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Section III - Instructions To Bidders

**ARTICLE I PREPARATION OF BIDS:**

All Bids shall be prepared in accordance with the following requirements:

1. The Bid form furnished by the DISTRICT shall be used and shall not be altered.
2. Entries shall be typed or written in ink; signatures shall be written in ink.
3. The Bidder shall submit a unit or lump sum price for every item in the Bid form unless specific directions in the Invitation for Bids allow for partial Bids. The unit or lump sum bid prices for the various Contract Items shall be typed or written figures in ink, and shall be clearly legible.
4. A Total Bid shall be entered in the Bid form for every item on which a unit price has been submitted. The Total Bid for each item other than lump sum items shall be determined by multiplying each unit price bid by the quantity for that item, and shall be written in figures in the "Total Bid" column in the Bid form. In case of a discrepancy between the unit price bid for a Contract Item and the Total Bid for that item, the unit price bid shall govern. In the case of lump sum items, the price shall be written in figures in the "Total Bid" column in the Bid form.
5. The Total Contract Bid Price shall be written in figures in the proper place in the Bid form. The Total Contract Bid Price shall be determined by adding the Total Bid for each item.
6. Changes in any entry shall be made by marking through the entry in ink and making the correct entry adjacent thereto in ink. The individual signing the Bid shall initial the change in ink.
7. The Bid shall be properly executed. In order to constitute proper execution, the Bid shall be executed in strict compliance with the following. No other forms of execution will be accepted.
  - a. If a Bid is by an individual, it shall show the name and address of the individual and shall be signed by the individual.
  - b. If the Bid is by a Corporation, it shall be executed in the name of the Corporation by the President or Vice-president. It shall be attested by the Secretary or Assistant Secretary. The seal of the Corporation shall be affixed. The Bid shall show the address of the principal office of the Corporation.
  - c. If the Bid is made by a Partnership, it shall be executed in the name of the Partnership by one of the general partners. The address of the Partnership shall also be shown.
  - d. If the Bid is a joint venture, it shall be executed by each of the joint venturers with an address for each joint venturer and the address for the joint venture itself.
8. The Bid shall not contain any unauthorized additions, deletions or conditional bids.
9. The Bidder shall not add any provisions reserving the right to accept or reject an award, or to enter into a Contract pursuant to an award.
10. The Bid shall not contain irregularities of any kind which, in the opinion of the DISTRICT, make the Bid incomplete, indefinite, or ambiguous as to its meaning.
11. Alternative Bids will not be considered unless specifically called for. Where numbered

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Alternate Bid Items are provided under any Contract, each Bidder must submit a bid price for each numbered Alternate Item.

12. All attachments, certifications or acknowledgements attached to the Bid shall be executed in the same manner as the Bid.

#### **ARTICLE II FILING OF PROPOSALS:**

**Each Bid shall be made on the forms incorporated in these documents.** Clear and legible duplicate copies of the blank bid document forms provided may be used for entry. One (1) copy of each of these bid document forms are to be used to prepare the Contractor's bid proposal. It is not necessary to submit the entire specifications documents on the bid date, only the forms specified below. The Contractor (bidder) is cautioned that all spaces on the Proposal must be fully completed, including all identified or voluntary alternates, if any, and that the Proposal must be properly signed with the name of the company, its authorized representatives, and shall be fully executed in all respects. If this is a Formal Contract, the Bid Security documents shall be fully executed and signed/sealed by the Bidder and the Security Company and shall be witnessed and notarized as required by NC Statutes. This includes the Power of Attorney, attached and properly executed by the Security Company. All documents submitted with the bid shall be original documents and clearly show the original signatures and seals.

#### **Formal Bid Contracts (Bid Bond required):**

**Bids shall be submitted in a two (2) envelope system.** The outer envelope shall bear the project name and project number, and shall be sealed and addressed to the Metropolitan Sewerage District of Buncombe County, North Carolina, 2028 Riverside Drive, Asheville, North Carolina 28804. The **name, address, and license number of the bidder**, as well as the type of contract, if applicable, shall also be shown on the outside (Single-Prime-General, or Separate-Prime-General, Plumbing, HVAC or Electrical). The outer envelope shall contain the following documents, fully executed and signed/sealed as required in these Instructions to Bidders:

