

**METROPOLITAN CEBU  
WATER DISTRICT (MCWD)**

**Supply and Delivery of Potable  
Desalinated Seawater -  
Cebu City South Project**

**PR No. 29209-001**

**JANUARY 2024**

**Sixth Edition**

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## **Glossary of Acronyms, Terms, and Abbreviations**

**ABC** – Approved Budget for the Contract.

**BAC** – Bids and Awards Committee.

**Bid** – A signed offer or proposal to undertake a contract submitted by a bidder in response to and in consonance with the requirements of the bidding documents. Also referred to as *Proposal* and *Tender* (2016 revised IRR, Section 5[c])

**Bidder** – Refers to a contractor, manufacturer, supplier, distributor and/or consultant who submits a bid in response to the requirements of the Bidding Documents. (2016 revised IRR, Section 5[d])

**Bidding Documents** – The documents issued by the Procuring Entity as the bases for bids, furnishing all information necessary for a prospective bidder to prepare a bid for the Goods, Infrastructure Projects, and/or Consulting Services required by the Procuring Entity. (2016 revised IRR, Section 5[e])

**BIR** – Bureau of Internal Revenue.

**BSP** – Bangko Sentral ng Pilipinas.

**Consulting Services** – Refer to services for Infrastructure Projects and other types of projects or activities of the GOP requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the GOP to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies. (2016 revised IRR, Section 5[i])

**CDA** - Cooperative Development Authority.

**Contract** – Refers to the agreement entered into between the Procuring Entity and the Supplier or Manufacturer or Distributor or Service Provider for procurement of Goods and Services; Contractor for Procurement of Infrastructure Projects; or Consultant or Consulting Firm for Procurement of Consulting Services; as the case may be, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

**CIF** – Cost Insurance and Freight.

**CIP** – Carriage and Insurance Paid.

**CPI** – Consumer Price Index.

**DDP** – Refers to the quoted price of the Goods, which means “delivered duty paid.”

**DTI** – Department of Trade and Industry.

**EXW** – Ex works.

**FCA** – “Free Carrier” shipping point.

**FOB** – “Free on Board” shipping point.

**Foreign-funded Procurement or Foreign-Assisted Project**–Refers to procurement whose funding source is from a foreign government, foreign or international financing institution as specified in the Treaty or International or Executive Agreement. (2016 revised IRR, Section 5[b]).

**Framework Agreement** – Refers to a written agreement between a procuring entity and a supplier or service provider that identifies the terms and conditions, under which specific purchases, otherwise known as “Call-Offs,” are made for the duration of the agreement. It is in the nature of an option contract between the procuring entity and the bidder(s) granting the procuring entity the option to either place an order for any of the goods or services identified in the Framework Agreement List or not buy at all, within a minimum period of one (1) year to a maximum period of three (3) years. (GPPB Resolution No. 27-2019)

**GFI** – Government Financial Institution.

**GOCC** –Government-owned and/or –controlled corporation.

**Goods** – Refer to all items, supplies, materials and general support services, except Consulting Services and Infrastructure Projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the Procuring Entity for such services. The term “related” or “analogous services” shall include, but is not limited to, lease or purchase of office space, media advertisements, health maintenance services, and other services essential to the operation of the Procuring Entity. (2016 revised IRR, Section 5[r])

**GOP** – Government of the Philippines.

**GPPB** –Government Procurement Policy Board.

**INCOTERMS** – International Commercial Terms.

**Infrastructure Projects** – Include the construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of roads and bridges, railways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification facilities, national buildings, school buildings, hospital buildings, and other related construction projects of the government. Also referred to as *civil works or works*. (2016 revised IRR, Section 5[u])

**LGUs** – Local Government Units.

**LONO** – Letter Of No Objection

**NFCC** – Net Financial Contracting Capacity.

**NGA** – National Government Agency.

**PhilGEPS** - Philippine Government Electronic Procurement System.

**Procurement Project** – refers to a specific or identified procurement covering goods, infrastructure project or consulting services. A Procurement Project shall be described, detailed, and scheduled in the Project Procurement Management Plan prepared by the agency which shall be consolidated in the procuring entity's Annual Procurement Plan. (GPPB Circular No. 06-2019 dated 17 July 2019)

**PSA** – Philippine Statistics Authority.

**SEC** – Securities and Exchange Commission.

**SLCC** – Single Largest Completed Contract.

**Supplier** – refers to a citizen, or any corporate body or commercial company duly organized and registered under the laws where it is established, habitually established in business and engaged in the manufacture or sale of the merchandise or performance of the general services covered by his bid. (Item 3.8 of GPPB Resolution No. 13-2019, dated 23 May 2019). Supplier as used in these Bidding Documents may likewise refer to a distributor, manufacturer, contractor, or consultant.

**UN** – United Nations.

## ***Section I. Invitation to Bid***

**INVITATION TO BID FOR  
SUPPLY AND DELIVERY OF POTABLE DESALINATED SEAWATER -  
CEBU CITY SOUTH PROJECT  
PR NO. 29209-001**

1. The Metropolitan Cebu Water District, through the Corporate Operating Budget for the Contract approved by the Governing Boards for the year 2024 intends to apply the aggregate sum of:

Tier	Unit ABC (Php/ m <sup>3</sup> )	Quantity	Approved Budget for the Contract (Php)
Year 1		Construction Period	
Year 2	73.86	5,000 m <sup>3</sup> /day	134,794,500.00
Year 3	73.86	10,000 m <sup>3</sup> /day	269,589,000.00
Year 4	73.86	20,000 m <sup>3</sup> /day	539,178,000.00
Year 5 to Year 6	73.86	25,000 m <sup>3</sup> /day	1,347,945,000.00
Year 7 to Year 11	82.72	25,000 m <sup>3</sup> /day	3,774,100,000.00
Year 12 to Year 16	92.65	25,000 m <sup>3</sup> /day	4,227,156,250.00
Year 17 to Year 21	103.77	25,000 m <sup>3</sup> /day	4,734,506,250.00
Year 22 to Year 26	116.22	25,000 m <sup>3</sup> /day	5,302,537,500.00
Year 27 to Year 29	130.17	25,000 m <sup>3</sup> /day	3,563,403,750.00
<b>TOTAL APPROVED BUDGET FOR THE CONTRACT (ABC)</b>			<b>23,893,210,250.00</b>

being the aggregate ABC to payments under the contract for the SUPPLY AND DELIVERY OF POTABLE DESALINATED SEAWATER - CEBU CITY SOUTH PROJECT. Bids received in excess of the unit ABC and/or Total ABC shall be automatically rejected on bid opening.

The Bidder shall bid on all tiers and in no case shall it exceed the unit ABC for each tier or leave the bid price per tier blank. Otherwise, it shall be rejected. Specifying a "0" (zero) or a "-" (dash) for the required tier(s) means that the same is being offered free to the government. The Bidder with the *lowest total bid price* shall be declared the lowest calculated bidder.

The ABC for each tier includes price changes not limited to wage increases, power cost, fuel cost, price increases of materials and supplies and other production and maintenance costs, inflation, currency fluctuation and foreign currency devaluation. Hence, the contract price is not subject to price adjustment and escalation during contract implementation considering that the exemption provided in Section 61, Rule XIX – Contract Prices and Warranties of the 2016 IRR of RA 9184 is already incorporated herein.

2. The MCWD now invites bids for the above Procurement Project. Bidders should have completed, within ten (10) years prior to the date of submission and receipt of bids, a contract similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II (Instructions to Bidders).
3. Bidding will be conducted through open competitive bidding procedures using a non-discretionary “*pass/fail*” criterion as specified in the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184.

Bidding is open to all interested local bidders subject to the conditions for eligibility provided in the 2016 revised IRR of RA No. 9184.

4. Prospective Bidders may obtain further information from Metropolitan Cebu Water District and inspect the Bidding Documents at the address given below during office hours from 9:00am to 4:00pm.

5. A complete set of Bidding Documents may be acquired by interested Bidders on **January 30, 2024** from the given address and website(s) below and upon payment of the applicable fee for the Bidding Documents, pursuant to the latest Guidelines issued by the GPPB, in the amount of **PHILIPPINE PESO: SEVENTY-FIVE THOUSAND ONLY (PhP75,000.00)**. Metropolitan Cebu Water District shall allow the bidder to present its proof of payment for the fees in person, by facsimile, or through electronic means.
6. MCWD will hold a Pre-Bid Conference<sup>1</sup> on **February 21, 2024**, 10:00am at the MCWD AGM Finance Conference Room, 4th Floor, Metropolitan Cebu Water District, Cor. Magallanes and Lapu-Lapu Streets, Cebu City for Pre-Bid Conference which shall be open to prospective bidders.
7. Bids must be duly received by the BAC Secretariat through *manual* submission at the office address indicated below on or before 9:00am of **March 4, 2024**. Late bids shall not be accepted.
8. All Bids must be accompanied by a bid security in any of the acceptable forms and in the amount stated in **ITB Clause 14**.
9. Bid opening shall be on 10:00am of **March 4, 2024** at the **MCWD AGM Finance Conference Room, 4th Floor, MCWD Building**. Bids will be opened in the presence of the bidders' representatives who choose to attend the activity.
10. The MCWD reserves the right to reject any and all bids, declare a failure of bidding, or not award the contract at any time prior to contract award in accordance with Sections 35.6 and 41 of the 2016 revised IRR of RA No. 9184, without thereby incurring any liability to the affected bidder or bidders.
11. For further information, please refer to:

**Office of the BAC Secretariat**

Christine B. Caballes  
6th Floor, Metropolitan Cebu Water District  
Cor. Magallanes and Lapu-Lapu Streets, Cebu City  
Telefax No. (032)256 0422  
mcwdpurchasing@yahoo.com.ph  
[www.mcwd.gov.ph](http://www.mcwd.gov.ph)

12. For downloading of Bidding Documents, please visit MCWD's website: [www.mcwd.gov.ph](http://www.mcwd.gov.ph)

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**MCWD Bulletin board**

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**Pia Mae S. Barnido**  
Chairperson

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<sup>1</sup> May be deleted in case the ABC is less than One Million Pesos (PhP1,000,000) where the Procuring Entity may not hold a Pre-Bid Conference.



## ***Section II. Instructions to Bidders***

## 1. Scope of Bid

The Procuring Entity, MCWD wishes to receive Bids for:

PR No.	Description	Tier	Unit ABC (Php/ m <sup>3</sup> )	Quantity	Approved Budget for the Contract	Delivery Period
29209-001 (1 lot)	SUPPLY AND DELIVERY OF POTABLE DESALINATED SEAWATER - CEBU CITY SOUTH PROJECT	Year 1	Construction Period			Day One of Delivery shall commence 12 months from receipt of the Notice to Proceed (NTP) by the Bulk Water Supplier
		Year 2	73.86	5,000 m3/day	134,794,500.00	
		Year 3	73.86	10,000 m3/day	269,589,000.00	
		Year 4	73.86	20,000 m3/day	539,178,000.00	
		Year 5 to Year 6	73.86	25,000 m3/day	1,347,945,000.00	
		Year 7 to Year 11	82.72	25,000 m3/day	3,774,100,000.00	
		Year 12 to Year 16	92.65	25,000 m3/day	4,227,156,250.00	
		Year 17 to Year 21	103.77	25,000 m3/day	4,734,506,250.00	
		Year 22 to Year 26	116.22	25,000 m3/day	5,302,537,500.00	
		Year 27 to Year 29	130.17	25,000 m3/day	3,563,403,750.00	
		<b>TOTAL APPROVED BUDGET FOR THE CONTRACT (ABC)</b>				

The Procurement Project (referred to herein as “Project”) is composed of one PR the details of which is described in Section VII (Technical Specifications).

## 2. Funding Information

2.1. The GOP through the source of funding as indicated below for 2024 in the amount of:

<u>Tier</u>	<u>PR No.</u>	<u>Total Approved Budget for the Contract (ABC)</u>
Year 1	29209-001	134,794,500.00

2.2. The source of funding is the 2024 Corporate Operating Budget.

## 3. Bidding Requirements

The Bidding for the Project shall be governed by all the provisions of RA No. 9184 and its 2016 revised IRR, including its Generic Procurement Manuals and associated policies, rules and regulations as the primary source thereof, while the herein clauses shall serve as the secondary source thereof.

Any amendments made to the IRR and other GPPB issuances shall be applicable only to the ongoing posting, advertisement, or **IB** by the BAC through the issuance of a supplemental or bid bulletin.

The Bidder, by the act of submitting its Bid, shall be deemed to have verified and accepted the general requirements of this Project, including other factors that may affect the cost, duration and execution or implementation of the contract, project, or work and examine all instructions, forms, terms, and project requirements in the Bidding Documents.

#### **4. Corrupt, Fraudulent, Collusive, and Coercive Practices**

The Procuring Entity, as well as the Bidders and Suppliers, shall observe the highest standard of ethics during the procurement and execution of the contract. They or through an agent shall not engage in corrupt, fraudulent, collusive, coercive, and obstructive practices defined under Annex “I” of the 2016 revised IRR of RA No. 9184 or other integrity violations in competing for the Project.

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

- 5.1. Only Bids of Bidders found to be legally, technically, and financially capable will be evaluated.
- 5.2. Foreign ownership limited to those allowed under the rules may participate in this Project.
- 5.3. Pursuant to Section 23.4.1.3 of the 2016 revised IRR of RA No.9184, the Bidder shall have an SLCC that is at least one (1) contract similar to the Project the value of which, adjusted to current prices using the PSA’s CPI, must be at least equivalent to the procurement of Expendable Supplies: The Bidder must have completed a single contract that is similar to this Project, equivalent to at least twenty-five percent (25%) of the ABC for the year with full volume of 25,000 cubic meters per day of delivery.
- 5.4. The Bidders shall comply with the eligibility criteria under Section 23.4.1 of the 2016 IRR of RA No. 9184.

