

## UPDATE LOG FOR GENERAL PROVISIONS DOCUMENT

Date	Item(s) Changed	Page
05/2023	<p><b>GENERAL PROVISIONS DOCUMENT</b></p> <p>The entire general provisions document has been revised. Please replace the entire document dated 07/2021 with the attached document dated 05/2023.</p>	All
05/2023	<p><b>GENERAL PROVISIONS DOCUMENT</b></p> <p>TABLE OF CONTENTS:</p> <ul style="list-style-type: none"> <li>• Articles Renumbered</li> <li>• Pages Updated</li> <li>• Forms for Article 7 moved to the end</li> </ul> <p>Updates to the following Articles:</p> <ul style="list-style-type: none"> <li>• ARTICLE 2. CONTRACT DOCUMENTS</li> <li>• ARTICLE 5. EXISTENCE OF UTILITIES AT THE WORK SITE</li> <li>• ARTICLE 6. PROJECT SCHEDULE</li> <li>• ARTICLE 7. SUBSTITUTIONS</li> <li>• ARTICLE 8. SHOP DRAWINGS</li> <li>• ARTICLE 9. SUBMITTALS</li> <li>• ARTICLE <del>14</del><u>15</u>. PERMITS AND LICENSES</li> <li>• ARTICLE <del>15</del><u>16</u>. UTILITY USAGE</li> <li>• ARTICLE <del>27</del><u>28</u>. PROTECTION OF WORK AND PROPERTY</li> <li>• ARTICLE <del>31</del><u>32</u>. HOURS OF WORK</li> <li>• ARTICLE <del>32</del><u>33</u>. PAYROLL RECORDS, <u>LABOR COMPLIANCE</u></li> <li>• ARTICLE <del>34</del><u>36</u>. EMPLOYMENT OF APPRENTICES</li> <li>• ARTICLE <del>35</del><u>37</u>. NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY</li> <li>• ARTICLE <del>36</del><u>39</u>. LABOR/EMPLOYMENT SAFETY</li> <li>• ARTICLE <del>39</del><u>42</u>. COMMERCIAL GENERAL LIABILITY INSURANCE</li> <li>• ARTICLE <del>40</del><u>43</u>. AUTOMOBILE LIABILITY INSURANCE</li> <li>• ARTICLE <del>41</del><u>44</u>. BUILDER'S RISK ["ALL-RISK"]</li> <li>• ARTICLE <del>42</del><u>45</u>. FORM AND PROOF OF CARRIAGE OF INSURANCE</li> <li>• ARTICLE <del>43</del><u>46</u>. TIME FOR COMPLETION AND LIQUIDATED DAMAGES</li> <li>• ARTICLE <del>48</del><u>52</u>. CHANGES AND EXTRA WORK</li> <li>• ARTICLE <del>50</del><u>54</u>. INDEMNIFICATION</li> <li>• ARTICLE <del>52</del><u>56</u>. RESOLUTION OF CONSTRUCTION CLAIMS</li> </ul> <p>Added the following Articles:</p> <ul style="list-style-type: none"> <li>• <u>ARTICLE 14. VERIFICATIONS OF EMPLOYMENT ELIGIBILITY</u></li> <li>• <u>ARTICLE 35. PUBLIC WORKS CONTRACTOR REGISTRATION</u></li> <li>• <u>ARTICLE 38. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS</u></li> <li>• <u>ARTICLE 51. SECURITIES WITHHELD AND BACKCHARGES</u></li> </ul>	<p style="text-align: center;">i – iii</p> <ul style="list-style-type: none"> <li style="text-align: right;">GP-2</li> <li style="text-align: right;">GP-4</li> <li style="text-align: right;">GP-8</li> <li style="text-align: right;">GP-9</li> <li style="text-align: right;">GP-11</li> <li style="text-align: right;">GP-12</li> <li style="text-align: right;">GP-15</li> <li style="text-align: right;">GP-16</li> <li style="text-align: right;">GP-24</li> <li style="text-align: right;">GP-28</li> <li style="text-align: right;">GP-29</li> <li style="text-align: right;">GP-31</li> <li style="text-align: right;">GP-32</li> <li style="text-align: right;">GP-32</li> <li style="text-align: right;">GP-33</li> <li style="text-align: right;">GP-34</li> <li style="text-align: right;">GP-36</li> <li style="text-align: right;">GP-36</li> <li style="text-align: right;">GP-38</li> <li style="text-align: right;">GP-40</li> <li style="text-align: right;">GP-45</li> <li style="text-align: right;">GP-64</li> <li style="text-align: right;">GP-66</li> </ul> <ul style="list-style-type: none"> <li style="text-align: right;">GP-14</li> <li style="text-align: right;">GP-31</li> <li style="text-align: right;">GP-33</li> <li style="text-align: right;">GP-45</li> </ul>

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### **FORMS**

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## GENERAL PROVISIONS

### ARTICLE 1. DEFINITIONS

Acceptable, Acceptance or words of similar import shall be understood to be the acceptance of the Engineer and/or the District.

Approval means written authorization by Engineer and/or District.

Contract Documents includes all documents as stated in the Contract.

District and Contractor are those stated in the Contract. The terms District and Owner may be used interchangeably.

Day shall mean calendar day unless otherwise specifically designated.

Engineer shall mean the General Manager, or his or her designee, of the Rancho California Water District, acting either directly or through properly authorized agents, such as agents acting within the scope of the particular duties entrusted to them. Also sometimes referred to as the "District's Representative" or "Representative" in the Contract Documents.

Equal, Equivalent, Satisfactory, Directed, Designated, Selected, As Required and similar words shall mean the written approval, selection, satisfaction, direction, or similar action of the Engineer and/or District.

Indicated, Shown, Detailed, Noted, Scheduled or words of similar meaning shall mean that reference is made to the drawings, unless otherwise noted. It shall be understood that the direction, designation, selection, or similar import of the Engineer and/or District is intended, unless stated otherwise.

Install means the complete installation of any item, equipment, or material.

Material shall include machinery, equipment, manufactured articles, or construction such as form work, fasteners, etc., and any other classes of material to be furnished in connection with the Contract. All materials shall be new unless specified otherwise.

Perform shall mean that the Contractor, at Contractor's expense, shall take all actions necessary to complete The Work, including furnishing of necessary labor, tools, and equipment, and providing and installing Materials that are indicated, specified, or required to complete such performance.

Project is The Work planned by District as provided in the Contract Documents.

Provide shall include provide complete in place, that is furnish, install, test, and make ready for use.

## GENERAL PROVISIONS

Recyclable Waste Materials shall mean materials removed from the Project site which are required to be diverted to a recycling center rather than an area landfill. Recyclable Waste Materials include asphalt, concrete, brick, concrete block, and rock.

Specifications means that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work. Except for sections 1-9 of the Standard Specifications for Public Works Construction (“Greenbook”), 2009 Edition or latest edition, which are specifically excluded from incorporation into these Contract Documents, the Work shall be done in accordance with the Greenbook, including all current supplements, addenda, and revisions thereof. Notwithstanding the above, section 7-10.4.4 of the Greenbook as referenced in Article 27 is incorporated in these Contract Documents. In the case of conflict between the Greenbook and the Contract Documents, the Contract Documents shall prevail.

The Work means the entire improvement planned by the District pursuant to the Contract Documents.

Work means labor, equipment, and materials incorporated in, or to be incorporated in, the construction of The Work covered by the Contract Documents.

### ARTICLE 2. CONTRACT DOCUMENTS

- a. Contract Documents. The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all.
- b. Interpretations. The Contract Documents are intended to be fully cooperative and to be complementary. If Contractor observes that any documents are in conflict, the Contractor shall promptly notify the Engineer in writing. In case of conflicts between the Contract Documents, the order of precedence shall be as follows:
  - 1) Change Orders or Work Change Directives
  - 2) Addenda
  - 3) Special Provisions
  - 4) Technical Specifications
  - 5) Plans (Contract Drawings)
  - 6) Technical Provisions
  - 7) Contract
  - 8) General Provisions
  - 9) Instructions to Bidders
  - 10) Notice Inviting Bids
  - 11) Contractor’s Bid Forms
  - 12) Greenbook (Sections 1-9 Excluded)
  - 13) Standard Drawings
  - 14) Reference Documents

## GENERAL PROVISIONS

With reference to the Drawings, the order of precedence shall be as follows:

- 1) Figures govern over scaled dimensions.
  - 2) Detail drawings govern over general drawings.
  - 3) Addenda or Change Order drawings govern over Contract Drawings.
  - 4) Contract Drawings govern over Standard Drawings.
  - 5) Contract Drawings govern over Shop Drawings.
- c. Conflicts in Contract Documents. Notwithstanding the orders of precedence established above, in the event of conflicts, the higher standard, higher quality, and most expensive shall always apply.
- d. Organization of Contract Documents. Organization of the Contract Documents into divisions, sections, and articles, and arrangement of drawings shall not control the Contractor in dividing The Work among subcontractors or in establishing the extent of Work to be performed by any trade.

### ARTICLE 3. CONTRACT DOCUMENTS: COPIES AND MAINTENANCE

Contractor shall obtain copies of the Contract Documents from PlanetBids.

Contractor shall maintain a clean, undamaged set of Contract Documents at the Project site.

### ARTICLE 4. DETAIL DRAWINGS AND INSTRUCTIONS

- a. Examination of Contract Documents. The quantities of Work to be done and the materials to be furnished under this Contract are estimated, as herein stated, approximately only, and the District shall not be held responsible for the data or information relative to the Engineer/Architect's estimate of quantities. Before commencing any portion of The Work, Contractor shall again carefully examine all applicable Contract Documents, the Project site, and other information given to Contractor as to materials and methods of construction and other Project requirements, including locality, and local conditions that may in any manner affect the Work to be done. Contractor shall immediately notify the Engineer of any potential error, inconsistency, ambiguity, conflict, or lack of detail or explanation. If Contractor performs, permits, or causes the performance of any Work that is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including, without limitation, the cost of correction. In no case shall the Contractor or any subcontractor proceed with Work if uncertain as to the applicable requirements.
- b. Additional Instructions. After notification of any error, inconsistency, ambiguity, conflict, or lack of detail or explanation, the Engineer will provide any required additional instructions, by means of drawings or other written direction, necessary for proper execution of Work.



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- c. Quality of Parts, Construction, and Finish. All parts of The Work shall be of the best quality of their respective kinds and the Contractor must use all diligence to inform itself fully as to the required construction and finish. In no case shall Contractor proceed with The Work without obtaining first from the Engineer such Approval that may be necessary for the proper performance of Work.
- d. Contractor's Variation from Contract Document Requirements. If it is found that the Contractor has varied from the requirements of the Contract Documents, including the requirement to comply with all applicable laws, ordinances, rules, and regulations, the Engineer may at any time, before or after completion of the Work, order the improper Work removed, remade, or replaced by the Contractor at the Contractor's expense.

### ARTICLE 5. EXISTENCE OF UTILITIES AT THE WORK SITE

- a. Definitions.
  - 1) As used in this Article, the word "utility" shall be understood to include tracks, overhead or underground wires, cables, pipelines, conduits, ducts, sewers, or storm drains.
  - 2) As used in this Article, the term "construction interference" shall be understood to include any utility or service connection within the limits of excavation or over excavation required for the Work under the Contract, as shown or as ordered by the District, or any utility or service connection located in the space that will be required by any of the Work under the Contract.
- b. Approximate Positions. The District has endeavored to determine the existence of utilities at the Project site from the records of the owners of known utilities in the vicinity of the Project. The plans show the approximate positions of known utilities, as derived from such records, in the immediate vicinity of the Work, but the locations are approximate and may not be complete. The District does not guarantee that all existing utilities are shown.
- c. Service Connections.
  - 1) No excavations were made to verify the locations shown for underground utilities, and the service connections to these utilities are not shown on the plans. It shall be the responsibility of the Contractor to determine the exact location of all service connections.
  - 2) Where underground main conductors or conduits such as water, sewer, gas, telephone, cable television, or electric power are shown on Construction Drawings, Contractor shall assume that a service lateral from each utility facility extends to every parcel or property, whether or not a service lateral is shown.

## GENERAL PROVISIONS

### d. District Identification.

- 1) Pursuant to section 4215 of the Government Code, the District has the responsibility to identify, with reasonable accuracy, main or trunkline facilities on the Contract Documents. In the event that main or trunkline utility facilities are not identified with reasonable accuracy in the Contract Documents made a part of the invitation for bids, District shall assume the responsibility for their timely removal, relocation, or protection.
- 2) The District will pay for, as extra work, all costs involved in removing, relocating, protecting, supporting, repairing, maintaining, or replacing a main or trunkline utility facility that actually constitutes a construction interference, when said utility is not shown with reasonable accuracy as an interference or is omitted from the plans; provided, however, that the District's obligation to repair damage to such a facility shall not extend to damage due to the failure of the Contractor to use reasonable care. The District will also compensate the Contractor for equipment on the Project necessarily idled during and by reason of work necessitated by plan ambiguities or omissions, as specified hereinabove (Gov. Code, § 4215.).
- 3) The costs involved in removing, relocating, protecting, supporting, repairing, maintaining, or replacing any utility or service connection other than those described in this section shall be borne by the Contractor.

### e. Contractor Confirmation.

- 1) The Contractor shall, before commencing Work, make its own investigations, including exploratory excavations, to determine the existence, horizontal and vertical position, and ownership of all existing facilities and service connections that could result in damage to such utilities.
- 2) Contractor shall excavate, expose, and determine ("pothole") the exact location and depth of each and every potential interference including, but not limited to, all facilities shown specifically (depth and location) on the Construction Drawings, or that have been marked by their respective owners. Changes or delays caused by Contractor's failure to perform "potholing" and interference location work shall not be eligible for extra work compensation or time extension.

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- 3) The Contractor shall immediately notify the District and public utility in writing if the Contractor discovers any utility in the line of the Work that is not shown on the plans. The Contractor shall also immediately notify the District if the Contractor discovers any utility in the line of the Work that is shown incorrectly on Construction Drawings, or improperly marked or otherwise indicated, providing full details as to depth, location, size, and function.
  - 4) The District will not be liable for any consequences arising as a result of a utility being incorrectly located in the field by the agency having jurisdiction over said utility.
  - 5) The District reserves the right, upon determination of the actual position of existing utilities and service connections, to make changes in alignment or grade of the District's pipelines when, by so doing, the necessity for relocation of existing utilities or service connections will be avoided. Such changes will be ordered in writing by the District. Where applicable, adjustment in the Contract price will be on the basis of the unit prices stated in the bidding schedule. Where unit prices in the bidding schedule are not applicable, adjustment in Contract price will be in accordance with the General Provisions.
  - 6) District has no information about the compaction of the trench backfill for existing utilities. If said trench backfill fails during construction, Contractor shall remove and replace said backfill, compact as specified herein, and remove and replace any asphalt concrete pavement, as required, all at no additional cost to District.
- f. Relocation of Utilities.
- 1) All water meters, water valves, fire hydrants, electrical utility vaults, telephone vaults, gas utility valves, and other subsurface structures shall be relocated or adjusted to final grade by the Contractor. The Contractor shall be responsible for coordinating its Work with all utility companies during the construction of the Work.
  - 2) In all cases, the utility company shall have the sole discretion to perform repairs or relocation work or to permit the Contractor to perform the same at a reasonable price.
  - 3) During the performance of the Work under this Contract, the owner of any utility affected by the Work shall have the right to enter when necessary upon any portion of the Work for the purpose of maintaining service and of making changes in or repairs to said utility.

