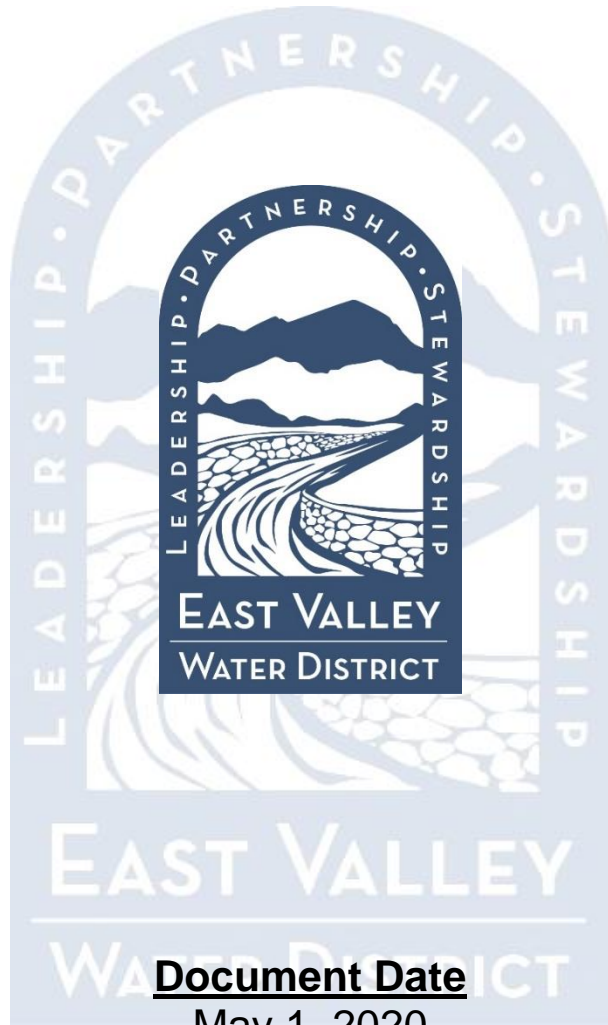


Sample Contract General Conditions



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May 1, 2020

East Valley Water District

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GENERAL CONDITIONS
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GENERAL CONDITIONS

1.0 DEFINITIONS & ABRREVIATIONS

1.01 DEFINITIONS

Wherever the words defined in this article, or pronouns used in their stead, occur in these Specifications or in any of the other Contract Documents, the intent and meaning shall be as follows:

DISTRICT. The East Valley Water District, County of San Bernardino, State of California.

DISTRICT BOARD. The duly elected Board of Directors of the East Valley Water District.

DISTRICT ENGINEER OR ENGINEER. The District Engineer of the East Valley Water District, or an authorized deputy, agent, representative or inspector.

CONTRACTOR. Contractor shall mean the party entering into contract with the District for performance of the Work called for in these Specifications and shown on the Drawings, including the Contractor's authorized agents.

SUBCONTRACTOR. Subcontractor shall mean any person, firm, or corporation entering into agreement with the Contractor for performance of any part of the Contractor's obligation under the Contract.

CONTRACT. Contract shall mean the Contract Documents and shall include the written agreement entered into by the District and the Contractor for the performance of work described in the Specifications and shown on the Drawings, together with the Notice Inviting Bids, the Instructions to Bidders, the Proposal, the Information Required of Bidders, the Specifications, the Drawings, all Addenda issued by the District with respect to the foregoing prior to the opening of bids, and all Change Orders issued by the District and signed by the Contractor pertaining to the Contract after the Contract is awarded.

SPECIFICATIONS. Specifications shall mean the General Conditions, the Special Provisions and the Technical Specifications of the Contract, together with all Addenda and Change Orders issued with respect thereto. All work performed shall be in accordance with the Standard Specifications for Public Works Construction (SSPWC), the "Greenbook", current edition, except as modified herein.

DRAWINGS. Drawings or Contract Drawings shall mean those drawings accompanying the Specifications which show the location, nature, extent and form of the Work, together with applicable details.

SHOP DRAWINGS. Drawings, diagrams, illustrations, schedules, performance charts, brochures and other data prepared by the Contractor or any Subcontractor, manufacturer, supplier or distributor, which illustrates how specific portions of the Work shall be fabricated and/or installed. Shop Drawings are not considered to be part of the Contract Documents.

WORK. That which is proposed to be constructed or done under the Contract or permit, including the furnishing of all labor, materials, and equipment.

1.02 ABBREVIATIONS

Wherever the following abbreviations are used they shall have the meanings listed.

AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AGA	American Gas Association
AI	The Asphalt Institute
AIA	American Institute of Architects
AIEE	American Institute of Electrical Engineers
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
API	American Petroleum Institute
ASCE	American Society of Civil Engineers
ASHRAE	American Society of Heating, Refrigeration and Air Conditioning Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society of Testing Materials
AWPA	American Wood Preservers Association
AWS	American Welding Society
AWWA	American Water Works Association, Inc.
CRSI	Concrete Reinforcement Steel Institute
NEMA	National Electrical Manufacturer's Association
NIC	Not in concrete
NTS	Not to Scale
OAE	Or Approved Equal
OSHA	Occupational Safety and Health Act
PCA	Portland Cement Association
SSPC	Steel Structures Painting Council
SSPWC	Standard Specifications for Public Works Construction
UBC	Uniform Building Code
UPC	Uniform Plumbing Code
U/L	Underwriters Laboratories, Inc.



EAST VALLEY
WATER DISTRICT

2.0 CONTRACT DOCUMENTATION

2.01 INTERPRETATION OF SPECIFICATIONS AND DRAWINGS

The Specifications and the Drawings are intended to be explanatory of each other. Any work indicated in the Drawings and not in the Specifications, or vice versa, shall be executed as if indicated in both. As the figured dimensions shown on the Drawings and in the Specifications of the Contract may not in every case agree with scale dimensions, the figured dimensions shall be followed in preference to the scaled dimensions, and drawings to a large scale shall be followed in preference to the Drawings to a small scale. Should it appear that the Work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the Contract Documents, the Contractor shall apply to the Engineer for such further explanations as may be necessary, and shall conform thereto as part of the Contract. In the event of any doubt or question arising respecting the meaning of the Specifications or Drawings, reference shall be made to the Engineer and the Engineer's decision therein shall be final.

2.02 CONFLICTS BETWEEN SPECIFICATIONS AND DRAWINGS

In case of conflict between the Specifications and the Drawings, the Specifications shall govern over the Drawings. In cases of conflict between the General Conditions and Special Provisions of the Specifications, the Special Provisions shall govern over the General Conditions.

2.03 STANDARD SPECIFICATIONS

A reference to the Standard Specifications shall mean "Standard Specifications for Public Works Construction" (SSPWC), the current edition and amendments. All work performed shall conform to the SSPWC.

2.04 SHOP DRAWINGS

Wherever called for in these Specifications or on the Drawings, or where required by the Engineer, the Contractor shall furnish to the Engineer for review six (6) prints of each Shop Drawing. The Shop Drawings shall be approved by the Contractor prior to submittal to the Engineer. Unless otherwise required, said drawings shall be submitted at a time sufficiently early to allow review of same by the Engineer, and to accommodate the rate of construction progress required under the Contract.

The Contractor shall stamp all six copies of the Shop Drawings stating his approval of the submittal and that the Contractor has determined and verified all field measurements and quantities, field construction criteria, materials, catalog numbers and similar data, and that the Contractor has reviewed and coordinated the information in the Shop Drawings with the requirements of the Work and the Contract Documents. Any Shop Drawings submitted without complying with this Section will not be reviewed by the Engineer.

Except as may be otherwise provided in the Special Provisions, the Engineer will return two prints of each Shop Drawing to the Contractor, with comments noted thereon, within fifteen (15) calendar days following their receipt at the Engineer's office. The Contractor shall make a complete and acceptable submittal to the Engineer by the second submission of drawings. The District reserves the right to withhold moneys due the Contractor to cover additional costs of the Engineer's review beyond the second submittal.

If the Shop Drawings are returned to the Contractor marked APPROVED AS SUBMITTED, formal revision and resubmittal of said drawing will not be required.

If the Shop Drawings are returned to the Contractor marked APPROVED AS NOTED, formal revision and resubmittal of said drawing will not be required, but the noted correction will be adhered to by the Contractor.

If one print of the Shop Drawing is returned to the Contractor marked REVISE AND RESUBMIT, the Contractor shall revise said drawing and shall resubmit six (6) copies of said revised drawing to the Engineer.

If one print of the Shop Drawing is returned to the Contractor marked NOT APPROVED Contractor shall resubmit six (6) copies of a material or installation process specified in the Contract Documents and/or acceptable to the Engineer.

Fabrication of an item shall not be commenced before the Engineer has reviewed the pertinent Shop Drawings and returned copies to the Contractor marked either APPROVED AS SUBMITTED or APPROVED AS NOTED. Revisions indicated on shop Drawings shall be considered as changes necessary to meet the requirements of the Contract Drawings and Specifications and shall not be taken as the basis of claims for extra work. The Contractor shall have no claim for damages or extension of time due to any delay resulting from the Contractor's having to make the required revisions to Shop Drawings (unless review by the Engineer of said drawings is delayed beyond a reasonable period of time and unless the contractor can establish that the Engineer's delay in review actually resulted in a delay in the contractor's construction schedule). The review of said drawings by the Engineer will be limited to checking for general agreement with the Specifications and Drawings and shall in no way relieve the Contractor of responsibility for errors or omissions contained therein, nor shall such review operate to waive or modify any provision contained in the Specifications or Contract Drawings. Fabricating dimensions, quantities of material, applicable code requirements and other Contract requirements shall be the Contractor's responsibility.

