either the time and date stated in the Solicitation for receipt of proposals or receipt of modifications to proposals, if any; or if discussions have begun, it is the time and date by which best and final offers, must be submitted.

12. MISTAKES IN PROPOSALS (COMPETITIVE SEALED PROPOSALS)

(a) Mistakes Discovered After Receipt of Proposals But Before Award

- i. **During Discussions - Prior to Best and Final Offers.** Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.
- ii. **After Best and Final Offers.** If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected, and the intended correct offer considered only if:

1. The mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or
 2. The mistake is not clearly evident on the face of the proposal, but the offeror submits objective evidence which clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.
- iii. **Withdrawal of Proposals.** If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:
1. The mistake is clearly evident on the face of the proposal and the intended correct offer is not;
 2. The offeror submits objective evidence which clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
 3. The offeror submits objective evidence which clearly and convincingly demonstrates the intended correct offer, but to allow correction would be contrary to the fair and equal treatment of the other offerors.

13. BIDDER/OFFEROR QUALIFICATIONS

(a) **Performance Capability**

A Bidder/Offeror shall be responsible and have the capability to properly perform the work described in the Contract Documents, and shall have the necessary expertise, manpower, equipment, capacity and sufficient financial resources to execute the work described in the Contract Documents properly within the time specified.

The Commission, at its discretion, may make such investigations it deems necessary to determine the ability of a Bidder/Offeror to perform the work described in the Contract Documents, and the Bidder/Offeror shall furnish to the Commission such information and data for this purpose as the Commission may request. The Commission may visit any prospective Contractor's place of business, contracts in progress, or contact persons knowledgeable of the Bidder/Offeror's background to determine its ability, capacity, reliability, financial stability, or other factors necessary to perform the work described in the Contract Documents in a manner satisfactory to the Commission.

The Commission may determine a Bidder/Offeror **non-responsible** if the Commission determines the Bidder/Offeror does not have the capability, integrity, or reliability to perform the work described in the Contract Documents.

(b) Maryland State Department of Assessments & Taxation Registration And Good Standing

Before doing any business in the State of Maryland, all corporations and limited liability companies are required by Maryland law to be registered with the Maryland State Department of Assessments & Taxation and in good standing. This requirement is applicable to companies that are not Maryland entities. See MD Code, Corporations and Associations, § 7-202 and MD Code, Corporations and Associations, § 4A-1002. A Bidder/Offeror may be found **non-responsible** if it has failed to comply with all applicable Maryland statutes and regulations pertaining to registering with the Maryland State Department of Assessments & Taxation or if it is not in good standing.

14. BONDS AND INSURANCE

The Bidder/Offer to whom a contract is recommended for award shall submit any required bonds and insurance documents to the Procurement Office in accordance with the Procurement Office's instructions. Failure to submit the required documentation within the time period specified may be cause for deeming the bid or proposal **non-responsible**.

15. PROTESTS

Any protest concerning the Solicitation shall be decided by the Chief Procurement Officer in accordance with Procurement Regulations, WSSC Code of Regulations, Title 6, Chapter 6.15.530.

(a) Right To Protest

Any actual or prospective Bidder or Offeror who is aggrieved in connection with a Solicitation or an award of a Contract may protest to the Chief Procurement Officer. The protest shall be in writing and filed with the Office of the Chief Procurement Officer within seven (7) days after such aggrieved person knows or should have known of the facts giving rise to the protest. A protest shall be considered untimely if it is not received by the Office of the Chief Procurement Officer within the time period stated above. A Bidder or Offeror is aggrieved only if the Bidder or Offeror can demonstrate that, should the protest be sustained, the Bidder or Offeror may be eligible for the award.

(b) Form Of Protest

The written protest shall include, at minimum, the following: (a) name and address of the protestor, (2) Solicitation or Contract number, (3) statement of reasons for the protest, and (4) supporting exhibits, evidence, or documents to substantiate any claims.

(c) Filing Fee

The filing fee for a protest is **EIGHT HUNDRED AND FIFTY-SEVEN DOLLARS (\$857.00)**. The filing fee shall be paid in the form of a check payable to the Washington Suburban Sanitary Commission. If the protest is sustained by the Chief Procurement Officer, the protestor will be entitled to a refund of the filing fee. **A PROTEST SHALL BE CONSIDERED UNTIMELY IF THE FILING FEE IS NOT RECEIVED BY THE PROCUREMENT OFFICE WITHIN THE TIME LIMITATIONS TO FILE A PROTEST.**

(d) Authority To Resolve Protests

The Chief Procurement Officer, after consultation with the General Counsel's Office, shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved Bidder or Offeror concerning the Solicitation or award of a contract.

(e) Award Of A Contract During A Protest

In the event of a timely protest, the Commission shall not proceed further with a Solicitation or with the award of a contract until after a written decision on the protest has been issued by the Chief Procurement Officer, unless the Chief Procurement Officer, after consultation with the General Counsel's Office and the appropriate using department, determines in writing that awarding a contract without delay is necessary to protect the interests of the Commission.

(f) Final Decision

If the protest is not resolved by mutual agreement, the Chief Procurement Officer must adjudicate the protest on the record and issue a final written decision within twenty-one (21) days of receiving the protest. The decision must: (a) state the reasons for the action taken and (2) inform the Bidder or Offeror of its right to appeal the written decision.

(g) Appeal To Court

The aggrieved Bidder or Offeror may appeal the written decision of the Chief Procurement Officer to the Circuit Court for Montgomery County or the Circuit Court for Prince George's County under the Maryland Rules governing administrative mandamus actions.

(h) Entitlement To Bid Preparation Costs

If a protest is sustained by the Chief Procurement Officer and the protesting Bidder or Offeror should have been, but was not, awarded the contract under the Solicitation, the aggrieved Bidder or Offeror shall be entitled to the reasonable costs incurred in connection with the Solicitation, including bid preparation costs. The aggrieved Bidder or Offeror shall not be entitled to recover any attorneys' fees incurred in connection with the Solicitation or protest.

16. SOLICITATION CANCELLATION

A Solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part when the Chief Procurement Officer deems it to be in the best interests of WSSC. Notice of such a decision must be made in writing and provided to all bidders or offerors.

17. CONTRACT AWARD

(a) Construction Contracts Or Design/Build Contracts (Competitive Sealed Bidding)

Contracts for construction or design/build using a competitive sealed bidding procurement will be awarded in accordance with Md. Code Ann., Pub. Util. § 20-105(b).

(b) Construction Contracts Or Design/Build Contracts (Competitive Sealed Proposals)

Contracts for construction or design/build using a competitive sealed proposals procurement will be awarded in accordance with Md. Code Ann., Pub. Util. § 20-105(c).

(c) Other Contracts (Competitive Sealed Bidding)

Contracts that are not for construction or design/build using a competitive sealed bidding procurement will be awarded in accordance with Procurement Regulations, WSSC Code of Regulations, Title 6, Chapter 6.15.310.

(d) Other Contracts (Competitive Sealed Proposals)

Contracts that are not for construction or design/build using a competitive sealed proposals procurement will be awarded in accordance with Procurement Regulations, WSSC Code of Regulations, Title 6, Chapter 6.15.3120.

18. EXECUTION AND ACCEPTANCE OF A CONTRACT

A contract shall not be considered accepted by the Commission and binding upon the Commission until (1) a contract has been executed by the Chief Procurement Officer or an authorized designee acting within the scope of his/her authority **and** (2) a Notice to Proceed has been issued.

The Commission reserves the right to cancel a recommended award of a contract without liability to the Commission at any time prior to (1) a Contract being executed by the Chief Procurement Officer or an authorized designee acting within the scope of his/her authority or (2) a Notice to Proceed being issued. Upon cancelling a recommended award, a recommended award may then be made to the next ranked responsive and responsible Bidder/Offeror or the Solicitation may be cancelled and re-advertised.

Failure by a Bidder/Offeror to execute a contract, submit such other documents as required by the Contract Documents, or file acceptable insurance and bonds within the time directed shall be just cause for canceling the recommended award. Upon cancelling a recommended award, a recommended award may then be made to the next ranked responsive and responsible Bidder/Offeror or the Solicitation may be cancelled and re-advertised.

Subcontract plans must be entered and approved in the web-based compliance system in accordance with the Commission's directives. Failure by a Bidder/Offeror to comply with such directives shall be just cause for canceling a recommended award. Upon cancelling a recommended award, a recommended award may then be made to the next ranked responsive and responsible Bidder/Offeror or the Solicitation may be cancelled and re-advertised.

A Notice to Proceed will be issued after (1) a contract has been executed by the Chief Procurement Officer or an authorized designee acting within the scope of his/her authority, (2) upon receipt and acceptance by the Commission of a Bidder's/Offeror's insurance, bonds, any other designated documents, (3) upon verification of entry and acceptance of subcontracting plans in the web-based compliance system, and (4) upon approval of background investigations of employees to work on Commission property. The Notice to Proceed represents the final document required before a contract shall be considered accepted by the Commission and binding upon the Commission.