#### **6. Origin of Goods**

There is no restriction on the origin of goods other than those prohibited by a decision of the UN Security Council taken under Chapter VII of the Charter of the UN, subject to Domestic Preference requirements under **ITB** Clause 18.

#### **7. Subcontracts**

- 7.1. The Bidder may subcontract portions of the Project to the extent allowed by the Procuring Entity as stated herein, but in no case more than twenty percent (20%) of the Project.

The Procuring Entity has prescribed that Subcontracting is allowed. The portions of Project and the maximum percentage allowed to be subcontracted are indicated in the BDS, which shall not exceed twenty percent (20%) of the contracted Goods. Provided that the bidder shall ensure compliance with [Article IX Quality of Water](#) of the TOR.

- 7.2. Subcontracting of any portion of the Project does not relieve the Supplier of any liability or obligation under the Contract. The Supplier will be responsible for the acts, defaults, and negligence of any subcontractor, its agents, servants, or workmen as fully as if these were the Supplier’s own acts, defaults, or

negligence, or those of its agents, servants, or workmen.

## **8. Pre-Bid Conference**

The Procuring Entity will hold a pre-bid conference for this Project on the specified date and time and either at its physical address as indicated in paragraph 6 of the IB.

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

Prospective bidders may request for clarification on and/or interpretation of any part of the Bidding Documents. Such requests must be in writing and received by the Procuring Entity, either at its given address or through electronic mail indicated in the **IB**, at least ten (10) calendar days before the deadline set for the submission and receipt of Bids.

## **10. Documents comprising the Bid: Eligibility and Technical Components**

- 10.1. The first envelope shall contain the eligibility and technical documents of the Bid as specified in **Section VIII (Checklist of Technical and Financial Documents)**.
- 10.2. The Bidder's SLCC as indicated in **ITB** Clause 5.3 should have been completed within *ten (10) years* prior to the deadline for the submission and receipt of bids.
- 10.3. If the eligibility requirements or statements, the bids, and all other documents for submission to the BAC are in foreign language other than English, it must be accompanied by a translation in English, which shall be authenticated by the appropriate Philippine foreign service establishment, post, or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines. Similar to the required authentication above, for Contracting Parties to the Apostille Convention, only the translated documents shall be authenticated through an apostille pursuant to GPPB Resolution No. 13-2019 dated 23 May 2019. The English translation shall govern, for purposes of interpretation of the bid.

## **11. Documents comprising the Bid: Financial Component**

- 11.1. The second bid envelope shall contain the financial documents for the Bid as specified in **Section VIII (Checklist of Technical and Financial Documents)**.
- 11.2. If the Bidder claims preference as a Domestic Bidder or Domestic Entity, a certification issued by DTI shall be provided by the Bidder in accordance with Section 43.1.3 of the 2016 revised IRR of RA No. 9184.
- 11.3. Any bid exceeding the ABC indicated in paragraph 1 of the **IB** shall not be accepted.
- 11.4. For Foreign-funded Procurement, a ceiling may be applied to bid prices provided the conditions are met under Section 31.2 of the 2016 revised IRR of RA No. 9184.

## 12. Bid Prices

12.1. Prices indicated on the Price Schedule shall be entered separately in the following manner:

- a. For Goods offered from within the Procuring Entity's country:
  - i. The price of the Goods quoted EXW (ex-works, ex-factory, ex-warehouse, ex-showroom, or off-the-shelf, as applicable);
  - ii. The cost of all customs duties and sales and other taxes already paid or payable;
  - iii. The cost of transportation, insurance, and other costs incidental to delivery of the Goods to their final destination; and
  - iv. The price of other (incidental) services, if any, listed in the **BDS**.
- b. For Goods offered from abroad:
  - i. Unless otherwise stated in the **BDS**, the price of the Goods shall be quoted delivered duty paid (DDP) with the place of destination in the Philippines as specified in the **BDS**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.
  - ii. The price of other (incidental) services, if any, as listed in the **BDS**.

## 13. Bid and Payment Currencies

13.1. For Goods that the Bidder will supply from outside the Philippines, the bid prices may be quoted in the local currency or tradeable currency accepted by the BSP at the discretion of the Bidder. However, for purposes of bid evaluation, Bids denominated in foreign currencies, shall be converted to Philippine currency based on the exchange rate as published in the BSP reference rate bulletin on the day of the bid opening.

13.2. Payment of the contract price shall be made in Philippine Pesos.

## 14. Bid Security

14.1. The Bidder shall submit a Bid Securing Declaration<sup>2</sup> or any form of Bid Security in the amount indicated in the **BDS**, which shall be not less than the percentage of the ABC in accordance with the schedule in the **BDS**.

14.2. The Bid and bid security shall be valid for one hundred twenty (120) calendar days from bid opening. Any Bid not accompanied by an acceptable bid security shall be rejected by the Procuring Entity as non-responsive.

## **15. Sealing and Marking of Bids**

Each Bidder shall submit one copy of the first and second components of its Bid.

The Procuring Entity may request additional hard copies and/or electronic copies of the Bid. However, failure of the Bidders to comply with the said request shall not be a ground for disqualification.

If the Procuring Entity allows the submission of bids through online submission or any other electronic means, the Bidder shall submit an electronic copy of its Bid, which must be digitally signed. An electronic copy that cannot be opened or is corrupted shall be considered non-responsive and, thus, automatically disqualified.

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

16.1. The Bidders shall submit on the specified date and time and either at its physical address or through online submission as indicated in paragraph 7 of the **IB**.

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

17.1. The BAC shall open the Bids in public at the time, on the date, and at the place specified in paragraph 9 of the **IB**. The Bidders' representatives who are present shall sign a register evidencing their attendance. In case videoconferencing, webcasting or other similar technologies will be used, attendance of participants shall likewise be recorded by the BAC Secretariat.

In case the Bids cannot be opened as scheduled due to justifiable reasons, the rescheduling requirements under Section 29 of the 2016 revised IRR of RA No. 9184 shall prevail.

17.2. The preliminary examination of bids shall be governed by Section 30 of the 2016 revised IRR of RA No. 9184

## **18. Domestic Preference**

18.1. The Procuring Entity will grant a margin of preference for the purpose of comparison of Bids in accordance with Section 43.1.2 of the 2016 revised IRR of RA No. 9184.

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<sup>2</sup> In the case of Framework Agreement, the undertaking shall refer to entering into contract with the Procuring Entity and furnishing of the performance security or the performance securing declaration within ten (10) calendar days from receipt of Notice to Execute Framework Agreement.

## 19. Detailed Evaluation and Comparison of Bids

- 19.1. The Procuring Entity's BAC shall immediately conduct a detailed evaluation of all Bids rated "*passed*," using non-discretionary pass/fail criteria. The BAC shall consider the conditions in the evaluation of Bids under Section 32.2 of the 2016 revised IRR of RA No. 9184.
- 19.2. If the Project allows partial bids, bidders may submit a proposal on any of the lots or items, and evaluation will be undertaken on a per lot or item basis, as the case maybe. In this case, the Bid Security as required by **ITB** Clause 14 shall be submitted for each lot or item separately.
- 19.3. The descriptions of the lots or items shall be indicated in **Section VII (Technical Specifications)**, although the ABCs of these lots or items are indicated in the **BDS** for purposes of the NFCC computation pursuant to Section 23.4.2.6 of the 2016 revised IRR of RA No. 9184. The NFCC must be sufficient for the total of the ABCs for all the lots or items participated in by the prospective Bidder.
- 19.4. The Project shall be awarded as follows:

One Project having several items which shall be awarded as one contract.
- 19.5. Except for bidders submitting a committed Line of Credit from a Universal or Commercial Bank in lieu of its NFCC computation, all Bids must include the NFCC computation pursuant to Section 23.4.1.4 of the 2016 revised IRR of RA No. 9184, which must be sufficient for the total of the ABCs for all the lots or items participated in by the prospective Bidder. For bidders submitting the committed Line of Credit, it must be at least equal to ten percent (10%) of the ABCs for all the lots or items participated in by the prospective Bidder.

## 20. Post-Qualification

- 20.1. Within a non-extendible period of five (5) calendar days from receipt by the Bidder of the notice from the BAC that it submitted the Lowest Calculated Bid, the Bidder shall submit its latest income and business tax returns filed and paid through the BIR Electronic Filing and Payment System (eFPS) and other appropriate licenses and permits required by law and stated in the **BDS**.

## 21. Signing of the Contract

- 21.1. The documents required in Section 37.2 of the 2016 revised IRR of RA No. 9184 shall form part of the Contract. Additional Contract documents are indicated in the **BDS**.

## ***Section III. Bid Data Sheet***



# Bid Data Sheet

ITB Clause													
5.3	<p>The Bidder must have completed within <i>ten (10) years</i> prior to the date of bid submission a single contract that is similar to this Project, equivalent to at least 25% of the ABC for the year with full volume of 25,000 cubic meters per day of delivery or PhP168,493,125.00; and</p> <p>For this purpose, contracts similar to the Project shall be:  <i>Development, supply and delivery of potable bulk water from any source using Reverse Osmosis (RO) technology</i></p>												
7.1	<i>No Further Instructions.</i>												
12	<p>The price of the Goods shall be quoted DDP at the following designated injection point:</p> <ol style="list-style-type: none"> <li>1. Primary Line - Ø500mm Cement Lined/Cement Coated pipeline Along N. Bacalso St., Poblacion Pardo, Cebu City</li> <li>2. Secondary Line –               <ol style="list-style-type: none"> <li>a. Ø200mm PVC pipeline at corner Ilang-ilang St. and F. Jaca St., Barangay Inayawan, Cebu City</li> <li>b. Other drop-off points upon determination and agreed by both parties along F. Jaca St.</li> </ol> </li> </ol>												
14.1	<p>The bid security shall be in the form of a Bid Securing Declaration, or any of the following forms and amounts:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 30%; text-align: left;">P.R. No.</th> <th style="width: 35%;">a. The amount of not less than 2% of the ABC for the year with full volume of 25,000 cubic meters per day of delivery, if bid security is in cash, cashier's/ manager's check, bank draft/guarantee or irrevocable letter of credit; or</th> <th style="width: 35%;">b. The amount of not less than 5% of the ABC for the year with full volume of 25,000 cubic meters per day of delivery, if bid security is in Surety Bond.</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">29209-001</td> <td style="text-align: center;">13,479,450.00</td> <td style="text-align: center;">33,698,625.00</td> </tr> </tbody> </table>							P.R. No.	a. The amount of not less than 2% of the ABC for the year with full volume of 25,000 cubic meters per day of delivery, if bid security is in cash, cashier's/ manager's check, bank draft/guarantee or irrevocable letter of credit; or	b. The amount of not less than 5% of the ABC for the year with full volume of 25,000 cubic meters per day of delivery, if bid security is in Surety Bond.	29209-001	13,479,450.00	33,698,625.00
P.R. No.	a. The amount of not less than 2% of the ABC for the year with full volume of 25,000 cubic meters per day of delivery, if bid security is in cash, cashier's/ manager's check, bank draft/guarantee or irrevocable letter of credit; or	b. The amount of not less than 5% of the ABC for the year with full volume of 25,000 cubic meters per day of delivery, if bid security is in Surety Bond.											
29209-001	13,479,450.00	33,698,625.00											
19.3	PR No.	Description	Tier	Unit ABC (Php/ m <sup>3</sup> )	Quantity	Approved Budget for the Contract	Delivery Period						
29209-001 (1 lot)	SUPPLY AND DELIVERY OF POTABLE DESALINATED SEAWATER - CEBU CITY SOUTH PROJECT		Year 1	Construction Period			Day One of Delivery shall commence 12 months from receipt of the Notice to Proceed (NTP) by the Bulk Water Supplier						
			Year 2	73.86	5,000 m <sup>3</sup> /day	134,794,500.00							
			Year 3	73.86	10,000 m <sup>3</sup> /day	269,589,000.00							
			Year 4	73.86	20,000 m <sup>3</sup> /day	539,178,000.00							
			Year 5 to Year 6	73.86	25,000 m <sup>3</sup> /day	1,347,945,000.00							
			Year 7 to Year 11	82.72	25,000 m <sup>3</sup> /day	3,774,100,000.00							
			Year 12 to Year 16	92.65	25,000 m <sup>3</sup> /day	4,227,156,250.00							
			Year 17 to Year 21	103.77	25,000 m <sup>3</sup> /day	4,734,506,250.00							
			Year 22 to Year 26	116.22	25,000 m <sup>3</sup> /day	5,302,537,500.00							
			Year 27 to Year 29	130.17	25,000 m <sup>3</sup> /day	3,563,403,750.00							
<b>TOTAL APPROVED BUDGET FOR THE CONTRACT (ABC)</b>						<b>23,893,210,250.00</b>							

This is a procurement of one (1) lot and partial bids are not allowed.

The Bidder shall bid on all tiers and in no case shall it exceed the unit ABC for each tier or leave the bid price per tier blank. Otherwise, it shall be rejected. Specifying a "0" (zero) or a "-" (dash) for the required tier(s) means that the same is being offered free to the government. The Bidder with the lowest total bid price shall be declared the lowest calculated bidder.