2.05 REFERENCE TO STANDARDS, PUBLICATIONS OR STANDARD SPECIFICATIONS

Any reference made in the Specifications or Drawings to any specification, standard, or publication of any organization shall, in the absence of a specific designation to the contrary, be understood to refer to the latest edition of the specification, standard or publication in effect as of the date of advertising the Work.

2.06 REFERENCE TO PROPRIETARY PRODUCTS

Where references to proprietary products appear in the Specifications or Drawings, whether or not followed by the words "or approved equal", it is for the purpose of establishing an acceptable standard of quality or design. Unless a substitute is expressly prohibited, the Contractor may request approval of a substitute for any such proprietary product. Such approval normally will not be given by the Engineer prior to award of a Contract. A request for substitution must be in writing and must include descriptive literature, specifications, test reports or samples, as appropriate, to enable the Engineer to determine the acceptability of the product proposed for substitution. If substitution is requested as part of a Shop Drawing submittal, the item (s) proposed for

substitution shall be clearly indicated. No substitute product shall be used on the Work until written approval has been received from the Engineer. Any revisions to structures, piping, mechanical, electrical, instrumentation, or any other work made necessary by such substitution must be approved by the Engineer and the entire cost of these revisions shall be borne by the Contractor.

2.07 SPECIFICATIONS AND DRAWINGS FURNISHED TO CONTRACTOR

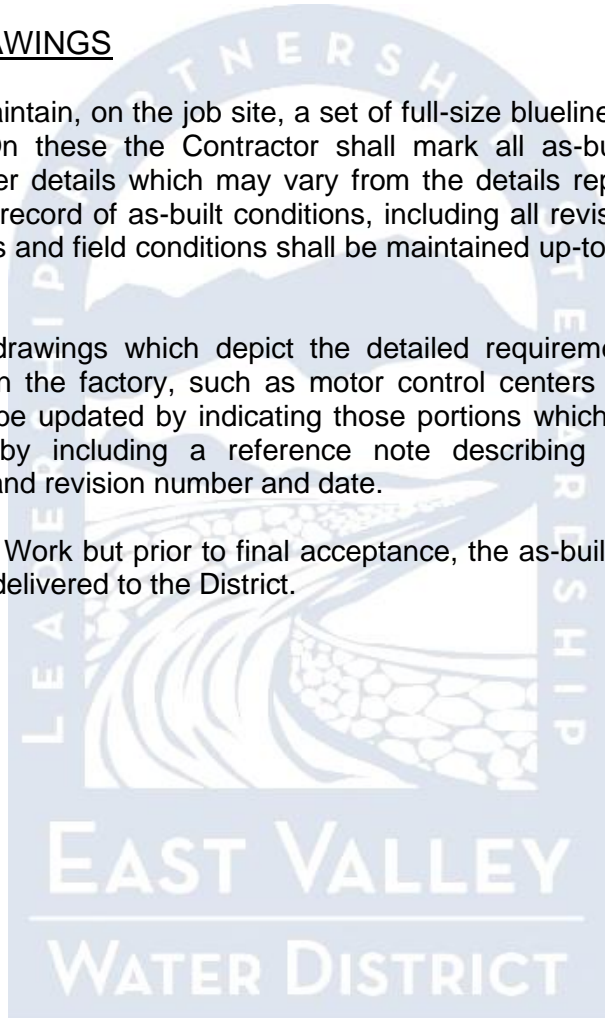
The District will furnish to the Contractor five (5) sets of Specifications together with Drawings. Additional quantities of Specifications and Drawings will be furnished at reproduction cost.

2.08 AS-BUILT DRAWINGS

The Contractor shall maintain, on the job site, a set of full-size blue-line or black-line prints of the Contract Drawings. On these the Contractor shall mark all as-built conditions, locations, configurations, and other details which may vary from the details represented on the original drawings. This master record of as-built conditions, including all revisions made necessary by addenda, change orders and field conditions shall be maintained up-to-date during the progress of the Work.

In the case of those drawings which depict the detailed requirement for equipment to be assembled and wired in the factory, such as motor control centers and instrumentation, the as-built drawings shall be updated by indicating those portions which are superseded by final Shop Drawings, and by including a reference note describing the Shop Drawings by manufacturer, drawing and revision number and date.

Upon completion of the Work but prior to final acceptance, the as-built drawings maintained by the Contractor shall be delivered to the District.



3.0 CONSTRUCTION ACTIVITIES

3.01 AUTHORITY OF DISTRICT

The Work and the manner of performing the same shall be done to the satisfaction and approval of the District.

The Contract Documents do not purport to control the method of performing the Work but only the requirements as to the nature of the completed work. The Contractor shall assume the entire responsibility for methods of performing the Work.

3.02 AUTHORITY OF THE ENGINEER

The Engineer is the agent of the District and is employed to act as advisor and consultant to the District in engineering matters relating to the Contract. The District has delegated its authority under this Contract to the Engineer to determine the amount, quality, acceptability and fitness of the several kinds of work, material and equipment which are to be paid for under the Contract; to decide for the District all questions relative to the construction, meaning and intent of the Contract documents; to decide all questions relative to the classifications, measurements of quantities, materials and the fulfillment of this Contract, and to reject or condemn all work or material which does not conform to the terms of this Contract to recommend, for consideration and action of the District, progress payments and change orders. The Engineer's decision in all matters is the decision of the District and can only be changed by the District.

If the Contractor files any suit arising under the Contract and names the Engineer as a party and if no recovery is had against the Engineer, then the Engineer shall recover damages from the Contractor for reasonable attorney's fees for time spent by the attorney for the Engineer in the defense of the suit and the Engineer shall recover from the Contractor and be paid by the Contractor at the rate of \$1,000.00 per day for the time of the Engineer required in connection with the preparation and defense of the suit.

3.03 INSPECTION AND TESTING

All materials furnished and all work performed under the Contract shall be subject to inspection by the Engineer. Such inspection may include mill, plant, shop or field inspection as required. The Engineer shall be permitted access to all parts of the Work, including plants where material or equipment are manufactured or fabricated, and the Engineer shall be furnished with such materials, information and assistance by the Contractor and Subcontractors and suppliers as is required to make a complete and detailed inspection.

Work done in the absence of prescribed inspection may be required to be removed and replaced under proper inspection, and the entire cost of removal and replacement, including the cost of all materials which may be furnished by the District and used in the Work thus removed, shall be borne by the Contractor, regardless of whether the work removed is found to be defective or not. Work shall not be covered up without the authority of the Engineer. If so covered, without authority, the work, upon order of the engineer, shall be uncovered to the extent required, and the Contractor similarly shall bear the entire cost of performing all the Work and furnishing all the material necessary for the removal of the covering and its subsequent replacement, as directed and approved by the Engineer.

All inspection fees and costs imposed by agencies other than the District shall be paid by the Contractor.

The Engineer will make, or have made, such tests as he deems necessary to ensure that the Work is being accomplished in accordance with the requirements of the Contract. Unless otherwise specified in the special Provisions, the cost of such testing will be borne by the District. In the event such tests reveal non-compliance with the requirements of the contract, the contractor shall bear the cost of such corrective measures deemed necessary by the engineer, as well as the cost of subsequent re-testing.

The District will provide inspection for an 8-hour day and 40-hour week. The Contractor shall reimburse the District at rates established by the District for inspection in excess of the foregoing including legal holidays.

3.04 CHANGE ORDERS

The District, or its duly authorized representative, may order changes in the Work through additions, deletions or modifications. Such changes will be effected through written change orders delivered to the Contractor describing the change required in the Work, together with any adjustment in Contract price or time in completion as hereinafter provided. No such change shall constitute the basis of claims for damage or anticipated profits; however, the Engineer will make reasonable allowance for the value of any work, materials or equipment furnished and subsequently rendered useless because of such changes. Any adjustment in Contract price resulting from a change order will be considered in computing subsequent monthly payments due the Contractor. Any work performed in accordance with a change order shall be subject to all provisions of the original Contract, and the Contractor's sureties shall be bound thereby to the same degree as under the original Contract.

Any adjustment in Contract price shall be based on unit price bid items or, additive and deductive bid items submitted by the Contractor in the original bid on the Work where such bid items are applicable.

If the original bid prices are not applicable, the adjustment in Contract price shall be based on a lump sum or unit price agreed upon by the District and the Contractor prior to executing the change order.

If the original bid prices are not applicable and the District and Contractor are unable to agree upon a lump sum or unit price prior to executing the change order, the adjustment in Contract price shall be made on a test-plus basis. In such an event, the following items will be included as the direct costs:

- Materials and Supplies
- Labor (including foremen's wages)
- Workmen's compensation insurance
- Unemployment insurance contributions paid to the State
- Social Security taxes paid to the Federal Government
- Labor union health and welfare, pension, vacation-holiday and apprenticeship fund contribution
- Value for use of equipment for actual time of use according to Caltrans "Labor Surcharge and Equipment Rental Rates" for the current year

In addition to the direct costs enumerated above, the District will pay to the Contractor for said extra work a percentage of said direct costs to compensate for the following profit and overhead items:

- Profit
- General expenses
- All insurance except workmen's compensation insurance
- Excise taxes
- Property taxes
- License and inspection fees
- Bond premiums
- All other items of expense not specifically enumerated above

Said percentage will be fifteen (15) percent of said direct costs provided the Contractor actually performs, said extra work. In the event said extra work is performed by a subcontractor, percentage paid to the Contractor will be 20 percent of said Subcontractor's direct costs. Said 20 percent will include allowance for profit and overhead costs for both the Contractor through more than one Subcontractor in succession, said percentage will not exceed 25 percent.

When work is being performed on a cost-plus basis, the Contractor shall submit written reports as directed by the engineer, showing all items of direct cost which enter into the Work. If required by the Engineer, the Contractor shall furnish direct cost items listed in said reports.

3.05 CONTRACTOR'S PLANT AND EQUIPMENT

The Contractor shall at all times be responsible for the adequacy, efficiency and sufficiency of the Contractor's plant and equipment and any Subcontractor's plant and equipment.

