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**REQUEST FOR PROPOSAL #2108
Generator Maintenance/Load Bank Testing
Period of Performance January 1, 2021 through June 30, 2021**

This Request for Proposal (RFP) dated November 9, 2020 is being issued to receive bids by the Acting Purchasing Officer, Christina Cullins, Contra Costa Water District (District), 1331 Concord Avenue, Concord, California, until **2:00 P.M., December 2, 2020** for providing Generator Maintenance/Load Bank Testing for fiscal year 2021 (FY21), beginning on January 1, 2021 through June 30, 2021, and a priced optional 12-month extension period for fiscal year 2022 (FY22), from July 1, 2021 through June 30, 2022, to be exercised at the District's sole discretion. Bid priced option sheet(s) must be included for FY22, the optional 12-month extension, for the bid package to be considered a complete submission. The District will evaluate both FY21 and FY22 pricing and will determine what appears to provide the best value to the District.

No faxed or emailed proposals will be accepted. Please submit three (3) paper copies of your proposal. All responses must be received in a sealed envelope and have "RFP #2108 Generator Maintenance" clearly marked on the outer-most mailing envelope. Include rates and charges in a separate, sealed envelope. Proposals will not be accepted after the date and time stated above. In addition, please provide your proposals as a PDF file on a CD or flash drive.

The services required are for labor supervision and materials to perform load bank testing and emergency generator preventive maintenance and the completion of any necessary repairs. The successful contractor will be required to provide all appropriately trained and certified personnel, supplies, materials, tools, and equipment necessary to correctly perform the required services. The District's primary objective is to obtain consistently reliable, high quality, and timely testing, preventative maintenance and repair services.

At its option, the District reserves the right to contract with one or more contractors, to provide the optimum level of service and value to the District.

This RFP does not commit the District to pay any costs incurred in the preparation and presentation of proposals or to select any firm that responds.

A handwritten signature in blue ink that reads "Christina Cullins".

Christina Cullins
Acting Purchasing Officer
Contra Costa Water District

The District has included a General Provisions attachment to help explain the District's bid and proposal process. Please read and consider these provisions carefully. If you have any questions, please contact the Purchasing Officer via email at ccullins@ccwater.com.

Pursuant to Section 1770, et seq., of the California Labor Code, the successful bidder shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Copies of such prevailing rate of per diem wages are on file at the office of the Purchasing Officer, where copies will be made available during normal working hours to any interested party upon request, or Bidders may prefer to obtain the current prevailing rate of per diem wages directly from the website maintained by the California Department of Industrial Relations (<http://www.dir.ca.gov/dlsr/pwd/index.htm>).

Questions can be directed via email to Christina Cullins, Acting Purchasing Officer, ccullins@ccwater.com, not later than 10:00 A.M., November 23, 2020.

Submission of a bid constitutes acceptance of the District's Purchase Order Terms and Conditions.

Firms interested in the work should submit:

WHAT: Three copies of your proposal and one electronic (flash drive) version, prepared in accordance with the instructions in this RFP.

WHEN: **By 2:00 P.M. December 2, 2020**

WHERE: Contra Costa Water District
1331 Concord Avenue
Concord, CA 94520

Attention: Christina Cullins, Acting Purchasing Officer

Business licenses will be verified with the issuing agencies and references will be checked. The District reserves the right to hire a primary and secondary contractor in the event the primary contractor cannot respond in a timely manner.

The District specifically reserves the right to reject any or all proposals, to make any awards or any rejections in what it alone considers to be in the best interest of the District, and to waive any irregularities in the proposals.

Evaluation factors of proposal will include the following:

- Pricing.
- Experience, licenses, and certifications of personnel performing inspections.
- Four references for similar work experience
- Ability to complete the projects in a timely manner.

Note: Business licenses will be verified with the issuing agencies and references will be checked; at the District's discretion the top firms under consideration may be interviewed

Prohibition of Discrimination, Harassment, Retaliation, and Abusive Conduct:

Per District Administrative Procedure XII-4 entitled *Equal Employment Opportunity; Prohibition of Discrimination, Harassment, Retaliation, and Abusive Conduct*, the District is an equal employment opportunity employer. As such, the District employs, recruits, retains, promotes, evaluates, terminates, and otherwise treats all employees, contractors, and job applicants on the basis of merit, qualification, and competence, and without regard to any Protected Category under the Equal Employment Opportunity Commission or the State of California Department of Fair Employment and Housing. The District does not tolerate discrimination, harassment, retaliation, or abusive conduct by or against employment applicants, employees, those not employed by, but working on behalf of the District, and/or members of the public. Immediate and appropriate corrective action will be implemented as warranted for any and all such misconduct. Administrative Procedure XII-4 is applicable to all employees and agents of the District with whom an individual comes into contact in the workplace or a work-related situation. The District's policy can be found at the following web address:

<https://www.ccwater.com/DocumentCenter/View/973/XII-4-Equal-Employment-Opportunity-PDF>

Proposals must be prepared in accordance with the following attachments:

- A: Scope of Work
- B: Proposer Questionnaire
- C: Contractor's Rates & Charges
- D: District's Standard Technical Services Agreement
- E: Bid/Proposal General Provisions
- F: Bid Guarantee Form
- G: Insurance Compliance Samples
- H: Contractor/Consultant Safe Practices Handbook - [Link to Contractor/Consultant Safe Practices Handbook](#)

The successful bidder shall provide a dedicated account manager to be responsible for the Contra Costa Water District (District) account. The account manager shall receive all orders and be the primary contact person for all issues regarding this RFP. Failure by the supplier to answer and/or accept telephone orders between 7: 00 a.m. and 4:00 p.m. Pacific Standard Time, Monday through Friday on two or more occasions may be grounds for contract cancellation.

The Generator Maintenance/Load Bank Testing Services are to be administered through the District's Operations and Maintenance department. The services required are for pre-scheduled and on-call services which would include all labor, supervision, parts, fluids, filters and materials to maintain medium/heavy vehicles and equipment at the following locations and or remote facilities / jobsites within the service area and surrounding counties:

Antioch Service Center
3965 Neroly Road
Oakley, CA 94561

Randall-Bold
3760 Neroly Rd.
Oakley, CA 94561

Concord Corporation Yard
2401 Bisso Lane
Concord, Ca 94520

Los Vaqueros Watershed
100 Walnut Blvd.
Brentwood, CA 94513

The successful bidder shall be required to provide all appropriately certified personnel, supplies, parts, fluids, filters, materials, tools, and equipment necessary to correctly perform the required services. The District's primary objective is to obtain consistently reliable, high quality, and timely maintenance services.

The District's designee will administer the Generator Maintenance and Load Bank Testing Contract(s) and will be responsible for reviewing and auditing the Contractor's work for compliance.

This Request for Proposal does not commit the District to pay any costs incurred in the preparation and presentation of bids or to select any firm that responds.

The District has initiated an insurance compliance program. This program requires all companies providing products and services to the District to have in place insurance coverage prior to the issuance of any contract. These insurance levels are described on the attached sample insurance form. Once the low bid or most responsive response has been established, that vendor will have two business days to provide all required insurance documents per the samples provided. Failure to provide this insurance documentation will result in the District considering this bid or response to be non-responsive. Insurance questions can be directed to the Purchasing Officer at ccullins@ccwater.com.

Scope of Work

A. Annual Preventive Maintenance (PM) Service for each CCWD generator will include:

1. Inspect cooling system hoses
2. Check all belts
3. Check generator for coolant, fuel and oil leaks
4. Inspect and clean crankcase breather
5. Inspect governor and injection pump
6. Check air intake and outlets
7. Check fuel tank level and inspect for contaminants
8. Check hoses, piping and connections
9. Drain exhaust line
10. Inspect hangers and supports
11. Inspect silencer
12. Check battery charge operation and charge rate
13. Clean battery terminals and apply protectant
14. Inspect generator end, controls and breakers
15. Test run the generator and check for the following:
 - a) Proper frequency and voltage
 - b) Engine alternator charge rate
 - c) Vibration
 - d) Leakage and unusual noises
 - e) Generator shutdown functions if permissible
16. Fluid Sampling of the following:
 - a) Crankcase oil
 - b) Fuel
 - c) Coolant
 - d) Other
17. All samples will be delivered by to certified laboratory qualified to analyze all samples per manufacturer specifications
18. District Designee will receive all written sample reports taken, including but not limited to all required manufacturer specifications needed to determine all metals and viscosity
19. Load Bank Testing of generator
 - a. Load Bank Testing shall consist of a two (2) hour resistive load test, with three (3) step intervals. Step 1: 50% for 10 min, Step 2: 80% for 10 min., Step 3: 100% or max load for 1 hr. 40 min. The generator will be warmed up 15 min. before the test and cooled down after the test for 15 min. for a total run time of 2.5 hrs. Applied load shall be proportional to the generator capability and high enough to clear the exhaust of the potential condition referred to as "wet stacking". Please note, (2) of the (4) 2MW 4160volt generators have a built-in load bank and an external testing device will not be required at Randall Bold. Vendor is responsible for providing all necessary equipment to perform all tests.

B. (PM) Service will include,

(If samples are determined by the District to be needed)

1. Change fuel filters and provide disposal services. New filters to have install date and hours of engine marked on the filter.
2. Change oil and oil filters and provide disposal services. New filters to have install date and hours of engine marked on the filter.
3. Change air filters and provide disposal services. New filters to have install date and hours of engines marked on sticker attached externally to air filter housing for external inspection needs.

C. Repairs

Present a list of required repairs to the District's designated representative for authorization prior to proceeding with repairs. The list should include an estimation of repair costs.

D. Timeline

Provide a timeline for performing the PM and Load Bank Testing

E. Documentation

Within 30 days of the service, provide a report to the appropriate District Maintenance Supervisor verifying annual PM items performed, the extent of additional service work performed, vibration readings, and engine and generator conditions relating the Load Bank testing for each machine serviced. Reports shall reference the District unique identifiers for each generator utilizing the provided list in the bid document per unit. A hardcopy of the report and the invoice shall be mailed to P.O. Box H20, Concord, CA 94524 as well as emailing an electronic copy of both documents to the appropriate District Maintenance Supervisor. Invoices will be held until receipt of the reports.

F. Rates and Charges

Please use the pricing sheet in Attachment C to list your prices for FY21 and FY22 and include it in a separate, sealed envelope with the proposal. There are columns for the baseline services as well as columns for each of the optional services to list the additional cost for each option for each machine. There is also a column for hourly rates for repairs as well as % mark-up on parts not covered in the annual service or optional services. Invoices must show cost of parts prior to mark-up as well as our cost to verify mark-up percentages. No time will be paid for travel so please include that in your cost pricing for the services and repairs. Normal working hours are to be considered 7:00 a.m. to 3:30 p.m., Monday through Friday.

Please explain the tooling and capabilities of the field service vehicles.