20.1 Additional requirements: (all copies must be original or duly authenticated copies)

1. Bureau of Internal Revenue Certificate of Registration (BIR Form 2303)
2. Quarterly / Monthly Income and VAT Returns filed with the BIR.  
NOTE: The latest income and business tax returns are those within the last six (6) months preceding the date of bid submission.
3. Latest Annual Income Tax Return (BIR Form 1701 or 1702)
4. In case of JVA for Corporate Entities, a duly Notarized Secretary's Certificate or Board Resolution authorizing the representative to represent the company to enter into JVA.
5. Latest General Information Sheet filed with the SEC for corporate entities
6. Letter of No Objection (LONO) from the Local Chief Executive of the LGU where the proposed Project facility shall be constructed or operated.
7. If a Bidder participated in other on-going procurement of bulk water supply projects of MCWD and was found to be the Lowest Calculated Bidder (LCB) in such bidding, the NFCC must be sufficient to cover all contracts. Otherwise, the Bidder shall submit an additional Committed Line of Credit (CLC) to cover the deficiency. Failure to comply this requirement shall be a ground for post-disqualification of the subsequent bids.

The Class "A" Documents shall remain as a post-qualification requirement for verification, validation, and ascertainment of the veracity, authenticity, and validity of such Class "A" eligibility documents attached to the PhilGEPS Certificate of Platinum Registration and Membership in accordance with Section 34.2 of the 2016 Revised IRR of RA 9184.

Required documents prior to Contract Signing:

1. [Project Sustainability Study/Report](#) - proof that the water source can sustain the supply of water for this project, the Supplier shall submit a feasibility or water resource study as basis that the proposed site, source, and plant is sustainable for the entire duration of the project;
2. [Proof of Water Permit Application](#) to the National Water Resources Board (NWRB);
3. [Sworn statement](#) indicating the list of existing water consumers of the Supplier, if applicable;

4. Performance Security; and

5. If applicable, a duly signed joint venture agreement (JVA) in case the bidder submitted during bid submission only duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA.

## ***Section IV. General Conditions of Contract***

## 1. **Scope of Contract**

This Contract shall include all such items, although not specifically mentioned, that can be reasonably inferred as being required for its completion as if such items were expressly mentioned herein. All the provisions of RA No. 9184 and its 2016 revised IRR, including the Generic Procurement Manual, and associated issuances, constitute the primary source for the terms and conditions of the Contract, and thus, applicable in contract implementation. Herein clauses shall serve as the secondary source for the terms and conditions of the Contract.

This is without prejudice to Sections 74.1 and 74.2 of the 2016 revised IRR of RA No. 9184 allowing the GPPB to amend the IRR, which shall be applied to all procurement activities, the advertisement, posting, or invitation of which were issued after the effectivity of the said amendment.

Additional requirements for the completion of this Contract shall be provided in the **Special Conditions of Contract (SCC)**.

## 2. **Advance Payment and Terms of Payment**

2.1. Advance payment of the contract amount is provided under Annex “D” of the revised 2016 IRR of RA No. 9184.

2.2. The Procuring Entity is allowed to determine the terms of payment on the partial or staggered delivery of the Goods procured, provided such partial payment shall correspond to the value of the goods delivered and accepted in accordance with prevailing accounting and auditing rules and regulations. The terms of payment are indicated in the **SCC**.

## 3. **Performance Security**

Within ten (10) calendar days from receipt of the Notice of Award by the Bidder from the Procuring Entity but in no case later than the signing of the Contract by both parties, the successful Bidder shall furnish the performance security in any of the forms prescribed in Section 39 of the 2016 revised IRR of RA No. 9184.

## 4. **Inspection and Tests**

The Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Project specifications at no extra cost to the Procuring Entity in accordance with the Generic Procurement Manual. In addition to tests in the **SCC, Section VII (Technical Specifications)** shall specify what inspections and/or tests the Procuring Entity requires, and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.

All reasonable facilities and assistance for the inspection and testing of Goods, including access to drawings and production data, shall be provided by the Supplier to the authorized inspectors at no charge to the Procuring Entity.

## **5. Warranty**

- 5.1 In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty shall be required from the Supplier as provided under Section 62.1 of the 2016 revised IRR of RA No. 9184.
- 5.2 The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, repair or replace the defective Goods or parts thereof without cost to the Procuring Entity, pursuant to the Generic Procurement Manual.

## **6. Liability of the Supplier**

The Supplier's liability under this Contract shall be as provided by the laws of the Republic of the Philippines.

If the Supplier is a joint venture, all partners to the joint venture shall be jointly and severally liable to the Procuring Entity.

## ***Section V. Special Conditions of Contract***

## Special Conditions of Contract

GCC Clause	
1	<p><b>Delivery and Documents –</b></p> <p>For purposes of the Contract, “EXW,” “FOB,” “FCA,” “CIF,” “CIP,” “DDP” and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of INCOTERMS published by the International Chamber of Commerce, Paris. The Delivery terms of this Contract shall be as follows:</p> <p>The delivery terms applicable to this Contract are delivered at the following designated injection point:</p> <ol style="list-style-type: none"> <li>1. Primary Line - Ø500mm Cement Lined/Cement Coated pipeline Along N. Bacalso St., Poblacion Pardo, Cebu City</li> <li>2. Secondary Line –             <ol style="list-style-type: none"> <li>a. Ø200mm PVC pipeline at corner Ilang-ilang St. and F. Jaca St., Barangay Inayawan, Cebu City</li> <li>b. Other drop-off points upon determination and agreed by both parties along F. Jaca St.</li> </ol> </li> </ol> <p>Risk and title will pass from the Supplier to the Procuring Entity in accordance to the Terms of Reference of the Contract, without prejudice to the provisions of Damages and Penalties for Non-Compliance to Water Quality Standards. Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in Section VI (Schedule of Requirements).</p> <p>For purposes of this Clause the Procuring Entity’s Representative at the Project Site is any authorized representative of MCWD.</p> <p><b>Incidental Services –</b></p> <p>The Supplier is required to provide all necessary and incidental services as specified in the Terms of Reference.</p> <p>The Contract price for the Goods is inclusive of all applicable taxes and net of penalties.</p> <p><b>Spare Parts –</b></p> <p>The Supplier is required to provide all materials, notifications, and information pertaining to spare parts manufactured or distributed, if any, as specified in the Terms of Reference.</p>



	<p>The spare parts and other components required are listed in <b>Section VI (Schedule of Requirements)</b> and the costs thereof are included in the contract price.</p>
	<p><b>Transportation –</b></p>
	<p>Where the Supplier is required under Contract to deliver the Goods CIF, CIP, or DDP, transport of the Goods to the port of destination or such other named place of destination in the Philippines, as shall be specified in this Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.</p> <p>Where the Supplier is required under this Contract to transport the Goods to a specified place of destination within the Philippines, defined as the Project Site, transport to such place of destination in the Philippines, including insurance and storage, as shall be specified in this Contract, shall be arranged by the Supplier, and related costs shall be included in the contract price.</p>
	<p>Where the Supplier is required under Contract to deliver the Goods CIF, CIP or DDP, Goods are to be transported on carriers of Philippine registry. In the event that no carrier of Philippine registry is available, Goods may be shipped by a carrier which is not of Philippine registry provided that the Supplier obtains and presents to the Procuring Entity certification to this effect from the nearest Philippine consulate to the port of dispatch. In the event that carriers of Philippine registry are available but their schedule delays the Supplier in its performance of this Contract the period from when the Goods were first ready for shipment and the actual date of shipment the period of delay will be considered force majeure.</p> <p>The Procuring Entity accepts no liability for the damage of Goods during transit other than those prescribed by INCOTERMS for DDP deliveries. In the case of Goods supplied from within the Philippines or supplied by domestic Suppliers risk and title will not be deemed to have passed to the Procuring Entity until their receipt and final acceptance at the final destination.</p> <p><b>Intellectual Property Rights –</b></p> <p>The Supplier shall indemnify the Procuring Entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof.</p>
2.2	<p>Advance payment is not applicable to this procurement project.</p>

4	<p>The inspections and tests that will be conducted are:</p> <p>All regular inspection and tests which may include in-plant inspection and other required tests as deemed necessary such as spot inspections, visual inspection and performance evaluation, etc. by the Procuring Entity, at the expense of the Supplier.</p>
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## *Section VI. Schedule of Requirements*

The delivery schedule is presented as follows:

PR No.	Description	Tier	Unit ABC (PhP/ m <sup>3</sup> )	Quantity	Approved Budget for the Contract	Delivery Period			
29209-001 (1 lot)	SUPPLY AND DELIVERY OF POTABLE DESALINATED SEAWATER - CEBU CITY SOUTH PROJECT	Year 1	Construction Period			Day One of Delivery shall commence 12 months from receipt of the NTP by the Bulk Water Supplier			
		Year 2	73.86	5,000 m <sup>3</sup> /day	134,794,500.00				
		Year 3	73.86	10,000 m <sup>3</sup> /day	269,589,000.00				
		Year 4	73.86	20,000 m <sup>3</sup> /day	539,178,000.00				
		Year 5 to Year 6	73.86	25,000 m <sup>3</sup> /day	1,347,945,000.00				
		Year 7 to Year 11	82.72	25,000 m <sup>3</sup> /day	3,774,100,000.00				
		Year 12 to Year 16	92.65	25,000 m <sup>3</sup> /day	4,227,156,250.00				
		Year 17 to Year 21	103.77	25,000 m <sup>3</sup> /day	4,734,506,250.00				
		Year 22 to Year 26	116.22	25,000 m <sup>3</sup> /day	5,302,537,500.00				
		Year 27 to Year 29	130.17	25,000 m <sup>3</sup> /day	3,563,403,750.00				
		<b>TOTAL APPROVED BUDGET FOR THE CONTRACT (ABC)</b>					<b>23,893,210,250.00</b>		

## ***Section VII. Technical Specifications***

# Technical Specifications

Item	Specification	Statement of Compliance
		<p><i>[Bidders must state here either “Comply” or “Not Comply” against each of the individual parameters of each Specification stating the corresponding performance parameter of the equipment offered. Statements of “Comply” or “Not Comply” must be supported by evidence in a Bidders Bid and cross-referenced to that evidence. Evidence shall be in the form of manufacturer’s un-amended sales literature, unconditional statements of specification and compliance issued by the manufacturer, samples, independent test data etc., as appropriate. A statement that is not supported by evidence or is subsequently found to be contradicted by the evidence presented will render the Bid under evaluation liable for rejection. A statement either in the Bidder's statement of compliance or the supporting evidence that is found to be false either during Bid evaluation, post-qualification or the execution of the Contract may be regarded as fraudulent and render the Bidder or supplier liable for prosecution subject to the applicable laws and issuances.]</i></p>
1	<p>Specifications are provided in the Terms of Reference (TOR) with its Annexes. Please refer to the immediately succeeding pages.</p>	

# **TERMS OF REFERENCE**

## **ARTICLE I. DEFINITION OF TERMS:**

As used in this contract, the following terms shall have the corresponding meaning:

*Agreement* - refers to this Bulk Water Supply Contract.

*Back Up Power* – any source of power that can be used in the event of interruption of normal power supply.

*Clearance* – clearance/permit issued by the local government unit or pertinent government agencies.

*Day One of Delivery* – twelve (12) months after receipt of the Notice to Proceed (NTP) by the Water Supplier.

*Facilities* - refers to raw water intake, pre-treatment, Seawater Reverse Osmosis (SWRO) treatment plant, storage tanks, production and water treatment facilities, land and other associated equipment and facilities, both onshore and offshore, interconnecting pipelines, flow meter assembly, backup power equipment, power supply systems and other appurtenances and auxiliary equipment necessary to efficiently operate the desalination plant under this Agreement.

*Franchise Area* - currently covers four (4) cities namely, Cebu City, Talisay City, Lapu-Lapu City, and Mandaue City, and four (4) municipalities namely, Compostela, Liloan, Consolacion, and Cordova.

*Independent Laboratory* – refers to the University of San Carlos (USC) Water Laboratory.

*Injection Point* - refers to delivery or drop-off point or the point where the WATER SUPPLIER's pipe interconnects to MCWD's receiving infrastructure / facility.

*Inspection* - means the conduct of any investigation/verification/examination of the WATER SUPPLIER's water source and other facilities which includes but not limited to water sampling for analysis.

*Potable Water* - refers to the delivered treated water which quality complies with the MCWD Drinking Water Quality Standards.

*Project* – refers to the herein Water Supply Project including the facilities as herein defined.

*Seawater* – refers to water from the sea or ocean with Total Dissolve Solids (TDS) value of at least 32,000 parts per million (ppm).

*Service Area* - refers to the area served by MCWD.

*Sustainability* – shall mean the capability of the water source and facilities to produce the volume required under this Agreement all throughout its entire duration.

*Total Dissolved Solids (TDS)* - means the inorganic residue left after the filtration of colloidal and suspended solids and then the evaporation of a known volume of water.

*Turbidity* - refers to the suspension of fine colloidal particles that do not readily settle out of solution and can result in a cloudy appearance of water.

*Water Quality Standards* - refers to the Philippine National Standards for Drinking Water (PNSDW) and MCWD Water Quality Standards as shown in [Annex A<sup>1</sup>](#) hereof.

## **ARTICLE II. THE PROJECT**

Section 1. This is a bulk water supply contract procured under RA 9184 otherwise known as the “Government Procurement Reform Act” whereby seawater shall be treated and made potable and delivered by the WATER SUPPLIER to the designated injection point.

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<sup>1</sup> Annex A – MCWD Water Quality Standards

## **ARTICLE III. TERM AND PROJECT MILESTONES**

### **Section 1. CONTRACT DURATION & EFFECTIVITY**

This Agreement shall take effect upon signing or execution and shall remain in full force and effect up to a period of twenty-nine (29) years from receipt of the Notice to Proceed (NTP) by the WATER SUPPLIER.

MCWD shall issue the NTP together with a copy or copies of the signed Agreement to WATER SUPPLIER. All notices called for by the terms of this contract shall be effective only at the time of receipt thereof by the WATER SUPPLIER.

