

FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
416 Franklin Street
Fort Bragg, California 95437

AGREEMENT

The Fort Bragg Municipal Improvement District, (“District”) enters into this agreement, dated February 13, 2017 for reference purposes only, with Akeff Construction Services, Inc. (“Contractor”).

RECITALS

- A. NOTICE INVITING BIDS. The District gave notice inviting bids to be submitted by February 6, 2017 for the Influent Flow Meter Manhole Installation project by published notice and/or posting in accordance with California Public Contract Code Section 20164 and other applicable law.
- B. BID OPENING. On February 6, 2017, District representatives opened the bids for the Influent Flow Meter Manhole Installation project and read the bids aloud.
- C. PROJECT AWARD. On February 27, 2017 the District Board awarded the Influent Flow Meter Manhole Installation project to the Contractor and directed District staff to send the Contractor written notice of award of the project. The District Board conditioned award of the project on the Contractor’s providing executed copies of all documents specified in the contract check list included in the bid package within ten (10) working days of receiving written notice of award of the project.
- D. REQUIRED DOCUMENTS. The Contractor has provided the District executed copies of all documents specified in the contract check list included in the bid package within ten (10) working days of receiving written notice of award.

AGREEMENT TERMS

The District and the Contractor agree as follows:

- 1. THE WORK. The Contractor shall furnish all equipment, tools, apparatus, facilities, material, supervision, labor, and skill necessary to perform and complete in a good and workmanlike manner the Influent Flow Meter Manhole Installation project (“Work”) as shown in the Technical Specifications and Project Plans in accordance with the Contract Documents and applicable law.
- 2. LOCATION OF WORK. 101 W Cypress Street, Fort Bragg, CA 95437
APN #: 008-020-07
- 3. TIME FOR COMPLETION. The Contractor must complete the Work in accordance with the Contract Documents within Twenty (20) working days from the date specified in the

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District's Notice to Proceed ("Time for Completion").

4. REMEDIES FOR FAILURE TO TIMELY COMPLETE THE WORK. If the Contractor fails to fully perform the Work in accordance with the Contract Documents by the Time for Completion, as such time may be amended by change order or other modification to this agreement in accordance with its terms, and/or if the Contractor fails, by the Time for Completion, to fully perform all of the Contractor's obligations under this agreement that have accrued by the Time for Completion, the Contractor will become liable to the District for all resulting loss and damage in accordance with the Contract Documents and applicable law. The District's remedies for the Contractor's failure to perform include, but are not limited to, assessment of liquidated damages of \$500 per day in accordance with California Government Code Section 53069.85 and the Contract Documents, and/or obtaining or providing for substitute performance in accordance with the Contract Documents.

5. CONTRACT PRICE AND PAYMENT. As full compensation in consideration of completion of the Work in accordance with the Contract Documents and in consideration of the fulfillment of all of the Contractor's obligations under the Contract Documents, the District will pay the Contractor in lawful money of the United States the total price of **Forty-Eight Thousand Eight Hundred Dollars (\$48,800.00)** (the "Contract Price") as specified in the Contractor's completed Bid Schedule dated February 6, 2017, and attached to and incorporated in this agreement. Payment to the Contractor under this agreement will be for Work actually performed in accordance with the Contract Documents and will be made in accordance with the requirements of the Contract Documents and applicable law. The District will have no obligation to pay the Contractor any amount in excess of the Contract Price unless this agreement is first modified in accordance with its terms. The District's obligation to pay the Contractor under this agreement is subject to and may be offset by charges that may apply to the Contractor under this agreement. Such charges include but are not limited to, charges for liquidated damages and/or substitute performance in accordance with the Contract Documents.

6. PREVAILING WAGES. In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed. In accordance with California Labor Code Section 1773, the District has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project. In accordance with California Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at the District Public Works Department and will be made available on request. Throughout the performance of the Work the

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Contractor must comply with all provisions of the Contract Documents and all applicable laws and regulations that apply to wages earned in performance of the Work.

7. THE CONTRACT DOCUMENTS. This agreement consists of the following documents (“Contract Documents”), all of which are incorporated into and made a part of this agreement as if set forth in full. In the event of a conflict between or among the Contract Documents, precedence will be in the following order:
 - 7.1 This agreement and change orders and other amendments to this agreement signed by authorized representatives of the District and the Contractor.
 - 7.2 The General Conditions and change orders and other amendments to the General Conditions signed by authorized representatives of the District and the Contractor.
 - 7.3 The Technical Specifications, addenda to the Technical Specifications signed by authorized representatives of the District and issued prior to bid opening, Equal Product Proposals accepted by the District and signed by authorized District representatives prior to bid opening, and change orders and other amendments to the Technical Specifications signed by authorized representatives of the District and the Contractor.
 - 7.4 The Project Plans, addenda to the Project Plans signed by authorized representatives of the District and issued prior to bid opening, Equal Product Proposals accepted by the District and signed by authorized District representatives prior to bid opening, and change orders and other amendments to the Project Plans signed by authorized representatives of the District and the Contractor.
 - 7.5 Notice Inviting Bids
 - 7.6 Instructions to Bidders
 - 7.7 The successful bidder’s completed Proposal Cover Page and Bid Schedule
 - 7.8 The successful bidder’s completed Contractor License Information
 - 7.9 The successful bidder’s completed List of Proposed Subcontractors
 - 7.10 The successful bidder’s Workers Compensation Insurance Certification
 - 7.11 The successful bidder’s completed Non-collusion Affidavit
 - 7.12 The successful bidder’s Debarment Certification
 - 7.13 The successful bidder’s completed Certificates of Insurance and Endorsements
 - 7.14 The successful bidder’s executed Performance Bond
 - 7.15 The successful bidder’s executed Payment Bond
 - 7.16 The Maintenance Bond form included in the bid package that the Contractor must execute prior to release of final payment under the Contract
 - 7.17 The successful bidder’s Qualification Statement, if any
 - 7.18 The successful bidder’s signed Signature Form
8. INTERPRETATION OF CONTRACT DOCUMENTS. Any question concerning the intent or meaning of any provision of the Contract Documents, including, but not limited to, the Technical Specifications or Project Plans, must be submitted to the Public Works Director, or his/her designee, for issuance of an interpretation and/or decision by the

