

**INDIAN WELLS VALLEY WATER DISTRICT**

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**500 W. Ridgecrest Blvd  
Ridgecrest, CA 93555  
760-375-5086**

**REQUEST FOR PROPOSAL  
Maintenance, Repair and Rehabilitation of Water Wells  
and Booster Pumps**

**Closing Date: January 28, 2025 @ 3:00pm**



The prospective bidder shall submit a full executed sealed proposal to be received no later than 3:00 PM January 28, 2025. Sealed proposals shall be submitted to:

Renee Morquecho, Ph.D., P.E.  
Chief Engineer  
Indian Wells Valley Water District  
500 W. Ridgecrest Boulevard  
P.O. Box 1329  
Ridgecrest, CA 93556-1329  
(760) 384-5520

## INSTRUCTIONS TO BIDDERS

### 1. SCOPE OF WORK

The Indian Wells Valley Water District, a California Special District (“Owner or “District”), is seeking proposals from interested and qualified Contractors to provide routine and emergency maintenance, repair, and rehabilitation to water wells and booster pumps located throughout the Indian Wells Valley.

Provide routine and emergency services work and procurement of materials and equipment when Owner determines said services are required

### 2. REQUIRED LICENSE

Prospective bidders shall be licensed Contractors in the State of California having at least 5 years’ experience and being qualified to perform the Work specified. Pursuant to Public Contract Code Section 3300, bidders (Contractors) shall possess active and current Contractor’s License, Class C-57, which shall be maintained through the course of the Work. Bidder and any subcontractors shall also be registered with the Department of Industrial Relations as a Public Works Contractor at the time of bidding and during the performance of the contract.

### 3. PROJECT QUESTIONS

All questions pertaining to this Request for Proposals are to be submitted in writing no later than January 21, 2025 at 5:00 pm to Renee Morquecho at [reneem@iwvwd.com](mailto:reneem@iwvwd.com). Answers will then be e-mailed to all who have submitted questions as well as posted on the District’s website at <https://www.iwvwd.com/rfps-rfqs-and-bids>.

### 4. PROPOSAL SUBMISSION DEADLINE

Sealed bids shall be received in person or via mail at 500 W. Ridgecrest Blvd, Ridgecrest, CA 93555 no later than 3:00 pm on January 28, 2025. The contractor’s name and name of the proposal shall be written on the outside of the envelope.

### 5. CONFIDENTIAL INFORMATION

All proposals and materials submitted become the property of the Indian Wells Valley Water District. All proposals received may be subject to the California Public Records Act Government Code Section 6250 et seq.

6. INDEMNITY

The successful Bidder agrees, by entering into this contract, regardless of the coverage provided by any insurance policy, to pay all costs necessary to indemnify, defend and hold Owner harmless from any and all claims, demands actions, attorney's fees, costs, and expenses based upon or arising out of any acts, errors, omissions, fault or negligence of successful Bidder or its principals, employees, subcontractors or other agents while performing services under this contract. The successful Bidder shall indemnify, defend and hold harmless the Owner for any attorney's fees or other costs of defense, even if they allegations of the claim are groundless, false or fraudulent.

7. DURATION OF PROPOSAL

All Proposals submitted in response to this Request for Proposals shall be considered firm offers for a minimum of 90 calendar days after the date of proposal opening in order to allow the Owner to evaluate and consider award.

8. WITHDRAWAL OF PROPOSAL

Contractors may request withdrawal of a posted, sealed proposal prior to the scheduled opening time, provided the request for withdrawal is submitted to the District in writing.

9. AWARD OF CONTRACT

The award, if made, will be made within 90 days of the opening. The Owner's policy is to award to the lowest responsible Bidder who best meets the Owner's requirements. However, Owner reserves the right to reject any and all bids, to waive any irregularity, or to award the subject contract to other than the lowest Bidder. Owner may, at its sole discretion, disregard any added conditions, limitations, provisions, or any interlineations or alterations. Notice of Award shall be made to a successful Bidder in writing and mailed to the address as set forth on the signature page of the Bidding Documents.

The determination of the lowest responsive and responsible Contractor/Proposer may involve all or some of the following factors: price, conformity to specifications, financial ability to meet the contract terms and conditions, previous performance, facilities and equipment, availability of repair parts, experience, delivery, terms of payment, compatibility as required, other costs, and other objective and accountable factors which are reasonable. The Owner has the option to accept additional promotional specials, discounts and/or trade-in allowances offered by the successful Contractor/Proposer during the term of the contract but these offers will not be part of the determination for award of this bid unless otherwise specified.

Owner reserves the right to award the Contract to more than one Bidder to ensure Owner has a Contractor available when Work is required.

10. REJECTION OF PROPOSAL

Owner reserves the right to reject any and all proposals received by reason of this request.

11. TERM OF CONTRACT

The initial term of this contract shall be for one (1) year from the date of the award. Owner will have the option, in its sole discretion, to renew the Contract for two (2) additional one (1) year terms. Any extensions are subject to approval by the Owner's Board of Directors.

12. CONTRACT EXTENTION

Owner reserves the option to temporarily extend this contract for periods up to 90 calendar days from its expiration date for any reason.

13. SENATE BILL 854 REQUIREMENTS

Senate Bill 854 established a new public works contractor registration program which collects fees to fund compliance monitoring and enforcement. All contractors and subcontractors intending to bid or perform work on public works projects are required to register, and annually renew, online for the program. No contractor or subcontractor may be awarded a bid for a public works project unless registered with the State of California Department of Industrial Relations (DIR) pursuant to Labor Code Section 1725.5 and 1771.1. Contractor and any subcontractors must provide proof of active registration from the Public Works Contractor Registration online system at <https://www.dir.ca.gov/Public-Works/PublicWorks.html>. The Contractor must be registered at the time of bid and for the duration of the contract. Failure to submit this information with your bid may deem your bid non-responsive.

14. PREVAILING WAGES

The contractor and any subcontractors shall comply with all State and federal regulations and guidelines required in the performance of this contract. Updated wages can be obtained by visiting [www.dir.ca.gov](http://www.dir.ca.gov) for State Prevailing Wage Rates. Notwithstanding anything in the Contract Documents to the contrary, the Contractor shall be responsible for using up-to-date wage rates. In accordance with California Labor Code, Section 1771.4, Contractor and any subcontractors shall furnish certified payroll records directly to the DIR on a weekly basis and in the format prescribed by the DIR. Contractors and subcontractors on most public works projects are required to submit certified payroll records (CPRs) to the Labor Commissioner using DIR's electronic certified payroll reporting system. See <https://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information. This project is subject to compliance monitoring and enforcement by the DIR.

## 15. WARRANTY

The successful bidder shall guarantee all workmanship, materials, and equipment it has furnished for a minimum period of 1 year after the final acceptance of the equipment and/or materials; and, if during the guarantee period, any defect or faulty materials are found, it shall immediately, upon notification by the Owner, proceed at its own expense to replace and repair same, together with any damage to all finishes, fixtures, equipment, and furnishings that may be damaged as a result of this defective equipment or workmanship.

## 16. INVOICING

Payment for invoices will be made within 30 calendar days, unless otherwise specified after receipt of an accurate invoice that has been reviewed and approved by the Chief Engineer and/or General Manager. The successful Bidder is responsible to ensure that all invoices submitted for payment are in strict compliance with the price(s) offered on the Bid Form. If overcharges are found, the District may declare the successful Bidder in breach of contract and terminate the contract.

## 17. FINAL PROJECT REPORT

The Contractor shall prepare a final Report on any work completed. The final Report shall provide, at a minimum, the following items (as applicable):

- a.) The scope of work completed and for any additional recommended repair and maintenance work (if applicable).
- b.) A complete inventory of all materials added, repaired or replaced.
- c.) Final conditions of well casing (video log, lab analysis, etc.)
- d.) Any observations such as oil on the surface of the water within the well casing.
- e.) Revised pump and drive assembly information and related manufacturer's specifications if applicable.
- f.) Notation of any other factor that may affect the well's ongoing performance.
- g.) A detailed list of what was performed, repaired or replaced for a rehabilitation/repair project.
- h.) Final costs for all work.
- i.) Results of all additional tests, analysis, etc. performed.
- j.) Report shall be in written hard copy and e-mailed to the Chief Engineer in pdf file format.

18. IRAN CONTRACTING ACT CERTIFICATION

(Public Contract Code Section 2200 *et seq.*)

As required by California Public Contract Code Section 2204, the Contractor certifies subject to penalty for perjury that the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

- The Contractor is not:
  - (i) identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
  - (ii) a financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.
  
- Owner has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, Agency will be unable to obtain the goods and/or services to be provided pursuant to the Contract.
  
- The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

Signed \_\_\_\_\_

Title \_\_\_\_\_

Firm \_\_\_\_\_

Date \_\_\_\_\_

**NOTE:** In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or ineligibility to bid on contracts for three years.

## **SCOPE OF WORK**

### **A. Water Wells (See below for detailed specifications)**

1. Contractor shall perform routine and emergency water well maintenance and repairs to include bringing in suitable equipment and tools to the site, removal of the well pump, motor, wire cable, and column piping, trouble shooting, inspection, and recommending repairs or replacements.
2. Contractor shall provide all necessary equipment, including: chemical storage and feed systems, blend tanks, electronic monitoring devices, trucks, drill rigs, cranes, etc., necessary to perform the work.
3. Contractor shall perform installation of District or Contractor supplied materials and equipment, as needed, and with prior District approval in writing. The District reserves the right to purchase materials and equipment separately if the prices given by the Contractor are deemed unreasonable.
4. Contractor shall perform standard troubleshooting, inspection, and replacement on a variety of well equipment.
5. Contractor is responsible for control of the environment of the work site during on-site operations. All precautions shall be taken by the Contractor to protect the works, public and District staff from exposure to harmful or hazardous conditions, dangerous materials and equipment.
6. Contractor will become familiar with the types of equipment and locations prior to submitting a proposal.
7. Contractor shall furnish verbal and written reports to authorized District staff.
8. Contractor shall respond to routine service calls within 7 calendar days unless prior arrangements have been satisfactorily made with the District representative(s). In emergency situations, response shall be no later than 72 hours. The District will determine whether a call is routine or emergency.
9. Well maintenance repair and improvement services may include:
  - Pump repairs or maintenance
  - Well rehabilitation (see specification below)
  - Welding and pipe fitting
  - Multiple down hole well logging techniques and video logs
  - Prolonged blow-off and discharge
  - Screen and casing repairs, replacements, liners, swages
  - Well re-development
  - Treatment of biological fouling
  - Chemical handling

B. Booster stations:

1. Contractor shall perform routine and emergency maintenance and repairs on potable water booster pumps. The District may elect to remove such pumps and deliver to the Contractor for repair.
2. Contractor shall repair or replace pumps, electric motors, valves (gate, butterfly, check etc.), piping, and other appurtenant equipment at the facilities, to include bypasses if pumps have to be temporarily removed for repairs.
3. Contractor shall have all tools, equipment, and repair parts on hand. Should repair tasks require resources beyond the Contractor's inventory, Contractor will obtain any specialized equipment or parts necessary to perform the work, upon District approval. The District reserves the right to purchase materials and equipment separately if the prices given by the Contractor seem unreasonable.
4. Contractor shall have available all equipment for confined spaces, fall protection, and lockout/tagout, as defined by CAL-OSHA definitions.
5. Contractor shall furnish verbal and written reports to authorized District staff, as to their service, and outline recommendations of repairs (if any). District staff reserves the right to determine the course of action.

C. Special Conditions

1. The completion date of rehabilitation work at each site shall be agreed upon by the Contractor and the District, based on the rehabilitation procedures specified for each well.
2. The Contractor may not perform any work at any site until a work order has been issued and the proper certificates of insurance have been received by District.
3. Completion of rehabilitation work on each well shall be achieved no later than 90 consecutive calendar days from the issuance of a Work Order unless otherwise authorized by the District.



**INDIAN WELLS VALLEY WATER DISTRICT  
ANNUAL SERVICE AGREEMENT**

**BID SCHEDULE 1  
HOURLY RATES – LABOR  
(to be used for negotiating cost of repairs/rehabilitation)**

ITEM NO.	LABOR	REGULAR HOURLY RATE	NOTE(S)
101	MOBILIZATION/DEMOBILIZATION	\$	
102	HELPER (FIELD)	\$	
103	MACHINIST (SHOP)	\$	
104	WELDER (FIELD)	\$	
105	CRANE OPERATOR (FIELD)	\$	
106	WELDER (SHOP)	\$	
107	ELECTRICIAN (FIELD)	\$	
108	PUMP MECHANIC (FIELD)	\$	
109	PUMP MECHANIC (SHOP)	\$	
110	OTHER (SPECIFY)	\$	
111	OTHER (SPECIFY)	\$	

**BID SCHEDULE 2**  
**HOURLY RATES – EMERGENCY LABOR**  
(to be used for negotiating cost of repairs/rehabilitation)

ITEM NO.	LABOR	REGULAR HOURLY RATE	NOTE(S)
201	MOBILIZATION/DEMOBILIZATION	\$	
202	HELPER (FIELD)	\$	
203	MACHINIST (SHOP)	\$	
204	WELDER (FIELD)	\$	
205	CRANE OPERATOR	\$	
206	WELDER (SHOP)	\$	
207	ELECTRICIAN (FIELD)	\$	
208	PUMP MECHANIC (FIELD)	\$	
209	PUMP MECHANIC (SHOP)	\$	
210	OTHER (SPECIFY)	\$	
211	OTHER (SPECIFY)	\$	

**BID SCHEDULE 3**  
**HOURLY RATES – EQUIPMENT**

<b>ITEM NO.</b>	<b>EQUIPMENT</b>	<b>LEASED/OWNED/RENTAL CIRCLE CHOICE(S)</b>	<b>RATE</b>	<b>NOTE(S)</b>
301	CRANE – 40 OR 50 TON	L / O / R	\$ /HR	
302	PUMP PULLING RIG – 30 TON CAPACITY	L / O / R	\$ /HR	
303	CABLE TOOL RIG – 5 TON CAPACITY	L / O / R	\$ /HR	
304	ROTARY CRANE – 5 TON AND SMALLER	L / O / R	\$ /HR	
305	ROTARY CRANE 8 OR 10 TON	L / O / R	\$ /HR	
306	ROTARY CRANE 15 TON OR 35 TON	L / O / R	\$ /HR	
307	AIR COMPRESSOR, MINIMUM OF 600 CFM	L / O / R	\$ /HR	
308	CHEMICAL TRAILER (including poly mixing tank, safety equipment, mixing and pumps)	L / O / R	\$ /HR	
309	SERVICE UTILITY TRUCK – 1 TON OR SMALLER	L / O / R	\$ /HR	
310	DOWN HOLE VIDEO SURVEY WITH SIDESCAN (provided in digital format)	L / O / R	L.S.	
311	21,000 GAL (MIN) BAKER TANK RENTAL (DAILY)	N/A	\$ /DAY	
312	OTHER (SPECIFY)	L / O / R	\$ /HR	

Contractor hereby acknowledges that all bid prices include any amounts payable to District for taxes which may result from this proposal.