### **Section 2. QUANTITY OF WATER and “DAY ONE” OF DELIVERY**

The WATER SUPPLIER shall deliver potable water to MCWD at an agreed volume based on the following schedules:

<b>Contract Year</b>	<b>Quantity (m<sup>3</sup> per day)</b>
Year 1	<b>CONSTRUCTION PERIOD</b>
Year 2	5,000
Year 3	10,000
Year 4	20,000
Year 5-6	25,000
Year 7 – 11	25,000
Year 12 – 16	25,000
Year 17 – 21	25,000
Year 22 – 26	25,000
Year 27 - 29	25,000

To address fluctuations in demand, WATER SUPPLIER shall be allowed to deliver up to ten percent (10%) more than the minimum hourly flow rate required ([refer to Article VIII – Quantity of Water and Flow Rates](#)). However, unless expressly requested by MCWD, any water delivered in excess of the maximum flow rate shall not be paid by MCWD.



In view of the water crisis, WATER SUPPLIER may, however, be allowed to make partial delivery before Day One of Delivery, subject to MCWD's prior written approval. The partial delivery shall in no way change the term of this Agreement.

Upon determination by MCWD, Day One of Delivery may be extended or changed under justifiable circumstances.

Moreover, upon prior written request from WATER SUPPLIER, Day One of Delivery may also be extended or changed subject to the approval of MCWD. Any consequent waiver of penalties shall be subject to the provisions under [Article XVII. "Damages and Penalties."](#)

## **ARTICLE IV. INJECTION POINT, FACILITIES & EQUIPMENT**

### **Section 1. INJECTION POINT & PRESSURE**

At Day One of Delivery, WATER SUPPLIER shall deliver to the following as shown in [Annex B<sup>2</sup>](#).

1. Primary Line - Ø500mm Cement Lined/Cement Coated pipeline Along N. Bacalso St., Poblacion Pardo, Cebu City
2. Secondary Line –
  - 2.1 Ø200mm PVC pipeline at corner Ilang-ilang St. and F. Jaca St., Barangay Inayawan, Cebu City
  - 2.2 Other drop-off points upon determination and agreed by both parties along F. Jaca St.

WATER SUPPLIER should be able to overcome a pressure at the injection point of eighty (80) psi. All construction and installation of the flowmeter assembly, interconnecting pipeline including the interconnection works shall be the responsibility of the WATER SUPPLIER.

### **Section 2. PROJECT SITE**

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<sup>2</sup> Annex B – *Location Plan of Injection Point and Interconnection Detail*

WATER SUPPLIER must have a legal right over the property as evidenced by a title, contract of sale, lease contract, usufruct agreement, a Joint Venture agreement or any other documents showing that it has ownership or possessory rights over the land or real property designated for the project.

If WATER SUPPLIER shall possess the land through lease or usufruct or Joint Venture agreement, it should be valid for the entire duration of the Agreement. It shall also be the responsibility of the WATER SUPPLIER to annotate in the title over the land whether owned, leased or under usufruct agreement, that the property is reserved or utilized for the Project.

Annotation and submission of proof of ownership and/or possessory right or Joint Venture agreement as stated above shall be done prior to Day One of Delivery at the expense of WATER SUPPLIER.

Section 3. **INSTALLATION OF ELECTROMAGNETIC FLOW METER AND OTHER EQUIPMENT**

In the specified injection point, the WATER SUPPLIER shall install an appropriate electromagnetic flow meter capable of remote and real-time monitoring of the total volume, flow rate, pressure, residual chlorine, and conductivity with TDS conversion of the infused water supply.

To determine its capability, the electromagnetic flow meter must comply with the attached technical specifications and capability requirements. Please see [Annex C<sup>3</sup>](#) for the technical specifications of the electromagnetic flow meter.

Section 4. **CONSTRUCTION OF METER VAULTS AND OTHER NECESSARY PIPELINES OR APPURTENANCES**

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<sup>3</sup> Annex C – *Electromagnetic Flowmeter with GPRS*

In the specified injection point, the WATER SUPPLIER shall construct a reinforced concrete meter vault to house the flow meters and other appurtenances.

For reference, attached is the Conceptual Design for the Concrete Meter Vault and Above-Ground Control Structure, marked as [Annex D<sup>4</sup>](#).

WATER SUPPLIER shall submit a Structural Computation of the Concrete Meter Vault for MCWD's reference.

Section 5. WATER SUPPLIER shall be obliged to install whatever structures, pipelines, or appurtenances necessary for purposes of fulfilling its obligation under this Agreement.

Section 6. **CONSTRUCTION COSTS, OPERATION AND MAINTENANCE EXPENSES**

WATER SUPPLIER shall exclusively shoulder the following for the duration of this Agreement:

6.1. All costs for the construction of the facilities, pipelines, or structures of the Project;

6.2. All expenses for the installation of the necessary equipment, tools, or other appurtenances; and

6.3. All costs for the operation and maintenance of the facilities including procuring customary insurance for the facilities and payment of taxes and other assessments.

Section 7. Any site preparation/development, infrastructure designed and constructed by WATER SUPPLIER must have the approval of the appropriate government agency, i.e., Office of the Building Official (OBO), Department of Environment and Natural Resources (DENR), Department of Public Works and Highways (DPWH) or any regulating body.

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<sup>4</sup> Annex D series –*Concrete Meter Vault and Above-Ground Control Structure*

- Section 8. The WATER SUPPLIER shall hold MCWD, its employees, consultants, and assignees, free from any liability arising from the construction, operation, and maintenance of the facilities for the Project.
- Section 9. All facilities built, installed, or used by WATER SUPPLIER shall be exclusively used for this Project.
- Section 10. The WATER SUPPLIER shall at any time, allow full access to MCWD in order for the latter to inspect all facilities of the project with prior written notice to WATER SUPPLIER.
- Section 11. The installation of any equipment or appurtenances required from WATER SUPPLIER under the Project shall not change the nature of this agreement, neither shall it alter, amend or modify the contractual rights and obligations of the parties as herein stipulated and agreed which is strictly a water supply contract which is entered into pursuant to the Government Procurement Reform Act under RA 9184.

## **ARTICLE V. PRODUCTION AVAILABILITY AND DOWNTIME INTERRUPTION**

### **Section 1. REPAIRS AND MAINTENANCE**

Both parties are entitled to claim a maximum of Two Hundred Sixty-Four (264) hours per year for purposes of making any repairs or maintenance on the facilities, pipelines or appurtenances which affect the delivery or receipt of water in this Project. Provided, there is prior written notice given to the other party in cases of planned repairs and maintenance, and that the latter has concurred as to the existence of such defect that needs repair or maintenance. For emergency or unplanned repairs, immediate notice shall suffice.

### **Section 2. PLANNED OUTAGE, MAINTENANCE PROGRAM AND SCHEDULE**

- 2.1. Each party shall submit the Annual Schedule of Planned Maintenance referred to [Section 1](#) hereof to other party, not later than thirty (30) calendar days prior to the start of each calendar year for the purpose of obtaining the consent of the other party. The WATER SUPPLIER shall coordinate with the MCWD as to maximize overlap of any planned downtime with any scheduled maintenance. The WATER SUPPLIER shall exert all efforts to plan the duration of a downtime not exceeding twenty-four (24) hours, and may be extended within justifiable reasons.
- 2.2. Each party shall conduct regularly all scheduled maintenance of their respective facilities, including repairs, overhauls, improvements and replacements, in accordance with the maintenance plans and schedules developed at the start of the calendar year.
- 2.3. A planned downtime shall be confirmed by WATER SUPPLIER five (5) calendar days prior to such downtime. The WATER SUPPLIER may request to reschedule a planned downtime for any valid reason, and MCWD shall make reasonable efforts to accommodate the request.
- 2.4. The written consent of the MCWD to the conduct of the maintenance works must be obtained, and the failure of the MCWD to give the requested consent within three (3) working days from receipt of the written notice shall be deemed consent on the performance of the Maintenance Works.

### Section 3. **UNPLANNED OUTAGES MAINTENANCE**

In case any unplanned downtime occurs or is foreseen to occur, the requesting party shall immediately notify the other party whether in writing or electronic mail specifying the date and commencement of the unplanned downtime and its expected duration. The period of time from the commencement of an unplanned downtime until resumption of normal delivery of the services (or as may be extended based on any justifiable reason on both parties).

**Section 4. BACKUP POWER**

Prior to Day One of Delivery, the WATER SUPPLIER shall provide supplemental power system at its own expense.

The supplemental power system will be used in case of power interruptions not attributable to WATER SUPPLIER. It must be capable of delivering 100% of the required volume as indicated in [Section 1 of Article VIII](#). WATER SUPPLIER shall submit to MCWD a certification from the power provider within twenty-four (24) hours after occurrence of the power interruption.

**Article VI. WATER SOURCE**

**Section 1. SEAWATER**

The WATER SUPPLIER shall utilize seawater to be processed and treated into potable water.

**Section 2. PROJECT SUSTAINABILITY**

The WATER SUPPLIER shall ensure that the project (source and facilities) shall be sustainable and reliable at any time all throughout the duration of the contract. As proof that the water source can sustain the supply of water for this project, the WATER SUPPLIER shall submit a feasibility that includes water resource sustainability study before Contract Signing.

Section 3. The WATER SUPPLIER must ensure compliance with the Water Code of the Philippines, and all other pertinent laws, ordinances, rules and regulations that strictly mandate policies, and regulate or monitor any operation involving the extraction and treatment of seawater.

## **Article VII. PERMITS, LICENSES AND CLEARANCES**

### **Section 1. PERMIT FROM NATIONAL WATER RESOURCES BOARD (NWRB)**

The WATER SUPPLIER shall submit a National Water Resources Board (NWRB) water right / permit or at least an MCWD - endorsed application after award but prior contract signing.

The water right/permit or endorsement must be issued under the name of MCWD or the WATER SUPPLIER. If the water right/permit is under the WATER SUPPLIER's name, it must be for "MCWD BULK WATER SUPPLY PURPOSE ONLY".

Submission of the actual water permit on Day One of Delivery or Actual Day of Delivery whichever comes first. Provided, BWS should submit proof of receipt of application after contract signing and before the Actual Day of Delivery.

### **Section 2. LGU SUPPORT ON THE PROPOSED PROJECT**

As a mandate of the local government to provide basic services and upgrade the quality of life of the people in the community, the support of this project must be secured by the WATER SUPPLIER from the Local Government Unit (LGU) exercising authority over the area where the project is situated.

After award but prior contract signing, the WATER SUPPLIER shall secure a LETTER OF NO OBJECTION (LONO) from the incumbent Local Chief Executive with the corresponding Sangguniang Panlungsod Resolution of the LGU where the proposed Project facility shall be constructed and where the water supply shall be injected.

A joint venture agreement or any other contract evidencing partnership between the LGU and the WATER SUPPLIER shall likewise suffice.

Any other license and/or permit required by other local government unit, agency or office for the operation of this Project shall likewise be the sole responsibility of the WATER SUPPLIER.

Cease and desist order issued by the court or any proper authority resulting to interruption in the operation due to the WATER SUPPLIER's non-compliance of permits and/or licenses shall make the WATER SUPPLIER liable for penalties under [Article XVII. "Damages and Penalties"](#) hereof and shall further give MCWD the option to rescind this Agreement.

Section 3. **EXCAVATION PERMITS, RIGHT OF WAY AND OTHER CLEARANCES**

The WATER SUPPLIER shall comply with the excavation, right of way, and all other clearances that may be required by law or local ordinance in order to comply with the provisions of this contract for water supply to MCWD. The same shall be submitted after award and as a requirement before contract signing.

Section 4. **ENVIRONMENTAL COMPLIANCE CERTIFICATE (ECC) OR ANY EQUIVALENT PERMIT**



The WATER SUPPLIER shall secure an Environmental Compliance Certificate (ECC) from the Department of Environment and Natural Resources (DENR) prior to Day One of Delivery. Failure to secure the ECC shall be a ground for the termination of the agreement without prejudice to the imposition of penalty provided under [Article XVII, “Damages and Penalties”](#).

**Section 5. CLEARANCE OR AUTHORIZATION FROM BUSINESS CONSORTIA OR PARTNERS**

Whenever applicable, the WATER SUPPLIER shall submit a clearance or authorization to enter into and execute a joint venture contract for this Project from all its business consortia or partners.

**Section 6. MISCELLANEOUS PERMITS**

The WATER SUPPLIER must secure, at its own expense, all other permits, licenses and clearances as may be required during the implementation of the project.

**Section 7.** Failure to secure the required permits, licenses and clearances as mentioned in this Article may be a ground for project termination, without prejudice to the penalty to be imposed under [Article XVII, “Damages and Penalties”](#).

**Article VIII. QUANTITY OF WATER AND FLOW RATES**

**Section 1.** The WATER SUPPLIER shall deliver potable water to MCWD according to the following hourly flow rate computation for the specified injection point:

- a. 80% of the total volume is delivered during peak 16 hours;
- b. 20% of the total volume is delivered during off-peak (8 hours) for the specified injection points:

## Year 2

Period	Minimum flow rate based on volume required (5,000 cu.m. per day)	Maximum flow rate based on maximum volume allowed (5,000 cu.m. per day + 10%)
4:01AM – 8:00PM	250 cu. m./hr.	275 cu. m /hr.
8:01PM – 4:00AM	125 cu.m. /hr.	137.5 cu.m / hr.

## Year 3

Period	Minimum flow rate based on volume required (10,000 cu.m. per day)	Maximum flow rate based on maximum volume allowed (10,000 cu.m. per day + 10%)
4:01AM – 8:00PM	500 cu. m./hr.	550 cu. m /hr.
8:01PM – 4:00AM	250 cu.m. /hr.	275 cu.m / hr.