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- 4) Contractor shall not interrupt or disturb any utility facility without authority from the utility company or order from District. In the event a utility or service connection is required to be disturbed or removed to permit construction of a pipeline or other structure under the Contract, such disturbance or removal shall be done only with the approval of the District, and following notification to and approval from the owner of the interfering utility or service connection.
  - 5) Where protection is required to ensure integrity of utility facilities (including District-owned utilities) located as shown on the Construction Drawings or visible to Contractor, or marked or otherwise indicated as stated herein, Contractor shall, unless otherwise provided, furnish and place all necessary protection at no additional cost to District.
  - 6) Any such utility or service connection removed or otherwise disturbed shall be constructed as promptly as possible in its original or other authorized location in a condition at least as good as prior to such removal or disturbance, subject to the inspection of the owner of same.
  - 7) The Contractor's responsibility under this section to remove or replace utilities or service connections shall apply even in the event such damage or destruction occurs after backfilling or is not discovered until after completion of backfilling. The owner of the utility or service connection shall be notified immediately after damage or destruction occurs or is discovered.
  - 8) The Contractor shall not be assessed liquidated damages for failure to complete the Work on time to the extent that such delay was caused by failure of the District or of the agency having jurisdiction over the utility to authorize or otherwise provide for the removal or relocation of such utility facilities described in this section.
- g. Underground Service Alert.
- 1) At least forty-eight (48) hours before commencing any excavation, Contractor, except in an emergency, shall contact the appropriate regional notification center, DigAlert at 811 if the excavation will be performed in an area that is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the District, and obtain an inquiry identification number from that notification center. No excavation shall be commenced or carried out by the Contractor unless such an inquiry identification number has been assigned to the Contractor or any subcontractor of the Contractor and the District has been given the identification number by the Contractor.

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- 2) Contractor shall request DigAlert and non-member companies, or utilities, to mark or otherwise indicate the location(s) of their subsurface facilities including, but not limited to, structures including vaults, main conductors or conduits, and service connections.

### ARTICLE 6. PROJECT SCHEDULE

- a. Estimated Schedule. Within ten (10) calendar days after the issuance of the Notice to Proceed, Contractor shall prepare a Project schedule and shall submit this to the Engineer for Approval. The receipt or approval of any schedules by the Engineer shall not in any way relieve the Contractor of its obligations under the Contract Documents. Contractor is fully responsible to determine and provide for any and all staffing and resources at levels that allow for good quality and timely completion of the Project. Contractor's failure to incorporate all elements of Work required for the performance of the Contract or any inaccuracy in the schedule shall not excuse the Contractor from performing all Work required for a completed Project within the specified Contract time period. If the required schedule is not received by the time the first payment under the Contract is due, Contractor shall not be paid until the schedule is received, reviewed, and accepted by the Engineer.
  - 1) Schedule Contents. The schedule shall allow enough time for inclement weather. The schedule shall indicate the beginning and completion dates of all phases of construction; critical path for all critical, sequential time-related activities; and "float time" for all "slack" or "gaps" in the non-critical activities. The schedule shall clearly identify all staffing and other resources that, in the Contractor's judgment, are needed to complete the Project within the time specified for completion. Schedule duration shall match the Contract time. Schedules indicating early completion will be rejected.
  - 2) Schedule Updates. Contractor shall continuously update its construction schedule. Contractor shall submit an updated and accurate construction schedule to the Engineer whenever requested to do so by Engineer and with each progress payment request. The Engineer may withhold progress payments or other amounts due under the Contract Documents if Contractor fails to submit an updated and accurate construction schedule.
- b. Preconstruction Conference. Within ten (10) calendar days after the Notice to Proceed date and before the Work is started, a conference may be held to: 1) review the Project schedule and the schedule of values, 2) establish procedures for handling the required submittals and making progress payments, and 3) establish a working understanding between the parties as to the Work. Present at the conference shall be the Engineer, District's Representative, Contractor, and Contractor's superintendent and major subcontractors.

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### ARTICLE 7. SUBSTITUTIONS

- a. For purposes of this provision, the term “substitution” shall mean the substitution of any material, method or service substantially equal to or better in every respect to that indicated in the Standard Specifications or otherwise referenced herein.
- b. Pursuant to Public Contract Code section 3400(b), the District may make a finding that is described in the Notice Inviting Bids that designates certain products, things, or services by specific brand or trade name.
- c. Unless specifically designated in the Contract Documents, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name, or by name of manufacturer, such Specifications shall be deemed to be used for the purpose of facilitating the description of the material, process, or article desired and shall be deemed to be followed by the words “or equal.” Contractor may, unless otherwise stated, offer for substitution any material, process, or article that shall be substantially equal or better in every respect to that so indicated or specified in the Contract Documents. However, the District may have adopted certain uniform standards for certain materials, processes, and articles.
- d. Contractor shall submit requests, together with substantiating data, for substitution of any “or equal” material, process, or article no later than thirty-five (35) calendar days after award of the Contract. To facilitate the construction schedule and sequencing, some requests may need to be submitted before thirty-five (35) calendar days after award of Contract. Provisions regarding submission of “or equal” requests shall not in any way authorize an extension of time for performance of this Contract. If a proposed “or equal” substitution request is rejected, Contractor shall be responsible for providing the specified material, process, or article. The burden of proof as to the equality of any material, process, or article shall rest with the Contractor. The District has the complete and sole discretion to determine if a material, process, or article is an “or equal” material, process, or article that may be substituted.

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- e. Data required to substantiate requests for substitutions of an “or equal” material, process, or article shall include a signed affidavit from the Contractor stating that, and describing how, the substituted “or equal” material, process, or article is equivalent to that specified in every way except as listed on the affidavit. Substantiating data shall include any and all illustrations, specifications, and other relevant data including catalog information that describes the requested substituted “or equal” material, process, or article, and substantiates that it is an “or equal” to the material, process, or article. The substantiating data must also include information regarding the durability and lifecycle cost of the requested substituted “or equal” material, process, or article. Failure to submit all the required substantiating data, including the signed affidavit, to the District in a timely fashion will result in the rejection of the proposed substitution.
- f. The Contractor shall bear all of the District’s costs, including any required engineering work, associated with the review of substitution requests, and shall approve the engineering cost prior to the performance of the engineering work using the form entitled “Authorization of Engineering Costs for the Evaluation of Substitution Requests,” attached herein as Exhibit A. The District will not perform the substitution request review until the authorization is given. If the Contractor does not provide this authorization, the request will be rejected.
- g. The Contractor shall be responsible for all costs related to a substituted “or equal” material, process, or article. Engineering costs associated with redesign of adjoining or related work due to substitution requests shall be approved in writing by the Contractor prior to the performance of the Work. The Contractor shall approve the cost of the engineering work using the form entitled “Authorization of Engineering Costs for Redesign due to Substitution Requests,” attached herein as Exhibit B. The District will not perform the redesign until the authorization is given. If the Contractor does not provide this authorization, the request that created the need for redesign shall be rejected.
- h. Contractor is directed to the Special Provisions (if any) to review any findings made pursuant to Public Contract Code section 3400.

## GENERAL PROVISIONS

### ARTICLE 8. SHOP DRAWINGS

- a. Wherever shop drawings are called for in the Contract Documents or on the plans, or where required by the District's Representative, the Contractor shall furnish to the District's Representative for review shop drawings through Procore. The term "shop drawing," as used herein, shall be understood to include detail design calculations, fabrication and installation drawings, lists, graphs, operating instructions, etc. Unless otherwise required, said drawings shall be submitted at a time sufficiently early to allow review of same by the District's Representative, and to accommodate the rate of construction progress required under the Contract.
- b. All shop drawing submittals shall be submitted through Procore. Contractor may authorize a material or equipment supplier to upload the shop drawings; provided, however, that the ultimate responsibility for the accuracy and completeness of the information contained in the submittal shall remain with the Contractor.
- c. Within thirty (30) calendar days after receipt of said submittal, the District's Representative will return his or her comments to Contractor.

It is considered reasonable that the Contractor shall make a complete and acceptable submittal to the District's Representative by the second submission of drawings. The District reserves the right to withhold moneys due the Contractor to cover additional costs of the District's Representative's review beyond the second submission.

- d. If drawing is returned to the Contractor marked "NO EXCEPTIONS TAKEN," formal revision of said drawing will not be required.
- e. If drawing is returned to the Contractor marked "MAKE CORRECTIONS NOTED," formal revision of said drawing will not be required.
- f. If drawing is returned to the Contractor marked "AMEND - RESUBMIT," the Contractor shall revise said drawing and shall resubmit a revised drawing on Procore.
- g. If drawing is returned to the Contractor marked "DISAPPROVED-RESUBMIT," the Contractor shall resubmit said drawing on Procore.
- h. Fabrication of an item shall not be commenced before the District's Representative has reviewed the pertinent shop drawings and returned a response to the Contractor marked either "NO EXCEPTIONS TAKEN" or "MAKE CORRECTIONS NOTED." Revisions indicated on shop drawings shall be considered as changes necessary to meet the requirements of the Contract Documents and shall not be taken as the basis of claims for extra work.



## GENERAL PROVISIONS

The Contractor shall have no claim for damages or extension of time due to any delay resulting from the Contractor's having to make the required revisions to shop drawings (unless review by the District's Representative of said drawings is delayed beyond a reasonable period of time and unless the Contractor can establish that the District's Representative's delay in review actually resulted in a delay in the Contractor's construction schedule). The review of said shop drawings by the District's Representative will be limited to checking for general agreement with the Contract Documents, and shall in no way: (a) relieve the Contractor of responsibility for errors or omissions contained therein; or (b) operate to waive or modify any provision contained in the plans or Specifications, unless such deviations were specifically called to the attention of the Engineer in the Shop Drawing Transmittal Form. Fabricating dimensions, quantities of material, applicable code requirements, and other contract requirements shall be the Contractor's responsibility.

- i. Conformance. No Work represented by required shop drawings shall be purchased or commenced until the applicable submittal has been approved. The Work shall conform to the approved shop drawings and all other requirements of the Contract Documents. The Contractor shall not proceed with any related Work that may be affected by the Work covered under shop drawings until the applicable shop drawings have been approved, particularly where piping, machinery and equipment, and the required arrangements and clearances are involved.
- j. Interrelated Shop Drawings. Except where the preparation of a shop drawing is dependent upon the approval of a prior shop drawing, all shop drawings pertaining to the same class or portion of the Work shall be submitted simultaneously.
- k. Identification of Specific Materials. Where manufacturer catalog or data sheets are provided for review, which include multiple products or sizes, specific materials to be furnished for the Work shall be clearly marked.

### ARTICLE 9. SUBMITTALS

- a. All submittals shall be made through Procore, in accordance with the terms and conditions herein.
- b. Contractor shall furnish to the Engineer for approval, prior to purchasing or commencing any Work, a log of all samples, material lists and certifications, mix designs, schedules, and other submittals, as required in the Specifications. The log shall indicate whether samples will be provided in accordance with other provisions of this Contract.

## GENERAL PROVISIONS

- c. Contractor will provide samples and submittals, together with catalogs and supporting data required by the Engineer, to the Engineer within a reasonable time period to provide for adequate review and avoid delays in the Work.
- d. These requirements shall not authorize any extension of time for performance of this Contract. Engineer will check and approve such samples, but only for conformance with design concept of work and for compliance with information given in the Contract Documents. Work shall be in accordance with approved samples and submittals.

### ARTICLE 10. MATERIALS

- a. Except as otherwise specifically stated in the Contract Documents, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this Contract within specified time.
- b. Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted and/or specified, and workmanship shall be of good quality.
- c. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of The Work and shall be stored properly and protected as required by the Contract Documents. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or Work.
- d. No materials, supplies, or equipment for Work under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in The Work and agrees, upon completion of all Work, to deliver the Project to the District free from any claims, liens, or charges.
- e. Materials shall be stored on the Project site in such manner so as not to interfere with any operations of the District or any independent contractor.
- f. Equipment Protective Devices. All equipment furnished or installed shall meet the requirements of all applicable laws and regulations, particularly the regulations of the State of California Division of Industrial Safety and the Williams Steiger Occupational Safety and Health Act of 1970. Mechanical and electrical equipment shall have all required protection devices such as belt and shaft guards, heat protection, and similar such applicable protection devices. Such devices shall be indicated on shop drawings.

## GENERAL PROVISIONS

- g. Use of Asbestos Products. The intent of the Contract Documents is to provide asbestos-free components throughout the Project. Where the Contract Documents or the referenced specifications, standards, codes, or tests refer to products containing asbestos, the Contractor shall provide acceptable alternatives under those documents, or in the absence of such referenced alternatives, he shall submit a proposed substitute to the District's Representative for review and acceptance. Alternative products will not be required for asbestos cement pipe where the use of such pipe is allowed by the utility owner.

The Contractor is solely responsible for and shall take all appropriate precautions for protecting against threats to health and safety of the work force and general public arising out of construction involving asbestos. The Contractor shall comply with all applicable regulations for the handling, shaping, installation, and disposal of asbestos.

### ARTICLE 11. CONTRACTOR'S SUPERVISION

Contractor shall continuously keep at each Project site a competent and experienced full-time Project superintendent approved by the District. Superintendent must be able to proficiently speak, read, and write in English. Contractor shall continuously provide efficient supervision of the Project.

### ARTICLE 12. WORKERS

- a. Contractor shall at all times enforce strict discipline and good order among its employees. Contractor shall not employ on the Project any unfit person or any one not skilled in the Work assigned to him or her.
- b. Any person in the employ of the Contractor whom the District may deem incompetent or unfit shall be dismissed from The Work and shall not be employed on this Project except with the written Approval of the District.

### ARTICLE 13. SUBCONTRACTORS

- a. Contractor agrees to bind every subcontractor to the terms of the Contract Documents as far as such terms are applicable to subcontractor's portion of The Work. Contractor shall be as fully responsible to the District for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by its subcontractors, as Contractor is for acts and omissions of persons directly employed by Contractor. Nothing contained in these Contract Documents shall create any contractual relationship between any subcontractor and the District.
- b. The District reserves the right to approve all subcontractors. The District's Approval of any subcontractor under this Contract shall not in any way relieve Contractor of its obligations in the Contract Documents.

## GENERAL PROVISIONS

- c. Prior to substituting any subcontractor listed in the Bid Forms, Contractor must comply with the requirements of the Subletting and Subcontracting Fair Practices Act pursuant to California Public Contract Code section 4100 et seq.

### ARTICLE 14. VERIFICATION OF EMPLOYMENT ELIGIBILITY

By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subcontractors, sub-subcontractors and consultants to comply with the same. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor and that any of the following shall be grounds for the District to terminate the Contract for cause: (1) failure of the Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in this Article; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

### ARTICLE 15. PERMITS AND LICENSES

- a. Permits and licenses necessary for prosecution of The Work shall be secured and paid for by Contractor, unless otherwise specified in the Contract Documents.
- b. Contractor shall obtain and pay for all other permits and licenses required for The Work, including excavation permit and for plumbing, mechanical and electrical work, and for operations in or over public streets or right-of-way under jurisdiction of public agencies other than the District.
- c. The Contractor shall arrange and pay for all off-site inspection of the Work related to permits and licenses, including certification, required by the Specifications, drawings, or by governing authorities, except for such off-site inspections delineated as the District's responsibility pursuant to the Contract Documents.
- d. Before Acceptance of the Project, the Contractor shall submit all licenses, permits, certificates of inspection, and required approvals to the District.

## GENERAL PROVISIONS

### ARTICLE 16. UTILITY USAGE

- a. All temporary utilities including, but not limited to, electricity, gas, and telephone used on The Work shall be furnished and paid for by Contractor. Contractor shall Provide necessary temporary distribution systems, including meters, if necessary, from distribution points to points on The Work where the utility is needed. Upon completion of The Work, Contractor shall remove all temporary distribution systems.
  - 1) Construction Water and Power. The Contractor shall provide power needed for construction of all Work under this Contract. The District will provide a reasonable quantity of water free of charge to the Contractor from the existing potable or recycled water system, at the District's choice. Sources of construction water will be existing District fire hydrants within the vicinity of the Project. Construction water will be supplied by the District through a District-provided metering device. The Contractor shall, at its own expense, convey the construction water and power, in each case, to the point of use. The Contractor shall furnish and install backflow prevention devices and all necessary piping and appurtenances including pumps or water trucks as necessary. The Contractor shall comply with all rules and regulations concerning the use of recycled water at no additional cost to the District.
- b. Contractor shall provide necessary and adequate utilities and pay all costs for water, electricity, gas, oil, and sewer charges required for completion of the Project.
- c. All permanent meters installed shall be listed in the Contractor's name until Project Acceptance.
- d. If the Contract is for construction in existing facilities, Contractor may, with prior written Approval of the District, use the District's existing utilities by compensating the District for utilities used by Contractor.