**Contractor's Authorized Representative**

\_\_\_\_\_  
Contractor (Company Name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
California Contractor License Number

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Public Works Registration Number

\_\_\_\_\_  
Title (Print)

INDIAN WELLS VALLEY WATER DISTRICT  
WATER WELL/BOOSTER PUMP MAINTENANCE & REPAIR  
ANNUAL SERVICE AGREEMENT

ADDITIONAL QUESTIONNAIRE

1. Bidder Information:

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

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

Contractor License No.: \_\_\_\_\_ Class: \_\_\_\_\_

Type of Work: \_\_\_\_\_

Years experience as a Contractor in water well rehabilitation and repair work: \_\_\_\_\_

DIR Registration No.: \_\_\_\_\_ (also attach printout of registration from DIR website)

2. List all well rehabilitation projects with pumping capacity in the range or 800 to 2500 gpm completed within the last year. Include the following information for each project on a separate sheet:

- Agency Name, Point of Contact, Phone Number, and E-mail address
- Specific capacity and gpm of well prior to and post-rehabilitation
- Contractor's approach to the rehab and description of treatment used

3. List the name of the person who you propose to manage this project for your firm:

➤ Name: \_\_\_\_\_

➤ Education: \_\_\_\_\_

➤ Certification(s): \_\_\_\_\_

➤ Number of years of experience in well rehab/repair: \_\_\_\_\_

4. List the names of the key personnel assigned to this project including (attach separately):

- Name, title and years of experience
- Qualifications including certification and training completed
- Total years of experience in particular field
- The District may require additional documentation in the future.

5. Has Cal OSHA cited and assessed penalties against the company for any serious, willful or repeat violations of its safety or health regulations in the past five (5) years? \_\_\_\_\_

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6. How often does your firm require a documented safety meeting to be held for maintenance personnel and field supervisors during a project? Please specify.

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7. What is your average emergency call out response time? \_\_\_\_\_

8. Please provide your Safety Practices/Guidelines and Safety Records with your bid documents.

## SAMPLE CONTRACT

This Contract is made and entered into on   Date  , 20  25  , by and between the INDIAN WELLS VALLEY WATER DISTRICT hereinafter called “Owner”, and   Contractor Name  , hereinafter called “Contractor”. This Contract is for that Work described in such Work Orders as may be issued by owner and accepted by Contractor, such Work Orders being incorporated into this Contract by this reference.

### A. Recitals

1. Owner desires work to be performed as agreed to by Owner and Contractor and as stated in Owner’s Work Order(s).
2. Owner and Contractor have negotiated the price and terms of the work to be performed under the Work Order(s).
3. Owner and Contractor agree to be bound by all terms and conditions of this Contract agreement.
4. Contractor has obtained and delivers concurrently herewith specified Performance and Payment Bonds and the Certificate of Insurance as required by the Contract Documents.

### B. Terms

#### 1. Incorporation of Documents

This Contract includes and hereby incorporates in full by this reference the Contract Documents for the above-entitled Work, and any attachments to Work Orders.

#### 2. Contractor’s Basic Obligation

Contractor agrees to provide the Work specified in the following Work Order(s) for the price as stated in the Work Order(s), said amount being subject to adjustment in accordance with the applicable terms of the Contract Documents.

Contractor agrees to perform said Work, at said Contract amount, in accordance with the Completion Schedule as stated in the Work Order(s).

Contractor agrees that if the aforesaid Work Order Completion Schedule is not met, liquidated damages will apply as provided by the Contract Documents and Work Order(s). Contractor agrees to submit all documentation for work performed.

#### 3. Owner’s Basic Obligation

Owner agrees to engage and does hereby engage said Contractor as an Independent Contractor to furnish all materials and to perform all Work according to the terms and conditions in any Work Order issued for the sum aforesaid and hereby contracts to pay said sum at the time, in the manner, and in accordance with the conditions set forth in the Contract Documents.

4. Contractor's Labor Certification

Contractor states that it is aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with provisions of that Code, and Contractor agrees to comply with such provisions before commencing the performance of the Work of this Contract.

5. Litigation costs to Enforce or Interpret Contract

In the event suit is brought to enforce or interpret any part of this Contract, the prevailing party shall be entitled to recover as an element of the costs of suit, and not as damages, reimbursement of costs and reasonable attorney's fees plus expenses (including the cost and expense of other and Owner's representatives and experts and investigators) to be fixed by the Court. The "prevailing party" shall be the party who is entitled to recover costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover costs shall not recover attorney's fees. No sum for attorney's fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to recover costs or attorney's fees.

6. Litigation or Enforcement Action Costs Arising from Contractor's Operations

If the Owner and/or its Officials, Officers, Employees, Agents, and Engineers are named, or are required to testify or contribute time and expense in any other way, in any suit or enforcement action of any kind brought to recover alleged damages or remedy alleged violations resulting from the acts or omissions (including negligent acts or omissions) in connection with, or accidents arising from, the acts, operations, and responsibilities of the Contractor, its Subcontractors, or others associated with or working under Contractor, in direct or indirect relation to the performance of the Work, the Owner and/or its Directors, Officers, Employees, Agents, and Engineers shall be held financially harmless and they shall be legally defended (with counsel acceptable to the named party) by the Contractor from any claims for damages and they shall be reimbursed for any reasonable costs incurred by them for lost time, expert assistance, and incidental expenses in connection with their need to defend themselves against such claims, or to contribute time and expense in any other such way, whether or not the suit or enforcement action proceeds to final judgment. This section shall apply and be enforceable for the full time of any applicable statute of limitations.

7. Successors

The parties do for themselves, their heirs, executors, administrators, successors, and assigns agree to the full performance of all of the provisions herein contained. Contractor may not, either voluntarily or by action of law, assign any obligation assumed by Contractor hereunder without the prior written consent of Owner.

8. Public Works Contractor and Subcontractor Registration

(a) This project is subject to compliance monitoring and enforcement by the Department of



Industrial Relations. Contractor is hereby notified and acknowledges that pursuant to Section 1771.1 of the Labor Code, no contractor or subcontractor shall be qualified to bid on, be listed in a bid proposal pursuant to Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to Section 1725.5 of the Labor Code. It shall not be a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Sections 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) CONTRACTOR AND THEIR SUBCONTRACTORS (if any) must provide an extract (pdf) showing active registration from the Public Works Contractor Registration online registration at <https://efiling.dir.ca.gov/PWCR/Search> prior to commencement of any Work performed hereunder. Failure to submit any of the above-mentioned information with your bid may deem your bid non-responsive

(c) Contractor must post jobsite notices prescribed by regulations.

**[Signatures on Following Page]**

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written.

\_\_\_\_\_  
Contractor

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

Title:\_\_\_\_\_

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

\_\_\_\_\_

INDIAN WELLS VALLEY WATER DISTRICT

By:\_\_\_\_\_   
George D. Croll, General Manager

**SAMPLE WORK ORDER**

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

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

**Assigned to Contractor:** \_\_\_\_\_

**Date of Contract between District and Contractor:** \_\_\_\_\_

**Description of Work Assignment:** \_\_\_\_\_

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

**Completion Schedule:** Work is to be completed within xx days of Start Date. \_\_\_\_\_

**The following budget and terms of compensation shall apply:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Contract between District and Contractor data:** \_\_\_\_\_

**Insurance:** See contract documents \_\_\_\_\_

**Bond Limits:** TBD (when applicable) \_\_\_\_\_

**Liquidated Damages:** \$ TBD per day \_\_\_\_\_

**INDIAN WELLS VALLEY WATER DISTRICT**

**By:** \_\_\_\_\_  
George D. Croll, General Manager

**ACCEPTANCE BY CONTRACTOR**

**By:** \_\_\_\_\_  
Signature

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

**Title:** \_\_\_\_\_

## **CONTRACT APPENDIX**

## CONTRACT APPENDIX

### 1. Definitions

Wherever words or phrases defined here, or pronouns used in their stead, occur in any of the contract documents, they shall have the meanings here given:

- A. The word "Owner" shall mean the INDIAN WELLS VALLEY WATER DISTRICT, 500 West Ridgecrest Boulevard, Ridgecrest, CA 93555, Kern County, California and shall include Owner's officers, agents, consultants, and employees acting within their authority.
- B. The word "Contractor" shall mean the successful bidder who is entering into this contract with the INDIAN WELLS VALLEY WATER DISTRICT, for the furnishing of the material, equipment, and/or services specified in this contract, and the legal representatives of said party, or the agent appointed to act for said party in the execution of the contract. Said party is referred to throughout the contract documents as if of the singular number and the masculine gender.
- C. The word "Engineer" shall mean the Registered Professional Engineer designated by Owner to give the Work general engineering supervision.
- D. The phrase "Owner Property" shall mean the Work site(s) upon which Contractor shall be required to perform under the contract including property owned in-fee by Owner or upon which it holds an appropriate lease, license, or encroachment permit.
- E. The phrase "Contract Documents" shall mean the Notice Inviting Bids, Bidding Documents including addenda or bulletins, executed Contract forms including, but not limited to, bonds, insurance, and endorsements, Contract Appendix, Special Requirements, Basic Specifications, Technical Specifications, and Contract Drawings including Construction and Standard Drawings.
- F. The word "Work" shall mean the construction to be performed pursuant to the Contract.
- G. The phrase "Liquidated Damages" as defined under Section 21 of this Contract Appendix shall be the amount specified in Paragraph B.2 of the Contract.
- H. The word "County" wherever used shall mean the County in which the Work is situated.

### 2. Authority of Owner

- A. Power of Decision. Owner shall decide every question regarding the interpretation of the Contract Documents or the true meaning or import of any provisions contained herein. A dispute which arises from Owner's final decision shall be submitted to independent arbitration, if mutually agreeable to the parties; otherwise by litigation in a court of competent jurisdiction.
- B. No Power to Waive Contract. It is expressly agreed that Owner shall not have any power to waive the obligation of the contract for the performance of work and/or furnishing by Contractor of the equipment and/or material conforming to the Contract Documents.
- C. Access to Contractor's Plant. Owner shall at all times have immediate access to all parts of Contractor's plant(s) where the production of any equipment and/or material for delivery under this agreement is in progress and shall be afforded there, without charge to Owner, full facilities for determining that all said equipment and/or material is being produced so as to comply strictly with the Contract Documents.

- D. Access to the Work Site. Owner shall at all times have immediate access to the Work site and to all parts of Contractor's plant used in conjunction with work being performed hereunder on Owner property and shall be afforded there, without charge to Owner, full facilities for determining that all said work is being performed so as to comply strictly with the Contract Documents. Such use or inspection shall not constitute acceptance of work.

### 3. **Contract Document Priority**

In the event of any inconsistency between discrete portions of the Contract Documents, the following documents first listed shall govern over all other documents subsequently listed, according to the following priority:

- A. Contract Change Orders issued during the course of the Work.
- B. Addenda and Bulletins issued during the bidding process.
- C. Contract
- D. Construction Drawings.
- E. Special Requirements.
- F. Technical Specifications.
- G. Basic Specifications.
- H. Standard Drawings as included or referenced.
- I. Contract Appendix, specifically the applicable provisions therein.
- J. Available or referenced reports.

### 4. **Contractor Responsibility**

- A. Legal Address. Contractor shall provide, at the end of Contractor's proposal herein, an address which shall be the place to which all notices, letters, and other communications to Contractor shall be mailed or delivered. The mailing to or delivering at the above-named place of any notice, letter, or other communication to Contractor shall be deemed sufficient service thereof upon Contractor. The date of service shall be the date of such mailing or delivery. Such address may be changed at any time by a written notice signed by Contractor and hand delivered to Owner. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or other communication upon Contractor personally.
- B. License Classification. Pursuant to Section 7059 of the Business and Professions Code, Contractor (bidder) must have a license classification which is sufficient to permit him to perform a majority of the Work. The Owner has determined and set forth in the Notice Inviting Bids the class of license necessary for this project. If the bidder is a specialty contractor, the bidder is alerted to the requirements of the Business and Professions Code Section 7059.
- C. Contractors' 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 years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 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, CA 95826.
- D. Cooperation with Owner. Contractor shall comply with all orders of Owner in regard to maintaining adequate progress, but neither the making of such demands nor the failure of Owner to make such demands shall relieve Contractor of his obligation to secure the quality of equipment and/or material and/or performance of work and the rate of delivery of said equipment and/or material and/or completion of work as stipulated in the Contract, and Contractor alone shall be responsible for the safety, efficiency, and adequacy of Contractor's plant, equipment, appliances, and methods, and for any damage which may result from their failure or their improper construction, maintenance, or operation.

- E. Examination of Site and Documents. Contractor acknowledges and warrants that he has examined the Contract Documents, and all available or referenced reports, and has visited and examined the delivery route(s) and the installation site for equipment and/or materials which he has agreed to supply herein, and/or the Work site upon which he has agreed to perform herein and is familiar with local conditions which may affect the manufacture and delivery of the said equipment and/or materials, and/or performance of said work, and that except as provided herein, he will make no claims for additional compensation over and above the quotations set forth in the Bidding Documents because of difficulties, real or anticipated.

Contractor is hereby advised that all available or referenced reports that are furnished to and are reviewed by Contractor are intended to provide general, not specific, information to assist Contractor in understanding the Work. These reports shall not be considered comprehensive, exhaustive, or conclusive; they shall be considered advisory only. Information contained in any available or referenced report shall not relieve Contractor of his obligation to perform the Work as specified herein.

Contractor is hereby advised that any available or referenced geological report that provides geotechnical data describing geologic conditions and material characteristics at the Work site shall not be considered a warranty of geologic conditions and material characteristics to be encountered in performing the Work. The geotechnical information shall be limited to and not extrapolated beyond the borings, excavations, holes, and pits constructed, examined, or used in the geotechnical investigation. Contractor shall determine, to his satisfaction, all geologic conditions which may affect the Work as specified herein and Contractor shall conduct all necessary geologic investigations to make that determination.

- F. Contractor to Furnish Information. Before erecting any construction plant, including sheeting, bracing, and other temporary structures upon property of Owner, Contractor shall furnish Owner with information and drawings of all such structures as may be required by Owner. Contractor shall furnish, and submit for approval, drawings and prints in such detail as may be required for articles, machinery, or fabricated materials entering into permanent construction, which are by the Contract Documents required to be furnished by Contractor. Once approved, said drawings and prints shall become property of Owner; however, such approval shall not operate to waive or modify any provision or requirement contained in the Contract Documents.
- G. Contract Documents. Contractor shall keep at the Work site the Contract Documents and shall at all times give Owner access thereto. Contractor shall check all dimensions and quantities contained in the Contract Documents and he shall notify Owner of any errors which are discovered by examining and checking said Contract Documents. He shall not take advantage of any error or omission in the Contract Documents. For those portions of the Contract Documents specifically describing the Work, Owner will furnish full instructions should such error or omission be discovered and Contractor shall carry out such instructions as if originally specified.
- H. Risk of Loss. Until by formal acceptance by Owner of the Work of Contractor hereunder either by furnishing equipment and/or materials or by performance of work, Contractor shall have the charge and care thereof and shall bear the risk of injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the Work. Contractor shall rebuild, repair, restore, replace, and make good all injuries or damages to any portion of that which he is to improve, provide, or complete hereunder occasioned by any of the above causes before completion and acceptance and shall bear the expense thereof, except for such injuries or damages as are occasioned by acts of the Federal Government and the public enemy, and only to the extent of five (5) percent of the Contract amount where such injuries or damages are proximately caused by an act of God (an earthquake in excess of magnitude 3.5 on the Richter Scale or a tidal wave) as defined in Public Contract Code Section 7105. In case of suspension of work from any cause whatsoever, Contractor shall be responsible for all equipment and/or materials then upon Owner property and shall properly store them, if necessary, and shall erect temporary structures where necessary in so doing. Nothing in this Contract shall be considered as vesting in Contractor any right of property in materials used

after they have been attached or affixed to the Work or Owner property, but all such materials shall, upon being so attached or so affixed, become property of Owner.