## Year 4

Period	Minimum flow rate based on volume required (20,000 cu.m. per day)	Maximum flow rate based on maximum volume allowed (20,000 cu.m. per day + 10%)
4:01AM – 8:00PM	1,000 cu. m./hr.	1,100 cu. m /hr.
8:01PM – 4:00AM	500 cu.m. /hr.	550 cu.m / hr.

## Year 5 until end of the contract period

Period	Minimum flow rate based on volume required (25,000 cu.m. per day)	Maximum flow rate based on maximum volume allowed (25,000 cu.m. per day + 10%)
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4:01AM – 8:00PM	1250 cu. m./hr.	1,375 cu. m /hr.
8:01PM – 4:00AM	625 cu.m. /hr.	687.5 cu.m / hr.

Section 2. For failure to meet the minimum required volume per hour, the WATER SUPPLIER shall be liable for penalty provided for in [Article XVII, Section 2. “Penalty for Short Delivery”](#).

Section 3. Any water delivery in excess of the specified flow rate will not oblige MCWD to pay for such unless prior request in writing is made by MCWD.

Section 4. Any volume delivered in excess of the maximum flow rate as requested by MCWD shall be billed at one hundred percent (100%) of the prevailing price inclusive of all applicable taxes.

Section 5. The total volume of potable water delivered by WATER SUPPLIER shall be measured with electromagnetic flow meters as shown in [Annex C<sup>5</sup>](#), pressure transducer as shown in [Annex E<sup>6</sup>](#), and other monitoring devices (SCADA Monitoring System) as shown in [Annex F<sup>7</sup>](#) series.

Flow meter sizes shall be determined by MCWD depending on the number of injection points and the total volume and flow rates shall be based on the aggregate sum of all injection points.

Section 6. The monitoring system that will be provided by WATER SUPPLIER shall be compatible with the existing MCWD SCADA monitoring system, capable of wireless connection and transmission of the following data through SMS and other reliable means: total volume, flow rate, pressure, Conductivity with TDS conversion, and residual chlorine.

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<sup>5</sup> Annex C – *Electromagnetic Flowmeters with GPRS*

<sup>6</sup> Annex E series – *Pressure Transducer*

<sup>7</sup> Annex F series – *SCADA Monitoring System*

However, regardless of the time, in instances when any of the parameters fail to comply with the allowable range set by both parties, the monitoring system shall trigger an alarm to MCWD's SCADA monitoring system. All cost incurred in the transmission of data to MCWD i.e., software, hardware, GPRS transmission, etc. shall be borne by WATER SUPPLIER.

The software shall be capable of displaying pressure, flow rate, total volume, Conductivity with TDS conversion, and residual chlorine at the same time. The said flow meters, vault structure and appurtenances within the vault shall be provided, owned, installed, and maintained by WATER SUPPLIER.

All costs incurred in data collection and the data transmission to MCWD SCADA, i.e. software, hardware, GPRS transmission, calibration and maintenance of the device, etc., shall be borne by the WATER SUPPLIER.

Section 7. MCWD shall define the specifications of the flow meter, data logger, pressure transducer, software, and other appurtenances. Such Technical Specifications and Drawings shall form part of this Agreement.

WATER SUPPLIER shall submit to MCWD, the complete and detailed design, specifications and brochures of the electromagnetic flow meter and other appurtenances inside the vault meter structure like, but not limited to the following: valves (gate/butterfly, air vacuum/air release, etc.) tees, pressure gauges, check valves, etc. for MCWD's approval prior to installation.

It shall be the responsibility of MCWD to cause the preparation of the conceptual design flow meter vault and control structure as shown in [Annex D](#).

All permits and fees in relation to the foregoing shall be borne by WATER SUPPLIER.

Section 8. The flow meter shall be installed symmetrically within ten (10) meters from the main injection point or as maybe determined by MCWD and shall be housed in a concrete vault based on the conceptual design provided by MCWD. All materials and labor costs, right of way acquisitions including interconnection works in the construction and location of the meter vaults shall be at the expense of WATER SUPPLIER but construction is under the supervision of MCWD. The vault's Technical Specifications and Drawings shall form part of this agreement.

The conceptual design and specifications of the structures of the flow meter and the vault prepared by MCWD shall be followed by WATER SUPPLIER.

Section 9. Both parties shall conduct daily meter reading simultaneously or as may be necessary as determined by both parties. Neither party shall tamper nor make adjustments on the setting of any of the flow meters or any of its parts without the consent of the other. To ensure this, an enclosure for the meter with double lock (one (1) lock for MCWD and one (1) lock for WATER SUPPLIER) shall be installed by WATER SUPPLIER.

Section 10. Before initial delivery and every after change of meter, the parties shall establish a variance based on the readings of the two (2) parallel flow meters. If there is a substantial difference of at least plus or minus five percent (+/-5%) from the established variance in the readings between the two (2) flow meters, a joint investigation by both parties shall be conducted. In the event that both MCWD and WATER SUPPLIER concur that there is a defect and that it resulted to either under or over registration, adjustment in the billing shall be made accordingly. If one (1) flow meter is found to be defective, the water delivered shall be measured on the basis of the non-defective water meter reading for the period. If both flow meters are found to be defective, the water delivered shall be based on the average of the immediately preceding three (3) months.

Section 11. If joint investigation results show that there is no defect in the flow meter, billing shall be made based on the actual reading (less the volume delivered in excess of the specified hourly flow rates).

Section 12. The cost of testing and repair or replacement of the meter shall be exclusively shouldered by WATER SUPPLIER.

However, if the meter is found to be non-defective after testing, the cost shall be equally shared by both parties.

Section 13. Any replacement of a defective flow meter shall be done within five (5) calendar days from the time a suspected defect was confirmed and shall be the responsibility and for the account of WATER SUPPLIER.

Section 14. Any protest for over- or under-registration or other defect in the flow meter shall be filed by either party within thirty (30) calendar days from receipt or submission of the subject bill. Failure to protest on time waives the right to seek adjustment of the billed amount.

Section 15. Calibration and proper maintenance of the flow meters shall be done annually at the expense of WATER SUPPLIER. In cases where MCWD deems it necessary, calibration and maintenance shall be done immediately at the expense of WATER SUPPLIER.

If the WATER SUPPLIER fails or refuses to calibrate or replace a defective flow meter, MCWD may refuse to accept the water supply until the WATER SUPPLIER submits its flow meters for calibration or replacement at the latter's expense. The WATER SUPPLIER shall also be liable for the penalty provided for in [Article XVII, Section 2. "Penalty for Short Delivery"](#)

Section 16. WATER SUPPLIER shall provide a spare unit of each flow meter for the injection point to be installed upon pull-out due to preventive or corrective maintenance. The spare units should be of the same specification with that of the main units.

Section 17. All devices and appurtenances to be installed in the system shall have an accreditation from MCWD.

## **Article IX. QUALITY OF WATER**

Section 1. WATER SUPPLIER shall supply MCWD with potable water conforming to [Annex A<sup>8</sup>](#) - MCWD Water Quality Standards. Failure of WATER SUPPLIER to comply with the standards or the specifications provided therein shall give MCWD the right to unilaterally refuse acceptance taking into consideration first and foremost the general public health and safety and the WATER SUPPLIER shall be liable for penalty provided for in [Section 3 of Article XVII “Penalty for Non-Compliance to Water Quality Standards.](#)

Frequency of tests shall be as often as the frequency indicated under the “Protocol on Water Quality for water supply from MCWD Bulk Water Suppliers” attached as [Annex G<sup>9</sup>](#), when the circumstances require. Further, failure to comply with MCWD Water Quality Standards shall entitle MCWD to impose the applicable penalty as provided in [Section 3 of Article XVII “Penalty for Non-Compliance to Water Quality Standards.](#)

The MCWD Water Quality Laboratory shall be the official laboratory to undertake the required tests as per MCWD Standards for Drinking Water. Expenses will be charged to WATER SUPPLIER.

Should WATER SUPPLIER contest any test result performed by MCWD, the issue shall be resolved through a Third-party Laboratory (TPL) applying the “Protocol on Water Quality for water supply from MCWD Bulk Water Suppliers” under [Annex G](#) at the expense of the WATER SUPPLIER.

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<sup>8</sup> Annex A series – *MCWD Water Quality Standards*

<sup>9</sup> *Annex G series – Protocol on Water Quality for Water Supply from Bulk Water Suppliers*

MCWD's unilateral refusal to accept water supply shall be based on the following, among others:

- a. Complaints on water quality such as foul smell, discoloration and/or turbidity;
- b. Unacceptable Field Test results for residual chlorine;
- c. Failed laboratory test results on bacteriological, physical, and chemical analysis.

In case the failure to comply with water quality standards warrant closure of the facilities as provided under the "Protocol on Water Quality for Water Supply from MCWD Bulk Water Suppliers", MCWD shall notify WATER SUPPLIER's field personnel within three (3) hours prior to closure. Subsequent formal notice of closure shall be sent to WATER SUPPLIER within two (2) calendar days after closure.

MCWD shall not be liable for any damage that may be incurred arising out of the closure.

Operations shall only resume if all water quality disputes shall have been resolved.

Section 2. Prior to the construction of the discharge pipeline route (from the water source to the main injection point), the same shall be evaluated by MCWD for purposes of preventing water contamination.

Section 3. Quality of the input water to MCWD will be monitored from a sampling point as specified in [Annex D](#).



The WATER QUALITY of the delivered water by the WATER SUPPLIER shall be monitored at the injection/sampling point by a REAL-TIME MONITORING device/equipment/ system capable of data-logging every 10 minutes and preferably capable to transmit logged-data to the existing MCWD SCADA Main Control Center. The device to be installed shall have an accreditation from MCWD Laboratory. The REAL-TIME MONITORING device shall primarily be monitoring the following parameters:

- a. Residual Chlorine in ppm;
- b. water temperature;
- c. pH (if available in the market);
- d. Conductivity with TDS conversion, Resistivity, Salinity;

Section 4. Quality of the delivered water must not deteriorate due to side reactions with existing pipelines and appurtenances' materials or must not be altered because of its biological and/or chemical components and the transformation it undergoes due to reaction dynamics that are incidental to the types and/or modes of treatment processes employed by WATER SUPPLIER.

Section 5. WATER SUPPLIER shall, at its own cost and expense, employ all appropriate pre-treatment and/or post-treatment processes necessary in correcting the instability and/or impairment of the water quality.

WATER SUPPLIER shall install brand new membranes for its Reverse Osmosis (RO) for the duration of this Agreement. It shall also submit to MCWD, the brand and serial number of all SWRO membranes initially installed and subsequently installed for replacement, in order to verify whether such membranes are brand new or recycled.

For the purpose of ensuring that the delivered water to MCWD is free from heavy metals and other contaminants, WATER SUPPLIER should NOT install recycled or reconditioned membranes to their RO system. All installed RO membranes should be brand new. Otherwise, WATER SUPPLIER shall be liable for the penalties under [Article XVII, Section 4 on “Penalty for Non-Compliance to Technical Specifications and Standards.”](#)

Section 6. WATER SUPPLIER shall at any time, allow full access to MCWD in order for the latter to gather water samples at the sampling point located at the meter vault.

Section 7. Except on extreme emergency cases, WATER SUPPLIER must notify MCWD within seventy-two (72) hours prior to any activity that would require interruption of service that could possibly affect water quality such as repair of WATER SUPPLIER’s water mains, appurtenances, and sources. This procedure should be strictly observed so that corresponding re-sampling and testing can be conducted before re-feeding water back to MCWD’s system.

**Article X. EXCLUSIVITY OF SUPPLY**

MCWD shall have exclusive rights and control of the water received at the specified injection point.

For this purpose, all pipe laying pursued by the WATER SUPPLIER shall be limited only to the Project. Any pipe laying not related to the Project shall be prohibited except for purposes of maintenance and repair of the WATER SUPPLIER’s existing pipelines.

**Article XI. NON-COMPETITION AND DISCLOSURE OF EXISTING CONTRACTS**

The delivery and supply of water under this Project shall not prejudice the WATER SUPPLIER's existing contracts with its customers other than MCWD. If during the effectivity of this contract, the WATER SUPPLIER shall enter into new contracts with any persons or entity such may be a ground for termination.

Prior to Contract Signing, the WATER SUPPLIER shall immediately provide MCWD a sworn statement indicating the list of its existing water consumers within MCWD's franchise and service areas that are directly affected by the Project. Failure to comply with this provision shall make the WATER SUPPLIER liable for penalty under [Section 5 of ARTICLE XVII. Damages and Penalties.](#)

## **Article XII. PRICE AND CONSIDERATION**

Section 1. MCWD shall pay for the water delivered by the BWS, provided it is accepted by MCWD. The same shall be based on the tiered bid prices as indicated in the Schedule of Prices submitted by the BWS during the procurement of this contract.

All prices are inclusive of VAT and all applicable taxes.

The Approved Budget for Contract (ABC) for each tier includes price changes not limited to wage increases, power cost, fuel cost, price increases of materials and supplies and other production and maintenance costs, inflation, currency fluctuation and foreign currency devaluation. Hence, the price is not subject to price adjustment and escalation during contract implementation considering that the exemption provided in Section 61, Rule XIX – Contract Prices and Warranties of the 2016 IRR of RA 9184 is already incorporated herein.

## **Article XIII. PAYMENT AND BILLING**

- Section 1. The WATER SUPPLIER shall bill MCWD once a month. Payment will be made within thirty (30) working days after receipt of the required correct and complete documents, including documents containing the hourly log data on flow rate, LSI, pressure, total volume and water quality test results. Any payment made hereunder shall be net of all penalties imposable on the WATER SUPPLIER.
- Section 2. MCWD is authorized to withhold 1% and 5% (for withholding tax and final withholding VAT), and for other legal deductions or taxes, unless the WATER SUPPLIER can present an exemption from payment of these taxes.
- Section 3. That any provision to the contrary notwithstanding, all payment shall be subject to existing laws and accounting and auditing rules and regulations in the Philippines.