19. MARYLAND PUBLIC INFORMATION ACT NOTICE

The Commission is subject to the Maryland Public Information Act. Bidders and Offerors are strongly encouraged to specifically identify those portions of their bids or proposals, if any, which they deem to contain protected trade secrets, confidential commercial information, confidential financial information; or confidential geological or geophysical information pursuant to Md. Code Ann., General Provisions, §§ 4-335 and 4-336.

ADDITIONAL INSTRUCTIONS

1. PRE-BID CONFERENCE

A Pre-Bid Conference will be held on Month dd, YYYY at HH:MM x.m., at the Pre-Bid Location, located at Address, City, State Zip Code.

Bidders are strongly encouraged to attend the pre-bid conference. Failure to attend will in no way relieve the contractor from performing all requirements of the contract, and adhering to all the terms and conditions.

2. SITE VISIT

Immediately following the Pre-Bid Conference, a Site Inspection will be held (INSERT DATE). No additional Site Inspection will be made.

Bidders are urged and expected to inspect the site where the services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

3. BIDDER'S QUALIFICATIONS

Each Bidder must meet the following qualifications in order to be considered for award:

1. Each Bidder must be a registered SLMBE Firm in accordance with the requirements outlined within Appendix A of this Solicitation.

4. SUBMITTALS

In addition to the required forms in Appendix C, each Bidder must submit the following information to be considered for award:

1. Each Bidder is required to submit a statement on company letterhead stating that the Bidder is and has been regularly engaged in testing services as required by the Scope for a minimum of three years.
2. Each Bidder is required to submit the resume of the proposed Project Coordinator. This information shall reflect the individual's experience in performing the work required under the Contract.

5. REFERENCES

The Bidder shall submit a list of at least three (3) satisfactory references, utilizing the Reference Form attached,

herein (See Appendix C Section), including the company name, and name, telephone number and electronic address of a contact person who has first-hand knowledge of the Bidder's performance for each reference, at time of bid. These references must be for projects/jobs that are in progress or completed within the last two (2) years and are similar in scope to the work to be performed under this Contract. Each reference must include a brief description of the work tasks and quantities of work performed. At least two of the three references shall be from sources other than the Commission. The Commission reserves the right to request additional references as it deems necessary.

6. PRICING PAGE

All pricing shall be submitted on the Pricing Pages listing the Bidder's all inclusive hourly rates. The Bidder is required to submit an all inclusive hourly labor rate for Work to be performed under the Contract. The hourly rates shall include all fringe benefits, profit, overhead, general and administrative expenses. The time basis for the labor charges will include only those hours actually worked at the job site, excluding mealtimes.

Bidders shall submit on the Pricing Page, of this Solicitation their all inclusive unit price. The total price shall be the product of the Bidder's delivery unit price by the quantities given. All unit prices shall be inclusive of F.O.B. destination shipping terms. No separate line item pricing will be allowed for either bidding or invoicing purposes.

The Bidder shall submit on the Pricing Page their all inclusive discount off of the list price. Discount shall be all inclusive of F.O.B destination shipping terms.

7. BASIS OF AWARD

The Contract will be awarded to the lowest responsive and responsible Bidder in total. Prompt payment discounts of 20 days or more may be a factor of determining award of the Contract.

The Contract will be awarded to the highest percentage discount received off of the latest catalog list price. Prompt payment discounts of 20 days or more may be a factor of determining award of the Contract.

A five-percent (5%) SLMBE price preference for Certified-MBE Bidders in the Commission's Program and/or WSSC Approved SLBE firms shall apply. In accordance with SLBE SP 12-01, this preference is to be extended to specific MBE firms that are certified as African American, Hispanic American, Female/Women-Owned, and Asian American and/or WSSC Approved SLBE Firms as Bidders. The five-percent (5%) price preference will be a determining factor in the award. Please refer to Appendix "A" of this Solicitation.

8. BRAND NAME OR EQUAL

Where the Commission has indicated an approved product, brand or name, the Commission will accept an "Equal Product." If submitting an "Equal," the Commission reserves the sole right and discretion to determine what products are equivalent to those designated herein, and which products are acceptable or non-acceptable for the Commission. If bidding on an "Equal," bidders shall indicate in the space provided the manufacturer and model number of the item being offered. In addition, if bidding an "Equal," bidders shall submit, with their bid, descriptive literature/specifications on the item being offered. Failure to submit this information may render the bidder's bid

non-responsive and such bid may not be considered for award.

PART II

GENERAL CONDITIONS

ARTICLE 1 CONTRACT DOCUMENTS

- 1.1 The Contract Documents include WSSC's Procurement Regulations (WSSC Code of Regulations, Title 6, Chapter 6.15), the Solicitation, Bonds, Notice of Award, Notice to Proceed, Change Orders, Drawings (when applicable), Certificate of Substantial Completion, Specifications, these General Conditions, Special Conditions, Standard Details, Amendments, Addenda, Contract Execution Page, Appendix A from the Solicitation, Appendix B from the Solicitation, Appendix C forms completed by the CONSULTANT, and Federal Contract Provisions when required.
- 1.2 The intent of the Contract Documents is that the CONSULTANT shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the Work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy or operation by the COMMISSION.
- 1.3 In resolving conflicts, errors, and discrepancies within the Contract Documents, the Documents shall be given precedence in the following order:

Federal Contract Provisions (only if identified and incorporated in the Contract Documents)

WSSC Procurement Regulations

Change Orders

Amendments

Addenda

Special Conditions

General Conditions

Contract Execution Page

Notice to Proceed

Notice of Award

Specifications/Statement of Work

Drawings (when applicable)

Appendix B to the Solicitation (Insurance & Bonding Requirements)

Appendix A to the Solicitation (MBE and/or SLBE requirements)

Appendix C to the Solicitation (Commission Forms completed by CONSULTANT)

ARTICLE 2. ACCESS TO INFORMATION, PERSONNEL, COMMISSION FACILITIES

- 2.1 The COMMISSION shall furnish to the CONSULTANT all information and personnel that the CONSULTANT shall deem pertinent in the execution of the Work under this Contract.
- 2.2 The COMMISSION shall assist and make provisions for the CONSULTANT to enter upon COMMISSION facilities as required for the CONSULTANT to perform work under this Contract.

ARTICLE 3 WORKING HOURS

- 3.1 The CONSULTANT will only be permitted access to the COMMISSION's facilities only during the working

hours indicated in the scope of work.

- 3.2 If it becomes necessary for the CONSULTANT to perform work during COMMISSION non-working hours, permission to work must be granted by the Project/Contract Manager. The CONSULTANT will be required to furnish to the Project/Contract Manager a list of the CONSULTANT's employees who will be working. No additional compensation shall be paid for hours worked during non-working hours.

ARTICLE 4 HOLIDAYS

- 4.1 Access to COMMISSION facilities may be denied on holidays. It is the responsibility of the CONSULTANT to determine on which specific dates these holidays are observed by the COMMISSION.
- 4.2 The COMMISSION observes the following holidays: Christmas Day, New Year's Day, Martin Luther King Jr.'s Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving Day, General Election Day (even numbered years) and Inauguration Day.

ARTICLE 5. TIME EXTENSION

- 5.1 All time extensions approved by the COMMISSION will be issued in writing as a formal change to the Contract and as described in "Changes" herein. Failure to perform all work in accordance with the schedule, except where approved extensions exist, will be taken into consideration when evaluating the CONSULTANT for future work with the COMMISSION.

ARTICLE 6. COMPENSATION

- 6.1 Any costs incurred by the CONSULTANT in excess of the agreed upon compensation and without the issuance of a formal written change order shall not be paid by the COMMISSION.
- 6.2 The CONSULTANT will submit periodic invoices for payment, but not more frequently than monthly, for work and services performed under this Contract. Such invoices shall be prepared by the CONSULTANT supplemented and accompanied by supporting data, which is satisfactory to the COMMISSION. A list of employees employed by the CONSULTANT on each invoice to perform the direct services and their respective hourly rates shall be included on each invoice along with a brief description of the work performed and the day it was done. Each invoice shall also include a running total of all funds billed under this Contract to date.
- 6.3 It is understood and agreed that the compensation herein provided to be paid by the COMMISSION is for the services of the CONSULTANT on the project as described herein and does not include any assistance in preparation for or during the progress of litigation to which the COMMISSION is a party. The CONSULTANT agrees to assist the COMMISSION in matters of litigation upon request and upon reasonable compensation to be negotiated for such services requested. The CONSULTANT shall not be entitled to any compensation for any assistance or services requested or rendered in any matter involving claims by third parties against the COMMISSION arising out of the fault or negligence on the part of the CONSULTANT or his agents.
- 6.4 For services performed by the CONSULTANT under this Contract, and as full and complete compensation therefore, except as otherwise expressly provided herein, the COMMISSION will pay to the CONSULTANT allowable costs and fees as set forth in the pricing sheet.
- 6.5 The Contract value shall not be exceeded without a formal change order being issued to this Contract. Any costs incurred by the CONSULTANT in excess of the Contract value without a formal change order to this Contract shall not be paid by the COMMISSION.