- I. Copyrights and Patents. Contractor shall and does hereby hold and save Owner harmless from liability of any nature and kind, including costs and expenses, for or on account of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance, manufactured, furnished, or used by him in the performance of this Contract, including use by Owner, unless otherwise specifically stipulated in this Contract.
- J. Contractor's Personal Attention and Supervision. Contractor shall give his personal attention constantly to the faithful prosecution of the Work, and shall be present, either in person or by a duly authorized and competent representative, on the site of the Work, continually during progress of any work hereunder upon Owner property, to receive directions or instructions from Owner. Whenever Contractor is not present on any part of the Work where it may be desired to give directions, orders may be given by Owner and shall be received and obeyed by the superintendent or foreman who may have charge of the particular part of the Work in reference to which orders are given.
- K. Materials, Workmanship, and Tests. All materials furnished by Contractor shall be new and of the best quality for their particular use. Pursuant to Public Contract Code Section 20676, sellers of "mined materials" must be on an approved list of sellers published pursuant to Resources Code Section 2717(b) in order to supply mined material for this Contract. Work shall be performed by skilled workmen fully qualified for their trade, and shall be subject to the approval of Owner.

Contractor shall submit to Owner samples, specimens, or test pieces of such materials to be furnished or used in the Work as Owner may require. All materials must be of the specified quality and equal to approved sample, if samples have been submitted. All work shall be done and completed in a thorough, workmanlike manner, notwithstanding any omission from the Contract Documents.

Contractor shall furnish, without cost to Owner, such quantities of concrete, concrete aggregates, and other construction material as may be required for test purposes and shall place at Owner's disposal all available facilities for and cooperate with him in the sampling and testing of all materials and workmanship.

- L. Laws and Regulations. Contractor shall keep himself fully informed of all laws, ordinances, and regulations in any manner affecting those engaged or employed on the Work, or the materials used in the Work, or in any way affecting the conduct of the Work, and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over the Work. If any discrepancy or inconsistency should be discovered in the Contract Documents in relation to any such law, ordinance, regulation, order, or decree, Contractor shall forthwith report the same in writing to Owner. He shall at all times himself observe and comply with and shall cause all his agents and employees to observe and comply with all such applicable laws, ordinances, regulations, orders, and decrees in effect or which may become effective before completion of the Work; and shall protect and indemnify Owner and its officers and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself, by his employee, or by a subcontractor. Except as otherwise explicitly provided elsewhere in the Contract Documents, all permits and/or licenses necessary for the prosecution of the Work shall be secured by Contractor at his own expense, and he shall pay all taxes properly assessed against his equipment or property used or required in connection with the Work.
- M. Removing Obstructions and Maintenance of Existing Improvements. When the Work hereunder involves performance upon Owner property, and when the proper completion of said Work requires their temporary or permanent removal, Contractor shall, at his own expense, remove, and without unreasonable delay temporarily or permanently replace or relocate in a workmanlike manner and to the satisfaction of Owner and of any other person or agency having jurisdiction, all water pipes, gas pipes, drainage lines, irrigation lines, sewer lines, pipelines, conduits, culverts,



roads, driveways, fences, bridges, railroad tracks, wires, poles, towers, retaining walls, buildings, curbs, gutters, concrete walks, trees, shrubs, lawns, and all other improvements of whatsoever character not required by law to be removed by Owner thereof; and all such improvements temporarily removed shall be maintained until permanently replaced, all at Contractor's expense.

Where the Work is to be constructed in or adjacent to areas which have been improved by lawns, trees, shrubs, or gardens, Contractor shall remove such trees or plants as may be necessary for the prosecution of the Work and give them proper care and attention until the Work has been satisfactorily completed, after which Contractor shall replace them in as nearly the original condition and location as is reasonably possible. Where it is necessary to deposit excavated materials on lawns during the process of construction, Contractor shall first lay burlap or canvas on the lawns to prevent contact between the excavated material and the lawns.

Unless otherwise indicated in the Contract Documents, all utility lines, conduits, wires, or structures shall be maintained by Contractor and shall not be disturbed, disconnected, or damaged by him during the progress of the Work, provided, that should Contractor in the performance of the Work disturb, disconnect, or damage any of the above, all expenses arising from such disturbance or in the replacement or repair thereof shall be borne by Contractor. However, in accordance with Section 4215 of the California Government Code, Contractor shall be compensated for costs of locating and repairing damage to main or trunkline utility facilities located on the Work site and for costs of operating equipment on the Work site necessarily idled during such work where Contractor has exercised reasonable care in removing or relocating utility facilities which are inaccurately indicated in the Contract Documents.

With regard to subsurface installations, locating of utilities shall be in conformance with Government Code Section 4216 set seq. Contractor shall, at least two (2) working days but no more than fourteen (14) calendar days before commencing any excavation on the Work, notify the regional notification center (i.e. Underground Service Alert) of its intent to excavate. Contractor shall also obtain from the regional notification center an inquiry identification number and maintain an active and valid inquiry identification number throughout the course of the Work. Contractor shall have the inquiry identification number validated and revalidated as necessary to have operators approximately locate their subsurface installations during the course of the Work. Contractor shall delineate with delineators or suitable markings, including white paint if appropriate, areas to be excavated. Following the approximate locations of subsurface installations, Contractor shall determine the exact locations of the subsurface installations by excavating with hand tools before using any power operated or power driven equipment within the approximate locations of the subsurface installations, except that power operated or power driven equipment may be used for the removal of existing pavement which does not contain any subsurface installations.

N. Hazardous Conditions. Contractor shall promptly, within three (3) calendar days, notify Owner, in writing, of the following Work site conditions upon their discovery and before they are disturbed:

- 1) subsurface or latent physical conditions at the site differing from those indicated in the Contract Documents; or
- 2) unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work specified in the Contract Documents; or
- 3) material differing from that indicated in the Contract Documents which Contractor believes may be hazardous waste, as defined in Section 25117 of the California Health & Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law.

Contractor's failure to provide written notification promptly on discovery and before disturbance shall constitute a waiver of all claims in connection therewith.

Upon such notification, Owner shall promptly investigate such conditions. If Owner finds that the reported conditions materially differ, or 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, Owner shall issue a change order pursuant to the procedures described in this Contract. Owner will advise Contractor in writing if such conditions do not warrant the issuance of a change order. If Contractor disagrees with Owner's determination, Contractor shall so advise Owner in writing.

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

- O. Pursuant to Public Contract Code Section 6109, contractors or subcontractors who are ineligible to perform work on a public works project as determined by the Department of Industrial Relations pursuant to Section 1777.1 or Section 1777.7 of the California Labor Code shall not perform any portion of the work contemplated herein. Any subcontract between the Contractor and an ineligible subcontractor shall be void as a matter of law, and the ineligible subcontractor shall not receive any payment for performing such work. Any public money that has been paid to the ineligible subcontractor on the project shall be returned to the Owner. The Contractor shall be responsible for the payment of wages to workers of an ineligible subcontractor who has been allowed to work on the project.
- P. Iran Contracting Act. Pursuant to Public Contract Code Sections 2200-2208, if this Contract is in the amount of \$1,000,000 or more, the Contractor shall have certified at the time of submission of its bid that it is not identified in the list established pursuant to Public Contract Code Section 2203, unless otherwise exempt from the requirement to so certify.
- Q. Independent Contractor. Contractor shall be an independent contractor for Owner and not an employee. Contractor understands and agrees that it and all of its employees shall not be considered officers, employees, or agents of Owner and are not entitled to benefits of any kind normally provided employees of Owner, including but not limited to, state unemployment compensation or workers' compensation. Contractor assumes full responsibility for the acts and omissions of its employees or agents related to the Work.

## 5. Contractor's Liability

Contractor shall be responsible, and Owner shall not be answerable or accountable in any manner, for any loss or damage that may happen to the Work to be performed hereunder by Contractor, subcontractors, or those associated with or working under Contractor, or for any materials or equipment used or employed in performing the Work, or for injury to any person or persons, including employees, the public or others, or for damage to property from any cause other than the Owner's sole negligence, willful misconduct, or active negligence. Contractor having control over the Work must properly guard and does indemnify and hold Owner harmless, and will defend Owner therefrom at Contractor's own expense, against all injuries or damages to persons and property resulting from any cause other than Owner's sole negligence, willful misconduct, or active negligence.

Contractor shall indemnify, defend, and hold Owner harmless from any and all claims, demands, fines, and penalties imposed or levied by any Federal, State, or local agency associated with or related to the taking (as defined by the United States Fish and Wildlife Service and, or the California Department of Fish and Game) of any protected animal or plant species or habitat by Contractor, subcontractors, or those associated with or working under Contractor.

Until final disposition of any claims, demands, fines, penalties, and suits made for such loss, damage, or take, Owner may retain as much from amounts still unpaid under the Contract as may be necessary to assure enforcement of this provision.

## **6. Safety**

In accordance with generally accepted construction practices, Contractor shall be solely and completely responsible for conditions of the jobsite, including safety of all persons and property during performance of the Work. Said requirement shall apply continuously and not be limited to normal working hours. Contractor's duty to preserve safety shall include, but not be limited to: placement and use of guards; erection and maintenance of temporary fences, bridges, railings and barriers; placement, maintenance, and operation of needed lights and signals; and all other precautions and measures required by applicable laws and regulations, including but not limited to those specified by Title 8 of the California Code of Regulations and enforced by the California Occupational Safety and Health Administration (Cal/OSHA).

Before excavating any earth or soil to a depth of five (5) feet or more, Contractor shall, pursuant to Labor Code Section 6705, submit to the Owner detailed drawings (hereafter referred to as excavation safety drawings) showing design of shoring, bracing, sloping, or other provisions to be made for worker, individual, or property protection. Said excavation safety drawings shall comply with OSHA Construction Safety Orders (Cal/OSHA or Federal OSHA, whichever is applicable at time of construction) and shall be prepared and certified by a registered civil or structural engineer, engaged by Contractor at his expense, who shall affix his signature and seal to each sheet of said excavation safety drawings. Contractor shall not excavate until the Owner has received and acknowledged properly certified excavation safety drawings. Contractor shall comply with all other applicable requirements of Labor Code Section 6705 and, as therein provided, no requirements of that Section shall be construed to impose tort liability on Owner or Owner's representatives, including Owner's Engineer.

Contractor shall advise Owner of intended use, production, or storage of all materials or substances which contain one (1) or more ingredients or components which are listed in the "Chemical Cross-Index", latest edition, published by the State of California Office of Environmental Protection, Office of Hazardous Materials Data Management, P.O. Box 2815, Sacramento, CA, 95812. In addition, Contractor shall furnish with other Contract submittal documents Material Safety Data Sheets (MSDS) for all said materials or substances which may be used, produced, or stored on the jobsite.

Any duty on the part of the Engineer to give general engineering supervision of Contractor's performance is not intended to and shall not include the review of the adequacy of Contractor's safety measures. Nothing herein shall relieve Contractor of his sole and complete responsibility for safety conditions on the jobsite.

Owner's project relationship may or may not include direct on-site observation of Contractor's work. Even if on-site observation is provided, continuous presence of Owner's representatives shall not be an obligation under this Contract and shall not be expected. Furthermore, no special training or knowledge in the specific area of safety engineering or safety practices shall be required or expected of Owner's representatives.

## **7. Trespass**

Contractor shall be responsible for all damage or injury which may be caused on any property by trespass by Contractor, his agents, employees, or subcontractors in the course of performance of the Work hereunder, whether said trespass was committed with or without the consent or knowledge of Contractor.

## **8. Bonds, Insurance, and Endorsements**

Contractor shall furnish bonds issued on the forms provided in these Contract Documents by a bonding company (surety) admitted in and regulated by the State of California, and by the United States Treasury if the work or project is financed in whole or in part with federal grant or loan funds, as approved by Owner, prior to commencement of the Work hereunder.

Contractor shall maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with performance of the Work by Contractor, its agents, associates, representatives, employees, and subcontractors of every tier and their agents, associates, representatives, and employees.

Contractor shall not commence work under this Contract until it has secured all specified and required insurance. Also, Contractor shall not allow any subcontractor to commence work on any subcontract until the subcontractor has secured similar insurance, as appropriate to the subcontract work, with limits no less than those specified for Contractor. Contractor shall be responsible for type and form of all subcontractor's insurance for the benefit of Contractor and Owner. Further, Contractor shall be responsible to Owner for any deficiencies in subcontractor's insurance.

In accordance with Section 3700 of California Labor Code, Contractor shall, at its expense, (a) maintain adequate Workers' Compensation Insurance under the laws of the State of California for all labor employed by Contractor or any subcontractor, or (b) secure from the Director of Industrial Relations a certificate to self-insure such labor, when such labor comes within the protection of such Workers' Compensation Insurance Laws. In addition, Contractor shall, at its expense, maintain Employer's Liability Insurance with limits of \$1,000,000 each for bodily injury by accident (each accident), bodily injury by disease (policy limit), and bodily injury by disease (each employee).

In addition to Worker's Compensation and Employer's Liability Insurance, Contractor shall, at its expense, maintain in effect at all times during the performance of the Work at least the following, or equivalent, insurances and limits, unless otherwise specified in the Contract Certificate of Insurance set forth in the Contract Documents.

- A. Business or commercial automobile liability, with a combined single limit of \$1,000,000 per accident for bodily injury and property damage, covering all owned, non-owned, borrowed, and/or hired vehicles used by or for the benefit of Contractor.
- B. Commercial or comprehensive general liability, with an occurrence limit of \$1,000,000 and a general aggregate limit of \$2,000,000 for bodily injury, personal injury, and property damage, covering premises and operations, products and completed operations, blanket contractual (oral and written), independent contractors, owners and contractors protective, and, if applicable to the Work, collapse, explosion, and underground hazards.

Both the occurrence and general aggregate limits shall apply on a project basis.

- C. Excess or umbrella liability with coverage for automobile and general liability at limits sufficient to meet the specified insurance requirements set forth in the Contract Documents.
- D. Course of construction, or alternatively, installation floater where permitted by Owner, with limits of liability equal to the full Contract amount. Course of construction insurance shall, at a minimum, cover perils of fire and lightning, extended coverage, vandalism and malicious mischief. It shall also cover perils of theft of installed and uninstalled materials and other perils if additionally specified in the Contract Certificate of Insurance and the Contract Insurance Endorsement.