Explain what would happen if your company cannot inspect/service/repair a vehicle or piece of equipment at our location/in the field? How would your company complete the inspection, service or repair?

In the event that a vehicle or piece of equipment cannot be inspected/serviced/repared on site or in the field, how will you handle the transportation/towing of that unit(s)?

Ability to service contract during normal CCWD Maintenance hours, 7:00 a.m.-3:30 p.m.? Ability to service contract outside of normal CCWD Maintenance hours, including weekends?

Ability to handle emergency road calls, and response times for emergency road calls?

Please list minimum of 4 references for similar work.

Please provide pricing sheets in a separate, sealed envelope with your proposal.

Pricing Sheet FY21 (January 1, 2021 through June 30, 2021)

*Rates need to have travel time built into costs per hour

All rates below should be a minimum of prevailing wage or higher:

Hourly labor rate – Straight time (Monday – Friday 7:00 a.m. – 3:30 p.m.):

Hourly labor rate – Overtime:

Mark up percentage on parts non-District supplied _____ % over your (company) cost

List of Holidays and Holiday rate if service is requested

Please list any exemptions to the bid:

Pricing Sheet FY22 (July 1, 2021 through June 30, 2022)

*Rates need to have travel time built into costs per hour

Please list the rates (prevailing wage) and charges for services:

Hourly labor rate – Straight time (Monday – Friday 7:00 a.m. – 3:30 p.m.):

Hourly labor rate – Overtime:

Mark up percentage on parts non-District supplied _____ % over your (company) cost

List of Holidays and Holiday rate if service is requested

Please list any exemptions to the proposal:

CONTRA COSTA WATER DISTRICT
Technical Services Agreement

THIS AGREEMENT for technical services is between Contra Costa Water District ("District") and _____ ("Contractor"). Contractor's address is _____, telephone _____, and fax number _____. Contractor is a [] corporation, [] partnership, [] individual, having taxpayer's identification or Social Security number _____, and professional license class and number _____.

1. The Agreement. District and Contractor agree that Contractor shall perform technical services for District on the terms and conditions herein set forth in connection with District's project number _____ for _____. The following documents are attached hereto and are a part of this Agreement:

- Attachment A – General Agreement Provisions
- Attachment B – Scope of Work
- Attachment C – Contractor's Rates and Charges

This Agreement, including said attachments, constitutes the entire agreement between the parties and supersedes any prior proposals, representations, or understandings. This Agreement may be modified only by a written amendment signed by each party.

2. Time of Performance. Unless otherwise stated in Attachment B, Contractor is authorized to commence performance of this Agreement upon its execution by the District and receipt of a Notice to Proceed from the District. Contractor shall complete all services covered by this Agreement no later than _____ unless this date is extended by District in writing. Should the District elect to extend this Agreement through _____, there shall be no change in the terms and conditions of this Agreement (other than to the time of performance). If Contractor fails to complete the services by said date, Contractor shall pay District as liquidated damages \$_____ per day of default.

3. Payment. Contractor shall at convenient intervals not more frequently than monthly submit itemized statements of services performed at the rates and charges in Attachment C. District shall pay for work satisfactorily performed within thirty (30) days after receipt of a statement, less any retention withheld as specified in Attachment A. The total amount payable by District for Contractor's services pursuant to the Agreement shall not exceed \$_____ for the period from _____ to _____, without the prior written approval of the District.

4. Termination. District may terminate this Agreement at any time by 15 days prior written notice to Contractor. Upon termination, District shall pay Contractor for all amounts due for service rendered up to the date of termination.

Dated: _____

CONTRA COSTA WATER DISTRICT

CONTRACTOR

By: _____
Stephen J. Welch

By: _____

Title: General Manager

Title: _____

GENERAL AGREEMENT PROVISIONS

1. Bonds and Insurance

a. Bonds

Unless excused by the District, the Contractor shall furnish, on forms provided by the District, a Payment Bond and a Faithful Performance Bond, each of which shall be in an amount equal to one hundred percent (100%) of the total amount specified in section 3 of the Agreement. The Faithful Performance Bond is to secure the faithful performance of the Contract, and the Payment Bond is to secure the payment of those to whom the Contractor may become legally indebted for labor, materials, tools, equipment, or services of any kind used or employed by the Contractor in performing the work. Said bonds shall be secured from a surety company satisfactory to District or shall comply with the minimum requirements specified in sections 995.610 through 995.660 of the California Code of Civil Procedure.

b. Insurance

- 1) Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverage
 - a) Workers' Compensation, in not less than statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
 - b) Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
 - c) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable; and
 - d) Professional liability insurance, if applicable to Contractor's profession, with limits not less than \$2,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.
- 2) Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to:
 - a) Name as Additional Insureds, Contra Costa Water District and its respective Directors, Officers, Agents, and Employees.
 - b) Provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that

insurance applies separately to each insured against whom claim is made or suit is brought.

- 3) Regarding Workers' Compensation, Contractor hereby agrees to waive its rights to subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Contra Costa Water District for all work performed by the Contractor, its employees, agents and subcontractors.
- 4) All policies shall provide thirty days' advance written notice to Contra Costa Water District of reduction or nonrenewal of coverage or cancellation of coverage for any reason.
- 5) Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of four years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.
- 6) Before commencing any work under this Agreement, Contractor shall furnish to Contra Costa Water District certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to Contra Costa Water District, in form evidencing all coverage set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.
- 7) Approval of the insurance by District shall not relieve or decrease the liability of Contractor hereunder.
- 8) If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor obtains all necessary insurance, which shall name Contra Costa Water District, and its respective directors, officers, agents and employees and the Contractor as Additional Insureds.

2. Hold Harmless and Indemnification

If an action is filed in which it is claimed or alleged that any damages, injuries, or deaths arose out of, pertained to, or related to negligent acts, errors or omissions, recklessness, or willful misconduct of Contractor (or any person or organization for whom Contractor is legally liable), in the performance of the services for District, Contractor agrees, at its own expense, to defend District, its Governing Bodies, Directors, officers, employees and agents; provided that no settlement of a claim shall be made without the consent of District.

To the extent permitted by law, Contractor shall indemnify, save and hold harmless District, its Governing Bodies, Directors, officers, employees and agents from and against all claims, demands, costs and expenses, including reasonable attorney's fees, and liability for any damages, injuries or deaths arising out of, pertaining to, or relating to the negligent acts, errors or omissions, recklessness, or the willful misconduct of Contractor (or any person or organization for whom

Contractor is legally liable), directly or indirectly related to the services provided hereunder excepting there from only those claims, demands, or liability caused by the sole or active negligence, or the willful misconduct of the District. Contractor will reimburse District for any expenditure or fees District may make by reason of such matters.

To the extent permitted by law, Contractor shall also indemnify the District, its Governing Bodies, Directors, officers, employees and agent, against any and all claims, demands, costs and expenses at law or in equity including reasonable attorneys' fees, and liability, suffered or incurred on account of, or that may at any time arise out of, or are in any way connected with, any breach by Contractor, or its employees, agents, sub-Contractors, or subcontractors, of the obligations, covenants, or any other provisions of this Agreement.

This Section shall survive any expiration or termination of this Agreement.

3. Laws and Regulations

The Contractor shall observe and comply with all Federal, State, and local laws, ordinances, codes, orders and regulations which in any manner affect those engaged or employed on the work, materials used in the work, or the conduct of the work. If any discrepancy or inconsistency should be discovered in this Agreement in relation to any such law ordinance, code, order, or regulation, the Contractor shall report the same in writing to the Purchasing Officer. The Contractor shall indemnify, hold harmless and defend the District, its officers, agents and employees, against all claims or liability arising from violation of any such law, ordinance, code, order, or regulation, whether by the Contractor, the Contractor's employees, or its subcontractors. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

The Contractor or subcontractor offers and agrees to assign to the District all rights, title and interest in, and all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2) commencing with Section 16700 (of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the Agreement. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor, without further acknowledgment by the parties.

4. Permits and Licenses

Unless otherwise provided, the Contractor shall obtain at his own expense all permits and licenses or property used in connection with the work, including all safety permits for excavations, tunneling, trenches, construction (building structure, scaffolding, or falsework) and demolition required by CAL/OSHA including but not limited to, the permits required by Labor Code Section 6500, and shall pay all taxes properly assessed against his/her equipment or property used in connection with the work. The Contractor shall possess a current and valid State of California Contractor's License/endorsement, and shall not employ any subcontractors that are not both properly licensed in accordance with State law and properly registered to perform public works contracts, or change any subcontractors listed in the Proposal without the consent of the District using the procedures set forth in Public Contract Code 4100 et. seq.

5. Sales and Use Taxes

The Contractor shall pay all sales and use taxes assessed by Federal, State, or local authorities on parts and materials furnished by the Contractor in the performance of the work.

6. Patents and Copyrights

The Contractor shall defend, indemnify, and save harmless the District, its officers, agents and employees against all claims or liability arising from the use of any patented or copyrighted design, device, material, or process used by Contractor or any subcontractors in the performance of the work.

7. Termination

If any or all services to be performed under the Agreement are abandoned by the Contractor, or if the District determines that the schedule of service is not being maintained, or that the Contractor is violating any of the conditions or provisions of the Agreement or failing to provide a consistently high level of service; and if the Contractor fails to remedy such default within three days after receipt of written notice of such default, or, within three (3) days after receipt of District's written consent to such longer period to remedy such default, fails to provide satisfactory evidence that such default will be promptly corrected, the District may at its sole election choose to terminate any or all portions of the Agreement, or withhold any amounts otherwise due under the Agreement. Thereupon, the District will have the right to complete such service by whatever method the District deems expedient. Any additional expense for completing such service shall be chargeable to the Contractor.

Additionally, the District may, at its option, terminate the Agreement in whole or in part, at any time, by written 15-day notice thereof to the Contractor, whether or not the Contractor is in default. Upon such termination, the Contractor shall waive any claims for damages, including loss of anticipated profits on account thereof.

8. Waste Disposal

The Contractor shall properly transport and dispose of all waste, including hazardous wastes, generated by these activities. Copies of proper disposal documentation must be maintained by the Contractor and submitted to District on demand.

9. Additions, Deletions and Changes

The District reserves the right to add, delete, or change the scope of work under this Agreement and may do so upon giving written notice to the Contractor. To the extent possible, payment will be made at the unit price set forth in Attachment C. If other changes cause an increase or a reduction in the costs of this agreement, the parties shall attempt to negotiate an equitable adjustment based upon an acceptable lump sum proposal from the Contractor. Any agreed upon adjustment to the prices shall be incorporated in a written Change Order issued by the District, which shall be written so as to indicate an acceptance on the part of the Contractor as evidenced by its signature. By

signature of the Change Order, the Contractor acknowledges that the adjustments to cost and time contained in the Change Order are in full satisfaction and accord, payment in full, and so waives any right to claim any further cost and time impacts at any time during and after completion of the Contract for the changes encompassed by the Change Order.