### ARTICLE 17. INSPECTION FEES FOR PERMANENT UTILITIES

All inspection fees and other municipal charges for permanent utilities including, but not limited to, sewer, electrical, phone, gas, water, and irrigation shall be paid for by the District. Contractor shall be responsible for arranging the payment of such fees, but inspection fees and other municipal fees relating to permanent utilities shall be paid by the District. Contractor may either request reimbursement from the District for such fees, or shall be responsible for arranging and coordination with District for the payment of such fees.

## GENERAL PROVISIONS

### ARTICLE 18. TRENCHES

- a. Trenches Five Feet or More in Depth. The Contractor shall submit to the District, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five (5) feet or more in depth. If the plan varies from shoring system standards, the plan shall be prepared by a registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations. Contractor shall designate in writing the “competent person,” as defined in Title 8, Chapter 4, Article 2 of the California Administrative Code, whom shall be present at the work site each day that trenching/excavation is in progress. The “competent person” will provide a copy of his daily trenching/excavation inspection reports to the District daily. Nothing in this section shall be deemed to allow the use of a sloping, shoring, bracing, or other protective system less effective than that required by the Construction Safety Orders.
  
- b. Excavations Deeper than Four (4) Feet. If work under this Contract involves digging trenches or other excavation that extends deeper than four (4) feet below the surface, Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any:
  - 1) Material that the Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site, in accordance with provisions of existing law.
  - 2) Subsurface or latent physical conditions at the site differing from those indicated.
  - 3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

The District shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor’s cost of, or the time required for, performance of any part of The Work, shall issue a change order under the procedures described in the Contract Documents.

## GENERAL PROVISIONS

In the event that a dispute arises between the District and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of The Work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all Work to be performed under the Contract. Contractor shall retain any and all rights provided either by contract or by law that pertain to the resolution of disputes and protests between the parties.

- c. Trenches and Excavation Protection. The Contractor is advised that rock or unacceptable backfill material may be encountered during trenching or excavation operations. Where such material is encountered, Contractor shall, at no additional cost to District, excavate said rock or unacceptable material, haul it off-site to a legal disposal site, and furnish and install suitable bedding and backfill material, in accordance with the District requirements.

The Contractor is advised that groundwater may be encountered during trenching or excavation operations. If groundwater is encountered, the Contractor shall procure all permits required for dewatering and to perform all necessary dewatering activity as required to complete the Work at no additional cost to District.

### ARTICLE 19. DIVERSION OF RECYCLABLE WASTE MATERIALS/DISPOSAL OF WASTE MATERIAL

- a. Recyclable Waste Materials. In compliance with the applicable District's waste reduction and recycling efforts, Contractor shall divert all recyclable waste materials to appropriate recycling centers. Contractor will be required to submit weight tickets and written proof of diversion with its monthly progress payment requests. Contractor shall complete and execute any certification forms required by District or other applicable agencies to document Contractor's compliance with these diversion requirements. All costs incurred for these waste diversion efforts shall be the responsibility of the Contractor.
- b. Disposal of Waste Material. Unless otherwise designated in the Contract Documents, all cleared and waste material shall become the property of the Contractor and shall be disposed of by the Contractor outside the limits of Work, in accordance with the applicable ordinances and regulations of governmental agencies having jurisdiction. The Contractor shall obtain written permission from property owners before disposing of waste material on private property. A copy of said permission shall be received by the District prior to the Contractor disposing waste material on private or public property.

## GENERAL PROVISIONS

### ARTICLE 20. REMOVAL OF HAZARDOUS MATERIALS

Should Contractor encounter material reasonably believed to be polychlorinated biphenyl (PCB) or other toxic wastes and hazardous materials that have not been rendered harmless at the Project site, the Contractor shall immediately stop Work at the affected Project site and shall report the condition to the District in writing. The District shall contract for any services required to directly remove and/or abate PCBs and other toxic wastes and hazardous materials, if required by the Project site(s), and shall not require the Contractor to subcontract for such services. The Work in the affected area shall not thereafter be resumed except by written agreement of the District and Contractor.

### ARTICLE 21. SANITARY FACILITIES/SANITARY CONDITIONS

- a. Sanitary Facilities. Contractor shall provide sanitary temporary toilet buildings for the use of all workers. All toilets shall comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. All single-user toilet facilities shall be identified as all-gender toilet facilities by signage that complies with Title 24 of the California Code of Regulations, and designated for use by no more than one occupant at a time or for family or assisted use. "Single-user toilet facility" means a toilet facility with no more than one water closet and one urinal with a locking mechanism controlled by the user. Toilets shall be kept supplied with toilet paper and shall have workable door fasteners. Toilets shall be serviced no less than once weekly and shall be present in a quantity of not less than 1 per 20 workers, as required by CAL-OSHA regulation. The toilets shall be maintained in a sanitary condition at all times. Use of toilet facilities in The Work under construction shall not be permitted. Any other Sanitary Facilities required by CAL-OSHA shall be the responsibility of the Contractor.
- b. Sanitary Conditions. The Contractor shall provide for its employees an adequate supply of clean, potable drinking water, which shall be dispensed through approved sanitary facilities.

The District's Representative may from time to time prescribe rules and regulations for maintaining sanitary conditions at the Work site(s) and the Contractor shall enforce observance of the same by its employees and the employees of the subcontractors, and, if the Contractor fails to enforce these rules and regulations, the District's Representative shall have authority to enforce them.

The Contractor shall obey and enforce such sanitary regulations as may be prescribed by the State Department of Health or other governmental authorities having jurisdiction.



## GENERAL PROVISIONS

### ARTICLE 22. AIR POLLUTION CONTROL

Contractor shall comply with all South Coast Air Quality Management District air pollution control rules, regulations, ordinances, and statutes. All containers of paint, thinner, curing compound, solvent, or liquid asphalt shall be labeled to indicate that the contents fully comply with the applicable material requirements. The Contractor shall implement all required best management practices from Tables 1, 2, and 3 from Rule 403 (Fugitive Dust).

### ARTICLE 23. COMPLIANCE WITH STATE STORM WATER PERMIT

- a. Contractor shall be required to comply with all conditions of the State Water Resources Control Board ("State Water Board") National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity ("Permit") for all construction activity that results in the disturbance of in excess of one acre of total land area or that is part of a larger common area of development or sale. Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit. Contractor shall be solely responsible for preparing and implementing a Storm Water Pollution Prevention Plan ("SWPPP") prior to initiating Work. In bidding on this Contract, it shall be Contractor's responsibility to evaluate the cost of procuring the Permit and preparing the SWPPP, as well as complying with the SWPPP and any necessary revision to the SWPPP. Contractor shall comply with all requirements of the State Water Resources Control Board. Contractor shall include all costs of compliance with specified requirements in the Contract amount.
- b. Contractor shall be responsible for procuring, implementing, and complying with the provisions of the Permit and the SWPPP, including the standard provisions, monitoring, and reporting requirements, as required by the Permit. Contractor shall provide copies of all reports and monitoring information to the Engineer.
- c. Contractor shall comply with the lawful requirements of any applicable municipality, the District, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.
- d. Storm, surface, nuisance, or other waters may be encountered at various times during construction of The Work. Therefore, the Contractor, by submitting a Bid, hereby acknowledges that it has investigated the risk arising from such waters, has prepared its Bid accordingly, and assumes any and all risks and liabilities arising therefrom.

## GENERAL PROVISIONS

- e. Failure to comply with the Permit is in violation of federal and state law. Contractor hereby agrees to indemnify and hold harmless District, its officials, officers, agents, employees, and authorized volunteers from and against any and all claims, demands, losses, or liabilities of any kind or nature that the District, its officials, officers, agents, employees, and authorized volunteers may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the sole established negligence, willful misconduct, or active negligence of the District, its officials, officers, agents, employees, or authorized volunteers. District may seek damages from Contractor for delay in completing the Contract in accordance with the Contract Documents, caused by Contractor's failure to comply with the Permit.

### ARTICLE 24. CLEANING UP

- a. Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment. Contractor shall not store debris under, in, or about the premises. Upon completion of Work, Contractor shall clean the interior and exterior of the building or improvement including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected so surfaces are free from foreign material or discoloration. Contractor shall clean and polish all glass, plumbing fixtures, finish hardware and similar finish surfaces, and equipment, and Contractor shall also remove temporary fencing, barricades, planking, and construction toilet and similar temporary facilities from site. Contractor shall also clean all buildings, asphalt, and concrete areas to the degree necessary to remove oil, grease, fuel, or other stains caused by Contractor operations or equipment.
- b. Contractor shall fully clean up the site at the completion of The Work. If the Contractor fails to immediately clean up at the completion of The Work, the District may do so and the cost of such clean up shall be charged back to the Contractor.

### ARTICLE 25. LAYOUT AND FIELD ENGINEERING

- a. All field engineering required for laying out The Work and establishing grades for earthwork operations shall be furnished by the Contractor at its expense.
- b. Easements. Permanent easements and temporary easements granted to the District are shown on the Construction Drawings. If the Contractor performs Work outside the limits of said easements, the Contractor shall stop all Work immediately and restore all areas to their pre-construction condition to the satisfaction of the District and the property owners. The Contractor shall also provide an indemnification letter to the District regarding any unauthorized Work outside said easements.

## GENERAL PROVISIONS

### ARTICLE 26. EXCESSIVE NOISE

- a. Contractor shall use only such equipment on The Work and in such state of repair so that the emission of sound therefrom is within the noise tolerance level of that equipment, as established by CAL-OSHA.
- b. Contractor shall comply with the most restrictive of the following: (1) local sound control and noise level rules, regulations, and ordinances, and (2) the requirements contained in these Contract Documents, including hours of operation requirements. No internal combustion engine shall be operated on the Project without a muffler of the type recommended by the manufacturer. Should any muffler or other control device sustain damage or be determined to be ineffective or defective, the Contractor shall promptly remove the equipment and shall not return said equipment to the job until the device is repaired or replaced. Said noise and vibration level requirements shall apply to all equipment on the job or related to the job including, but not limited to, trucks, transit mixers, or transit equipment that may or may not be owned by the Contractor.
- c. Noise Control Measures. The Contractor shall incorporate the following noise control measures in the performance of The Work:
  - 1) Maximum Noise Levels within 1,000 feet of any Residence, Business, or Other Populated Area: Noise levels for trenchers, pavers, graders, and trucks shall not exceed 90 dBA at fifty (50) feet as measured under the noisiest operating conditions. For all other equipment, noise levels shall not exceed 85 dBA at fifty (50) feet.
  - 2) Equipment: Jack hammers shall be equipped with exhaust mufflers and steel muffling sleeves. Air compressors should be of a quiet type such as a “whisperized” compressor.
  - 3) Operations: Keep noisy equipment as far as possible from noise-sensitive site boundaries. Machines should not be left idling. Use electric power in lieu of internal combustion engine power, wherever possible. Maintain equipment properly to reduce noise from excessive vibration, faulty mufflers, or other sources. All engines shall have mufflers.
  - 4) Scheduling: Schedule noisy operations so as to minimize their duration at any given location.

## GENERAL PROVISIONS

- 5) Monitoring: To determine whether the above noise limits are being met and whether noise barriers are needed, the Contractor shall use a portable sound level meter meeting the requirements of American National Standards Institute Specification S1.4 for Type 2 sound level meters. If non-complying noise levels are found, the Contractor shall be responsible for monitoring and correction of excessive noise levels at no additional cost to the District.

### ARTICLE 27. TESTS AND INSPECTIONS

- a. If the Contract Documents, the Engineer, or any instructions, laws, ordinances, or public authority require any part of The Work to be tested or approved, Contractor shall provide the Engineer at least two (2) working days' notice of its readiness for observation or inspection. If inspection is by a public authority other than the District, Contractor shall promptly inform the District of the date fixed for such inspection. Required certificates of inspection (or similar) shall be secured by Contractor. Costs for District testing and District inspection shall be paid by the District. Costs of tests for Work found not to be in compliance shall be paid by the Contractor.
- b. If any Work is done or covered up without the required testing or approval, the Contractor shall uncover or deconstruct the Work, and the Work shall be redone after completion of the testing at the Contractor's cost, in compliance with the Contract Documents.
- c. Where inspection and testing are to be conducted by an independent laboratory or agency, materials or samples of materials to be inspected or tested shall be selected by such laboratory or agency, or by the District, and not by Contractor. All tests or inspections of materials shall be made in accordance with the commonly recognized standards of national organizations.
- d. In advance of manufacture of materials to be supplied by Contractor that must be tested or inspected, Contractor shall notify the District so that the District may arrange for testing at the source of supply. Any materials that have not satisfactorily passed such testing and inspection shall not be incorporated into The Work.
- e. If the manufacture of materials to be inspected or tested will occur in a plant or location outside the geographic limits of District, the Contractor shall pay for any costs associated with such testing or inspection including, but not limited to, travel time, standby time, and required lodging.

## **GENERAL PROVISIONS**

- f. Reexamination of Work may be ordered by the District. If so ordered, Work must be uncovered or deconstructed by Contractor. If Work is found to be in accordance with the Contract Documents, the District shall pay the costs of reexamination and reconstruction. If such work is found not to be in accordance with the Contract Documents, Contractor shall pay all costs.

### **ARTICLE 28. PROTECTION OF WORK AND PROPERTY**

- a. The Contractor shall be responsible for all damages to persons or property that occur as a result of The Work. Contractor shall be responsible for the proper care and protection of all materials delivered and Work performed until completion and final Acceptance by the District. All Work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support, as necessary. Contractor shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the Project site where Work is being performed. Contractor shall erect and properly maintain at all times, as required by field conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created in the course of construction.
- b. In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from the Engineer, is hereby permitted to act to prevent such threatened loss or injury; Contractor shall so act, without appeal, if so authorized or instructed by the Engineer or the District. Any compensation claimed by Contractor on account of emergency work shall be determined by and agreed upon by the District and the Contractor.
- c. Contractor shall provide such heat, covering, and enclosures as are necessary to protect all Work, materials, equipment, appliances, and tools against damage by weather conditions.
- d. Contractor shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, and other adjoining property and structures, and to avoid damage thereto, and Contractor shall repair any damage thereto caused by The Work operations. Contractor shall:
  - 1) Enclose the working area with a substantial barricade, and arrange Work to cause minimum amount of inconvenience and danger to the public.
  - 2) Provide substantial barricades around any shrubs or trees indicated to be preserved.
  - 3) Deliver materials to the Project site over a route approved by the Engineer.

## GENERAL PROVISIONS

- 4) Provide any and all dust control required and follow the applicable air quality regulations, as appropriate. If the Contractor does not comply, the District shall have the immediate authority to provide dust control and deduct the cost from payments to the Contractor.
- 5) Confine Contractor's apparatus, the storage of materials, and the operations of its workers to limits required by law, ordinances, permits, or directions of the Engineer. Contractor shall not unreasonably encumber the Project site with its materials. The Contractor shall obtain the permission of the District's Representative, prior to stockpiling and/or storing any material and/or equipment to be used in the Work on the job site. The Contractor shall not store materials or equipment on private or public property without written permission approving such use from the property owner(s). Said permission shall be submitted to the District prior to the Contractor moving materials or equipment onto the site. Such materials and/or equipment stored or kept on the Site shall be the sole responsibility of the Contractor. The Contractor's equipment shall be removed from the public right-of-way and placed in the Contractor's designated storage area at the end of each working day.
- 6) Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer or land surveyor, at no cost to the District.
- 7) Ensure that existing facilities, fences, and other structures are all adequately protected and that, upon completion of all Work, all facilities that may have been damaged are restored to a condition acceptable to the District.
- 8) Preserve and protect from injury all buildings, pole lines, and all direction, warning, and mileage signs that have been placed within the right-of-way.
- 9) At the completion of Work each day, leave the Project site in a clean, safe condition.
- 10) Comply with any stage construction and traffic handling plans. Access to residences and businesses shall be maintained at all times.