With respect to the automobile, general, and excess liability insurance specified above, Owner, its officials, officers, managers, agents, engineers, employees, and volunteers shall be covered as additional insureds, but only while acting in their capacities as such, for liability arising from or in connection with the performance of the Work by Contractor, its agents, associates, representatives, employees, and subcontractors of every tier. With respect to course of construction or installation floater insurance, Owner shall be covered as additional insured. Contractor's insurer(s) shall waive rights of subrogation against additional insureds.

Contractor's insurance shall be primary for all additional insureds with respect to the performance of Contractor, those associated therewith, and those working thereunder, and any like insurance of said additional insureds shall be excess and not contributing insurance with respect to insured claims under Contractor's policies. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought.

Contractor's insurance shall not be cancelled, reduced in scope, suspended, terminated, or voided in coverage, nor shall the limits of liability be reduced [except for reductions in the general aggregate caused by claim(s), in which case insurer shall immediately notify Owner of reduction in general aggregate limits resulting from such claim(s)] unless thirty (30) days prior notice, by certified mail return receipt requested, has been given to Owner. Any failure to comply with reporting provisions of policies, including breaches of warranties, shall not affect coverage provided to additional insureds.

Promptly upon execution of the Contract and prior to commencement of any work, Contractor shall furnish Owner with certificates of insurance for all applicable policies required hereunder on the Contract certificate form, or alternatively, on an ACORD certificate form issued by the insurer(s) provided it contains the same information and statements, by notations thereon or addenda thereto. The certificates shall be signed on behalf of the insurer(s) by an authorized representative thereof.

In addition, Contractor shall promptly furnish Owner with insurance endorsements for all applicable policies to reflect the additional insured, primary and not contributing insurance, and waiver of subrogation requirements specified herein, as well as any coverage necessary to augment insurance policies to meet requirements specified herein, on the Contract Insurance Endorsement form, or alternatively, on standard insurance endorsement forms provided they contain the same information and statements or are amended to satisfy the same requirements as set forth in the Contract Insurance Endorsement form. The endorsements shall be signed on behalf of the insurer(s) by an authorized representative thereof.

Contractor agrees, upon written request, to furnish Owner with certified copies of policies and/or endorsements executed by authorized representative(s) of the insurer(s).

All insurance issued under the provisions of this section shall be issued in forms consistent with industry standards and by insurers having a Best's Rating of at least "A(VII)", all as approved by Owner, prior to commencement of the Work hereunder.

## **9. Agents of Owner Not Personally Liable**

No agent of Owner shall be personally responsible for any liability arising under this Contract, and no claim shall be made or filed, and neither Owner nor any of its agents shall be liable for or held to pay any money, except as specifically provided in this Contract.

## **10. Subcontracts**

A. Contractor represents and warrants that he has read and is familiar with the provisions of The Subletting and Subcontracting Fair Practices Act (Public Contract Code Sections 4100, et. seq.), which are incorporated herein and made a part hereof by this reference.

B. A copy of each subcontract, if in writing, or if not in writing then a written statement signed by Contractor, giving the name of the subcontractor, and the terms and conditions of such subcontract, shall be filed with Owner before the subcontractor commences performance of the Work. Each subcontract shall contain a reference to the agreement between Owner and Contractor, and the terms of that agreement and all parts thereof shall be made a part of such subcontract insofar as applicable to the Work covered thereby. Each subcontract shall provide for its annulment by Contractor at the order of Owner, if, in Owner's opinion, the subcontractor fails to comply with the requirements of the principal Contract insofar as the same may be applicable to his work. Nothing herein contained shall create any contractual relation between any subcontractor and Owner or relieve Contractor of any liability or obligation hereunder.

- C. Contractor is hereby alerted to provisions of Section 7107 of the Public Contract Code, requiring Contractor to pay to each of its subcontractors from whom retention has been withheld, each subcontractor's share of the retention received, within ten (10) days from receipt of all or any portion of such retention proceeds from Owner.
- D. Pursuant to Public Contract Code Section 6109, subcontractors who are ineligible to perform work on a public works project as determined by the Department of Industrial Relations pursuant to Section 1777.1 or Section 1777.7 of the California Labor Code shall not perform any portion of the work contemplated herein. Any subcontract between the Contractor and an ineligible subcontractor shall be void as a matter of law, and the ineligible subcontractor shall not receive any payment for performing such work.

**11. Assignment Forbidden**

Contractor shall not assign, transfer, convey, or otherwise dispose of this Contract, or of his right, title or interest in or to the same or any part hereof, without the previous consent in writing of Owner; and he shall not assign by power of attorney, or otherwise, any of the monies to become due and payable under the Contract, unless by and with the like consent signified in like manner. If Contractor shall, without such previous written consent, assign, transfer, convey, or otherwise dispose of the Contract, or of his right, title or interest therein, or of any of the monies to become due under the Contract to any other person, company, or other corporation, the Contract may, at the option of Owner, be terminated and revoked, and Owner shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to Contractor, and to his assignee or transferee. No right under the Contract, nor any right to any money to become due hereunder, shall be asserted against Owner in law or equity by reason of any so-called assignment of the Contract, or any part thereof, or by reason of the assignment of any monies to become due hereunder, unless authorized as aforesaid by the written consent of Owner.

**12. Lines, Grades, and Measurements**

Unless otherwise provided in the Special Requirements, any and all lines and grades will be furnished by Owner. Contractor shall provide such materials and give such assistance as may be required. Contractor shall preserve all bench marks, monuments, survey marks, and stakes upon Owner property, and in case of their removal or destruction by him, his employees, or subcontractors, he shall be liable for the cost of their replacement. Contractor shall keep Owner informed, a reasonable time in advance, of the times and places at which he intends to do work, in order that lines and grades may be furnished, that inspection may be provided, and that necessary measurements for record and payment may be made with the minimum of inconvenience to Owner or delay to Contractor. Whenever Owner finds it necessary to carry on his operations outside of regular working hours or at other times when the Work of Contractor is not in progress, Contractor shall furnish all necessary service and assistance. No payment shall be made to Contractor for any of the Work or delay occasioned by giving lines and grades, or making other necessary measurements, or by inspection.

**13. No Discrimination**

Contractor shall not discriminate in the employment of persons upon the Work because of the age, ancestry, color, race, sex, marital status, national origin, mental disability, physical disability, or religious creed of such persons, or as otherwise prohibited by law, except as provided by Government Code Section 12940. Contractor shall cause an identical clause to be included in every subcontract for the Work.

**14. Legal Day's Work**

Pursuant to the California Labor Code, eight (8) hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the Work shall be limited and restricted to eight (8) hours during any one (1) calendar day and forty (40) hours in any one (1) calendar week except when payment for overtime is made in accordance with Labor Code Section 1815. Contractor or any subcontractor shall, as a penalty to the Owner, forfeit twenty-five (\$25.00) for each worker employed in the execution of this Contract by the respective Contractor or subcontractor for each calendar day during which the worker is

required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one calendar week in violation of the provisions of this article. Contractor shall be responsible for ensuring compliance with this and all other provisions of the Labor Code.

#### **15. Prevailing Rates of Wages**

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"). As indicated in the Notice Inviting Bids, Owner has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holidays and overtime work in the locality in which work is to be performed for each craft, classification, or type of worker needed to execute the Contract, a copy of which is hereby incorporated by reference into this Contract Appendix. Copies of the prevailing rates of per diem wages are on file at Owner's office and are available to any interested party. 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 Owner, its officials, officers, employees and authorized volunteers 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.

Contractor shall forfeit to Owner, as a penalty, \$200.00 for each calendar day, or a portion thereof, for each worker paid less than said per diem wage for any work done under the Contract by him or by any subcontractor under him in violation of the provisions of the California Labor Code. It is hereby stipulated by and between Owner that Contractor will comply with provisions of California Labor Code, Section 1775. All wages and penalties withheld for failure by Contractor to pay said per diem wages shall be withheld and retained by Owner to the extent authorized or required by the Labor Code.

Contractor shall keep accurate payroll records on forms provided by the Division of Labor Standards Enforcement, or alternatively, Contractor shall keep accurate payroll records containing the same information. Said information shall include, but not be limited to, a record of the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and actual per diem wages paid to each journeyman, apprentice, or worker employed by Contractor. Such records shall be available for inspection at all reasonable hours, and a copy shall be made available to employee or his authorized representative, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards in compliance with California Labor Code, Section 1776. Upon written notice from Owner or the Division of Labor Standards Enforcement, Contractor shall within ten (10) days file with Owner a certified copy of the payroll records. Contractor shall cause an identical clause to be included in every subcontract for the Work. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, Owner, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement 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 awarded the Contract or performing the contract shall not be marked or obliterated. Should noncompliance still be evident after such 10-day period, the Contractor shall pay a penalty of one hundred dollars (\$100.00) to Owner for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payment then due.

In accordance with Labor Code section 1771.4, Contractor and each subcontractor shall furnish certified payroll records directly to the Department of Industrial Relations on a weekly basis and in the format prescribed by the Department of Industrial Relations. Contractor shall comply with all requirements and regulations from the Department of Industrial Relations relating to labor compliance monitoring and enforcement.

Contractor shall have an affirmative obligation to verify that all subcontractors are currently and validly registered with the Department of Industrial Relations to perform public work and shall not permit a subcontractor of any tier to perform work on the project without first verifying the subcontractor's Public Works Contractor Registration. Contractor shall include the requirements of Labor Code sections 1725.5

and 1771.1 in all contracts with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain valid registration for the duration of the project.

Any stop orders issued by the Department of Industrial Relations 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 Owner. Contractor shall defend, indemnify and hold Owner, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

#### **16. Mandatory Certification of Contractor and Employment of Apprentices**

This Contract shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the Work performed hereunder solely on the grounds of age, ancestry, color, race, sex, marital status, national origin, mental disability, physical disability, religious creed, or other protective classification. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed, and shall be employed only in the craft or trade to which he or she is indentured.

If California Labor Code Section 1777.5 applies to the Work, Contractor and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Contractor or subcontractor for the employment and training of apprentices. Upon issuance of this certificate, Contractor and any subcontractor shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of work hereunder.

The parties expressly understand that the responsibility for compliance with this Section 17 and with Sections 1777.5, 1777.6, and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Contractor hereunder.

In accordance with Labor Code Section 1773.3, Owner will send notice of the award of this Contract to the Division of Apprenticeship Standards within five (5) days after award if the Contract is awarded to a general or specialty contractor in the amount of at least \$30,000.00 and involves work in an apprenticeable craft or trade.

#### **17. Payment of Wages**

The issuance as payment for wages of any evidence of indebtedness is prohibited unless the same is negotiable and payable on demand without discount. Wages must be paid at least semi-monthly on regular pay days established in advance, and shall include all amounts for labor or services performed by employees of every description, as required under the California Labor Code.

#### **18. Overtime - No Extra Compensation**

Overtime work, i.e., work in excess of eight (8) hours in any one (1) calendar day or forty (40) hours in any one (1) calendar week, or work performed on a Sunday or other legal holiday, shall not entitle Contractor to any compensation for any Contract item in addition to that stipulated in the Contract for the kind of work performed, even though such overtime or legal holiday work may be required under emergency conditions and may be ordered by Owner. In case of extra work ordered by Owner under the provisions hereof, no additional payment will be made to Contractor because of the payment by him of overtime or legal holiday rates for such work, unless the use of overtime or legal holiday rates in connection with such extra work is specifically ordered by Owner and then only to such extent as extra payment is regularly being made by Contractor to his men for overtime or legal holiday work of a similar nature in the same locality.



## **19. Time and Order of Performance**

Time is of the essence to this Contract ("Time" is defined herein as the time(s) specified by the bidder in the Bidding Documents within which he would perform if awarded the Contract, and if there be no such specific designation, "Time" shall be the time for completion designated in the Contract Completion Schedule located in the Special Requirements herein). Contractor shall at all times employ such force, equipment, plant, materials, and/or tools as will be sufficient, in the opinion of Owner, to complete the performance of the Contract and every part thereof within the time limit(s) fixed by the Contract. If, in the opinion of Owner, Contractor fails to employ sufficient force, equipment, plant, materials, and tools, or to maintain adequate progress toward meeting the said time limits, he may, after such failure, be required to increase the efficiency, capacity, or character of his equipment, or to modify his plans and procedure in such manner and to such extent as Owner may direct. No extension of time shall be made for ordinary delays and accidents, and the occurrence of such shall not relieve Contractor from the necessity of maintaining the required progress. If Owner grants an extension of time for completion of the Contract, as hereinafter provided, Owner may prescribe a revised schedule of progress in accordance with such extension of time.

It shall be understood and agreed by Contractor hereunder that no material shall be delivered and/or on site work commenced upon Owner property until Contractor is given written Notice to Proceed by Owner. It shall be further understood and agreed by Contractor that his performance hereunder must be coordinated by Owner with other work in progress in the immediate vicinity; that unavoidable delays may occur and that the time schedule as set forth on the Bidding Documents or designated in the Special Requirements shall be subject to adjustment by Owner, all at no additional cost to Owner.

## **20. Delays**

- A. If delivery or performance shall be delayed as the consequence of acts of God or the public enemy, acts of the Government, strikes, fires, floods, freight embargoes, or other unforeseeable causes beyond the control and without the fault or negligence of Contractor (all of which shall be determined by Owner, whose determination and certification thereof shall be binding and conclusive upon Contractor), Contractor shall be entitled to additional time wherein to perform and complete the Contract on his part as Owner determines to be necessary and certifies in writing to be just.
- B. Application for extension of time must be made promptly in writing, stating cause. No delay shall be made the basis in any application for extension of time, unless Contractor calls such delay and the causes thereof to the attention of Owner in writing within ten (10) days of the beginning of such delay, and Contractor thereafter advises Owner in writing of the extent of such delay within ten (10) days of the end of such delay. Applications for extension of time shall be addressed to Owner.
- C. Permitting Contractor to continue and complete the delivery of the equipment and/or material or any part thereof after the date fixed herein for delivery to be completed or after expiration of any extension of said time, shall not operate as a waiver on the part of Owner of any of its rights under this Contract.
- D. Contractor shall receive no compensation on account of any suspension of deliveries, and/or performance of work either in whole or in part, or for any delay or hindrance herein mentioned, except as required by Public Contract Code Section 7102 or as provided elsewhere herein.
- E. Nothing herein shall be construed to require Contractor to be responsible for the cost of repairing or restoring damage to the Work in excess of five (5) percent of the Contract amount, if such damage is proximately caused by an act of God (an earthquake in excess of magnitude 3.5 on the Richter Scale or a tidal wave) as defined in Public Contract Code Section 7105.