If the parties cannot agree on a lump sum adjustment, the Contractor shall proceed to do the additional work on a "force account" or time and expense basis, that is, on an accounting of the Contractor's forces, materials, equipment, and other items of cost as required and used to do the Work. For the work performed, payment will be made for the documented actual cost of the following:

- a. Direct labor cost for workers, who are directly assigned to the force account work, including wages, fringe benefits, if any (as established by negotiated labor agreements or State prevailing wages), and a labor surcharge of thirty percent (30%) for all other fixed labor burdens such as workers' compensation and labor insurance, and labor taxes.
- b. Material delivered and used on the designated work, including sales tax, if paid for by the Contractor or its subcontractor.
- c. Equipment rental, for those days or hours during which the equipment is in actual use based on actual rental and transportation invoices.

A fixed fee not to exceed ten percent (10%) of the costs of Items (a), (b), and (c) above covering the cost of general supervision, overhead, profit, bond, insurance, and any other general expenses.

10. Equal Opportunity Employer

The District is committed to equal employment opportunities. The District encourages the consideration and utilization of minority and women-owned businesses.

11. Successors and Assigns

Contractor shall not assign, sell, sublet, or subcontract all or any portion of this Agreement or any personal interest herein or any property, real or personal, used hereunder, without the prior written consent of the District. No assignments by Contractor shall be effective until the assignee shall, in writing, agree to assume and fully perform all of the terms and provisions of the Agreement.

12. Subcontractors

In accordance with California Public Contracting Code Section 4100, et. seq., the Contractor shall list, in Section 00430, PROPOSED SUBCONTRACTORS, the name, business address, California contractor's license number, public works contractor registration number, and portion of Work to be performed, and location of the place of business for the following.

- A. Each subcontractor who will perform work or labor or render service to the bidder in or about the construction of the Work or improvement, in an amount in excess of one-half of one percent of the bidder's total bid;
- B. Any subcontractor licensed by the State of California who, under subcontract to the bidder, will specially fabricate and install a portion of the Work or improvement according to detailed drawings contained in the drawings and specifications, in an amount in excess of one-half of one percent of the bidder's total bid.

Failure to list the subcontractors defined in subparts A. and B. above may render the bid or proposal non-responsive and may be grounds for rejection thereof. For each portion of the Work (as defined by the Contractor for the purpose of listing subcontractors) the Contractor shall list only one subcontractor in Section 00430, PROPOSED SUBCONTRACTORS. Failure to comply with the provisions of the California "Subletting and Subcontracting Fair Practices Act" shall make the Contractor subject to the sanctions as set forth in the Act.

Failure by a listed subcontractor to be registered to perform public work as required by subdivision (a) of Labor Code section 1725.5 shall be grounds under Section 4107 of the Public Contract Code for the Contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

Nothing contained in the Agreement shall create any contractual relation between any subcontractor and the District. The persons engaged in the work, including employees of subcontractors and suppliers, will be considered employees of the Contractor. The Contractor will be responsible for their work and their work shall be subject to the provisions of the Agreement. The Contractor is fully responsible to the District for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, just as the Contractor is fully responsible for the acts and omissions of persons directly employed by the Contractor.

13. Responsibility for the Work

Until completion and acceptance of the work, the Contractor shall have the charge and care of the work and of the materials to be used therein and shall bear the risk of injury, loss, or damage, to any part thereof from any other cause, whether or not arising from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the work or the materials occasioned by any cause before its acceptance and shall bear the expense thereof, except for such injuries, losses, or damages as are directly and approximately caused by acts of the District.

14. Inconsistencies and Omissions

Where the Agreement describes portions of the work in general terms but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified, the Contractor shall furnish tools, equipment, and incidentals, and do all the work necessary to complete the work in a satisfactory and workmanlike manner.

Unless specifically noted otherwise, the Agreement and all Attachments are intended to be complementary and applicable to each other.

In resolving inconsistencies among two or more portions of the Agreement and/or the Attachments, the most stringent requirements shall apply.

15. Inspection of Site(s)

The information provided by the District is not intended to be a substitute for, or a supplement to, the independent verification by the bidder/proposer to the extent such independent investigation of site conditions is deemed necessary or desirable by the bidder/proposer. Bidders/proposers are required to satisfy themselves, by personal examination of the site(s) of the work or by such other means as they may prefer, of the location and of the actual conditions at the site(s) of Work. If, during the course of its examination, a bidder/proposer finds facts or conditions which appear to be in conflict with the letter or spirit of the Agreement, bidding/proposal documents, the bidder/proposer shall report the conflict in writing, to the District's Contract Administrator, within a reasonable time before submitting its bid/proposal.

Submission of a bid/proposal by the bidder/proposer shall constitute conclusive evidence that, if awarded the Contract, it is relying on its own examination of the site(s) of the work, including existing facilities and conditions to be encountered on and in the vicinity of the site(s).

16. Examination of Agreement

Each Proposer shall thoroughly examine and be familiar with the Agreement before submitting its proposal. Any inconsistencies or omissions found in the Agreement and/or Attachments shall be reported to the District's Contract Administrator, who will clarify discrepancies or omissions, in writing, within a reasonable time.

The submission of a bid/proposal shall constitute an acknowledgment, upon which the District may rely, that the bidder/proposer has thoroughly examined and is familiar with the Agreement, with the character, quality and scope of the work to be constructed under the Agreement, including the quality and quantity of the materials and services to be furnished, and all other requirements of the Agreement. The bidder's/proposer's failure or neglect to examine and become familiar with the Agreement, shall in no way relieve it from any obligation with respect to its proposal or to the Agreement, and no claim for additional compensation will be allowed which is based upon a lack of knowledge or misinterpretation of any portion of the Agreement.

17. Waiver or Acquiescence

No action or failure to act by the District's Contract Administrator or anyone else acting for the District shall constitute a waiver of any right or duty afforded under the Agreement nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

18. Liquidated Damages

It is agreed by the parties to the Agreement that time is of the essence in the completion of this work, and that in case all the work called for under the Agreement, or such portion thereof as may be designated by the District's Contract Administrator, is not completed before the date specified in section 2 of the Agreement or such earlier date as may be specified by the District's Contract Administrator, or each District facility affected by the work is not restored to full service within the period specified by the District's Contract Administrator for that facility, damage will be sustained by the District. As it is impracticable to determine the actual delay damage; it is, therefore, agreed that the Contractor shall pay liquidated damages to the District in the amount set forth in section 2 of the Agreement. Contractor further agrees that if such liquidated damages are not promptly paid, the District may deduct the amount thereof from any moneys due, or that may become due, the Contractor under the Agreement.

19. Prevailing Wages

In accordance with Section 1770 of the Labor Code, the District does hereby specify that, if any personnel of Contractor or a subcontractor of Contractor performs work under the Agreement for which a general prevailing wage of the locality in which the Work is to be performed and applicable to the Work to be done has been determined by the Director of the Department of Industrial Relations, Contractor or subcontractor shall pay the prevailing wage for such work, including all employer payments that are required by Section 1773.1 of the Labor Code, and such travel and subsistence payments to workers needed to execute the Work as defined in the applicable collective bargaining agreement filed with the Department of Industrial Relations pursuant to Labor Code Section 1773.8, and shall comply with all applicable provisions of the California Labor Code Section relating to public works (Section 1720 et. seq.). Copies of such prevailing wage rates are on file at the District's principal office. If it becomes necessary to employ a craft other than those listed in the prevailing wage rates, the Contractor shall notify the District immediately and the District will obtain the additional prevailing rate from the Director of the Department of Industrial Relations, which rate shall be applicable at the time of initial employment. For questions regarding this section, Contractor should visit www.dir.ca.gov/oprl/pwd/index.htm or call the Department of Industrial Relations at 1-415-703-4774.

This project is subject to labor compliance monitoring and enforcement by the California Department of Industrial Relations.

The general prevailing wage rates for such work which establish minimum wages for this Agreement shall be posted by Contractor in a prominent place at the site where such work is performed.

The wage rates set forth are the minimum that may be paid by the Contractor. Nothing herein shall be construed as preventing the Contractor from paying more than the minimum set forth. No extra compensation whatever shall be allowed by the District due to the inability of the Contractor to hire labor at the minimum rate nor for any necessity for payment by the Contractor for subsistence, travel time, overtime, or other added compensation.

For each worker performing work under the Agreement for which prevailing wages are applicable who is paid less than the stipulated rate by the Contractor, or any subcontractor under it, in violation of the provisions of Section 1770 to Section 1780 of the Labor Code, inclusive, the Contractor shall be subject to the provisions of Section 1775 of the Labor Code, which require the Contractor to pay penalties to the District, and to pay to each worker the difference between such stipulated prevailing wage rates and the amounts actually paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the stipulated prevailing rate.

Contractor is responsible for its and its subcontractors' compliance with all of the provisions of Section 1776 of the Labor Code. Each month, each Contractor and subcontractor shall furnish the records specified in Labor Code Section 1776 directly to the Labor Commissioner, in the format prescribed by the Labor Commissioner, and shall submit them to the District with requests for payment. Certified payroll records shall also be available for inspection at all reasonable hours at the principal office of the Contractor as specified in Labor Code 1776.

The Contractor shall forfeit, as a penalty to the District, the penalty as provided in Section 1813 of the Labor Code for each worker performing work under the Agreement for which prevailing wages are applicable employed in the execution of the Contract by the Contractor, or any subcontractor under the Contractor, for each day during which such worker is required or permitted to work more than eight (8) hours in any one (1) day and forty (40) hours in any one (1) week, in violation of the provisions of the Labor Code, and in particular, Section 1810 to Section 1815 thereof, inclusive, except that work performed by employees of Contractors in excess of eight (8) hours a day and forty (40) hours during one (1) week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day, at not less than one and one-half (1.5) times the basic rate of pay as provided for in Section 1815 of the Labor Code.

It shall be the responsibility of the Contractor, if it employs tradespersons in any apprenticeable occupation, to comply by the provisions of Section 1777.5 of the Labor Code and the regulations of the California Apprenticeship Council, which pertain to the employment of apprentices, and shall require all subcontractors employed by or contracting with the Contractor to abide by said provisions. The Contractor shall furnish the District sufficient evidence of compliance with this code section upon request of the District. For failure to comply with Section 1777.5 of the Labor Code where applicable, the Contractor shall be subject to the penalties in Section 1777.7 of the Labor Code.

20. Safety

To protect the public's safety as well as the safety of their employees, the District's employees, and all persons at or near the site(s) of work, the Contractor and its subcontractors shall take all measures required to comply with all applicable Federal, State, County, and local laws, ordinances, codes, and regulations, including but not limited to, providing protection barriers and barricades, and signs. The Contractor, its suppliers, and its subcontractors of all tiers, and their respective employees, shall also comply with the CCWD Contractor Safe Practices Handbook at all times when present on District property or at the site(s) of work. The Handbook is available at <http://www.ccwater.com/files/safepacticeshandbook.pdf>. The signature page of the CCWD Contractor Safe Practices handbook shall be signed by the Contractor and submitted to the District.