3.06 ASSIGNMENT OF CONTRACT

The Contractor shall not assign, sublet, sell, transfer or otherwise dispose of the Contract or any portion thereof, or his right, title or interest therein, or his obligations thereunder, without the prior written consent of the District. The District shall have no obligation whatsoever to provide such written consent.

If the Contractor violates the provisions of this section, the Contract may be terminated at the option of the District and the District shall be relieved of all liability and obligations to the Contractor, and to his assignee or transferee, growing out of such termination.

3.07 SUBCONTRACTS

All proposed Subcontractor's shall be listed by the Contractor at the time of bid opening and shall be contained in the Information Required of Bidders. The Contractor may request a replacement of a previously approved Subcontractor only through the specific procedures contained in Public Contract Code, Section 4107. Any such request is subject to approval by the District.

The Contractor shall perform not less than 50 percent of the Work with his own forces (i.e., without subcontracting). This requirement shall be understood to refer to work, the value of which totals not less than 50 percent of the Contract price. Refer to Section 2-3 of the SSPWC for clarification.

In the District's discretion, subject to the requirements of Sections 3.07 (a) and (b), subcontracts may be permitted to such extent as shall be shown to be necessary or advantageous to the Contractor in the prosecution of the Work and without injury to the District's interests. The re-subletting of work by a Subcontractor shall be subject to the same limitations as an original subletting. Each Subcontractor shall be properly licensed for the type of work which he is to perform.

A copy of each subcontract, if in writing (or if not in writing, then a written statement signed by the Contractor giving the name of the Subcontractor and the terms and conditions of each subcontract), shall be filed promptly with the Engineer upon the Engineer's request. Each subcontract shall contain a reference to the Contract between the District and the Contractor, and the terms of that Contract shall be made a part of each subcontract insofar as applicable to the Work covered thereby. Each subcontract shall provide for annulment of same by the Contractor upon written order of the Engineer if, in the Engineer's opinion, the Subcontractor fails to comply with the requirements of the prime Contract insofar as the same may be applicable to this work.

The Contractor shall be responsible to the District for the acts and omissions of his Subcontractors and their employees to the same extent as the Contractor is responsible for the acts and omissions of employees. Nothing contained in this section shall create any contractual relationship between and Subcontractor and the District or Engineer or relieve the Contractor of any liability or obligations under the prime Contract.

The Contractor shall be permitted to rent equipment maintained and operated as long as the work performed is directed and constantly supervised by the Contractor. Any other arrangement will be construed as unauthorized subcontracting and such action will be subject to Contract termination.

3.08 CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS

The Contractor shall at all times be responsible for the adequacy, efficiency and sufficiency of persons employed by the Contractor and any Subcontractor or persons employed by the Subcontractor. All workmen must have sufficient knowledge, skill and experience to perform properly the work assigned to them.

3.09 ATTENTION TO WORK

The Contractor shall supervise the Work and at all times shall be represented by a competent English speaking superintendent who shall receive and obey all instructions or orders given under the Contract, and who shall have full authority to execute the same, and to supply materials, tools and labor without delay, and who shall be the legal representative of the Contractor.

3.10 SERVICE OF NOTICES

Any notice, order, direction, request or other communication given by the District to the Contractor under the Contract shall be deemed to be well and sufficiently given to the Contractor if left at any office used by the Contractor, or delivered to any of the Contractor's officers, or mailed in any post office addresses to the Contractor at the address mentioned in the Contract, or at the Contractor's last known place of business. If mailed it shall be deemed to have been given to and received by the Contractor two days after the day of mailing in any post office in the vicinity of the Work.

3.11 DEVIATION FROM CONTRACT

The Contractor shall not make any alteration or variation in or addition to or deviation or omission from the Contract without the advance written consent of the District.

3.12 SUSPENSION OF WORK

The Engineer acting on behalf of the District may, by written notice to the Contractor, suspend the Work, in whole or in part, for such period or periods as he may deem necessary due to unsuitable weather, delay in delivery of District furnished equipment or materials, or such other conditions as are considered unfavorable for prosecution of the Work, or failure on the part of the Contractor to carry out the provisions of the Contract or to provide material or workmanship meeting the requirements of the Specifications. Suspended work shall be resumed by the Contractor within a reasonable time, as designated by the Engineer, after receipt from the Engineer of written notice to proceed. Contractor shall not be entitled to receive extra or additional compensation, except as may otherwise be provided for explicitly in the Contract Documents, on account of suspension of work pursuant hereto.

3.13 TERMINATION OF CONTRACT BY DISTRICT (CONTRACTOR NOT AT FAULT)

The District may terminate the Contract upon ten calendar days written notice to the Contractor, if it is found that reasons beyond the control of either the District or Contractor make it impossible or against the District's interests to complete the Work. In such a case, the Contractor shall have no claims against the District except (1) for the value of work performed up to the date the Contract is terminated, and (2) for the cost of materials and equipment on hand, in transit, or on definite commitment as of the date the Contract is terminated, which would be needed in the Work and which meet the requirements of the Specifications. The value of work performed and the cost of materials and equipment delivered to the site, as mentioned above, shall be determined by the Engineer in accordance with the procedure prescribed for the making of the final estimate and payment and shall be paid in accordance with the same procedure.

3.14 TERMINATION OF CONTRACT BY DISTRICT (CONTRACTOR AT FAULT)

The District may terminate the Contract upon ten calendar days written notice to the Contractor in the event of any default by the Contractor. Without limitation, it shall be considered a Contract default whenever the Contractor shall: (1) declare bankruptcy, become insolvent or assign assets for the benefit of creditors, (2) disregard or violate important provisions of the Contract Documents or Engineer's instruction or fail to prosecute the Work according to the approved progress schedule, or (3) fail to provide a qualified superintendent, competent workmen or Subcontractors, or materials or equipment meeting the requirements of the Specifications and Drawings.

In the event the Contract is terminated, the District may take possession of the Work and of all materials, which have been provided in connection with the Work and may complete the Work by whatever method or means is selected. The cost of completing the Work shall be deducted from the balance which would have been due the Contractor had the Contract not been terminated and the Work completed in accordance with the Specifications and Drawings. If such cost exceeds the balance which would have been due, the Contractor shall pay the excess amount to the District. If such cost is less than the balance which would have been due, the Contractor shall

have no claim to the difference except to such extent as may be necessary, in the opinion of the Engineer, to reimburse the Contractor or the Contractor's sureties for any expense properly incurred for materials, tools, equipment, property and labor devoted to the execution of the Work, of which the District shall have received the benefit. In computing such expense, as it relates to equipment and property, the salvage value at completion of the Work shall be deducted from the depreciated value at the time the Contract was terminated, and the difference shall be considered as an expense.

3.15 TERMINATION OF CONTRACT BY CONTRACTOR

The Contractor may terminate the Contract upon ten calendar days written notice to the District whenever: (1) the entire work has been suspended in accordance with Section 3.12, for sixty (60) consecutive calendar days through no fault or negligence of the Contractor and notice to resume work or to terminate the Contract has not been received from the District within this time period, or (2) the district shall fail to pay the Contractor any substantial sums due in accordance with the terms of the Contract and within the time limits prescribed. In the event of such termination, the Contractor shall have no claims against the District except for those claims specifically enumerated in Section 3.13 and determined in accordance with that Section.

3.16 FAILURE TO COMPLY

If the Contractor should refuse or neglect to comply with the provisions of the Contract or the orders of the Engineer, the District may have such provisions or orders carried out by others at the expense of the Contractor.

3.17 PROTESTS

If the Contractor considers any work demanded of him to be outside the requirements of the Contract, or if he considers any order or ruling of the Engineer, or of any inspector to be unfair, he shall, immediately upon such work being demanded or such order or ruling being made, ask for written instructions or decision, whereupon he shall proceed without delay to perform the Work or to conform to the order or ruling; but unless the Contractor finds such instructions or decisions satisfactory, he shall, within five (5) days after receipt of same, file a written protest with the Engineer, stating clearly and in detail any objections and the reasons therefor. The Engineer shall, as soon as practicable after receipt of such written protest from the Contractor, forward said protest through appropriate channels to the District including any written comments on the issue or issues involved. The decision of the District on all such matters shall be considered final and binding upon all parties concerned. Except for such grounds for protests or objections as are made of record in the manner specified and within the time stated herein, the Contractor hereby waives all grounds for protests or objections to the orders, rulings, instructions or decisions of the Engineer and hereby agrees that, as to all matters not included in such protest, the orders, instructions and decisions of the engineer shall be final and conclusive.

3.18 RIGHTS-OF-WAY

Lands or rights-of-way for the Work to be constructed under the Contract will be provided by the District as shown on the Drawings. Nothing contained in the Specifications or Drawings shall be interpreted as giving the Contractor exclusive occupancy of the lands or rights-of-way provided. Any additional lands or fights-of-way required for construction operations shall be provided by the Contractor at the Contractor's own expense.

Except as may otherwise be provided, the Contractor shall secure from the agencies having jurisdiction the necessary permits to create obstructions, to make excavations if required under the Contract and to otherwise encroach upon rights-of-way and shall present evidence to the Engineer that such permission has been granted before work is commenced. Regulations and requirements of all agencies concerned shall be strictly adhered to in the performance of this Contract, including the furnishing of insurance and bonds if required by such agencies. The enforcement of such requirements under this Contract shall not be made the basis for claims for additional compensation.

The Contractor shall not do any work that would affect any oil, gas, sewer, storm drain, or water pipeline, any telephone, telegraph, or electric transmission line, fence, or any other structure, nor enter upon the rights-of-way involved until notified by the Engineer that the District has secured authority therefor from the proper party. After authority has been obtained, the Contractor shall give said party due notice of any intention to begin work and shall give said party due notice of any intention to begin work and shall give said party convenient access and every facility for removing, supporting, or otherwise protecting such pipeline, transmission line, ditch, fence or structure and for replacing same. The Contractor shall not be entitled to any extension of time or extra compensation on account of any postponement, interference, or delay caused by any such pipeline, transmission line, fence or structure being on the line of the Work except as provided herein.