authorized Public Works Director in accordance with the requirements of the Contract Documents. Interpretations or decisions by any other person concerning the Contract Documents will not be binding on the District. The decision of the Public Works Director, or his/her designee, shall be final.

9. **ASSIGNMENT PROHIBITED.** The Contractor may not assign part or all of this agreement, or any moneys due or to become under this agreement, or any other right or interest of the Contractor under this agreement, or delegate any obligation or duty of the Contractor under this agreement without the prior written approval of an official authorized to bind the District and an authorized representative of Contractor's surety or sureties. Any such purported assignment or delegation without such written approval on behalf of the District and the Contractor's sureties will be void and a material breach of this agreement subject to all available remedies under this agreement and at law and equity.

10. **CERTIFICATION RE CONTRACTOR'S LICENSE.** By signing this Agreement the Contractor certifies that the Contractor holds a valid Type A license issued by the California State Contractors Licensing Board, and that the Contractor understands that failure to maintain its license in good standing throughout the performance of the Work may result in discipline and/or other penalties pursuant to the California Business and Professions Code, and may constitute a material breach of this agreement subject to all available remedies under this agreement and at law and equity.

11. **SEVERABILITY.** If any term or provision or portion of a term or provision of this Agreement is declared invalid or unenforceable by any court of lawful jurisdiction, then the remaining terms and provisions or portions of terms or provisions will not be affected thereby and will remain in full force and effect.

Executed on _____, 2017, by:

CONTRACTOR

DISTRICT

By: Karen M. Green
Title: President, Akeff Construction

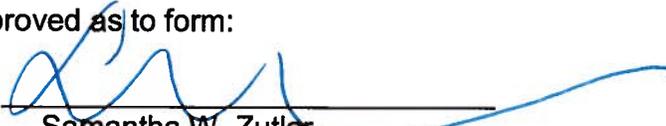
By: Linda Ruffing
Title: District Manager

[Attach Notary Acknowledgment Page]

Attest:

By: _____
June Lemos, CMC
District Clerk

Approved as to form:

By: 
Samantha W. Zutler
District Counsel

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416 Franklin Street
Fort Bragg, California 95437

GENERAL CONDITIONS

1. DEFINITIONS:

The following terms as used in any agreement of which these General Conditions are a part are defined as follows:

- 1.1 Agreement: The agreement between the District and Contractor concerning the Project, as evidenced by and comprised of the Contract Documents.
- 1.2 Architect or Engineer: The person or persons so specified on the title sheet of the Technical Specifications and/or Project Plans.
- 1.3 Bid Package: All of the documents listed as comprising the entire Bid Package as specified in the Instructions to Bidders and representing the full set of documents made available to bidders on the Project.
- 1.4 District: Fort Bragg Municipal Improvement District No. 1.
- 1.5 Contract Documents: All those documents listed in the Project agreement as comprising the entire agreement between the District and the Contractor.
- 1.6 Contractor: The successful bidder for the Project and party to the Project agreement with the District as specified in the Project agreement.
- 1.7 Days: Unless otherwise specified in the Contract Documents, days mean working days.
- 1.8 District: Fort Bragg Municipal Improvement District No. 1
- 1.9 Project: The Influent Flow Meter Manhole Installation project as described in the Technical Specifications and Project Plans.
- 1.10 Construction Manager: The District's authorized representative for administration and overall management of the Project agreement and Work. The Construction Manager is the official point of contact between the District, the Architect and/or Engineer, and the Contractor. The Construction Manager for this project shall be Assistant Public Works Director, John Smith.

