

# City of Pomona

## REQUEST FOR PROPOSALS

### FOR

#### DESIGN/BUILD WELL 34 GROUNDWATER TREATMENT PLANT

1790 E. First St., Pomona, CA 91767

CIP# 528-2590-XXXXX-95087

**RFP NO: 2024-1019**

Proposals must be received  
by the City prior to 3:00 p.m. local time on **January 21, 2025**

With this Request for Proposals (“**RFP**”), City of Pomona (“**City**”) is requesting proposals (“**Proposals**”) from qualified Design-Build Teams to provide design-build services for the following:

### **Design/Build Well 34 Groundwater Treatment Plant (“Project”)**

The purpose of the Proposal is to demonstrate the qualifications, competence and capacity of the Design-Build Team to perform the work and/or provide the services described in this RFP, in conformity with the requirements of this RFP. The Proposal should demonstrate the qualifications of the Design-Build Team and of the particular staff to be assigned to this Project. It should also specify a specific approach that will meet the RFP requirements. ***This will be a public project subject to California prevailing wage, public works laws, and the Federal Davis Bacon Act.*** Prior to submitting a proposal, all proposers must register with the California Department of Industrial Relations at <http://www.dir.ca.gov/Public-Works/Contractor-Registration.html>.

The successful Design-Build Team will be expected to execute the design-build contract (“Design-Build Contract”) included with this RFP.

This Project is funded in part through the U.S. Environmental Protection Agency (“EPA”) Community Grants Program. Contractor and its subcontractors shall comply with all the federal cross-cutting requirements as well as other applicable federal laws as provided in EPA’s [Community Grants Program Final Implementation Guidance](#), October 2022. The Proposers are directed to the additional funding requirements contained in Exhibit C.

## **1 Introduction**

- About City of Pomona

Incorporated in 1888, Pomona is one of the largest cities in Los Angeles County, encompassing 22.8 square miles, between the Inland Empire and the San Gabriel Valley, and approximately 30 miles east of the Los Angeles Civic Center. Pomona has a population of approximately 169,000. Pomona is a Charter City administered under the Council-City Manager form of local government. The City currently employs approximately 530 full time employees as well as approximately an additional 160 part time employees. Pomona is a full service City with the exception of Fire Services, which is currently contracted through the County of Los Angeles. Additional information about the City of Pomona is available at [www.pomonaca.gov](http://www.pomonaca.gov).

- Project Description

The City of Pomona (“City”) is seeking proposals (“proposals”) from qualified design-build contractors (“proposers”) to design and build a wellhead treatment plant (“project”) at the Well 34 site which is located at 1790 E. First St., Pomona, CA 91767.

This project involves the installation of a groundwater treatment facility, designed to remove 1,2,3-TrichloroPropane (1,2,3-TCP) and PFAS contaminants in groundwater, to meet safe drinking water standards.

This is a single step solicitation. Proposals must include information regarding qualifications, technical approach, and a proposed price.

Further information regarding adjacency requirements, the precise location of the Project, a narrative of Project specifications, and the basis of design is set forth in Section 3 General Overview of RFP Process and the Bridging Documents, attached as Exhibit “A.”

- **Master Project Schedule**

City intends to launch this Project by summer 2025, with completion expected by summer 2026. Design-Build Teams must be able and willing to commit the necessary resources to complete the Project within this timeframe.

The following Master Project Schedule shall be maintained to the greatest degree practicable. The Master Project Schedule dates are not subject to requested modification by Design-Build Teams. The right to modify this schedule at any time is reserved by City. The Master Project Schedule identifies the key milestones as:

1.	Design-Build RFP Release	December 5, 2024
2.	Optional Design-Build RFP Job Walk	December 16, 2024
3.	Questions Due	January 6, 2025
	Addendum Posted	
4.	Design-Build Proposals Due	January 21, 2025
5.	Evaluation of Proposals	
	Announcement of shortlist proposers	
	Interviews, if required.	
6.	Complete Contract Negotiation	
7.	Staff’s Final Selection	
8.	Design-Build Team City Council Approval	May 5, 2025
9.	Notice to Proceed	
10.	Project Completion Date	July 2026

- **Purpose**

City seeks to develop the Project through a design-build process whereby a single contract will be awarded for all design, construction, and final operation activities. This RFP details the Project description and includes function, program, design, treatment performance, schedule, and cost criteria that will be the basis for all subsequent design and construction services. These documents specify certain minimum requirements for finished water quality, equipment, project site adjacency, establish design criteria, and develop operational procedures to ensure the City’s program requirements are translated into functional treatment facilities that will fully support their intended uses. These program requirements include Design-Build Team selection procedures and post-selection instructions to guide the Project delivery process through completion.

The RFP requirements specified herein are directed to all members of the Design-Build Teams including engineers, other consulting design professionals, general construction contractors, and other contractors engaged to design and/or construct the new facilities. This RFP is not intended to inhibit or limit the creativity of engineers or design professionals engaged by the Design-Build Teams in any way. Rather, it is intended to facilitate the design and construction process by providing all members of the Design-Build Team with a clear understanding of City’s requirements

and expectations.

City intends to achieve the best value for the budget available within the required schedule. The Design-Build Team that provides the best value and is prepared to be a partner with City in the execution of the Project will be selected. City defines best value in terms of meeting minimum program standards, meeting established criteria factors (e.g., life-cycle energy/maintenance costs), and excellence of water treatment infrastructure and functionality, as further described in Section 7.4 Evaluation Criteria.

**2 Scope of Required Services**

- Summary of Services

Although the full scope of work shall be negotiated in the Design-Build Contract, as described herein, the selected Design-Build Team will be expected to fulfill, at a minimum, the services and technical requirements described in the Scope of Services attached hereto as “Attachment 1”.

- Project Estimated Budget: Guaranteed Maximum Price

The Project Estimated Budget includes all costs related to accomplishing the Project. The Project Estimated Budget is allocated as follows:

<i>Design-Build Estimated Budget</i>	<i>\$2,100,000</i>
<i>City Owned Contingency</i>	<i>Max 5% of total budget</i>
<i>Total Project Estimated Budget</i>	<i>\$2,100,000</i>

The design and construction of the Project shall be completed within a Guaranteed Maximum Price (“GMP”) consistent with the Project Estimated Budget set forth above. The GMP includes all costs that are within the control of the Design-Build Team including design, project management, construction, warranty, insurance, project closeout, overhead, general conditions, as-built drawings, specifications, standard operating procedure document, operations and maintenance procedure documents, bonds, and other soft costs. The GMP shall also include the Design-Build Team’s contingency for engineering costs and contractor errors and omissions. The GMP proposed by each Design- Build Team shall not exceed the Project Estimated Budget. Construction of the Project within the Project Estimated Budget is critical. The GMP is not to be construed as a stipulated sum, subject to change, but rather a true guaranteed not-to-exceed maximum cost. The Design-Build Team’s goal is to design the most value into the Project, as you believe prudent, while remaining within the Project Estimated Budget and the GMP.

City recognizes that there are a variety of project costs that may be unforeseen before construction, including, but not limited to: sub-surface utility discrepancies, soil problems, program deficiencies, Engineer errors and omissions, constructor errors, weather, and last minute City-requested modifications. City is looking for a Design-Build Entity that is confident enough in its own experience, capabilities, and dedication that, working with equally experienced stakeholders, can make the allowances necessary for the Design- Build Entity to meet the promise of the GMP indicated in its Proposal.

### **3 General Overview of RFP Process**

The following process will govern the conduct of the design-build competition for the Project. Entering the competition and responding to this RFP indicates your compliance with all procedures and requirements set forth in this RFP.

- Selection Process
  - a) Proposal and Submittal Requirements
    - i. City is seeking a Project of exceptional design and technical quality conforming to the minimum program and performance requirements established herein and as determined by City. Exceptions or deviations from these minimum requirements will not be allowed unless specifically authorized by this RFP or by addenda.
    - ii. No exceptions or deviations from terms and conditions of the Design- Build Contract will be permitted.
    - iii. The design-build competition will require submittal of a design concept, partial schematic design drawings, and a bound narrative. Each Design-Build Team will have the opportunity to present its design concept to the City.
  - b) Program
    - i. The description of the required program provided in this RFP sets forth minimum requirements. Design-Build Teams should indicate where their design is superior to the minimum program areas and why they believe the enhancements are beneficial to City.
  - c) Design and Performance Criteria
    - i. Performance requirements to establish minimum material quality and equipment standards are provided in this RFP. Each Proposal must include a certification that the Proposal meets these criteria within the GMP specified. The Design-Build Team is encouraged to provide a description of how the Project will meet quality levels established by these performance requirements.
    - ii. Proposals should also identify attributes that enhance the minimum building design criteria, provide additional space within prescribed limits, and incorporate low operating cost building systems that reduce annual operating costs, or provide other features that will help achieve cost-effective facilities of lasting value.
  - d) Basis of Award
    - i. As further set forth in Section 10 *Contract Award Procedure* of this RFP, the basis of award shall be “best value” characterized by a Proposal that meet all of the minimum program standards, meet established criteria factors (e.g., life-cycle costs), and demonstrates superior design/aesthetics and functionality.
    - ii. The selected Design-Build Team will enter into a Design-Build Contract to

design and construct a water treatment plant for City. The Design-Build Contract will include a detailed scope of work for water treatment design, plans, specifications, plans, stormwater compliance and best management practices (BMPs), project management, operations procedure development, and construction services. A standard urban stormwater mitigation plan (SUSMP) and stormwater pollution prevention plan (SWPPP) and grading plans are required for this project. The existing drainage basin must be brought into current stormwater compliance with the proposed project. The Design-Build Contract is included as Exhibit “B” to this RFP. City will oversee the design and construction of the Project.

- Bridging Entities

- a) City will work with Design-Build Team sub-consultants (collectively, the “Bridging Entities”) on the basic requirements of the Project. City’s consulting team includes:

- Bridging Entity(ies)
- Sub-consultant(s)
- Cost Estimator

The Bridging Entities will prepare bridging documents setting forth treatment technology and plant space requirements of the Project, which serve as the basis of design (“Bridging Documents”). The Bridging Documents are comprised of the following, all of which are attached hereto as Exhibit “A”:

The Bridging Documents developed by the Bridging Entities, are the basis of the programmatic needs of City. The Bridging Documents are included as part of the RFP under Exhibit “A” *Bridging Documents*.

Space/Site Program: The Project shall provide a fully functioning facility that meet the space/site and area requirements set forth in Exhibit “A” *Bridging Documents*.

Placement and Adjacency Needs: The Project shall provide a fully functioning facility that conforms to the placement and adjacency requirements designated for the Project. See Exhibit “A” *Bridging Documents*.

Program Narrative: The Project shall provide a fully functioning treatment plant that meets the descriptive conditions of the Program Narrative.

- The Program Narrative is intended to provide information about the general nature of the treatment plant contained within the program. It is not exhaustive in scope; where specific infrastructure, materials, etc. are not noted. Design-Build Teams are encouraged to offer alternatives.
- In addition to meeting these General Program Requirements, the Project shall provide a fully functioning facility that meet the general standards of the Bridging Documents. See Exhibit “A” *Bridging Documents*.

- Design-Build Team Information

- a) The terms “Design-Build Entity” and “Design-Build Team” are defined for use in

this Project as follows:

- i. Design-Build Entity: The term is used in this RFP to describe the corporation, partnership or other association that is directly responsible to, and holds the prime contract with the City for design and construction of the Project. As a minimum, the members of the Design-Build Entity must include a certified grade 4 Water Treatment State of California Operator, and/or a grade 3 or 4 Advanced Water Treatment Operator, and a licensed and registered Civil engineer. The Design-Build Entity must have written documentation describing the relationship of the members and acknowledging the shared responsibility for performance of the Design-Build Contract for this Project.
  - ii. Design-Build Team: The term is used in a broader sense to describe and identify all those members who are selected and proposed to provide design and/or construction services on the Project at the time of submitting the Design-Build Team's Proposal in response to this RFP.
- b) Required Qualifications
- i. Design-Build Bidder Team must submit, as part of the bid response, the following minimum qualifications and experience information in order for the City to determine a responsible bidder:  
  
For Design:
    - The Engineering team of Record has a team including current State of California registered civil engineering licensees and electrical engineering licensees.
    - The Engineering team of Record's licenses have not been revoked in the last five years.
    - Design-build experience with projects similar to the Project in size, scope, type, complexity, and cost to the Project.
    - Experience working with the Contractor included in the Design-Build Entity.
    - Experience obtaining the permits and regulatory approvals required for the Project.
    - The design team merit criteria include an evaluation of the financial qualifications of the Proposer, including the ability to obtain and maintain applicable guarantees and the Proposer's legal standing with regard to other projects.
- c) The Proposer's contractor and/or supply chain partners must provide personal experience that meet criteria #1 or #2 below:
- i. Have previously managed projects that supplied/furnished treatment systems within the United States, designed for a minimum of 1,200 GPM. The partners must provide previous experience with complete system responsibility, including installation on at least three (3) systems in the past five (5) years.