3.19 CONSTRUCTION INTERFERENCE

As used in this section, the word "Utility" shall be understood to include tracks, overhead or underground wires, cables, pipelines, conduits, ducts, sewers or storm drains. The term "service connection" shall be understood to mean all or any portion of a pipeline (including sewer house laterals), conduit, wire, cable or duct, including meter, between a utility distribution line and an individual customer or customers when served by a single service connection. The term "construction interference" shall be understood to include any utility or service connection within the limits of excavation or over excavation required for the Work under the Contract as shown, or ordered by the Engineer, or any utility, or service connection located in the space which will be required by any of the Work under the Contract.

In the event any utility or service connection is required to be disturbed or removed to permit construction of a pipeline or other structure under the Contract, such disturbance or removal shall be done only with the approval of the Engineer and following notification to the owner of the interfering utility or service connection. Any such utility or service connection removed or otherwise disturbed shall be reconstructed as promptly as possible in its original or other authorized location in a condition at least as good as prior to such removal or disturbance, subject to the inspection of the owner of same. The Contractor's responsibility under this section to remove or replace shall apply even in the event such damage or destruction occurs after backfilling or is not discovered until after completion of backfilling. The owner of the utility or service connection shall be notified immediately after damage or destruction occurs or is discovered.

During the performance of the Work under this Contract, the owner of any utility affected by the Work shall have the right to enter when necessary upon any portion of the Work for the purpose of maintaining service and to make repairs to said utility.

The drawings show the approximate positions of known utilities in the immediate vicinity of the

Work done but the District does not guarantee that all existing utilities are shown. Service connections normally are not shown on the Drawings. The Contractor, before commencing any excavation, shall ascertain from records or otherwise, the existence, horizontal and vertical position and ownership of all existing utilities and service connections. If the Contractor discovers any utility in the line of the Work which is not shown on the Drawings, he shall immediately notify the Engineer of the existence of same. The District will not be liable for any consequences arising as a result of a service connection being incorrectly located in the field by the agency having jurisdiction over said service connection.

All costs involved in removing, relocating, protecting, supporting, repairing, maintaining or replacing a main or trunk line utility which actually constitutes a construction interference when said utility is not shown with reasonable accuracy as an interference or is omitted from the Drawings, will be paid for by the District as extra work. In such case, the District also will compensate the Contractor for equipment on the project necessarily idled during and by reason of such work. The District's obligation to repair damage to such a facility and to compensate the Contractor for idled equipment shall not extend to damage resulting from the failure of the Contractor to use reasonable care.

All costs involved in removing, relocating, protecting, supporting, repairing, maintaining or replacing any utility or service connection other than those described in subsection (e) herein shall be borne by the Contractor.

The Contractor shall not be assessed liquidated damages for failure to complete the Work on time to the extent that such delay was caused by failure of the District or of the agency having jurisdiction over the utility or service connection to authorize or otherwise provide for its removal, relocation, protection, support, repair, maintenance or replacement.

The District reserves the right, upon determination of the actual position of existing utilities and service connections, to order changes in alignment or grade of the District's pipelines when by so doing, the necessity for relocation of existing utilities or service connections will be avoided. Such changes will be ordered in writing by the Engineer. Where applicable, adjustment in the contract price will be on the basis of the unit prices stated in the proposal. Where unit prices in the proposal are not applicable, adjustment in Contract price will be in accordance with Section 3.04.

3.20 LINES AND GRADES

All surveying necessary and adequate for construction purposes will be done by the District Engineer or as modified in the Special Provisions.

The Contractor shall give two (2) working days' notice, in writing, when the surveying services of the District Engineer will be required for laying out any portion of the Work, and he shall dig all holes necessary for line and grade stakes. The Contractor shall preserve all stakes set for the lines, grades or measurements of the Work in their proper places until authorized to remove them by the District Engineer. Any expenses incurred in replacing said stakes that the Contractor may have failed to preserve shall be borne by the Contractor.

Grades for all work will be set on the surface of the ground and the Contractor shall transfer them to the construction as necessary. At no time shall less than three (3) consecutive grade points be used in common so that any variation from a straight grade can be detected. Any such variation shall be reported to the District Engineer and in the absence of such report, the Contractor shall be responsible for any error in the grade of the finished work.

The Contractor shall preserve all benchmarks, stakes and other survey marks, and in case of their removal or destruction by the Contractor's employees or by a Subcontractor's employees, he shall be liable for the cost of their replacement.

3.21 SUPERVISION AND INSPECTION

The District Engineer shall decide within the provisions of the Specifications all questions which may arise concerning the quality or acceptance of materials furnished and work performed and all questions concerning the acceptable fulfillment of the Contract by the Contractor.

All work shall be done in a thorough and workmanlike manner under the direction and to the satisfaction of the District Engineer, and the materials used shall comply with these Specifications. Work shall be started and continued at such time and at such points as may be designated by the District Engineer and shall be carried on diligently and without unnecessary delay.

Each day the Contractor shall furnish the District Engineer a duplicate copy of all delivery and shipment tags or slips for all materials delivered on the Work. Tags or slips shall show the actual quantity of material received on the Work. No materials shall be used on the Work until such tags or slips have been furnished to the District Engineer.

All tests of materials shall be made under the direction of the District Engineer. The costs of tests for materials shall be borne by the District. At the Contractor's own expense, the materials for testing shall be delivered at the time and to the place designated by the District Engineer. Should the materials fail, the retesting cost shall be borne by the Contractor.

The Contractor shall prosecute work only in the presence of the District Engineer or his designated representative, and any work done in the absence of said District Engineer or his designated representative shall be subject to rejection for that reason. The Contractor shall give written notice to the District Engineer at least twenty-four (24) hours before beginning any work and shall furnish said District Engineer all reasonable facilities for obtaining full information respecting the progress and manner of work.

Any day shall be considered as a normal work day except Saturdays, Sundays or legal holidays or days on which the Contractor is expressly required by the Specifications or by Law to suspend construction operations, or is prevented from working at the beginning of the Work day for cause defined in Section 6 of the Standard Specifications or conditions resulting therefrom.

3.22 OBSERVING LAWS AND ORDINANCES

The Contractor shall keep himself fully informed of all Federal, State and local laws, ordinances and regulations which may affect the conduct of the Work, those engaged or employed by the Contractor, the materials used, and all orders and decrees of bodies or tribunals having any jurisdiction or authority over the Work. The Contractor shall observe and comply therewith and shall protect and indemnify the District against any claim or liability arising from or based on the violation thereof.

The Contractor shall secure and pay for all necessary permits, licenses and make all necessary deposits before starting work.

3.23 COORDINATION WITH COMMUNITY AGENCIES

The Contractor shall notify the local Police Department, Fire Department and refuse contractor of any construction causing street closure forty-eight (48) hours prior to start of construction or closure.

The contractor shall also be responsible for notifying, in writing, affected businesses forty-eight (48) hours prior to the start of construction or closures.

3.24 FIRE HYDRANTS

Free access shall be provided to all fire hydrants at all times. The Contractor shall not draw any water from a fire hydrant for use on the Work, other than for extinguishing fire, without first obtaining permission from the Public Works Director the owner of such water.

Whenever required by the local water purveyor, the Contractor shall obtain a fire hydrant meter to record water usage. A deposit as established by the local water purveyor shall be paid by Contractor and refunded upon return of said hydrant meter. The water usage fees shall be paid for by the Contractor.

3.25 LOSS AND DAMAGE

All loss or damage to the District or to third persons, occurring during the progress of the Work being performed under this Contract, which loss or damage occurs before acceptance of the Work by the District and which results from: (1) the negligence of the Contractor, or Contractor's agents or employees, or (2) any act or omission on the part of the Contractor or Contractor's agent or employees which is not authorized by these Specifications shall be sustained and borne by the Contractor.

Excavation shall be braced in accordance with CAL OSHA Standards so that they will be safe and the ground alongside the excavations will not slide or settle, and all existing improvements of any kind, either on public or private property, shall be fully protected from damage. If any damage does result, the necessary repairs as directed by the District Engineer, shall be made by and at the expense of the Contractor.

Performance under this Contract by the Contractor shall not be excused by any unforeseen obstruction or difficulties which may be encountered, including damage to or destruction of the project under construction by action of the elements or otherwise.

3.26 USE OF IMPROVEMENT DURING PROGRESS OF CONSTRUCTION

At any time during the progress of work, the District Engineer may, upon written notice to the Contractor, takeover and utilize the whole or any part of the improvement or appurtenance thereto which has been completed, giving if desired, permits to utilize same. Such uses by the District Engineer shall constitute a limited acceptance of that part of the improvement so taken over and utilized, but shall not relieve the Contractor and Contractor's sureties from responsibility for any damage to or defect in that or any part of the improvement.