- 1.11 Project Plans: The primarily graphic detailed requirements concerning the Project contained in Volume 3 of the Bid Package and any addenda to the Project Plans signed by authorized District representatives and issued prior to bid opening, Equal Product Proposals accepted by the District and signed by authorized District representatives prior to bid opening, and change orders and other amendments to the Project Plans signed by authorized representatives of the District and the Contractor in accordance with the requirements of the Contract Documents.
- 1.12 Project Inspector: The party or parties charged by the District with inspecting the Work for compliance with the requirements of the Contract Documents and applicable laws and regulations. The Project Inspector acts under the direction of the District and shall coordinate with the Construction Manager and Architect as directed by the District in accordance with the Contract Documents.
- 1.13 Subcontractor: A person, firm or corporation that is obligated as a party to a contract with the Contractor to perform part of the Project work. For purposes of these General Conditions Subcontractors include, but are not limited to, those that are obligated as parties to a contract with the Contractor to specially fabricate and install a portion of the Project Work according to the Technical Specifications and/or Project Plans.
- 1.14 Technical Specifications: The detailed Project requirements contained in Volume 3 of the Bid Package and any addenda to the Technical Specifications signed by authorized District representatives and issued prior to bid opening, Equal Product Proposals accepted by the District and signed by authorized District representatives prior to bid opening, and change orders and other amendments to the Technical Specifications signed by authorized representatives of the District and the Contractor in accordance with the requirements of the Contract Documents.
- 1.15 Work: The furnishing of all equipment, tools, apparatus, facilities, material, labor and skill necessary to perform and complete in a good and workmanlike manner the Project as shown in the Technical Specifications and Project Plans in accordance with the Contract Documents and applicable law.
- 1.16 Written Notice: Will be deemed to have been duly served for purposes of these General Conditions and any agreement of which they are a part if delivered in person to the individual or to a member of the firm or to any office of the corporation for whom the notice is intended, or if sent by registered or certified mail to the last known business address known to the party giving notice. Unless otherwise specified in the Contract Documents, the last known

address of the Contractor shall be that listed in the Contractor's completed Proposal Cover Page and Bid Schedule.

2. SCOPE OF WORK

2.1 Documents Furnished by District. The District will furnish to the Contractor, free of charge, one (1) set of reproducible Project Plans and five (5) sets of prints of the Project Plans and Technical Specifications for execution of the Work. Throughout the performance of the Work the Contractor must keep one copy of the Project Plans and Technical Specifications in good order and available for review by the Construction Manager, the Engineer, the Architect, and any other District contractors or representatives.

2.2 Technical Specifications and Project Plans.

2.2.1 The Technical Specifications and Project Plans are complementary and intended to mutually describe the Work necessary to complete the Project in accordance with the Contract Documents.

2.2.2 The Contractor must notify the Construction Manager or the Engineer or Architect as soon as possible of any apparent errors or inconsistencies, including, but not limited to, typographical or notational errors in the Project Plans, Technical Specifications, and/or in work done by others affecting the Work. The Construction Manager will issue instructions concerning any such apparent errors or inconsistencies. If the Contractor proceeds with Work impacted by apparent errors or inconsistencies without instructions from the Construction Manager, the Contractor shall do so at its sole risk and shall have all of the obligations and the District shall have all of the rights and remedies specified in Section 11 concerning any resulting damage or defect.

3. CONTROL OF WORK AND MATERIAL

3.1 Construction Manager's Status. The Construction Manager will administer the Project in accordance with the Contract Documents. After execution of the agreement and issuance of the Notice to Proceed, all correspondence and/or instructions concerning the Project between the Contractor and/or District shall be forwarded through the Construction Manager.

3.2 Inspection and Testing of Work and Material.

3.2.1 The District, the Construction Manager, the Architect or Engineer and their representatives will have access to the Work at all times wherever it

is in preparation or progress. The Contractor must provide proper facilities for such access and for inspection.

3.2.2 The Contractor must inspect all materials as delivered and promptly return all defective materials without waiting for their rejection by the Construction Manager or Architect or Engineer.

3.3 Samples Furnished by the Contractor. The Contractor must furnish all samples for approval as directed in sufficient time to permit the Architect or Engineer to examine, approve and select samples before they are required by the progress of the Work. Portions of the Work for which samples are required and for which the Architect or Engineer has selected samples must be in accordance with such approved samples. Samples must be sent prepaid to the office of the Construction Manager or to such place as the Construction Manager may direct.

3.4 Materials and Substitutions. Materials used for the Work must be new and of the quality specified. When not particularly specified, materials must be the best of their class or kind. The Contractor must, if required, submit satisfactory evidence as to the kind and quality of materials.

3.5 Audit and Examination of Records. Pursuant to California Government Code Section 8546.7, if the amount of public funds to be expended is in excess of \$10,000, this Agreement shall be subject to the examination and audit of the State Auditor, at the request of the District, or as part of any audit of the District, for a period of three (3) years after final payment under the Agreement.

3.6 SECTION REMOVED

4. CHANGES IN WORK

4.1 District Directed Change Orders. The District may at any time during the progress of the Work direct any amendments to the Work or any of the Contract Documents, including, but not limited to the Technical Specifications, or Project Plans.

4.2 Writing Requirement. Change orders and other amendments to the Technical Specifications, the Project Plans, or other Contract Documents may be made only by a writing executed by authorized representatives of the District and the Contractor.