**Article XIV. NO LIABILITY IN CASES OF FORTUITOUS EVENTS OR FORCE MAJEURE**

Section 1. As a rule, no party shall be liable during the occurrence of any force majeure or fortuitous event.

Section 2. **Definition of Force Majeure Event**

“Force Majeure or Fortuitous Events” means any event, condition, or circumstance and the effects thereof not within the reasonable control, directly or indirectly, of the Party affected, but only if and to the extent that:

(a) such event, condition, or circumstance is not the direct or indirect result of the breach by such Party of any of its obligations under this Agreement or the fault or negligence of such Party, its Affiliates, or any person under the Party’s or its Affiliates’ reasonable control;

(b) despite the exercise of reasonable diligence, such event, condition, or circumstance cannot be prevented, avoided, or removed by such Party;

(c) such event, condition, or circumstance has a material adverse effect on the ability of such Party to perform all or a material portion of any of its obligations under this

Agreement, and such Party has taken all reasonable precautions, due care, and alternative measures in order to avoid or mitigate the effects of such event on such Party's ability to perform its obligations under this Agreement; and

(d) such Party has given the other Party notice in accordance with [Section 6.1 \(Notice of Force Majeure Event\)](#).

**Section 3. Political Force Majeure Event**

Force Majeure Events may include any of the following (each, a "Political Force Majeure Event"): war (declared or not); hostilities or belligerence; blockade; revolution or insurrection; riot or public disorder; Change-in-Law, expropriation, requisition, confiscation, or nationalization; export or import restrictions other than any in effect as of the Signature Date; closing of harbors, docks, canals, or other assistance to or adjuncts of the shipping or navigation of or within any place; rationing or allocation whether imposed by law, decree, or regulation by, or by compliance of industry at the insistence of, any Government Authority.

**Section 4. Non-Political Force Majeure Event**

Force Majeure Events may include any of the following (each, a "Non-Political Force Majeure Event"): fire; unusual flood or drought; earthquake, volcano, storm, lightning, tide (other than normal tides), tidal wave, unusually severe weather conditions; perils of the sea; accidents of navigation or breakdown or injury of vessels; accidents to harbors, docks, canals, or other assistance to or adjuncts of the shipping or navigation; epidemic or quarantine; strikes or combination of workmen, lockouts, or other labor disturbances (other than those solely affecting the Party claiming the same as a Force Majeure Event); or any other cause similar to the foregoing that meets the requirements of [Section 2 \(Definition of Force Majeure Event\)](#).

**Section 5. Exceptions**

"Force Majeure or Fortuitous Events" shall not include major changes in the flow of the source as a result of seasonal changes, scaling, erosion, saltwater intrusion and nitrate contamination including those affected either directly or indirectly by sediment transport or prolonged drought. It shall also not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the party invoking force majeure.

Section 6. **Responsibilities of the Parties during Force Majeure Event**

**6.1 Notice of Force Majeure Event**

The Party seeking to be excused from any delay in the performance of its obligations (other than the payment of money) under [Section 2](#) (Force Majeure) of this Agreement shall advise the other Party in writing of the date of commencement of such Force Majeure Event, the nature and expected duration thereof, and the actions to be taken to prevent or reduce the effects of such event. The notice shall be sent by such Party not later than ten (10) Days after the date on which such Party first gains knowledge of such Force Majeure Event. If it fails to deliver such notice in accordance with this provision, such Party shall not be entitled to invoke the benefits of this section.

**6.2 Mitigation**

Each Party shall exert all reasonable efforts to prevent or mitigate the consequences of the Force Majeure Event on the performance of its obligations under this Agreement. The Parties shall consult with each other in good faith and shall use all reasonable endeavors to agree on appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued implementation of the Project. The Parties shall exert all reasonable efforts to resume the performance of their obligations as soon as practicable following the declaration of a Force Majeure Event.

**6.3 Additional Information about Force Majeure Event**

Within three (3) Days following the termination of any Force Majeure Event, the Party having invoked such Force Majeure Event as a cause for the failure or delay in the performance of any obligation under this Agreement (other than the payment of money) shall submit to the other Party reasonable proof of the cause and nature of such delay and its effect upon the performance of the obligations of such Party under this Agreement.

## Section 7. **Effect of Force Majeure Events**

### **7.1 Delayed Performance Excused**

The affected Party shall be excused from performance and shall not be in default of any obligation under this Agreement for so long as its failure to perform such obligation is due to a Force Majeure Event, provided that:

(a) The affected Party makes continuous diligent efforts to prevent or mitigate the effects of the Force Majeure Event;

(b) MCWD shall not be entitled to the benefit of this [Section 7.1 \(Delayed Performance Excused\)](#) in case of Political Force Majeure Events;

(c) The Party claiming a Force Majeure Event shall not be entitled to suspend performance or be excused for delayed performance under this Agreement for any greater scope or longer duration than is required by the Force Majeure Event or the delay occasioned thereby and there shall be no presumption that a Party is entitled to or limited by a day-for-day extension of time equal to the period of the Force Majeure Event;

(d) Neither Party shall be relieved of or excused from its obligations under this Agreement solely because there may be increased costs or other adverse economic consequences incurred through the performance of such obligations; and

(e) The provisions of this [Section 7.1](#) shall not excuse:

- (i) Late payment of money;
- (ii) Late performance by either Party due to such Party's fault or negligence; or
- (iii) Delays resulting from an event, condition, or circumstance which is reasonably foreseeable such as but not limited to (A) weather conditions that are no more severe than any weather condition reported in or predictable from weather data for the period of three (3) years prior to the date of this Agreement or (B) unsuitable ground conditions (other than earthquakes or other geologic calamities).

## **7.2 Force Majeure Events prior to Day One of Delivery**

If a Force Majeure Event occurs prior to Day One of Delivery that results or will result in a delay in achieving that Project Milestone, then, immediately after the giving of the notice required under [Section 6.1 \(Notice of Force Majeure Event\)](#), the Project Milestone Schedule shall be equitably adjusted upon the written agreement of the Parties. If the Parties are unable to agree on an equitable adjustment to the Required Provisional Day One of Delivery or other affected Project Milestones within a period of sixty (60) Days after the giving of the notice required in [Section 6.1 \(Notice of Force Majeure Event\)](#), such inability to agree shall be considered a Dispute and either Party thereafter shall be entitled to bring such Dispute to arbitration in accordance with this Agreement.

## **7.3 Force Majeure Events on or after Day One of Delivery**

If a Force Majeure Event occurs on or after the Day One of Delivery, the Tariff payable to the BWS shall be reduced accordingly to correspond to the level of Services actually rendered to MCWD during the period that such Force Majeure Event was persisting. The adjustment to the Tariff shall be equitably adjusted upon the written agreement of the Parties.



**Section 8. Reconstruction of Facilities due to Force Majeure**

If the force majeure is due to natural calamities like typhoon, earthquake, etc. which requires a reconstruction of the facilities, the obligations of both parties are suspended for a maximum period of six (6) months after the occurrence of the event, unless otherwise extended by MCWD with prior written request by the BWS. The cost of the reconstruction shall be borne by the BWS.

After the suspension period has lapsed, MCWD shall impose without notice, the applicable penalty provided for in [Section 2 of Article XVII – “Penalty for Short Delivery”](#) should the Bulk Water Supplier still fail to deliver the guaranteed minimum volume as per schedule.

**Section 9. Amendment or Improvement of the Force Majeure Provisions**

The above Force Majeure provisions may be amended, refined or improved by the MCWD through its Board of Directors when deemed necessary or when unforeseeable circumstances arise.

**Article XV. MCWD STEP-IN RIGHTS**

Section 1. MCWD shall have the right, but not the obligation to assume operational responsibility of the Facilities in place of the WATER SUPPLIER for purposes of assuring continued and uninterrupted supply of treated water to MCWD. For this purpose, prior notice should be given by MCWD to the WATER SUPPLIER.

Section 2. This right may be exercised by MCWD in the following cases:

2.1 Failure to correct deviation in the MCWD Water Quality Standards stated in [Annex A](#) for more than forty-eight (48) hours.

2.2 Complete stoppage of its operations for any reason and for whatever circumstance and such stoppage continued for more than forty-eight (48) hours.

2.3 Failure to comply with other obligations under this Agreement after due notice and demand and such failure continued for more than one (1) month.

2.4 Other circumstances which could adversely affect the WATER SUPPLIER's ability to operate and maintain the facilities in accordance with this Agreement.

Section 3. The WATER SUPPLIER shall allow and permit MCWD to enter its premises for purposes of exercising its Step-In Rights. MCWD shall exercise due care in operating the Facilities. On the other hand, the WATER SUPPLIER shall be allowed to monitor MCWD's operations.

Section 4. The obligation of MCWD to pay for the delivered water shall continue despite the exercise of this Step-In Right. However, all expenses incurred in operating the facilities shall automatically be charged to the WATER SUPPLIER.

Section 5. The exercise of this right shall not in any way be construed as a buy-out or take-over of the Facilities by MCWD.

Section 6. MCWD shall revert back operational responsibility to the WATER SUPPLIER at its sole discretion or after the circumstances warranting the exercise of this right shall have ceased.

Section 7. The exercise of Step-In Rights by MCWD shall not prejudice any penalty imposable upon the WATER SUPPLIER that accrued prior to the exercise thereof.

## **ARTICLE XVI. PERFORMANCE SECURITY**

Section 1. To guarantee the faithful performance of this Contract, the WATER SUPPLIER shall post a performance security annually in the form of cash, manager's check, cashier's check, bank draft/guarantee confirmed by a reputable commercial or universal bank, irrevocable certified check, letter of credit issued by a reputable bank, surety bond, callable on demand, issued by the Government Service Insurance System or by surety or any insurance company duly accredited by the Office of the Insurance Commission, or a combination thereof, in accordance with the following schedule:

<b>Form of Performance Security</b>	<b>Amount of Performance Security (Equivalent % of the Total Contract Price)</b>
Cash or cashier's/manager's check issued by a Universal or Commercial Bank;	Five percent (5%)
Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank. Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;	
Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty percent (30%)

This performance security shall be posted in favor of MCWD and shall guarantee the payment of the amount of the security as penalty in the event it is established that the WATER SUPPLIER is in default in its obligations hereunder.

In the execution of the performance security, it shall be executed in accordance with the form prescribed therefore.

Section 2. Within ten (10) calendar days from receipt of the Notice of Award from MCWD but in no case later than the signing of the contract by both parties, the WATER SUPPLIER shall furnish the performance security at the amount required and in any of the forms prescribed in [Section 1](#) above.

Section 3. The performance security shall be confiscated and this contract terminated should the WATER SUPPLIER fail to deliver water for a period of thirty (30) consecutive days due to circumstances other than those falling under [Article XIV, “No Liability in Cases of Fortuitous Events or Force Majeure”](#) hereof and it is established that the failure to deliver is solely due to the fault of the WATER SUPPLIER.

Prior to making a claim under the performance security, MCWD shall in every case notify the WATER SUPPLIER in writing, stating the nature and duration of the default in respect of which the claim is to be made.

Section 4. The Performance Security shall remain valid until issuance by MCWD of the Certificate of Final Acceptance after the expiration of the Agreement.

The performance security may be released by MCWD after the issuance of the Certificate of Final Acceptance, subject to the following conditions:

- a) MCWD has no claims filed against the WATER SUPPLIER or the surety company;
- b) It has no claims for labor and materials filed against the WATER SUPPLIER; and
- c) Other terms of the contract.

**Article XVII. DAMAGES AND PENALTIES**

**Section 1. PENALTY FOR LATE DELIVERY**

MCWD shall impose a penalty in the form of liquidated damages for any delay in the commencement of water supply (Day One of Delivery) computed as follows:

$$\begin{aligned} & \textit{Total Contract Price of Year 2: } 5,000 \text{ cu. m. } \times \textit{ contract price per cu.} \\ & \textit{m. } \times 365 \text{ days} \\ & \textit{Liquidated Damages} = 1/10 \text{ of } 1\% \times \textit{ Total Contract Price of Year 2} \\ & \textit{X Number of Days Delayed} \end{aligned}$$

Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, MCWD may rescind or terminate the contract, without prejudice to other courses of action and remedies available under the circumstances.