3.27 ALTERNATIVE METHODS OF CONSTRUCTION

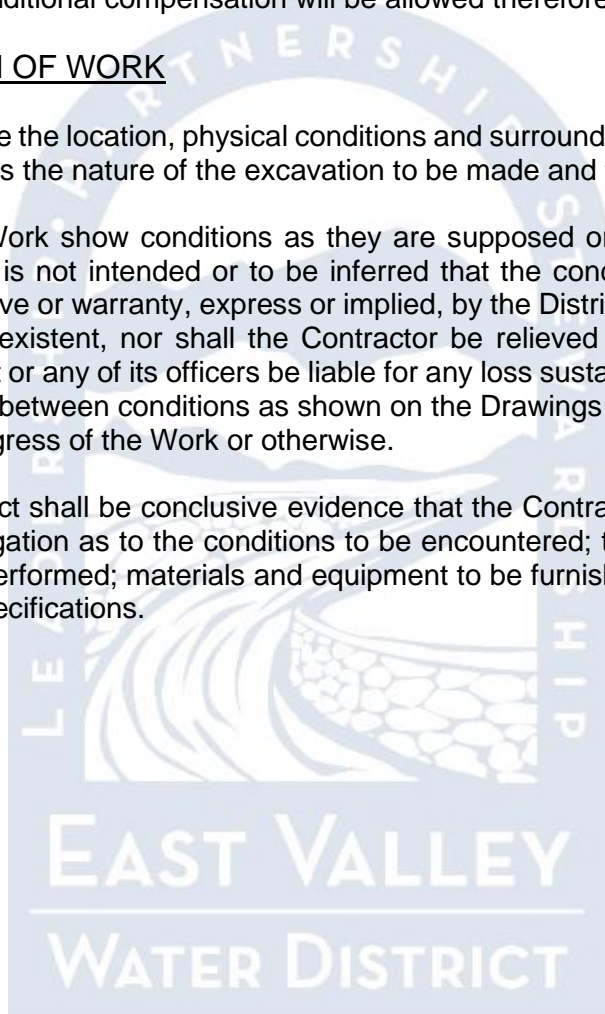
Whenever the Drawings and specifications provide that more than one specified method of construction or more than one specified type of construction equipment may be used to perform portions of the Work and leave the selection of the method of construction or the type of equipment to be used up to the Contractor, it is understood that the District does not guarantee that every such method of construction or type of equipment can be successfully used throughout all or any part of any project. It shall be the Contractor's responsibility to select and use the alternative(s) which will satisfactorily perform the Work under the conditions encountered. In the event some of the alternatives are not encountered. In the event some of the alternatives are not feasible or it is necessary to use more than one of the alternatives on the project, full compensation for any additional cost involved shall be considered as included in the Contract price paid for the item of work involved and no additional compensation will be allowed therefore.

3.28 EXAMINATION OF WORK

Contractor must examine the location, physical conditions and surroundings of the proposed work and judge for themselves the nature of the excavation to be made and the Work to be done.

The Drawings for the Work show conditions as they are supposed or believed to exist by the District Engineer, but it is not intended or to be inferred that the conditions as shown thereon constitute a representative or warranty, express or implied, by the District or its officers, that such conditions are actually existent, nor shall the Contractor be relieved of the liability under this Contract, nor the District or any of its officers be liable for any loss sustained by the Contractor as a result of any variance between conditions as shown on the Drawings and the actual conditions revealed during the progress of the Work or otherwise.

Execution of the Contract shall be conclusive evidence that the Contractor has satisfied himself through his own investigation as to the conditions to be encountered; the character, quality and quantity of work to be performed; materials and equipment to be furnished and all requirements of the Drawings and Specifications.



4.0 QUALITY CONTROL

4.01 QUALITY

Material and equipment shall be new and of the quality specified. All work shall be executed in conformity with the best accepted standard practice of the trade so as to contribute to maximum efficiency of operation, accessibility and appearance, and minimum cost of maintenance and construction of future alterations and additions.

Whenever the Contractor shall furnish materials or manufactured articles or shall do work for which no detailed Specifications are set forth, the materials or manufactured articles shall be of the best grade in quality and workmanship obtainable in the market from firms of established good reputation or, if not ordinarily carried in stock, shall conform to the usual standards for first-class materials or articles of the kind required with due consideration of the use to which they are to be put. In general, the Work performed shall be in full conformity and harmony with the intent to secure the best standard of construction and equipment of the Work as a whole or in part.

4.02 SAMPLES AND TESTS OF MATERIAL

Samples of materials to be supplied by the Contractor shall be prepared and submitted for checking, if required by the Specifications or the Engineer. The samples or test specimens shall be prepared and furnished with information as to their source in such quantities and sizes as may be required, with all freight and charges prepaid.

All samples shall be submitted before shipment of the material to the site of the Work and in ample time to permit the making of proper tests, analyses, examinations, rejections and resubmission's before the time at which it is desired to incorporate the material into the Work. All tests of materials furnished by the Contractor will be made by the Engineer in accordance with recognized standard practice. No such materials shall be used in the Work unless or until they have been accepted in writing by the Engineer and samples of materials will be retained by the Engineer for reference and comparison purposes.

The cost of material, inspection and testing in the vicinity of the Work unless specified otherwise herein, will be borne by the District. If the inspection and testing of materials in the vicinity of the Work is not practicable, the Contractor may request such inspection and testing take place at the point of manufacture. In such an event, the additional cost to the District of remote inspection and testing shall be paid for by the Contractor. Such additional cost will consist of reimbursement for travel time and expense to and from the remote point.

4.03 PROOF OF COMPLIANCE WITH CONTRACT

In order that the Engineer may determine whether the Contractor has complied with the requirements of the Contract Documents not readily determinable through inspection and tests of plant, equipment, work or materials, the Contractor shall, at any time when requested, submit to the Engineer properly authenticated documents or other satisfactory proof as to compliance with such requirements.

4.04 SAFEGUARDING OF EQUIPMENT, MATERIAL AND WORK

The Contractor shall properly safeguard all equipment, material and work against loss, damage,

malicious mischief or tampering by unauthorized persons until acceptance of the Work by the District. Locked and covered storage or continuous surveillance by a watchman shall be provided if required to accomplish this purpose.

4.05 DEFECTIVE MATERIAL, EQUIPMENT AND WORKMANSHIP

Inspection of the Work shall not relieve the Contractor of any of his obligations under the Contract. Even though equipment, material or work required to be provided under the Contract have been inspected, accepted and estimated for payment, the Contractor shall, at the Contractor's own expense, replace or repair any such equipment, material or work found to be defective or otherwise not to comply with the requirements of the Contract up to the end of the maintenance and guarantee period.

Any equipment or material brought upon the job site by the Contractor and subsequently rejected by the Engineer as not complying with the requirements of the Contract shall be removed immediately by the Contractor.

If the Contractor shall fail to repair or replace unsatisfactory equipment or material from the job site within ten (10) calendar days after being ordered to do so by the Engineer, the engineer, acting on behalf of the District, may make the ordered repairs or remove the condemned equipment or material and the District will deduct the cost thereof from any moneys due or to become due the Contractor.

4.06 CHARACTER OF WORKMEN

Skilled workmen shall be employed on work requiring special qualifications. When requiring special qualifications. When required in writing by the Engineer, the Contractor or any Subcontractor shall discharge any person who is, in the opinion of the Engineer, incompetent, unfaithful, disorderly or otherwise unsatisfactory and shall not again employ such discharged person on the Work except with the consent of the Engineer. Such discharge shall not be the basis of any claim for compensation or damages against the District or any of its officers.

The Contractor shall provide, at all times, a superintendent on the job site who shall be able to speak, read and write the English language per Section 7-6 of the SSPWC.

4.07 RUBBISH AND OUST CONTROL

During the progress of the Work, the Contractor shall keep the site of the Work and other areas utilized by the contractor in a neat and clean condition and free from any accumulation of rubbish.

The Contractor shall at all times conduct work so as to avoid unnecessary dust. The Contractor shall provide adequate equipment, water and implement procedures to comply with the south Coast Air Quality Management District rules to prevent dust emissions.

4.08 CLEANING UP

The Contractor shall promptly remove from the vicinity of the completed work, all rubbish, unused material, concrete forms, equipment and temporary structures used during construction. Additional clean-up work, if provided in the Special Provisions, shall be performed by the Contractor.

4.09 GUARANTEE

In addition to the guarantees required elsewhere in this Contract Document, the Contractor shall and hereby does guarantee all work for a period of one (1) year after the date of acceptance of the Work by the District and shall repair and replace any and all such work, together with any other work which may be displaced, that may prove defective in workmanship and/or materials within the one (1) year period from the date of acceptance, without expense whatsoever to the District, ordinary wear and tear and usual abuse or neglect excepted. In the event of failure to comply with the above mentioned conditions within seven (7) days after being notified in writing, or in the event of an emergency, the District is hereby authorized to proceed to have the defects repaired and make good at the expense of the Contractor, who hereby agrees to pay the cost and charges therefore immediately on demand.

The Contractor hereby guarantees that the entire work constructed under this Contract will meet fully all requirements thereof as to quality of workmanship and of materials furnished by the Contractor. The Contractor hereby agrees to make any repairs or replacements made necessary by defects in materials or workmanship supplied by the Contractor that becomes evident within the guarantee period, and to restore to full compliance with the requirements of these Specifications, including the test requirements set forth herein for any part of the Work constructed hereunder, which during said period is found to be deficient with respect to any provision of the Specifications. The Contractor also agrees to hold the District harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Engineer. If the Contractor fails to make the repairs and replacements promptly, the District may do the Work and the Contractor and the Contractor's surety shall be liable to the District for the cost of such work.

Upon acceptance of the Work by the District, any and all manufacturer's guarantees held by the Contractor shall be delivered to the District.

The guarantees and agreements set forth hereinbefore shall be secured by a surety bond which shall be delivered by the Contractor to the District before the notice of completion shall be filed by the Engineer. Said bond shall be in an approved form and executed by a surety company or companies satisfactory to the District, in the amount of ten percent of the contract price. Said bond shall remain in force for the period specified herein. Instead of providing a surety bond, the Contractor may, at his option, provide for the Faithful Performance Bond furnished under the Contract to remain in force for said amount until the expiration of the required period.

WATER DISTRICT

5.0 CONTRACT SPECIFICS

5.01 CONTRACT TIME

Time is of the essence of the Contract. The Contractor shall commence work promptly under the Contract and all portions of the Work shall be prosecuted so that the entire work shall be completed and ready for use within the time stipulated.

5.02 CONTRACT PRICE

Prior to commencement of the Work, the Contractor shall submit a detailed price breakdown of any of the bid items for the Work contained in lump sum items. Such price breakdown shall include quantities, unit prices, and any other information required in sufficient detail to enable it to be used in preparing monthly progress estimates.