4.3 Change Order Pricing. Change order pricing will be governed by the following:

- 4.3.1 Unit prices specified in the Contract Documents will apply to cost impacts involving items for which the Contract Documents specify unit prices.
- 4.3.2 Cost impacts involving items for which no unit prices are specified will be calculated by adding the itemized actual direct cost that would be added or reduced under the change order and an allowance for indirect costs in accordance with this Section. All other cost impacts for which no unit prices are specified must be itemized as appropriate, including the cost of tools, vehicles, phones and other equipment, and the cost of all required materials or supplies. Indirect costs added under a change order may not exceed an allowance of fifteen (15) percent of the total of combined Contractor and subcontractor direct costs added under the change order. Such allowance covers Contractor overhead and profit under the change order and includes the cost of insurance in addition to that required pursuant to Section 8.2, bond premiums, superintendent labor, clerical labor, home office expenses, worksite office expenses, and utility costs under the change order.
- 4.4 Liability Under Unapproved Change Orders. The Contractor shall be solely responsible for any and all losses, costs, or liabilities of any kind incurred by the Contractor, any subcontractor engaged in the performance of the Work, any party supplying material or equipment for the Work or any third party that are incurred pursuant to Contractor-proposed change orders prior to issuance of an approved change order executed in accordance with this Section 4. The Contractor will have all of the obligations and the District will have all of the rights and remedies that are specified in Section 11 concerning any work or resulting losses, costs, or liabilities pursuant to a Contractor proposed change order before issuance of an approved change order executed in accordance with this Section 4.
- 4.5 Change Order Disputes.
- 4.5.1 Disputed District Directed Change Orders. If the Contractor disputes a District directed change order following a reasonable effort by the District and the Contractor to resolve the dispute including, at a minimum, a meeting between appropriate representatives of the Contractor and the District, the Contractor must commence performing the Work consistent with the disputed change order within five (5) working days of the last meeting between representatives of the Contractor and the District to resolve the dispute, or within the time specified in the disputed District directed change order, whichever is later. In performing Work consistent with a disputed District-directed change order pursuant to this provision the Contractor will have all of the Contractor's rights concerning claims pursuant to the Contract Documents and applicable law.

5. TRENCHING AND UTILITIES

5.1 Excavation More Than Four Feet Deep. In accordance with California Public Contract Code Section 7104, if the Work involves excavation more than four feet deep the Contractor must promptly notify the District in writing before disturbing: any material that the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II or Class III disposal site in accordance with provisions of existing law; any subsurface or latent physical conditions at the Work site differing from those indicated; or any unknown physical conditions at the Work 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 Documents. The District will promptly investigate any such conditions for which notice is given. If the District finds that the conditions do materially differ, or involve hazardous waste, and would cause a decrease or increase in the cost or time of performance of the Work, the District will issue a change order pursuant to Section 4 of these General Conditions. If a dispute arises between the District and the Contractor concerning whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the cost or time of performance, the Contractor will not be excused from any completion date provided in the Contract Documents, but shall proceed with all Work to be performed. The Contractor will retain all rights under contract or law pertaining to resolution of disputes and protests between contracting parties.

5.2 Excavation of Five Feet or More. In accordance with California Labor Code Section 6705, contractors performing contracts exceeding \$25,000 in cost and involving excavation five or more feet deep must submit for the District's acceptance, prior to excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during excavation. If the plan varies from the shoring system standards, it must be prepared by a registered civil or structural engineer.

5.3 Utility Relocation Costs.

5.3.1 In accordance with California Government Code Section 4215, the District assumes the responsibility for the timely removal, relocation or protection of existing main or trunkline utility facilities located on the Work site if such utilities are not identified by the District in the Technical Specifications and/or Project Plans. The District will compensate the Contractor for the costs of locating, repairing damage not due to the Contractor's failure to exercise reasonable care, and removing or relocating existing main or trunkline utility facilities located at the Work

site and not identified with reasonable accuracy in the Technical Specifications and/or Project Plans. The District will also compensate the Contractor for the cost of equipment on the Project necessarily idled during such work. The Contractor will not be assessed liquidated damages for Work completion delays caused by the District's failure to provide for removal or relocation of such main or trunkline utility facilities.

- 5.3.2 Nothing in this provision or the Contract Documents will be deemed to require the District to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Work site can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the Work site; provided, however, that nothing in this provision or the Contract Documents shall relieve the District from identifying main or trunklines in the Technical Specifications and/or Project Plans.
- 5.3.4. Nothing in this provision or the Contract Documents will preclude the District from pursuing any appropriate remedy against the utility for delays which are the responsibility of the utility.
- 5.3.5 Nothing in this provision or the Contract Documents will be construed to relieve the utility from any obligation as required either by law or by contract to pay the cost of removal or relocation of existing utility facilities.
- 5.3.6 If the Contractor while performing the Work discovers utility facilities not identified by the District in the Technical Specifications and/or Project Plans, the Contractor must immediately notify the District and utility in writing.
- 5.3.7 Either the District or the utility, whichever owns existing main or trunkline utility facilities located on the Work site, shall have sole discretion to effect repairs or relocation work or to permit the Contractor to perform such repairs or relocation work at a reasonable price.

6. PROJECT FACILITIES

- 6.1 Work Site Offices. Any Work site office facilities used by the Contractor and/or its privities must conform to all applicable codes, ordinances and regulations. The cost of such Work site office facilities shall be paid from the included in the Contract Price.
- 6.2 District Rights of Access and Ownership. The District and its authorized representatives will at all reasonable times while such office facilities are

located at the Work site (including, at a minimum, all times during which the Work is performed), have access to any such Work site office facilities used by the Contractor and/or its privities.