These precautionary measures will apply continuously and not be limited to normal working hours. Full compensation for the Work involved in the preservation of life, safety, and property as above specified shall be considered as included in the prices paid for the various Contract items of Work, and no additional allowance will be made therefor.

## GENERAL PROVISIONS

- e. Should damage to persons or property occur as a result of The Work, Contractor shall be responsible for proper investigation and documentation, including video or photography, to adequately memorialize and make a record of what transpired. The District shall be entitled to inspect and copy any such documentation, video, or photographs. All Work sites including, but not limited to, areas used for travel, parking, and storage of vehicles, equipment, and materials shall be restored to their preconstruction conditions including regrading, paving, and revegetation, if required.
- f. Fire Prevention. The Contractor shall take all necessary steps to prevent fires including, but not limited to, providing spark arrestors on all internal combustion engines, storing and handling flammable liquids in accordance with the flammable and combustible liquids code (NFPA30), and providing fire extinguishers at hazardous locations or operations, such as welding.
- g. Confined Spaces. The Contractor shall perform all work in conformance with section 7 - 10.4.4, Confined Spaces, of the Standard Specifications for Public Works Construction "Green Book" (latest edition) for work in confined spaces. Contractor shall submit to Owner, prior to entering confined space, a copy of Contractor's Confined Space Entry Program (CSEP).
- h. Public Information Signs. The Contractor shall furnish and install public information signs notifying the public of the Project. The signs shall state the name of the Project, as well as the start and completion dates. The signs shall be of the quantity, size, contain a message, and be installed, as shown on the Contract Documents.
- i. Notifications. Contractor shall notify the District, all affected residents, commercial and public establishments, and utility companies of impending work as follows:
  - 1) For the District, Contractor shall notify the District's Construction Contracts Manager at (951) 296-6983 a minimum of two (2) weeks prior to the start of Work.
  - 2) Contractor shall notify residents and commercial and public establishments of impending work. Contractor shall notify each establishment when any of their access driveways will be closed or restricted. Printed notices shall be hand-delivered to all residents and commercial and public establishments in the vicinity of The Work at least ten (10) calendar days in advance of Work.
  - 3) Said notices shall first be approved by District and shall contain a general description of The Work, dates Work will be performed, descriptions of areas where travel and parking will be restricted, and names of streets that will be closed to through traffic or where traffic will be restricted.

## GENERAL PROVISIONS

- 4) If District receives complaints from individuals affected by the Project, Contractor shall take immediate action to correct the situation, as directed by the District and property owners. If Contractor receives complaints directly, it shall report same immediately to District. Thereafter, Contractor shall take immediate action to correct the situation, as directed by District.
- j. Work at Night. When work at night is necessary for the prosecution of the Work, the Contractor shall provide adequate lighting for the safety of the workers and for proper inspection.
- k. Use of Explosives. When the use of explosives is necessary for the prosecution of the Work, the Contractor shall use the utmost care not to endanger life or property. All explosives shall be stored in accordance with the provisions of Division 11, Part 1, Chapter 6 of the Health and Safety Code of the State of California; the same may be amended from time to time.
- l. Archaeological and Paleontological Discoveries. If discovery is made of items of archaeological or paleontological interest, the Contractor shall immediately cease excavation in the area of discovery, protect said discovery, immediately notify the District, and the Contractor shall not continue or resume excavation in the area of discovery until directed by the District.

### ARTICLE 29. CONTRACTOR'S MEANS AND METHODS

Contractor is solely responsible for the means and methods utilized to Perform The Work. In no case shall the Contractor's means and methods deviate from commonly used industry standards.

### ARTICLE 30. INSPECTOR'S FIELD OFFICE

Unless otherwise described in the Special Provisions, the Contractor shall not be responsible for providing an inspector's field office.

### ARTICLE 31. AUTHORIZED REPRESENTATIVES

The District shall designate representatives, who shall have the right to be present at the Project site at all times. The District may designate an inspector who shall have the right to observe all of the Contractor's Work. The inspector is not authorized to make changes in the Contract Documents. The inspector shall not be responsible for the Contractor's failure to carry out The Work, in accordance with the Contract Documents. Contractor shall provide safe and proper facilities for such access.



## GENERAL PROVISIONS

### ARTICLE 32. HOURS OF WORK

- a. As provided in Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, Contractor stipulates that eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this Contract is limited and restricted to eight (8) hours in any one (1) calendar day and forty (40) hours during any one (1) calendar week, except as hereinafter provided. Notwithstanding the provisions herein above set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one (1) week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1 1/2) times the basic rate of pay.
- b. The Contractor and every subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of the District and to the Division of Labor Law Enforcement, Department of Industrial Relations of the State of California.
- c. The Contractor shall pay to the District a penalty of twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one (1) calendar week in violation of the provisions of Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code.
- d. Work shall be accomplished on a regularly-scheduled eight (8) hour per day work shift basis, Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m.
- e. Any work necessary to be performed after regular working hours, or on Saturdays and Sundays or other holidays, shall be performed without additional expense to the District.
- f. It shall be unlawful for any person to operate, permit, use, or cause to operate any of the following at the Project site, other than between the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, with no Work allowed on District-observed holidays, unless otherwise approved by the Engineer:
  - 1) Powered Vehicles
  - 2) Construction Equipment
  - 3) Loading and Unloading Vehicles
  - 4) Domestic Power Tools

## GENERAL PROVISIONS

### ARTICLE 33. PAYROLL RECORDS; LABOR COMPLIANCE

- a. Pursuant to Labor Code section 1776, the Contractor and each subcontractor shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with The Work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.
- b. In accordance with Labor Code section 1771.4, the Contractor and each subcontractor shall furnish the certified payroll records directly to the Department of Industrial Relations (“DIR”) on a weekly basis and in the format prescribed by the DIR, which may include electronic submission. Contractor shall comply with all requirements and regulations from the DIR relating to labor compliance monitoring and enforcement. The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code section 1771.4.
- c. Any stop orders issued by the DIR against Contractor or any subcontractor that affect Contractor’s performance of Work, including any delay, shall be Contractor’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay subject to any applicable liquidated damages and shall not be compensable by the District. Contractor shall defend, indemnify and hold the District, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the DIR against Contractor or any subcontractor.
- d. The payroll records described herein shall be certified and submitted by the Contractor at a time designated by the District. The Contractor shall also provide the following:
  - 1) A certified copy of the employee’s payroll records shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
  - 2) A certified copy of all payroll records described herein shall be made available for inspection or furnished upon request of the DIR.
- e. Unless submitted electronically, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement (“DLSE”) of the DIR or shall contain the same information as the forms provided by the DLSE.

## GENERAL PROVISIONS

- f. Any copy of records made available for inspection and furnished upon request to the public shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor or any subcontractor shall not be marked or obliterated.
- g. In the event of noncompliance with the requirements of this section, the Contractor shall have ten (10) calendar days in which to comply subsequent to receipt of written notice specifying any item or actions necessary to ensure compliance with this section. Should noncompliance still be evident after such ten (10) day period, the Contractor shall, as a penalty to the District, forfeit one hundred dollars (\$100.00) for each day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the DIR, such penalties shall be withheld from contract payments.
- h. The responsibility for compliance with this Article shall rest upon the Contractor.

### ARTICLE 34. PREVAILING RATES OF WAGES

- a. The Contractor is aware of the requirements of Labor Code sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since this Project involves an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is one thousand dollars (\$1,000.00) or more, Contractor agrees to fully comply with such Prevailing Wage Laws. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at [www.dir.ca.gov/dlsr/](http://www.dir.ca.gov/dlsr/). In the alternative, the Contractor may view a copy of the prevailing rates of per diem wages at the District. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to perform Work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project site. Contractor shall defend, indemnify, and hold the District, its elected officials, officers, employees, and agents free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

## GENERAL PROVISIONS

- b. The Contractor and each subcontractor shall forfeit as a penalty to the District not more than two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate for any work done by him, or by any subcontract under him, in violation of the provisions of the Labor Code. The difference between such stipulated prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.
- c. Contractor shall post, at appropriate, conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

### ARTICLE 35. PUBLIC WORKS CONTRACTOR REGISTRATION

Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its subcontractors must be registered with the DIR prior to the execution of a contract to perform public works. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in any subcontract and ensure that all subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1

### ARTICLE 36. EMPLOYMENT OF APPRENTICES

- a. Contractor and all subcontractors shall comply with the requirements of Labor Code sections 1777.5 and 1777.6 in the employment of apprentices.
- b. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.
- c. Knowing violations of Labor Code section 1777.5 will result in forfeiture not to exceed one hundred dollars (\$100.00) for each calendar day of non-compliance pursuant to Labor Code section 1777.7.
- d. The responsibility for compliance with this Article shall rest upon the Contractor.

## GENERAL PROVISIONS

### ARTICLE 37. NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Labor Code section 1735 and other applicable provisions of law, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law on this Project. The Contractor will take affirmative action to insure that employees are treated during employment or training without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law.

Employment Eligibility; Contractor. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Contract, and shall not violate any such law at any time during the term of the Contract. Contractor shall avoid any violation of any such law during the term of this Contract by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the District or its representatives for inspection and copy at any time during normal business hours. The District shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for or referred to herein.

Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any part of the Work or of this Contract to make the same verifications and comply with all requirements and restrictions provided for herein.

## GENERAL PROVISIONS

Employment Eligibility; Failure to Comply. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the District to terminate the Contract for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for herein; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

### **ARTICLE 38. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS**

Contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code section 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the District. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

### **ARTICLE 39. LABOR/EMPLOYMENT SAFETY**

The Contractor shall comply with all applicable laws and regulations of the federal, state, and local government, including Cal/OSHA requirements and requirements for verification of employees' legal right to work in the United States.

The Contractor shall maintain emergency first aid treatment for his employees that complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.), and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations, Chapter 4. The Contractor shall ensure the availability of emergency medical services for its employees in accordance with California Code of Regulations, Title 8, Section 1512.

## **GENERAL PROVISIONS**

### **ARTICLE 40. WORKERS' COMPENSATION INSURANCE**

The Contractor shall Provide, during the life of this Contract, workers' compensation insurance for all of the employees engaged in Work under this Contract, on or at the Project site, and, in case of any sublet Work, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees, as prescribed by state law. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in Work under this Contract, on or at the Project site, is not protected under the Workers' Compensation Statutes, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected. The Contractor is required to secure payment of compensation to his employees, in accordance with the provisions of section 3700 of the Labor Code. The Contractor shall file with the District certificates of his insurance protecting workers. Company or companies providing insurance coverage shall be acceptable to the District, if in the form and coverage, as set forth in the Contract Documents.

### **ARTICLE 41. EMPLOYER'S LIABILITY INSURANCE**

Contractor shall provide during the life of this Contract, Employer's Liability Insurance, including Occupational Disease, in the amount of, at least, one million dollars (\$1,000,000.00) per person, per accident. Contractor shall provide District with a certificate of Employer's Liability Insurance. Such insurance shall comply with the provisions of the Contract Documents. The policy shall be endorsed, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement and contain a Waiver of Subrogation in favor of the District.

### **ARTICLE 42. COMMERCIAL GENERAL LIABILITY INSURANCE**

- a. Contractor shall procure and maintain during the life of this Contract and for such other period as may be required herein, at its sole expense, Commercial General Liability Insurance coverage including, but not limited to, premises liability, contractual liability, products/completed operations if applicable, personal and advertising injury – which may arise from or out of Contractor's operations, use, and management of the Project site, or the performance of its obligations hereunder. Policy limits shall not be less than two million dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage, and four million (\$4,000,000.00) aggregate total bodily injury and property damage.

## GENERAL PROVISIONS

The Contractor shall also procure and maintain during the life of this contract and for such other period as may be required herein, at its sole expense, excess liability coverage. Excess liability limits shall be as follows:

<u>For contracts exceeding \$50,000</u>	\$6,000,000 Bodily Injury and Property Damage
<u>For contracts less than \$50,000</u>	\$2,000,000 Bodily Injury and Property Damage

- b. Such policy shall comply with all the requirements of this Article. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further, the limits set forth herein shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit Contractor's indemnification obligations to the District, and shall not preclude the District from taking such other actions available to the District under other provisions of the Contract Documents or law.
- c. Contractor shall make certain that any and all subcontractors hired by Contractor are insured, in accordance with this Contract. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold the District harmless from any damage, loss, cost, or expense, including attorneys' fees, incurred by the District as a result thereof.
- d. All general liability policies provided pursuant to the provisions of this Article shall comply with the provisions of the Contract Documents.
- e. All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, under-ground excavation, removal of lateral support, and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Contractor of that part of the indemnification contained in these General Provisions, relating to liability for injury to or death of persons and damage to property. If the coverage contains one or more aggregate limits, a minimum of fifty percent (50%) of any such aggregate limit must remain available at all times; if over fifty percent (50%) of any aggregate limit has been paid or reserved, the District may require additional coverage to be purchased by Contractor to restore the required limits. Contractor may combine primary, umbrella, and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the additional insured endorsement described in the Contract Documents.



## **GENERAL PROVISIONS**

### **ARTICLE 43. AUTOMOBILE LIABILITY INSURANCE**

Contractor shall take out and maintain at all times during the term of this Contract Automobile Liability Insurance in the amount of, at least, one million dollars (\$1,000,000.00). Such insurance shall provide coverage for bodily injury and property damage including coverage for non-owned and hired vehicles, in a form and with insurance companies acceptable to the District. Such insurance shall comply with the provisions of Article 45 below.

### **ARTICLE 44. BUILDER'S RISK ["ALL RISK"]**

- a. It is the Contractor's responsibility to maintain or cause to be maintained Builder's Risk ["All Risk"] extended coverage insurance on all work, material, equipment, appliances, tools, and structures that are a part of the Contract and subject to loss or damage by fire, flood, vandalism, and malicious mischief, in an amount to cover one hundred percent (100%) of the replacement cost. The District accepts no responsibility until the Contract is formally accepted by the Governing Board for The Work. The Contractor is required to file with the District a certificate evidencing fire insurance coverage.
- b. Provide insurance coverage on completed value form, all-risk, or special causes of loss coverage.
  - 1) Insurance policies shall be so conditioned as to cover the performance of any extra work performed under the Contract.
  - 2) Coverage shall include all materials stored on-site and in transit.
  - 3) Coverage shall include Contractor's tools and equipment.
  - 4) Insurance shall include boiler, machinery, and material hoist coverage.
- c. Such insurance shall comply with the provisions of the Contract Documents.

**GENERAL PROVISIONS**

- d. Installation Floater Insurance shall be for the total value of project.The policy shall be written on an “All Risk” form, to include coverage for earthquake, flood, and Acts of God (as defined in public Contract Code Section 7105), insuring for physical loss or damage to the Work, false work, completed work, work in progress, material, supplies, and equipment of the Work Site, but also to property at off-site storage locations and in transit, without regard to the location of the covered property. The policy shall be issued on a replacement cost basis, and shall insure against at least the following perils or causes of loss: fire, lightning, weather damage, explosion, extended replacement cost coverage, theft, vandalism, malicious mischief, collapse, debris removal, aircraft, demolition occasioned by enforcement of Applicable Laws, water damage from any source), snow, sleet, hail, wind, acts of terrorism, and such other perils not specifically listed. The policy shall include expenses incurred in the repair or replacement of any insured property (including, but not limited to, fees and charges of engineers and architects), allow for Partial Utilization of the Work by the District, and include testing and startup.

Installation Floater Insurance deductible amounts may be selected by Contractor, but shall not exceed the maximum allowable deductible for the Contract Price of the Project in the table set forth below. Self-insured retentions shall not be permitted for the Installation Floater policy.

<u>Contract Price</u>	All Risk Maximum Deductible <u>(Except for Earthquake &amp; Flood)</u>
\$ 0 - \$ 2,000,000	\$ 10,000
\$ 2,000,001 - \$ 5,000,000	\$ 20,000
\$ 5,000,001 - \$10,000,000	\$ 50,000
\$10,000,001 - \$50,000,000	\$ 100,000

While the maximum deductibles for the Installation Floater policy are set forth above, there are separate maximum allowable deductibles specifically for the perils of earthquake and flood. The maximum allowable deductible for the peril of earthquake shall not be greater than five percent (5%) of the value at risk at the time of loss with a two hundred fifty thousand dollars(\$250,000.00) minimum. The maximum allowable deductible for the peril of flood shall not be greater than two percent (2%) of the value at risk at the time of loss with a one hundred thousand dollars (\$100,000) minimum.