ARTICLE 7. CHANGES

- 7.1 The COMMISSION may, at any time, by written order, make changes within the general scope of this Contract in the services or Work to be performed. If such changes cause an increase or decrease in the CONSULTANT's cost of, or time required for, performance of any services under this Contract, whether or not changed by any written order, the CONSULTANT may submit a claim in accordance with WSSC Code of Regulations, Title 6, Chapter 6.15.560(b).
- 7.2 No services for which additional compensation will be charged by the CONSULTANT shall be accepted without the written authorization of the COMMISSION.

ARTICLE 8. PROPERTY DAMAGE

- 8.1 Should any damage to COMMISSION property be caused by the CONSULTANT, employees or agents of the CONSULTANT, the CONSULTANT will be required to report them to the COMMISSION's Project/Contract Manager and make repairs immediately, to the satisfaction of the COMMISSION's Project/Contract Manager and at no cost to the COMMISSION. The COMMISSION may, however, elect to make repairs or replace the damaged property and deduct the cost of repairs or replacement from monies due, or to become due, the CONSULTANT.

ARTICLE 9. PROJECT MANAGEMENT

- 9.1 The COMMISSION and the CONSULTANT shall each designate a Project/Contract Manager within fourteen (14) days from date of this Contract to represent each party respectively and be responsible as the individual in charge of administering and carrying out provisions of this Contract. Once so designated by the CONSULTANT this Project/Contract Manager shall not be changed unless specifically allowed or requested by the COMMISSION.
- 9.2 The CONSULTANT shall advise the COMMISSION of the Project/Contract Manager's qualifications and the COMMISSION shall have the right of approval or rejection of the CONSULTANT's designated Project/Contract manager

ARTICLE 10. FAILURE TO PERFORM

- 10.1 Failure of the CONSULTANT to (a) deliver or perform the required goods or services within the time specified or within a reasonable time as interpreted by the Chief Procurement Officer or (b) to make replacements of rejected articles immediately or as directed by the Chief Procurement Officer shall constitute authority for the Chief Procurement Officer purchase in the open market goods or services of comparable grade to replace the goods or services not delivered or rejected. On all such purchases, the CONSULTANT shall reimburse the COMMISSION within a reasonable time as specified by the Chief Procurement Officer for any expense incurred in excess of Contract prices, including any administrative costs.
- 10.2 Should public necessity demand it, the COMMISSION reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Chief Procurement Officer. The CONSULTANT shall not be liable for any excess costs if acceptable evidence has been submitted to the Chief Procurement Officer that failure to perform this Contract was due to causes beyond the control and without the failure or negligence of the CONSULTANT.
- 10.3 The remedies provided in this General Condition are in addition to any other rights and remedies provided by law or under any other provisions of this Contract.

ARTICLE 11. TERMINATION

- 11.1 In accordance with WSSC Code of Regulations, Title 6, Chapter 6.15.570, the COMMISSION may, by written notice to the CONSULTANT, terminate this Contract in whole or in part at any time, either for the COMMISSION's convenience or default because of the failure of the CONSULTANT to perform services timely, failure to meet standards required, or fulfill the CONSULTANT's obligation under this Contract. Upon receipt of such notice, the CONSULTANT shall::
- 11.1.1 Immediately discontinue all services affected upon receipt of termination notice, and
 - 11.1.2 Deliver to the COMMISSION any work product, including but not limited to all designs, surveys, data, drawings, specifications, reports, computations, estimates, summaries, computer programs, and such other information and materials as may have been provided by the COMMISSION or accumulated by the CONSULTANT in performing this Contract, whether completed or in progress.

ARTICLE 12. RIGHT TO AUDIT

- 12.1 In accordance with Procurement Regulation §4-602, the CONSULTANT agrees to maintain books, accounts, records, documents and other evidence directly pertinent to the performance of this Contract in accordance with generally accepted accounting principles and practices consistently applied. (The foregoing constitutes "records" for purposes of this Contract)
- 12.2 In accordance with Procurement Regulation §4-603, the CONSULTANT'S facilities and plants, or such part thereof as may be engaged in the performance of this Contract, and records shall be subject at all reasonable times to audit, examination, inspection or reproduction by the COMMISSION, the State of Maryland, or any of their authorized representatives.
- 12.3 The CONSULTANT shall preserve and make available its records until the expiration of five (5) years after the Contract expiration date or after the acceptance of Work, whichever is last, or by other provisions of this Contract, or by (1) or (2) as follows:
- 12.3.1 If the Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five (5) years from the date of any resulting final settlement.
 - 12.3.2 Records which relate to appeals or disputes, litigation, or settlement of claims arising out of the performance of this Contract shall be retained until final disposition of such appeals, litigation, or claims.
- The CONSULTANT shall insert the substance of this section in each subcontract issued as a result of this Contract.

ARTICLE 13. SUSPENSION OF SERVICES

- 13.1 The COMMISSION may at any time, suspend, delay, interrupt, or stop the performance of any or all of the services by written notice to the CONSULTANT. At the Commission's discretion, in the event of such suspension of services, all allowable costs which are deemed by the parties hereto as reasonably and necessarily incurred by the CONSULTANT in suspending the services shall be paid by the COMMISSION, including all costs incurred during the period of suspension and additional costs incurred in reactivating the services. Such payment shall not duplicate costs included under any prior progress payments. The CONSULTANT must itemize the costs involved, provide satisfactory documentation as required by the COMMISSION, and must demonstrate that such services as were provided during the suspension were in direct support of overall services to be performed. Both parties also recognize that the COMMISSION may impliedly suspend the services by delays in its review, comment and action on the submitted data, plans, reports, and other documents transmitted to the COMMISSION and for which there shall be no additional compensation.

- 13.2 The COMMISSION's right to suspend this Contract is in addition to and not in substitution for the COMMISSION's right to terminate as stated herein.

ARTICLE 14. INTERPRETATION

- 14.1 In the interest of brevity, this Contract frequently omits modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. The term "days" as used in this Contract shall mean calendar days as defined by with WSSC Code of Regulations, Title 6, Chapter 6.15.070(u). The headings contained in this Contract are inserted only for ease of reference and are not meant to and shall not define, limit, or in any way affect the terms and provisions set forth therein. Each of the parties acknowledges that this is a fair Contract and is not the result of fraud, duress or undue influence exercised upon it by any person or entity. Each party acknowledges that it has read this Contract, has participated in its negotiation, understands its contents, and has had the opportunity to obtain the assistance of legal counsel of its choice.

ARTICLE 15. ASSIGNMENT

- 15.1 This Agreement is binding on the heirs, successors, and assigns of the parties hereto. In accordance with WSSC Code of Regulations, Title 6, Chapter 6.15.240(a) this Agreement is not assignable without the written consent of the Chief Procurement Officer.

ARTICLE 16. SEVERABILITY

- 16.1 If any term or provision of this Contract, or the application thereof to any person or circumstance, shall be invalid or unenforceable to any extent, the remainder of this Contract or the application of this Contract to persons or circumstances other than those against whom or which such term or provision is invalid or unenforceable, shall not be affected thereby; and each term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by applicable laws.

ARTICLE 17. NO THIRD PARTY RIGHTS

- 17.1 Nothing in this Contract shall be deemed to create a joint venture or partnership between the COMMISSION and the CONSULTANT; nor shall anything contained in this be deemed to give any third party any claim or right of action against the COMMISSION or the CONSULTANT; nor shall anything contained in this Contract be deemed to cause the CONSULTANT to become the agent of the COMMISSION or to otherwise alter the CONSULTANT'S independent CONSULTANT relationship with the COMMISSION.

ARTICLE 18. FORCE MAJEURE

- 18.1 Neither party shall be considered in default in the performance of its obligations hereunder to the extent that performance of such obligations is delayed, hindered or prevented by any cause which is beyond the reasonable control of such party (hereinafter called "Force Majeure"). Force Majeure includes but is not limited to any of the following if reasonably beyond the control of the party claiming Force Majeure: war (declared or undeclared), blockages, hostilities, revolutions, riots, strikes, lockouts or other labor disturbances, epidemics, fires, storms, delays or interruptions in transportation, or any laws, regulations or

ordinances of any government, governmental agency or court having or claiming to have jurisdiction over any part of the services, including laws, regulations or ordinance pertaining to the protection of the environment, or obtaining permits required by any such government, governmental agency or court, or any other cause (whether or not of kinds specifically mentioned herein) that is not reasonably within the control of the party claiming Force Majeure. In accordance with WSSC Code of Regulations, Title 6, Chapter 6.15.560(b), the CONSULTANT shall file with designated Contract Administrator any claims that arise from a Force Majeure event.

ARTICLE 19. BRIBES

- 19.1 A bribe or attempt to bribe any employee or officer of the COMMISSION by the CONSULTANT shall be considered a fraudulent and bad faith act, and shall thus empower the COMMISSION to invoke its rights and the Contract may be declared null and void pursuant to WSSC Code of Regulations, Title 6, Chapter 6.15.550.