The Contractor shall provide copies of the Handbook to all Sub-Contractors. The Contractor shall be solely and completely responsible for performing all work under this Agreement so as to protect the safety of all persons and property at or near any site(s) of the work. The Contractor shall continually and diligently inspect all work, materials and equipment to discover, and shall be solely responsible for discovery and correction of, such conditions which might cause bodily harm to persons or damage to property. These requirements shall apply twenty-four (24) hours per day continuously during the term of this Agreement and shall not be limited to normal working hours. The District shall not be responsible in any way for the methods selected by the Contractor in discharging its exclusive responsibility for safety of its work hereunder.

The Contractor shall perform all work in a fire-safe manner. He shall supply and maintain on the site adequate fire-fighting equipment capable of extinguishing incipient fires. The Contractor shall comply with applicable Federal, local, and State fire-prevention regulations, or, if these regulations do not apply, applicable parts of the National Fire Prevention Standards for Safeguarding Building Construction Operations (NFPA No. 241).

In the event of any spill or other release to the environment of any regulated chemical in any physical form that occurs on or immediately adjacent to the site(s) and arises from work under this contract, the Contractor shall immediately notify the District. The Contractor shall be responsible for all costs that result from any chemical spill or other release caused by the Contractor including, but not limited to containment, control, and disposal, and any fines or other damages lawfully assessed against the Contractor or the District.

The Contractor shall cooperate fully with District personnel while working within the scope of this contract.

The Contractor shall support a drug-and-alcohol free workplace. The unlawful use, possession, or distribution of a controlled substance within the site(s) of any work will not be tolerated. Employees are prohibited from being under the influence of alcohol within the site(s) of any work. The Contractor shall be responsible for initiating, maintaining, and supervising safety and anti-substance abuse programs in connection with the work.

If the work to be performed under this contract involves confined space work, the Contractor shall prepare confined space operating and rescue procedures fully complying with the applicable provisions of Section 5158, Title 8, California Code of Regulations and shall submit the procedures to the District. The Contractor shall be fully responsible for the adequacy of the procedures. The District shall neither review nor accept the procedures, and the sole purpose of submitting the procedures is to advise the District that such procedures have been prepared.

To the extent required by Labor Code Section 6401.7, Contractor shall establish, implement, and maintain a written injury prevention program, and shall take all actions necessary to comply with all provisions thereof before proceeding with any work under the Agreement, including but not limited to furnishing and maintaining all safety equipment, test equipment, and safety apparel applicable to the work, enforcing the use of such equipment by its employees and the employees of any of its Subcontractors, and furnishing all items necessary for giving first aid and other medical

treatment to anyone injured at any site(s) of work, and shall provide for the immediate removal of such person to a hospital or a doctor's care.

If death or serious injuries or illness, or serious damages are caused, the accident or illness shall be reported immediately by telephone or messenger to the District. In addition, the Contractor must promptly report in writing to the District, all accidents whatsoever arising out of, or in connection with, the performance of the work whether on, or adjacent to, the site(s), giving full details and statements of witnesses. The Contractor shall make all reports as are, or may be, required by any authority having jurisdiction, and permit all safety inspections of the work being performed under this Agreement. If a claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the District, giving full details of the claim.

21. Differing Site Conditions

Pursuant to Public Contract Code Section 7104, the Contractor shall promptly, and before such conditions are disturbed, notify the District, in writing, of any:

- a. Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
- b. Subsurface or latent physical conditions at the site differing from those indicated.
- c. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Agreement.

In addition to giving written notice as described above upon encountering material that the Contractor believes may be "hazardous waste" as defined above, Contractor also shall immediately stop all Work to any area affected by said material, if continuing Work may present a substantial danger to persons or property exposed to the materials in connection with any Work at the site. These obligations pertaining to "hazardous waste" shall apply only to such "hazardous waste" not shown or indicated in the Agreement Documents to be within the Scope of Work.

The District, or the Contractor, if the District so directs in its sole discretion, shall promptly investigate the conditions, determine the necessity to retain a qualified expert to evaluate such hazardous condition, and/or to take corrective action, if necessary, and if the District finds that the conditions do materially differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work, the District shall cause to be issued a change order.

Contractor shall not be required to resume work in connection with such hazardous condition identified in the Agreement Documents, or in any such affected area until after District has obtained any required permits related thereto and delivered to Contractor special written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the

resumption of work, or (ii) specifying any special conditions under which such work may be resumed safely.

In the event that a dispute arises between the District and the Contractor whether the conditions materially differ, or involve hazardous waste (other than that shown or indicated in the Agreement Documents), or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the Agreement, but shall proceed with all work to be performed under the Agreement provided that, if after receipt of the special written notice described above in this section 21, Contractor does not agree to resume such work based upon a reasonable belief that it is unsafe to do so, or does not agree to resume such work under the special conditions specified in said special written notice, the District may at its sole election order the portion of the Work affected by said hazardous waste to be deleted from the Work, and the District may thereupon have the portion of the Work so deleted performed by District's own forces or by separate Agreement(s). The Contractor shall retain any and all rights provided either by Agreement or by law which pertain to the resolution of disputes and protests between the contracting parties.

No claim of the Contractor under this clause shall be allowed unless the Contractor has complied with Section 23.

The Contractor shall cooperate with forces engaged in sampling, investigation, and clean-up work pertaining to hazardous waste (whether or not said hazardous waste is shown or indicated in the Agreement Documents) and shall conduct its operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by such forces.

The District shall not be responsible for any such materials brought to the site by the Contractor, subcontractors, suppliers, or anyone else for whom the Contractor is responsible.

22. Retention

As specified in Public Contract Code Section 9203, District will deduct and retain five percent (5%) from each progress payment, if any, and will retain such amounts in accordance therewith as part security for the satisfactory and timely completion of the Work until release thereof is required under Public Contract Code Section 7109:

In addition to the amount which the District may otherwise retain under the Contract, the District may withhold a sufficient amount or amounts of any payment or payments otherwise due the Contractor, as in its judgment may be necessary to cover just claims against the Contractor or any subcontractor for labor or materials furnished for the performance of this Contract, damage to the District or a third party, and any costs or penalties imposed because of the failure of the Contractor or any subcontractor to comply with environmental, labor, employee safety, or any other regulatory requirements. When the above reasons for withholding are resolved, payment may be made to the Contractor for amounts withheld less any District incurred expenses.

- a. Pursuant to Public Contract Code Section 22300, for moneys earned by the Contractor and withheld by the District to ensure the performance of the Contract or otherwise as provided

above, the Contractor, may, at their option, choose to substitute securities, meeting the requirements of said Section 22300. In the event the Contractor wishes to choose this option, the Contractor shall enter into an escrow agreement with the District and the escrow agent, a qualified bank to be acceptable to the District, in the form of the agreement included in the project specifications. The costs of such escrow shall be paid by the Contractor. The securities to be deposited in said escrow account shall be equivalent, in fair market value, to the amount to be withheld as performance retention. The securities shall be held in accordance with the provisions of Public Contract Code Section 22300, and the implementing agreement.

- b. Contractor shall have the obligation of ensuring that such securities deposited are sufficient so as to maintain, in total fair market value, an amount equal to the cash amount of the sums to be withheld under the Contract. If, upon written notice from the District, or from the appropriate escrow agent, indicating that the fair market value of the securities has dropped below the dollar amount of moneys to be withheld by the District to ensure performance, Contractor shall, within five (5) days of the date of such notice, post additional securities as necessary to ensure that the total fair market value of all such securities held by the District, or in escrow, is equivalent to the amount of money to be withheld by the District under the Contract.
- c. Any Contractor wishing to exercise this option shall, at the request of any Subcontractor performing more than five percent (5%) of the Contractor's total bid/proposal price, make this same option available to the Subcontractor regarding any moneys withheld in retention by the Contractor, and if the Contractor elects to receive interest on any moneys withheld in retention by the District, then the Subcontractor shall receive the identical rate of interest on any retention moneys withheld from the Subcontractor by the Contractor. In addition, any Contractor wishing to exercise its option to substitute securities shall give notice in writing to District, and shall thereafter execute an escrow agreement in the form entitled **SECURITY DEPOSITS IN LIEU OF RETENTION**.

23. Dispute Resolution

This section specifies the procedures for making, processing, and resolving claims.

- a. *Notice and Submission* - Claims based on adverse determinations of the District regarding the meaning of the Agreement shall be filed in writing within ten (10) days of receipt of such decision. All other Claims for extra work shall be filed in writing prior to the commencement of such work. Such Claims shall state the circumstances and the reasons for the claim, but need not state the amount. No claim filed after the date of final payment will be considered.

Unless notice is properly given, the Contractor shall not recover costs incurred by it as a result of the alleged extra work, changed work, or other situation which, had proper notice been given, would have given rise to a right for additional compensation. Timely notice of potential claim is of great importance to the District, and is not merely a formality. Such notice allows the District to consider preventative action, to monitor the Contractor's increased costs resulting from the situation, to marshal facts, and to plan its affairs. Such notice by the Contractor, and

the fact that the District has kept account of the costs, shall not in any way be construed in any way as proving the validity of the claim.

- b. *Written Statement* – Upon receipt of a Claim sent by registered mail or certified mail with return receipt requested, the District 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. Upon receipt of a Claim, the District and the Contractor may, by mutual agreement, extend the time period provided in the preceding sentence.
- c. *Records of Disputed Work* - The Contractor shall furnish reasonable documentation to support the Claim. Unless otherwise agreed, such documentation will consist of accurate records of all costs, including a daily summary of the hours and classification of equipment and labor utilized on the disputed work, as well as a summary of any materials or any specialized services which are used. Unless otherwise agreed in writing, such information shall be submitted to the Construction Administrator on a monthly basis, receipt of which shall not be construed as an authorization for or acceptance of the disputed work.
- d. *Submission of Claim Costs* - Within thirty (30) days after the last cost of work for which the Contractor contends it is due additional compensation is incurred, the Contractor shall submit to the Construction Administrator reasonable documentation to support the Claim, including, as best it is able, its costs incurred for the claimed matter. If costs are incurred over a span of more than thirty (30) days, then within fifteen (15) days after the thirtieth day of the first month and every month thereafter, the Contractor shall submit to the Construction Administrator reasonable documentation to support the Claim, including, as best it is able, its costs incurred for the claimed matter.
- e. *Board approval* - If the District 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 the 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, the District shall have up to three days following the next duly publicly noticed meeting of the 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.
- f. *Payment of Undisputed portion* - Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement. If the District fails to issue a written statement, subsection i shall apply.
- g. *Informal conference* - If the Contractor disputes the District's written statement, or the District fails to provide a written statement responding to the Claim within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the District shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute.