- ii. Have furnished at least one similar treatment system, currently in use and removing similar synthetic/volatile organic chemicals from an influent water stream. This system should have been designed to treat at least 1,200 GPM.
- iii. Have a minimum of ten or more years of experience in managing design and construction pertaining to the selected treatment technology with three (3) projects completed in the last five (5) years.

For Construction:

- The Contractor must have a valid a Class A and C-34 license as issued by the State of California Contractors License Board and must be registered with the Department of Industrial Relations.
  - The Contractor’s license has not been revoked in the last five years.
  - The Contractor has an acceptable safety record as defined in Section 20133(d)(4)(B)(v) of the Public Contract Code.
  - Water Treatment Specialist team members must be part of this design team.
  - A California Class B General Building Contractor may be part of the design team to facilitate and support treatment infrastructure housing. The Class B General Building Contractor License as issued by the State of California Contractors License Board and must be registered with the Department of Industrial Relations.
  - Design-build experience with projects similar in size, scope, type, complexity and cost to the Project.
  - Experience working with the Engineer-of-Record included in the Design- Build Entity.
  - Subcontractors: Public bidding of work to be subcontracted on the Project in excess of one-half of 1 percent (0.5%) of the GMP is required.
  - The public notice must be published in accordance with competitive bidding notice requirements. Award of the subcontracts by the Design-Build Entity must be based on best value or low bid, at the discretion of the Design- Build Entity.
- Design-Build Contract Overview
    - a) Design-Build Contract Components
      - i. The Design-Build Contract will be comprised of the Contract, General Conditions, Special Conditions and General Requirements. A copy of the template Design-Build Contract is attached hereto as Exhibit “B.”

- ii. The RFP and all addenda thereto and the Design-Build Team’s Proposal, including schematic designs, will be attached to the Design-Build Contract and incorporated therein (collectively, “Contract Documents”).
- b) Design-Build Contract Requirements
  - i. The Design-Build Team shall provide all design and construction work in compliance with the terms of the Design-Build Contract including all attachments thereto.
  - ii. In addition to the requirements contained in this RFP, there are requirements in the Design-Build Contract, including but not limited to, the Design-Build Team’s indemnification of City, which will not be modified.
- c) Risk Transfer

The transfer, from City to the selected Design-Build Team, of some of the risks involved in undertaking the Project under the Design-Build Contract is inherent in the design-build method of project delivery. The primary areas of risk transfer include, but are not limited to:

  - i. Full knowledge and understanding of the construction documents. The Design-Build Team shall be fully responsible for the understanding and interpretation of the design, and as such cannot make a claim against City in this regard.
  - ii. Responsibility for design errors and omissions. The Design-Build Team shall be fully responsible for the technical correctness and completeness of the design documents, and as such cannot make a claim against City in this regard.
  - iii. Timely response, by all design disciplines, to questions and issues during construction. The Design-Build Team shall be fully responsible for the timely interface of all design disciplines, and as such cannot make a claim against City in this regard.
  - iv. Permit processing and approvals. The Design-Build Team shall be fully responsible for obtaining approvals from all jurisdictions having authority over the Project.
- City’s Reservation of Rights
  - a) City reserves the right to determine, in its sole discretion, whether any aspect of a Proposal satisfactorily meets the criteria established in the RFP and the right to seek clarification or additional information from any Design-Build Team submitting a Proposal. City also reserves the right to modify any documents at any time prior to receiving Proposals and to reject any or all Proposals; to extend the submission due date for the Proposals; to modify, amend, reissue or rewrite this RFP; and to procure design and construction services for the Project by other means. In the event the RFP is withdrawn by City or if City does not proceed for any reason, City shall have no liability to any Design-Build Team, Contractor, Engineer, or any other entity for any costs or expenses incurred in connection with the preparation and submittal of a Proposal.
  - b) City reserves the right to hold discussions and/or negotiations with any of the

Design-Build Teams in furtherance of City's evaluation of any Design-Build Team's Proposal and execution of a contract with a Design-Build Team. City will hold these discussions and/or negotiations in a fair and impartial manner and will not communicate any confidential information from any Design-Build Team to another Design-Build Team. In the event that any questions arise from such discussions and/or negotiations that require clarification to or modification of the design criteria or performance requirements, City will issue an addendum to all of the Design-Build Teams.

- c) City reserves the right to waive any informality or irregularity in the Proposals submitted.
  - i. A Proposal may be considered non-responsive if:
    - Significant elements requested in the RFP are not provided.
    - The Proposal fails to meet all mandatory program and performance requirements of the RFP.
    - The proposed GMP exceeds the Project Estimated Budget.
- d) City reserves the right to incorporate any design ideas and/or construction approaches that are presented by those Design-Build Teams that are not selected for the Project.
- e) If the final negotiation of the Design-Build Contract, with the highest ranked Design-Build Team, is not successful, City reserves the right to terminate the negotiations and begin negotiations with the next highest ranked Design-Build Team. This right shall be continued until a satisfactory Design-Build Contract can be negotiated or until City elects to reject all Proposals.
- f) All Proposals submitted by Design-Build Teams and any other correspondence in connection therewith will become the exclusive property of City and will become public records under the California Public Records Act (Government Code Section 6250 et seq.). City will have no liability to any Design-Build Team or other party as a result of any public disclosure of any Proposal or the Design- Build Contract.
- g) If for any reason, prior to entering into the Design-Build Contract, it becomes necessary to terminate the Project, City may do so as follows:
  - Termination prior to Proposal submission: No obligation of payment.
  - Termination subsequent to execution of Design-Build Contract: Pursuant to provisions of the Design-Build Contract.

#### **4 Procedural Requirements**

- Pre-Proposal Meeting

There will be a pre-proposal meeting for this project on Monday, December 16 at 9:00 a.m. Attendance is optional.

Location: 1790 E. First St. Pomona, CA 91767

- Registration

To participate in this RFP, interested parties must be registered as a “Prospective Proposer” within the City’s online bid system, PlanetBids. Registration can be accomplished by visiting the City’s website at [www.pomonaca.gov](http://www.pomonaca.gov), click on “Business”; “Requests for Bids and Proposals”; then, click on “Bid Opportunities” to access the City of Pomona’s PlanetBids Vendor Portal.

**⚠ DO NOT REGISTER FOR THIS SOLICITATION THROUGH A THIRD PARTY OTHER THAN PLANETBIDS. PROPOSERS MUST BE LISTED ON THE CITY OF POMONA’S “PROSPECTIVE BIDDERS LIST” ON PLANETBIDS IN ORDER TO PARTICIPATE IN THIS RFP. IF YOU FAIL TO REGISTER WITH PLANETBIDS PRIOR TO SUBMITTING A RESPONSE, THE CITY RESERVES THE RIGHT TO IMMEDIATELY REJECT ANY RESPONSE YOU SUBMIT IN REFERENCE TO THIS SOLICITATION.**

- Questions and Addenda

- a) Proposer must examine all documents and any addenda posted to PlanetBids, and seek clarification of any ambiguity, conflict, omission or error. If an answer materially affects the solicitation, the information will be incorporated into an addendum and distributed to all registered Prospective Proposers via PlanetBids.
- b) All questions related to this solicitation must be submitted through PlanetBids prior to the due date and time for questions published in the “Schedule of Events”.
- c) For general inquiries or instructions on how to submit a question through PlanetBids, please contact the Planet Bids BidsOnline system team as shown below (M-F from 8:00 a.m. to 5:00 p.m.): [support@planetbids.com](mailto:support@planetbids.com) or call 818-992-1771, ext. 0.
- d) **Addenda notices will only be emailed to Proposers that have registered as a Prospective Proposer through PlanetBids; no other means of contact will be made by the City. It is the Proposer’s responsibility to check PlanetBids to determine if any addenda have been posted prior to the due date and time, and acknowledge the addenda within PlanetBids.**
- e) **Proposers that fail to acknowledge all posted addenda may be deemed non-responsive and cause for rejection.**
- f) **Per Section 2-971(2) of the Pomona City Code, any unauthorized contact by the Proposer during the Proposal process with an official or city employee, other than those shown on the RFP, the Finance Director or Purchasing Manager shall cause the Proposer to be immediately disqualified from participating in the process.**

## 5 Submittal Format and Delivery

- The format and organization of the submittal shall be in accordance with instructions as specified throughout the RFP document. Specified forms included in the Required

Forms section must be completed and signed by a company principal or officer. All completed forms must be returned with the response, and organized in the order in which they appear herein. The City reserves the right to reject submittals that do not follow the specified format, organization and do not have the specified required forms and/or attachments

1. Submittals shall be submitted on 8-1/2" x 11" page size, with size 12 font, and Times New Roman or similar easy to read font style.
2. Pages must be numbered.
3. Proposals must be signed by any and all representatives legally authorized to contractually bind the Proposer. Proposals must be signed in longhand by the Proposer with his/her usual signature in the designated areas within the RFP documents.
4. **DO NOT USE THE CITY'S SEAL OR LOGO. DOING SO IS IN VIOLATION OF THE CITY'S CODE AND MAY RESULT IN IMMEDIATE DISQUALIFICATION OF THE SUBMITTAL.** Section 2-5(3)a of the Pomona City Code prohibits the use of the City's Seal or Logo, or any reproduction thereof, for any purpose other than for official business of the city, its council, officers or departments.
5. Responses Packages to this RFP must be submitted electronically through the PlanetBids online bidding system that can be accessed at <https://www.planetbids.com/portal/portal.cfm?CompanyID=24662> under "Bid Opportunities". **DO NOT SUBMIT A HARDCOPY RESPONSE, OR SUBMIT VIA E-MAIL.** Proposals submitted by any other method such as hard copy or email will be disqualified. Select the project titled "**Design-Build 1790 E. First Street, Water Treatment Plant** (Invitation #2024-1019)" and follow the instructions for submittal. The completed and signed proposal (together with all required attachments) must be transmitted and received in the system no later than **January 21, 2025** before 3:00 p.m. Pacific Time (PT).
6. Proposers should allow for sufficient time to upload and transmit all required information. Proposer is solely responsible to ensure its submission is transmitted prior to the due date and time. The City of Pomona will not accept submissions after the due date and time and is not responsible for any error in transmission including but not limited to power outage, internet connectivity, unauthorized access, etc. Large files may take time to upload, plan the timing of your submittal accordingly. Technical Support - In the event you encounter technical difficulties during the uploading process, please contact the Planet Bids, BidsOnline system team as shown below (M-F from 8 a.m. to 5 p.m.): [support@planetbids.com](mailto:support@planetbids.com) or call 818-992-1771, ext. 0.
7. **WITHDRAWAL OF SUBMITTAL** - Submitted proposal may be withdrawn and resubmitted at any time prior to the due date and time.
8. Proposals will not be publicly opened. Proposers are responsible for checking Planetbids for current updates and notices. To locate all posted documentation login to PlanetBids Vendor Portal.

## **6 Proposal Content Requirements (Pay Special attention to E-1)**

- Proposal Document Files
  - a) The proposal submittal requires two (2) files. Use the naming convention as shown below:
    - File 1 (A-I) Proposal: "Company Name"*
    - File 2. (K) Pricing Proposal: "Price Company Name"*
  - b) Do not exceed 20 characters; abbreviate your firm's name if necessary.
  - c) Do not use symbols such as "\$/.%" as your file may not load correctly.

The following is provided for standardizing the preparation and submission of a Proposal. The intent is to assist proposers in the preparation of their submissions and to allow for a fair and effective evaluation of all proposals.

The submission of a proposal shall certify that the Proposer has full knowledge of the detailed requirements of the Scope of Services, quantity and quality of work to be performed and the conditions under which the work is to be performed.

All proposals must provide specific and succinct answers to all questions and requests for information. Please answer the questions in the format and order presented (submissions of individual resumes alone will not be considered responsive to any specific question).

### **FILE 1**

- A. Table of Contents – Provide a Table of Contents that outlines the contents of the submittal and corresponding page numbers. Dividers shall separate and identify the sections described below.
- B. Cover Letter – Provide a cover letter that includes:
  - 1. An executive summary of the proposal limited to no more than two (2) pages. The letter should include the Consultant's understanding of the services to be performed. In addition, state why the Consultant believes it to be the best qualified to perform the services requested.
  - 2. Proposer's full and legal name, street address, web address and main telephone number
  - 3. Name, telephone number, and email address of the Respondent's Principal Contact person for this RFP.
  - 4. State the Management contact (Name and title of the representative authorized to sign an agreement for the firm) and Project Manager (Name and title of the person responsible for day-to-day management of the project)
  - 5. Stipulation that the cost proposal will remain valid for a minimum period of 180 days.
  - 6. Signature by an individual or individuals authorized to execute legal documents on behalf of the Consultant.
  - 7. If Proposer is a corporation, include a copy of the Respondent's Board of Director's resolution identifying the name(s) of personnel approved to bind the firm, with

signatures, to any resulting agreement.