## **21. Liquidated Damages**

It is agreed by the parties to this Contract that in case all construction called for under the Contract is not completed per the Contract Completion Schedule herein, as extended by delays approved in accordance with the next-prior paragraph, damage will be sustained by Owner, and that it is, and will be impracticable or extremely difficult to ascertain and determine the actual damages Owner will sustain in the event of and by reason of such delay. It is, therefore, agreed that such damages shall be presumed to be the amount set forth in Paragraph B.2 of the Contract, and that Contractor will pay to Owner, or Owner may retain from amounts otherwise payable to Contractor said amount for each day after failure to meet the requirements of the Contract Completion Schedule herein.

Contractor will be assessed liquidated damages for each day after failure to meet the Contract Completion Date(s) or Schedule(s) until the Work has been completed. Payments made after the scheduled Contract Completion Date(s) or Schedule(s) shall not constitute a waiver of liquidated damages. In accordance with Government Code, Section 4215, Contractor shall not be assessed liquidated damages for any delay in completion of the Work if such delay is caused by failure of Owner to provide for removal or relocation of existing main or trunkline utility facilities not indicated in the Drawings or Specifications with reasonable accuracy.

## **22. Changes in Work**

- A. If Owner finds it impracticable for Contractor to comply with the Contract Documents in performance of work, Owner may alter or modify requirements or methods of said work; and for such purposes, Owner may, at any time during the life of the Contract, by written Contract change order on the form contained in the Contract section of the Contract Documents, make such changes as it shall then find necessary in the design, line, grade, form, location, dimensions, plan, or material of any part of the work, material, or equipment hereinafter specified or in the quantity or character of the work material, or equipment to be furnished.
- B. If such changes reduce the quantity or amount of work to be done, they shall not constitute the basis for claim(s) for damages or anticipated profits on the work eliminated; provided, that if such changes render useless any work already done or material or equipment already furnished or used in the Work, Owner shall make reasonable allowance therefor, which action shall be binding upon both parties.
- C. If such changes decrease the Work, the work actually done or materials or equipment actually furnished shall be paid according to unit price(s) or lump sum(s) listed for such work in the Bidding Documents. If such changes increase the Work, the additional work shall be considered extra work and shall be paid according to prices established as hereinafter provided for extra work.

## **23. Extra Work**

- A. Any extra work performed hereunder shall be subject to all of the provisions of the Contract and considered a part thereof, and Contractor's sureties shall be bound with reference thereto as under the original Contract. Contractor shall notify immediately its sureties of any changes in Contract Work and Contract amount. Contractor shall not perform any extra work unless authorized by Owner to do so in advance of performance. Owner will not pay for extra work unless covered by Contract Change Order. Contractor agrees that he shall not be entitled to impact costs, extended job costs, extended overhead costs, or construction acceleration costs related to any and all changes in the Work.
- B. If, during the performance of the Contract, it shall, in the opinion of Owner, become necessary or desirable for the proper completion of the Contract to order work done and/or materials and/or equipment furnished which, in the judgment of Owner, is of like character to and susceptible of classification under the unit price or lump sum items of the Contract as specified, the extra work shall be paid at the unit price(s) or lump sum(s) listed for such work in the Bidding Documents. Such extra work shall be ordered in writing before such work is started.

- C. If, during the performance of the Contract, it shall, in the opinion of Owner, become necessary or desirable for the proper completion of the Contract to order work done and/or materials and/or equipment furnished which, in the judgment of Owner, are not susceptible of classification under the unit price or lump sum items listed in the Bidding Documents, the extra work shall be paid at the unit prices or lump sums mutually established by the Owner and the Contractor. Such extra work shall be ordered in writing before such work is started.
- D. Whenever, in the judgment of Owner, the price for extra work, extra material, extra equipment, and extra subcontract work, as the case may be, cannot be agreed upon by the Owner and the Contractor or it is impracticable to fix the price before the extra work order shall be issued, extra work, material, equipment, and subcontract work, when furnished by Contractor, shall be paid at actual necessary cost of labor, materials, equipment, and subcontract work, plus (for profit, general expenses, excise taxes, property taxes, bond premiums, license and inspection fees imposed by any governmental authority, and all other items of expense, whether enumerated herein or otherwise) twenty percent (20%) of actual cost of labor and fifteen percent (15%) of actual cost each for materials, equipment, and subcontract work. Extra subcontract work shall be paid at actual necessary cost of labor, materials, and equipment, plus (for profit, general expenses, excise taxes, property taxes, license and inspection fees, and all other items of expense, whether enumerated herein or otherwise) twenty percent (20%) of actual cost of labor and fifteen percent (15%) of actual cost each for materials and equipment. Owner's determination and certification of said actual, necessary cost shall be binding and conclusive on Contractor, and Owner shall be deemed the arbiter to determine the cost of such work.

Labor costs for workers (including foremen) shall consist of employer paid actual wages, together with health and welfare, pension, vacation, holidays, and training, plus a surcharge for Workers' Compensation, Social Security, Medicare, Federal Unemployment, State Unemployment, and State Training taxes. Said surcharge shall be based on the labor surcharge set forth in the California Department of Transportation publication entitled "Labor Surcharge & Equipment Rental Rates" in effect during the performance of the Work.

Material costs shall consist of invoiced amounts or lowest current price at which such materials are locally available and delivered to the job site, plus sales taxes and freight and delivery charges. Owner reserves the right to approve materials and sources of supply. Owner also reserves the right to supply materials to the Contractor if necessary, but the Contractor shall not apply any markups to Owner furnished materials.

Regardless of ownership, equipment costs shall consist of rental rates set forth in the California Department of Transportation publication entitled "Labor Surcharge & Equipment Rental Rates" in effect during the performance of the Work. The rental rates shall include the cost of fuel, oil, lubrication, supplies, small tools, storage, necessary attachments, repairs and maintenance, depreciation and insurance, and all incidental expenses. Charges, other than the hourly rate, shall not apply to equipment already on the job site.

If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the Owner than holding it at the work site, it shall be returned unless the Contractor elects to keep it at the work site at no cost to the Owner.

Copies of the California Department of Transportation publication entitled "Labor Surcharge and Equipment Rental Rates" may be downloaded: <http://www.dot.ca.gov/hq/construc/equipmnt.html>.

If any work and/or materials and/or equipment is ordered by Owner under this section on an actual necessary cost basis, Contractor shall, while performing work and/or furnishing materials and/or equipment, render to Owner signed daily written reports within two (2) days of the end of the day in which the extra work was performed, on forms provided in the Contract section of the Contract documents, showing name and number of each worker employed thereon, number of hours employed thereon, character of work performed, wages paid or to be paid, materials and equipment delivered and used, quantity and character of such material and equipment, from whom

purchased, net amount paid or to be paid therefor, and such other information as directed by Owner.

If required by Owner, Contractor shall also produce copies of any books, invoices, receipts, vouchers, other records, or memoranda which will assist Owner in determining the true, necessary cost of work and materials furnished by Contractor within two (2) days of the Owner's request. Contractor shall certify in writing that the copies of the records conveyed are accurate and that they pertain to the actual extra work.

Owner will establish Contract Change Order amounts based on Owner review of the aforementioned Contractor supplied daily written reports, and if requested, other pertinent records. If Contractor fails to furnish said daily written reports and other pertinent records as requested within the aforementioned two (2) days as required, Owner will establish Contract Change Order amounts in the absence of the aforementioned reports and records and said Contract Change Order amounts shall be binding and conclusive on Contractor.

- E. In the event Contractor requests a Contract Change Order for extra work required as a result of field conditions which are significantly different from those reasonably anticipated when the Contract was executed, such request shall be submitted to the Owner in writing no later than ten (10) days after Contractor discovers the circumstances causing the need for a Contract Change Order. It shall be accompanied by the following declaration, signed by the Contractor:

I, \_\_\_\_\_, (name of contractor's authorized representative) being the \_\_\_\_\_ (title of contractor's authorized representative) of \_\_\_\_\_

(contractor's name) ("Contractor"), declare under penalty of perjury under the laws of the State of California, and do personally certify and attest that: I have thoroughly reviewed the attached claim for additional compensation and/or extension of time, know its contents, and know said claim is made in good faith; the supporting data is truthful and accurate; the amount requested accurately reflects the contract adjustment for which Contractor believes the Owner is liable. I am familiar with California Penal Code Section 72 and California Government Code Sections 12560 et seq., pertaining to false claims, and I know and understand that submission or certification of a false claim may lead to fines, imprisonment, and/or other severe legal consequences.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Submission of a claim, properly certified, with all required supporting documentation, and written rejection or denial of all or part of the claim by Owner, is a condition precedent to any action, proceeding, litigation, suit, or demand for arbitration by Contractor.

- F. Contractor's disagreement over the amount to be paid for extra work shall not relieve Contractor of the obligation to continue to perform all Work required by the Contract.

## 24. Protests

In the event Contractor considers any requirement demanded of him to be outside the requirements of the Contract, or if he considers any order or ruling of Owner or of any inspector to be unfair, he shall within five (5) days upon such requirement being demanded or such order or ruling being made, ask that it be confirmed in writing delivered to him, and he shall, within ten (10) days after receipt of same, and without delaying performance of such order or ruling, file a written protest with Owner, stating clearly and in detail

his objections and the reasons therefor. Except for such grounds of protest or objections as are made of record in the manner specified and within the time stated herein, Contractor hereby waives all grounds for protests or objections to the orders, rulings, instructions, or decisions of Owner, and hereby agrees that as to all matters not included in such protests, the orders, instructions, and decisions of Owner shall be final and conclusive.

## **25. Inspection and Testing**

All materials and equipment furnished and all work performed shall be subject to rigid inspection by Owner. Work covered or performed in the absence of such inspection or without inspector's knowledge shall be, upon order of Owner, uncovered to the extent required to permit inspection, removed and replaced under proper inspection as necessary for compliance, and recovered, all at Contractor's sole cost. Contractor shall bear all costs and fees incurred as a result of inspection services furnished by utilities or others. Inspection shall not constitute acceptance by the Owner nor relieve Contractor from its obligations under this Contract.

Whenever Contractor arranges to perform work outside regular or specified work periods or to vary the work period for any particular day, he shall give Owner twenty-four (24) hours notice so Owner may arrange and provide proper inspection. Such work shall be performed without extra compensation.

Contractor shall not pay Owner for inspection services during regular hours during regular work days and during otherwise specified work hours except for scheduled but aborted, defective, or failed compliance inspection and testing; however, if Contractor requests to work outside the stated working hours or on Saturdays, Sundays, and holidays and Owner agrees to same, Contractor shall pay Owner for inspection services in excess of eight (8) hours during regular work days and for Saturdays, Sundays and holidays, except during otherwise specified work hours, in accordance with Owner established rates.

Certain materials, equipment, and facilities furnished or constructed shall be subject to rigid and thorough compliance inspection and testing. Contractor shall schedule such inspection and testing only after furnished or constructed materials, equipment, or facilities are operational and function as intended. Once inspection and testing have been scheduled for any particular or specific material, equipment, or facility, Contractor shall pay for all aborted, defective, or failed inspection and testing thereof attributable to Contractor's, subcontractor's, or supplier's performance and operations, or materials and equipment. Materials, equipment, and facilities subject to inspection and testing shall include, but shall not be limited to, earthwork (especially compaction testing), concrete (especially strength testing), pumping and process equipment (laboratory and field testing), electrical and control equipment, piping and pipelines, valves and fittings, and reservoirs and vessels. Inspection and testing shall include start up and final testing as well as performance and operation testing of mechanical and electrical facilities and systems.

## **26. Examination of the Work**

Contractor shall furnish Owner every reasonable facility for ascertaining whether the Work is in accordance with the requirements and intention of the Contract Documents, even to the extent of uncovering or taking down portions of finished work which have been previously approved or authorized to be covered. Should such previously approved work thus exposed or examined prove satisfactory, the uncovering or taking down and the replacing of the covering or the making good of the parts removed shall be included in the Contract Payment estimates and will be paid at the Contract prices for the kind of work done or as extra work, as determined by Owner; but should the work exposed or examined prove unsatisfactory, the uncovering, taking down, replacing, and making good shall be at the expense of Contractor, and he shall be charged with the cost to Owner of any materials furnished by Owner for the unsatisfactory work and its replacement in excess of the requirements for satisfactory original construction.

## **27. Defective Materials**

- A. The inspection of the Work to be performed under the Contract shall not relieve Contractor of any of his obligations to fulfill his Contract, as herein prescribed, and all defective materials or workmanship shall be made good notwithstanding such material or workmanship may have been

previously inspected by Owner and accepted or estimated for payment. If the material or workmanship shall be found defective at any time before the final acceptance of the entire Contract performance, Contractor shall forthwith make good such defect, without compensation, in a manner satisfactory to Owner. Owner shall be the sole judge of determining whether any defective material or workmanship is the result of the materials and methods of Contractor or whether the defects have been caused by other contractors of Owner having the responsibility of supplying the material.

- B. If Contractor shall fail or neglect to make ordered repairs of defective material or workmanship or to remove condemned material from the Work within ten (10) days after the service by Owner of an order to do such repair work or remove such materials, Owner may make the ordered repairs or remove the condemned materials and deduct the cost thereof from any monies due Contractor.

## **28. Unpaid Claims**

Pursuant to Section 9350 et seq. of the California Civil Code, upon or before completion of the Work agreed to be performed or at any time prior to the expiration of the period within which claims may be filed for record, certain persons claiming to have performed labor or furnished material, supplies, or services toward the performance of this Contract may file with Owner a verified statement of such claim, stating in general terms the kind of labor and materials and the name of the person to or for whom the same was performed or furnished or both, together with a statement that the same has not been paid. If so, or if any person brings any action against Owner or against any officer thereof to enforce such claim, Owner shall withhold from the money under its control so much of said money due or to become due Contractor under this Contract as shall be sufficient to satisfy and discharge the amount claimed and potential costs of suit, but in no event less than one and one-fourth (1-1/4) times the amount claimed. However, if Owner in its discretion permits Contractor to file such additional bond as is authorized by Section 9364 of the Civil Code in a penal sum equal to one and one-fourth (1-1/4) times the amount of the claim, Owner shall not thereafter withhold said money on account of the claim.

## **29. Partial Estimates and Payments**

Each month, Contractor shall submit to Owner on the forms provided in the Contract section of the Contract Documents a written request for payment, together with such supporting data as Owner may request, covering the amount of the Work then completed. Unless specified otherwise, such request and supporting data shall be submitted by Contractor so that it is received by Owner no later than the 20th day of the month preceding the month in which payment will be made. Upon approval by Owner, payment in the amount of ninety-five percent (95%) of the estimated value of the Work will be made by the 20th day of the month following the month in which request for payment is made.

Review and payment of such requests by Owner under this section are also subject to provisions of Section 20104.50 of the California Public Contract Code, summarized below:

Upon failure to make any progress payment within thirty (30) days after receipt of an undisputed and properly submitted payment request from Contractor, as set out below, Owner shall pay interest to Contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the California Code of Civil Procedure.

Each payment request shall be reviewed by Owner as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request. Any payment request determined by Owner not to be a proper payment request suitable for payment shall be returned to Contractor as soon as practicable, but not later than seven (7) days after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reason why the payment request is not proper.