1. Proposal Guaranty (Bid Security) and Power of Attorney
2. Certification of receipt of Addenda written on Contractor's letterhead
3. Non-Collusion Affidavit
4. A sealed smaller envelope containing the proposal and Schedule of Estimated Quantities and Bid Prices and marked on the outside "PROPOSAL". This envelope should also contain the project name and the name, address, and license number of the bidder. **Attached to the proposal shall be the appropriate MBE form(s).**

#### **Informal Bid Contracts (Bid Bond not required):**

**Bids shall be submitted in a one (1) envelope system.** The envelope shall bear the project name and project number, and shall be sealed and addressed to the Metropolitan Sewerage District of Buncombe County, North Carolina, 2028 Riverside Drive, Asheville, North Carolina 28804. The **name, address, and license number of the bidder**, as well as the type of contract, if applicable, shall also be shown on the outside (Single-Prime-General, or Separate-Prime-General, Plumbing, HVAC or Electrical). The envelope shall contain the following documents, fully executed and signed/sealed as required in these Instructions to Bidders:

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1. Proposal Form with attached Schedule of Estimated Quantities and Bid Prices
2. Certification of receipt of Addenda written on Contractor's letterhead
3. Non-Collusion Affidavit
4. Appropriate MBE form(s)

### **ARTICLE III OPENING OF PROPOSALS:**

Bids received prior to the advertised hour of opening will be securely kept, sealed. The officer whose duty it is to open them will decide when the specified time has arrived, and no Bid received thereafter will be considered; except that when a Bid arrives by mail after the time fixed for opening, but before the reading of all other Bids is completed, and it is shown to the satisfaction of the DISTRICT that the non-arrival on time was due solely to delay in the mail for which the bidder was not responsible, such Bid will be received and considered. Mailed Bids will be treated in every respect as though filed in person and will be subject to the same requirements. Bids received subsequent to the advertised hour of opening will be returned to the Bidder unopened.

The Bid opening will be open to all interested parties.

Bid tabulation forms will be prepared by the ENGINEER and will be provided to all interested parties attending the bid opening. Forms will contain the names of prospective bidders and blank spaces for recording the bidder's license number, bid security, base bid and alternates, if any. Spaces for unit prices will not be provided.

Approximately five (5) minutes prior to the designated time for receiving bids the ENGINEER or his representative will announce the "official time" that will be used in declaring the bidding closed.

At the time fixed for the opening of Bids, the ENGINEER will declare the bidding closed. After which, the ENGINEER will determine if at least three (3) bids (sealed envelopes) have been received for the contract. Should there not be at least three, the bids will not be opened. The bids will be returned to the bidders and they will be requested to submit a bid proposal with a re-advertisement.

Since this is a public bid opening, all bids will then be opened and read aloud to the assembled group, beginning with the General Contract bids. The following order will be observed for Formal Bid Contracts:

1. The outer envelopes of all bidders will be opened prior to reading any "Proposals". Prior to opening an outer envelope, the name of the bidder and license number as it appears on the envelope will be announced to the assembled group.
2. With the opening of the bidder's outer envelope, a preliminary determination will be made that bid security and other required certifications are enclosed with the bid.
3. If all of the required material is not with at least three (3) of the bids for a particular contract, the sealed envelopes marked "Proposal" will not be opened.
4. If it is determined that at least three (3) of the outer envelopes appear to be in order, the sealed envelopes containing the bid proposals shall be opened and the bids read aloud.

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After such determination, all remaining bids may be opened and read aloud without first making a preliminary determination as to the adequacy of bid security.

If this is an informal bid contract, the envelope will be opened and a determination will be made that all the required documents are enclosed and properly executed.

#### **ARTICLE IV WITHDRAWAL OR REVISION OF BIDS:**

A Bidder may, without prejudice to himself, withdraw a Bid after it has been delivered to the DISTRICT provided such withdrawal is made in accordance with N.C. General Statute Section 143-129.1.

Only those persons authorized to sign Bids shall be recognized as being qualified to withdraw a Bid.

#### **ARTICLE V ADDENDA AND INTERPRETATIONS:**

No interpretations of the meaning of the Plans, Specifications or other portions of the Contract Documents will be made orally.