8. If Proposer is a corporation, provide the Articles of Incorporation or a Business Entity Detail from the Secretary of State website at <https://businesssearch.sos.ca.gov>.
- C. Design Build Contract - A sample of the City of Pomona’s Standard Design Build Contract is provided as Exhibit “B”. Please review this document carefully and note in your proposal any exceptions to the contract. By requiring these requests up front, the City can evaluate all proposers on an equal footing. The City is not obligated to agree to any exceptions. Agreement terms will be finalized during negotiations with the recommended consultant.
- D. Required Forms – The Required Forms herein must be completed, signed by an authorized representative and included as part of the submittal. Failure to submit the required forms may deem the proposal as non-responsive:
1. Acknowledgement and Signature of Authorization
  2. Minority Business Questionnaire
  3. Statement of Non-Collusion by Contractor
  4. Agreement for Indemnification and Acknowledgment of Procurement Practices
  5. Executive Order N-6-22 Certification
- E. References - Provide the following reference information:
1. Include a list of at least three (3) municipal/water agencies, other than the City of Pomona, for which the team is performing, or has performed, similar services within the last five (5) years.
  2. For each agency, include:
    - a. Agency name;
    - b. Agency contact information (name, title, phone number, and email address);
    - c. Term of the contract that services are currently, or were, provided;
    - d. Services performed; and
    - e. Dollar value of the contract.
- F. Key Personnel – Provide a comprehensive list of the Proposer’s key personnel anticipated to provide services. Include the following:
1. An organizational chart that identifies key personnel and their role within the organization.
  2. Resume of the Project Manager that will be assigned to work as the “lead person” on this project and who will be the City’s liaison. Include a detailed description of the assigned Project Manager’s experience in Engineering Plan Review and identify specific projects.
  3. Consultant personnel experience – Include:

- a. Listing of team personnel who will actually be assigned to perform substantial amounts of the work on this project; and
    - b. Provide a resume and experience record for each person, including years of experience, education and anticipated amount of time each will actually work on this project, and location of each person.
  4. Sub-consultant personnel experience – Include:
    - a. Names and addresses of any outside consultants, associates and contractors proposed to be involved with this project; and
    - b. Experience and qualifications as described above for the primary Consultant's personnel.
- G. Qualifications and Experience – Include the following:
  1. Statement of qualifications of Consultant.
  2. Experience – Include:
    - a. Detailed description of similar projects successfully completed by the Consultant in the past five (5) years;
    - b. Relevant experience illustrating the Consultant's capabilities, which must include description of work performed at other public agencies, specifically managed by the proposed designated Project Manager for this City of Pomona Project;
    - c. Include the name, telephone number, and email address of a contact person for each client who can verify the information provided; and
    - d. Listing of current projects and percent complete.
  3. A statement that consultant is independent and properly licensed to practice in California.
  4. A statement that consultant has no scope conflict with regard to any other work performed by the consultant for the City.
  5. DESIGN-BUILD TEAM - The Design-Build Team shall consist of an General Contractor and Engineer of Record:
    - a. GENERAL CONTRACTOR - The General Contractor must have a valid Class A license issued by the State of California Department of Consumer Affairs Contractors State License Board and must be registered with the Department of Industrial Relations.
    - b. ENGINEER OF RECORD - The Engineer of Record must have a valid civil engineers' license issued by the State of California Department of Consumer Board for Professional Engineers, Land Surveyors, and Geologists.
- H. Project Approach – Include:

1. The Scope of Services specified throughout the RFP document defines the City’s requirements. Provide a detailed description of how the Consultant proposes to approach this project based on these requirements. Identify any required items that may be excessive or unnecessary;
  2. Include sufficient discussion of proposed methodologies, techniques, and procedures for each work item;
  3. Provide a breakdown and description of tasks assigned per project team member; and
  4. Provide suggestions for any additional services which may enhance the value, the overall economy and effectiveness of the project.
  5. **Project Design Description** (limit 2-3 pages): a narrative description of the basis of design. Include reference to each of the systems; structural, electrical, mechanical and plumbing, as well as infrastructure, civil and landscape approaches. Address how the proposed design achieves the programmatic goals and performance requirements for the Project. Include narrative descriptions of the building forms; quality levels; proposed finish, and material selections; special design features; and performance characteristics. Clearly convey the design intent and philosophy of the proposed designs and how they achieve City’s goals for the Project.
  6. **Project Compliance with Minimum Program and Performance Requirements** (limit 1 page): A brief written statement certifying that all mandatory program and performance requirements of the RFP are met by the Proposal.
- I. Graphic Submittal Requirements
1. Drawings in general should be at the “schematic” level. All drawings are to be to scale. Plans and elevations are to be dimensioned. The format of the drawings is at the discretion of the Design-Build Team. These are minimum requirements and additional exhibits, including special design features proposed, may be submitted at the Design-Build Team’s discretion.
  2. The following schematic drawings and site plans delineating and detailing design features, materials, and options are required to be submitted with each Design-Build Team’s Proposal. Submittal for the Design-Build Team presentation must be color PDF drawings and schematics (drawings only):
    - i. **Site Plan:** a site plan showing all infrastructure, site features, and on- site improvements at a scale of 1” = 30’. See Exhibit “A” Bridging Documents for limit of site.
    - ii. **Site Plans:** a schematic site plan for the proposed treatment plant. The plans shall identify the area allocated to each operational treatment component set forth in Exhibit “A” Bridging Documents.
    - iii. **Elevations:** a minimum of two (2) color treatment plant elevations (PDF) including limits of all material types and any treatment vessel infrastructure, at a minimum engineering scale of 1” = 30’.
    - iv. **Sections:** a minimum of two (2) treatment plant cross sections (PDF) showing the treatment plant infrastructure in relationship to the other site improvements at a minimum engineering scale of 1” = 30’.

- v. **Other:** diagrams, charts, and photos (PDF) to further illustrate the Proposal are acceptable but not required.

#### J. Project Schedule

1. Include the following:

- i. A proposed schedule and method of assuring that the time schedule is met in accordance with all applicable requirements, and include the completion of the key tasks in each phase;
- ii. Identify the name and title of who will be responsible for managing the time schedule and assuring schedule compliance; and
- iii. Provide a detailed resource allocation for each individual task indicating labor hours associated with each individual job classification.
- iv. **Project Schedule** (limit 1-2 page): The Design-Build Team shall submit with the Proposal a Project Schedule utilizing critical path method (CPM) indicating all major activities including normal design phases, permitting periods, major construction milestones, substantial completion, commissioning, and occupancy. The Design-Build Team's identification of and commitment to, key milestones from Notice to Proceed through the Project Completion Date is crucial. The schedule shall identify significant design and construction activities; their duration and completion dates; document submittal dates; allowances for City and other agency review periods, including schematic design documents, design development documents, final plans and specifications; and regulatory agency review periods for each project. The schedule shall allow for the minimum number of float days specified in the Design-Build Contract for weather and other delays. All dates must be indicated by calendar dates.

### **FILE 2**

#### K. Fees Proposal

1. Fees Proposal – In a separate file from the Proposal, submit the Fee Proposal.
2. Do not include fees within the body of the response.
3. Provide a detailed breakdown of all fees for which compensation is expected. **Project Estimated Budget (limit 1 page): The Design-Build Team's proposed budget amount per Project component and GMP for the Project.**
4. Summary of Value-Added Enhancements (optional but strongly encouraged) (1-2 page limit): A brief narrative description of any proposed value-added enhancements.
5. NOTE: Fees proposal shall be valid for a minimum of 180 days after the published RFP due date.

### **7 Evaluation Procedures**

- Definitions: The following words, terms and phrases have the meanings ascribed to as follows:

1. Most qualified. The "most qualified proposer" will be determined by consideration of the factors as specified in the "Selection Criteria" section of this RFP.
2. Nonresponsive means an offer, submitted by a proposer, to furnish supplies, equipment or services that are not in conformity with the Scope of Services and/or specifications, delivery terms or conditions, or other requirements specified in the solicitation.
3. Nonresponsible is a proposer that provides a Proposal but fails to demonstrate their capacity (financial or otherwise) to provide the supplies, equipment or service as specified in the solicitation.
4. Responsible means a proposer who submits a responsive Proposal and who is not only financially responsible, but also possesses the resources, judgment, skill, ability, capacity and integrity requisite and necessary to perform the Agreement according to its terms.
5. Responsive means a Proposal, submitted by a responsible proposer, to furnish supplies, equipment or services in conformity with the Scope of Services and/or specifications.

- Proposal Evaluation

- a) Proposal Review and Evaluation

- i. All submittals will be initially evaluated by Purchasing for completeness and quality of the content. Only those firms providing complete information as required will be considered for evaluation. The ability to follow the instructions in this RFP demonstrates attention to detail.
    - ii. Proposal Forms are included as part of this RFP and are required to be completed by each Design-Build Team in compliance with this RFP. Design-Build Teams submitting incomplete Proposal Forms may be deemed nonresponsive and their Proposals rejected in the sole discretion of the City. Submit two sets of the completed Proposal Forms.
    - iii. An evaluation committee will be appointed to evaluate submitted proposals.
    - iv. The committee will rank the proposals according to the Evaluation Criteria below and based on information submitted.
    - v. A short list of proposers may be selected for oral interviews if deemed necessary.
    - vi. If oral interviews are determined to be necessary, the initial scoring will be considered preliminary. Final scores, based on the same evaluation criteria, will be determined following the interviews.
    - vii. Negotiations will follow with the selected Proposer, and if successful, the proposer and City will enter into a design build contract for the work as described in Section 1.2 of this RFP.

- Proposal Presentations

A short list of proposers may be selected for a formal presentation of its Proposal.

Proposal schematic and PDF drawings shall be used for the presentation. Additional presentation materials may be used at the discretion of the Design-Build Team. The intent is to allow the short list of Design-Build Team to express the key elements of its Proposal and to offer the City the opportunity to ask questions.

- Evaluation Criteria

- a) Scoring Categories

- i. Overall project approach, design and methodology. (40 points)
    - ii. This shall include the task to be performed as identified in the Scope of Services and the comprehensiveness and rationale of the project work plan.
    - iii. Qualifications, background, and prior experience of the Consultant in performing services for similar projects (20 Points).
    - iv. Past performance on contracts with business or government agencies in terms of quality of work and compliance with schedules. This will be evaluated based on a check of references.
    - v. Experience, organization, and technical skills to successfully accomplish the project's Scope of Services and objectives. (10 Points)
    - vi. Price Proposal. Price proposals will be opened and reviewed after the evaluation and scoring of the technical qualifications has been completed. Price proposals will not be the primary factor in the selection of a Proposal; however, prices shall be reasonable. (30 Points).

- b. Price Proposal Scoring Methodology

As outlined above, there is one cost. The total cost will be used in the model below.

Assume the following cost proposals (examples only).

- a. \$50,000
- b. \$38,000
- c. \$49,000

*Company B with a price of \$38,000 is the low offer. Take the low offer and divide each of the other offers into the lower offer coming up with the mathematical calculation to get a percentage. This percentage is then multiplied by the number of points available for cost. In this case, 30 points are available for cost.*

*\$38,000 is then divided by each of the cost. The results are as follows:*

*\$38,000 divided by \$50,000 = .76  
\$38,000 divided by \$38,000 = 1.00  
\$38,000 divided by \$49,000 = .77*

*The next step is to take each company percentage and multiply it by the points*

*available. The results are as follows:*

*a.  $.76*30=22.8$*

*b.  $1.0*30=30$*

*c.  $.77*30=23.1$*

## **8 Award**

- Price proposals submitted by finalists will be opened and evaluated for price reasonableness.
- Finalists may be requested to submit written clarifications, participate in interviews, negotiations and submittal of a best and final offer.
- In considering references, the City may seek information and references from projects and organizations that are not expressly listed on the proposals as a reference.
- The City reserves the right to further negotiate price, scope and terms with the top ranked Proposer. If negotiations are not successful, the City may terminate negotiations with the top ranked Proposer and begin negotiations with the next ranked Proposer.
- The Proposal determined to be the most qualified that offers a reasonable price will be deemed the finalist, and recommended for City Council award, if applicable.
- It is the intent to make an award to one firm for all items although the City reserves the right to make multiple awards depending on the needs and best interests of the City. The City may accept or reject any or all proposals in whole or in parts and may waive informalities in the process. The contents of the proposal from the selected consultant will become the basis for a contractual obligation when the award is made.
- Letter of Intent to Award to the finalist will be emailed only to Proposers that have registered as a Prospective Bidder in PlanetBids; no other means of contact will be made by the City. It is the Proposer's sole responsibility to check PlanetBids to determine if any award notices have been posted.
- The City reserves the right to terminate awarded agreements in the event of the Consultant's failure to perform services in a manner satisfactory to the City. The Consultant's performance deficiency may be established by a single incident, or by a pattern of incidents, as determined by the City.