ARTICLE 20. COVENANT AGAINST CONTINGENCY FEES

- 20.1 The undersigned person authorized to execute this proposal on behalf of the firm or corporation offering services hereunder, warrants that he or she or any member of the contracting firms has not employed or retained any representative, individual or firm, other than a bona fide employee working solely for the contracting professional or firm to solicit or secure any contracts hereunder and furthermore warrants that there has not been any payment or promise or agreement to pay anyone a fee, COMMISSION, percentage, gift, or any other consideration contingent upon or resulting from the award of this Contract under this proposal.
- 20.2 For the breach or violation of this provision, the COMMISSION shall have the right to terminate any Contract resulting from this proposal without liability and, at its discretion, deduct from the Contract price or otherwise recover the full amount or the value of such fee, COMMISSION, percentage, gift, or consideration. This right of recovery by the COMMISSION shall not be a bar to any charges or violations of any federal, state or local law brought before a court of competent jurisdiction by any party, including the COMMISSION.

ARTICLE 21. SUBCONTRACTING

- 21.1 The CONSULTANT shall not award work to sub-consultants in excess of 49 percent of the Contract value.
- 21.2 The CONSULTANT shall report the use of subcontractors, manufacturers, and suppliers during the course of the Contract as set forth in the Contract Documents.
- 21.3 The CONSULTANT shall be fully responsible to the COMMISSION for the acts and omissions of the CONSULTANT'S subcontractors, manufacturers, suppliers, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
- 21.4 The CONSULTANT shall be fully responsible for the coordination of the work of the trades, subcontractors, manufacturers and suppliers, and their officers, agents, and employees.
- 21.5 The CONSULTANT shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bond subcontractors to the CONSULTANT by the terms of the Contract Documents insofar as applicable to the Work of subcontractors and to give the CONSULTANT the same power as regards terminating any subcontract that the COMMISSION may exercise over the CONSULTANT under any provision of the Contract Documents.

- 21.6 Nothing contained in the Contract Documents shall create any contractual arrangement between any subcontractor and the COMMISSION.
- 21.7 The Commission will require all CONSULTANTS to report subcontractor/supplier payments on a monthly basis utilizing the WSSC's Web-Based Compliance System. The CONSULTANT shall enter all payment information within 30 days of receipt of payment from WSSC until final payment, and the subcontractor(s)/supplier(s) shall validate payment received within 30 days of receipt of payment from the CONSULTANT until final payment. Instructions on entering data are located on WSSC's website at: <http://www.wsscwater.com/home/jsp/content/slmbe-program.faces>
- 21.8 Failure to report payments on WSSC's Web-Based Compliance System, as described above, will result in delay in payment(s). Final payment may not be made until all subcontractor payment(s) are reported and verified.
- 21.9 Failure to comply with the requirements herein will be considered in the evaluation of the CONSULTANT'S responsibility in performing future contracts.
- 21.10 No additional compensation will be allowed for meeting the requirements of this section.
- Questions concerning WSSC's Web-Based Compliance System shall be directed to the SLMBE Office at 301-206-8800 or email at wsscwebcompliance@wsscwater.com.

ARTICLE 22. INDEMNIFICATION AGREEMENTS

- 22.1 **GENERAL LIABILITY:** The CONSULTANT shall defend, indemnify and save harmless the COMMISSION from any and all suits, claims, actions, damages or costs of every name and description, including reasonable attorney's fees to which the COMMISSION may be subject, including but not limited to any suit, claim, or action alleging injury to persons (bodily injury, including death, or any personal injury) or property damage as a result of the Work, caused or alleged to be caused by the negligence or willful acts of misconduct on the part of the CONSULTANT, their servants or agents, (other than arising out of CONSULTANT'S professional services). Monies to become due the CONSULTANT under the Contract as may be considered necessary by the COMMISSION shall be retained by the COMMISSION until such suits or claims for damages shall have been settled or until the CONSULTANT furnishes to the COMMISSION satisfactory evidence of insurance coverage with respect to such suits or claims or post a bond in the amount of the dispute in a form satisfactory to the COMMISSION.
- 22.2 **PROFESSIONAL LIABILITY:** The CONSULTANT shall defend, indemnify and save harmless the COMMISSION from any and all suits, claims, actions, damages or costs of every name and description, including reasonable attorneys' fees to which the COMMISSION may be subject, including but not limited to any suit, claim or action alleging injury to persons (bodily injury, including death, or any personal injury) or property damage as a result of CONSULTANT'S professional services, caused or alleged to be caused by the negligence or willful acts of misconduct on the part of the CONSULTANT, their servants or agents. The COMMISSION shall retain monies owed the CONSULTANT until such suits or claims for damages shall have been settled or until the CONSULTANT furnishes to the COMMISSION satisfactory evidence of insurance coverage with respect to such suits or claims or post a bond in the amount of the dispute in a form satisfactory to the COMMISSION.
- 22.3 Monies due or to become due the CONSULTANT under the Contract as may be considered necessary by the COMMISSION shall be retained by the COMMISSION until such suits or claims for damages shall have been settled or otherwise disposed of or satisfactory evidence to that effect has been furnished to the COMMISSION.

ARTICLE 23. OWNERSHIP RIGHTS

- 23.1 The CONSULTANT shall vest in the COMMISSION title to all computer programs, reports, exhibits, calculations, program modifications, parameters, coding or any other products of work produced or delivered to the COMMISSION hereunder in the performance of this Contract and this material shall be the sole property of the COMMISSION and be made available to the COMMISSION immediately upon request. The COMMISSION retains the right to acquire originals, reproductions, and/or prints and copies of this material to suit its needs and purposes and to distribute this material to any agencies, firms and/or individuals. The Offeror(s) agrees neither to assert any rights at common law or equity nor to assert or establish any claim to statutory copyright or ownership in such reports.

ARTICLE 24 INTELLECTUAL PROPERTY COPYRIGHT

- 24.1 The CONSULTANT and its employees hereby irrevocably transfer, assign, and convey to the COMMISSION all rights, titles and interests, including the sole exclusive and complete copyright interest in any and all copyrightable works created pursuant to this Contract. The CONSULTANT and its employees further agree to execute such documents as the COMMISSION may request to affect such transfer or assignment.
- 24.2 Further, the CONSULTANT and CONSULTANT'S employees agree that the rights granted to the COMMISSION by this Article are irrevocable. No termination of this Contract shall have the effect of rescinding, terminating, or otherwise invalidating the rights acquired pursuant to the provisions of this "Intellectual Property Copyright" Article.
- 24.3 The use of Subcontractors or third parties in developing or creating input into any copyrightable materials produced as part of this Contract is prohibited unless such Subcontractors or third parties agree to include the provisions of this Article as part of any Contract they enter into with the CONSULTANT for Work or related to Work pursuant to this Contract.
- 24.4 Notwithstanding any other provision of this Contract, each party is and shall continue to be the sole and exclusive owner of all data, materials, documentation and intellectual property rights that such party owned, created, conceived or developed prior to the date of this Contract.

ARTICLE 25. DISSEMINATION OF INFORMATION

- 25.1 The CONSULTANT shall not release any information related to the services or performance of the services under the Contract, nor publish any reports or documents related to the Contract without the prior written consent of the Contract Administrator; and
- 25.2 The CONSULTANT shall indemnify and hold harmless the COMMISSION, its officers, agents, and employees, from any and all liability which may be incurred by reason of dissemination, publication, distribution, or circulation, in any manner whatsoever, of any information, data, documents, or materials pertaining in any way to this Contract by the CONSULTANT, his agents or employees.
- 25.3 The CONSULTANT shall hold all materials and information belonging to the COMMISSION or the COMMISSION's agents in strictest confidence and not to make use thereof other than for the performance of contractual obligations, to release it to or disclose it to any other party. Any information of a restricted nature provided to the CONSULTANT by the Project/Contract Manager or designee in the course of Contract implementation shall be handled in accordance with restrictions placed thereon by the Project/Contract Manager. Information or documents given to, or generated by, the CONSULTANT in the course of contract implementation shall be considered restricted information and subject to handling and dissemination restrictions as specified herein and/or as specified by the Project/Contract Manager

ARTICLE 26. PATENTED DEVICES, MATERIALS AND PROCESSES

- 26.1 All claims by a CONSULTANT against WSSC which includes without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission shall be resolved in accordance with WSSC Code of Regulations, Title 6, Chapter 6.15.560(b).
- 26.2 The CONSULTANT shall diligently carry on the Work and maintain the progress schedule during any dispute, appeal, or court proceeding arising from or related to a Claim.
- 26.3 No claim by the CONSULTANT shall be allowed if asserted after final payment under this Contract.

ARTICLE 27 CONTRACT DISPUTE RESOLUTION

- 27.1 All claims by a CONSULTANT against WSSC which includes without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission shall be resolved in accordance with WSSC Code of Regulations, Title 6, Chapter 6.15.560(b).
- 27.2 The CONSULTANT shall diligently carry on the Work and maintain the progress schedule during any dispute, appeal, or court proceeding arising from or related to a Claim.
- 27.3 No claim by the CONSULTANT shall be allowed if asserted after final payment under this Contract

ARTICLE 28. CONFLICT OF INTEREST

- 28.1 The CONSULTANT shall be required to submit a statement in writing to the Project/Contract Manager should a conflict of interest arise during the term of this Contract.