If the replacement cost increases during the course of construction, additional insurance limits must be purchased by Contractor.

## GENERAL PROVISIONS

Should any of the Work involve construction or remodeling of, or addition to, a building or buildings, then Builder's Risk/Course of Construction Coverage shall be added to the Installation Floater Insurance. The Builder's Risk/Course of Construction coverage shall also include the perils of flood and earthquake.

Installation Floater Insurance policy shall name the District, Contractor and Subcontractors as insureds, with deductible amounts, if any, for the sole account of and payable by Contractor. Loss under Installation Floater Insurance shall be adjusted with and payable to the District for the interest of all parties.

### ARTICLE 45. FORM AND PROOF OF CARRIAGE OF INSURANCE

- a. Any insurance carrier providing insurance coverage required by the Contract Documents shall be admitted to and authorized to do business in the State of California unless waived, in writing, by the District. Carrier(s) shall have an A.M. Best rating of not less than an A-:VII. Insurance deductibles or self-insured retentions must be declared by the Contractor, and such deductibles and retentions shall have the prior written consent from the District. At the election of the District, the Contractor shall either: 1) reduce or eliminate such deductibles or self-insured retentions, or 2) procure a bond that guarantees payment of losses and related investigations, claims administration, and defense costs and expenses. If umbrella or excess liability coverage is used to meet any required limit(s) specified herein, the Contractor shall provide a "follow form" endorsement satisfactory to the District indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

## GENERAL PROVISIONS

- b. Contractor shall cause its insurance carrier(s) to furnish the District with either:  
1) a properly executed original Certificate(s) of Insurance and certified original copies of endorsements effecting coverage as required herein, or 2) if requested to do so in writing by the District, provide original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect. For the commercial general liability and automobile liability policies, District, its directors and officers, employees, and agents or representatives shall be named as Additional Insureds and Contractor shall provide a Waiver of Subrogation in favor of those parties. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that shall provide no less than thirty (30) calendar days written notice be given to the District prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, the District may terminate or Stop Work pursuant to the Contract Documents, unless the District receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages set forth herein and the insurance required herein is in full force and effect. Contractor shall not take possession, or use the Project site, or commence operations under this Agreement until the District has been furnished original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance, including all endorsements and any and all other attachments, as required in this section.
- c. It is understood and agreed to by the parties hereto and the insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary, and the District's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- d. The District reserves the right to adjust the monetary limits of insurance coverage during the term of this Contract, including any extension thereof, if in the District's reasonable judgment, the amount or type of insurance carried by the Contractor becomes inadequate.
- e. Contractor shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Contract.

## GENERAL PROVISIONS

### ARTICLE 46. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- a. Time for Completion/Liquidated Damages. Time is of the essence in the completion of the Work. Work shall be commenced within ten (10) calendar days of the date stated in the District's Notice to Proceed and shall be completed by Contractor in the time specified in the Contract Documents. The District is under no obligation to consider early completion of the Project and the Contract completion date shall not be amended by the District's receipt or acceptance of the Contractor's proposed earlier completion date. Furthermore, Contractor shall not, under any circumstances, receive additional compensation from the District (including, but not limited to, indirect, general, administrative, or other forms of overhead costs) for the period between the time of earlier completion proposed by the Contractor and the Contract completion date. If The Work is not completed as stated in the Contract Documents, it is understood that the District will suffer damage. In accordance with Government Code section 53069.85, being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to the District as fixed and liquidated damages, and not as a penalty, the sum stipulated in the Contract for each day of delay until The Work is fully completed. Contractor and its surety shall be liable for any liquidated damages. Any money due or to become due the Contractor may be retained to cover liquidated damages.
- b. Inclement Weather. Contractor shall abide the Engineer's determination of what constitutes inclement weather. Time extensions for inclement weather shall only be granted when the Work stopped during inclement weather is on the critical path of the Project schedule.
- c. Extension of Time. Contractor shall not be charged liquidated damages because of any delays in completion of The Work due to unforeseeable causes beyond the control and without the fault or negligence of Contractor (or its subcontractors or suppliers). Contractor shall within five (5) calendar days of identifying any such delay notify the District in writing of causes of delay. The District shall ascertain the facts and extent of delay and grant extension of time for completing The Work when, in its judgment, the facts justify such an extension. Time extensions to the Project shall be requested by the Contractor as they occur and without delay. No delay claims shall be permitted unless the event or occurrence delays the completion of the Project beyond the Contract completion date.

## GENERAL PROVISIONS

### ARTICLE 47. COST BREAKDOWN AND PERIODIC ESTIMATES

Contractor shall furnish on forms approved by the District:

- a. Schedule of Values. Within ten (10) calendar days of award of the Contract, the Contractor shall submit a detailed estimate giving a complete breakdown of the Contract price. The breakdown of the Contract price shall include a complete schedule of the values of the various portions of the Work, including quantities and unit prices if required by the District, aggregating the Contract price (except in cases and to the extent that accepted unit prices form the basis for payment). The schedule of values shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction and to coordinate with the Project Schedule required under Article 6 (a) above, and shall be supported by such data to substantiate its correctness as the District may require. Each item in the schedule of values shall include its proper share of overhead and profit. An unbalanced breakdown providing for over-payment to the Contractor on items of Work that would be performed first will not be approved.
- b. A monthly itemized estimate of Work done for the purpose of making progress payments. In order for the District to consider and evaluate each progress payment application, the Contractor shall submit a detailed measurement of Work performed and a progress estimate of the value thereof before the twenty-fifth (25<sup>th</sup>) day of the following month.
- c. Contractor shall submit, with each of its payment requests, an adjusted list of actual quantities, verified by the Engineer, for unit price items listed, if any, in the Bid Form.
- d. Following the District's Acceptance of the Work, the Contractor shall submit to the District a written statement of the final quantities of unit price items for inclusion in the final payment request.
- e. The District shall have the right to adjust any estimate of quantity and to subsequently correct any error made in any estimate for payment.

Contractor shall certify under penalty of perjury that all cost breakdowns and periodic estimates accurately reflect the Work on the Project.

### ARTICLE 48. MOBILIZATION

- a. When a bid item is included in the Bid Form for mobilization, the costs of Work in advance of construction operations and not directly attributable to any specific bid item will be included in the progress estimate ("Initial Mobilization"). When no bid item is provided for "Initial Mobilization," payment for such costs will be deemed to be included in the other items of The Work.

## GENERAL PROVISIONS

- b. Payment for Initial Mobilization is based on the lump sum provided in the Bid Form, which shall constitute full compensation for all such Work. No payment for Initial Mobilization will be made until all of the listed items have been completed to the satisfaction of the Engineer. The scope of the Work included under Initial Mobilization shall include, but shall not be limited to, the following principal items:
- 1) Obtaining and paying for all bonds, insurance, and permits.
  - 2) Moving onto the Project site all of the Contractor's plant and equipment required for the first month's operations.
  - 3) Installing temporary construction power, wiring, and lighting facilities.
  - 4) Establishing fire protection system.
  - 5) Developing and installing a construction water supply.
  - 6) Providing and maintaining the field office trailers for the Contractor and the Engineer, complete with all specified furnishings and utility services including telephones, telephone appurtenances, computer and printer, and copying machine.
  - 7) Providing on-site communication facilities for the Owner and the Engineer, including telephones, radio pagers, and fax machines.
  - 8) Providing on-site sanitary facilities and potable water facilities, as specified per Cal-OSHA and these Contract Documents.
  - 9) Furnishing, installing, and maintaining all storage buildings or sheds required for temporary storage of products, equipment, or materials that have not yet been installed in the Work. All such storage shall meet manufacturer's specified storage requirements, and the specific provisions of the specifications, including temperature and humidity control, if recommended by the manufacturer, and for all security.
  - 10) Arranging for and erection of Contractor's work and storage yard.
  - 11) Posting all OSHA required notices and establishment of safety programs per Cal-OSHA.
  - 12) Full-time presence of Contractor's superintendent at the job site, as required herein.
  - 13) Submittal of construction schedule, as required by the Contract Documents.

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### ARTICLE 49. PAYMENTS

- a. The District shall make monthly progress payments following receipt of undisputed and properly submitted payment requests. Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of Work performed up to the twenty-fifth (25<sup>th</sup>) day of the previous month, less the aggregate of previous payments.
- b. The Contractor shall, after the full completion of The Work, submit a final payment application. All prior progress estimates shall be subject to correction in the final estimate and payment.
- c. Unless otherwise required by law, the final payment of five percent (5%) of the value of the Work, if unencumbered, shall be paid no later than sixty (60) calendar days after the date of recordation of the Notice of Completion.
- d. Acceptance by Contractor of the final payment shall constitute a waiver of all claims against the District arising from this Contract.
- e. Payments to the Contractor shall not be construed to be an acceptance of any defective Work or improper materials, or to relieve the Contractor of its obligations under the Contract Documents.
- f. The Contractor shall submit with each payment request the Contractor's conditional waiver of lien for the entire amount covered by such payment request, as well as a valid unconditional waiver of lien from the Contractor and all subcontractors and materialmen for all Work and Materials included in any prior invoices. Waivers of lien shall be in the forms prescribed by California Civil Code section 8132. Prior to final payment by the District, the Contractor shall submit a final waiver of lien for the Contractor's Work, together with releases of lien from any subcontractor or materialmen.



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### ARTICLE 50. PAYMENTS WITHHELD AND BACKCHARGES

In addition to amounts that the District may retain under other provisions of the Contract Documents, the District may withhold payments due to Contractor as may be necessary to cover:

- a. Stop Payment Notice Claims.
- b. Defective Work not remedied.
- c. Failure of Contractor to make proper payments to its subcontractors or suppliers.
- d. Completion of the Contract if there exists a reasonable doubt that the Work can be completed for balance then unpaid.
- e. Damage to another contractor or third party.
- f. Amounts that may be due the District for claims against Contractor.
- g. Failure of Contractor to keep the record (“as-built”) drawings up to date.
- h. Failure to provide updates on the construction schedule.
- i. Site clean-up.
- j. Failure of the Contractor to comply with requirements of the Contract Documents.
- k. Liquidated damages.
- l. Legally permitted penalties.

Upon completion of the Contract, the District will reduce the final Contract amount to reflect costs charged to the Contractor, backcharges, or payments withheld pursuant to the Contract Documents.

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### ARTICLE 51. SECURITIES FOR MONEY WITHHELD

Pursuant to section 22300 of the Public Contract Code of the State of California, Contractor may request the District to make retention payments directly to an escrow agent or may substitute securities for any money withheld by the District to ensure performance under the contract. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with the District or with a state or federally chartered bank as the escrow agent who shall return such securities to Contractor upon satisfactory completion of the contract. Deposit of securities with an escrow agent shall be subject to a written agreement substantially in the form provided in section 22300 of the Public Contract Code.

### ARTICLE 52. CHANGES AND EXTRA WORK

#### a. Contract Change Orders.

- 1) The District, without invalidating the Contract, may order changes in the Work consisting of additions, deletions, or other revisions, and the Contract Price and Contract Time shall be adjusted accordingly. Except as otherwise provided herein, all such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including any adjustment in the Contract Price or the Contract Time, and the full and final settlement of all costs (direct, indirect and overhead) related to the Work authorized by the Change Order.
- 2) Contractor shall promptly execute changes in the Work as directed in writing by the District even when the parties have not reached agreement on whether the change increases the scope of Work or affects the Contract Price or Contract Time. All claims for additional compensation to the Contractor shall be presented in writing. No claim will be considered after the work in question has been done unless a written Change Order has been issued or a timely written notice of claim has been made by Contractor.
- 3) Whenever any change is made as provided for herein, such change shall be considered and treated as though originally included in the Contract, and shall be subject to all terms, conditions, and provisions of the original Contract.
- 4) Contractor shall not be entitled to claim or bring suit for damages, whether for loss of profits or otherwise, on account of any decrease or omission of any item or portion of Work to be done.

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- 5) No dispute, disagreement, or failure of the parties to reach agreement on the terms of the Change Order shall relieve the Contractor from the obligation to proceed with performance of the work, including Additional Work, promptly and expeditiously.
- 6) Contractor shall make available to the District any of the Contractor's documents related to the Project immediately upon request of the District, as set forth in Article 53.
- 7) Any alterations, extensions of time, Additional Work, or any other changes may be made without securing consent of the Contractor's surety or sureties.

b. **Contract Price Change.**

1) Process for Determining Adjustments in Contract Price

- A. Owner Initiated Change. The Contractor must submit a complete cost proposal, including any change in the Contract Price or Contract Time, within seven (7) calendar days after receipt of a scope of a proposed change order initiated by the District, unless the District requests that proposals be submitted in less than seven (7) calendar days.
- B. Contractor-Initiated Change. The Contractor must give written notice of a proposed change order required for compliance with the Contract Documents within seven (7) calendar days of discovery of the facts giving rise to the proposed change order.
- C. Whenever possible, any changes to the Contract Price shall be in a lump sum mutually agreed to by the Contractor and the District.
- D. Price quotations from the Contractor shall be accompanied by sufficiently detailed supporting documentation to permit verification by the District, including but not limited to estimates and quotations from subcontractors or material suppliers, as the District may reasonably request. Contractor shall certify the accuracy of all Change Order Requests under penalty of perjury.

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- E. If the Contractor fails to submit a complete cost proposal within the seven (7) calendar-day-period (or as requested), the District has the right to order the Contractor in writing to commence the Work immediately on a time and materials basis and/or issue a lump sum change to the Contract Price and/or Contract Time in accordance with the District's estimate. If the change is issued based on the District's estimate, the Contractor will waive its right to dispute the action unless within fifteen (15) calendar days following completion of the added/deleted work, the Contractor presents written proof that the District's estimate was in error.

### 2) Unit Price Change Orders

- A. When the actual quantity of a Unit Price item varies from the Bid Form, compensation for the change in quantity will be calculated by multiplying the actual quantity by the Unit Price. This calculation may result in either an additive or deductive Final Change Order pursuant to the Contract Documents.
- B. No Mark up for Overhead and Profit. Because the Contract Unit Prices provided in the Bid Form include Overhead and Profit as determined by Contractor at the time of Bid submission, no markup or deduction for Overhead and Profit will be included in Unit Price Change Orders.
- C. Bid items included on the Bid Form may be deducted from the Work in their entirety without any negotiated extra costs
- D. Contractor acknowledges that unit quantities are estimates and agrees that the estimated unit quantities listed on the Bid Form will be adjusted to reflect the actual unit quantities, which may result in an adjustment to the Contract Unit Prices. Such an adjustment will be made by execution of a final additive or deductive Change Order following Contractor's completion of the Work. Upon notification, Contractor's failure to respond within seven (7) calendar days will result in District's issuance of a unit quantity adjustment to the Contract Unit Prices and/or Contract Time in accordance with the Contract Documents
- E. The District or Contractor may make a Claim for an adjustment in the Unit Price in accordance with the Contract Documents if:
  - i. the quantity of any item of Unit Price Work performed by Contractor differs by twenty-five percent (25%) or more from the estimated quantity of such item indicated in the Contract; and

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- ii. there is no corresponding adjustment with respect to any other item of Work; and
  - iii. Contractor believes that Contractor is entitled to an increase in Unit Price as a result of having incurred additional expense or the District believes that the District is entitled to a decrease in Unit Price and the parties are unable to agree as to the amount of any such increase or decrease.
- 3) Contractor shall incorporate the provisions of this Section into all agreements with Subcontractors. Compensation for Lump Sum Change Orders shall be limited to expenditures necessitated specifically by the Additional Work, and shall be according to the following:
- A. Overview. The Contractor will submit a properly itemized Lump Sum Change Order Proposal covering the Additional Work and/or the work to be deleted. This proposal will be itemized for the various components of the Additional Work and segregated by labor, material, and equipment in a detailed format satisfactory to the District. The District will require itemized change orders on all change order proposals from the Contractor, subcontractors, and sub-subcontractors regardless of tier. Details to be submitted will include detailed line item estimates showing detailed materials quantity take-offs, material prices by item and related labor hour pricing information and extensions (by line item or by drawing as applicable).
  - B. Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft or type of worker at the time the extra Work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from federal, state, or local laws, as well as assessment or benefits required by lawful collective bargaining agreements. The use of a labor classification that would increase the extra Work cost will not be permitted unless the Contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

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Estimated labor hours must only include hours for those workmen and working foremen directly involved in performing the change order work. Supervision above the level of working foremen (such as general foremen, superintendent, project manager, etc.) is considered to be included in the markup percentages as outlined below. Note that no separate allowances for warranty expense will be allowed as a direct cost of a change order. Costs attributed to warranty expenses will be considered to be covered by the markup.