## **9 General Instructions and Requirements**

- Additional Services – Pricing may also be requested for a variety of "additional services." Such additional services are not the same as the "routine" work provided daily. In the event the City requests any of the additional services for which pricing is requested, bidder agrees to accept such requests for service and honor the pricing submitted herein.
- Bidder must comply with federal cross-cutting requirements as well as other applicable federal laws as provided in EPA's Community Grants Program Final Implementation Guidance, October 2022.
- Applicable Laws – The laws of the State of California will govern the resulting

Agreement. The applicable law for any legal dispute arising out of the Agreement shall be the law of the State of California. All services provided by the Proposer shall comply with all applicable federal, state, and local building, fire, safety, and electrical codes and all relevant industry standards.

- Appropriation of Funds – If the term of this agreement extends into fiscal years subsequent to that in which it was approved, such continuation of the Agreement is subject to the appropriation of funds for such purpose by the City of Pomona City Council. If funds to effect such continued payment are not appropriated, the Bidder agrees to terminate any service supplied to the City under the Agreement.
- Background Check – Extensive and thorough background checks may be mandatory for all employees prior to executing services.
- Business License and Permits – The Contractor shall secure or maintain in force during the period covered by any Agreement resulting from this solicitation all licenses and permits required by law for the operation of their business, including a Pomona Business License when required.
- Conflict of Interest – (Charter § 1204 & City Code § 2-971)
  1. No officer or employee of the City of Pomona may contract with any person related to any officer or employee of the City by blood or marriage for materials, supplies, services and equipment unless the purchase is by competitive bid and the person so related submits the lowest responsible bid therein. No officer or principal of the supplier, nor any subcontractor may be employed or have been employed, either full or part time, by the City of Pomona either currently or within the last two years. An exception to this section may be granted by approval of the City Council. All successful construction or service bidders must sign and adhere to the City's statement of non-collusion
  2. Any unauthorized contact by the bidder during the bid or proposal process with an official or city employee, other than those shown on the RFP or bid, the Finance Director, or Purchasing Manager, shall cause the bidder to be immediately disqualified from consideration of award.
  3. City employees and officials shall be prohibited from engaging in and/or awarding procurements when:
    - a. Having a financial or personal beneficial interest (directly or indirectly) in any contract or purchase order for materials, supplies, equipment, services, or projects furnished to the City.
    - b. Using information available to officials and employees, solely because of their City position, for personal profit, gain or advantage.
    - c. Directly or indirectly furnishing or withholding services or information not available to all prospective bidders, or who may reasonably be expected to bid on, a contract with the City.
    - d. Using a position or status in the City to solicit (directly or indirectly)

business of any kind; or to purchase products at special discounts or upon special concessions for personal private use from any person or Consultant who sells or solicits sales to the City.

- e. Serving the interest of any organization which transacts or attempts to transact business with the City for profit when such employee holds a City position of review or control over such business transactions.
- 
- Equal Employment Opportunity – The Proposer shall comply with all applicable state and federal laws addressing Equal Employment Opportunity.
  - Excluding Services – From time to time, the City may request certain services be excluded, and such requests will be submitted by the City’s official representative, confirmed in writing, and reflected accordingly on that month’s invoice.
  - Gratuities – Except for items that are clearly promotional in nature, mass produced, trivial in value and not intended to invoke any form of reciprocation, employees of the City of Pomona may not accept gratuities, entertainment, meals of anything of value whatsoever from current or potential suppliers. The offer of such gratuity to an employee of the City shall be cause for declaring such supplier to be an irresponsible bidder and will be prevented from responding as provided in Sections 2-970 of the City Code of the City of Pomona.
  - News/Press Releases – The bidder shall not issue news/press releases regarding this RFP without the prior written approval of the City of Pomona’s Finance Director. In addition, the Respondent shall not release any advertising copy mentioning the City of Pomona or quoting the opinion of any City employee without written approval by the City of Pomona’s Finance Director.
  - Public Information – Responses to this solicitation shall become public record and shall be available for the public’s inspection upon City Council award. The City treats submitted responses as public documents; therefore, proprietary or confidential information that is not intended for public review should not be included with the submittal. Bidder may provide an explanation of why the information was not included. If the City conducts interviews, the information can be presented at that time. The City reserves the right to retain all submittals, whether or not the submittal was selected or judged to be responsive.
  - Purchase Order Requirement – Purchases of the City are authorize only if a signed purchase order is issued in advance of performing services. The City will not be liable for payment for any service provided under the contract unless a valid purchase order has been issued to the contractor.
  - Reservation of Rights – The City reserves the right at its sole discretion to:
    - i. It is the proposer’s sole responsibility to ensure their response is received on time.
    - ii. Cancel the entire solicitation, and re-advertise when, or if, determined to be in the City’s best interest.

- iii. Accept or reject any or all submittals, waive any minor errors, informalities and procedures without penalty to the extent permitted by law.
  - iv. Be the final judge as to which RFPs are the most responsive and responsible.
  - v. Consider any submittal as a non-responsive and subject to rejection if:
    - a. not registered as a prospective bidder for this specific solicitation;
    - b. received by telephone, email or facsimile;
    - c. it contains items or services not specified or are incorrect;
    - d. it fails to specifically provide the information requested; and
    - e. are otherwise not compliant with the instructions and requirements.
- Single Proposal – In the event that only one response is received, the City will determine what is in the City’s best interest; therefore, reserves the right to: 1) cancel the RFP, and re-advertise, or 2) accept the one response for consideration.
  - Submittal Preparation Expenses – The City shall not be responsible for any expense incurred by the bidder in the preparation and presentation of a submittal. Such expenses shall be borne exclusively by the bidder.
  - Federal Content Provisions
    - i. The Contractor shall comply with all federal requirements including, but not limited to, the following:
      - Sections 602 and 603 of the Social Security Act as added by Section 9901 of the American Rescue Plan Act of 2021, U.S. Department of the Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions, Treasury’s Final Rule, and CLFRF reporting requirements, as applicable (collectively, the “CLFRF Compliance Requirements”). The CLFRF Compliance Requirements are expressly incorporated herein by reference.
      - 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which is expressly incorporated herein by reference.
      - Federal Contract Provisions attached hereto as Exhibit “C” and incorporated herein by reference.
      - Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in the Contract, including but not limited to, CLFRF Compliance Requirements, 2 C.F.R. Part 200, and the Federal Contract Provisions.
      - With respect to any conflict between such federal requirements and the terms herein and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement shall control.
  - Protest and Appeal Process

Section 2-990 of the City of Pomona ordinance defines the protest procedures as follows:

Right to Protest

Prior to making the award any responsible bidder in connection with the award

of a contract may protest the award to the Procurement Officer. A subcontractor of a bidder or proposer may not submit a protest. The protest shall be submitted in writing within five (5) calendar days prior to the date of the award and shall identify and explain the factual and legal grounds for the protest. Any grounds not raised in the written protest are deemed waived by the protesting bidder. The Procurement Officer shall review the request and provide the protester with a written reply regarding the protest within three (3) days prior to the final award. Protest received after five (5) calendar days prior to the date of the award will not be considered.

#### Authority to Resolve Protest

The Procurement Officer shall have the authority, prior to award, to settle, resolve, or reject a protest of a responsible bidder concerning the award of a contract.

#### Effect of Failure to Comply with Protest Procedures

The procedures set forth in this article are mandatory and are the sole and exclusive remedy of a bidder or proposer to dispute the award of a contract. A protest that does not comply with these procedures may be summarily rejected.

### **10 Contract Award Procedure**

- Recommendation of Award
  - a) The Design-Build Entity meeting the Required Qualifications (Section 3.3) and with the highest ranking combination of Evaluation Criteria (Section 7.4) score shall be recommended for award of the Design-Build Contract as representing the best value to the public for the Project. Any recommendation for Design-Build Contract award shall be contingent upon final negotiation of the scope of work provisions.
- Negotiation and Design Refinement
  - a) After selection by City of the Design-Build Team to be awarded the Design-Build Contract, the successful Design-Build Team will meet with City to review its Proposal, to reconfirm that the Proposal conforms to all minimum requirements established herein, to clarify any items contained herein, and to determine if the Design-Build Team is aware of any ambiguities, inconsistencies, conflicts, errors or omissions in this RFP. The selected Design-Build Team will be required to provide and/or correct any incomplete items.
  - b) During this evaluation and negotiation timeframe, City will identify changes, if any, to the proposed design that must be implemented to incorporate features required by the RFP that were omitted or otherwise excluded from the proposed design. The selected Design-Build Team and City shall arrive at a mutual understanding of such requirements and any revisions to the Proposal that are necessary to bring it into conformance with all minimum requirements of the RFP. As a condition of executing the Design-Build Contract, and at no additional cost to City, the Design-Build Team shall make any necessary revisions or modifications to the proposed designs to ensure conformity with all requirements of this RFP including the GMP, which shall not be adjusted.

- c) City will also meet with the selected Design-Build Team to discuss and review in detail the proposed design for the purpose of making any City requested changes or modifications in designs, materials, finishes, colors, configurations, layouts, equipment, systems, or otherwise, to improve the overall design and quality of the proposed buildings, to more fully meet City's requirements and criteria for the Project, and/or to result in the development of a Project which provides the highest possible level of functional, program, and performance utility within the GMP.
- Design-Build Contract Execution
  - a) The Design-Build Team's Proposal is a firm offer to enter into the Design- Build Contract in the form attached to this RFP. Review and satisfaction by City with all Post Design-Build Contract Award Submittals, described below, will be a condition precedent to execution of the Design-Build Contract by City. A Notice-To-Proceed will follow execution of the Design-Build Contract by City and the selected Design-Build Team. The Design-Build Team shall then proceed immediately with design and construction of the Project.
  - b) In the event City is unable for any reason to enter into a Design-Build Contract with the selected Design-Build Team by the date specified in the Master Project Schedule, or such other date as mutually agreed upon by City and the Design-Build Team, City reserves the right to terminate discussions with the selected Design-Build Team and, at City's option, to enter into a Design-Build Contract with the next highest ranked Design-Build Team as determined by City.
- Post Design-Build Contract Award Submittals
  - a) Insurance and Bonds
    - i. The Design-Build Team shall submit to City, for City's review and acceptance, all insurance and bond submittals required under the Design-Build Contract, or other documentation acceptable to City, within fifteen (15) calendar days of issuance of a Notice of Award letter. The required insurance and performance bonds submittals, or other acceptable documentation, shall be reviewed by City prior to execution of the Design-Build Contract.
  - b) Quality Control Program
    - i. Design-Build Team shall implement and operate a quality control program during all phases of the Project from commencement of design through completion of construction. The program shall include specific steps to be taken by the Design- Build Team to ensure all designs, materials, products, and workmanship conform to the Contract Documents, minimum program and performance requirements, and applicable codes.
    - ii. Within fifteen (15) calendar days following issuance by City of a Notice of Award letter, the Design-Build Team shall submit to City, for City's review and approval, a detailed quality control program that includes, at a minimum, the following:
      - Lines of authority and responsibility, and internal review procedures and processes to ensure all work conforms to the Contract Documents, program and performance requirements, and applicable codes, and is proceeding in a quality manner.
      - Specific timeframes or periods during construction during

which the Engineer and its consultants, will be on-site to review and inspect the progress of construction activities for conformity with the Project plans and specifications. Include disciplines to be on-site during each of these reviews and inspections.

- Specific steps to be taken by the Design-Build Team to control construction quality and ensure conformance with the Project plans and specifications. Include specific steps to be taken to correct deficiencies in the quality of all work under the Design-Build Contract.
- c) Submittals and Mobilization Plan
- i. Within fifteen (15) calendar days following issuance by City of a Notice of Award letter, the Design-Build Team shall submit to City, for City's review and approval, a mobilization plan and schedule. The mobilization plan and schedule shall be reviewed by City prior to execution of the Design-Build Contract. The mobilization plan and schedule shall be developed in both narrative and graphic format, and shall include, at a minimum, the following:
    - A detailed mobilization plan and schedule for initial construction activities.
    - A detailed sequential plan for commencement of site work no later than the dates specified in the Master Project Schedule.
  - ii. The Design-Build Team shall also submit a plan for review and approval of all required construction phase submittals by the Engineer of Record, as applicable. Construction phase submittals shall include, without limitation, a complete schedule through the Project Completion Date that shows required product/design submittal dates, interim design reviews, required City review periods, and dates for submittals to and receipt of approval from all required approval agencies.