- h. *Further written statement; 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, the District 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 the District issues its written statement. Any disputed portion of the Claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the District and the Contractor sharing the associated costs equally. The District and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. 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. If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be subject to applicable procedures outside this Section.

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.

Unless otherwise agreed to by the District and the Contractor in writing, the mediation conducted pursuant to this Section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced.

- i. *Effect of failure to respond* - Failure by the District to respond to a Claim from a 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. A Claim that is denied by reason of the District's failure to have responded to a Claim, or its failure to otherwise meet the time requirements of this Section, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the Contractor.
- j. *Interest* - Amounts not paid in a timely manner as required by this Paragraph 00700-7.3 shall bear interest at 7 percent per annum.
- k. *Subcontractors' claims* - If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against the District because privity of contract does not exist, the Contractor may present to the District a Claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the Contractor present a Claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the District shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, the Contractor shall notify the subcontractor in writing as to whether the Contractor presented the Claim to the District and, if the original Contractor did not present the Claim, provide the subcontractor with a statement of the reasons for not having done so.

- l. Claims for Three Hundred Seventy Five Thousand Dollars (\$375,000) or less which cannot be resolved between the parties shall be resolved pursuant to the provisions of the Public Contract Code commencing with section 20104, except that the mediation conducted pursuant to this Section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced unless otherwise agreed.
- m. *Proceedings in Court* - If a civil action is filed to resolve the Claim, 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 1141.11 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 to the extent consistent with the rules pertaining to judicial arbitration.
 1. **Arbitrators.** Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.
 2. **Trial de Novo.** In addition to chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.
 3. **Witnesses.** The court may, upon request by any party, order any witnesses to participate in the mediation (if any) or arbitration process.
 4. **Payment of Undisputed Claims.** The District shall not fail to pay money as to any portion of a claim that is undisputed except as otherwise provided in the Contract Documents.
 5. **Interest.** In any suit filed on a claims subject to Public Contract Code section 20104, the District shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law in the California County where the work is being performed.
 6. **Venue.** Should either party to this Agreement bring legal action against the other, the case shall be handled in the California county where the work is being performed. The Agreement shall be construed and its performance enforced under California law without regard to the conflict of law provisions thereof.

24. Underground Work

The following provisions will govern any underground work under this Agreement.

- a. For each excavation five (5) feet or more in depth, Contractor shall provide shoring, bracing, sloping, or make other provisions in accordance with Labor Code Section 6705, to protect

workers from hazard of caving ground during such excavation. In addition, the Contractor shall submit, sufficiently in advance of excavation to permit review by the District, detailed plans showing the design of the provisions to be made for worker protection from hazard of caving ground during such excavation. If such plans vary from the shoring system standards set forth in the Construction Safety Orders in Title 8, California Code of Regulations, the plans shall be prepared and signed by a registered civil or structural engineer. Shoring, bracing, sloping, or other protective system shall not be less effective than required by the California Construction Safety Orders, and shall be accepted by the District before excavation may begin. The Contractor shall designate in writing to the Construction Administrator the "competent person" with the authority and responsibilities designed in the Construction Safety Orders. By submitting its plan, the Contractor warrants that its actions pursuant thereto shall not impose tort liability on the District, its Contractors, and their respective employees, agents.

- b. Notification: Pursuant to Government Code Sections 4216 through 4216.24, the Contractor shall notify the appropriate regional notification center of all excavations, as defined in Government Code section 4216(t), for all excavations, by obtaining a ticket, as defined in Government Code section 4216(g), from Underground Service Alert of Northern/Central California and Nevada ("Underground Service Alert") by logging on the website at www.usanorth811.org. If the work is at a single address, the Contractor may instead log on to the website at www.811express.com. If it is necessary to do so, the Contractor may instead contact Underground Service Alert by dialing 811. The business office of Underground Service Alert can be contacted at 1-800-642-2444 for reasons other than to request that subsurface installations be field marked. Contractor shall furnish to the Construction Administrator written documentation of its contact(s) with Underground Service Alert within three (3) days after such contact(s). If any portion of the excavation will be on private property, the Contractor shall check if any local ordinances apply to the placement of temporary markings, and shall ensure that any temporary marking placed at the planned excavation location can be clearly seen, functional, and considerate to surface aesthetics and the local community.

- c. Identification of Location: The Contractor shall notify the appropriate regional notification center as described in Paragraph 00700-9.1 at least two (2) working days (not including the date of notification) but not more than fourteen (14) days before beginning any excavation work. Before notifying the appropriate regional notification center as described in the preceding sentence, the Contractor shall delineate (as specified in Government Code section 4216.2(d)) the area to be excavated. Underground Service Alert will notify the operators of subsurface installations in the area of the proposed excavation, to enable them to locate and field mark (as specified in Government Code section 4216.2(d)) the location of their subsurface installations within the tolerance zone (as "tolerance zone" is defined in Government Code Section 4216(u)) as required by Government Code section 4216.3(a). Contractor shall furnish to the Construction Administrator written documentation of its contact(s) with the appropriate regional notification center within 3 (three) days after such contact(s).

A ticket shall be valid for 28 days from the date of issuance. If work continues beyond 28 days, the Contractor shall renew the ticket by the end of the 28th day either by logging on the Underground Service Alter website at www.usanorth811.org, or if it is necessary to do so, by dialing 811. Contractor shall also provide written documentation to the Construction

Administrator of its contact(s) with Underground Service Alert and any other Regional Notification Center as described in the preceding sentence.

If a ticket obtained expires but work is ongoing, the Contractor shall get a new ticket and wait a minimum of two working days, not including the date of call in, before restarting excavation. All excavation shall cease during the waiting period.

Where the excavation does not require an excavation permit, at District facilities such as treatment plants, pumping plants, pump stations, reservoirs, and Contra Costa Canal, where the property is known, or reasonably should be known, to contain a subsurface installation, the District performs additional locating for electrical, control, chemical, cathodic protection, and irrigation lines. The Contractor shall delineate the area to be excavated and then notify the Construction Administrator and Underground Service Alert at least five (5) working days before potholing or excavating at these sites. The Contractor shall be responsible for verifying location, including depth of existing utilities, prior to the relevant submittals. The Contractor shall preserve markings provided by the District so that remarking of the same utilities is not required.

Upon being notified by the operator of the high priority subsurface installation that the excavation is proposed within ten (10) feet of a high priority subsurface installation, the Contractor shall meet onsite with the operator or its representative at a mutually-agreed-on time to determine actions or activities required to verify the location of the high priority subsurface installations prior to start time. As part of the meeting, the Contractor shall discuss with the operator the method and tools that will be used during the excavation and the information the operator will provide to assist in verifying the location of the subsurface installation. The Contractor shall not begin excavating until after the completion of the onsite meeting.

Unless an emergency exists, the Contractor shall not begin excavation until the excavator receives a response from all known operators of subsurface installations within the delineated boundaries of the proposed area of excavation pursuant to Government Code Section 4216.3(a) and the completion of any onsite meeting, if required by Government Code Section 4216.3(c).

If, at any time during an excavation for which there is a valid ticket, an operator's field markings are no longer reasonably visible, the Contractor shall contact the appropriate regional notification center with a request for re-marks that can be for all or a portion of the excavation. The Contractor shall not proceed with excavation until the operator has re-located and re-marked those subsurface installations that may be affected by the excavation to the extent necessary in conformance with Government Code Section 4216.3(d). If the delineation markings are no longer reasonably visible, the Contractor shall re-delineate the area to be re-marked. The operator shall have two working days, not including the date of request, to re-mark the subsurface installation. If the area to be remarked is not the full extent of the original excavation, the Contractor shall delineate the portion to be remarked and provide a description of the area requested to be remarked on the ticket. The excavator shall provide a description for the area to be remarked that falls within the area of the original location request.

The Contractor shall notify the appropriate regional notification center of the failure of an operator to locate or mark its subsurface installations in compliance with Government Code Section 4216.3(a)(1)(A), 4216.3(a)(1)(B), or 4216.3(b). The notification shall include the ticket.

- c. Contractor's Responsibility: It shall be the Contractor's responsibility to determine the exact location and depth of all subsurface installations, including high priority subsurface installation and service connections, which have been field marked by the respective operators, and which Contractor believes may affect or be affected by Contractor's operations. Only a qualified person, as defined in Government Code section 4216(p) shall perform subsurface installation locating activities, and such person shall use a minimum of a single-frequency utility locating device and shall have access to alternative sources for verification, if necessary. If no pay item is provided in the Contract for this Work.

When the excavation is within the approximate location of subsurface installation, the Contractor shall determine the exact location of subsurface installations in conflict with the excavation by excavating with hand tools within the area of the approximate location of subsurface installations as provided by the operators before using any power-operated or power-driven excavating or boring equipment within the approximate location of the subsurface installation, except that power-operated or power-driven excavating or boring equipment may be used for the removal of any existing pavement if there are no subsurface installations contained in the pavement. If documented notice of the intent to use vacuum excavation devices, or power-operated or power-driven excavating or boring equipment, has been provided to the subsurface installation operator or operators and it is mutually agreeable with the operator or operators and the Contractor, the Contractor may utilize vacuum excavation devices, or power-operated or power-driven excavating or boring equipment within the approximate location of a subsurface installation and to any depth.

If the exact location of the subsurface installation cannot be determined by hand excavating in accordance with the preceding subparagraph, the Contractor shall request the subsurface installation operator to provide additional information to the Contractor, to the extent that information is available, to enable the Contractor to determine the exact location of the installation. The regional notification center shall provide the Contractor with the contact phone number of the subsurface installation operator.

The Contractor assumes responsibility for the removal, relocation, or protection of existing underground facilities wherein said facilities are correctly marked and/or delineated with reasonable accuracy on District's plans, and other underground facilities apparent from visual inspection of the site or which can be inferred from the presence of other visible facilities such as buildings, meters, junction boxes, etc., on or adjacent to the construction site. The Contractor shall coordinate with the owner of underground facilities for the rearrangement thereof. Full compensation for such work shall be considered as included in the price specified in section 3 of the Agreement. Temporary or permanent relocation or alteration of subsurface installations desired by the Contractor for its own convenience shall be the Contractor's responsibility and it shall make arrangements and bear all costs.

The Contractor shall communicate with an operator that has a subsurface installation embedded or partially embedded in the pavement that is not visible from the surface upon being notified by that operator and shall implement a plan of action to protect that subsurface installation as specified in Government Code section 4261.3(e).

- e. Upon discovering or causing damage to a subsurface installation, including all breaks, leaks, nicks, dents, gouges, grooves, or other damage to subsurface installation lines, conduits, coatings, or cathodic protection, the Contractor shall immediately notify the District and the operator of the subsurface installation. If the operator is unknown and the damage or discovery of damage occurs outside the working hours of the regional notification center, the excavator may follow the instructions provided by the regional notification center through its Internet Web site or the telephone line recorded message. If high priority subsurface installations are damaged and the subsurface installation operator cannot be contacted, the Contractor shall call 911 emergency services upon discovering or causing damage to high priority subsurface installation of any kind, including without limitation a natural gas or hazardous liquid pipeline subsurface installation in which the damage results in the escape of any flammable, toxic, or corrosive gas or liquid.