- C. Labor Burden. Labor burden allowable in change orders shall be defined as employer's net actual cost of payroll taxes (FICA, Medicare, SUTA, FUTA), net actual cost for employer's cost of union benefits (or other usual and customary fringe benefits if the employees are not union employees), and net actual cost to employer for worker's compensation insurance taking into consideration adjustments for experience modifiers, premium discounts, dividends, rebates, expense constants, assigned risk pool costs, net cost reductions due to policies with deductibles for self-insured losses, assigned risk rebates, etc. Contractor shall reduce their standard payroll tax percentages to properly reflect the effective cost reduction due to the estimated impact of the annual maximum wages subject to payroll taxes. An estimated percentage for labor burden may be used for pricing change orders. However, the percentage used for labor burden to price change orders will be examined at the conclusion of the Project and an adjustment to the approved change orders will be processed if it is determined that the actual labor burden percentage should have been more or less than the estimated percentage used.

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- D. Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available in the quantities involved, plus sales tax, freight, and delivery. Materials costs shall be based upon supplier or manufacturer's invoice. If invoices or other satisfactory evidence of cost are not furnished within fifteen (15) calendar days of delivery, then the District shall determine the materials cost, at its sole discretion. Estimated material change order costs shall reflect the Contractor's reasonably anticipated net actual cost for the purchase of the material needed for the change order work. Estimated material costs shall reflect cost reductions available to the Contractor due to "non-cash" discounts, trade discounts, free material credits, and/or volume rebates. "Cash" discounts [i.e., prompt payment discounts of two percent (2%) or less] available on material purchased for change order work shall be credited to the District if the Contractor is provided the District funds in time for Contractor to take advantage of any such "cash" discounts. The portion of any "cash" discounts greater than two percent (2%) will not be considered "non-cash" discount for purposes of this provision. Price quotations from material suppliers must be itemized with unit prices for each specific item to be purchased. "Lot pricing" quotations will not be considered sufficient substantiating detail.
- E. Tools and Equipment Use. Costs for the use of small tools, which are tools that have a replacement value of one thousand dollars (\$1,000.00) or less, shall be considered included in the Overhead and Profit mark-ups established below. Allowable change order estimated costs may include appropriate amounts for rental of major equipment specifically needed to perform the change order work [defined as tools and equipment with an individual purchase cost of more than seven hundred fifty dollars (\$750.00)]. For Contractor owned equipment, the "bare" equipment rental rates allowed to be used for pricing change order proposals shall be seventy-five percent (75%) of the monthly rate listed in the most current publication of The AED Green Book divided by one hundred seventy-six (176) to arrive at a maximum hourly rate to be applied to the hours the equipment is used performing the change order work. Further, for Contractor owned equipment, the aggregate equipment rent charges for any single piece of equipment used in all change order work shall be limited to fifty percent (50%) of the fair market value of the piece of equipment when the first change order is priced involving usage of the piece of equipment. Fuel necessary to operate the equipment will be considered as a separate direct cost associated with the change order work

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- F. Maximum Markup Percentage Allowable on Self-Performed Work. With respect to pricing change orders, the maximum markup percentage to be paid to any Contractor or subcontractor (regardless of tier) on self-performed work shall be a single markup percentage not-to-exceed fifteen percent (15%) of the net direct cost of (1) direct labor and allowable labor burden costs applicable to the change in the Work; (2) the net cost of material and installed equipment incorporated into the change in the Work, and (3) net rental cost of major equipment and related fuel costs necessary to complete the change in the Work. The markup computed using the above formula shall be considered to be allocated  $\frac{2}{3}$  to cover applicable overhead costs directly attributable to the field overhead costs related to processing, supervising and performing, the change order work, and the remaining  $\frac{1}{3}$  to cover home office overhead costs and profit.
- G. Maximum Markup Percentages Allowable on Work Performed by Lower Tier Subcontractors. With respect to pricing the portion of change order proposals involving Work performed by lower tier contractors, the maximum markup percentage allowable to the Contractor or subcontractor supervising the lower tier subcontractor's work shall not exceed five percent (5%) of the net of all approved change order work performed by all subcontractors combined for any particular change order proposal. The markup computed using the above formula shall be considered to be allocated two-thirds ( $\frac{2}{3}$ ) to cover applicable overhead costs directly attributable to the field overhead costs related to processing, supervising and performing the change order work, and the remaining one-third ( $\frac{1}{3}$ ) to cover home office overhead costs and profit.
- H. No Markup on Bonds and Liability Insurance Costs. Change order cost adjustments due to increases or decreases in bond or insurance costs (if applicable) shall not be subject to any markup.



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- I. Direct and Indirect Costs Covered by Markup Percentages. As a further clarification, the agreed upon markup percentage set forth above is intended to cover the Contractor's profit and all indirect costs associated with the change order work. Items intended to be covered by the markup percentage include, but are not limited to: home office expenses, branch office and field office overhead expense of any kind, project management, superintendents, general foremen, estimating, engineering, coordinating, expediting, purchasing, detailing, legal, accounting, data processing or other administrative expenses, shop drawings, permits, auto insurance and umbrella insurance, pick-up truck costs, and warranty expense costs. The cost for the use of small tools is also to be considered covered by the markup percentage established above. Small tools shall be defined as tools and equipment (power or non-power) with an individual purchase cost of less than seven hundred fifty dollars (\$750.00).
- J. Deduct Change Orders and Net Deduct Changes. The application of the markup percentages referenced above will apply to both additive and deductive change orders. In the case of a deductive change order, the credit will be computed by applying the sliding scale percentages as outlined above so that a deductive change order would be computed in the same manner as an additive change order. In those instances where a change involves both additive and deductive work, the additions and deductions will be netted and the markup percentage adjustments will be applied to the net amount.
- K. Contingency. In no event will any lump sum or percentage amounts for "contingency" be allowed to be added as a separate line item in change order estimates. Unknowns attributable to labor hours will be accounted for when estimating labor hours anticipated performing the work. Unknowns attributable to material scrap and waste will be estimated as part of material costs.
- L. Insurance and Bonds. In the event the Contractor has been required to furnish insurance and/or bonds as part of the base contract price, a final contract change order will be processed to account for the Contractor's net increase or decrease in insurance costs and/or bond premium costs associated with change orders to Contractor's base Contract Price.

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### 4) Time and Materials Change Orders

- A. General. The term Time and Materials means the sum of all costs reasonably and necessarily incurred and paid by Contractor for labor, materials, and equipment in the proper performance of Additional Work. Except as otherwise may be agreed to in writing by the District, such costs shall be in amounts no higher than those prevailing in the locality of the Project, and shall include only the following items.
- B. Timely and Final Documentation.
- i. T&M Daily Sheets. Contractor must submit timesheets, materials invoices, records of equipment hours, and records of rental equipment hours to the District's Representative for an approval signature **each day** Additional Work is performed. Failure to get the District's Representative's approval signature each calendar day shall result in a waiver of Contractor's right to claim these costs. The District's Representative's signature on time sheets only serves as verification that the Work was performed and is not indicative of District's agreement to Contractor's entitlement to the cost.
  - ii. T&M Daily Summary Sheets. All documentation of incurred costs ("T&M Daily Summary Sheets") shall be submitted by Contractor within **three (3) calendar days** of incurring the cost for labor, material, equipment, and special services as Additional Work is performed. Contractor's actual costs shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Each T&M Daily Summary Sheet shall include Contractor's actual costs incurred for the Additional Work performed that day and a cumulative total of Contractor's actual costs incurred for the Additional Work. Contractor's failure to provide a T&M Daily Summary Sheet showing a total cost summary within three (3) calendar days but within five (5) calendar days of performance of the Work will result in the Contractor's otherwise allowable overhead and profit being reduced by fifty percent (50%) for that portion of Additional Work which was not documented in a timely manner. Contractor's failure to submit the T&M Daily Summary Sheet within five (5) calendar days of performance of the Work will result in a total waiver of Contractor's right to claim these costs

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- iii. T&M Total Cost Summary Sheet. Contractor shall submit a T&M Total Cost Summary Sheet, which shall include total actual costs, within **seven (7) calendar days** following completion of District approved Additional Work. Contractor's total actual cost shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Contractor's failure to submit the T&M Total Cost Summary Sheet within seven (7) calendar days of completion of the Additional Work will result in Contractor's waiver for any reimbursement of any costs associated with the T&M Summary Sheets or the performance of the Additional Work.
- C. Labor. The Contractor will be paid the cost of labor for the workers used in the actual and direct performance of the Work. The cost of labor will be the sum of the actual wages paid (which shall include any employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes) substantiated by timesheets and certified payroll for wages prevailing for each craft or type of workers performing the Additional Work at the time the Additional Work is done, and the labor surcharge set forth in the Department of Transportation publication entitled *Labor Surcharge and Equipment Rental Rates*, which is in effect on the date upon which the Work is accomplished and which is a part of the Contract. The labor surcharge shall constitute full compensation for all payments imposed by Federal, State, or local laws and for all other payments made to, or on behalf of, the workers, other than actual wages.
- i. Equipment Operator Exception. Labor costs for equipment operators and helpers shall be paid only when such costs are not included in the invoice for equipment rental.
  - ii. Foreman Exception. The labor costs for foremen shall be proportioned to all of their assigned work and only that applicable to the Additional Work shall be paid. Indirect labor costs, including, without limitation, the superintendent, project manager, and other labor identified in the Contract Documents will be considered Overhead.

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- D. Materials. The cost of materials reported shall be itemized at invoice or lowest current price at which materials are locally available and delivered to the Project site in the quantities involved, plus the cost of sales tax, freight, delivery, and storage.
- i. Trade discounts available to the purchaser shall be credited to the District notwithstanding the fact that such discounts may not have been taken by Contractor.
  - ii. For materials secured by other than a direct purchase and direct billing to the purchaser, the cost shall be deemed to be the price paid to the actual supplier as determined by the District's Representative.
  - iii. Payment for materials from sources owned wholly or in part by the purchaser shall not exceed the price paid by the purchaser for similar materials from said sources on Additional Work items or the current wholesale price for such materials delivered to the Project site, whichever price is lower.
  - iv. f, in the opinion of the District's Representative, the cost of materials is excessive, or Contractor does not furnish satisfactory evidence of the cost of such materials, then the cost shall be deemed to be the lowest current wholesale price for the total quantity concerned delivered to the Project site less trade discounts.
  - v. The District reserves the right to furnish materials for the Additional Work and no Claim shall be allowed by Contractor for costs of such materials or Indirect Costs or profit on District furnished materials.
- E. Equipment.
- i. Rental Time. The rental time to be paid for equipment on the Project site shall be the time the equipment is in productive operation on the Additional Work being performed and, in addition, shall include the time required to move the equipment to the location of the Additional Work and return it to the original location or to another location requiring no more time than that required to return it to its original location; except that moving time will not be paid if the equipment is used on other than the Additional Work, even though located at the site of the Additional Work.

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- (a) Rental Time Not Allowed. Rental time will not be allowed while equipment is inoperative due to breakdowns.
- (b) Computation Method. The following shall be used in computing the rental time of equipment on the Project site.
- When hourly rates are paid, any part of an hour less than thirty (30) minutes of operation shall be considered to be 1/2-hour of operation, and any part of an hour in excess of thirty (30) minutes will be considered one hour of operation.
  - When daily rates are paid, any part of a day less than four (4) hours operation shall be considered to be 1/2-day of operation, and any part of an hour in excess of four (4) hours will be considered one (1) day of operation.
- ii. Rental Rates. Contractor will be paid for the use of equipment at the lesser of (i) the actual rental rate, or (ii) the rental rate listed for that equipment in the California Department of Transportation publication entitled *Labor Surcharge and Equipment Rental Rates*, which is in effect on the date upon which the Contract was executed. Such rental rates will be used to compute payments for equipment whether the equipment is under Contractor's control through direct ownership, leasing, renting, or another method of acquisition. The rental rate to be applied for use of each item of equipment shall be the rate (i.e., daily, monthly) resulting in the least total cost to the District for the total period of use. If it is deemed necessary by Contractor to use equipment not listed in the publication, an equitable rental rate for the equipment will be established by the District's Representative. Contractor may furnish cost data which might assist the District's Representative in the establishment of the rental rate.
- iii. Contractor-Owned Equipment.
- (a) For Contractor-owned equipment, the allowed equipment rental rate will be limited to the monthly equipment rental rate using a utilization rate of one hundred seventy-three (173) hours per month.

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- (b) For Contractor-owned equipment, the rental time to be paid for equipment on the Site shall be the time the equipment is in productive operation, unless, in the instance of standby time, the equipment could be actively used by Contractor on another project, then District shall pay for the entirety of the time the equipment is on Site. It shall be Contractor's burden to demonstrate to the District that the equipment could be actively used on another project.
  - iv. All equipment shall, in the opinion of the District's Representative, be in good working condition and suitable for the purpose for which the equipment is to be used.
  - v. Before construction equipment is used on the Additional Work, Contractor shall plainly stencil or stamp an identifying number thereon at a conspicuous location, and shall furnish to the District's Representative, in duplicate, a description of the equipment and its identifying number and the scheduled Additional Work activities planned
  - vi. Unless otherwise specified, manufacturer's rating and manufacturer approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer
- F. Special Services. Special work or services are defined as that Additional Work characterized by extraordinary complexity, sophistication, or innovation or a combination of the foregoing attributes which are unique to the construction industry.
- i. Invoices for Special Services. When the District's Representative and Contractor determine that a special service is required which cannot be performed by the forces of Contractor or those of any of its Subcontractors, the special service may be performed by an entity especially skilled in the Additional Work. Invoices for special services based upon the current fair market value thereof may be accepted without complete itemization of labor, material, and equipment rental costs, after validation of market values by the District's Representative.

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- ii. Discount and Allowance. All invoices for special services will be adjusted by deducting all trade discounts offered or available, whether the discounts were taken or not. In lieu of Overhead and Profit specified herein, a total allowance not to exceed fifteen percent (15%) for Overhead and Profit will be added to invoices for Special Services
  - iii. When the District determines, in its sole discretion, that competitive bidding is necessary for certain special services, Contractor shall solicit competitive bids for those special services.
- G. Excluded Costs. The term Time and Material shall not include any of the following costs or any other home or field office overhead costs, all of which are to be considered administrative costs covered by Contractor's allowance for Overhead and Profit.
- i. Overhead Cost. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, timekeepers, clerks, and other personnel employed by Contractor whether at the Site or in Contractor's principal office or any branch office, material yard, or shop for general administration of the Additional Work.
  - ii. Office Expenses. Expenses of Contractor's principal and branch offices.
  - iii. Capital Expenses. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Additional Work and charges against Contractor for delinquent payments.
  - iv. Negligence. Costs due to the negligence of Contractor or any Subcontractor or Supplier, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including without limitation the correction of Defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
  - v. Other. Other overhead or general expense costs of any kind and the cost of any item not specifically and expressly included in the Contract Documents.
  - vi. Small Tools. Cost of small tools valued at less than one thousand dollars (\$1,000.00) and that remain the property of Contractor.