7. PROSECUTION AND PROGRESS OF THE WORK

7.1 Liquidated Damages. Time is of the essence in the Agreement. The District and the Contractor agree that it will be difficult and/or impossible to determine the actual damage which the District will sustain in the event of the Contractor's failure to fully perform the Work or to fully perform all of the Contractor's obligations that have accrued pursuant to the Agreement by the Time for Completion. Accordingly, the District and the Contractor agree in accordance with California Government Code Section 53069.85 that the Contractor will forfeit and pay to the District liquidated damages in the sum of \$500 per day for each and every calendar day that completion of the Work and/or performance of all of the Contractor's obligations that have accrued pursuant to the Agreement is delayed beyond the Time for Completion. The District and the Contractor further agree in accordance with California Government Code Section 53069.85 that the liquidated damages sum specified in this provision is not manifestly unreasonable under the circumstances existing at the time the Agreement was made, and that the District may deduct liquidated damages sums in accordance with this provision from any payments due or that may become due the Contractor under the Agreement.

7.2 No Damage for Delay Beyond District and Contractor Control. The Contractor will not be held responsible for delays in performance of the Work caused by delay beyond the control of both District and Contractor, such as by strikes, lockouts, or labor disturbances that are not within the control of the contractor to resolve, lack or failure of transportation, or acts of other government entities. This provision will not apply where the delay would not have occurred but for a previous contractor caused delay in the prosecution of the Work. The District will not be liable to the Contractor, any subcontractor or other entity engaged in the performance of the Work, any supplier, or any other person or organization, or to any surety or employee or agent of any of them, for damages arising out of or resulting from (i) delays beyond the control of the District and the Contractor including but not limited to fires, floods, epidemics, abnormal weather conditions, earthquakes and acts of God or acts or neglect by utility owners or other contractors performing other work, or (ii) delays caused by the District, its officials, officers, employees, agents, or volunteers, or delays caused by the Construction Manager or the Architect or Engineer, which delays are reasonable under the circumstances involved and/or are within the contemplation of the District and the Contractor. An extension of the Time for Performance in an amount equal to the time loss due to such delay(s) will be the Contractor's sole and exclusive remedy for such delay(s).

- 7.3 No Damage for Contractor Caused Delay. Contractor shall not be entitled to additional compensation for extended field or home office overhead, field supervision, costs of capital, interest, escalation charges, acceleration costs or other impacts for any delays to the extent such delays are caused by the failure of the Contractor or any subcontractor or other entity engaged in performance of the Work to perform the Work in accordance with the Contract Documents. Contractor may be eligible for additional compensation in excess of the Contract Price for delays caused by the District and/or its privities.
- 7.4 No Damage for Other Delay. Contractor will not be entitled to damages for delay to the Work caused by the following, which the District and Contractor agree will be deemed for purposes of California Public Contract Code Section 7102 either not caused by the District, and/or within the contemplation of the District and the Contractor, and/or reasonable under the circumstances:
- 7.4.1 Exercise of the District's right to sequence the Work in a manner that would avoid disruption to the District and other contractors based on: the failure of the Contractor or any subcontractor or other entity engaged in the performance of the Work to perform the Work in accordance with the Contract Documents, enforcement by the District or any other governmental agency of competent jurisdiction of any government act or regulation, or enforcement by the District of any provisions of the Agreement.
- 7.4.2 Requests for clarification or information concerning the Contract Documents or proposed change orders or modifications to the Contract Documents, including extensive and/or numerous such requests for clarification or information or proposed change orders or modifications, provided such clarifications or information or proposed change orders or modifications are processed by the District or its representatives in a reasonable time in accordance with the Contract Documents.
- 7.5 Delays Caused by the District and/or Its Privities. Either the District or the Contractor may propose a change in the Time for Completion for delays that are purported to be caused by the District and/or its privities and that are not reasonable under the circumstances involved and/or that are not within the contemplation of the District and the Contractor. Such proposed changes in the Time for Completion will constitute change order proposals subject to Section 4.
- 7.6 Weather Delays. Extensions of the Time for Completion will not be allowed for weather conditions that are consistent with the anticipated rain days based on historical weather data of the National Oceanographic and Atmospheric Administration of the U.S. Department of Commerce for the record station that is nearest or most applicable to the Work site.

7.7 Delay Claims. Whenever the Contractor claims a delay for which the Time for Completion may be extended, the Contractor must request an extension of time within five (5) days of the start of the delay. The request must be in writing and describe in detail the cause for the delay, and, if possible, the foreseeable extent of the delay.

7.8 Contractor Coordination of the Work. The District reserves the right to do other work in connection with or in the vicinity of the Project by contract or otherwise, and Contractor shall at all times conduct the Work so as to impose no hardship on the District, others engaged in the Work or other contractors working at the Work site. The Contractor will adjust, correct and coordinate the Work with the work of others so that no delays result in the Work or other work at or near the Work site.

8. CONTRACTOR RESPONSIBILITIES

8.1. Eligibility. By executing the Agreement, the Contractor certifies that the Contractor, and any listed subcontractor, is not ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7.

8.2 Insurance.

8.2.1 All required insurance shall be provided in the form of "occurrence"-type policies underwritten by admitted insurers in the State of California with a rating of A or better from the current year Best Rating Guide. All policies must be issued at the expense of the Contractor and must be maintained at the Contractor's expense throughout the performance of the Work.