The Contractor shall be responsible for the payment of all civil penalties imposed pursuant to Government Code section 4216.6(a)(1) and/or 4216.6 (a)(2). The Contractor shall also be responsible for the cost of repairing and/or relocating damaged subsurface installations if:

- 1) The Contractor has failed to comply with the provisions of this Section 24 and/or Government Code section 4216.2 through 4216.4;
- 2) The Contractor has failed to comply with the requests of the operator of the subsurface installation to protect the subsurface installation as specified by the operator;
- 3) The damaged subsurface installations are located within the tolerance zone (as “tolerance zone” is defined in Government Code Section 4216(u)) based on the actual field marking; or
- 4) The damaged subsurface installations are apparent from visual inspection of the site or which can be inferred from the presence of other visible facilities, such as buildings, meters, junction boxes, etc., on or adjacent to the construction site.

In addition to the cost of repairing and/or relocating damaged subsurface installations, the Contractor shall, pursuant to Section 2, **Hold Harmless and Indemnification**, defend, indemnify, and hold harmless the District, and its elected officials, officers, agents, employees and representatives against and from all damages, costs, and expenses that may at any time arise out of, or are in any way connected with, damages to a subsurface installation caused by the Contractor’s failure to proceed as specified above.

Time Extensions and Compensation: In the event that subsurface installations are found that are not shown in the Contract Documents or are found to exist in a substantially different location than shown in the Contract Documents, or are not correctly field located (meaning that the installation is not located within the tolerance zone, as “tolerance zone” is defined in

Government Code Section 4216(u), the Contractor shall immediately: (1) notify the District in writing of the existence of said subsurface installations; and (2) take steps to ascertain the exact location thereof all subsurface installations prior to doing any further work that may damage such installations.

Requests for extensions of time arising out of delays resulting from subsurface installations not shown in the Contract Documents or found to exist in a substantially different location than shown in the Contract Documents, and not correctly field marked by a subsurface installation operator, shall be reviewed by the Construction Administrator. In accordance with Government Code Section 4215 the Contractor shall not be assessed liquidated damages for delay in completion of the project, when such delay is caused by the failure of the District or the operator of subsurface installations to provide for the removal or relocation of installations for which the District or the operator is the responsible party as described above in this Section 24.

In accordance with the provisions of Section 9, **Additions, Deletions, and Changes**, the Contractor shall be entitled to compensation for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating subsurface installations other than those for which the Contractor is the responsible party under sub-section 24.d, Contractor's Responsibility, including but not limited to utility mains, and for equipment necessarily idled during such work. No facility actually being installed or replaced by the Contractor under the Contract shall be considered a subsurface installation for the purposes of this Section 24.

Where it is determined by the Construction Administrator that the rearrangement of a subsurface installation, the existence of which is not shown in the Contract Documents, is essential in order to accommodate the contemplated improvement, the Construction Administrator will provide for the rearrangement of such installation by other forces or by the Contractor in accordance with the provisions of Section 9, **Additions, Deletions, and Changes**.

- d. Except where the operator of a damaged subsurface installation has advised that it intends to repair the damage through its own forces or forces that it will retain or has retained, Contractor shall, within twenty-four (24) hours of receipt from the District of notice to commence correction of damage, notify the District, in writing, if Contractor intends to repair the damage. During nights and weekends when work is not in progress, District may give such notice by telephone or by facsimile transmission to the Contractor's facsimile number, and such notice will be immediately effective. The Contractor's failure to provide timely written notification that it intends to repair the damage shall be deemed its agreement that the District may repair the damage at Contractor's expense without further notice and without prejudice to any other remedy available to District. In such event, the Contractor may observe the Work if this can be done without in any way delaying the progress thereof, but may not contest any element of the expense of repair or the lack of further notice. This provision is in addition to any other remedy, including the District's right to carry out the work when the Contractor is in default or in an emergency.

25. Forms Included as Part of the Agreement

- a. Proposed Subcontractor's Form
- b. Non-Collusion Declaration
- c. Faithful Performance Bond
- d. Payment Bond
- e. Workers' Compensation Insurance Certificate
- f. Security Deposits in Lieu of Retention
- g. Warranty Form

The Proposed Subcontractor's Form and the Non-Collusion Declaration shall be completed and submitted with the proposal. The successful respondent will be required to complete and submit the Faithful Performance Bond, Payment Bond, and Workers' Compensation Insurance Certificate within ten days of award of the Agreement, and before any work starts under the terms of the Agreement.

26. Warranty and Scheduled Maintenance

The Contractor hereby agrees to make, at its own expense, all repairs or replacements necessitated by defects in materials or workmanship, in those components provided, installed, replaced and/or modified by the Contractor, and pay for any damage to other works resulting from such defects, which becomes evident within () year(s) after the date of acceptance of installation work, or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Agreement . This warranty shall include all parts and labor and the performance of all manufacturers' recommended maintenance. This in no way shall limit, amend or reduce any manufacturer's warranty. The Contractor further assumes responsibility for a similar guarantee for all work and materials provided by subcontractors. This warranty shall not apply to existing equipment that was not modified or significantly adjusted so as to change its operation. The Contractor also agrees to indemnify, defend and hold the District harmless from liability of any kind arising from damage due to covered defects.

Prior to the final acceptance of installation work, the Contractor shall provide phone numbers for around-the-clock notification of the need for emergency service repairs, a schedule showing specific dates for routine maintenance service calls, and shall execute and submit a completed Warranty Form in the format approved by the District.

The Contractor shall respond within two hours of District's emergency service call and shall provide on-site troubleshooting services within ____ (__) ____ after receipt of notice from the District, and promptly make all repairs arising out of defective materials, workmanship, or equipment. In the event that a service response does not occur within two hours, or troubleshooting services are not on-site within ____ (__) ____, or diligent efforts are not made to effect repairs, the District will notify the contractor (by fax or voice mail if no representative is available) of its intent to secure another service provider. Thereafter, the District is authorized to make such repairs, and the Contractor and his Surety shall be liable for the cost thereof. In case of emergency, where, in the opinion of the District, delay could cause serious loss or damage, repairs may be made without notice being sent

to the Contractor, and the expense in connection therewith shall be charged to the Contractor, and his Surety shall be liable for the cost thereof.

The Contractor shall direct all of its equipment suppliers and/or manufacturers to promptly provide to it and to the District any and all information concerning product defects or other problems and shall promptly forward to the District any such information received, whether before, during, or after the warranty period.

Prior to the expiration of the Warranty period, the District reserves the right to hold a meeting and require the attendance of the Contractor. The purpose of the meeting is to review warranties, bonds, and maintenance requirements, and determine required repair or replacement of defective items.

NON-COLLUSION DECLARATION

State of California)
) ss.
County of)

_____, being first duly sworn, deposes and say that he or she is of _____ the party making the foregoing proposal that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, business entity, business combination, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any other proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding the Agreement of anyone interested in the proposed Agreement; that all statements contained in the proposal are true; and, further, that the proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

Signature

Name of Proposer

Title

Date

Subscribed and sworn to before me this
_____ day of _____, 20__

Signature of Notary Public in and for
the County of _____
State of California.

FAITHFUL PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS, THAT, WHEREAS, Contra Costa Water District, hereinafter designated the "District," has, on _____, 20, awarded to _____ hereinafter designated as the "Contractor," an Agreement for _____, and

WHEREAS, said Contractor is required under the terms of said Agreement to furnish a bond for the faithful performance of said Agreement.

NOW, THEREFORE, WE, the Principal, and _____, as Surety, are held and firmly bound unto the District the penal sum of _____ Dollars (\$_____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal, it or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and faithfully perform the covenants, conditions, and agreements in the said Agreement and any alterations made as therein provided, on it or their part to be kept and performed, at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless, the District, its officers and agents as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

It is acknowledged that this Agreement provides for a one-year warranty period, during which time this bond remains in full force and effect.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or to the Work to be performed thereunder or the specifications accompanying the same shall, in any way, affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Agreement or to the Work or to the specifications. Said Surety hereby waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their seals this day of _____, 20__. The name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Seal)

Principal

Signature for Principal

Title of Signator

Surety

(Seal)

Signature for Surety

Title of Signator

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS, THAT, WHEREAS, Contra Costa Water District, hereinafter designated as the "District," has, on _____, 20__, awarded to _____, hereinafter designated as the "Principal," an Agreement for _____, and

WHEREAS, said Principal is required to furnish a bond in connection and with said Agreement, providing that if said Principal, or any of it or its subcontractors shall fail to pay for any materials, provisions, or other supplies used in, upon, for, or about the performance of the Work contracted to be done, or for any work or labor done thereon of any kind, the Surety of this bond will pay the same to the extent hereinafter set forth.

NOW, THEREFORE, we, the Principal, and _____, as Surety, are held and firmly bound unto the District the penal sum of _____ Dollars (\$ _____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Principal, it or its heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies used in, upon, for, or about the performance of the Work contracted to be done, or for any work or labor thereon of any kind or for amount due under the Unemployment Insurance Act, including such amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and subcontractors under Section 13020 of the Unemployment Insurance Code, with respect to such work or labor, or for any amounts due, or to be withheld pursuant to Sections 18806 of the Revenue and Taxation Code of the State of California with respect to such work or labor, then said surety will pay the same in or to an amount not exceeding the amount hereinabove set forth, and also will pay in case suit is brought upon this bond, such reasonable attorney's fees to the District as shall be fixed by the court.

This bond shall inure to the benefit of any and all persons, companies, and corporations named in Section 9100 of the Civil Code of the State of California so as to give a right of action to them or their assigns in any suit brought upon this bond.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition of the terms of the Agreement or to the Work to be performed thereunder or the specifications accompanying the same shall, in any way, affect its obligations of this bond, and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the Agreement or to the Work or to the specifications. Said Surety hereby waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their seals this day of _____, 20__, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Seal) _____
Principal

Signature for Principal Title

(Seal) _____
Surety

Signature for Surety Title

WORKERS' COMPENSATION INSURANCE CERTIFICATE

In accordance with California Labor Code Section 1861, prior to commencement of work on the Agreement, the Contractor shall sign and file with the District the following certification:

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

Signature

Name of Contractor

Title

Date

ESCROW AGREEMENT FOR
SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into on _____ by and between:

Contra Costa Water District

whose address is 1331 Concord Avenue, Concord, California, hereinafter called "District", and _____
whose address is _____

hereinafter called "Contractor," and _____

whose address is _____
hereinafter called "Escrow Agent".