The number of days available to Owner to make a payment without incurring interest pursuant to Section 20104.50 of the California Public Contract Code shall be reduced by the number of days by which Owner exceeds the seven (7) day return requirement set forth herein. For purposes of

Section 20104.50 of the California Public Contract Code, "progress payments" include all payments properly due to Contractor, except that portion of the final payment designated by this Contract as retention earnings.

### **30. Withheld Contract Funds**

Contractor, at his request and expense and in accordance with Section 22300 of the California Public Contract Code, will be permitted to substitute securities equivalent to any monies withheld by Owner to ensure performance under the Contract as follows.

- A. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with Owner, or with a state or federally chartered bank in California as the escrow agent, and thereafter, Owner shall pay Contractor the retained amounts as they become due. Except as otherwise provided in the Contract Documents, upon satisfactory completion of the Contract, the securities shall be returned to Contractor.
- B. Alternatively, Contractor may request, at his expense, that Owner make payment of retention earned directly to the Escrow Agent. Contractor may, at his expense, direct the investment of the payments into securities and receive the interest earned on those investments upon the same terms provided in Public Contract Code Section 22300. The Escrow Agent shall pay Contractor all securities, interest, and payments received by the Escrow Agent from Owner pursuant to such Section, upon satisfactory completion of the Contract. Contractor shall pay to each subcontractor, not later than twenty (20) days following receipt of payment, respective amounts of interest earned, net of costs attributed to retention withheld from each subcontractor, on the amount of retention withheld to ensure performance of Contractor.
- C. Securities eligible for investment shall include those listed in California Government Code Section 16430, bank or savings and loan Certificates of Deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security mutually acceptable to Contractor and Owner. Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.
- D. In accordance with conditions of Public Contract Code Section 22300, any escrow agreement entered pursuant to these conditions shall be executed in the form included in the Contract section of the Contract Documents.

### **31. Final Estimate and Payment**

Contractor shall be entitled to final payment of unpaid and undisputed amounts due on the Contract within 60 days after completion of the Work, as hereinafter provided. Prior to that date, Owner will prepare a final estimate of the Work done by Contractor and compute therefrom the total value of the Work done by Contractor, from which Owner will deduct: (a) all previous partial payments made to Contractor under this Contract, (b) any amounts to be deducted from the Contract pursuant to the terms of the Contract, (c) 150% of all unpaid Contract amounts then in dispute, and (d) 125% of all stop notices then on file with Owner. The net amount shall be paid to Contractor upon Contractor's transmittal to Owner of the properly executed release, upon the form provided in the Contract section of the Contract Documents, releasing Owner from all claims or liability relating to undisputed Contract amounts or work performed in relation to said amounts. Amounts withheld from final payment pending resolution of disputes, or to satisfy third-party claims or stop notices, will be subsequently released to Contractor according to the terms of such settlements as may be subsequently reached between the parties thereto.

It shall be understood and agreed by Contractor that all partial payments are estimates only and may be revised, adjusted, and corrected at the time of computing final payment. For purposes of final payment on the Contract, the term "completion" shall mean any of the following:

- A. Occupation, beneficial use, and enjoyment of the Work, performed pursuant to the Contract, excluding any operation only for testing, start-up, or commissioning, by Owner or its agent, accompanied by cessation of labor on the Contract.
- B. Acceptance of the Work by Owner.
- C. Cessation of labor on the Contract for a continuous period of 100 days or more, due to factors beyond Contractor's control.
- D. After commencement of the Work on the Contract, cessation of labor for a continuous period of 30 days or more, if Owner has filed for record a Notice of Cessation or a Notice of Completion.

**32. Sales and Use Taxes**

The Contract price includes all taxes, and Contractor shall pay all taxes of any nature due and payable by Owner or by Contractor to the State of California and its political subdivisions or to any charter city, and all taxes of every nature due and payable by Owner or by Contractor to the United States of America or any of its agencies in connection with any or all work or equipment provided for in the Contract. This shall include, but not be limited to, sales taxes and use taxes. Contractor is hereby notified that 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 is responsible.

**33. Payment Only in Accordance with Contract**

Contractor shall not demand or be entitled to receive payment for work to be performed and/or equipment and/or materials furnished, or any portion thereof, except in the manner set forth in this Contract; nor unless each and every one (1) of the promises, agreements, stipulations, terms, and conditions herein contained to be performed, kept, observed, and fulfilled on the part of Contractor shall have been performed, kept, observed, and fulfilled, and Owner shall have accepted the Work.

**34. Monies to be Retained**

Owner may keep any monies which would otherwise be payable at any time hereunder and apply the same, or so much as may be necessary therefor, to the payment of any expenses, losses, or damages as determined by Owner, incurred by Owner for which Contractor is liable under the Contract. Owner shall also withhold all forfeited funds pursuant to applicable provisions of the Labor Code.

**35. Recovery of Damages**

The making of an estimate and payment in accordance therewith shall not preclude Owner from demanding and recovering from Contractor such damages as it may sustain by reason of his failure to comply with the Contract Documents.

**36. Acceptance of the Work Not a Waiver**

Neither the acceptance of all or part of the Work by Owner, nor any order, measurements, or certificate by the Engineer, nor the filing of a Notice of Completion, nor granting an extension of time, nor payment of any money, nor any possession taken by Owner shall operate as a waiver of any portion of this Contract or of any power herein provided; nor shall any waiver of any breach of this Contract be held to be a waiver of any other or subsequent breach.



**37. Maintenance and Guarantee**

- A. Contractor hereby guarantees that all materials and workmanship furnished by him under the Contract will meet fully all requirements thereof as to quality or workmanship and of materials furnished by him. Contractor hereby agrees to replace all materials and pay for all installation costs made necessary by defects in materials or workmanship supplied by him that become evident within one (1) year after the date of final payment and to pay for all work necessary to remove, restore, and replace the materials to full serviceability and to full compliance with the requirements of the Contract Documents, including the test requirements for any part of the materials furnished hereunder which, during said one (1) year period, are found to be deficient with respect to any provision of the Contract Documents.

Contractor also agrees and does hereby hold Owner harmless from claims of any kind which may arise from injury or damage due to said defects. Contractor shall replace all defective materials promptly upon receipt of written orders for same from Owner. If Contractor fails to replace all defective materials promptly, Owner may secure the service of others to do this work, and Contractor and his surety shall be liable to Owner for the cost, including removal and replacement thereof.

- B. The guarantees, indemnifications and agreements set forth in Subsection a. hereof are secured by the Contract Performance Bond provided by Contractor herein, and for this purpose said bond shall remain in force for the entire period for which the Contractor has any remaining obligations, whether under such guarantees, indemnifications, and agreements, or in law or in equity.
- C. This article shall not limit the Owner's rights under this Contract or with respect to latent defects, gross mistakes, or fraud. The Owner specifically reserves all rights relating to defective work, including but not limited to those relating to defect claims pursuant to Code of Civil Procedure Section 337.15.

**38. Suspension of Contract**

- A. If the equipment and/or material to be furnished or the work to be performed by Contractor under the Contract shall be abandoned by Contractor, or if Contractor shall make a general assignment for the benefit of his creditors or be adjudicated a bankrupt, or if a Receiver of his property or business be appointed by a court of competent jurisdiction, or if his Contract shall be assigned by him otherwise than hereinbefore specified, or if, at any time, Owner shall be of the opinion that the performance of the Contract is unnecessarily or unreasonably delayed, or that Contractor is willfully violating any of the conditions or covenants of the Contract, or of the Specifications, or is executing the same in bad faith or not in accordance with the terms thereof, or if the terms of the Contract be not fully completed within the time named in the Contract for its completion or within the time to which the completion of the Contract may have been extended, as hereinbefore provided, Owner may, by written notice, instruct Contractor to suspend the operation of all or any part of the Contract, and Contractor shall do so and shall resume the same only upon written instruction by Owner.
- B. Upon such suspension of the Contract, Owner may procure the equipment and/or the materials, and/or performance of the work necessary to fulfill the Contract requirements in such manner as it may deem proper. In so doing, Owner may take possession of and use any of any materials, plant, tools, equipment, supplies, and property of every kind which may be provided by Contractor upon Owner property for the purposes of his work. Owner may procure other equipment and/or materials and provide labor for the completion of the same, or Contract therefor, and charge the expense of completion by either method to Contractor. These charges shall be deducted from such monies as may be due or may at any time hereafter become due Contractor under and by virtue of this Contract or any part thereof. In case such expense shall exceed the amount which would have been due Contractor under the Contract if the same had been completed by him, Contractor shall pay the amount of such excess to Owner and in case such expense shall be less than the amount which would have been payable under this Contract if the same had been completed by Contractor, he shall have no claim to the difference, except to such extent as may be necessary, in

the opinion of Owner, to reimburse Contractor or Contractor's sureties for any expense properly incurred for plant, camp, equipment, materials, supplies, and labor devoted to the prosecution of the Work of which Owner shall have received the benefits and which shall not have been otherwise paid by Owner. In computing such expense so far as it shall relate to plant and equipment taken over by Owner the salvage value of such plant and equipment at completion of the Work shall be deducted from the depreciated value thereof at the time taken over by Owner, and the difference shall be considered an expense. Evidence of such expense, satisfactory to Owner, shall be required, and all necessary estimates and appraisements shall be made by him. When any particular part of the Work is being carried on by Owner, by Contract or otherwise, under the provisions of this section, Contractor shall continue the remainder of the Work in conformity with the terms of his Contract and in such manner as in nowise to hinder or interfere with the persons or workers employed, as above provided, by Owner, by Contract or otherwise, to do any part of the Work or to complete the same under the provisions of this Section.

- C. In the determination of the question whether there has been such non-compliance with the Contract as to warrant its suspension or the procurement of the equipment, labor, or material elsewhere by Owner as herein provided, the decision of Owner shall be final. Suspension of the Contract or any portion thereof shall operate only to terminate the right of Contractor to proceed with the furnishing of the equipment and/or material, or performing the work covered by the Contract or the suspended portions thereof. All other stipulations of the Contract, shall be and remain in full force and effect after such suspension and until the Contract shall have been completed, final payment made, and formal acceptance given.

**39. Additional Surety**

If, during the continuance of the Contract, any of the sureties upon the performance or payment bonds in the opinion of Owner, are or become insufficient, Owner may require additional sufficient sureties, which Contractor shall furnish to the satisfaction of Owner within fifteen (15) days after notice, and in default thereof, the Contract may be suspended with the same force and effect as provided in Section 38.

**40. Termination of Contract**

If, at any time before manufacture of all equipment and/or materials, or completion of performance of work, it shall be found by Owner that reasons beyond the control of the parties hereto render it impossible or against the public interest of Owner to buy and receive any remaining portion of the equipment and/or materials or have the Work completed, Owner at any time, by written notice to Contractor, may call for discontinuance of manufacture of the equipment and/or materials and/or performance of work, and terminate the Contract. Upon the service of such notice of termination, Contractor shall discontinue the manufacture and/or performance of work in such manner, sequence, and at such times as Owner may direct, continuing after said notice only such manufacturing of the equipment and/or material and/or only such performance of work and only until such time, or times, as Owner may direct, and Contractor shall have no claim for damages for such discontinuance or termination of the Contract; nor shall Contractor have any claim for anticipated profits on the equipment and/or materials or performance of work thus dispensed with, nor any other claim except for the equipment and/or materials and/or of work actually manufactured or performed up to the times of said notice, or in accordance therewith.

**41. Right to Occupy Completed Portions of the Work**

Owner may wish to occupy or place in service completed portions of the Work before final completion of the Contract and shall be at liberty to do so, but such occupancy or placing in service of any completed portion of the Work shall not void the Contract nor relieve Contractor of his responsibility of protection and care of all Work until final completion and acceptance of the entire Work, provided, however, that expense directly attributable to operation and placing in service the portions of the Work shall not be chargeable to Contractor.

#### 42. **Anti Trust Claims and Third Party Claims**

In entering into a public works Contract or a subcontract to supply goods, services, or materials pursuant to a public works Contract, Contractor or Subcontractor offers and agrees to assign to the awarding body 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 of Part 2 of Division 7 of the Business and Professions Code), arising from the purchases of goods, services, or materials pursuant to the public works Contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to Contractor, without further acknowledgment by the parties.

Pursuant to Public Contract Code Section 9201, the Owner shall provide Contractor with timely notice of the receipt of third party claims relating to this Contract.

#### 43. **Dispute Resolution**

Contractor shall timely comply with any and all requirement of the Contract Documents pertaining to notices and requests for changes to the contract time or contract price. The failure to timely submit a notice of delay or notice of change, or to timely request a change to the time for completion or Contractor's compensation, 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 \$375,000 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 Section is to implement Sections 20104 et seq. and Section 9204 of the California Public Contract Code. This Section shall be construed to be consistent with all applicable law, including but not limited to these statutes.

B. Claims. For purposes of this Section, "Claim" means a separate demand by the Contractor for:

1. An adjustment to the time for completion including, without limitation, for relief from damages or penalties for delay assessed by Owner;
2. Payment by Owner of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract, payment for which is not otherwise expressly provided or to which the Contractor is not otherwise entitled; or
3. An amount the payment of which is disputed by Owner.

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.

C. Filing Claims. Claims governed by this Section may not be filed unless and until the Contractor completes any and all requirements of the Contract Documents pertaining to notices and requests for changes to the contract time or contract price, and Contractor's request for a change has been denied in whole or in part. Claims governed by this Section must be filed no later than thirty (30) 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 Owner and shall include on its first page the following words in 16 point capital font: "THIS IS A CLAIM." The Claim shall include the all information and documents necessary to substantiate the Claim, including but not limited to those identified below. Nothing in this Section is intended to extend the time limit or supersede notice requirements otherwise provided by Contract Documents. Failure to follow such contractual requirements shall bar any Claims or subsequent proceedings for compensation or payment thereon.

- D. Documentation. The Contractor shall submit all Claims in the following format:
1. Summary description of Claim including basis of entitlement, merit and amount of time or money requested, with specific reference to the Contract Document provisions 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. Narrative analysis of Claim merit
  5. Analysis of Claim cost, including calculations and supporting documents
  6. Time impact analysis in the form required by the Contract Documents or, if the Contract Documents do not require a particular format, CPM format, if an adjustment of the contract time is requested
- E. Owner's Response. Upon receipt of a Claim pursuant to this Section, Owner shall conduct a reasonable review of the Claim and, within a period not to exceed 45 days, shall provide the Contractor 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 60 days after Owner issues its written statement.
1. If Owner needs approval from its governing body to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and Owner's governing body does not meet within the 45 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, Owner shall have up to three days following the next duly publicly noticed meeting of Owner's governing body after the 45-day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.
  2. Within 30 days of receipt of a Claim, Owner may request in writing additional documentation supporting the Claim or relating to defenses or Claims Owner 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 Owner and the Contractor. Owner's written response to the Claim, as further documented, shall be submitted to the Contractor within 30 days (if the Claim is less than \$50,000, within 15 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.
- F. Meet and Confer. If the Contractor disputes Owner's written response, or Owner fails to respond within the time prescribed, the Contractor may so notify Owner, in writing, either within 15 days of receipt of Owner's response or within 15 days of Owner'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, Owner shall schedule a meet and confer conference within 30 days for settlement of the dispute.