ARTICLE 29. DELAY OF WORK

- 29.1 No adjustment shall be made under this General Condition for any delay or interruption to the extent that performance would have been delayed or interrupted by any cause, including the fault or negligence of the CONSULTANT, or for which an adjustment is provided or excluded under any other provision of this Contract.
- 29.2 A delay claim shall be filed according to WSSC Code of Regulations, Title 6, Chapter 6.15.560(b).

ARTICLE 30. WARRANTY FOR PROFESSIONAL SERVICES

- 30.1 The CONSULTANT acknowledges that he is aware that the professional services provided herein are furnished to the COMMISSION with the understanding that the COMMISSION, in accepting these services, relies upon the CONSULTANT's particular skill and expertise. Accordingly, the CONSULTANT warrants that the professional services provided are of a professional quality and that such services meet or exceed the prevailing practices and standards of the trade from which the services are provided.
- 30.2 Both parties also recognize that the COMMISSION may implicitly suspend the Work by reasonable delays in its review, comment and action on the submitted data, plans, reports and other documents transmitted to the COMMISSION, for which there shall be no additional compensation.

ARTICLE 31. MARYLAND LAW

- 31.1 The CONSULTANT agrees to obtain and maintain in good standing all corporate filings, licenses, and approvals, as required by Maryland law.
- 31.2 This Contract shall be construed and enforced in accordance with, and governed by, the laws of the State of Maryland.

ARTICLE 32. PUNITIVE DAMAGES

32.1 In any action by the CONSULTANT against the COMMISSION or its agents, there shall be no liability for punitive damages.

ARTICLE 33. ABUSE, USE, SALE OR POSSESSION OF DRUGS OR INTOXICANTS

33.1 The use, possession, sale or distribution of drugs or intoxicants by the CONSULTANT, sub-consultant, or any of their employees while on COMMISSION premises or while actively representing or performing Work for the COMMISSION is prohibited. It shall be the responsibility of the CONSULTANT to prevent such activities and to remove any employee or sub-consultant employee whose ability to perform appears to be affected by the use of drugs or intoxicants. Failure of the CONSULTANT to comply with this provision may result in termination of the Contract.

ARTICLE 34. SMOKING

34.1 It shall be the responsibility of the CONSULTANT to observe the conditions of the COMMISSION's Smoking Policy within COMMISSION-operated facilities and within COMMISSION-owned motor vehicles. The Project/Contract Manager will indicate to the CONSULTANT the restricted areas. Failure to comply with the provisions of the policy may result in removal of the CONSULTANT's employees or termination of the Contract.

ARTICLE 35. LEGAL ADDRESS

35.1 The address given in the Proposal shall be the legal address of the CONSULTANT. Changes to the CONSULTANT's legal address may be changed at any time by notice in writing delivered to the Chief Procurement Officer. The mailing of any notice to this legal address, postage pre-paid to the CONSULTANT, shall be deemed to be a legal and sufficient service upon the CONSULTANT.

ARTICLE 36. SECURITY

36.1 The CONSULTANT's employees shall be issued photo identification cards. Identification cards must be worn at all times while on any COMMISSION property. CONSULTANT employees found on-site without proper identification will be immediately removed from COMMISSION property. Identification cards for employees who are no longer associated with the project, for any reason, will be immediately recovered by the CONSULTANT and returned to the Project/Contract Manager. The CONSULTANT is responsible to control and inventory all identification cards issued so that cards are not obtained or used by unauthorized individuals. All cards must be returned to the Project/Contract Manager at the conclusion of this Contract.

36.2 All project participants needing either electronic or hardcopy documents dealing with critical facilities or sensitive information will be required to make application with, and receive approval from the COMMISSION prior to receiving this information. Permission to receive said documents (herein referred to as "sensitive") will pertain only to the individual approved. Sensitive documents received from the COMMISSION must be handled consistent with the terms of non-disclosure required for application. CONSULTANT is responsible to restrict use of sensitive documents to project participants only and shall take appropriate measures to prevent distribution of sensitive documents to anyone inside or outside of the Consultant's company except Consultant's project participants. After completion of project, all sensitive

documents remaining in the Consultant's possession shall continue to be governed under the terms of non-disclosure and must continue to be stored in a secure manner.

ARTICLE 37. AUTHORIZATION

37.1 The CONSULTANT warrants, represents, and covenants that the execution and delivery of this Contract has been duly authorized by all requisite corporate or partnership action of the CONSULTANT and that the persons so executing and delivering this Contract on behalf of the CONSULTANT are duly authorized to do so.

ARTICLE 38. CONFIDENTIALITY

38.1 The CONSULTANT and its employees agree that all findings, memoranda, correspondence documents or records of any type, whether written, electronic, or oral and all documents generated by the CONSULTANT its Subcontractors as a result of the COMMISSION's request for services under this Contract, are confidential records (Records). Neither the records shall be released, nor their contents disclosed to any party other than the Project/Contract Manager, or assignee, and the Contract Administrator or assignee. The CONSULTANT and his employees agree that all oral or written inquiries regarding the status of any Records shall be referred to the Project/Contract Manager or assignee. The Offeror agrees to include the provisions of this Article as part of any contract or agreement the Offeror enters into with Subcontractors or other third parties for work related to Work pursuant to this Contract. No termination of this Contract shall have the effect of rescinding, terminating, or otherwise invalidating this Article. The covenants set forth in this Article shall survive this Contract and shall remain in effect in perpetuity.

ARTICLE 39. PROVISION TO EXTEND CONTRACT FOR NINETY (90) DAYS

39.1 In accordance with WSSC Code of Regulations, Title 6, Chapter 6.15.410(d)(2), WSSC may find it advantageous to obtain the option of a unilateral contract extension to extend the Contract ninety (90) days past its termination date. If WSSC intends to exercise the extension, it shall provide written notice to the CONSULTANT at least thirty (30) days prior to the Contract termination date. The exercise of the 90-day option is at WSSC's sole discretion.

ARTICLE 40. PROCUREMENT REGULATIONS

40.1 This Contract shall be construed and enforced in accordance with, and governed by, the Procurement Regulations, WSSC Code of Regulations, Title 6, Chapter 6.15. The Procurement Regulations can be viewed <https://wssc.district.codes/Code/6.15>.

ARTICLE 41. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

41.1 The acceptance by the CONSULTANT of final payment shall constitute a release to the COMMISSION from any and all claims of any nature and all liability to the CONSULTANT, for all things done or furnished in connection with the Work, and for every act and neglect of the COMMISSION and others relating to or arising out of this Work.

ARTICLE 42. ETHICS

- 42.1 Personnel of the Commission and the CONSULTANT and its personnel and agents shall comply with the Commission's Code of Ethics, WSSC Code of Regulations, Title 1, Chapter 1.70.
- 42.2 In accordance with WSSC Code of Regulations, Title 1, Chapter 1.70.190, a former Commissioner or employee may not act as an agent or representative of any person or entity involved in a business transaction with WSSC for a period of 12 months from the date of the former employee's separation from the Commission. In addition, a former Commission employee is barred from assisting or representing a party in a business transaction with WSSC if the former employee participated significantly in the matter as an employee.

ARTICLE 43. SEXUAL HARASSMENT

- 43.1 Sexual harassment of COMMISSION employees by the CONSULTANT, a sub-consultant, or any of their employees while on COMMISSION premises or while actively representing or performing Work for the COMMISSION is prohibited. It shall be the responsibility of the CONSULTANT to prevent any such acts and to remove any employee who conducts such acts. Failure of the CONSULTANT to comply with this provision may result in Termination of the Contract. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment. Basic criteria for determining unlawful behavior includes conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

ARTICLE 44. DEBARMENT AND SUSPENSION

- 44.1 Debarment and suspension actions taken against a CONSULTANT will be done in accordance with WSSC Code of Regulations, Title 6, Chapter 6.15.540.

ARTICLE 45. NONDISCRIMINATION POLICY

- 45.1 It is the policy of the COMMISSION to require that individuals and entities with whom it has a contract and their subcontractors, not discriminate against employees or applicants for employment.
- 45.2 The CONSULTANT shall not discriminate in any manner against an employee or an applicant for employment on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, religion, marital status, gender identity or national origin.
- 45.3 The CONSULTANT shall include a similar nondiscrimination clause in all subcontracts.
- 45.4 If the CONSULTANT fails to include a similar nondiscrimination clause in a subcontract, the Commission shall provide the Contractor a reasonable opportunity to cure the defect. If the CONSULTANT fails to cure the defect within the time period granted, the Commission may declare the Contract void and the CONSULTANT shall be entitled to the reasonable value of Work that has been performed and materials that have been provided to date. If the CONSULTANT cures the defect, the Contract shall remain in force according to its revised terms.
- 45.5 If the CONSULTANT willfully fails to comply with the requirements of this nondiscrimination clause, the Commission may compel the CONSULTANT to continue to perform under the Contract as provided in Maryland Annotated Code, Public Utilities, § 17-402.1(b).