**Section 2. PENALTY FOR SHORT DELIVERY**

MCWD shall without notice, impose a penalty of one hundred percent (100%) of the prevailing price per cubic meter for SHORT DELIVERY, including delivery below the minimum hourly flow rate, except if attributable to force majeure as defined in [Article XIV, “No Liability in Cases of Fortuitous Events or Force Majeure,”](#) and computed as follows:

$$\textit{Penalty (SD)} = (\textit{Prevailing Price per cu. m.}) \times (\textit{Undelivered Volume})$$

**Section 3. PENALTY FOR NON-COMPLIANCE TO WATER QUALITY STANDARDS**

For every non-compliance to the water quality standards, the WATER SUPPLIER shall be imposed with the following penalties:

3.1. One hundred percent (100%) of the prevailing price of the total delivered volume which is non-compliant with the water quality standards, should the WATER SUPPLIER continue to operate despite due notice of shutdown from MCWD as provided in [Annex G](#) – Protocol on Water Quality for Water Supply from MCWD Bulk Water Suppliers:

$$\text{Penalty (WQ)} = (\text{Prevailing Price per cu. m.}) \times (\text{Delivered Volume})$$

3.2 Reimbursement of MCWD’s actual costs for water mains flushing, disinfection, water sampling and laboratory analysis.

3.3 MCWD is not obligated to pay the delivered volume, which is non-compliant with the water quality standards.

#### Section 4.

### **PENALTY FOR NON-COMPLIANCE TO TECHNICAL SPECIFICATIONS AND STANDARDS**

For failure to comply with the technical specifications and standards as to any of the required parameters, such as but not limited to materials, design, fittings, etc. set by MCWD, a penalty of ten percent (10%) of the prevailing price per cubic meter of the minimum volume per day shall be imposed to the WATER SUPPLIER until such time that the defect will be corrected.

$$\text{Penalty (TS)} = (10\%) \times (\text{Prevailing Price per cu. m.}) \times (\text{Minimum Volume per day}) \times (\text{No. of Days Non-compliant})$$

#### Section 5.

### **PENALTY FOR NON-COMPLIANCE TO OTHER CONTRACT PROVISIONS**

For failure to comply with any other terms and conditions of the contract, MCWD shall impose a penalty of ten percent (10%) of the prevailing price per cubic meter per day until compliance.

$$\text{Penalty (NC)} = (10\%) \times (\text{Prevailing Price per cu. m.}) \times (\text{Minimum Volume per day}) \times (\text{No. of Days Non-compliant})$$

Section 6. **PENALTY FOR DAMAGES**

The WATER SUPPLIER agrees and binds itself to indemnify MCWD for whatever injuries or damages suffered by the latter by reason of the failure, negligence, delay or conduct of the former and/or its employees in the performance of its obligation.

Section 7. **AUTOMATIC DEDUCTION OF PENALTIES AND DAMAGES**

At the discretion of MCWD, all the aforesaid penalties and damages may be automatically assessed, deducted and withheld from the account of the WATER SUPPLIER, and such penalty shall continue to be imposed until compliance has been proven.

For this purpose, MCWD shall have the right to deduct or withhold payment of any amount due or which may become due to the WATER SUPPLIER in this or any other contract or to collect such amount from the latter's Performance Security, whichever is convenient and expeditious to MCWD.

- Section 8. It is understood that any payment made by MCWD to the WATER SUPPLIER or the failure of MCWD to demand compliance of any of the terms and conditions of this contract shall not be considered as a waiver on the part of MCWD for the enforcement of this Agreement or any portion hereof.

**Article XVIII. TERMINATION**

- Section 1. MCWD reserves the right to terminate the contract based on any of the following grounds:

1. Failure to correct water quality deviations within seven (7) days from receipt of notice of such deviation.
2. Total sum of liquidated damages reaches ten percent (10%) of the total contract price
3. Total penalties and damages reaching ten percent (10%) of the total contract price.
4. Failure to deliver for thirty (30) consecutive and successive calendar days due to circumstances other than those falling under [Article XIV, “No Liability in Cases of Fortuitous Events or Force Majeure”](#).
5. Failure by WATER SUPPLIER to secure or renew any expired permits, licenses or clearances from any concerned government agencies.

Section 2. If any of the grounds for termination has occurred, MCWD shall notify WATER SUPPLIER in writing, specifying the ground/s and indicating the period to rectify. Within reasonable time from receipt of the notice, the Parties shall commence discussions in good faith with the view of mitigating the consequences of such event and to agreeing on the terms, if any, upon which the arrangement contemplated in this Agreement may be continued, giving regard to all the circumstances existing at such time.

If the ground/s for termination specified in the notice shall not have been remedied to the reasonable satisfaction of MCWD notwithstanding the expiry of thirty (30) calendar days from the WATER SUPPLIER’s receipt of such notice (unless another period to cure is specified), then MCWD may terminate the Agreement.

## **Article XIX. DISPUTES AND JURISDICTION**



Any dispute, controversy or claim arising out or relating to this contract or the breach, termination or invalidity thereof, if the same cannot be settled amicably, may be submitted for arbitration in accordance with Republic Act 9285, otherwise known as the Alternative Dispute Resolution Act of 2004 and the place of arbitration shall be exclusively in the City of Cebu, Philippines. Otherwise, said dispute or controversy arising out of the contract or breach thereof shall be submitted to a court of law in Cebu City to the exclusion of all other venue.

## **Article XX. AMENDMENTS**

This contract or any part or portions thereof shall be modified or revised only through formal written agreement between the parties hereto, citing therein the specific clause(s) or provisions to be revised and the corresponding amendment.

The representatives of both parties should present proof of authority (i.e. board resolution or secretary's certificate) to make such amendments.

## **Article XXI. RENEWAL**

Renewal of this agreement shall follow the provisions of RA 9184 or the Government Procurement Reform Act of 2003 and its latest implementing rules and regulations.

## **Article XXII. INCLUSIONS**

The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:

a. Annexes

1. Annex A - MCWD Water Quality Standards
2. Annex B - Location Plan of Injection Point and Interconnection Detail

3. Annex C - Electromagnetic Flow meter with GPRS
4. Annex D series - Concrete Meter Vault and Above-Ground Control Structure
5. Annex E series - Pressure Transducer
6. Annex F series - SCADA Monitoring System
7. Annex G series - Protocol on Water Quality for Water Supply from MCWD Bulk Water Suppliers

b. Bidding Documents

c. Terms of Reference (TOR);

d. Contract Agreement;

e. Eligibility Documents submitted by the WATER SUPPLIER (Program of Work, Technical Specification of Materials, Equipment, etc.);

f. Financial Bid;

g. Notice of Award;

h. Notice to Proceed;

i. All Other Documents required during Post-Qualification, Contract Signing, Before and After Day One of Delivery.

***Section VIII. Checklist of Technical and Financial Documents***

# Checklist of Technical and Financial Documents

## I. TECHNICAL COMPONENT ENVELOPE

### *Class "A" Documents*

#### Legal Documents

- (a) Valid PhilGEPS Registration Certificate (Platinum Membership) (all pages) in accordance with Section 8.5.2 of the IRR;

#### Technical Documents

- (b) Statement of the prospective bidder of all its ongoing government and private contracts, including contracts awarded but not yet started, if any, whether similar or not similar in nature and complexity to the contract to be bid; **and**
- (c) Statement of the bidder's Single Largest Completed Contract (SLCC) similar to the contract to be bid, except under conditions provided for in Sections 23.4.1.3 and 23.4.2.4 of the 2016 revised IRR of RA No. 9184, within the relevant period as provided in the Bidding Documents; **and**
- (d) Original copy of Bid Security. If in the form of a Surety Bond, submit also a certification issued by the Insurance Commission;  
**or**  
Original copy of Notarized Bid Securing Declaration; **and**
- (e) Conformity with the Technical Specifications, which may include production/delivery schedule, manpower requirements, and/or after-sales/parts, if applicable; **and**
- (f) Original duly signed Omnibus Sworn Statement (OSS);  
**and** if applicable, Original Notarized Secretary's Certificate in case of a corporation, partnership, or cooperative; or Original Special Power of Attorney of all members of the joint venture giving full power and authority to its officer to sign the OSS and do acts to represent the Bidder; **and**

#### Financial Documents

- (g) The prospective bidder's computation of Net Financial Contracting Capacity (NFCC);  
**or**  
A committed Line of Credit from a Universal or Commercial Bank in lieu of its NFCC computation.

If the Committed Line of Credit is issued by a foreign Universal or Commercial Bank, it shall be confirmed or authenticated by a local universal or commercial bank.

### *Class "B" Documents*

- (h) If applicable, a duly signed joint venture agreement (JVA) in case the joint venture is already in existence;  
**or**

duly notarized statements from all the potential joint venture partners stating that they will enter into and abide by the provisions of the JVA in the instance that the bid is successful.

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

## **II. FINANCIAL COMPONENT ENVELOPE**

- (a) Original of duly signed and accomplished Financial Bid Form; **and**
- (b) Original of duly signed and accomplished Price Schedule(s).

# **BID FORMS**

**A.1 Statement Of All Ongoing Government & Private Contracts Including Contracts Awarded But Not Yet Started, Similar And/Or Not Similar.**

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

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

Name of Contract/Contract Cost/Location	a. Owner Name b. Address c. Telephone Nos.	Type of Goods	Bidder's Role		a. Date Awarded b. Date Started c. Date of Completion	% of Accomplishment		Value of Outstanding Works
			Description	%		Planned	Actual	
<u>Government</u>								
<u>Private</u>								

Total \_\_\_\_\_

**Note: This statement shall be supported with either of the following:**

1. Notice of Award/Contract/Purchase Order
2. Notice to Proceed issued by the Owner

**Submitted by** : \_\_\_\_\_

(Printed Name & Signature)

**Designation** : \_\_\_\_\_

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

**Statement of all Completed Government & Private Contracts which are similar in nature**  
**A2. Statement of Single Largest Completed Contract (SLCC) Government or Private**

**Business Name** : \_\_\_\_\_  
**Business Address** : \_\_\_\_\_

Name of Contract	a. Owner Name b. Address c. Telephone Nos.	Type of Goods	Bidder's Role		a. Amount at Award b. Amount at Completion c. Duration	a. Date Awarded b. Contract Effectivity c. Date Completed
			Description	%		
<u>Government</u>						
<u>Private</u>						

**Note: This statement shall be supported with either of the following provided the items sold are indicated:**

1. Certificate of Acceptance/Completion issued by the owner;
2. All Official Receipt/s issued for the Contract;
3. All Sales Invoice/s issued for the Contract.

**Submitted by** : \_\_\_\_\_  
(Printed Name & Signature)

**Designation** : \_\_\_\_\_  
**Date** : \_\_\_\_\_



**A.3 NET FINANCIAL CONTRACTING CAPACITY (NFCC)**

- A. Summary of the Applicant Firm’s / Contractor’s assets and liabilities on the basis of the attached income tax return and audited financial statement, stamped “RECEIVED” by the Bureau of Internal Revenue (BIR) or a BIR-authorized collecting agent, for the immediately preceding year and a certified copy of Schedule of Fixed Assets particularly the list of construction equipment.
- B. The Net Financial Contracting Capacity (NFCC) based on the above data is computed as follows:

		Year 20__
1.	Total Assets	
2.	Current Assets	
3.	Total Liabilities	
4.	Current Liabilities	
5.	Total Net Worth (1-3)	
6.	Current Net Worth or Net Working Capital (2-4)	

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

NFCC = P \_\_\_\_\_

Herewith attached are certified true copies of the audited financial statement: stamped “RECEIVED” by the BIR or BIR authorized collecting agent, for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission.

Submitted by:

\_\_\_\_\_  
Name of Firm / Contractor

\_\_\_\_\_  
Signature of Authorized Representative

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

**NOTE:**

1. If Partnership or Joint Venture, each Partner or Member Firm of Joint Venture shall submit the above requirements.

**A.4 COMMITTED LINE OF CREDIT**

Date:

**Edgar H. Donoso**

Metropolitan Cebu Water District  
Magallanes - Lapulapu Streets  
Cebu City

CONTRACT/PROJECT : \_\_\_\_\_

COMPANY/FIRM : \_\_\_\_\_

ADDRESS : \_\_\_\_\_

BANK/FINANCING INSTITUTION : \_\_\_\_\_

ADDRESS : \_\_\_\_\_

AMOUNT : \_\_\_\_\_

This is to certify that the above Bank/Financing Institution with business address indicated above, has granted the (Supplier/Distributor/Manufacturer/Contractor), a credit line in the amount specified above which shall be used to finance the performance of the above-mentioned contract.

The credit line shall be available from (DATE OF BID SUBMISSION) and such line of credit shall be maintained until issuance of Certificate of Acceptance of the goods/services or Actual Day One of Delivery (in case of bulk water supply contracts) subject to the Contract/project by the joint **Metropolitan Cebu Water District** and Supplier/Bidder Representatives.

This Certification is being issued in favor of said (Supplier/Distributor/Manufacturer/Contractor) in connection with the bidding requirement of **Metropolitan Cebu Water District** for the above-mentioned Contract. We are aware that any false statements issued by us will make us liable for perjury.

This committed line of credit cannot be terminated or cancelled without the prior written approval of **Metropolitan Cebu Water District**.

\_\_\_\_\_  
Name and Signature of Authorized Financing Institution Office

\_\_\_\_\_  
Official Designation

**Concurred By:**

\_\_\_\_\_  
Name & Signature of (Supplier/Distributor/Manufacturer/Contractor) Authorized Representative

\_\_\_\_\_  
Official Designation

**ACKNOWLEDGMENT**

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant exhibited to me his/her Community Tax Certificate No. \_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_, Philippines.

Notary Public  
Until 31 December 20\_\_\_\_  
PTR No. \_\_\_\_\_  
Issued at: \_\_\_\_\_  
Issued on: \_\_\_\_\_  
TIN No. \_\_\_\_\_

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

**A.5 JOINT VENTURE AGREEMENT**

KNOW ALL MEN BY THESE PRESENTS:

That this JOINT VENTURE AGREEMENT is entered into by and between: (name of owner/representative), of legal age, (civil status), (position) of (name of Firm/Company) and a resident of (address).

- and -

(name of owner/representative), of legal age, (civil status), (position) of (name of Firm/Company) and a resident of (address).

That both parties agree to join together their capital, manpower, equipment, and other resources and efforts to enable the Joint Venture to participate in the Eligibility Check, Bidding and Undertaking of the hereunder stated Contract of the (Name of the Procuring Entity).

NAME OF PROJECT

CONTRACT AMOUNT (PhP)

\_\_\_\_\_

That both parties agree to be jointly and severally liable for their participation in the Eligibility Check, Bidding and Undertaking of the said contract.

That both parties agree that (name of owner/representative), who shall come from the party with the **higher Net Financial Contracting Capacity (NFCC)** shall be the Official Representative of the Joint Venture, and is granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the Joint Venture in the Eligibility Check, Bidding and Undertaking of the said contract, as fully and effectively and the Joint Venture may do and if personally present with full power of substitution and revocation.