For the consideration hereinafter set forth, the District, Contractor, and Escrow Agent agree as follows:

1. Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities which meet the requirements set forth in said Section 22300, with Escrow Agent, as a substitute for retention earnings required to be withheld by District pursuant to the Construction Contract entered into between District and Contractor for _____
_____ in the amount of _____ dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the Contractor, the District shall make payments of the retention earnings directly to the Escrow Agent. When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the District within ten (10) days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the District and Contractor. Securities shall be held in the name of District, and shall designate the Contractor as the beneficial owner.
2. District shall make progress payments to Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
3. When the District makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until such time as the escrow created under this Contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the District pays the Escrow Agent directly.
4. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account, and all expenses of the District. These expenses and payment terms shall be determined by the District, Contractor and Escrow Agent.
5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor, at any time and from time to time, without notice to the District.
6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from District to the Escrow Agent that

District consents to the withdrawal of the amount sought to be withdrawn by Contractor.

7. The District shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven (7) days' written notice to the Escrow Agent from the District of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the District.
8. Upon receipt of written notification from the District certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.
9. Escrow Agent shall rely on the written notifications from the District and the Contractor pursuant to Sections (5) to (8), inclusive, of this Agreement, and District and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.
10. The persons who are authorized to give or receive written notice on behalf of the District and on behalf of the Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

ON BEHALF OF DISTRICT:

ON BEHALF OF CONTRACTOR:

General Manager
Title

Title

Stephen J. Welch
Name

Name

Signature

Signature

1331 Concord Avenue, Concord, CA 94520
Address

Address

***ON BEHALF OF DISTRICT:**

ON BEHALF OF ESCROW AGENT:

Assistant General Manager
Title

Title

Rachel Murphy
Name

Name

Signature

Signature

1331 Concord Avenue, Concord, CA 94520
Address

Address

At the time the Escrow Account is opened, District and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

DISTRICT:

CONTRACTOR:

General Manager _____
Title

Title

Stephen J. Welch _____
Name

Name

Signature

Signature

* In the event the General Manager is not available to give or receive written notice on behalf of the District, the Assistant General Manager shall be authorized to give or receive said written notice.

WARRANTY FORM

Warranty For

(Project/Component)

(Location)

We hereby guarantee the _____ (Project/Component) that we have constructed for a period of ____ (__) year(s) from _____ (Date) the date of final acceptance by the Contra Costa Water District of the installation work.

The following are excluded from the provisions of this warranty:

We agree that if any of the equipment should fail due to any reason other than improper maintenance or improper operation, or should any portion of the work fail to fulfill any of the requirements of the Agreement, including without limitation the Scope of Work, we will, within five (5) days after receipt of written notice of such defects, provide on-site troubleshooting services, and within ten (10) days after receipt of written notice, commence to repair or replace the same together with any other work which may be damaged or displaced in so doing.

In the event of our failure to comply with the above mentioned conditions or should the exigencies of the case require repairs or replacements to be made before we can be notified or respond to notification, we do hereby authorize the Contra Costa Water District to proceed to have the defect repaired and made good at our expense, and we will pay the cost therefor upon demand.

The warranty provided herein shall not be in lieu of, but shall be in addition to any warranties or other obligations otherwise imposed by the Agreement and by law.

Contractor: _____

Signed: _____

Title: _____

Date: _____

SCOPE OF WORK

Section 1. General Services to be Provided and Requirements

Types of Services:

Deliverables:

CONTRACTOR'S RATES AND CHARGES

1.1 Bid/Proposal Form

Bids/proposals must be submitted only upon the forms provided in the bid/proposal package, including but not limited to pricing sheets, addenda and bid/proposal guarantees, with all items properly filled out in non-erasable permanent ink. All bid/proposal documents must be signed and dated. The bid/proposal form may be rejected if it shows any omissions, alterations of form, a conditional bid/proposal or irregularities of any kind.

All sealed bids and proposals to be considered for acceptance must be received by the District on or before the specified date and time for submittal. Bids/Proposals received after said date and time will be returned to the sender unopened and will not be considered under any circumstances. Bids/Proposals postmarked but received after the bid opening will not be accepted. Bids/Proposals submitted electronically or by facsimile will not be accepted.

All **bids** will be publicly opened and read aloud to all in attendance at the District’s headquarters at 1331 Concord Ave, Concord CA 94520 at the time and date specified. Bidders are invited, but not required, to attend the bid opening. Proposals will be evaluated based on stated evaluation criteria and results posted on the District’s web site.

The Contra Costa Water District reserves the right to reject any and all bids/proposals and to waive informalities, irregularities or technical defect in the bids/proposals received. The District reserves the right to award a contract to other than the lowest responsible Bidder, if it is determined to be in the best interest of the District.

1.2 Estimated Quantity

Unless otherwise stated, the quantities and/or dollar estimates indicated are estimates of anticipated usage for the contract period and are given for informational purposes only. Nothing in these estimated contract period or annual quantities shall be construed as obligating the District to purchase specific quantities, as these quantities may vary depending on actual operating conditions and demands during the contract term. The District reserves the right to purchase any volume of products or services listed, at the contract price, regardless of stated estimates of quantities or dollar estimates. No price adjustments will be allowed as a result of an increase or a decrease in the quantity purchased.

1.3 Delivery Locations

The District’s service area covers the eastern portion of Contra Costa County and has delivery locations in Concord, Oakley and Brentwood California. The Bidder/Proposer must take into consideration deliveries to any or all of these locations.

1.4 Bid/Proposal Pricing

All bids/proposals submitted must include a stated unit price for the products or services listed. Units of measure can vary but will be described in the bid/proposal documents. The stated unit price must include all costs associated with providing and delivering the products or services including materials, labor, equipment, transportation, insurance, overhead, and profit. State sales tax, as well as any Federal, State, or Local excise taxes in effect at the time of delivery should **not** be included in the bid/proposal price unless specifically requested on the pricing sheet, but applicable taxes must be included on all invoices that correspond to deliveries of products or services.

Bids/Proposals qualified by additional or conditional charges such as Consumer Price Index calculators, fuel surcharges, or transportation charges between the supplier and the final delivery points will not be allowed unless otherwise stated. Bids/Proposals that do not include the unit prices will be considered irregular and, at the option of the District, may be eliminated from further consideration.

1.5 Bidder Qualifications

A qualified Bidder is one determined by the District to meet standards of business competence, reputation, financial ability, and product quality. A responsive Bidder is a firm/person who has submitted a bid that conforms in all material respects to the terms and conditions, the specifications of the product, and any other requirement of the bid instructions. A responsible Bidder is a firm/person who has the capability in all aspects to perform full contract requirements, and who has the integrity and reliability that will assure good faith and specific performance. Before submitting a bid, the Bidder must carefully examine and read all parts of the Bid Contract Documents, and be fully informed as to all existing conditions and limitations. It should be noted that the entire contents of the Bid Contract Documents will be part of the agreement upon selection and approval of the successful Bidder/Proposer.

1.6 Authorized Signatory of Bid/Proposal Contract Documents

The person signing the submitted bid/proposal must be fully authorized to represent and legally bind the bidding/proposing company regardless of their position within that firm.

1.7 References

Where specifically requested, the Bidder/Proposer must submit with the bid a list of a minimum of three references that have purchased similar products and/or services from the Bidder/Proposer. The Bidder/Proposer must provide the company or agency name, contact name, and telephone number for each reference.

1.8 Bid/Proposal Submittal

All bid/proposal submittals must be enclosed in a sealed envelope and clearly marked with a description of the products or services to be provided by the date and time specified. The original and any additional copies specified of the bid and all attachments must be submitted. **Bids/proposals submitted electronically or by facsimile will not be accepted.** It is the Bidder’s/Proposer’s responsibility to ensure that any bid/proposal that is submitted is received in the proper format, time, and place. The Bidder/Proposer is responsible for allowing adequate time for delivery of their bid/proposal by hand delivery, express delivery, US Mail, or by other means. Bids/Proposals received after the date and time specified will not be accepted and will be returned to the Bidder/Proposer unopened.

1.9 Modification, Addenda, and Interpretations

Any explanation desired by the Bidders/Proposers regarding the meaning or interpretation of the bid/proposal documents must be requested in writing, either by facsimile or mail, at least **7 days** prior to the time set for the bid opening/proposal due date. Any and all such interpretations or modifications must be in the form of written request to the District and mailed to:

Christina Cullins
 Acting Purchasing Officer
 Contra Costa Water District
 1331 Concord Ave.
 Concord CA 94520

Any changes made to the bid/proposal documents initiated by the District will be through written addenda and furnished to all bidders/proposers via US Mail, email or fax. Any written addendum issued before the date and time of the bid opening or proposal due date will become a part of the Bid/Proposal Contract Documents and must be signed and attached to the Bid/Proposal Form that each bidder/proposer submits. Failure to submit any and all the addendum(s) with a bid/proposal will be cause for rejection of the bid/proposal.

1.10 Modification of Bids/Proposals

A Bidder/Proposer may modify their bid/proposal by written communication provided such communication is received by the District prior to the date and time of the bid opening or proposal due date. The written

communication should not reveal the bid price and should state the addition or subtraction or other modification so that the final prices or terms will not be known by the District until the sealed bids/proposals are opened.

1.11 Withdrawal of Bids/Proposals

Any bid/proposal may be withdrawn any time prior to the stated bid opening or proposal due date and time (opening time) only by a written request that is filed with the District requesting withdrawal of the bid/proposal. The withdrawal request must be executed by the bidder/proposer or a duly authorized representative. The withdrawal of the bid/proposal does not prejudice the right of the bidder/proposer to file a new bid/proposal prior to the bid/proposal closing time. No bids/proposals may be withdrawn after the opening date and time without the permission of the District.

1.12 Proposed Deviations from the Specifications by the Bidder/Proposer

Any deviation from the specifications described herein or in a written addendum that is proposed by a bidder/proposer must be noted in detail on the bid/proposal form, and a copy of the proposed specification must be attached to the bid/proposal form at the time of submission. The absence of a proposed change in the specifications will hold the bidder/proposer strictly accountable to the specifications as described herein. If proposed deviations from the specifications are submitted, the bidder’s/proposer’s name should be clearly shown on each document. The District will be responsible for accepting or rejecting any proposed deviations/substitutions from the described specifications.

1.13 Competency of Bidders/Proposer

Before any contract is awarded the bidder/proposer may be required to furnish a complete statement of financial ability and experience in performing the proposed services. In accordance with the provisions of the California Business and Professions Code and other regulations, the bidder/proposer must have and maintain current any and all necessary licenses or certificates.

1.14 Rejection of Bids/Proposals

The District reserves the right to reject any and all bids/proposals, and reserves the right to waive and/or reject a bid/proposal for any of the following reasons: informalities, nonconforming, non-responsive or conditional bids/proposals, bids/proposals showing any alterations of form or erasures or irregularities of any kind, additions not called for, incomplete bids/proposals, or bids/proposals not conforming with the written instructions in any way. The District does not obligate itself to accept the lowest cost bid or proposal or any particular bid or proposal and specifically reserves the right to reject any or all bids or proposals, to make any rejections in what it alone considers to be in the best interest of the District.