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- vii. Administrative Costs. Costs associated with the preparation of Change Orders (whether or not ultimately authorized), cost estimates, or the preparation or filing of Claims.
  - viii. Anticipated Lost Profits. Expenses of Contractor associated with anticipated lost profits or lost revenues, lost income or earnings, lost interest on earnings, or unpaid retention;
  - ix. Home Office Overhead. Costs derived from the computation of a “home office overhead” rate by application of the *Eichleay*, *Allegheny*, burden fluctuation, or other similar methods;
  - x. Special Consultants and Attorneys. Costs of special consultants or attorneys, whether or not in the direct employ of Contractor, employed for services specifically related to the resolution of a Claim, dispute, or other matter arising out of or relating to the performance of the Additional Work.
- H. Overhead, Profit and Other Charges. The mark-up for overhead (including supervision) and profit on work added to the Contract shall be according to the following:
- i. “Net Cost” ” is defined as consisting of costs of labor, materials, and tools and equipment only excluding overhead and profit. The costs of applicable insurance and bond premium will be reimbursed to the Contractor and subcontractors at cost only, without mark-up. Contractor shall provide District with documentation of the costs, including, but not limited to, payroll records, invoices, and such other information as District may reasonably request.
  - ii. For Work performed by the Contractor’s forces, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the Net Cost of the Work.
  - iii. For Work performed by a subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the subcontractor’s Net Cost of the Work to which the Contractor may add five percent (5%) of the subcontractor’s Net Cost.
  - iv. For Work performed by a sub-subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the sub-subcontractor’s Net Cost for Work to which the subcontractor and general contractor may each add an additional five percent (5%) of the Net Cost of the lower tier subcontractor.



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- v. No additional mark-up will be allowed for lower tier subcontractors, and in no case shall the added cost for overhead and profit payable by District exceed twenty-five percent (25%) of the Net Cost as defined herein, of the party that performs the Work.
- 5) All of the following costs are included in the markups for overhead and profit described above, and Contractor shall not receive any additional compensation for: Submittals, drawings, field drawings, Shop Drawings, including submissions of drawings; field inspection; General Superintendence; General administration and preparation of cost proposals, schedule analysis, Change Orders, and other supporting documentation; computer services; reproduction services; Salaries of project engineer, superintendent, timekeeper, storekeeper, and secretaries; Janitorial services; Small tools, incidentals and consumables; Temporary On-Site facilities (Offices, Telephones, High Speed Internet Access, Plumbing, Electrical Power, Lighting; Platforms, Fencing, Water), Jobsite and Home office overhead or other expenses; vehicles and fuel used for work otherwise included in the Contract Documents; Surveying; Estimating; Protection of Work; Handling and disposal fees; Final Cleanup; Other Incidental Work; Related Warranties; insurance and bond premiums.
  - 6) For added or deducted Work by subcontractors, the Contractor shall furnish to the District the subcontractor's signed detailed record of the cost of labor, material and equipment, including the subcontractor markup for overhead and profit. The same requirement shall apply to sub-subcontractors.
  - 7) For added or deducted work furnished by a vendor or supplier, the Contractor shall furnish to the District a detailed record of the cost to the Contractor, signed by such vendor or supplier.
  - 8) Any change in the Work involving both additions and deletions shall indicate a net total cost, including subcontracts and materials. Allowance for overhead and profit, as specified herein, shall be applied if the net total cost is an increase in the Contract Price; overhead and profit allowances shall not be applied if the net total cost is a deduction to the Contract Price. The estimated cost of deductions shall be based on labor and material prices on the date the Contract was executed.

## GENERAL PROVISIONS

- 9) Contractor shall not reserve a right to assert impact costs, extended job site costs, extended overhead, constructive acceleration and/or actual acceleration beyond what is stated in the Change Order for Work. No claims shall be allowed for impact, extended overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. The Contractor may not change or modify the District's change order form in an attempt to reserve additional rights.
- 10) If the District disagrees with the proposal submitted by Contractor, it will notify the Contractor and the District will provide its opinion of the appropriate price and/or time extension. If the Contractor agrees with the District, a Change Order will be issued by the District. If no agreement can be reached, the District shall have the right to issue a unilateral Change Order setting forth its determination of the reasonable additions or savings in costs and time attributable to the extra or deleted work. Such determination shall become final and binding if the Contractor fails to submit a claim in writing to the District within fifteen (15) calendar days of the issuance of the unilateral Change Order, disputing the terms of the unilateral Change Order, and providing such supporting documentation for its position as the District may require.

c. **Change of Contract Times.**

- 1) The Contract Times may only be changed by a Change Order.
- 2) All changes in the Contract Price and/or adjustments to the Contract Times related to each change shall be included in Contractor's COR pursuant to this Article. No cost or time will be allowed for cumulative effects of multiple changes. All Change Orders must state that the Contract Time is not changed or is either increased or decreased by a specific number of days. Failure to include a change to time shall waive any change to the time unless the parties mutually agree in writing to postpone a determination of the change to time resulting from the Change Order.
- 3) Notice of the amount of the request for adjustment in the Contract Times with supporting data shall be delivered within seven (7) calendar days after such start of occurrence. No extension of time or additional compensation shall be given for a delay if the Contractor failed to give notice in the manner and within the time prescribed.
- 4) District may elect, at District's sole discretion, to grant an extension in Contract Times, without Contractor's request, because of delays or other factors.

## GENERAL PROVISIONS

- 5) Use of Float and Critical Path.
  - A. Float is for the benefit of the Project. Float shall not be considered for the exclusive use or benefit of either the District or the Contractor.
  - B. Any difference in time between the Contractor's early completion and the Contract Time shall be considered a part of the Project float. Contractor shall not be entitled to compensation, and District will not compensate Contractor, for delays which impact early completion.
- 6) Contractor's entitlement to an extension of the Contract Times is limited to a District-caused extension of the critical path, reduced by the Contractor's concurrent delays, and established by a proper time impact analysis. No time extension shall be allowed unless, and then only to the extent that, the District-caused delay extends the critical path beyond the previously approved Contract Time.
  - A. Contractor shall not be entitled to an adjustment in the Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor
  - B. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions (as determined by the District), Acts of God, acts or failures to act of utility owners not under the control of District, or other causes not the fault of and beyond control of District and Contractor, then Contractor shall be entitled to an time extension when the Work stopped is on the critical path. Such a non-compensable adjustment shall be Contractor's sole and exclusive remedy for such delays. Contractor must submit a timely request in accordance with the requirements of this Article.
  - C. Utility-Related Delays.
    - i. Contractor
    - ii. Contractor

## GENERAL PROVISIONS

### 7) Content for Requests for Contract Extension.

- A. Each request for an extension of Contract Time must identify the impacting event, in narrative form, providing a description of the delay event and sufficient justification as to why the Contractor is entitled to a time extension. Contractor must demonstrate that the delay arises from unforeseeable causes beyond the control and without the fault or negligence of both Contractor and any Subcontractors or Suppliers, or any other persons or organizations employed by any of them or for whose acts any of them may be liable, and that such causes in fact lead to performance or completion of the Work, or specified part in question, beyond the corresponding Contract Times, despite Contractor's reasonable and diligent actions to guard against those effects.
- B. Each request for an extension of Contract Time must include a time impact analysis in CPM format, using the Contemporaneous Impacted As-Planned Schedule Analysis to calculate the impact of the delay event.

### 8) No Damages for Reasonable Delay.

- A. District's liability to Contractor for delays for which District is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall District be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs
- B. Damages caused by unreasonable District delay that impact the critical path, including delays caused by items that are the responsibility of the District pursuant to Government Code section 4215, shall be compensated at the Daily Rate established in the Special Conditions. No other calculations, proportions or formulas shall be used to calculate any delay damages.
- C. District and District's Representative, and the officers, members, partners, employees, agents, consultants, or subcontractors of each of them, shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project

## GENERAL PROVISIONS

- 9) Contractor's failure, neglect, or refusal to comply with the requirements of the Contract Documents, or any portion thereof, shall bar Contractor's request for extensions of the Contract Times. Such failure, neglect, or refusal prejudices District's and District's Representative's ability to recognize and mitigate delay, and such failure, neglect, or refusal prevent the timely analysis of requests for extensions of Contract Times, and whether such extensions may be warranted. Contractor hereby waives all rights to extensions of Contract Times due to delays or accelerations that result from or occur during periods of time for which Contractor fails, neglects, or refuses to fully comply with the requirements of this Article.

### ARTICLE 53. OCCUPANCY

The District reserves the right to occupy or utilize any portion of The Work at any time before completion, and such occupancy or use shall not constitute Acceptance of any part of Work covered by this Contract. This use shall not relieve the Contractor of its responsibilities under the Contract.

### ARTICLE 54. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall immediately defend (with counsel of the District's choosing), indemnify and hold harmless the District, its officials, officers, agents, employees, and representatives, and each of them from and against:

- a. Any and all claims, demands, causes of action, costs, expenses, injuries, losses or liabilities, in law or in equity, of every kind or nature whatsoever, but not limited to, injury to or death, including wrongful death, of any person, and damages to or destruction of property of any person, arising out of, related to, or in any manner directly or indirectly connected with the Work or this Contract, including claims made by subcontractors for nonpayment, including without limitation the payment of all consequential damages and attorney's fees and other related costs and expenses, however caused, regardless of whether the allegations are false, fraudulent, or groundless, and regardless of any negligence of the District or its officers, employees, or authorized volunteers (including passive negligence), except the sole negligence or willful misconduct or active negligence of the District or its officials, officers, employees, or authorized volunteers.
- b. Contractor's defense and indemnity obligation herein includes, but is not limited to damages, fines, penalties, attorney's fees and costs arising from claims under the Americans with Disabilities Act (ADA) or other federal or state disability access or discrimination laws arising from Contractor's Work during the course of construction of the improvements or after the Work is complete, as the result of defects or negligence in Contractor's construction of the improvements.

## GENERAL PROVISIONS

- c. Any and all actions, proceedings, damages, costs, expenses, fines, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Contractor.
- d. Any and all losses, expenses, damages (including damages to the Work itself), attorney's fees, and other costs, including all costs of defense which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the Work and all of Contractor's obligations under the agreement. Such costs, expenses, and damages shall include all costs, including attorney's fees, incurred by the indemnified parties in any lawsuit to which they are a party.

Contractor shall immediately defend, at Contractor's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the District, its officials, officers, agents, employees and representatives. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the District, its officials, officers, employees, agents, employees and representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse the District, its officials, officers, agents, employees and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code section 2782

### ARTICLE 55. RECORD ("AS BUILT") DRAWINGS

- a. Contractor shall prepare and maintain a complete set of record drawings (herein referred to as "as-builts") and shall require each trade to prepare its own as-builts. The as-builts must show the entire site for each major trade including, but not limited to, water, sewer, electrical, data, telephone, cable, fire alarm, gas, and plumbing. Contractor shall mark the as-builts to show the actual installation where the installation varies from the Work as originally shown. Contractor shall mark whichever drawings are most capable of showing conditions fully and where shop drawings are used, Contractor must record a cross-reference at the corresponding location on the contract drawings. Contractor shall give particular attention to concealed elements that would be difficult to measure and record at a later date. Contractor shall use colors to distinguish variations in separate categories of The Work.
- b. Contractor shall note related change order numbers, where applicable. Contractor shall organize as-builts into manageable sets, bound with durable paper cover sheets, and shall print suitable title, dates, and other identification on the cover of each set. Contractor to also provide an electronic version of the as-builts. The suitability of the as-builts will be determined by the Engineer.

## GENERAL PROVISIONS

### ARTICLE 56. RESOLUTION OF CONSTRUCTION CLAIMS

Contractor shall timely comply with all notices and requests for changes to the Contract Time or Contract Price, including but not limited to all requirements of Article 52, Changes and Extra Work, as a prerequisite to filing any claim governed by this Article. The failure to timely submit a notice of delay or notice of change, or to timely request a change to the Contract Price or Contract Time, or to timely provide any other notice or request required herein shall constitute a waiver of the right to further pursue the claim under the Contract or at law.

- a. Intent. Effective January 1, 1991, Section 20104 et seq., of the California Public Contract Code prescribes a process utilizing informal conferences, non-binding judicial supervised mediation, and judicial arbitration to resolve disputes on construction claims of three hundred seventy-five thousand dollars (\$375,000.00) or less. Effective January 1, 2017, Section 9204 of the Public Contract Code prescribes a process for negotiation and mediation to resolve disputes on construction claims. The intent of this Article is to implement Sections 20104 et seq. and Section 9204 of the California Public Contract Code. This Article shall be construed to be consistent with said statutes.
- b. Claims. For purposes of this Article, "Claim" means a separate demand by the Contractor, after a change order duly requested in accordance with Article 44 "Changes and Extra Work" has been denied by the District, for (A) a time extension, (B) payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract, or (C) an amount the payment of which is disputed by the District. A "Claim" does not include any demand for payment for which the Contractor has failed to provide notice, request a change order, or otherwise failed to follow any procedures contained in the Contract Documents. Claims governed by this Article may not be filed unless and until the Contractor completes all procedures for giving notice of delay or change and for the requesting of a time extension or change order, including but not necessarily limited to the procedures contained in Article 52, Changes and Extra Work, and Contractor's request for a change has been denied in whole or in part. Claims governed by this Article must be filed no later than fourteen (14) calendar days after a request for change has been denied in whole or in part or after any other event giving rise to the Claim.

The Claim shall be submitted in writing to the District and shall include on its first page the following in 16 point capital font: "THIS IS A CLAIM." Furthermore, the claim shall include the documents necessary to substantiate the claim. Nothing herein is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims, including all requirements pertaining to compensation or payment for extra Work, disputed Work, and/or changed conditions. Failure to follow such contractual requirements shall bar any claims or subsequent lawsuits for compensation or payment thereon.

## GENERAL PROVISIONS

- c. Supporting Documentation. The Contractor shall submit all claims in the following format:
- 1) Summary of claim merit and price, and Contract clause pursuant to which the claim is made.
  - 2) List of documents relating to claim:
    - (a) Specifications
    - (b) Drawings
    - (c) Clarifications (Requests for Information)
    - (d) Schedules
    - (e) Other
  - 3) Chronology of events and correspondence.
  - 4) Analysis of claim merit.
  - 5) Analysis of claim cost.
  - 6) Analysis of time impact analysis in CPM format.
  - 7) If Contractor's Claim is based in whole or in part on an allegation of errors or omissions in the Drawings or Specifications for the Project, Contractor shall provide a summary of the percentage of the Claim subject to design errors or omissions and shall obtain a certificate of merit in support of the claim of design errors and omissions.
  - 8) Cover letter and certification of validity of the Claim, including any claims from subcontractors of any tier, in accordance with the Government Code sections 12650 et seq.
- d. District's Response to Claim. Upon receipt of a Claim pursuant to this Article, the District shall conduct a reasonable review of the Claim and, within a period not to exceed forty-five (45) calendar days or as extended by mutual agreement, shall provide a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Any payment due on an undisputed portion of the Claim will be processed and made within sixty (60) calendar days after the District issues its written response.



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- 1) If the District needs approval from its Board of Directors to provide Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and the Board of Directors does not meet within the forty-five (45) calendar days or within the mutually agreed to extension of time following receipt of a Claim sent by registered mail or certified mail, return receipt requested, the District shall have up to three (3) calendar days following the next duly publicly-noticed meeting of the Board of Directors after the 45-calendar-day period, or extension, expires to provide Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim.
  - 2) Within thirty (30) calendar days of receipt of a Claim, the District may request, in writing, additional documentation supporting the Claim or relating to defenses or claims the District may have against the Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the District and the Contractor. The District's written response shall be submitted thirty (30) calendar days [if the Claim is less than fifty thousand dollars (\$50,000.00), within fifteen (15) calendar days] after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.
- e. Meet & Confer Conference. If the Contractor disputes the District's written response, or if the District fails to respond within the statutory time prescribed, the Contractor may so notify the District, in writing, within fifteen (15) calendar days of the receipt of the District's response or within fifteen (15) calendar days of the District's failure to respond within the time prescribed, respectively, and demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, the District shall schedule a meet and confer conference within thirty (30) calendar days for settlement of the dispute.
- f. Mediation. Within ten (10) business days following the conclusion of the meet and confer conference, if the Claim or any portion thereof remains in dispute, the District shall provide the Contractor with a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) calendar days after the District issues its written statement. Any disputed portion of the Claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the District and the Contractor sharing the associated costs equally. The District and Contractor shall mutually agree to a mediator within ten (10) business days after the disputed portion of the Claim has been identified in writing, unless the parties agree to select a mediator at a later time.