ARTICLE 46. ENTIRE CONTRACT

- 46.1 This written Contract constitutes the entire Contract between the parties and except for modifications prepared in accordance with provisions herein and the Procurement Regulations, there are no other collateral contracts or agreements concerned between the parties contracting hereto. Nothing contained in this Contract shall be construed as creating any personal liability on the part of an officer, employee, or agent of the COMMISSION, including the Commissioners individually.

ARTICLE 47. PAYMENT

- 47.1 Payment will be made by Automated Clearing House (ACH) or by WSSC's Procurement Credit Card for the total number of deliverables within 30 days after the services have been provided and accepted by the COMMISSION.
- 47.2 Payment will not be made for any services until properly accounted for as to compliance with the scope of work and acceptance by the COMMISSION in accordance with this Contract. Prompt payment discounts, if any, shall be applicable from the date of acceptance of the services, or the date of receipt of the invoice, whichever is later. Payment will be made upon receipt of a properly executed invoice(s) and in accordance with the provisions of this Contract.
- 47.3 Invoices shall reference the Purchase Order number, be submitted in duplicate based on the appropriate unit prices named in the Bid and addressed as follows:

Washington Suburban Sanitary Commission
Finance/Disbursements Group
14501 Sweitzer Lane, 11th Floor
Laurel, Maryland 20707-5902

ARTICLE 48. CONSULTANT PERFORMANCE EVALUATION

- 48.1 The purpose of the CONSULTANT Performance Evaluation is to:
- 48.1.1 Identify and document the CONSULTANT's ability to meet all Contract compliance requirements.
- 48.1.2 Communicate Contract compliance problems to the CONSULTANT in a timely manner.
- 48.1.3 Provide corrective action as early as possible during the Contract Work, so that the Work may be successfully completed in accordance to all Contract requirements.
- 48.2 Consultant Performance Evaluation Schedule
- 48.2.1 Contracts equal to or greater than \$25,000 shall be evaluated, at a minimum, at the conclusion of the work.
- 48.2.2 Contracts equal to or greater than \$250,000, or more than 180 days in duration shall be evaluated at a minimum at the Contract mid-point (approx. 50%) and at the Contract completion (approx. 100%) based on the Contract duration in calendar days.
- 48.2.3 Contracts equal to or greater than \$1,000,000 or greater than one (1) year in duration shall be evaluated at a minimum before the midpoint (approx. 25%); at the Contract mid-point (approx. 50%); after the midpoint but before completion (approx. 75%); and at Contract completion (approx. 100%) based on the Contract duration in calendar days.
- 48.3 Contract Startup
- 48.3.1 Prior to the start of the contract, the Contract Manager shall review the Evaluation Factors with the CONSULTANT.
- 48.3.2 Documentation of the meeting shall be provided to the CONSULTANT and to the Procurement Office, and shall be incorporated into the Contract file.

48.4 CONSULTANT Performance Evaluation

- 48.4.1 The Contract Manager shall complete a CONSULTANT Performance Evaluation in accordance to Consultant Performance Evaluation Schedule using the CONSULTANT Performance Evaluation (CPE) form.
 - 48.4.2 The Contract Manager shall attach documentation that supports the results of the Consultant Performance Evaluation and which at a minimum includes:
 - 48.4.2.1 Prior CPE documents
 - 48.4.2.2 The most recent SLMBE subcontracting report
 - 48.4.2.3 Cure Letters and/or Show Cause Letters
 - 48.4.2.4 Test Results and/or Inspection Results
 - 48.4.2.5 Correspondence between WSSC and the CONSULTANT
 - 48.4.2.6 Minutes of any meetings relevant to contract compliance.
 - 48.4.3 The Contract Manager shall provide a copy of the CPE form and supporting documents to the CONSULTANT for review and acknowledgement.
 - 48.4.4 The CONSULTANT shall review the CPE form, indicate agreement or disagreement with the evaluation results, and acknowledge receipt of the CPE form by signing and returning the signed form to the Contract Manager no later than ten (10) days after receipt.
- 48.5 Consultant Performance Evaluation Meeting
- 48.5.1 Consultant Performance Evaluation Meetings shall be conducted if:
 - 48.5.1.1 The CONSULTANT receives a Marginal or Unsatisfactory evaluation,
 - 48.5.1.2 The CONSULTANT requests a meeting within ten (10) days after receipt of the CPE form.
 - 48.5.1.3 The Contract Manager determines that a meeting is required to improve CONSULTANT's performance.
 - 48.5.2 Prior to the meeting the Contract Manager shall provide a copy of the CPE and all supporting documents to the CONSULTANT for review.
 - 48.5.3 Additional WSSC stakeholders may attend the meeting, including but not limited to SLMBE, Procurement, or other departments impacted by the contract.
 - 48.5.4 CONSULTANT's key personnel and, if requested by WSSC, company owners or executive officers, shall attend Consultant Performance Evaluation Meetings.
 - 48.5.5 During the meeting, the Contract Manager
 - 48.5.5.1 Shall provide a sign-in sheet for all meeting attendants, including the date, time and location of the meeting.
 - 48.5.5.2 Shall review all performance issues with the CONSULTANT including CPE and all supporting documentation.
 - 48.5.5.3 Shall document discussion with meeting notes that include corrective action, person(s) responsible for completing corrective action, and date by which corrective action will be completed.
 - 48.5.6 After the meeting,
 - 48.5.6.1 The Contract Manager shall revise the CPE form with any additional information and/or updates to the evaluation results.
 - 48.5.6.2 The CONSULTANT shall review and acknowledge receipt of the CPE form by signing and returning to the Contract Manager no later than ten (10) days after receipt of the form.
- 48.6 CPE forms that document CONSULTANT Performance Evaluations will be stored by the Procurement Office for a period of not less five (5) years.

ARTICLE 49. PERSONAL INFORMATION PROTECTION

- 49.1 The COMMISSION may disclose "Personal information" to CONSULTANT as defined in § 10-1301 of the

State Government Article of the Annotated Code of Maryland.

- 49.2 In accordance with the requirements of § 10-1304 of the State Government Article, the CONSULTANT shall implement and maintain reasonable security procedures and practices that:
- (i) are appropriate to the nature of the personal information disclosed to it, and
 - (ii) are reasonably designed to help protect personal information from unauthorized access, use, modification, disclosure, or destruction
- 49.3 Upon reasonable advance notice, and without creating an obligation to do so, the COMMISSION shall have the right to verify and audit the security procedures and practices implemented and maintained by CONSULTANT for this purpose. CONSULTANT shall remain solely responsible for its security procedures and practices.

ARTICLE 50. INTERGOVERNMENTAL AND COOPERATIVE PURCHASING

- 50.1 This Article is only applicable to a Contract which is awarded through a competitive procurement awarded pursuant to WSSC's Procurement Regulations.
- 50.2 In accordance with State Finance and Procurement Article §13-110, Annotated Code of Maryland, any contract resulting from this Contract is available for use by any other Maryland state or local governmental entity or nonprofit as defined in the statute, subject to the following requirements: (a) The use of this Contract by other state and local governmental and nonprofit entities is at the discretion of those entities. Any entity that elects to participate is referred to herein as a participating entity; (b) The participating entity shall issue their own purchasing documents and secure their own contract, and shall have the unilateral right during the term of the Contract, to contract directly with the Contractor using the same prices and other terms and conditions of the Contract; and (c) Performance, payment, inspection, acceptance, exercise of warranties, and exercise of other contractual rights and obligations are the responsibility of the participating entity. WSSC assumes no authority, responsibility, liability or obligation on behalf of the participating entity, or with respect to any contract the participating entity may enter into with the Contractor. The participating entity is solely responsible for securing performance from the Contractor. Any failure of the Contractor to perform its contract with the participating entity does not require WSSC to default the Contractor or otherwise terminate the Contract.

PART III

SPECIAL CONDITIONS

1. CONTRACT ADMINISTRATOR

The Contract will be administered by the Procurement Specialist. Information for the Procurement Specialist for the Solicitation can be located on the Solicitation Cover Sheet. Information for the Procurement Specialist for the Contract will be located on the Purchase Order.

2. CONTRACT MANAGER

The Contract will be performed under the direction, inspection and supervision of the Commission's Contract Manager who will be identified after solicitation award. Any reference to the Contract Manager in the Contract shall mean the Contract Manager or designated representative.

3. SECURITY

Article 38, "Security", to the General Conditions is hereby stricken from the Contract in its entirety.

4. PAYMENT

Article 14, "Payment," to the General Conditions is hereby stricken from this Contract, and is replaced in its entirety by the following language:

Payment will be made within 30 days after service is received, inspected and accepted by the Commission.

Payment will not be made for any service until the service has been properly accounted for as to the compliance and acceptance by the Commission in accordance with this Contract. Prompt payment discounts, if any, shall be applicable from the date of acceptance of the service, or the date of receipt of the invoice, whichever is later. Payment will be made upon receipt of a properly executed invoice(s) and in accordance with the provisions of the Contract.

5. CONTRACT EXTENSION

This contract is subject to a ninety (90) day unilateral option extension at the sole discretion of WSSC pursuant to WSSC Procurement Regulation § 4-501.04.