That this Joint Venture Agreement shall remain in effect only for the above stated Contracts until terminated by both parties.

IN WITNESS WHEREOF, the parties have hereto affixed their signatures this \_\_\_\_\_, 20\_\_, in \_\_\_\_\_, Philippines.

\_\_\_\_\_

SIGNED IN THE PRESENCE OF

\_\_\_\_\_

*ACKNOWLEDGMENT*

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, affiant exhibited to me his/her Community Tax Certificate No. \_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_, Philippines.

Notary Public

Until 31 December 20\_\_\_\_

PTR No. \_\_\_\_\_

Issued at: \_\_\_\_\_

Issued on: \_\_\_\_\_

TIN No. \_\_\_\_\_

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

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

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

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



IN WITNESS WHEREOF, we have hereunto set my hands this day of \_\_\_\_\_, in the \_\_\_\_\_, Philippines.

(Name of Business Entity)  
Represented by:

(Name of Business Entity)  
Represented by:

(Name of Business Entity)  
Represented by:

\_\_\_\_\_  
ID:  
Valid until:

\_\_\_\_\_  
ID:  
Valid until:

\_\_\_\_\_  
ID:  
Valid until:

**SUBSCRIBED and SWORN** to before me, this day of \_\_\_\_\_ at \_\_\_\_\_, Philippines. Affiants having satisfactorily proven to me their respective identities through their valid identification cards stated above.

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

## A.7 Bid Security: GSIS Bond

Republic of the Philippines  
GOVERNMENT SERVICE INSURANCE SYSTEM

GENERAL INSURANCE FUND  
GSIS Makati Building, Legaspi St.  
Legaspi Village, Makati, Metro Manila

G ( ) GIF Bond \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_ (Name of Bidder) \_\_\_\_\_ represented by its \_\_\_\_\_, as PRINCIPAL, and the GOVERNMENT SERVICE INSURANCE SYSTEM as Administrator of the General Insurance Fund, a corporation duly organized and existing under and by virtue of the laws of the Philippines, with head office at Manila, as SURETY, are held and firmly bound unto the OBLIGEE, \_\_\_(Name of Procuring Entity)\_\_\_ in the sum of PESOS \_\_\_\_\_ (P\_\_\_\_\_), callable on demand, Philippine Currency, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bonded PRINCIPAL will submit a bid for the \_\_\_\_\_ (Name of the Contract) \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ at \_\_\_\_\_ am/pm.

WHEREAS, the conditions of aforementioned OBLIGEE require the BIDDER a bond for the said bid.

WHEREAS, the PRINCIPAL agrees to comply with all the terms and conditions of the said bid with the aforementioned OBLIGEE;

NOW, THEREFORE, the conditions of this obligation are that:

- 1) if the Principal withdraws his Bid during the period of bid validity specified in the Form of Bid; or
- 2) if the Principal does not accept the correction of arithmetical errors of his bid price in accordance with the Instruction's to Bidders: or
- 3) if the Principal having been notified of the acceptance of his Bid and award of contract to him by the Entity during the period of bid validity:
  - a) fails or refuses to execute the Form of Contract in accordance with the Instructions to Bidders, if required; or
  - b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders;

then the Entity shall call on the bond upon a written demand to the Surety, and the Surety shall pay the Entity up to (the next is unreadable) amount of the Bond, upon receipt by the Surety of a written demand



from the Entity, without the Entity having to substantiate its demand, provided that in the demand, the Entity will note that the sum claimed by it is due to the occurrence of any or combination of the three conditions stated above. In this case, this obligation shall remain in full force and effect, otherwise it shall be null and void.

PROVIDED HOWEVER, that the Surety shall not be:

- a) liable for a greater sum than the specified penalty of this bond, nor
- b) liable for a greater sum than the difference between the amount of the said Principal's Bid and the amount of the Bid that is accepted by the Entity.

WITNESS OUR HANDS AND SEALS this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_, Philippines.

GOVERNMENT SERVICE INSURANCE SYSTEM  
General Insurance Fund

**Principal**

By:

\_\_\_\_\_

By:

\_\_\_\_\_

NOT VALID WITH ERASURES

SIGNED IN THE PRESENCE OF:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## A.8 BID SECURITY: SURETY BOND

BOND NO.: \_\_\_\_\_ DATE BOND EXECUTED: \_\_\_\_\_

By this bond, We (Name of Bidder) (hereinafter called “the Principal”) as Principal and (Name of Surety) of the country of (Name of Country of Surety), authorized to transact business in the country of (Name of Country of Procuring Entity) (hereinafter called “the Surety”) are held and firmly bound unto (Name of Procuring Entity) (hereinafter called “the Entity”) as Obligee, in the sum of \_\_\_\_\_, Philippine currency, callable on demand by the Entity for the payment of which sum, well and truly to be made, we, the said Principal and Surety bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

SEALED with our seals and dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

WHEREAS, the Principal will submit a written Bid to the Entity on the (Date) day of (Month) 20 Year, for the (Name of Contract) (hereinafter called “the Bid”).

NOW, THEREFORE, the conditions of this obligation are that:

- 1) if the Principal withdraws his Bid during the period of bid validity specified in the Form of Bid; or
- 2) if the Principal does not accept the correction of arithmetical errors of his bid price in accordance with the Instruction’s to Bidders; or
- 3) if the Principal having been notified of the acceptance of his Bid and award of contract to him by the Entity during the period of bid validity:
  - a) fails or refuses to execute the Form of Contract in accordance with the Instructions to Bidders, if required; or
  - b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders;

then the Entity shall call on the bond upon a written demand to the Surety, and the Surety shall pay the Entity up to the entered amount of the Bond, upon receipt by the Surety of a written demand from the Entity, without the Entity having to substantiate its demand, provided that, in the demand, the Entity will note that the sum claimed by it is due to the occurrence of any or combination of the three conditions stated above. In this case, this obligation shall remain in full force and effect, otherwise it shall be null and void.

PROVIDED HOWEVER, that the Surety shall not be:

- a) liable for a greater sum than the specified penalty of this bond, nor
- b) liable for a greater sum than the difference between the amount of the said Principal's Bid and the amount of the Bid that is accepted by the Entity.

*This Surety executing this instrument hereby agrees that its obligation shall be valid for 120 calendar days after the deadline for submission of Bids as such deadline is stated in the Instructions to Bidders or as it may be extended by the Entity, notice of which extension(s) to the Surety is hereby waived.*

PRINCIPAL \_\_\_\_\_ SURETY \_\_\_\_\_

SIGNATURE(S) \_\_\_\_\_ SIGNATURE(S) \_\_\_\_\_

NAME(S) AND TITLE(S) \_\_\_\_\_ NAME(S) \_\_\_\_\_

SEAL \_\_\_\_\_ SEAL \_\_\_\_\_

**A.9 Bid Securing Declaration Form**

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

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

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

I/We, the undersigned, declare that:

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

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

*[Insert NAME OF BIDDER OR ITS AUTHORIZED REPRESENTATIVE]*

*[Insert signatory's legal capacity]*

Affiant

**[Jurat]**

*[Format shall be based on the latest Rules on Notarial Practice]*

### A.10 SCHEDULE OF REQUIREMENTS

The delivery schedule expressed as weeks/months stipulates hereafter a delivery date which is the date of delivery to the project site.

PR No.	Description	Quantity	Delivery Schedule		Statement of Compliance (Bidder must state here either "comply" or "not comply" against each of the individual parameters of each specification)
29209-001 (1 lot) - SUPPLY AND DELIVERY OF POTABLE DESALINATED SEAWATER - CEBU CITY SOUTH PROJECT	Supply and Delivery of Potable Bulk Water at the designated injection point as detailed in the Terms of Reference	Construction Period	Year 1	Day One of Delivery shall commence 12 months from receipt of the NTP by the Bulk Water Supplier	
		5,000 m <sup>3</sup> /day	Year 2		
		10,000 m <sup>3</sup> /day	Year 3		
		20,000 m <sup>3</sup> /day	Year 4		
		25,000 m <sup>3</sup> /day	Year 5 to Year 6		
		25,000 m <sup>3</sup> /day	Year 7 to Year 11		
		25,000 m <sup>3</sup> /day	Year 12 to Year 16		
		25,000 m <sup>3</sup> /day	Year 17 to Year 21		
		25,000 m <sup>3</sup> /day	Year 22 to Year 26		
		25,000 m <sup>3</sup> /day	Year 27 to Year 29		

Submitted by:

\_\_\_\_\_  
Name of Firm / Contractor / Supplier

\_\_\_\_\_  
Signature of Authorized Representative

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

### A.11 TECHNICAL SPECIFICATIONS

Bidder must state here either “comply” or “not comply” against the corresponding technical specifications as provided in Section VII (TECHNICAL SPECIFICATIONS) in the bidding documents.

<b>PR No.</b>	<b>Description</b>	<b>Statement of Compliance (Comply Or Not Comply)</b>
29209-001  (1 lot) – SUPPLY AND DELIVERY OF POTABLE DESALINATED SEAWATER - CEBU CITY SOUTH PROJECT	Supply and Delivery of Potable Bulk Water at the designated injection point as detailed in the Terms of Reference	

Submitted by:

\_\_\_\_\_  
Name of Firm / Contractor / Supplier

\_\_\_\_\_

Signature of Authorized Representative

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

## A.12 Omnibus Sworn Statement (Revised)

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

### AFFIDAVIT

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

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

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

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

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

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

*[If a partnership, corporation, cooperative, or joint venture:]* I am granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for [Name of the Project] of the [Name of the Procuring Entity], as shown in the attached [state title of attached document showing proof of authorization (e.g., duly notarized Secretary's Certificate, Board/Partnership Resolution, or Special Power of Attorney, whichever is applicable)];

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

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

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

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

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

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

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

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

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

*[Insert NAME OF BIDDER OR ITS AUTHORIZED REPRESENTATIVE]*

*[Insert signatory's legal capacity]*

Affiant



**[Jurat]**

*[Format shall be based on the latest Rules on Notarial Practice]*

## A.13 BID FORM

Date : \_\_\_\_\_  
Project Identification No. : \_\_\_\_\_

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

Having examined the Philippine Bidding Documents (PBDs) including the Supplemental or Bid Bulletin Numbers *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to *[supply/deliver/perform]* *[description of the Goods]* in conformity with the said PBDs for the sum of *[total Bid amount in words and figures]* or the total calculated bid price, as evaluated and corrected for computational errors, and other bid modifications in accordance with the Price Schedules attached herewith and made part of this Bid. The total bid price includes the cost of all taxes, such as, but not limited to: *[specify the applicable taxes, e.g. (i) value added tax (VAT), (ii) income tax, (iii) local taxes, and (iv) other fiscal levies and duties]*, which are itemized herein or in the Price Schedules,

If our Bid is accepted, we undertake:

- a. to deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements of the Philippine Bidding Documents (PBDs);
- b. to provide a performance security in the form, amounts, and within the times prescribed in the PBDs;
- c. to abide by the Bid Validity Period specified in the PBDs and it shall remain binding upon us at any time before the expiration of that period.

*[Insert this paragraph if Foreign-Assisted Project with the Development Partner:*

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

Name and address of agent	Amount and Purpose of Commission or gratuity
---------------------------	--

_____	_____
_____	_____

(if none, state "None") ]

Until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof and your Notice of Award, shall be binding upon us.

We understand that you are not bound to accept the Lowest Calculated Bid or any Bid you may receive.

We certify/confirm that we comply with the eligibility requirements pursuant to the PBDs.

The undersigned is authorized to submit the bid on behalf of *[name of the bidder]* as evidenced by the attached *[state the written authority]*.

We acknowledge that failure to sign each and every page of this Bid Form, including the attached Schedule of Prices, shall be a ground for the rejection of our bid.

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

Legal capacity: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

## A.14 SCHEDULE OF PRICES

For Goods Offered within the Philippines												
Name of Bidder			Invitation to Bid Number						Page of			
1	2	3	4	5	6	7	8	9	10	11	12	
PR No.	Description	Unit ABC Php/m <sup>3</sup>	Tier	Quantity	Unit price EXW per Item	Transportation and Insurance and all other costs incidental to delivery	Sales and other taxes payable if Contract is awarded	Cost of Incidental Services, if applicable	Total Price, per unit (col 6+7+8+9) Php/m <sup>3</sup>	Delivery Term (year/s)	Total Bid Price (Php) delivered Final Destination <small>(column 5) x (column 10) x (column 11) x 365 days</small>	
PR NO. 29209-001 (1 lot)	SUPPLY AND DELIVERY OF POTABLE DESALINATE D SEAWATER - CEBU CITY SOUTH PROJECT		Year 1	<b>Constructi on Period</b>						1		
		73.86	Year 2	<b>5,000 m<sup>3</sup>/day</b>						1		
		73.86	Year 3	<b>10,000 m<sup>3</sup>/day</b>							1	
		73.86	Year 4	<b>20,000 m<sup>3</sup>/day</b>							1	
		73.86	Year 5 to Year 6	<b>25,000 m<sup>3</sup>/day</b>							2	
		82.72	Year 7 to Year 11	<b>25,000 m<sup>3</sup>/day</b>							5	
		92.65	Year 12 to Year 16	<b>25,000 m<sup>3</sup>/day</b>							5	
		103.77	Year 17 to Year 21	<b>25,000 m<sup>3</sup>/day</b>							5	
		116.22	Year 22 to Year 26	<b>25,000 m<sup>3</sup>/day</b>							5	
		130.17	Year 27 to Year 29	<b>25,000 m<sup>3</sup>/day</b>							3	
										TOTAL	Php	

\_\_\_\_\_

[signature]

\_\_\_\_\_

[in the capacity of]

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