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- 1) If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.
  - 2) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.
  - 3) Unless otherwise agreed to by the District and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced.
  - 4) The mediation shall be held no earlier than the date the Contractor completes the Work or the date that the Contractor last performs Work, whichever is earlier. All unresolved claims shall be considered jointly in a single mediation, unless a new unrelated claim arises after mediation is completed.
- g. Procedures After Mediation. If following the mediation, the Claim or any portion remains in dispute, the Contractor must file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code prior to initiating litigation. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time the claim is denied, including any period of time utilized by the meet and confer conference.
- h. Civil Actions. The following procedures are established for all civil actions filed to resolve Claims of three hundred seventy-five thousand dollars (\$375,000.00) or less:

## GENERAL PROVISIONS

- 1) Within sixty (60) calendar days, but no earlier than thirty (30) calendar days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties or unless mediation was held prior to commencement of the action in accordance with Public Contract Code section 9204 and the terms of this Contract. The mediation process shall provide for the selection within fifteen (15) calendar days by both parties of a disinterested third person as mediator, shall be commenced within thirty (30) calendar days of the submittal, and shall be concluded within fifteen (15) calendar days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court.
- 2) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1114.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, (A) arbitrators shall, when possible, be experienced in construction law, and (B) any party appealing an arbitration award who does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, also pay the attorney's fees on appeal of the other party.
  - i. Government Code Claims. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra Work, disputed Work, construction claims and/or changed conditions, the Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the District. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra Work, disputed Work, construction claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if the prerequisite contractual requirements are not satisfied, no action against the District may be filed. **A Government Code claim must be filed no earlier than the date the Work is completed or the date the Contractor last performs Work on the Project, whichever occurs first. A Government Code claim shall be inclusive of all unresolved claims unless a new unrelated claim arises after the Government Code claim is submitted.**

## GENERAL PROVISIONS

- j. Non-Waiver. The District's failure to respond to a claim from the Contractor within the time periods described in this Article or to otherwise meet the time requirements of this Article shall result in the claim being deemed rejected in its entirety.

### ARTICLE 57. DISTRICT'S RIGHT TO TERMINATE CONTRACT

- a. Termination for Cause. The District may, without prejudice to any other right or remedy, serve written notice upon Contractor of its intention to terminate this Contract if the Contractor: (i) refuses or fails to prosecute The Work or any part thereof with such diligence as will ensure its completion within the time required; (ii) fails to complete The Work within the required time; (iii) should file a bankruptcy petition or be adjudged a bankruptcy; (iv) should make a general assignment for the benefit of its creditors; (v) should have a receiver appointed; (vi) should persistently or repeatedly refuse or fail to supply enough properly skilled workers or proper materials to complete The Work; (vii) should fail to make prompt payment to subcontractors or for material or labor; (viii) persistently disregards laws, ordinances, other requirements, or instructions of the District; or (ix) should violate any of the provisions of the Contract Documents.

The notice of intent to terminate shall contain the reasons for such intention to terminate. Unless within ten (10) calendar days after the service of such notice, such condition shall cease or satisfactory arrangements (acceptable to the District) for the required correction are made, this Contract shall be terminated. In such case, Contractor shall not be entitled to receive any further payment until the Project has been finished. The District may take over and complete The Work by any method it may deem appropriate. Contractor and its surety shall be liable to the District for any excess costs or other damages incurred by the District to complete the Project. If the District takes over The Work, the District may, without liability for so doing, take possession of and utilize in completing The Work such materials, appliances, plant, and other property belonging to the Contractor as may be on the Project site.

- b. Termination For Convenience. The District may terminate performance of The Work, in whole or in part, if the District determines that a termination is in the District's interest.

The District shall terminate all or any part of The Work upon delivery to the Contractor of a Notice of Termination specifying that the termination is for the convenience of the District, the extent of termination, and the effective date of such termination.

## GENERAL PROVISIONS

After receipt of Notice of Termination, and except as directed by the District, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:

- 1) Stop Work as specified in the Notice.
  - 2) Complete any Work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.
  - 3) Leave the property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Documents is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.
  - 4) Terminate all subcontracts to the extent that they relate to the portions of The Work terminated.
  - 5) Place no further subcontracts or orders, except as necessary to complete the remaining portion of The Work.
  - 6) Submit to the District, within ten (10) calendar days from the effective date of the Notice of Termination, all of the documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials, and equipment through the Effective Date of the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the District's exercise of its right to terminate this Contract pursuant to this clause, which costs the Contractor is authorized under the Contract Documents to incur, shall: (i) be submitted to and received by the District no later than thirty (30) calendar days after the Effective Date of the Notice of Termination; (ii) describe the costs incurred with particularity; and (iii) be conspicuously identified as "Termination Costs Occasioned by the District's Termination for Convenience."
  - 7) These provisions are in addition to and not in limitation of any other rights or remedies available to the District.
- c. Notwithstanding any other provision of this Article, when immediate action is necessary to protect life and safety or to reduce significant exposure or liability, the District may immediately order Contractor to cease Work on the Project until such safety or liability issues are addressed to the satisfaction of the District or the Contract is terminated.

## GENERAL PROVISIONS

### ARTICLE 58. WARRANTY AND GUARANTEE

- a. Contractor warrants that all materials and equipment furnished under this Contract shall be new unless otherwise specified in the Contract Documents and that all Work conforms to the Contract Document requirements and is free of any defect whether performed by the Contractor or any subcontractor or supplier.
- b. Unless otherwise stated, all warranty periods shall begin upon the filing of the Notice of Completion. Unless otherwise stated, the warranty period shall be for one year.
- c. The Contractor shall remedy, at its expense, any damage to District-owned or -controlled real or personal property.
- d. Contractor shall furnish the District with all warranty and guarantee documents prior to final Acceptance of the Project by the District.
- e. The District shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. The Contractor shall, within ten (10) calendar days after being notified, commence and perform with due diligence all necessary Work. If the Contractor fails to promptly remedy any defect or damage, the District shall have the right to replace, repair, or otherwise remedy the defect or damage at the Contractor's expense.
- f. In the event of any emergency constituting an immediate hazard to health, safety, property, or licensees, when caused by Work of the Contractor not in accordance with the Contract requirements, the District may undertake at Contractor's expense, and without prior notice, all Work necessary to correct such condition.
- g. With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for Work performed and Materials furnished under this Contract, the Contractor shall:
  - 1) Obtain for District all warranties that would be given in normal commercial practice.
  - 2) Require all warranties to be executed, in writing, for the benefit of the District.
  - 3) Enforce all warranties for the benefit of the District, unless otherwise directed in writing by the District.

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This Article shall not limit the District's rights under this Contract or with respect to latent defects, gross mistakes, or fraud. The District specifically reserves all rights related to defective Work including, but not limited to, the defect claims pursuant to California Code of Civil Procedure section 337.15.

### ARTICLE 59. DOCUMENT RETENTION AND EXAMINATION

- a. In accordance with Government Code section 8546.7, records of both the District and the Contractor shall be subject to examination and audit by the State Auditor General for a period of three (3) years after final payment.
- b. Contractor shall make available to the District any of the Contractor's other documents related to the Project immediately upon request of the District.
- c. In addition to the State Auditor General rights above, the District shall have the right to examine and audit all books, estimates, records, contracts, documents, bid documents, subcontracts, and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the modification in order to evaluate the accuracy and completeness of the cost or pricing data, at no additional cost to the District, for a period of four (4) years after final payment.

### ARTICLE 60. SOILS INVESTIGATIONS

When a soils investigation report for the Project site is available, such report shall not be a part of the Contract Documents. Any information obtained from such report as to subsurface soil condition, or to elevations of existing grades or elevations of underlying rock, is approximate only and is not guaranteed. Contractor acknowledges that any soils investigation report (including any borings) was prepared for purposes of design only and Contractor is required to examine the site before submitting its bid and must make whatever tests it deems appropriate to determine the underground condition of the soil.

### ARTICLE 61. SEPARATE CONTRACTS

- a. The District reserves the right to let other contracts in connection with this Work on the Project site. Contractor shall permit other contractors reasonable access and storage of their materials and execution of their work and shall properly connect and coordinate its Work with theirs, at no additional cost to the District. Should conflict arise, the Contractor shall stop the portion of the Work involved, notify the District's Representative and wait for the District's Representative's direction on how to proceed. There will be no monetary damages given to the Contractor for delays incurred by the work of other contractors.

## **GENERAL PROVISIONS**

- b. To ensure proper execution of its subsequent Work, Contractor shall immediately inspect work already in place and shall at once report to the Engineer any problems with the Work in place or discrepancies with the Contract Documents.
  
- c. Contractor shall ascertain to its own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by the District in prosecution of the Project to the end that Contractor may perform this Contract in the light of such other contracts, if any. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at site of the Project. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on the Project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, the Engineer shall decide which contractor shall cease Work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. The District shall not be responsible for any damages suffered or for extra costs incurred by Contractor resulting directly or indirectly from award, performance, or attempted performance of any other contract or contracts on the Project site.

### **ARTICLE 62. NOTICE AND SERVICE THEREOF**

All notices shall be in writing and either served by personal delivery or mailed to the other party, as designated in the Bid Forms. Written notice to the Contractor shall be addressed to Contractor's principal place of business unless Contractor designates another address in writing for service of notice. Notice to District shall be addressed to the District, as designated in the Notice Inviting Bids, unless District designates another address in writing for service of notice. Notice shall be effective upon receipt or five (5) calendar days after being sent by first class mail, whichever is earlier. Notice given by facsimile shall not be effective unless acknowledged in writing by the receiving party.

### **ARTICLE 63. NOTICE OF THIRD PARTY CLAIMS**

Pursuant to Public Contract Code section 9201, the District shall provide Contractor with timely notification of the receipt of any third-party claim relating to the Contract.



## GENERAL PROVISIONS

### ARTICLE 64. STATE LICENSE BOARD NOTICE

Contractors are required by law to be licensed and regulated by the Contractors' State License Board, which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

### ARTICLE 65. INTEGRATION

- a. Oral Modifications Ineffective. No oral order, objection, direction, claim, or notice by any party or person shall affect or modify any of the terms or obligations contained in the Contract Documents.
- b. Contract Documents Represent Entire Contract. The Contract Documents represent the entire agreement of the District and Contractor.

### ARTICLE 66. ASSIGNMENT

Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Contract or any part thereof including any claims, without prior written consent of the District. Any assignment without the written consent of the District shall be void. Any assignment of money due or to become due under this Contract shall be subject to a prior lien for services rendered or Material supplied for performance of Work called for under the Contract Documents in favor of all persons, firms, or corporations rendering such services or supplying such Materials to the extent that claims are filed pursuant to the Civil Code, the Code of Civil Procedure, or the Government Code.

### ARTICLE 67. CHANGE IN NAME AND NATURE OF CONTRACTOR'S LEGAL ENTITY

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the District in order that proper steps may be taken to have the change reflected on the Contract.

## **GENERAL PROVISIONS**

### **ARTICLE 68. ASSIGNMENT OF ANTITRUST ACTIONS**

Pursuant to section 7103.5 of the Public Contract Code, in entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, Contractor or subcontractor offers and agrees to assign to the District all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. section 15) or under the Cartwright Act (chapter 2 [commencing with section 16700] of part 2 of division 7 of the Business and Professions Code), arising from the purchase of goods, services, or materials pursuant to this Contract or any subcontract. This assignment shall be made and become effective at the time the District makes final payment to the Contractor, without further acknowledgment by the parties.

### **ARTICLE 69. PROHIBITED INTERESTS**

No District official or representative who is authorized in such capacity and on behalf of the District to negotiate, supervise, make, accept, or approve, or to take part in negotiating, supervising, making, accepting, or approving any engineering, inspection, construction, or material supply contract or any subcontract in connection with construction of the Project, shall be or become directly or indirectly interested financially in the Contract.

### **ARTICLE 70. LAWS AND REGULATIONS**

- a. Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on conduct of Work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, he shall promptly notify the Engineer in writing and any necessary changes shall be adjusted, as provided for in this Contract for changes in work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the Engineer, he shall bear all costs arising therefrom.
- b. Contractor shall be responsible for familiarity with the Americans with Disabilities Act ("ADA") (42 U.S.C. § 12101 et seq.). The Work will be performed in compliance with ADA regulations.

### **ARTICLE 71. PATENT FEES OR ROYALTIES**

The Contractor shall include in its bid amount the patent fees or royalties on any patented article or process furnished or used in the Work. Contractor shall assume all liability and responsibility arising from the use of any patented or allegedly patented materials, equipment, devices, or processes used in or incorporated with The Work, and shall defend, indemnify, and hold harmless the District, its officials, officers, agents, employees, and representatives from and against any and all liabilities, demands, claims, damages, losses, costs, and expenses, of whatsoever kind or nature, arising from such use.

## **GENERAL PROVISIONS**

### **ARTICLE 72. OWNERSHIP OF DRAWING**

All Contract Documents furnished by the District are District property. They are not to be used by Contractor or any subcontractor on other work, nor shall Contractor claim any right to such documents. With exception of one complete set of Contract Documents, all documents shall be returned to the District on request at completion of The Work.

### **ARTICLE 73. NOTICE OF TAXABLE POSSESSORY INTEREST**

In accordance with Revenue and Taxation Code section 107.6, the Contract Documents may create a possessory interest subject to personal property taxation for which Contractor will be responsible.

**END OF GENERAL PROVISIONS**

**EXHIBIT A**

**AUTHORIZATION OF ENGINEERING COSTS FOR THE  
EVALUATION OF SUBSTITUTION REQUESTS**

TO: \_\_\_\_\_  
Contractor Date

PROJECT NAME: \_\_\_\_\_

We have received a submittal for \_\_\_\_\_ on \_\_\_\_\_. The equipment submitted is being submitted as being "equal" to the equipment originally specified. Pursuant to Article 7 of the General Provisions, the Contractor shall pay for Rancho California Water District's (District) effort in establishing the quality of the submitted equipment and the suitability for the intended purpose. The estimated time to review this submittal is \_\_\_\_\_ hours at an hourly rate of \$ \_\_\_\_\_ dollars, for a total of \$ \_\_\_\_\_ dollars. Before any work can be done on this submittal review, a signed copy of this transmittal authorizing this work by the Contractor must be received by the District. The starting date for this submittal review shall be the date that the District receives the signed authorization from the Contractor.

\_\_\_\_\_  
Rancho California Water District

**APPROVED**

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

Distribution of Executed Document:

- District's Director of Engineering
- District's Construction Contracts Manager
- District's Representative
- Contractor

**EXHIBIT B**

**AUTHORIZATION OF ENGINEERING COSTS FOR  
REDESIGN DUE TO SUBSTITUTION REQUESTS**

TO: \_\_\_\_\_  
Contractor \_\_\_\_\_ Date \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

Due to the Contractor's request to use the substitution (or equal) entitled \_\_\_\_\_, the following redesign is required to the adjoining and/or related work shown on the plans and referred to in the Specifications as \_\_\_\_\_. The cost of this engineering work is detailed as follows:

WORK CENTER	HOURS		COST PER HOUR		TOTAL
		X		=	\$
		X		=	\$
		X		=	\$
		X		=	\$
<b>TOTAL:</b>					<b>\$</b>

Before any work can be done on this redesign, a signed copy of this transmittal authorizing the work by the Contractor must be received by the District. The starting date for this redesign shall be the date that the District receives the signed authorization from the Contractor.

\_\_\_\_\_  
Rancho California Water District

APPROVED

\_\_\_\_\_  
Contractor \_\_\_\_\_ Date \_\_\_\_\_

Distribution of Executed Document:  
  
District's Director of Engineering  
District's Construction Contracts Manager  
District's Representative  
Contractor