Ensuring Adequate Covid-19 Safety Protocols For WSSC Contractors

1. **Compliance.** The Contractor shall comply with the Vaccination Program that was authorized in

accordance with WSSC Resolution 2022-2034, adopted by WSSC on October 20, 2021. Any costs associated with compliance with the Vaccination Program shall be borne solely by the Contractor.

2. **Subcontract.** The Contractor shall require its subcontractors to comply with the Vaccination Program. Contractor shall include the substance of this clause including this paragraph in any subcontract.

APPENDIX B

BONDS AND INSURANCE

1. INSURANCE REQUIREMENTS

1. INSURANCE

The Contractor shall be required to maintain insurance for the term of this Contract as specified in the "Insurance Requirements" Section herein. The Certificate of Insurance and Endorsements shall be submitted to the Contract Administrator within 10 days after receipt of the Notice of Award. All insurance required by this Appendix B must be maintained during the entire term of the contract, including any renewal or extension terms, until all work has been completed. Also, certain coverages must be continued following completion of the work as shown in the section B.

The Contractor shall instruct an insurance broker or agent to provide the Washington Suburban Sanitary Commission a certificate of insurance and endorsements, i.e. additional insured, waiver of subrogation, attesting to the issuance of insurance policies affording coverage as required and listed in B below. Please note that such certificate of insurance and endorsements along with any required bonds must be issued and then approved by the Washington Suburban Sanitary Commission prior to the issuance of a Notice to Proceed by the Contract Administrator. The following requirements apply to all work under the contract. To the extent permitted by applicable law, the Washington Suburban Sanitary Commission reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the contract.

The Contractor shall not allow any subcontractor to start work on any subcontract until all insurance required of the subcontractor has been obtained and approved by the Contractor. The Contractor shall require all subcontractors to maintain workers compensation and employers liability, business auto liability, commercial general liability and any other applicable coverage in the same manner as specified for the Contractor.

2. TYPES OF COVERAGE

The Contractor shall provide and keep in full force the insurance noted in the coverage section as minimum liability limits and mandatory coverage during the term of this Contract.

5. FACILITIES

("X" EQUALS MANDATORY)

Coverage Required

Limits (Figures Denote Minimums)

1. Worker's Compensation &
Employer's Liability

Statutory workers compensation
\$500,000 accident, \$500,000
disease,
\$500,000 policy limit disease

[X]2. Commercial General Liability

Occurrence form, including but not limited to the below

- a. General aggregate applies per project
- b. Premises/Operations
- c. Independent Contractors
- d. Products/Completed Operations (to apply for two years following termination of contract)
- e. Contractual Liability
- f. Personal Injury Liability
- g. Any XCU exclusions removed

Items b. and e. require a \$1,000,000 single limit for bodily injury and property damage each occurrence with a \$2,000,000 general aggregate that applies to project under contract, and a separate \$2,000,000 aggregate for products/completed operations.

\$1,000,000 each offense for Item f.

[X]3. Business Auto Liability

- a. All Owned, Hired & Non-owned
- b. Motor Carrier Act Endorsement

\$1,000,000_ Bodily Injury & Property Damage liability each accident

[X]4. Umbrella Liability

\$1,000,000 BI, PD, & Personal Injury

[]5. Pollution Liability

\$1,000,000 each claim and aggregate

[]6. Errors or Omissions Liability

\$1,000,000 each claim and aggregate

[]7. Employee Dishonesty Coverage

\$_____ Limit of Insurance

[]8. Builder's Risk

Insurable Value = 100% of the Contract Value

[]9. Installation Floater

Insurable Value = 100% of the

Contract Value

Other Insurance Required:

Types of Bonds

<input checked="" type="checkbox"/> Bid Guarantee	5% of Bid Price
<input checked="" type="checkbox"/> Performance Bond	100% of Contract Value
<input checked="" type="checkbox"/> Payment Bond	100% of Contract Value
<input checked="" type="checkbox"/> Maintenance Bond	100% of Contract Value

FACILITIES - NEW & UPGRADES, DEMOLITION COVERAGE AND BOND REQUIREMENTS

3. ADDITIONAL INSURED

The Commission, its agents and employees shall be included as additional insured(s) in the Commercial General Liability insurance policy. Coverage for the Commission its agents and employees shall apply for defense of claims and damages for injury to persons, including bodily injury, death or any form of personal or advertising injury, or property damage arising out of or resulting from the performance of the work or product, whether caused or alleged to be caused in whole or in part by any negligent act or omission of the Contractor, or any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them or the Commission or its agents or employees may be liable. See below for acceptable forms. The multiple forms combination shown below, or their equivalent, shall be provided by Contractors performing work for the Commission that would be considered your work as defined in ISO form CG 0001. Other contractors or vendors shall provide additional insured status per form CG 2010 or its equivalent. The additional insured endorsement(s) must be attached to the certificate of insurance in order to effectuate additional insured status in accordance with the Washington Suburban Sanitary Commission contractual requirements. This endorsement requirement does not apply so long as the contractor and broker/agent warrant that there is a blanket additional insured provision included in the insurance policy.

Special Note: The following combinations of ISO forms, or their equivalent, shall be acceptable:

- CG 2010 entitled "Additional Insured - Owners, Lessees or Contractors ζ Scheduled Person or Organization" and CG 2037 entitled "Additional Insured - Owners, Lessees or Contractors ζ Completed Operations";
- OR**
- CG 2033 entitled "Additional Insured - Owners, Lessees or Contractors - Automatic Status When Required in Construction Agreement With You" and CG 2037 entitled "Additional Insured - Owners, Lessees or Contractors ζ Completed Operations".

4. SUBROGATION

The Workers Compensation and Business Auto policy must each provide for a waiver of subrogation in favor of the Commission, its agents and employees. The waiver of subrogation endorsement must be attached to the certificate of insurance in order to effectuate waiver of subrogation in accordance with the Washington Suburban Sanitary Commission contractual requirements. This endorsement requirement does not apply so long as the contractor and broker/agent warrant that there is a blanket waiver of subrogation included in the insurance policy provisions.

5. PREMIUM PAYMENTS, DEDUCTIBLES/RETENTIONS, AND COMMISSION ACCEPTANCE

The premium to be expended for all of the above-referenced policies of insurance and bonds shall be paid by the Contractor. Payment of any deductibles or self-insured retentions applying under any policies shall be the responsibility of the Contractor. The policies of insurance, certificates of insurance and the insurance company or insurance companies issuing such bonds or policies of insurance must be acceptable to the Commission. All companies providing such coverage, for all contracts, regardless of size, **must be allowed to conduct and transact insurance business in the State of Maryland.**

6. DESIGNATION AS TO APPLICABILITY

All certificates of insurance and applicable endorsements must be issued indicating a specific Contract number or to all work contract numbers performed by the Contractor for the Washington Suburban Sanitary Commission.

7. CLAIMS MADE LIABILITY INSURANCE

If any liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions as described in section 1 B, remain the same. The Contractor must either:

- i. Agree to provide certificates of insurance evidencing the above coverages for a period of three years after final payment for the contract. Such certificates shall evidence a retroactive date, no later than the beginning of the Contractors or subcontractors' work under this contract, or
- ii. Purchase an extended (minimum three years) reporting period endorsement for the policy or policies in force during the term of this contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

8. NOTIFICATION OF CANCELLATION OR NON-RENEWAL

A minimum of thirty days written notification must be given by an insurer of any alteration, material change or cancellation or non-renewal of any insurance required under this Contract. Such required notification must be sent via Registered or Certified Mail to the address indicated below:

Washington Suburban Sanitary Commission
Procurement Office, 8th Floor

14501 Sweitzer Lane
Laurel, Maryland 20707-5902.

9. COMPLIANCE

Contractor's failure to comply with all insurance and bonding requirements set forth in this Appendix B and applicable to the contract will not relieve the Contractor from any liability under the contract. Contractor's obligations to comply with all insurance and bonding requirements set forth in Appendix B and applicable to the contract will not be construed to conflict with or limit Contractor's indemnification obligations under the contract.

2. BONDS REQUIREMENTS

1. BID GUARANTEE

Each Bidder must furnish with his Bid, a Bid Guarantee in an amount not less than 5 percent of the amount of his/her Bid when indicated above.

The Bid Guarantee shall be in the form of a firm commitment, such as a postal money order, certified check or cashier's check, or bid bond. Bid Bonds shall be executed on the Commission Standard Bid Bond Form, included herein, by the Contractor and a corporate bonding company licensed to transact such business in the State of Maryland and indicated as such on the "Maryland Insurance Administration" companies currently licensed to conduct business in Maryland.

The Commission may hold as many of the Bid Guarantees as it may deem advisable until the execution and delivery of the Contract and Contract Bonds, whereupon all Bid Guarantees will be returned. All other Bid Guarantees will be returned within seven days after Bid opening.

2. PERFORMANCE, LABOR AND MATERIAL PAYMENT BONDS

Provide Performance, Labor and Material Payment and Maintenance Bonds as part of the contract execution as stated in Article 1.H herein.