1.15 Opening Bids

After the closing time deadline, all **bids** received will be publicly opened and read, as set forth in the Invitation to Bid documents. Bidders or their representative and other interested persons may be present at the opening and reading of the bids. Following the bid opening, a bid tabulation will be circulated to all of the responsive bidders, even if their representative was not present at the bid opening.

Proposals will be evaluated based on stated evaluation criteria and scored. Highest ranking proposal will be selected for award. The District reserves the right to interview highest ranking firms for final selection.

1.16 Method of Award

Bids may be awarded by the District to the lowest, responsive, and responsible bidder meeting the specifications. The District has the right to delete terms or options from the Bid Contract Documents, and reserves the right to reject any and all bids and to waive irregularities in said bids. The following is a non-inclusive list of criteria that must be used in Award of the Bid.

- a. Unit cost of the product

- b. Product specifications
- c. Guaranteed warranties or standards of quality
- d. Capabilities to deliver product within District schedule or throughout the contract term
- e. Bidder’s reputation, competency, and previous customer service record
- f. Fully executed non-collusion affidavit

1.17 Disqualification of Duplicate or Collusive Bidders/Proposers

More than one bid/proposal from an individual, a firm or partnership, a corporation or an association under the same or different names will not be considered. Reasonable grounds for believing that any Bidder/Proposer with financial interest in more than one bid/proposal for the bid/proposal contemplated will cause rejection of all bids/proposals in which such bidder/proposer is interested. If there is reason for believing that collusion exists among the bidders/proposers, any and all bids/proposals may be rejected.

1.18 Identical Bids

In the case of tied or identical bids corresponding to the proposed unit costs, the District reserves the right to award the bid based on the factors outlined in paragraph 1.16, Method of Award.

1.19 Bid/Proposal Summary

Bid/Proposals will be summarized and reviewed following the bid opening or proposal due date. Bid/Proposal summaries or tabulations will also be provided to the responsive bidders/proposers within ten (10) business days following the bid opening or proposal due date on the District’s web site, www.ccwater.com.

1.20 Material Safety Data Sheet (MSDS)

Where appropriate, bidders/proposers must submit an MSDS sheet for all applicable products offered with the bid/proposal. The successful bidder/proposer must also provide an MSDS sheet for those products with each delivery.

1.21 Legislative Impacts

In the event that the District Board of Directors fails to appropriate funds for the purchase of these products or services, the District may terminate such contract without penalty and thereupon be released of further obligation.

1.22 Subcontracting

No portion of the bid/proposal award may be subcontracted to another vendor or supplier without the prior written approval of the District. All proposed subcontractors must be listed and identified on any provided Proposed Subcontractors Sheet.

1.23 Insurance

Insurance to be provided at levels as stated on the District contract documents provided. **Prior to commencement of any performance under this contract, the successful Bidder/Proposer must provide** an original Certificate of Insurance, and copies of information or declaration pages for the insurance required with respect to evidence of commercial general liability and automobile liability insurance coverage endorsements. All policies and/or certificates of insurance must be endorsed to name the District, its elected officials, officers, employees, agents, and volunteers as additional insured parties.

The successful bidder/proposer hereby agrees to waive subrogation which any insurer of Contractor may acquire from vendor by virtue of the payment of any loss. Contractor agrees to obtain and provide to the District any endorsement that may be necessary to affect this waiver of subrogation. The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of the District for all work performed by the Contractor, its employees, agents and subcontractors.

The successful bidder/proposer must maintain the required insurance at all times while this contract is in effect, and must replace any certificate, policy or endorsement which will expire prior to that date. All policies must be endorsed to provide that the required insurance must not be suspended, voided, reduced, canceled, or allowed to expire except on thirty (30) days prior written notice to the District. The Certificate of Insurance must have a cancellation statement worded as follows: *“Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will mail 30 days written notice to the Certificate holder named to the left.”*

1.24 Indemnification

As stated on District contract forms provided.

1.25 Equal Opportunity

The successful bidder/proposer must agree not to refuse the hire, discharge, promote, or to otherwise discriminate in the matters of compensation against any person otherwise qualified solely because of race, creed, sex, national origin, ancestry, physical handicap or sexual orientation. It must be a condition that any company firm or corporation supplying goods or services, must be in compliance with the appropriate areas of the Americans with Disabilities (ADA) Act of 1990. A certificate stating compliance with the ADA may be required, upon request.

1.26 Common Language

Unless otherwise specified in this document, all words must have a common language unless the context in which they are used clearly requires a different meaning. Words in the singular number include the plural, and in the plural include the singular.

1.27 Proprietary Information

All information included in any bid/proposal that is of a propriety nature must be **clearly** marked as such. The District must be held harmless from any claims arising from the release of proprietary information not clearly designated as such by the proposing firm.

1.28 Patent Guarantee

The bidder/proposer must, with respect to any bidder/proposer’s standard manufacture, indemnify and hold harmless the District, its employees and agents, from costs and damages as finally determined by any court of competent jurisdiction for infringement of any United States Letters & Patent by reason of the sale or normal use of such product, provided that the Bidder/Proposer is promptly notified of all such actual or potential infringement suits, and is given an opportunity to participate in the defense thereof by the District.

1.29 Term of Contract

The typical term of District maintenance, repair and service contracts will be twelve (12) months, normally commencing on July 1st, and expiring on June 30th, unless otherwise stated.

1.30 Termination for Cause

In the event of a breach of any term or provision of this contract by the bidder/proposer, the District may terminate this contract by providing the bidder/proposer with written notice of such termination, and specifying the effective date thereof, at least ten (10) days before the effective date.

1.31 Other Cities/Agencies

Other Cities and/or Public Agencies may be interested in purchasing goods and services under the same arrangement as an existing contract, also called “piggy-backing”, subject to the same price, terms and conditions offered to the District. Other parties utilizing the contract will place orders with, and make payments directly to the successful Bidder. Agreement with “piggy-backing” or declining to participate in “piggy-back” contracts with other Cities and/or public agencies will not be used by the District to determine an award for the bid/proposal invitation, unless more than one bidder were to submit identical bid prices and terms. Please state if your company would agree to extend the same price, terms and conditions to other Cities and/or Public Agencies.

Yes ____ We would agree to extend the same price, terms and conditions.

No ____ We would not agree to extend the same price, terms and conditions.

BIDDER/PROPOSER INFORMATION

1. Legal Name of Bidder:

2. Bidder's Street Address:

3. Mailing Address:

4. Business Telephone: _____ Fax Number: _____

5. Type of Supplier:

Sole Proprietor Partnership Corporation

If Corporation, indicate State where incorporated: _____

6. Business License Number issued by the City where the Supplier's principal place of business is located.

Number: _____ Issuing City: _____

7. Supplier Federal Tax Identification Number: _____

8. Emergency Contact: Name: _____

Phone Number: _____

9. Order Contact: Name: _____

Address: _____

Phone Number: _____ Fax Number: _____

Email: _____

10. References:

<u>Company/Agency Name</u>	<u>Contact Name</u>	<u>Phone Number</u>
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1) _____

2) _____

3) _____

BID GUARANTEE

TO THE CONTRA COSTA WATER DISTRICT, CONCORD, CALIFORNIA:

Pursuant to the foregoing bid notice to bidders, the undersigned bidder herewith submits a bid on the bid sheet or sheets attached hereto and made a part hereof, and binds himself/herself on award by the Contra Costa Water District (District) under this bid to execute in accordance with such award a contract, of which this bid and the said notice to bidders and the specifications attached to the notice to bidders shall be a part.

The bidder further agrees that, should the bidder withdraw this bid/proposal in a manner other than provided for in the specifications, or his/her default in executing the contract, {providing the necessary insurance and bonds} or timely provision of {materials} {equipment} {services} under said contract in a manner satisfactory to District, the bidder/proposer shall pay any and all additional cost incurred by District in obtaining the {materials} {equipment} {services} from another firm.

Signature: _____

Company: _____

Address: _____

(Corporate Seal)

Nature of firm (corporation, partnership, etc.) and names of individual members of the firm, or names and titles of officers of the corporation.

Corporation organized under the laws of the state of: _____

CONTRACTUAL INSURANCE REQUIREMENTS

The information contained herein is to describe the contractual requirements that Contra Costa Water District has indicated to myCOI. These contractual requirements should NOT be used to provide inaccurate information regarding current insurance policies. Questions regarding interpretation of this document can be directed to our support team at 317-759-9426.

INSURED NAME	CARRIER REQUIREMENTS A- or higher, VIII
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	POLICY LINE	POLICY LIMITS REQ'D BY CONTRACT		
GENERAL LIABILITY	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOCATION	EACH OCCURRENCE	\$ 1,000,000	See next page for requirements.
		DAMAGES TO RENTED PREMISES (Ea occurrence)	\$	
		MED EXP (Any one person)	\$	
		PERSONAL & ADVINJURY	\$	
		GENERAL AGGREGATE	\$	
		PRODUCTS - COMP/OP AGG	\$	
AUTO LIABILITY	<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	See next page for requirements.
		BODILY INJURY (Per person)	\$	
		BODILY INJURY (Per accident)	\$	
		PROPERTY DAMAGE (Per accident)	\$	
GARAGE LIABILITY	<input type="checkbox"/> ANY AUTO	AUTO ONLY - EA ACCIDENT	\$	
		OTHER THAN EA ACC	\$	
		AUTO ONLY: AGG	\$	
EXCESS/ UMBRELLA LIABILITY	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE	EACH OCCURRENCE	\$	
		AGGREGATE	\$	
WORK COMP AND EMPLOYERS LIABILITY		WC STATUTORY LIMITS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	
		E.L. EACH ACCIDENT	\$ 1,000,000	
		E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	
		E.L. DISEASE POLICY LIMIT	\$ 1,000,000	

CERTIFICATE HOLDER

Contra Costa Water District
 C/O: myCOI
 1075 Broad Ripple Ave, Suite 313
 Indianapolis, IN 46220

CONTRACTUAL INSURANCE REQUIREMENTS

The information contained herein is to describe the contractual requirements that Contra Costa Water District has indicated to myCOI. These contractual requirements should NOT be used to provide inaccurate information regarding current insurance policies. Questions regarding interpretation of this document can be directed to our support team at 317-759-9426.

Division Name: All Vendors.

•30 Days Notice of Cancellation Required.

General Liability

•A physical copy of the additional insured endorsement is required.

•Additional Insured applies to General Liability.

•Additional Insured Names: Contra Costa Water District, its directors, officers, and employees.

Automobile Liability

•Any Auto OR all Owned, Hired, & Non-owned will be accepted.