## **11 Modifications During Design.**

- As the design is developed by each Design-Build Team as a part of its Proposal, the design may suggest modifications to the program and/or adjacency requirements. Such modifications shall be considered by the City, and may be accepted with the following conditions:
  - a) If the proposed modifications are of such significance as to affect the basic space and adjacency requirements, such modifications shall be considered "open" and shall be noticed to all Design-Build Teams.
  - b) City, in consultation with the Bridging Entities and consultants, in its sole discretion, shall determine the acceptability of proposed modifications
  - c) If there is a conflict between the Site/Space Program and Placement and Adjacency Needs and the Performance Requirements for any individual Project elements, the more restrictive criteria shall be provided.

## **12 Insurance Requirements**

- The successful Design-Build Team shall carry and maintain, at the successful Design-Build Team's expense, at all times during the term of the agreement not less than the coverage and limits of insurance set forth in the General Conditions to the Design-Build Contract (Exhibit "B"), which shall be maintained with insurers and under forms of policies satisfactory to City.

### **13 Disabled Veteran Business Enterprises**

- The successful Design-Build Team must make a good faith effort to contact and utilize DVBE subcontractors and suppliers in securing bids for performance of the contract. Information regarding certified DVBE firms can be obtained from the Office of Small Business Certification and Resources (OSBCR) at (916) 323-5478 or (916) 322-5060 as well as the OSBCR website at [www.dgs.ca.gov/osbcr](http://www.dgs.ca.gov/osbcr). Verification of DVBE status must be obtained from the OSBCR by receiving an approved certification letter and reference number from that office. Design-Build Teams are encouraged to retain documentation of their good faith efforts, in the event such documentation is requested by the City.
- Design-Build Teams must indicate in their proposal whether they are a certified DVBE and provide a copy of the DVBE Certification Letter issued by OSBCR. Design-Build Teams must also certify, under penalty of perjury, that a good faith effort was made to include DVBE subcontractors and suppliers in the bid. In addition, Design-Build Teams must indicate whether its subcontractors are DVBE certified, and provide the City a copy of the DVBE Certification Letter issued by OSBCR.
- Prior to, and as a condition precedent for final payment under the Contract, the successful Design-Build Team shall provide the City with written documentation identifying the amount paid to certified DVBE subcontractors and suppliers in performance of the Contract and provide a copy of the DVBE Certification Letter issued by OSBCR for each DVBE. This documentation will be used by the City to evaluate its success in meeting its DVBE participation goal.

### **14 Disadvantaged Business Enterprise (DBE) opportunity.**

- Under 40 CFR 33.301, a recipient must make good faith efforts to contract with DBEs whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement. The good faith efforts are required methods to be used by all EPA recipients to ensure DBEs have the opportunity to compete for procurements funded by EPA financial assistance. The regulations at 40 CFR 33.501(a) require a recipient to document its methods used to adhere to the good faith efforts and retain the documentation in the recipient's records. Recipient's failure to retain proper documentation may constitute noncompliance and result in remedial action as described in 40 CFR 33.105. Examples of proper documentation include, but are not limited to, email logs, phone logs, electronic searches and communication, handouts at conferences, flyers sent to DBEs or similar records. In addition, if one or more of the good faith efforts cannot be performed, EPA recommends that the circumstances that have precluded the efforts be documented and retained in the recipient's records.
- The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

## 15 **General Provisions**

- Design-Build Teams are encouraged to review this RFP carefully in its entirety prior to preparation of its Proposal. City reserves the right to reject any or all Proposals or to select the Proposal most advantageous to City. City reserves the right to verify all information submitted in the Proposal.
- Amendments to RFP. City reserves the right to amend the RFP or issue to all Design-Build Teams a Notice of Amendment to answer questions for clarification.
- No Commitment to Award. Issuance of this RFP and receipt of Proposals does not commit City to award a contract. City expressly reserves the right to postpone the Proposal for its own convenience, to accept or reject any or all Proposals received in response to this RFP, to negotiate with more than one Design-Build Team concurrently, or to cancel all or part of this RFP.
- Amendments to Proposals. No amendment, addendum or modification will be accepted after the deadline stated herein for receiving Proposals. Design-Build Teams may modify or amend their Proposal only if City receives the amendment prior to the deadline stated herein for receiving Proposals.
- Non-Responsive Proposals. A Proposal may be considered non-responsive if conditional, incomplete, or if it contains alterations of form, additions not called for, or other irregularities that may constitute a material change to the Proposal.
- Late Proposals. City will not be responsible for Proposals that are not submitted through PlanetBids.
- Alternative Proposals. Only one final Proposal is to be submitted by each Design-Build Team. Multiple Proposals will result in rejection of all Proposals submitted by the Design-Build Team.
- Public Documents. All Proposals and all evaluation and/or scoring sheets shall be available for public inspection at the conclusion of the selection process.
- No Exceptions. Submission of a Proposal constitutes acceptance by Design-Build Team of the conditions contained in this RFP and the Design-Build Contract, should Design-Build Team be selected.

## **ATTACHMENT 1**

### **SCOPE OF SERVICES**

The successful Design-Build entity must provide the City with integrated design-build services to construct a synthetic/volatile organic compounds (SOC/VOCs) wellhead treatment facility or plant that meet the State of California maximum contaminant levels (MCLs), requirements established in this RFP, and accordance with the Contract Documents.

The work of this RFP shall encompass the planning, design, and construction of water plant facilities as described herein, and the DBC shall be responsible for the completion of this work, including all the project coordination, labor and materials, overhead, meetings, planning/research, design approvals, and construction, as identified in Contract Documents and other documents attached to and made part of this RFP.

Project services must include, but are not limited to, the following:

- i. Design: includes complete design, preparation of plans and specifications of an operational Treatment Facility.
  - a. GAC is presumed to be ideal treatment technique; however, alternative treatment techniques may be proposed.
    - i. Installation of a granular activated carbon (GAC) groundwater treatment facility, designed to remove 1,2,3-TrichloroPropane (1,2,3-TCP) and PFAS contaminants in groundwater to meet safe drinking water standards.
  - b. Design of TCP wellhead treatment plant, associated pipelines, valves, appurtenances, and interconnections with existing systems, complete with civil site work, stormwater compliance, structural components, electrical and instrumentation systems, and SCADA integration services.
  - c. Design shall include pathway to facilitate to allow backwash O&M.
  - d. Design shall include pathway from well 10 to well 34 for future treatment if needed.
  - e. Compliance with all contractually required design reviews and approvals.
  - f. Assist City with obtaining any final regulatory permit approvals for facility operations from the State Water Resources Control Board/Division of Drinking Water Programs.
  - g. Development of Facility/Plant Operations and Maintenance Plan (Word and PDF format).
  - h. Final AutoCAD construction plans for the proposed treatment facility.
  - i. Associated traffic control plan.
  - j. Final plant construction plans (mylar film for signature and approval). Provide as-built mylar drawing.
  - k. Define treatment technology vendor/supplier, associated waste disposal plan, and long- term treatment material costs in five-year intervals.

ii. Construction

- a. Obtain all construction related permits associated with construction, including but not limited to encroachment, stormwater (SWPPP/SUSMP), and grading permits.
- b. Construction of plant, associated pipelines, and appurtenances complete with electrical, telemetry, and instrumentation systems integrated with City's existing SCADA system. Including upgrading existing electrical MCC and associated components.
- c. Valves and piping on vessels must be arranged to allow backwash.
- d. Completion of construction for all required equipment and facility acceptance tests.
- e. Compliance with all City and industry construction standards.
- f. Compliance with all State labor and prevailing wage requirements.
- g. Compliance with the Federal requirements of the Davis Bacon Act
- h. Compliance with EPA Community Grants Procurement Requirements
- i. Hydraulic testing of the system.
- j. Connection of the system to the existing infrastructure.
- k. Disinfection of system in accordance with AWWA standards.
- l. Treatment material installation/loading method, treatment plan start-up, and plant operations troubleshooting guidance document (Word and PDF).
  - i. Effluent water quality
  - ii. Design effluent flow rate (Q)
- m. Finalize operation plan and provide all associated operation manuals.
- n. Provide operation and maintenance training to City Staff.
- o. Hiring, oversight, and responsibility for all subcontractors and suppliers of products to be used on the project.
- p. Plant material and hardware warranties.
- q. Post Construction
  - i. The City shall operate and maintain the facility after completion of construction, all State/RWQCB permits have been obtained, and successful plant start-up has been completed. The design-build team shall generate and submit maintenance statement of procedure (SOP) documents to be used by the City after the plant is successfully in operation and completed all plant start-up commissioning.

iii. DESIGN-BUILD ENTITY RESPONSIBILITY

- a. The selected Design-Build entity shall function “at risk” for full and satisfactory completion of the Project in accordance with:
  - i. The approved design and construction documents.
  - ii. The required agency approvals.
  - iii. The Project Completion Date.
  - iv. The agreed GMP.

iv. GENERAL DESCRIPTION OF DESIGN-BUILD SERVICES

- a. The City obtains over 55% of its water source from groundwater production wells in the Chino groundwater basin. The City's groundwater production wells are impacted by contaminants, including nitrate, perchlorate, volatile organic compounds (VOCs), and numerous other constituents. Well 34 produces water from the Chino groundwater basin. This well has recently produced groundwater containing 1,2,3,TCP. 1,2,3,TCP was present in a concentration over the State of California maximum contaminant level (MCL) of 0.005 µg/l or 5 parts per trillion (ppt).
- b. A proposed treatment plant at Well 34 and Well 10 sites is to be identified, designed, constructed, and permitted.
- c. The purpose of this request for proposals (RFP) is to obtain an experienced, responsible, and responsive engineering consultant and design-built team to provide a treatment design, produce design-build treatment alternatives, treatment specifications/drawings, estimated construction costs, and build the selected treatment project. As a final deliverable to the City in addition to the plans, specifications, treatment hardware, material, drawings, and appurtenances, a treatment facility maintenance standard operating procedure (SOP) guide is required. The proposed treatment facility system shall be capable of removing SOCs and VOCs to a level below the State of California reporting limit. The minimum flowrate for the proposed TPH treatment system is for Well 34 1,200 gpm. Well 10 is also located at the site and should be included for anticipated advanced treatment. Well 10 has a production rate of approximately 900 gpm. The ultimate design for the combined treatment plant will be approximately 2,100 gpm. This will include groundwater produced from Wells 34 and 10.
- d. The services sought by the City identified within this RFP include all services necessary to design and construct the Project. This includes but is not limited to the following:
  - i. Engineering design services.
  - ii. Permitting submittal and approvals from local, state, and federal agencies.
  - iii. Coordination of payment of all fees.
  - iv. Project management.
  - v. Construction and construction management.
  - vi. Utility coordination.

- vii. Commissioning of systems and equipment.
  - viii. Coordination of all test and inspection services.
  - ix. Community meetings (as may be required).
  - x. Coordination and scheduling work of Design-Build Team and others providing services to design and construct the Project.
  - xi. All on-site grading and stormwater compliance. This must include grading design and construction of a new drainage basin onsite west of Well 34.
  - xii. Insurance and bonding.
  - xiii. Provision of security badges or additional identification means for all Design-Build Team personnel requiring site access.
  - xiv. Coordination with City representatives.
- e. The design and construction must comply with the requirements of all applicable local, state, and federal agencies. The completed Project is to be a fully functioning facility as described in the Design-Build Contract between City and the successful Design-Build Entity.

**[End of Project Scope]**

## **ATTACHMENT 2 PROJECT SPACE REQUIREMENTS**

- i. General: The Project requires the construction of a new water treatment facility on City's site at 1790 E. First Street, Pomona, CA 91767. The Project must be built per AWWA, City, State, and Federal standards. The facility must be constructed within the existing
- ii. 4.43 acre parcel 8326-027-901 site. This site is directly bounded southerly by residential and commercial sites. Specific City Zoning constraints regarding height, size and facility decibel level must be address in the proposed design.
- iii. The existing site at 1790 E. First Street includes Well 34 and Well 10. There is also an existing stormwater detention basin located west of Well 34 that requires regrading.
- iv. This site is an existing composite City owned operations site for the Water Resources Department. There will be onsite vehicular traffic directly adjacent to the proposed construction site.

**ATTACHMENT 3**  
**IRAN CONTRACTING ACT CERTIFICATION**  
**(Public Contract Code sections 2202-2208)**

Prior to bidding on, submitting a proposal, or executing a contract or renewal for a public entity contract for goods or services of \$1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (“DGS”) pursuant to Public Contract Code section 2203(b) and is not a financial institution extending \$20,000,000 or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d).