The Contractor shall provide the Performance Bond and Labor and Material Payment Bond on Commission standard forms available at the Commission offices in accordance with requirements set forth in the General Conditions, for: 100 percent of the Contract, when indicated below.

3. MAINTENANCE BOND

For Contracts where the Contractor receives notice from Washington Suburban Sanitary Commission, indicating that the work as required under the captioned Washington Suburban Sanitary Commission contract has been substantially completed by the Contractor, the Contractor will issue a Maintenance Bond for the guarantee period(s) equal to the amount of 100 percent of the performance bond for a period of _____ year(s) from the date of substantial completion. Such bond will indicate the Washington Suburban Sanitary Commission as the Obligee and the Contractor as the Principal.

3. BUILDERS RISK INSURANCE (CONTRACTOR TO PURCHASE)

1. The Contractor shall purchase and maintain builders risk insurance on a replacement cost basis with a limit equal to or exceeding the full insurable value of the Project. This insurance shall be maintained until final acceptance of the Project by the WSSC or until no person or entity other than the WSSC has an insurable interest in the covered property, whichever is earlier. This builders risk insurance shall include the interests

of the WSSC, Contractor, Subcontractors and Sub-subcontractors in the Project. The WSSC must be specifically included as a named insured.

2. Insurance shall be on an "all-risk" or equivalent policy form and shall insure against the perils of fire; extended coverage; theft; vandalism; malicious mischief; collapse; ensuing or resulting loss from faulty, inadequate or defective design, specifications, construction, materials or workmanship; windstorm; flood; and earthquake. Coverage is to apply for debris removal including demolition occasioned by a covered loss with a minimum sublimit of twenty-five percent of the amount of loss or damage. This insurance shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such covered loss. Coverage for flood and earthquake may be written with sublimits acceptable to the WSSC.
3. This builders risk insurance shall cover all of the following types of property:
 - i. All structures to be constructed, under construction, and/or already constructed which are part of the Project;
 - ii. All materials, equipment, machinery and supplies which are to be incorporated into the Project;
 - iii. Temporary structures of any nature whatsoever; and
 - iv. Underground property, including but not limited to, foundations, pump stations, pumps, pipes, drains, tanks and connections.
4. The Contractor shall be responsible for payment of any deductibles applicable under this builders risk insurance or other property insurance applicable to the Project.
5. Unless otherwise provided in the Contract Documents, this builders risk insurance shall cover materials to be incorporated into the Project which are off the site, and also such materials in transit. Such coverage may be written with sublimits acceptable to the WSSC.
6. This builders risk insurance shall insure (or shall be amended to insure) against loss or damage caused by boiler, machinery, and equipment perils. Such coverage shall be written on a comprehensive basis with coverage applying to the sudden and accidental breakdown of any boiler, fired vessel, unfired pressure vessel, refrigerating and air conditioning vessel, mechanical or electrical machine or apparatus used for the generation, transmission or utilization of mechanical or electrical power. Coverage is to apply without sublimit or restriction for testing and start-up, including any mechanical, aerostatic, hydrostatic and pneumatic testing.
7. **The WSSC and Contractor waive all rights against each other and against the WSSC's other Contractors and own forces described in Article 6, if any, and the subcontractors, sub-subcontractors, elected and appointed officials, officers, agents, employees and consultants, for**

property damage to or loss of use of the Work to the extent that such property damage or loss of use is covered by this builders risk insurance, boiler and machinery insurance or other property insurance applicable to the Work. The policies shall provide such waivers of subrogation by endorsement or otherwise.

8. Any loss covered under this builders risk insurance or other property insurance applicable to the Work shall be payable as fiduciary for the insureds, as their interests may appear. The WSSC shall pay the owner and Subcontractors their just shares of insurance proceeds received by the WSSC, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.
9. WSSC, as fiduciary, shall have the power to adjust and settle a loss with insurers.
10. Partial occupancy or use in accordance with the provisions of the Contract that pertain to partial occupancy or use shall not commence until the builders risk insurer has granted permission by endorsement or otherwise for the WSSC to partially occupy or use any completed or partially completed portion of the Work at any stage of construction. The Contractor shall take reasonable steps to obtain such permission.
11. This builders risk insurance shall be written on an agreed value basis with no coinsurance or contribution clause applying.
12. If the WSSC is damaged by the failure or neglect of the Contractor to purchase or maintain insurance as described above, without so notifying the WSSC, then the Contractor shall bear all reasonable costs properly attributable thereto.
13. Before an exposure to loss may occur, the Contractor shall file with the WSSC a copy of each policy that includes insurance coverages required by this Article. Each policy shall contain all conditions, definitions, exclusions and endorsements applicable to the coverage for this Project. Each policy shall contain a provision that the policy will not be cancelled or allowed to expire until at least sixty (60) days' prior written notice has been given to the WSSC.
14. The insurance required by this Article is not intended to cover machinery, tools or equipment owned or rented by the Contractor, or its Subcontractors, which are utilized in the performance of the Work but not incorporated into the permanent improvements. The Contractor and its Subcontractors shall, at their own expense, purchase and maintain property insurance coverage for owned, leased or rented machinery, tools or equipment. The Contractor, and its Subcontractors, hereby waive all rights against the WSSC and its elected and appointed officials, officers, agents, employees and consultants for property damage to or loss of use of such machinery, tools or equipment to the extent that such property damage or loss of use is covered by the Contractor's or Subcontractor's property or equipment floater insurance or other similar property insurance maintained by the Contractor or its Subcontractors. The policies shall provide such waivers of subrogation by endorsement.

4. INSTALLATION FLOATER INSURANCE (CONTRACTOR TO PURCHASE)

1. The Contractor shall purchase and maintain installation floater insurance on a replacement cost basis with a limit equal to or exceeding the full insurable value of the Work, or the maximum exposure to a single occurrence. This insurance must be maintained at least until final acceptance of the Work by the WSSC.
2. The interests of the WSSC and Subcontractors and sub-subcontractors shall be included by naming them as additional insureds and loss payees.
3. This installation floater insurance shall include coverage for the following types of property:
 - i. All materials, equipment, machinery and supplies which are to be incorporated into the Project; and
 - ii. If applicable, all underground property, including but not limited to, pumps, pipes, drains, tanks and connections.
4. This installation floater insurance shall be written on an all-risks policy form. Covered causes of loss or covered perils shall include but not be limited to:
 - i. Theft;
 - ii. Loss or damage that ensues or results from faulty, inadequate or defective design, specifications, construction, materials or workmanship;
 - iii. Collapse when caused by a covered cause of loss or peril;
 - iv. Explosion;
 - v. Flood, sewer or water back-up, subterranean or ground water; and
 - vi. Earthquake, mudslide or earth movement of any kind.

Flood and earthquake coverages may be written with sublimits exceeding or equal to the greater of ten percent of the total Project cost or \$100,000.
5. Recovery is to include the cost of materials, labor, overhead and profits.
6. Coverage shall be written on an agreed value basis. Accordingly, any coinsurance or contribution clause shall be deleted.
7. This insurance shall not exclude or restrict coverage at vacant or unoccupied locations.
8. Losses shall be adjusted with and payable to the WSSC as fiduciary for all other insureds.
9. This installation floater insurance shall include coverage for debris removal and demolition made necessary by covered loss or damage with a minimum sublimit of twenty-five percent of the amount of loss or damage.

10. This installation floater insurance shall afford coverage for materials and equipment off-site, including while in storage or while at fabrication sites, with a limit exceeding or equal to the greater of ten percent of the total Project cost or \$100,000.
11. Coverage for materials and equipment in transit shall be provided with a limit exceeding or equal to the greater of ten percent of the total Project cost or \$100,000.
12. The Contractor shall be responsible for payment of any deductibles applicable under this insurance or other property insurance applicable to the Work.
13. The WSSC and Contractor waive all rights against each other and any of their Subcontractors, Sub-subcontractors, elected and appointed officials, officers, directors, trustees, agents, employees and consultants for property damage to or loss of use of the Work to the extent that such property damage or loss of use is covered by this builders risk insurance, boiler and machinery insurance or other property insurance applicable to the Work. The policies shall provide such waivers of subrogation by endorsement or otherwise.
14. If the WSSC is damaged by the failure or neglect of the Contractor to purchase or maintain insurance as described above, without so notifying the WSSC, then the Contractor shall bear all reasonable costs properly attributable thereto.
15. The Contractor, Subcontractors and Sub-subcontractors shall, at their own expense, purchase and maintain separate property insurance coverage for machinery, tools or equipment owned or rented by them, which are utilized in the performance of the Work but not incorporated into the permanent improvements. The Contractor, Subcontractors and Sub-subcontractors, hereby waive all rights against the WSSC and its elected and appointed officials, officers, agents, employees and consultants for property damage to or loss of use of such machinery, tools or equipment to the extent that such property damage or loss of use is covered by the property or equipment floater insurance or other similar property insurance purchased and maintained by the Contractor, Subcontractors or Sub-subcontractors. The policies shall provide such waivers of subrogation by endorsement or otherwise.