Every request for interpretation of Plans, Specifications or any portion of the Contract Documents shall be in writing and must be addressed to the office of the DISTRICT, and to be given consideration must be received by the DISTRICT at least five (5) days prior to the date fixed for the opening of Bids. DISTRICT shall determine, in its sole discretion, whether or not a request for clarification or interpretation requires a formal Addendum. Written Addenda, if issued, will be sent by certified or registered mail with return receipt requested, or facsimile with confirmation, or by e-mailed PDF with confirmation, to all holders of Contract Documents at the respective addresses, facsimile numbers, or e-mail addresses furnished for such purposes not later than three (3) days prior to the day fixed for the opening of bids.

Failure of any Bidder to receive any such Addenda shall not relieve said Bidder from any obligation under his Bid as submitted. All Addenda so issued shall become part of the Contract Documents.

Prospective Bidders are cautioned concerning the use of a Post Office Box address as telegraphic Addenda cannot be sent to Post Office Boxes.

#### **ARTICLE VI DISCREPANCY IN BIDS:**

In the event there is a discrepancy in any Bid between the unit prices and the extended totals, the unit prices shall govern. Bids which do not contain a price for every numbered item contained in the applicable Bid form will not be accepted, unless otherwise specified.

#### **ARTICLE VII QUALIFICATIONS OF BIDDERS:**

The DISTRICT may make such investigation as he deems necessary to determine the qualifications of the Bidder to perform the work and the Bidder shall furnish to the DISTRICT all such information and data for this purpose as the DISTRICT may request. The DISTRICT reserves the right to reject any and all Bids if the evidence submitted by, or investigation of, such Bidder fails to satisfy the DISTRICT that such Bidder is properly qualified to carry out the obligations of the Contract, and to complete the work contemplated therein. Conditional bids will not be accepted.

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The Bidder shall submit, with his Bid, a list of Subcontractors, Suppliers, etc., indicating projects recently completed of a similar nature along with names, addresses and phone numbers of their clients for reference of qualifications.

Bidders shall comply with all applicable laws regulating the practice of General Contracting as contained in Chapter 87 of the General Statutes of North Carolina.

All Bidders must be Utility or Unclassified Contractors licensed in the State of North Carolina to perform work of a nature as required by the Contract Documents.

#### **ARTICLE VIII BID SECURITY:**

For Formal Bid Contracts, each bid must be accompanied by a Bid Bond, cash, cashiers check or a certified check of the Bidder made payable to the DISTRICT in an amount not less than five percent (5%) of the amount of the Bid. Bid Bonds shall be issued by a corporate surety licensed under the laws of North Carolina to execute such bonds.

When the Bidder elects to submit a certified check or cashiers check as his Bid Bond, the check shall be drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation.

Where alternate items are included in the Bid, the amount of bid security shall be not less than five percent (5%) of the base bid and all alternates combined.

**Please note that while not required, it is helpful to use the Bid Bond form already provided in these contract documents. All language contained within this bond form is acceptable to the District. Non-MSD forms may contain unacceptable language and cause your bid to be rejected. Please also note that the use of "AIA" type bid bonds is not acceptable and will cause your bid to be rejected.**

The security of the Bidders will be released upon the earlier to occur of (a) the expiration of five days after the Contract has been signed by the accepted Bidder and the DISTRICT; or (b) the expiration of sixty (60) days after the day the bids are opened, upon demand of any such bidders whose bid has not been accepted prior to such demand.

In the event that all Bids are rejected, the security of all Bidders whose security has not been previously returned will be returned at the time of such rejection.

#### **ARTICLE IX RESPONSIBILITIES OF BIDDERS:**

Each bidder shall, by careful examination, satisfy himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work or the cost thereof under the Contract.

The Bidder shall make his own determination as to the nature and extent of the utility facilities, including proposed adjustments, new facilities, or temporary work to be performed by the utility owner or his representative; and as to whether or not any utility work is planned by the DISTRICT in conjunction with the project construction. The Bidder shall consider in his Bid all the permanent and temporary utility facilities in their present or relocation positions, whether or not specifically shown on the Plans or covered in the project Special Conditions. It will be the Bidder's responsibility to anticipate any

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additional costs to him resulting from such utility work and to reflect these costs in his Bid for the various items in the Contract.

The failure or omission of any Bidder to thoroughly examine and familiarize himself with the Contract Documents or to receive or examine any form, instrument or document or visit the site and acquaint himself with the conditions there existing shall in no way relieve any Bidder from any obligation in respect to his bid.