To comply with this requirement, please insert your vendor or financial institution name and Federal ID Number (if available) and complete **one** of the options below. Please note: California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination, and three-year ineligibility to bid on contracts. (Pub. Cont. Code § 2205.)

**OPTION #1 - CERTIFICATION**

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

**OPTION #2 – EXEMPTION**

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services.

If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

**ATTACHMENT 4  
WORKERS' COMPENSATION CERTIFICATION**

Labor Code Section 3700 provides in relevant part:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Design-Build Entity:

\_\_\_\_\_

By: \_\_\_\_\_

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

Its: \_\_\_\_\_

In accordance with article 5 (commencing at Section 1860), chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with City prior to performing any work under the Contract.

**ATTACHMENT 5  
NON-COLLUSION DECLARATION**

TO BE EXECUTED BY DESIGN-BUILD TEAM AND SUBMITTED WITH PROPOSAL

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing proposal.

The proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The proposal is genuine and not collusive or sham. The respondent has not directly or indirectly induced or solicited any other respondent to put in a false or sham proposal. The respondent has not directly or indirectly colluded, conspired, connived, or agreed with any respondent or anyone else to put in a sham proposal, or to refrain from responding. The respondent has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the respondent or any other respondent, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other respondent. All statements contained in the proposal are true. The respondent has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a respondent that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state].

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

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

**ATTACHMENT 6**  
**PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION**

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.

Name of Bidder: \_\_\_\_\_

DIR Registration Number: \_\_\_\_\_

Bidder further acknowledges:

- (1) Bidder shall maintain a current DIR registration for the duration of the project.
- (2) Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Dated \_\_\_\_\_

**ATTACHMENT 7  
 PROPOSAL FORMS**

Proposal forms must be completed in their entirety or the Design-Build Entity may be deemed non-responsive in City’s sole discretion.

**PROPOSAL TO:** City of Pomona  
 Water Resources Department  
 Electronically submitted through Planet Bids

**PROPOSAL FOR:** \_\_\_\_\_

Submit in a separate, file, from the design proposal, clearly marked for identification.

**A. SUBMITTAL**

**(1) IDENTIFICATION OF DESIGN-BUILD ENTITY:**

Legal Name of Design-Build Entity: \_\_\_\_\_

Federal I.D. Number: \_\_\_\_\_

Contractor’s License Number: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

License Classification: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Telephone: \_\_\_\_\_

Business Facsimile Number: \_\_\_\_\_

Primary Contact Name: \_\_\_\_\_

Contact Email Address: \_\_\_\_\_

**Member Firm(s) and Core Organizations**

List all individuals and legal entities that are members of the D-B Entity. At a minimum, this must include a general contractor and Engineer of Record.

Discipline	Name	License
General Contractor		
Engineer of Record		

**(2) INFORMATION ABOUT THE D-B ENTITY:**

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

Type of Entity (check one):

- Corporation     Partnership     Sole Prop.     Joint Venture     Other Association

1.

- a. Date of entity incorporation, formation, or commencement: \_\_\_\_\_
- b. State of formation or incorporation: \_\_\_\_\_
- c. How many people does your organization currently employ: \_\_\_\_\_

2.

- a. If the entity is a **corporation**, please complete the following table. Provide information for each officer of the corporation or individual(s) with 10% or more of the corporate stock.

Position	Name	Years with Corporation	% Ownership
President			
Vice President			
Secretary			
Treasurer			

- b. If the entity is a **partnership**, please complete the following table. Provide information for each partner who owns 10% or more of the firm.

Position	Name	Years with Corporation	% Ownership
General Partner			

- c. If the entity is a **sole proprietorship**, please provide the name of the company



3. Has there been any change in ownership of the D-B Entity at any time during the last three (3) years?

**NOTE: A corporation whose shares are publicly traded must only report a change in ownership of a controlling block of shares.**

YES  NO

If “yes”, please explain:

4. Is the D-B Entity a subsidiary, parent, holding company, or affiliate of another design or construction firm?

**NOTE: Include information about other firms if one firm owns 50% or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.**

YES  NO

If “yes”, please explain:

5. Are any of the D-B Entity’s corporate officers, partners or owners associated with any other design or construction companies?

**NOTE: Include name, address, and position information about each other firm in which an owner, partner, or officer of your firm holds a similar position.**

YES  NO

If “yes”, please explain:

6. To the extent available, state the D-B Entity’s gross revenues for each of the last six

years:  
2023: \_\_\_\_\_ 2022: \_\_\_\_\_ 2021: \_\_\_\_\_  
2020: \_\_\_\_\_ 2019: \_\_\_\_\_ 2018: \_\_\_\_\_

7. Has the D-B Entity changed its name or license number in the past five (5) years?

YES  NO

If “yes”, please explain:

8. Has any owner, partner, or (for corporations) officer or the D-B Entity operated a design or construction company under any other name in the last five (5) years?

YES  NO

If “yes”, please explain:

**(3) INFORMATION ABOUT THE GENERAL CONTRACTOR**

Entity Name: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

Type of Entity (check one):

- Corporation     Partnership     Sole Prop.     Joint Venture     Other Association

1.

- a. Date of entity incorporation, formation, or commencement: \_\_\_\_\_
- b. State of formation or incorporation: \_\_\_\_\_
- c. How many people does your organization currently employ: \_\_\_\_\_

2.

- a. If the entity is a **corporation**, please complete the following table. Provide information for each officer of the corporation or individual(s) with 10% or more of the corporate stock.

Position	Name	Years with Corporation	% Ownership
President			
Vice President			
Secretary			
Treasurer			

- b. If the entity is a **partnership**, please complete the following table. Provide information for each partner who owns 10% or more of the firm.

Position	Name	Years with Corporation	% Ownership
General Partner			


c. If the entity is a **sole proprietorship**, please provide the name of the company owner.

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

d. If the entity is **joint venture**, please complete the following table. Provide information for each member of the joint venture.

Name of Firm	Name of Owner, General Partner, or President	% Ownership of Joint Venture

e. For each person listed in table 2a, 2b, 2c, or 2d, identify every construction company that the person has been associated with (as owner, general partner, limited partner, or officer) at any time during the last five (5) years.

**NOTE: For this question, “owner” and “partner” refer to ownership of 10% or more of the business, or 10% or more of its stock, if the business is a publicly traded company.**

Name	Company	Position with Company	Dates of Employment


3. Has there been any change in ownership of the General Contractor at any time during the last three (3) years?

**NOTE: A corporation whose shares are publicly traded must only report a change in ownership of a controlling block of shares.**

YES  NO

If “yes”, please explain:

4. Is General Contractor a subsidiary, parent, holding company, or affiliate of another design or construction firm?

**NOTE: Include information about other firms if one firm owns 50% or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.**

YES  NO

If “yes”, please explain:

5. Are any of the General Contractor’s corporate officers, partners or owners associated with any other design or construction companies?

**NOTE: Include name, address, and position information about each other firm in which an owner, partner, or officer of your firm holds a similar position.**

YES  NO

If “yes”, please explain:

6. State the General Contractor’s gross revenues for each of the last six years:  
 2023: \_\_\_\_\_ 2022: \_\_\_\_\_ 2021: \_\_\_\_\_  
 2020: \_\_\_\_\_ 2019: \_\_\_\_\_ 2018: \_\_\_\_\_

7. List all license numbers, classifications, and expiration dates of the California contractor licenses held by the General Contractor. General Contractor must have a Class A General Building Contractor License issued by the State of California.

Contractor License	Classification(s)	Expiration Date

8. If any of the General Contractor’s license(s) are held in the name of a corporation, partnership, or other entity, list below the names of the qualifying individuals(s) listed on the CSLB records who meet the experience and examination requirements for each license.

Contractor License Number	Name of Qualifying Individual

9. Has the General Contractor changed its name or license number in the past five (5) years?

YES  NO

If “yes”, please explain:

10. Has any owner, partner, or (for corporations) officer of the General Contractor operated a design or construction company under any other name in the last five (5) years?

YES  NO

If “yes”, please explain:

--

11. Provide documentation from the General Contractor’s surety identifying the following:

<b>Bonding Co./Surety:</b>		<b>Surety Agent:</b>	
<b>Agent Address:</b>		<b>Telephone #:</b>	

12. List all other sureties (by name and with full address) that have written payment or performance bods for the General Contractor during the last five (5) years, including the dates during which each wrote the bonds:

Date	Surety	Address

**(4) INFORMATION ABOUT THE ENGINEER OF RECORD**

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

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Type of Entity (check one):

- Corporation     Partnership     Sole Prop.     Joint Venture     Other Association

1.
  - a. Date of entity incorporation, formation, or commencement: \_\_\_\_\_
  - b. State of formation or incorporation: \_\_\_\_\_
  - c. How many people does your organization currently employ: \_\_\_\_\_

2.
  - a. If the entity is a **corporation**, please complete the following table. Provide information for each officer of the corporation or individual(s) with 10% or more of the corporate stock.

Position	Name	Years with Corporation	% Ownership
President			
Vice President			
Secretary			
Treasurer			

- b. If the entity is a **partnership**, please complete the following table. Provide information for each partner who owns 10% or more of the firm.

Position	Name	Years with Corporation	% Ownership
General Partner			


c. If the entity is a **sole proprietorship**, please provide the name of the company owner.

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

d. If the entity is **joint venture**, please complete the following table. Provide information for each member of the joint venture.

Name of Firm	Name of Owner, General Partner, or President	% Ownership of Joint Venture

e. For each person listed in table 2a, 2b, 2c, or 2d, identify every construction company that the person has been associated with (as owner, general partner, limited partner, or officer) at any time during the last five (5) years.

**NOTE: For this question, “owner” and “partner” refer to ownership of 10% or more of the business, or 10% or more of its stock, if the business is a corporation.**

Name	Company	Position with Company	Dates of Employment

3. Has there been any change in ownership of the Engineer of Record at any time during the last three (3) years?  
**NOTE: A corporation whose shares are publicly traded must only report a change in ownership of a controlling block of shares.**

YES  NO

If “yes”, please explain:

4. Is Engineer of Record a subsidiary, parent, holding company, or affiliate of another design or construction firm?  
**NOTE: Include information about other firms if one firm owns 50% or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.**

YES  NO

If “yes”, please explain:

5. Are any of the Engineer of Record’s corporate officers, partners or owners associated with any other design or construction companies?  
**NOTE: Include name, address, and position information about each other firm in which an owner, partner, or officer of your firm holds a similar position.**

YES  NO

If “yes”, please explain:

6. State the Engineer of Record’s gross revenues for each of the last six years:  
2023: \_\_\_\_\_ 2022: \_\_\_\_\_ 2021: \_\_\_\_\_  
2020: \_\_\_\_\_ 2019: \_\_\_\_\_ 2018: \_\_\_\_\_

7. Has the Engineer of Record changed its name or license number in the past five (5) years?

YES  NO

If “yes”, please explain:

8. Has any owner, partner, or (for corporations) officer of the Engineer of Record operated a design or construction company under any other name in the last five (5) years?

YES  NO

If “yes”, please explain:

9. Provide the following information for the Engineer of Record (i.e., the architect(s) whose stamp will appear on the Project documents) for the Project:

Name	License Number	Years Licensed

10. Provide the following information for all known engineers who will be providing services for the Project.

Name	License Number	Years Licensed

**(5) ADDENDUM:**

Receipt of the following Addenda is hereby acknowledged:

Number

Date

---

**B. COST PROPOSAL**

The undersigned hereby proposes and agrees to furnish all design services, construction labor, materials, equipment, including management and oversight, to perform all work required for the Project in the manner and time described in the undersigned’s design proposal and documents. The Cost Proposal, set forth below, includes all costs of the scope of work as requested in the RFP, and required by the provisions of the Design-Build Contract, including the cost of bonds, insurance, sales tax, and every other item of expense, direct or indirect, incidental to the scope of work.

**(1) COST PROPOSAL BUDGET:**

ITEM	DESCRIPTION	BUDGET AMOUNT
1.	[INSERT PROJECT COMPONENTS]	\$
2.		\$
Total	<b>COMPLETE SCOPE OF WORK FOR THE GMP OF:</b>	

**C. DISABLED VETERAN BUSINESS ENTERPRISE**

The undersigned certifies that it is/is not (circle one) DVBE certified. DVBE reference number assigned by the Office of Small Business Certification and Resources is. If undersigned is DVBE certified, please attach a copy of the DVBE certification letter.

**D. ACCEPTABLE SAFETY RECORD**

Compliance with Occupational Safety and Health Laws

Design-Build Entity: \_\_\_\_\_

General Contractor Member: \_\_\_\_\_

Complete the following questions and certify the accuracy of the information by signing the form.