- G. Mediation. Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, Owner shall provide the Contractor 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 60 days after Owner issues its written statement. Any disputed portion of the Claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with Owner and the Contractor sharing the associated costs equally. The Owner and Contractor shall mutually agree to a mediator within 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.
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 Owner and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under 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.
- H. 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.
- I. Civil Actions. The following procedures are established for all civil actions filed to resolve Claims of \$375,000 or less:
1. Within 60 days, but no earlier than 30 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 Agreement. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 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.

J. Government Code Claim Procedures.

1. This Section does not apply to tort claims and nothing in this Section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.5 of Title 1 of the Government Code.
2. In addition to any and all requirements of the Contract Documents pertaining to notices of and requests for adjustment to the contract time, contract price, or 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 Section 900, et seq. prior to filing any lawsuit against Owner.
3. 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 adjustment of the contract time or contract price for extra Work, disputed Work, construction claims, and/or changed conditions have been followed by Contractor. If Contractor does not comply with the Government Code claim procedure or the prerequisite contractual requirements, Contractor may not file any action against Owner.
4. **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 known to Contractor or that should reasonably be known to Contractor excepting only new unrelated Claims that arise after the Government Code claim is submitted.**
5. Non-Waiver. Owner's failure to respond to a Claim from the Contractor within the time periods described in this Section or to otherwise meet the time requirements of this Section shall result in the Claim being deemed rejected in its entirety, and shall not constitute a waiver of any rights under this Section.

K. Waiver of Rights. Except as set forth in this Section 43, or as otherwise provided under State law, it is understood and agreed by the parties that all rights any of them may have to arbitration for the settling of disputes, claims, and other matters arising out of or relating to this Contract or the breach thereof are hereby specifically waived by all of them.

## **GENERAL REQUIREMENTS**

## **GENERAL REQUIREMENTS**

### **1. Definitions**

Whenever the terms herein defined occur in these Specifications or other related documents, they shall have the meanings here given.

- a. "District" or "Owner" shall mean the INDIAN WELLS VALLEY WATER DISTRICT, 500 West Ridgecrest Boulevard, Ridgecrest, California 93555, its Manager, and any other person or persons designated by the District to act on its behalf.
- b. "Manager" shall mean the person designated by the Board of Directors of the INDIAN WELLS VALLEY WATER DISTRICT to have charge, supervision, and administration of said District.
- c. "Contractor" and/or "Developer" shall mean the person, firm, or corporation responsible for the construction of Domestic Water System facilities or any portions thereof to be integrated into the District's Domestic Water System either on behalf of the District or on behalf of a developer. Contractor shall at all times be represented on the Work in person or by a duly designated agent or superintendent.

Contractor shall hold a valid Contractor's License in accordance with the provisions of Division 3, Chapter 9 of the Business and Professions Code of the State of California, and any amendments thereto.

- d. "Work" shall mean all work to be performed by Contractor and shall be as specified by Construction Drawings, Special Provisions, or Directions of Owner for any particular project.

Owner may at any time during Work, by written order, make such changes as found necessary in the character, quality, or quantity of the Work to be furnished.

- e. "Construction Drawings" shall mean those drawings approved by Owner showing dimensions, details, features, and requirements of the Work. Said Construction Drawings shall be used in conjunction with Special Provisions or Directions of Owner and shall be augmented by the Specifications including the Standard Drawings.
- f. "Special Provisions" shall mean those provisions of Owner describing Work not specified by Construction Drawings or by Directions of Owner, clarifying Work as shown by Construction Drawings or as described by Directions of Owner, or supplementing or modifying the Specifications. Said requirements may be written or verbal.
- g. "Directions of Owner" shall mean those instructions of Owner supplementing or modifying the Construction Drawings, Special Provisions, or Specifications and shall include all Work not specified by Construction Drawings or Special Provisions. Said instructions may be written or verbal.
- h. "Specifications" shall mean the requirements contained herein and shall apply to all Work, where applicable, unless specified otherwise in the Construction Drawings, Special Provisions, or Directions of Owner. Said Specifications shall augment Construction Drawings, Special Provisions, or Directions of Owner and shall pertain to all methods and materials of construction.
- i. "Standard Drawings" shall mean all drawings referenced as such and bound with the Specifications. Said Standard Drawings shall be considered an integral part of the Specifications.



## 2. Abbreviations

Whenever used in these Specifications, the following abbreviations shall refer to the agency shown:

a.	AASHO	American Association of State Highway Officials
b.	ACI	American Concrete Institute
c.	AISC	American Institute of Steel Construction
d.	AISI	American Iron and Steel Institute
e.	API	American Petroleum Institute
f.	ASTM	American Society for Testing Materials
g.	ASA	American Standards Association
h.	AWWA	American Water Works Association
i.	AWS	American Welding Society
j.	IPCEA	Insulated Power Cable Engineers' Association
k.	NBFU	National Board of Fire Underwriters
l.	NEC	National Electrical Code
m.	NEMA	National Electrical Manufacturing Association
n.	REA	Rural Electrification Administration
o.	SSPC	Steel Structures Painting Council

All references to Specifications of any of the above agencies shall mean the latest editions thereof.

## 3. Permits, Certificates, Laws, and Ordinances

Unless specified otherwise, Contractor shall at no cost to Owner obtain all necessary permits, certificates, and licenses from such Federal, State, and local agencies as required to perform the Work. Contractor shall comply with all laws, ordinances, or rules and regulations of said agencies in performance of the Work.

## 4. Rights-of-Way

### a. Permanent Rights-of-Way

Owner will obtain all permanent rights-of-way or permanent easements as required to perform the Work unless specified otherwise. Said rights-of-way will not include rights-of-way for which permits, certificates, and licenses are required from Federal, State, and local agencies having jurisdiction.

### b. Access or Temporary Rights-of-Way

Contractor shall at no cost to Owner obtain all access or construction rights-of-way of a temporary nature other than specified.

## 5. Interferences

Any and all crossing of public utility facilities such as water mains, sewer lines, gas lines, telephone and/or telegraph cables and/or conduits shall be made by Contractor in accordance with requirements and specifications of appropriate agency. It shall be the responsibility of Contractor to obtain any necessary permits, licenses, and/or agreements required by said agency.

Whenever facilities are encountered by Contractor, he shall ascertain the ownership thereof and shall make all necessary arrangements with facility owners for the protection, removal, relocation, and/or replacement thereof. Contractor shall give facility owners due notice of his requirements and shall give them convenient access and cooperate with them in every way while any work of removal and/or replacement is being performed.

**6. Sanitation**

All parts of the Work shall be maintained in a neat, clean, sanitary condition. Fixed and portable toilets, which are made inaccessible to insects, shall be provided wherever needed for use by employees and their use shall be strictly enforced. All waste and refuse from sanitary facilities or from any source related to Contractor's operations shall be disposed of in a sanitary manner satisfactory to Owner and in accordance with laws and regulations pertaining thereto. Contractor shall rigorously prohibit and prevent committing of nuisance within the Work area or upon Owner's right-of-way or adjacent private property. Contractor shall furnish all facilities and means for proper sanitation of Work and shall protect and save Owner harmless from any liability resulting from improper or insufficient sanitation.

**7. Accident Prevention and First Aid**

Precautions shall be exercised at all times for the protection of persons and property. The safety provisions of applicable laws and building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded in accordance with safety provisions of the Manual of Accident Prevention in Construction, published by the Associated General Contractors of America, the Construction Safety Orders and Trench Construction Safety Orders as issued by the Division of Industrial Safety of the Department of Industrial relations of the State of California, and Chapter 8 ("Traffic Control and Protection of Workmen") of the Manual of Instruction for the Maintenance Department of the California State Division of Highways, to the extent that such provisions are not inconsistent with applicable laws or regulations.

**8. First Aid Facilities**

First aid facilities and supplies shall be kept on the jobsite and instruction in first aid shall be given as required by State regulations. Contractor shall provide emergency first aid treatment and supplies for his employees sufficient to comply with all legal requirements.

**9. Materials**

All materials to be furnished by Contractor shall be new and of the best quality for their intended use. All like materials shall be of one manufacture for any particular project. All materials shall be approved by Owner prior to purchase and only those materials approved by Owner shall be installed. Contractor who purchases unapproved materials shall do so at his own risk since Owner may reject any such materials.

Contractor shall submit a minimum of two (2) copies of all material lists to Owner for approval thereof. Said material lists shall include manufacturer's name, designation, description, and related information of all materials to be furnished and installed or otherwise used by Contractor in the performance of the Work. Said material lists shall be submitted at or prior to project preconstruction meeting and said lists shall be approved by Owner prior to beginning construction.

It is not the intent of these Specifications to prevent the use of any material not specifically prescribed by these Specifications. However, Owner must determine that substitutes are equivalent to those materials specified and approve any substitutions therefor.

To properly evaluate substitute materials, Owner may require Contractor to submit samples of such substitute materials together with two (2) copies each of any technical reports, design data, results of material and chemical analyses, and laboratory tests as may be available together with two (2) copies of all tests and approvals, if any, from appropriate agencies such as those listed in Section 2, Page 1, of these General Requirements.

## **10. Construction**

Contractor alone shall be responsible for the safety, efficiency, and adequacy of his plant, equipment, appliances, and methods and for any damage which may result from their failure or their improper construction, maintenance, or operation.

Contractor shall be responsible for examining all Construction Drawings, Specifications, Standard Drawings, work site, delivery routes, and local conditions which may affect the Work.

Before proceeding with the Work, Contractor shall furnish Owner any information required of him by the Construction Drawings, Specifications, Standard Drawings, Special Requirements, and Directions of Owner.

Contractor shall keep at jobsite a complete set of Construction Drawings, Specifications, Standard Drawings, permits, certificates and licenses for the Work, and all other data required by Owner. Contractor shall be responsible for checking all dimensions and quantities on said drawings or schedules and shall notify Owner of any errors and omissions found.

Until acceptance of the Work by Owner and throughout the guarantee period, Contractor shall bear the risk of injury or damage to any part of the Work by action of the elements or from any other cause and Contractor shall rebuild, repair, restore, and make good any injuries or damages to the Work except as limited in the Contract Appendix.

Contractor shall cooperate with other contractors who are working in the project area as Owner may specify and he shall comply with all orders of Owner. Contractor shall employ only competent and skillful persons to perform the Work. Said persons shall be qualified or certified to perform the Work in accordance with requirements of said person's trade.

Contractor shall submit to Owner for approval a construction schedule covering all work based on normal work periods. Contractor shall not deviate from approved schedule without prior permission from Owner. Whenever Contractor arranges to work at night or at any time other than normal work periods or to vary the period during which work is to be carried on each day, he shall obtain special permission from Owner to do so and he shall keep Owner properly informed of his activities. Construction schedule shall show the order in which Contractor proposes to carry out work, dates of anticipated commencement and completion of work and salient components thereof, and estimated percentage of work to be completed at any time during the construction period.

## **11. Inspection**

All materials and equipment furnished and all work performed shall be subject to rigid inspection by Owner. Contractor may be required to remove and replace under proper inspection any work performed in the absence of prescribed inspection with the entire cost being borne by Contractor irrespective of whether such work is found to be defective. Work covered up without authority of Owner shall, upon order of Owner, be uncovered to the extent required to permit inspection, repair, or replacement and thereafter be recovered, and Contractor shall bear entire cost.

## **12. Examination of Work**

Contractor shall furnish Owner every reasonable facility for ascertaining whether Work is being accomplished in accordance with the requirements and intention of the Construction Drawings, Specifications, Standard Drawings, Special Requirements, and Directions of Owner.

**13. Right to Occupy Work**

Owner may wish to occupy or place in service portions of the Work before its final completion and shall be at liberty to do so. Such occupancy or placing in service of any portion of the Work shall not relieve Contractor of his responsibility of protection and care of all work until final completion and end of guarantee period and acceptance provided, however, that expense directly attributable to operation and placing portions of Work in service shall not be chargeable to Contractor.

**14. Maintenance and Guarantee**

Contractor shall guarantee that all work performed by him meets all requirements specified as to character, quality, and quantity of materials and workmanship. Contractor shall replace all materials and pay all installation costs made necessary by defects in materials or workmanship supplied by him that become evident within one year after acceptance of the facilities.

Contractor shall replace all defective materials promptly upon receipt of written notice from Owner. If Contractor fails to replace all defective materials promptly, Owner may secure the service of others to perform the work and Contractor shall be liable to Owner for any costs including removal and replacement thereof.

**15. Construction Power**

Contractor shall provide all necessary power required for his operations, and shall provide and maintain in good order such modern power equipment and installation as shall be adequate, in the opinion of the Owner, to perform the required Work in a safe and satisfactory manner.

**16. Construction Water**

Unless specified otherwise, Owner will provide construction water to Contractor from its existing system at established rates. Contractor shall furnish and install all necessary piping and appurtenances necessary to convey water from Owner's metered service connection to place of use. In some instances, water will need to be trucked to the Work site.

**17. Welding**

Welding shall be done by the electric arc method using a process which excludes the atmosphere from the molten metal, except where otherwise approved by Owner. Welding electrodes used for manual welding shall be an approved type. Except as modified herein, welding process qualification and operator qualification shall comply with the applicable requirements of the "Code for Arc and Gas Welding in Building Construction" of the AWS.

Each weld shall be uniform in width and size throughout its entire length. Each layer shall be smooth, free from slag, cracks, pinholes, and undercut and shall be completely fused to adjacent weld beads and base metal. Cover pass shall be completely free of coarse ripples, irregular surfaces, non-uniform bead pattern, high crown, deep ridges or valleys between beads, and shall blend smoothly and gradually into surface of base metal. Butt welds shall be slightly convex, of uniform height, and shall have full penetration. Fillet welds shall be of size indicated, with full throat, and with each leg of equal length. Repair, chipping, or grinding of welds shall not gouge, groove, or reduce base metal thickness.

## 18. Environmental Factors

Contractor shall take all reasonable precautions to protect the environment.

### a. Air Pollution

Contractor shall use only machinery and equipment which is equipped with suitable air pollution control devices so that undue quantities of pollutants are not added to the atmosphere in the vicinity of the work site. Contractor's equipment shall meet all Federal, State, and local requirements for air quality emissions and Contractor shall comply with all applicable Federal, State, and local air pollution control regulations.

Contractor shall also take all necessary precautions to control dust created by construction operations. Contractor shall be especially diligent in implementing his dust control program and he shall be prepared to respond immediately and positively to any instructions for corrective action given by Owner. Contractor shall use dust palliatives if necessary to satisfactorily control dust; however, Contractor shall secure Owner approval for use of dust palliatives other than water.

### b. Explosives

Contractor shall handle, transport, store, and use explosives in accordance with applicable Federal, State, and local laws and regulations. Contractor shall be responsible for and make good any damage caused by his use of explosives.