5.03 CONSTRUCTION SCHEDULE

The Contractor shall submit a construction schedule showing the order in which the Contractor proposes to carry on the Work and the dates when the various parts are to be begun and completed. The timing associated with submitting the schedule will be determined by the Engineer. The schedule shall be subject to the approval of the Engineer and if in the Engineer's opinion a schedule submitted is inadequate to secure the completion of the Work in the time agreed upon, or is otherwise not in accordance with the Specifications, the Engineer may require the Contractor to submit a new schedule which will insure timely completion of the Work. It is mandatory that an up-to-date construction schedule be submitted with each request for progress payment.

5.04 OVERTIME WORK

Except as otherwise provided in this Section, the Contractor shall receive no additional compensation for overtime work even though such overtime work may be required under emergency conditions and may be ordered by the Engineer in writing. Additional compensation will be paid the Contractor for overtime work only in the event extra work is ordered by the Engineer and the change order specifically authorizes the use of overtime work, and then only to such extent as overtime wages are regularly being paid by the Contractor for overtime work of a similar nature in the same locality.

5.05 EXTENSION OF TIME

The Contractor may be entitled to an extension of Contract time: (1) if the Work has been suspended by the District, in whole or in part; or (2) where weather or other circumstances occur which delay progress and which are clearly beyond the control of the Contractor; provided that, in either case, the Contractor is not at fault and is not negligent under the terms of the Contract. The extension of time allowed shall be as determined by the Engineer.

To receive consideration, a request for extension of time must be made in writing to the Engineer stating the reason for said request, and such request must be received by the Engineer within ten days following the end of the delay-causing condition.

5.06 FAILURE TO COMPLETE ON TIME

The Contractor shall pay liquidated damages to the District in the amount specified in the Special Provisions if the Contractor fails to complete the Work within the time agreed upon. The period for which said damages shall be paid shall be the number of calendar days from the agreed date of completion as contained in the Contract, or from the date of termination of any extension of time approved by the Engineer, to the date the Engineer certifies completion of work to the District. The District may deduct the amount of said damages from any moneys due or to become due the Contractor.

The said amount is fixed and agreed upon by and between the Contractor and the District because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the District would sustain. Said amount is agreed to be the amount of damages which the District would sustain.

5.07 MONTHLY ESTIMATES AND PAYMENTS

On or about the 25th of each month, the Engineer will prepare and certify to the District, an estimate of the cumulative amount and value of work performed by the Contractor up to that date. All payments will be paid on or before the 15th day of the following month. Except as may otherwise be provided in the Special Provisions, said amount will include 80 percent of the value of all acceptable materials and equipment delivered to the site of the Work. Said value will be based on certified copies of paid invoices delivered by the Contractor to the Engineer. To this figure will be added all amounts due or paid the Contractor for performance of extra work in accordance with change orders.

From the total computed above, a deduction of 10 percent will be made provided the Contract price is \$2,000,000 or less. Where the Contract price exceeds \$2,000,000 the following deduction will be made: 10 percent of the first \$2,000,000 and 5 percent thereafter. Further deductions will be made for: (1) amounts due the District for equipment or materials furnished or services rendered; (2) amounts due the District under the terms of the Contract; (3) amounts of any claims of lien filed with the District in accordance with Section 6.02 (b), and (4) amounts required to be deducted by federal, state or local governmental authority. From the balance thus determined will be deducted the amount of all previous payments and the remainder shall constitute the monthly payment due the Contractor.

Pursuant to the provisions of Public Contract Code Sections 10263 and 22300, the Contractor is permitted to substitute securities for any moneys withheld to ensure performance of this Contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the State Treasurer or a state or federally chartered bank in California as the escrow agent, who shall then pay the moneys to the Contractor. Upon satisfactory completion of the Contract, the securities shall be returned to the Contractor.

Alternatively, the Contractor may request, and the District shall make payment of retention's earned directly to the escrow agent. The Contractor may direct the investment of the payments into securities and the Contractor shall receive the interest earned on the investments upon the same terms provided for in this Section for securities deposited by the Contractor. Upon satisfactory completion of the Contract, the Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the District pursuant to the terms of this Section.

Securities eligible for investment under this Section shall include those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the District. Securities selected must also comply with the District's current investment policy and 1995 California State Senate Bills 564 and 866.

The Contractor shall be beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon. The escrow agreement used pursuant to this Section shall be null, void and unenforceable unless it is substantially similar to the form enclosed.

The Engineer's estimate of the monthly payment due the Contractor will not be required to be made by strict measurement and an approximation will suffice. The monthly payments may be withheld or reduced if, in the Engineer's opinion, the Contractor is not diligently or efficiently endeavoring to comply with the intent of the Contract or if the Contractor fails to pay labor and material bills as they become due.

The Contractor shall furnish the Engineer promptly, upon request, all information and records necessary to determine the cost of the Work for purposes of estimating monthly payments, including an itemized statement, in a form satisfactory to the Engineer, of the actual cost of all acceptable materials delivered by the Contractor to the site.

No monthly payment shall be construed as an acceptance of the Work or of any portion of the Work, nor shall the making of such payment preclude the District from demanding and recovering from the Contractor such damages as it may sustain by reason of the Contractor's failure to comply with the requirements of the Contract.

In the event the Contract is terminated, any funds due the Contractor and retained by the District shall become the property of the District to the extent necessary to repay to the District any excess in the Contract price above the cost of the work completed at the time of the termination. After issuance of notice to discontinue work, no further payment will be made to the Contractor for the work covered by the notice until completion of the Work and final settlement has been made.

5.08 UNPAID CLAIMS

If, upon or before completion of the Work, or at any time prior to expiration of the period within which claims of lien or stop notices may be filed for record, any person claiming to have performed any labor or to have furnished any materials, supplies or services toward the performance of this Contract, or to have agreed to do so, shall file with the District a verified statement of such claim stating in general terms the kind of labor and materials, the value of same and the name of the person to or from whom the same was furnished, together with a statement that the same has not been paid; or if any person shall bring against the District or any of its agents any action to enforce such claim or stop notice, the District will, until the action is settled, withhold from moneys due to the Contractor an amount sufficient to satisfy the decision of the court together with costs.

5.09 FULFILLMENT OF CONTRACT

The Contractor shall protect and care for all work until the Contract has been fulfilled to the satisfaction of the District Engineer, and subsequent acceptance of the Work by the District Board of Directors.

The Contractor shall remove all rubbish, excess earth and rock, leaving the site in a neat, orderly

and presentable condition before the District Engineer makes final inspection of the Work to determine the fulfillment of the Contract.

5.10 FINAL ESTIMATE OF PAYMENT

When the Engineer is of the opinion that the Contractor has completely performed all work required under the Contract, the Engineer shall certify to the District that the Work is complete and shall submit to the Contractor a draft of the final estimate. The Contractor shall submit a written approval of said final estimate within five (5) calendar days after receipt, or, in the event the Contractor disagrees with said final estimate, the Contractor shall, within said five day period, file a written statement of all claims to be presented. If the Contractor delays more than five calendar days in approving said final estimate or in presenting claims, the District may, at its sole option, treat the delay as a waiver of the Contractor's right to file a written statement of all claims to be presented or extend the time for final payment by the period of such delay.

Pursuant to Section 7107(c) of the Public Contracts Code, within 60 days after the date of completion of the Work, the retention withheld by the District shall be released. In the event of a dispute between the District and the Contractor, the District may withhold from the final payment an amount not to exceed 150 percent of the disputed amount. For purposes of this section, "completion" means any of the following:

The occupation, beneficial use, and enjoyment of the Work, excluding any operation only for testing, startup, or commissioning, by the District, or its agent, accompanied by cessation of labor on the Work.

The acceptance of the Work by the District.

After the commencement of the Work, a cessation of labor on the Work for a continuous period of 100 days or more, due to factors beyond the control of the contractor.

After the commencement of the Work, a cessation of labor on the Work for a continuous period of 30 days or more, if the District files for record a notice of cessation or a notice of completion.

If the Contractor disagrees with the Engineer's final estimate and files a timely written statement of his claims, the Engineer will issue, as a semi-final estimate, the proposed estimate submitted to the Contractor, and the District will make payment to the Contractor based thereon in accordance with the provision of Subsection 5.10 (b). The Engineer then will investigate the Contractor's claims, make any revisions to said semi-final estimate as the Engineer deems appropriate and certify in writing to the District the amount and value of the work performed by the Contractor. The District then will make final payment to the Contractor based thereon in accordance with the provisions of Subsection 5.10 (b).

5.11 FINAL PAYMENT TERMINATES LIABILITY OF DISTRICT

The acceptance by the Contractor of the final payment shall be a release of the District and its agents from all claims of and liability to the Contractor for anything done or furnished for, or relating to, the Work or for any act or neglect of the District or of any person relating to or affecting the Work.

5.12 NOTICE OF COMPLETION

As required by the California Code of Civil Procedure, and within ten calendar days after date of acceptance of the Work by the District Board of Directors, the District will file, in the county recorder's office, a notice of completion of the Work.

5.13 CHANGES IN WORK

GENERAL. The District reserves and shall have the right to revise the details of the contemplated work or to delete work or add work of a different character or function and have the Contractor perform such revised, decreased or added work as a Contract "change order".

"Extra work" is defined as added work of a different character or function and for which no basis for payment is prescribed, or that involving revisions of the details of the Work in such a manner as to render inequitable payment under items upon which the Contractor bid; or that work to be done under the stipulated prices given in the bidding schedule.

The signing of the Contract by the Contractor will be deemed to be an agreement on the part of the Contractor to perform extra work, as and when ordered by the District.

If, required extra work results in delay to the Work, the Contractor will be given an equivalent extension of time.