**(1) Has Cal OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years?**

List the three most recent occasions (if any). If none, indicated so:

Date	Occasion	Nature of Citation	Penalty

**(2) Has the Federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?**

List the three most recent citations (if any), if none so indicate:

Date	Occasion	Nature of Citation	Penalty

**(3) Has the EPA or any Air Quality Management City cited or assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?**

List the three most recent citations (if any), if none so indicate:

Date	Occasion	Nature of Citation	Penalty

**(4) How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project of this size?**

List the three most recent projects that had safety meetings and their frequency (if any), if none indicate so:

Date	Project	Nature of Meetings	Frequency

**(5) List your firm's Experience Modification Rate (EMR), issued annually by your worker's compensation insurance carrier, for your California worker's compensation insurance for each of the past three premium years:**

Year	Carrier	EMR
Current Year		
1 Year Prior		
2 Years Prior		

**(6) Within the past five years, has there ever been a period when your firm has employees but was without workers' compensation insurance or state- approved self-assurance?**

Year	Explanation
Current Year	
1 Year Prior	
2 Years Prior	
3 Years Prior	
4 Years Prior	

## E. PROPOSAL CERTIFICATION

### (1) GUARANTEED MAXIMUM PRICE (GMP):

The undersigned, having fully examined the RFP issued December 5, 2024, and any and all attachments, exhibits, and addenda thereto, and site of the Project, proposes to furnish all design and construction labor, materials, and equipment, and do all work in compliance with the terms and conditions of the RFP, without exception, and the herein proposal, for a GMP of:

(\$ \_\_\_\_\_)

The GMP includes City Owned Contingency, the amount of which is specified in the RFP. Any funds from City Owned Contingency not expended pursuant to written approval by City shall revert to City and shall not accrue for the benefit of the undersigned.

### (2) TIME FOR COMPLETION:

The undersigned agrees to comply with City's Master Project Schedule as specified in this RFP. The undersigned further agrees that Substantial Completion of work required by the Design-Build Contract resulting from this RFP and the herein Proposal shall be no later than July 2026.

### (3) CERTIFICATION:

- (a) The undersigned has read and understands the RFP.
- (b) The undersigned has become familiar with local site conditions under which the work is to be performed and has correlated personal observations with the requirements of the RFP.
- (c) The proposal submitted by the undersigned is made in accordance with the RFP and is based upon the materials, systems, and equipment specified therein that will meet the minimum quality, service, utilization, performance, and other levels specified therein, without exception; and the undersigned agrees that City is not responsible for any error or omission in this proposal or in its preparation.
- (d) The undersigned will design and construct facilities that are fully functional and meet all function, program, performance, and other requirements of City as identified in the RFP, and for the GMP specified above.
- (e) If City recommends the undersigned be awarded the Design-Build Contract, the undersigned will meet with City to review in detail this proposal and will make any necessary changes or revisions to this proposal, including any and all design submittals and proposed materials, systems and equipment to ensure delivery to City of fully functional facilities which meet all requirements of City as identified in the RFP without revision to the GMP.
- (f) The undersigned acknowledges and warrants that the Design-Build Entity includes, at a minimum, licensed and qualified engineers, other necessary or specified design professionals and consultants, and a general contractor.
- (g) The undersigned and each of its subconsultants, contractors, and subcontractors shall at all times during the execution of the work contemplated by the RFP, be qualified to complete the work, and each shall comply with all applicable State of

California and City of Palm Desert professional and business licensing and registration requirements.

- (h) The undersigned will not modify, amend, revoke or withdraw this proposal, without written permission of City for a period of not less than ninety (90) calendar days following the submission due date and time specified in the RFP or until a final Design-Build Contract has been executed, whichever occurs first.
- (i) The undersigned, or any member of the Design-Build Entity or Design-Build Team, or any agent or representative thereof, has not collaborated or communicated with, or entered into any understanding agreements, whether written or oral, whether direct or indirect, or otherwise, with any other Design- Build Entity or Design-Build Team, or any agent or representative thereof, in the preparation of this proposal.
- (j) The undersigned has reviewed in detail the Design-Build Contract attached to this RFP and takes no exception to its terms and conditions and warrants that nothing contained in the Design-Build Contract would preclude the Design-Build Entity from entering into the Design-Build Contract unless so qualified in writing in the proposal and understands that taking exceptions may result in disqualification of said proposal as non-responsive. Exceptions to the bond forms, insurance requirements and indemnity provisions included in the Design- Build Contract will not be considered and such exceptions may result in disqualification of the proposal as non-responsive.
- (k) This proposal is genuine and is not a sham or made in the interest of, or on behalf of, any person or entity not herein named.
- (l) The undersigned, or any member of the Design-Build Entity or Design-Build Team, or any agent or representative thereof, has not engaged in any communication or contact with City or any City employee, or any City consultants, except as specifically allowed and limited by this RFP.

**DESIGN-BUILD ENTITY SIGNATURE (Seal Required):**

Signature below shall bind the Design-Build Entity to all representations included in this Proposal and all Attachments and Exhibits hereinto.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Legal Name of Design Build Entity

\_\_\_\_\_  
Date

## **EXHIBIT A**

### **BRIDGING DOCUMENTS**

The following Bridging/Basis of Design Documents are incorporated herein:

Design and construction of all planned improvements included within the Project's scope of work will comply with applicable laws, zoning and construction code requirements, and City, State, and Federal Standards. In addition to these Basis of Design narratives, existing as-built and site plans and drawings have been provided as part of the contract documents to help clarify the overall project Design and Construction intent.

#### Project Goals/Guiding Principles

1. Provide efficient, modern treatment facilities to meet the long-term needs of the Water Resources Department (WRD).
2. Meet WRD expectations in addressing the identified contaminants of concern within the identified aquifer.
3. Maximize Energy Efficiency.
4. Collaborate with City staff to ensure the required quality of the water produced meet State of California RWQCB requirements.
5. Create durable treatment facilities that minimize building life cycle costs, direct and indirect costs, and extend the life cycle of the facility systems and equipment.
6. Create highly flexible facilities that can be reconfigured or expanded as demands for functionality change over time.
7. Create a safe, secure and efficient Project for daily and emergency operations.
8. Provide safe, accessible and optimal work environments for City employees.
9. Provide a future, multi-purpose training facility.
10. Develop a safe and convenient operational working space that fosters departmental efficiency and collaboration.
11. Develop a Project that can be easily supervised, maintaining both personal and site security.
12. Ensure that City staff can observe and control access to the yard and lay-down areas.
13. Project's Construction approach and sequencing must allow for continuous, uninterrupted yard operations, including temporary housing of current staff operations.
14. Provide an implementation process that will make for expedited, yet economical, Project delivery.
15. Ensure optimal functional performance for every component of the site.

**[INSERT BRIDGING/BASIS OF DESIGN DOCUMENTS BEHIND THIS PAGE]**

**EXHIBIT B**  
**DESIGN-BUILD CONTRACT**  
**(Download under Documents)**

**[INSERT DESIGN-BUILD CONTRACT BEHIND THIS PAGE]**

**EXHIBIT C  
GRANT-SPECIFIC PROGRAMMATIC TERMS AND CONDITIONS  
FOR EPA COMMUNITY GRANTS**

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of [40 CFR part 33](#) in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

**A. Performance Reporting ([2 CFR 200.329](#))**

City shall submit performance reports to the EPA Project Officer no later than 30 calendar days after the end of each federal fiscal quarter (January 30, April 30, July 30, and October 30). The final performance report must be submitted no later than 120 calendar days after the period of performance end date.

Performance reports must relate financial data and accomplishments to performance goals and objectives; include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement workplan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and formation of cost overruns or high unit costs.

City shall inform EPA as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement workplan.

City shall collaborate with Contractor to meet the aforementioned reporting requirements.

**B. Project changes**

City shall obtain written EPA approval before implementing changes which alter the project performance standards; change the scope or objectives of the project or substantially alter the design of the project; transfer funds between construction and non-construction budget categories; significantly delay or accelerate the project schedule; substantially alter the facilities plan, design drawings and specifications, or the location, size, capacity, or quality of any major part of the project.

**If changes to the project performance standards are deemed necessary, City will collaborate with Contractor to maintain EPA appraised of such instances, as outlined above.**

**C. Right of Access ([2 CFR 200.337](#))**

City shall provide EPA access to all records including fiscal, procurement, and engineering data and files which are pertinent to the assistance agreement, and EPA may conduct site visits and inspections related to progress of the assistance agreement workplan activities.

- Procurement Document Submission

City shall submit copies of all proposed contracts for services and supplies over \$250,000 to the EPA Project Officer for review. The submittal of the proposed contracts shall include procurement records.

City shall submit a copy of all proposed contracts for construction to the EPA Project Officer for review. The submittal of the proposed contracts shall include procurement records.

(a) City shall submit plans and specifications, requests for proposals, invitations for bid, scopes of work and/or plans and specifications to the EPA Project Officer for review prior to advertising for bids. City shall also submit any addenda to these documents to the EPA Project Officer for review prior to the opening of bids.

(b) City shall submit to the EPA Project Officer, within ten calendar days after a bid opening, the bid package of the lowest responsive, responsible bidder for review prior to the award of a contract. The bid package will include a bid tabulation, a copy of the proof of advertising, the bid bond of the low bidder, the signed EPA Form 5700-49 (Certification Regarding Debarment, Suspension, and Other Responsibility Matters), the MBE/WBE proposed utilization by the low bidder with a statement from Recipient that the efforts taken by the low bidder meet the regulatory requirements, and the recommendation to award a contract to the low bidder.

(c) City shall submit to the EPA Project Officer for review any proposed contract for services, such as engineering or grant management, prior to signing each contract as well as any change orders executed after the award of the contract. A description of the process used to procure those services will also be submitted. Such contracts must comply with provisions in the regulations at [2 CFR Part 200](#) and/or [40 U.S.C. 1101](#) *et seq.*, or an equivalent State requirement as applicable to be accepted as allowable project costs.

#### **D. Procurement**

(a) City shall procure all services (professional or otherwise), supplies, and construction awarded under this grant in accordance with [2 CFR 200.317 through 2 CFR 200.327](#) and [40 CFR Part 33](#).

(b) City shall comply with the procurement processes for architectural and engineering (A/E) services as identified in [40 U.S.C. 1101](#) *et seq.*, or an equivalent State requirement.

#### **E. Cybersecurity Condition**

##### State Grant Cybersecurity

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

(b)(1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under [2 CFR 200.332\(d\)](#), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

## **F. Signage**

City shall place a physical sign displaying the EPA logo at the construction site for this project in an easily visible location that can be directly linked to the work taking place. The sign must be maintained in good condition throughout the construction period. In cases where the construction site covers a large area (e.g., lead service line replacement or septic tank repair/replacement projects), a sign should be placed in an easily visible location near where the work is being performed (e.g., entrance to the neighborhood, along a main road through town, etc.). Signage costs are considered an allowable grant expense, provided the costs associated with the signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, assistance recipients are encouraged to translate the language on signs (excluding the EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable grant expenses, provided the costs are reasonable.

Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs.

EPA Logo: The recipient will ensure that signage displays the EPA logo. The EPA logo must not be displayed in a manner that implies that EPA itself is conducting the project. Instead, the EPA logo must be accompanied with a statement indicating that the recipient received

financial assistance from EPA for the project.

City shall ensure compliance with the sign specifications provided by the EPA Office of Public Affairs (OPA) available at: <https://www.epa.gov/grants/epa-logo-seal-specifications-signage-produced-epa-assistance-agreement-recipients>. As provided in the sign specifications from OPA, the EPA logo is the preferred identifier for assistance agreement projects and use of the EPA seal requires prior approval from the EPA. To obtain the appropriate EPA logo or seal graphic file, the recipient should send a request directly to **Londa Scott-Forte (202-564-1504)** and **Jini Ryan (202-564-1075)**. Please explain in the message that the EPA logo is to be used on signage at a construction site funded with EPA assistance and copy the EPA Project Officer on the message.

## **G. Public or Media Events**

City shall notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to construction projects as a result of this agreement and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.

## **H. Federal Cross-cutting Requirements/Other Applicable Federal Laws**

City shall comply with federal cross-cutting requirements as well as other applicable federal laws as provided in EPA's [Community Grants Program Final Implementation Guidance](#), October 2022.

By submitting a proposal for this project, Contractor understands they must comply with federal cross-cutting requirements as well as other applicable federal laws as provided in EPA's [Community Grants Program Final Implementation Guidance](#), October 2022.

## **FEDERAL CROSS-CUTTING REQUIREMENTS**

### **I. AMERICAN IRON AND STEEL (AIS)**

AIS requirements apply to State Revolving Fund assistance agreements signed on or after January 17, 2014, including all treatment works projects funded by a CWSRF assistance agreement and all public water system projects funded by a DWSRF assistance agreement signed on or after January 17, 2014. Based on the FY 2022 Consolidated Appropriations Act directive Congressional language ("Applicable Federal requirements that would apply to a Clean Water State Revolving Fund or Drinking Water State Revolving Fund project grant recipient shall apply to a grantee receiving a CPF grant under this section"), AIS requirements apply to this award agreement.