8.2.2 The Contractor and any subcontractors engaged in performance of the Work must secure payment of workers compensation in accordance with California Labor Code Section 3700 and other applicable law. The Contractor must verify that all Subcontractors comply with this requirement.

8.2.3 Within ten (10) working days following notice of award the Contractor must submit to the District along with executed copies of all other documents specified in the Contract Check List certificates of insurance and endorsements evidencing that the Contractor has in effect and will maintain throughout the performance of the Work the following kinds and amounts of insurance:

8.2.3.1 Worker's Compensation Insurance. Workers Compensation and Employers Liability insurance as required by any applicable law, regulation or statute, including the provisions of Division IV of

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General Conditions

the Labor Code of the State of California, and any act or acts amending it. Worker's Compensation insurance must be for Statutory Limits and must cover the full liability of the Contractor. The Contractor's Employer's Liability Insurance must be in an amount no less than \$1,000,000.00 per occurrence. The insurance must be endorsed to waive all rights of subrogation against District and its officials, officers, employees, and volunteers for loss arising from or related to the work performed under this agreement.

8.2.3.2 Commercial General Liability and Automobile Liability Insurance. Coverage for liability because of Bodily Injury and property Damage including, but not limited to the following coverage:

- Completed Operations and Products Liability
- Bodily Injury
- Personal Injury
- Broad Form Property Damage Liability
- Contractual Liability insuring the obligations assumed by the Contractor under the Contract Documents
- Automobile Liability, including owned, non-owned and hired automobiles
- Coverage for the XCU hazards of Explosion, Collapse and Underground

8.2.3.3 Commercial Umbrella Policy. The Commercial policy is to insure losses above General liability, Employers liability, and auto liability limits.

8.2.4 The insurance furnished by the Contractor must be primary in the amount of any loss.

8.2.5 The limits of the insurance required above will be at least:

Comprehensive General Liability

Bodily Injury Liability	\$2,000,000	each occurrence
	\$3,000,000	each aggregate
Property Damage Liability	\$2,000,000	each occurrence
	\$3,000,000	each aggregate

Comprehensive Automobile Liability

Bodily Injury Liability	\$2,000,000	each person
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	\$2,000,000	each occurrence
Property Damage Liability	\$2,000,000	each occurrence

8.2.6 For each insurance policy required under the Agreement except for the required workers compensation insurance policy, the Contractor must provide endorsements that add the District as an additional insured. Such endorsements must: provide that the insurance required to be furnished by the Contractor will be primary as regards the District, and that the District’s insurance will be excess of and not contribute to the insurance required to be furnished by the Contractor; that the District will receive 30 day written notice of any reduction or cancellation of such insurance required to be furnished by the Contractor; and include a severability of interest clause acceptable to the District. Said endorsement shall be at least as broad as Insurance Services Office form number CG2010 (Ed. 11/85).

8.3 Indemnities.

8.3.1 The Contractor will take all responsibility for the Work, and will bear all losses and damages directly or indirectly resulting to the Contractor, any subcontractors engaged in performance of the Work, the District, its officials, officers, employees, agents, volunteers and consultants, and to third parties on account of the performance or character of the Work, unforeseen difficulties, accidents, or occurrences of other causes predicated on active or passive negligence of the Contractor or of any subcontractor engaged in performance of the Work. To the fullest extent permitted by law the Contractor will indemnify, defend and hold harmless the District, its officials, officers, employees, agents, volunteers and consultants from and against any or all loss, liability, expense, claims, costs (including costs of defense), suits, and damages of every kind, nature and description (including, but not limited to, penalties resulting from exposure to hazards in violation of the California Labor Code) directly or indirectly arising from the performance of the Work (“Claims”).

8.3.2 The Contractor will indemnify, defend and hold harmless the District, the District’s officials, officers, employees, volunteers, agents and the Construction Manager and Architect for all liability on account of any patent rights, copyrights, trade names or other intellectual property rights that may apply to the Contractor’s performance of the Work. The Contractor will pay all royalties or other charges as a result of intellectual property rights that may apply to methods, types of construction, processes, materials, or equipment used in the performance of the

Work, and will furnish written assurance satisfactory to the District that any such charges have been paid.

8.3.3 The Contractor assumes all liability for any accident or accidents resulting to any person or property as a result of inadequate protective devices for the prevention of accidents in connection with the performance of the Work. The Contractor will indemnify, defend, and hold harmless the District and its officials, officers, employees, agents, volunteers and consultants from such liability.

8.3.4 Approval of the Contractor's certificates of insurance and/or endorsements does not relieve the Contractor of liability under this Section 8.3. The Contractor will defend, with legal counsel reasonably acceptable to the District, any action or actions filed in connection with any Claims and will pay all related costs and expenses, including attorney's fees incurred. The Contractor will promptly pay any judgment rendered against the District, its officials, officers, employees, agents, volunteers or consultants for any Claims. In the event the District, its officials, officers, employees, agents, volunteers or consultants is made a party to any action or proceeding filed or prosecuted against Contractor for any Claims, Contractor agrees to pay the District, its officials, officers, employees, agents, volunteers and consultants any and all costs and expenses incurred in such action or proceeding, including but not limited to, reasonable attorneys' fees.