PROCEDURE. Upon decision of the District to have extra work performed, or to delete or modify work, the District's representative will so inform the Contractor, acquainting the Contractor with the essential details. The Contractor shall thereupon prepare an estimate of cost and submit said price and estimate to the District's representative who will secure the District's approval in writing before work is started. The District reserves the right to reject any claims as a result of extending the Work under the bid prices, which has not been approved by the District in the same manner herein provided.

Adjustment in the compensation due the Contractor shall be determined by one or more of the following methods in the order of precedence listed below:

Mutually agreeable lump-sum or unit prices, based upon current prevailing fair prices for materials, labor, overhead, and profit. If requested by the District's representative, the Contractor shall furnish an itemized breakdown of the quantities and prices used in computing proposed lump-sum and unit prices.

Force account whereby the Contractor is compensated for furnishing labor, materials, tools, and equipment as follows:

Cost of labor plus 15 percent for workers directly engaged at the jobsite in the performance of the Work. Cost of labor shall include actual wages paid including employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes plus payments imposed on payroll amounts by State and Federal laws plus subsistence and travel allowance payments to workers.

Cost of material plus 15 percent. Cost of material shall include sales tax, freight, and delivery charges. The District reserves the right to furnish such materials as it deems advisable and the Contractor shall not be paid the 15 percent markup on such materials.

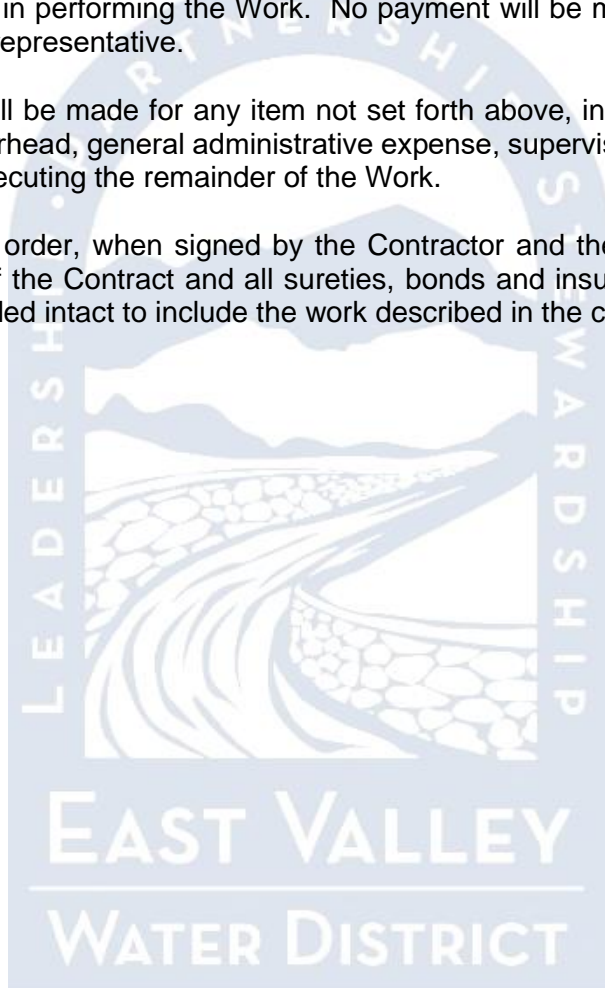
For tools and equipment actually engaged in the performance of the Work, rental rates plus 15 percent. The rental rates shall be those prevailing in the area where the Work is performed. No rental charge shall be made for use of tools or equipment having a replacement value of \$500 or less.

Subcontractor invoices to the Contractor plus five percent. Subcontractor invoices shall be based upon the above described cost of labor plus fifteen percent, cost of material plus fifteen percent, and tool and equipment rates plus fifteen percent.

The Contractor shall submit to the District's representative for his verification, on a daily basis, work sheets showing an itemized breakdown of labor, materials, tools and equipment used in performing the Work. No payment will be made for work not verified by the District's representative.

No payment shall be made for any item not set forth above, including without limitation, Contractor's overhead, general administrative expense, supervision, or damages claimed for delay in prosecuting the remainder of the Work.

The completed change order, when signed by the Contractor and the District shall become a contractual extension of the Contract and all sureties, bonds and insurance in effect under the Contract shall be extended intact to include the work described in the change order.



6.0 WORK REQUIREMENTS

6.01 RESPONSIBILITY OF CONTRACTOR

The Work shall be under the Contractor's responsible care and charge. The Contractor shall bear all loss and damage whatsoever and from whatever cause, except that caused solely and exclusively by the fault or negligence of the District which may occur on or to the Work during the fulfillment of the Contract. If any loss or damage occurs, the Contractor shall immediately make good any such loss or damage and in the event of the Contractor refusing or neglecting so to do, the District may itself or by the employment of some other person made good any such loss or damage and the cost and expense of so doing shall be charged to the Contractor.

The Contractor alone shall at all times be responsible for the safety of employees and any Subcontractor's employees and for plant and equipment and any Subcontractor's plant and equipment and the method of prosecuting the Work.

6.02 LIABILITY OF CONTRACTOR

The Contractor shall be liable for all damages and injury which shall be caused to District or property on or in the vicinity of the Work or which shall occur to any person or persons or property whatsoever arising out of the performance of this Contract, whether or not such damage or injury be caused by the negligence of the Contractor and whether or not such damage or injury be caused by the inherent nature of the Work as specified except the willful misconduct or sole negligent acts of the District, its officers or agents.

In case any suit or legal proceedings shall be brought against the District or the Engineer or any of their officers, agents or employees on account of loss or damage sustained by any person or property as a result of the performance of the Work covered by this Contract, whether or not such injuries or damage be due to the negligence of the Contractor and whether or not such injuries or damage be caused by the inherent nature of the Work as specified, the Contractor agrees to assume the defense thereof and to pay all expenses connected therewith including reasonable attorneys' fees and any judgment that may be obtained against the District or the Engineer or any of their officers, agents or employees in such suits, and in the event that any lien is placed upon the property of the District or the Engineer or any of their officers, agents or employees, as a result of such suits, the Contractor agrees to at once cause the same to be dissolved and discharges by giving bond or otherwise.

6.03 LAWS, REGULATIONS AND PERMITS

The Contractor shall give all notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the conduct of the Work. The Contractor shall be liable for all violations of the law in connection with work furnished by the Contractor. If the Contractor observes that the Drawings or Specifications are at variance with any law, ordinance, rule or regulation, the Contractor shall promptly notify the Engineer in writing and any necessary changes shall be made by instruction or change order. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations and without giving such notice to the Engineer, the Contractor shall bear all cost arising therefrom.

Unless otherwise specified herein, permits and licenses which are necessary only for and during the prosecution of the Work and the subsequent guaranty period thereafter shall be secured and

paid for by the Contractor while those permits and licenses of regulatory agencies which are necessary to be maintained after the completion of the guaranty period of the Contract will be secured and paid for by the District.

6.04 PATENTS AND COPYRIGHTS

The Contractor shall hold harmless, indemnify and defend the District and Engineer, their officers, agents and employees against all claims of liability arising from the use of any patented or copyrighted design, device, material or process, furnished, or used by the Contractor or any Subcontractors in the performance of the Work.

6.05 PERMITS AND LICENSES

Unless otherwise provided in the Special Provisions, the Contractor shall obtain at the Contractor's own expense all permits and licenses required for prosecution of the Work and shall pay all fees and taxes properly assessed against equipment or property used in connection with the Work.

6.06 SALES AND USE TAXES

The Contractor shall pay all sales and use taxes assessed by the federal, state or local authorities on materials furnished by the Contract in the performance of the Work.

6.07 LABOR DISCRIMINATION

No discrimination shall be made in the employment of persons on the Work by the Contractor or by any Subcontractor because of race, color or religion of such persons.

6.08 PREVAILING WAGE

- A. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- B. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined by the Labor Code, unless currently registered and qualified to perform public work pursuant to Section 1725.5 of the Labor Code.
- C. In accordance with the provisions of the Labor Code, Contractor shall secure the payment of compensation to employees. To the extent required by the Labor Code, Contractor shall pay not less than the prevailing rate of per diem wages as determined by the Director, Department of Industrial Relations, and State of California. Copies of such prevailing rate of per diem wages are on file at the District's office, which copies will be made available to any interested party upon request. Contractor shall post a copy of such determination at each job site. If applicable, Contractor shall forfeit to the District the amount of the penalty set forth in Labor Code Sections 1775, 1777.7(b), or any subsequent amendments thereto, for each calendar day, or portion thereof, for each worker paid less than the

specified prevailing rates for such work or craft in which such worker is employed, whether paid by Contractor or by any subcontractor.

- D. The District is a public entity in the State of California and is subject to the provisions of the Government Code and the Labor Code of the State. It is stipulated and agreed that all provisions of law applicable to public contracts are a part of this Agreement to the same extent as though set forth herein and will be complied with by Contractor. Contractor shall comply with all applicable provisions of the California Labor Code relating to working hours and the employment of apprentices on public works projects. Contractor shall, as a penalty to the District, forfeit \$25.00 for each worker employed in the execution of this Agreement by Contractor or by any subcontractor, for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week, unless such worker received compensation for all hours worked in excess of 8 hours at not less than 1½ times the basic rate of pay.

6.09 APPRENTICES ON PUBLIC WORKS

The Contractor shall comply with all applicable provisions of the California Labor Code relating to employment of apprentices on public works projects.

6.10 WORKING HOURS

The Contractor shall comply with all applicable provisions of the California Labor Code relating to working hours. The Contractor shall, as a penalty to the District, forfeit \$25.00 for each worker employed in the execution of the Contract by the Contractor or by any Subcontractor, for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week, unless such worker received compensation for all hours worked in excess of 8 hours at not less than 1½ times the basic rate of pay.