(a) *Definitions.* As used in this award term and condition—

(1) "iron and steel products" mean the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(2) "steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

*(b) Domestic preference.*

(1) This award term and condition requires that all iron and steel products used for a project for the construction, alteration, maintenance or repair of a public water system or treatment work are produced in the United States except as provided in paragraph (b)(2) of this section and condition.

(2) This requirement shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency finds that—

(i) applying the requirement would be inconsistent with the public interest;

(ii) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;  
or

(iii) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(3) The Build America, Buy America (BABA) Act requirements do not supersede the AIS requirements, and both provisions still apply and work in conjunction. Compliance with AIS requirements meets the BABA requirements for iron and steel.

*(c) Request for a Waiver under (b)(2) of this section*

(1) Any recipient request to use foreign iron or steel products in accordance with paragraph

(b)(2) of this section shall include adequate information for federal Government evaluation of the request, including—

(i) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(ii) Unit of measure;

(iii) Quantity;

(iv) Cost;

(v) Time of delivery or availability;

(vi) Location of the project;

(vii) Name and address of the proposed supplier; and

(viii) A detailed justification of the reason for use of foreign iron or steel products cited in accordance with paragraph (b)(2) of this section.

(2) If the Administrator receives a request for a waiver under this section, the waiver request shall be made available to the public for at least 15 days prior to making a finding based on the request.

(3) Unless the Administrator issues a waiver of this term, use of foreign iron and steel products is noncompliant with P.L. 117-103 and the Explanatory

Statement for Division G of P.L. 117-103.

(d) This term and condition shall be applied in a manner consistent with United States obligations under international agreements.

## **J. BUILD AMERICA, BUY AMERICA ACT**

This term and condition supplements the “Build America, Buy America” (BABA) term and condition included in EPA’s [General Terms and Conditions](#).

(a) Definitions.

As used in this award term and condition:

(1) “Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

(2) “Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

(3) “Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

(4) “Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

(b) Domestic Preference.

This term and condition implements the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, including Build America, Buy America Act, Pub. L. No. 117-58, §§70901-52. None of the funds provided under this award may be used for a project for infrastructure unless:

(1) all iron and steel used in the project are produced in the United States--this means

all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(3) all construction materials (excluding cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives) are manufactured in the United States. All manufacturing processes for the construction material occurred in the United States.

(4) The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

(c) Waiver Request.

(1) When necessary, recipients may apply for a waiver from these requirements.

(2) A request to waive the application of the domestic content procurement preference must be in writing and submitted following the waiver instructions at <https://www.epa.gov/cwsrf/build-america-buy-america-baba>.

(3) Waiver requests are subject to public comment for at least 15 days prior to making a finding based on the request.

(4) Waiver requests are subject to review by the Office of Management and Budget's Made in America Office.

(5) There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.epa.gov/cwsrf/build-america-buy-america-baba-approved-waivers>.

(6) The U.S. Environmental Protection Agency may grant a waiver based upon one of the exceptions as established in Section 70914(b) of the Infrastructure Investment and Jobs Act and further described in the Office of Management and Budget Memorandum M-22-11.

(7) Any recipient waiver request to use foreign iron, steel, manufactured products, and/or construction materials in an infrastructure project shall include adequate information for the Federal Government evaluation of the request, including—

- i. The Federal Award Identification Number (FAIN);
- ii. Location and description of the project;
- iii. Total cost of infrastructure expenditures, including federal and non-federal funds;
- iv. List of iron or steel item(s), manufactured products, and construction material(s) proposed to be excepted from Buy America requirements, including name, cost, country(ies) of origin (if known), relevant Product Services Code (PSC) and North American Industry Classification System (NAICS) code for each, unit of measure, quantity, time of delivery or availability, and name and address of the proposed supplier;
- v. A detailed justification of the reason for use of foreign iron, steel, manufactured products, and/or construction materials;
- vi. Anticipated impact if no waiver is issued; and
- vii. A certification that the federal official or assistance recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.

(8) Unless a waiver applies, use of foreign iron, steel, manufactured products, and/or construction materials that are consumed in, incorporated into, or affixed to an infrastructure project is noncompliant with this term and condition pursuant to the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, including Build America, Buy America Act, Pub. L. No. 117-58 §§70901-52.

(d) Waiver Evidence Submission.

(1) Maintain documentation of any use of materials which are considered de minimis and are covered by an [existing waiver](#) (e.g. miscellaneous, generally low-cost products that are essential for construction and are incorporated into the physical structure of the project) with grant project files for a period of three years from the date of submission of the final expenditure report, in accordance with [2 CFR 200.334](#).

(2) If recipient seeks coverage under an existing [BABA waiver](#), recipient agrees to submit available evidence to the EPA project officer to support such a determination as identified in the BABA waiver. Recipient shall maintain this evidence with grant project files for a period of three years from the date of submission of the final expenditure report, in accordance with [2 CFR 200.334](#).

## K. Environmental Review

In accordance with the requirements of the National Environmental Policy Act, EPA has issued a categorical exclusion for this project in accordance with provisions in [40 CFR Part 6](#). If EPA determines that a categorical exclusion is not appropriate for this project, Recipient agrees to submit information necessary to issue a Finding of No Significant Impact. If the scope of the project changes, Recipient understands that additional environmental review may be necessary.

## L. DAVIS-BACON

### (a) Applicability of the Davis-Bacon (DB) Prevailing Wage Requirements.

The recipient agrees to include in all procurement contracts and subawards to provide assistance for the construction, alteration, and repair of treatment works carried out in whole or in part with funds made available by the FY 2022 Consolidated Appropriations Act a term and condition requiring compliance with section 513 of the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), and section 1450(e) of the Safe Drinking Water Act (SDWA) (42 U.S.C. 300j-9(e)) and require that procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts in excess of \$2,000 for the construction of treatment works carried out in whole or in part with assistance made available as stated herein shall include in full in the contract clauses as attached hereto entitled “Wage Rate Requirements Under the Clean Water Act, Section 513 and the Safe Drinking Water Act, Section 1450(e).” This term and condition applies to all sub-agreements to provide assistance under the authorities referenced herein, whether in the form of a sub-grant, or any other vehicle to provide financing for a project.

If the recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the recipient must discuss the situation with EPA before authorizing work on that site.

### (b) Obtaining Wage Determinations.

- (1) Unless otherwise instructed by EPA on a project specific basis, the recipients shall use DOL General Wage Classifications for the locality in which the construction activity subject to DB will take place. Recipients must obtain proposed wage determinations for specific localities at [SAM.gov](https://sam.gov). If the recipient is a non-governmental entity, after the recipient obtains its proposed wage determination, it must submit the wage determination to State Water Board at [DavisBacon@waterboards.ca.gov](mailto:DavisBacon@waterboards.ca.gov) or phone (916) 327-7323 or [EPA\\_Grants\\_Info@epa.gov](mailto:EPA_Grants_Info@epa.gov), for approval prior to inserting the wage determination into a solicitation, contract or before issuing task orders, work assignments, or similar instruments to existing contractors (ordering instruments) unless subsequently directed otherwise by EPA’s Award Official.

Note: Recipients must discuss unique situations that may not be covered by the DOL General Wage Classifications with EPA. If, based on discussions with a recipient, EPA determines that DB applies to a unique situation (e.g., unusually extensive excavation) the Agency will advise the recipient which General Wage Classification to use based on the nature of the construction activity at the site.

- (2) Recipients shall obtain the wage determination for the locality in which a Community Grants activity subject to DB will take place *prior* to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

- (i) While the solicitation remains open, the recipient shall monitor [SAM.gov](https://sam.gov) on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The recipient shall amend the solicitation if DOL issues a

modification more than 10 days prior to the closing date (i.e., bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the recipient may request a finding from EPA that there is not a reasonable time to notify interested contractors of the modification of the wage determination. EPA will provide a report of the Agency's finding to the recipient.

(ii) If the recipient does not award the contract within 90 days of the closure of the solicitation, any modifications DOL makes to the wage determination contained in the solicitation shall be effective unless EPA, at the request of the recipient, obtains an extension of the 90-day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The recipient shall monitor [SAM.gov](https://www.sam.gov) on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(iii) If the recipient carries out a Community Grants activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the recipient shall insert the appropriate DOL wage determination from [SAM.gov](https://www.sam.gov) into the ordering instrument.

(3) Recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(4) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

#### (c) Contract and Subcontract Provisions

(1) The recipient shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of treatment works, and construction projects that would be [eligible under the Drinking Water State Revolving Fund Program](#), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or Title VI of the CWA or Section 1452(a)(5) of the SDWA, the following labor standards provisions.

(i) Minimum wages.

(l) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents

thereof) due at time of payment computed at rates not less than those contained in the applicable wage determination of the Secretary of Labor which the recipient obtained under the procedures specified in Item(b) Obtaining Wage Requirements, above, and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(i)(IV) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(i)(II) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Recipients shall require that the contractor and subcontractors include the name of the recipient employee or official responsible for monitoring compliance with DB on the poster. Recipients may obtain wage determinations from <https://sam.gov/content/wage-determinations>.

(II)(A) The recipient, on behalf of EPA, shall require that contracts and subcontracts entered into under this agreement provide that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The EPA Award Official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1)The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2)The classification is utilized in the area by the construction industry; and
- (3)The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(II)(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the recipient agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the recipient to the EPA Award Official. The Award Official will transmit the report, to the Administrator

of the Wage and Hour Division (WHD) at [whd-cbaconformance\\_incoming@dol.gov](mailto:whd-cbaconformance_incoming@dol.gov). The WHD Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Award Official or will notify the Award Official within the 30-day period that additional time is necessary.

(II)(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the recipient do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the Award Official, to the WHD Administrator for determination. The WHD Administrator, or an authorized representative, at [whd-cbaconformance\\_incoming@dol.gov](mailto:whd-cbaconformance_incoming@dol.gov) will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the Award Official within the 30-day period that additional time is necessary.

(II)(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1)(i)(II)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(III) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(IV) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis- Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program.

(ii)Withholding. The recipient, upon written request of the Award Official or an authorized representative of the Department of Labor, shall withhold or cause to withhold from the contractor under this contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, EPA may, after written notice to the contractor, or recipient take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(iii)Payrolls and basic records.

(I) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(II)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the recipient who will maintain the records on behalf of EPA. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/whd/forms/wh347.pdf> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the recipient for transmission to the EPA, if requested by EPA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the recipient.

(II)(B) Each payroll submitted to the recipient shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR Part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR Part 5, and that such information is correct

and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(II)(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (1)(iii)(II)(B) of this section.

(II)(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(III) The contractor or subcontractor shall make the records required under paragraph (1)(iii)(I) of this section available for inspection, copying, or transcription by authorized representatives of the EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, EPA may, after written notice to the contractor, recipient, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(iv) Apprentices and Trainees.

(I) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the

applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the WHD Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(II) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(III) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment

opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(v) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

(vi) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this term and condition.

(vii) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(viii) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(ix) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors), the recipient, borrower or subrecipient and EPA, the U.S. Department of Labor, or the employees or their representatives.

(x) Certification of eligibility.

(I) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(II) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(III) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(d) Contract Provisions for Contracts in Excess of \$100,000.

(1) Contract Work Hours and Safety Standards Act. The recipient shall insert the following clauses set forth in paragraphs (1)(i), (ii), (iii), and (iv) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item (c) Contract and Subcontract Provisions, above, or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and

guards.

(i) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(ii) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1)(i) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1)(i) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1)(i) of this section.

(iii) Withholding for unpaid wages and liquidated damages. The recipient, upon written request of the Award Official or an authorized representative of the Department of Labor, shall withhold or cause to withhold from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (1)(ii) of this section.

(iv) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1)(i) through (iv) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1)(i) through (iv) of this section.

(2) In addition to the clauses contained in Item (c) Contract and Subcontract Provisions, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in [29 CFR 5.1](#), the recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of EPA and the Department of Labor, and the contractor or subcontractor will permit such

representatives to interview employees during working hours on the job.

(e) Compliance Verification.

(1) The recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The recipient must use [Standard Form \(SF\) 1445](#) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(2) The recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the recipient must conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. Recipients must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. Recipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(3) The recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the recipient must spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations, the recipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(4) The recipient shall periodically review contractor and subcontractor use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(5) Recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <https://www.dol.gov/whd/america2.htm>.

**Wage Determination as of 11/29/2024**

*Please refer to the attached wage determination document. (Located under Documents.)*