8.3.5 In accordance with California Civil Code Section 2782(a), nothing in the Agreement will be construed to indemnify the District for its sole negligence, willful misconduct, or for defects in design furnished by District. In accordance with California Civil Code Section 2782(b), nothing in the Agreement will be construed to impose on the Contractor or to relieve the District from liability for the District's active negligence. By execution of the Contract Documents the Contractor acknowledges and agrees that the Contractor has read and understands the insurance and other requirements of Agreement, and this Section 8.3, which is a material element of consideration.

8.4 Licenses/Permits. The Contractor must, without additional expense to the District, obtain all licenses, permits and other approvals required for the performance of the Work.

8.5 California Labor Code Requirements. The Contractor shall comply with all applicable provisions of the California Labor Code, including but not limited to Labor Code sections 1771, 1773.2, 1775, 1776, 1810, 1811, 1813, and 1815.

8.6 Laws and Ordinances. The Contractor and all subcontractors engaged in the performance of the Work must conform to the following specific rules and regulations as well as all other laws, ordinances, rules and regulations that apply to the Work.

- National Electrical Safety Code, U. S. Department of Commerce
- National Board of Fire Underwriters' Regulations
- California Building Standards Code as adopted by the District
- Manual of Accident Prevention in Construction, latest edition, published by A.G.C. of America
- Industrial Accident Commission's Safety Orders, State of California
- Regulations of the State Fire Marshall (Title 19, California Code of Regulation) and Applicable Local Fire Safety Codes
- Labor Code of the State of California - Division 2, Part 7, Public Works and Public Agencies.
- Federal, state, and local air pollution control laws and regulations applicable to the Contractor and/or Work.

8.7 Guaranty. The Contractor guarantees all of the Work for one year from the date the District accepts the Work. Upon receiving written notice of a need for repairs which are directly attributable to defective materials or workmanship the Contractor must make good any defects arising or discovered in any part of the Work by diligently commencing the necessary repairs within seven (7) days from the date of notice from the District. If the Contractor fails to make good any defects in the Work in accordance with this provision, in addition to any other available remedy under the contract or at law or equity, the District may make good or have made good such defects in the Work and deduct the cost from amounts that may be due or become due the Contractor, and/or call on the Contractor's maintenance bond for the cost of making good such defects and for the District's reasonable legal costs, if any, of recovering against the bond. The Contractor shall remain responsible for repairing any Work found to be defective regardless of when such defect is discovered by the District.

8.8 Safety.

8.8.1 In accordance with generally accepted construction practices and applicable law, the Contractor will be solely and completely responsible for conditions of the Work site, including safety of all persons and property during performance of the Work. This requirement will apply continuously and not be limited to normal working hours. For purposes of California Labor Code Section 6400 and related provisions of law the Contractor and the Contractor's privities and any other entities engaged in the performance of the Work will be "employers" responsible for furnishing employment and a place of employment that is safe and healthful for the employees, if any, of such entities engaged in the performance of the Work. Neither the District nor its officials, officers,

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employees, agents, volunteers or consultants will be “employers” pursuant to California Labor Code Section 6400 and related provisions of law with respect to the Contractor, the Contractor’s privities or other entities engaged in the performance of the Work.

- 8.8.2 Review and inspection by the District, the Construction Manager, the Architect or Engineer, and/or other representatives of the District of the Contractor's performance of the Work will not constitute review of the adequacy of the Contractor's safety measures in, on, or near the Work site. Such reviews and inspections do not relieve the Contractor of any of the Contractor’s obligations under the Contract Documents and applicable law to ensure that the Work site is maintained and the Work is performed in a safe manner.
- 8.8.3 The Contractor will be solely responsible for the implementation and maintenance of safety programs to ensure that the Work site is maintained and the Work is performed in a safe manner in accordance with the Contract Documents and applicable law.
- 8.8.4 Within ten (10) working days following notice of award the Contractor must submit to the District a copy of the Contractor’s Safety Plan.
- 8.8.5 The Contractor must furnish and place proper guards and systems for the prevention of accidents, including, but not limited to, those systems required pursuant to Title 8, Section 1670 and following of the California Code of Regulations concerning safety belts and nets. The Contractor must provide and maintain any other necessary systems or devices required to secure safety of life or property at the Work site in accordance with accepted standards of the industry and applicable law. The Contractor must maintain during all night hours sufficient lights to prevent accident or damage to life or property.

8.9 Assignment of Unfair Business Practice Claims. In accordance with California Public Contract Code Section 7103.5, the Contractor and any subcontractors offer and agree to assign to the District all rights, title, and interest in and to all causes of action the Contractor or any subcontractors may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to this contract. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor, without further acknowledgement by the parties.