6.11 PUBLIC SAFETY AND CONVENIENCE

The Contractor shall at all times conduct work so as to assure the least possible obstruction to traffic and inconvenience to the general public and adequate protection of persons and property in the vicinity of the Work. No street shall be closed to the public without first obtaining permission of the Engineer and proper governmental authority. Where excavation is being performed in primary streets or highways, one lane in each direction shall be kept open to traffic at all times unless otherwise provided or shown. Toe boards shall be provided to retain excavated material. Fire hydrants on or adjacent to the Work shall be kept accessible to fire-fighting equipment at all times. Temporary provisions shall be made by the Contractor to assure the use of sidewalks and the proper functioning of all gutters, storm drain inlets and other drainage facilities.

The Contractor shall provide adequate barricades, signs, warning lights, watchmen and flagmen as required, as directed by the Engineer and agency having jurisdiction, to protect the Work and the safety of the public. Warning lights using inflammable liquids will not be permitted. Only electrically-operated warning lights will be approved for use. Warning lights shall operate from sunset to sunrise. Barricades shall be painted to increase their visibility at night.

"NO PARKING" signs with specific time frames shall be supplied and posted by the Contractor 48 hours prior to start of work. The Contractor shall notify the local Police Department of such restrictions and obtain approval for the posting.

6.12 TRENCH EXCAVATION

Prior to excavating any trench five feet or more in depth the Contractor shall submit to the Engineer a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground. If such plan varies from the shoring system standards established by the Construction Safety Orders of the California Division of Industrial Safety, the plans shall be prepared by a civil engineer registered in California. In no case will the Contractor be permitted to use a shoring, sloping or other protection system less effective than that required by said Orders. Nothing contained herein shall be construed to impose a tort liability upon the District, Engineer or any of their officers, agents or employees.

Pursuant to Public Contract Code, Section 7104, any time during the excavation of a trench extending deeper than four feet, the Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any:

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 by law to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

Subsurface or latent physical conditions at the site differing from those indicated.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

The District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or time required for performance of any part of the Work shall issue a change order under the procedures contained in Section 5.13 of the General Conditions.

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

6.13 CONCRETE FORMS, FALSEWORK AND SHORING

The Contractor shall comply with the requirements of CAL OSHA, Construction Safety Orders, regarding the design of concrete forms, falsework and shoring and the inspection of same prior to placement of concrete. The Contractor shall employ a civil engineer registered in California to prepare design calculations and working drawings of the falsework or shoring system, to inspect such system prior to placement of concrete and to certify in writing to the Engineer 24 hours prior to placing concrete that the falsework or shoring system complies with the design and that the materials and workmanship are satisfactory for the purpose intended.

6.14 SANITARY PROVISIONS

The Contractor shall provide and maintain sanitary facilities for the use of employees and Subcontractors necessary to comply with the requirements of state and local health departments.

6.15 SAFETY AND HEALTH REGULATIONS

All work shall be performed in accordance with requirements of the California Division of Industrial Safety, the California Occupational Safety and Health Act and the William Steiger Occupational Safety and Health Act of 1970, and all applicable Federal health and safety laws. The Contractor shall submit, to the Engineer, a Mandatory Injury/Illness Program as mandated by S.B. 198. The Contractor shall post at an appropriate location notices pursuant to Proposition 65 or any hazardous chemicals listed by the State Health Department which are used as part of the construction of the project. The job safety conditions will be the responsibility of the Contractor.

6.16 LABOR, MATERIAL AND PERFORMANCE BONDS

The Contractor shall furnish two bonds each in the amount shown in the Notice Inviting Bids, one as security for the faithful performance of the Work and the other as security for the faithful payment and satisfaction of all persons furnishing materials and performing labor on the Work. The bonds shall be issued by a corporation duly and legally licensed to transact surety business in the State of California. Such bonds shall remain in force throughout the period required to complete the Work. The bond must be executed by a duly licensed surety company approved by the District.

6.17 CONTRACTOR NOT RESPONSIBLE FOR DAMAGE RESULTING FROM CERTAIN ACTS OF GOD

As provided in Section 7105 of the Public Contract Act, the Contractor shall not be responsible for the cost of repairing or restoring damaged portions of the Work determined to have been proximately caused by an act of God, in excess of five percent of the contracted amount, provided, that the Work damaged was constructed in accordance with accepted and applicable building standards and the Specifications and Drawings. The Contractor shall obtain insurance to indemnify the District for any damage to the Work caused by an act of God if the premium of said insurance coverage is called for as a separate bid item in the proposal for the Work. The term 'Act of God' shall include only the following occurrences or conditions and effects: (1) earthquakes in excess of a magnitude 3.5 on the Richter Scale and (2) Tsunami.

6.18 INSURANCE

GENERAL. The Contractor shall procure and maintain for the duration of the Contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by the Contractor, Contractor's agents, representatives, employees or subcontractors. The cost of said insurance shall be paid for by the Contractor. The Contractor shall not commence work under this Contract until ALL insurance's required herein are obtained and until such insurance has been approved by the District. The Contractor shall not allow any Subcontractor to commence work on any subcontract until the insurance required of the Subcontractor has been so obtained and approved.

The Insurance required herein shall be maintained continuously during the life of the Contract up to the date of acceptance of the Work by the District Board of Directors, governing body. However, the Contractor's liabilities under this Contract shall not be limited in any way to the insurance coverage required. Each insurance policy required herein shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District. Insurance is to be placed with insurer's having at least an "A:XIII" policyholder's rating in accordance with the current Best's Key Rating Guide or equivalent. In addition, any and all insurers must be authorized to conduct business in the State of California, as evidenced by a listing in the official publication of the Department of Insurance of the State of California.

The insurance policies required by this section shall waive all right to subrogation against the District and its officers, employees, representatives, and volunteers.

The Contractor's insurance coverage shall be primary insurance with respect to the District, its directors, officials, employees, designated agents and volunteers. Any insurance or self-insurance maintained by the District, its directors, officials, employees, designated agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

GENERAL LIABILITY AND AUTOMOBILE LIABILITY COVERAGE. The policies are to contain, or be endorsed to contain the following provisions:

The District, its directors, officials, employees, designated agents and volunteers are to be covered as insures with the following: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased or used by the afforded to the District, its directors, officials, employees, designated agents or volunteers.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the District, its directors, officials, employees, designated agents or volunteers. Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

WORKER'S COMPENSATION INSURANCE. — The Contractor shall procure and maintain workers' compensation insurance as required by applicable state law for all employees to be engaged in work at the site of the project under this Contract and, in case of any such work sublet, the Contractor shall require the Subcontractor to provide workers' compensation insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's coverage's shall be subject to all of the same requirements stated herein for the Contractor's insurance coverage. In case any class of employees engaged in hazardous work under this Contract is not protected under the worker's compensation statute, the Contractor shall provide and shall cause each Subcontractor to provide adequate employers' liability insurance for the protection of such employees that are not otherwise protected.

CONTRACTOR'S PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE AND VEHICLE LIABILITY INSURANCE. The Contractor shall procure and maintain contractor's public liability insurance, contractor's property damage insurance and vehicle liability insurance.

SUBCONTRACTOR'S PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE AND VEHICLE LIABILITY INSURANCE. The Contractor shall either: (1) require each subcontractor to procure and to maintain subcontractor's public liability and property damage insurance and vehicle liability insurance of the type and in amounts specified, or (2) insure the activities of Subcontractors in the Contractor's own policy, in like amount.

BUILDER'S RISK INSURANCE (ALL RISK COVERAGE). The Contractor shall procure and maintain builder's risk insurance (all risk coverage) on a 100 percent completed value basis for the benefit of the District, the Contractor and Subcontractors as their interest may appear.

MINIMUM SCOPE OF INSURANCE. Coverage shall be at least as broad as:

Insurance Services Office form number GL 0002 (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability Coverage ("occurrence" Form CG 0001).

Insurance Services Office form number CA 0001 (Ed. 1/78) covering Automobile Liability, covering Automobile Liability, code 1 "any auto" and endorsement CSA 0025.

Workers' Compensation insurance as required by the State of California and Employers Liability insurance.

MINIMUM LIMITS OF INSURANCE. Contractor shall maintain limits no less than the following unless modified in the Special Provisions:

Comprehensive General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

Workers' Compensation: Limits as required by the State of California and Employers Liability limits of \$1,000,000 per accident.

Contractors' Public Liability: \$1,000,000 for all damages arising out of bodily injuries or death of one person, and, subject to that limit for each person, a total limit of \$1,000,000 for all damages arising out of bodily injury to or death of two or more persons in any one accident.

Property Damage Liability: \$1,000,000 for all damages arising out of injury to or destruction of property in any one accident, and subject to that limit per accident, a total limit of \$1,000,000 for all damages arising out of injury to or destruction of property.

DEDUCTIBLE AND SELF INSURED RETENTIONS. Any deductibles or self-insured retention's must be declared to and approved by the District. At the option of the District, either the insurer shall reduce or eliminate such deductibles or self-insured retention's with respect to the District, its directors, officials, employees, designated agents and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

VERIFICATION OF COVERAGE. The Contractor shall furnish the District with certificates of insurance and with original endorsements affecting coverage required by this Section. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the District and are to be received and approved by the District before work commences.

The certificates of insurance shall name as additionally insured the District agents listed in the Special Provisions.

Full compensation for all premiums which the Contractor and the subcontractors are required to pay on all the insurance described above shall be as included in the prices paid for the various items of work to be performed under the contract, and no additional allowance will be made therefor or for additional premiums which may be required by extension of the policies of insurance.

6.19 LIABILITY OF DISTRICT AND ENGINEER

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the District, Engineer and their officers, agents and employees against and from all claims, suits or actions arising under or by reason of the Work agreed to be undertaken in the Contract or any performance of the Work from the sole negligence of the Contractor or employees or agents or negligence which could be jointly attributed to District employees or the Contractor, but not from the sole negligence or willful misconduct of the District or the Engineer.