No verbal agreement or conversation with any officer, agent or employee of the DISTRICT, either before or after the execution of the Contract, shall affect or modify any of the terms or obligations therein.

**ARTICLE X COLLUSIVE AGREEMENTS:**

Each Bidder submitting a Bid to the DISTRICT for any portion of the work contemplated by the documents on which bidding is based, shall execute and attach thereto an affidavit substantially in the form herein provided, to the effect that he has not entered into a collusive agreement with any person, firm or corporation in regard to any Bid submitted.

Before executing any Sub-contract, the successful Bidder shall submit the name of any proposed Sub-contractor for prior approval and an affidavit substantially as above.

**ARTICLE XI TAXES**

The Bidder shall include in his Bid the cost of all sales and use taxes and furnish to the DISTRICT at the end of each month and upon completion of his Contract, a statement setting forth all such taxes paid. This statement shall indicate the amount paid to each firm and be adequate for audit by the State Department of Revenue and must be accompanied by copies of invoices.

**ARTICLE XII COMPARISON OF BIDS:**

Bids will be compared on the basis of the totals of the approximated quantities comprising all items, at the unit and lump sum prices bid for these items. The resulting total Contract Bid Price will be compared which will include and cover the furnishing of all materials, and the performance of all labor necessary, and completing of all the work called for under the accompanying Contract, and in the manner set forth and described in the Contract Documents.

The lowest Bidder under each Contract will be that Bidder whose Bid totals the lowest number of dollars as determined above.

When numbered Alternate bid items are required, the lowest Bidder is the Bidder whose Base Bid and Bid for the Alternate or combination of Alternates selected by the DISTRICT results in the lowest total amount. The DISTRICT reserves the right to select any Alternate or combinations of Alternates.

Where estimated quantities are included in certain items of the Bid, they are for the purpose of comparing bids. While they are believed to be close approximations, they are not guaranteed, and settlement will be made from such items upon the basis of work as actually executed at the unit prices in the Bid as accepted.

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**ARTICLE XIII AWARD OF CONTRACT:**

The contract shall be awarded to the lowest responsive, responsible bidder, taking into consideration quality, performance and time of delivery. The DISTRICT reserves the right to reject any and all bids, including, without limitation, the right to reject any or all non-conforming, non-responsive, unbalanced or conditional bids, and to reject the bid of any bidder if the DISTRICT believes that it would not be in the best interest of the DISTRICT to make an award to that bidder. The DISTRICT also reserves the right to waive informalities.

When Alternate Bid items are required in the Bid, the Contract will be awarded to that responsible Bidder whose Base Bid and Bid for the Alternate or combination of Alternates selected by the DISTRICT results in the lowest total amount.

These Bids are asked for in good faith, and awards will be made as soon as practicable, provided satisfactory Bids are received.

The DISTRICT may reject any bid not prepared and submitted in accordance with the provisions of the bid documents.

The right is reserved to waive informalities in bidding, to reject any or all Bids, or to accept a Bid other than the lowest submitted if such action is deemed to be in the best interest of the DISTRICT.

**ARTICLE XIV COMMENCEMENT OF WORK:**

Upon execution and delivery of the Contract and the delivery of the required performance and payment bonds and insurance certificates and policies, the CONTRACTOR will be notified to proceed with the Work of the Contract. The work of the Contract shall be commenced within ten (10) days following such notification or as otherwise specified in the Notice to Proceed.

The CONTRACTOR shall notify the DISTRICT in writing, of his intention to enter upon the site of the work at least five (5) days in advance of such entrance.

**ARTICLE XV DAMAGES FOR FAILURE TO EXECUTE CONTRACT:**

If an accepted Bidder shall fail or refuse to sign and deliver this Contract and the required surety bonds and insurance documentation within ten (10) days after he has received Notice of Award of his Bid, the DISTRICT shall retain, as partial damages for such failure or refusal, the Bid security of such defaulting Bidder. In addition to such damages, the DISTRICT reserves the right to pursue any other remedies it may have against such defaulting Bidder.

**ARTICLE XVI EQUAL EMPLOYMENT OPPORTUNITY**

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



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**ARTICLE XVII WAGES AND SALARIES**

The Bidder and his Subcontractors shall be required to pay all employees the minimum prevailing wage and salary rates for the full length of the contract.