### c. Fires

Contractor shall exercise all precautions necessary to prevent unauthorized fires within or adjacent to the limits of the work. Contractor shall be responsible for all damage resulting from fire due directly or indirectly to his or his employees' activities or the activities of his subcontractors or their employees.

### d. Drainage and Flooding

Contractor shall manage excavation and spoil banks such that existing drainage conditions are not impaired. Contractor shall provide drainage in all cases where the existing drainage conditions are being unavoidably altered or disturbed by his operations. Temporary diversions, ditches, checks, swales, or other drainage structures or features necessary to ensure proper drainage and flood control shall be provided by Contractor at no extra cost to Owner.

### e. Noise Pollution

Contractor shall equip all machinery and equipment used for construction with noise control devices such as mufflers for internal combustion engines or other suitable noise suppressors. Noise produced by construction operations shall be kept to a minimum and shall be consistent with reasonable human health requirements considering time of day and location of work site. Contractor shall comply with all applicable Federal, State, and local noise pollution control regulations.

Unless specified otherwise, noise levels in connection with the work shall not exceed 75 dB(A) at a distance of one hundred (100) feet for relatively continuous exposure and they shall not exceed 90 dB(A) at that same distance for relatively infrequent intermittent exposure. Contractor shall be prepared to respond immediately and positively to any instructions for corrective action given by Owner particularly with respect to complaints from the public.

f. Public Relations

Contractor shall give due consideration to the comfort and convenience of the public and he shall instruct his employees to be polite and respectful in their dealings with the public at the work site and in traveling to and from the work site.

g. Traffic

Contractor shall adequately protect the public using any roads which are involved in Contractor's operations and he shall maintain safe traffic flow in the vicinity of the work. Contractor shall use signs, barricades, delineators, flashers, and flagmen, all in strict compliance with Federal, State, and local rules and regulations regarding traffic control. Public roadways shall not be barricaded or blockaded except in accordance with requirements of public agencies having jurisdiction over same. Contractor shall provide access to all walkways, sidewalks, driveways, and streets at all times. If requested by Owner, Contractor shall furnish a traffic control program for the Work.

h. Vegetation and Wildlife

Contractor shall not destroy or disturb any vegetation or habitat unless absolutely necessary for the performance of the Work. Contractor shall take all steps necessary to ensure that his employees do not destroy or disturb any vegetation or wildlife in the prosecution of the Work or incidental thereto, including travel to and from the work site.

i. Water Pollution

Contractor shall discard materials which might adversely affect ground or surface water at approved dump sites only. Chemicals and other water pollutants shall not be discharged into natural watercourses or on land tributary to said watercourses. Contractor shall comply with all applicable Federal, State, and local water pollution control regulations.

j. Cleanup

Contractor shall keep the premises occupied by him in a neat, clean condition free from unsightly accumulation of rubbish. Contractor shall maintain all work areas within or without the project limits free from dust which would cause a hazard to the Work, operations of other contractors, or other persons or property. Methods of dust control shall be as specified or approved by Owner. Upon completion of the Work, Contractor shall at his own expense satisfactorily dispose of or remove from the vicinity of the Work all plants, building materials, rubbish, unused materials, concrete forms, and other equipment and materials belonging to him or used under his direction during construction and, if he fails to do so, the same may be removed and disposed of by Owner at Contractor's expense.

## **WELL REHABILITATION SPECIFICATIONS**

## WELL REHABILITATION SPECIFICATIONS

### PART 1 - GENERAL

#### 1.01 GENERAL

The Contractor shall furnish all labor, equipment, materials, and services to rehabilitate wells as specified in the bidding sheets (or Scope of Work, as applicable) including removal of pumping unit, inspection of pumping unit, removal of oil from the surface of the water, wire brushing, cleaning debris from the bottom of the well, chemical treatment, disinfection, and installation of pumping unit. All work will be performed during normal working hours (6:00am–4:30pm Monday through Thursday, excluding holidays) unless otherwise requested in writing and approved by the Indian Wells Valley Water District (hereinafter, Owner).

Mixing water is generally available from Owner's facilities. Owner will provide water to Contractor free of charge. Contractor must use Owner-provided meter and backflow device.

#### 1.02 SUBMITTALS

Prior to commencing the Work, Contractor shall supply to the Owner a copy of the manufacturer's Material Safety Data Sheets (MSDS) for all well treatment and neutralizing chemicals and a shop drawing of the snug fitting double surge block assembly and rotary brush for the Owner's approval. A Certificate of Analysis (COA) from the manufacturer/supplier must be provided for the acid used. In addition, the Contractor shall provide the Owner with their proposed program to apply the chemicals; method of neutralizing the acid, wastewater evacuation and disinfection; Emergency Response Plan; and list of staff qualified to handle chemicals. Said list shall include training and certifications received by each individual pertinent to their duties.

### PART 2 - REHABILITATION OF WATER WELL

#### 2.01 REMOVAL OF PUMP UNIT

Contractor shall furnish all labor, equipment, materials, and services to remove and reinstall the motor, pump discharge head, column pipe, tube, shaft, and pump for the Well. The successful bidder shall have equipment capable of applying two (2) times the weight of the down-hole equipment of lift to pull column pipe and pump. All connecting appurtenances and equipment removed from the Well shall be properly lubricated and sealed from dirt, dust, water, condensation, and any other form of contamination.

Contractor shall inspect and make recommendations for repair of pump and bowls, column for cracking/defects and tubing for defects/oil leakage.

#### 2.02 REMOVAL OF OIL FROM WELL

A. Contractor shall furnish all labor, equipment, materials and services to remove the line shaft turbine pump oil from the water table surface following the completion of the pump



removal. The oil shall be gently bailed from each well and placed in suitable leak proof containers.

- B. Contractor shall properly dispose of oil removed from each well. Disposal shall be in accordance with all federal, state and local regulations.

### 2.03 VIDEO LOGGING OF WELLS

The successful bidder will provide two (2) color video logs for the well; one before and one after rehabilitation. The Contractor shall provide equipment that is capable of producing a clear video image of the well casing both submerged and out of the water. The camera must be capable of providing a clear video image of the Well and must be capable of displaying a right angle, side-scan view of the Well casing at the direction of the Owner. The equipment shall indicate digitally on screen the depth of the camera within one (1) foot of its actual location at one-foot intervals. **The Owner must be present during the video scan.** The successful bidder will provide a written field log of the observations from each video scan. A DVD or digital copy of each inspection scan shall be provided to the Owner upon completion of each video-logging run. The successful bidder will schedule the video loggings with the Owner at least two (2) Working Days in advance. Prior to performing video logs, water shall be added to the well in sufficient quantity and for sufficient duration to clarify the water in the well.

### 2.04 BRUSHING OF WELLS

The entire wetted portion of the well casing shall be cleaned using a rotary brush method (unless otherwise directed by District staff). Only a nylon brush shall be used. The brush shall be a minimum of five (5) feet in length and have 100% contact for the length of the brush with the well casing. The brush shall turn no less than ten (10) revolutions per minute. The rate of brushing shall be no more than forty (40) feet per hour. As the well casing is cleaned, the scale and encrustation being removed will be allowed to settle to the bottom of the Well. **Actual method and tool must be submitted to the District for approval prior to the start of work.** The successful bidder is responsible for safely controlling all fluid and debris around and exiting the site.

### 2.05 BAILING WELLS CLEAN

Contractor shall remove the debris from the bottom of the Well using a bottom bailer or an Owner-approved bailing method to depths specified for the Well.

### 2.06 CHEMICAL TREATMENT OF WELLS (IF REQUIRED)

- A. At the District's discretion subsequent to performance of the first video log (pre-rehabilitation), the District will determine if chemical treatment of the well is needed.

Contractor shall furnish all labor, equipment, materials, and services to chemically treat the well. Care shall be taken to follow all Federal, State, and local regulations pertaining to the handling and disposal of the waste chemicals.

All individuals involved in handling well treatment chemicals shall possess all certifications, authorizations and licenses required by local, state and federal authorities to perform the work.

B. Contractor shall chemically treat the well utilizing the method specified below.

1. The well shall be pretreated to disrupt the fouling mechanisms existing within the well column. Pretreatment shall consist of wire brushing of the entire wetted portion of the well as specified herein, followed by bailing the well clean.
2. A treatment solution consisting of the following chemicals shall be mixed above-ground and injected into the existing perforated sections of the casing starting from the bottom of the lower perforated casing to the top of the perforated casing using a double packer tremie method (see Exhibit A for specific volumes):
  - a. Hydrochloric acid (approximately 30% activity): 8% of Total Well Volume
  - b. Biodispersant (Johnson Screens NW-310): 1.75% of Total Well Volume
  - c. Nonionic surfactant (Johnson Screens NW-400): 0.1% of Total Well Volume
4. Total Well Volume shall mean 1.5 X the volume of standing water within the well casing.
5. Immediately following the injection of the treatment solution, the Contractor shall swab the perforated sections of the casing with a minimum 20 foot long, snug fitting double surge block. Swabbing shall begin at the bottom of the lower perforated casing and work continuously upwards to the top of the upper perforated casing. After the upper most portion of the well is swabbed, Contractor shall secure a water sample to verify the pH. The sample may be secured by air lifting, submersible pumping, or thief sampling. **If the pH is above three (3), additional treatment solution will be added to the well at the discretion of the Owner.** If additional treatment solution is needed, the solution will be added and swabbed into place using the double surge block in increments of 55 gallons. Additional Biodispersant (NW-310) will not be needed. Sampling and treatment solution addition shall continue until pH is equal to three (3) or less.
6. The well will then be allowed to stand overnight. The Contractor shall secure water samples (depths specified by Owner) to verify pH. Additional chemicals may be added at the discretion of Owner. The Contractor shall then repeat the swabbing beginning at the top of the upper wetted casing and work continuously downward to the bottom of the lower perforated casing.

D. Contractor shall remove and dispose of the treatment chemicals as outlined below.

1. After completion of swabbing as described above, the Contractor shall remove AT LEAST five (5) volumes of wastewater from the well into an above-ground portable tank, such as a Baker Tank. The wastewater will be removed continuously from the well by air lifting or zone-specific pumping (submersible pump located in the middle of a 20-ft perforated double surge block assembly) at a minimum rate of

200 gpm. Air lifting or pumping shall begin at the bottom of the well and work upward to the top of the upper perforated casing interval. The well should be continually purged until the pH has stabilized to a normal background level and the turbidity of the discharge has dissipated. **As specified in Section 1.02, Contractor shall provide Owner with shop drawing of either the air lifting or submersible pump/double surge block assembly for Owner approval prior to start of work.**

2. At the discretion of the Owner, water samples will be secured from the well after removal of the treated water to determine pH after removal. The total number of samples will not exceed four (4) in order to determine pH. Should the pH be greater than nine (9) or less than six (6), the Contractor will remove additional wastewater from the well at the direction of the Owner and dispose of same.
  3. Prior to disposal, Contractor shall neutralize the pH of the wastewater in the above-ground tank by adding sufficient soda ash (powder), magnesium hydroxide (slurry), potassium hydroxide (liquid), or other pre-approved neutralizing agent. **Neutralization will not be allowed in the well casing.**
  4. All wastewater and residual solids from chemical treatment shall be disposed of by the Contractor in a manner and at the facility designated by the Contractor and approved by the Owner, in accordance with the attached Scope of Work.
  5. Contractor shall discharge the neutralized wastewater onsite at a controlled rate to avoid erosion, as directed by Owner.
- E. All chemicals used in treating the well shall be of food-grade quality. All biodispersants, surfactants and additives, both proprietary and non-proprietary, shall be NSF approved for potable well use.

## 2.07 WELL DISINFECTION

Unless otherwise permitted, Contractor shall use the following procedure to disinfect the well:

- A. Contractor shall prepare a disinfectant solution **above-ground** consisting of water, sodium hypochlorite solution, and a chlorine enhancing chemical (Johnson Screen's "NW-410"), for addition to the well. The volume of disinfection solution will be three times the standing well volume or other well volume approved by Owner. The disinfectant solution shall have a free chlorine concentration of 250 parts per million (ppm). Owner has the option of specifying a different chlorine concentration. The sodium hypochlorite solution used shall not have been stored more than 60 days.

The method used to introduce the disinfectant solution into the well shall ensure that the disinfectant solution reaches all portions of the well. **Owner shall approve the proposed method of disinfection before work begins.**

- B. Immediately after dosing the well, Contractor shall agitate the chlorinated water within the well by swabbing the well 5 minutes for every 20 feet of wetted and/or perforated casing.

- C. After the well has been swabbed, Contractor shall secure a water sample to verify the chlorine concentration. The sample may be secured by air lifting, submersible pumping, or thief sampling. If the chlorine concentration is less than 200 ppm, additional disinfectant solution will be added to the well, at the discretion of the Owner. Sampling and disinfectant solution addition shall continue until the chlorine concentration is between 200 and 300 ppm. **Under no circumstances shall a chlorine concentration greater than 500 ppm be permitted.**
- D. Contractor shall then allow the well to stand without pumping or agitation overnight (but no less than 6 hours).
- E. Contractor shall then reinstall the permanent pumping unit into the well, and then remove AT LEAST five (5) volumes of water from the well into an above-ground portable tank, such as a Baker Tank. The well should be continually purged until chlorine is no longer evident and shall continue to pump until 15 minutes thereafter.
- F. Contractor shall then allow the well to stand without pumping or agitation for 24 hours prior to sampling. Contractor shall then secure two samples of water from the well in approved containers, and have said samples analyzed by a State Certified analytical laboratory for total coliform (presence/absence), fecal coliform (presence/absence), and heterotrophic plate count. Contractor shall secure the first sample within five minutes of starting the pump at the specified pumping rate, and the second sample thirty minutes thereafter. Contractor shall furnish results of said analyses to Owner within 48 hours of sampling. Contractor shall perform all procedures and provide all tests and analyses at his own expense
- G. The well shall be deemed properly disinfected only if the sample analysis results indicate absence of total coliform bacteria, absence of fecal coliform bacteria, and a heterotrophic plate count of less than 500 colony forming units per milliliter (CFU/ml).
- H. If the sample analysis results do not indicate that the well was properly disinfected, the Contractor shall repeat the disinfection procedure (agitation of chlorinated water by surging instead of swabbing). If, after a second disinfection, results indicate presence of coliform bacteria and/or a heterotrophic plate count above 500 CFU/ml, further investigation into the bacteriological problem will be necessary and negotiated with the District at that time.
- I. The chlorinated water shall be dechlorinated to less than 0.1 ppm of chlorine prior to disposal. Dechlorination shall take place within the above-ground portable tank. The dechlorinated water shall be discharged onsite at a controlled rate to avoid erosion, as directed by Owner.

## **PART 3 - CLEANUP**

### **3.01 CLEANUP**

Contractor shall clean and restore all areas occupied by him in connection with the Work to preconstruction condition. Cleanup shall include, but shall not be limited to, removal and disposal of equipment, rubbish, excess materials, temporary structures, deposited sediments, and excavated materials and restoration of equipment, fences, pavements, trees, shrubs, piping, and ground surface. All parts of work site shall be left in a neat and presentable condition, all to satisfaction of Owner.