9. MEASUREMENT AND PAYMENT

9.1 Payment

- 9.1.1 On or about the first day of each calendar month the Contractor will submit to the Construction Manager a verified application for payment and schedule of values supported by a statement showing all materials actually installed during the preceding month and the cost of labor actually expended in the performance of the Work. Unless otherwise provided in the Contract Documents, no allowances or payments will be made for material or equipment not placed at the Work site.
- 9.1.2 To be eligible for payment the Contractor's applications for payment must include certified payroll reports prepared in accordance with California Labor Code Section 1776 and the Agreement for each employee of the Contractor and any subcontractors engaged in the performance of the Work during the preceding months, applications for payment will not be processed without certified payroll reports.
- 9.1.3 Unless the Contractor has elected to post securities in lieu of retention in accordance with California Public Contract Code Section 22300 and the Agreement, and the Contractor and the District have executed an escrow agreement in accordance with the Public Contract Code and the Agreement, the District will make progress payments to the Contractor in accordance with applicable law in the amount of ninety five (95) percent of the value of the labor actually performed and the material incorporated in the Work as specified in Contractor's verified application for payment upon approval by the District's authorized representative(s). Payment of progress payments will not be construed as acceptance of the Work performed. If the Contractor has elected to post securities in lieu of retention in accordance with Public Contract Code Section 22300 and the Agreement and the Contractor and the District have executed an escrow agreement in accordance with the Public Contract Code and the Agreement, the District will make payments to the Contractor or the Contractor's escrow agent in accordance with such escrow agreement.
- 9.1.4 The District will pay the Contractor's final invoice in accordance with applicable law and this Section 9 following acceptance of the Work provided that:
 - 9.1.4.1 The Contractor has furnished evidence satisfactory to the District that all claims for labor and material have been paid, or the time for filing valid stop notices has passed and no stop notices have been filed, or all stop notices filed have been released by valid release or release bond acceptable to the District.

9.1.4.2 No claim has been presented to the District by any person based upon any acts or omissions of the Contractor or any subcontractor engaged in the performance of the Work.

9.1.4.3 No other claim or dispute exists under the Agreement or applicable law concerning payment of the Contractor's final invoice and/or release of the Agreement retention.

9.1.4.4 The Contractor has filed with the District the Maintenance Bond provided in the Contract Documents with duly notarized signatures of an authorized representative of the Contractor and an attorney-in-fact of an admitted surety insurer acceptable to the District and such Maintenance Bond binds the Contractor as Principal and the Surety in accordance with its terms in the amount of 10% of the final Contract Price.

9.1.4.5 The Contractor's application for final payment contains a written waiver of all claims against the District of which the Contractor may not yet have asserted at the time of the submission of the application for final payment.

9.2 Non-Allowable Direct Charges. The following costs are not allowable direct charges under the Agreement. The following costs may only be paid under the Agreement, if at all, as part of any allowance for contractor overhead and/or profit established under the Agreement.

9.2.1 Labor costs in excess of applicable prevailing wages pursuant to the Agreement and applicable law, liability and workers compensation insurance, social security, retirement and unemployment insurance and other employee compensation and benefits pursuant to bona fide compensation plans in effect at the time specified for the opening of Project bids for Contractor and subcontractor employees engaged in the performance of the Work. However, in no event will allowable direct labor charges under the Agreement include employee bonuses, employee vehicles or vehicle allowances, employee telephones or telephone allowances, or employee housing or housing allowances, whether or not such benefits are part of a bona fide compensation plan in effect at the time specified for the opening of Project bids.

9.2.2 Superintendent labor and clerical labor.

9.2.3 Bond premiums

9.2.4 Insurance in excess of that required under Section 8.2

9.2.5 Utility costs

9.2.6 Work Site office expenses

9.2.7 Home office expenses.

9.3 Retention. The District or its agent may, in accordance with the Contract Documents and applicable law, withhold any payment of monies due or that may become due the Contractor because of:

9.3.1 Defective work not remedied or uncompleted work.

9.3.2 Claims filed or reasonable evidence indicating probable filing of claims.

9.3.3 Failure to properly pay subcontractors or to pay for material or labor.

9.3.4 Reasonable doubt that the Work can be completed for the balance then unpaid.

9.3.5 Damage to another contractor.

9.3.6 Damage to the District.

9.3.7 Damage to a third party.

9.3.8 Delay in the progress of the Work, which, in the District's judgment, is due to the failure of the Contractor to properly expedite the Work.

9.3.9 Liquidated damages or other charges that apply to the Contractor under the Agreement.

9.3.10 Any other lawful basis for withholding payment under the contract.

9.4 Securities in Lieu of Retention.

9.4.1 In accordance with Public Contract Code Section 22300, except where federal regulations or polices do not permit substitution of securities, the Contractor may substitute securities for any moneys withheld by the District to ensure performance of the Work. At the Contractor's request and expense, securities equivalent to the amount withheld will be deposited with the District, or with a state or federally chartered bank in California as the escrow agent, who will then pay those moneys to the Contractor under the terms of an Escrow for Security Deposit agreement. The Escrow for Security Deposit agreement is provided in

the Contract Documents. Upon satisfactory completion of the Work, the securities will be returned to the Contractor.

9.4.2 Alternatively, at the Contractor's request and expense, the District will pay retentions earned directly to the escrow agent. At the Contractor's expense, the Contractor may direct investment of the payments into securities. Upon satisfactory completion of the Work, the Contractor will receive from the escrow agent all securities, interest, and payments received by the escrow agent from the District pursuant to this provision and the terms of the Escrow for Security Deposit agreement. The Contractor will, within 20 days of receipt of payment, pay to each subcontractor the respective amount of interest earned, less costs of retention withheld from each Subcontractor, on monies withheld to ensure the Contractor's performance of the Work.

9.4.3 Securities eligible for investment in accordance with this provision include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the District.

9.4.4 The Contractor will be the beneficial owner of any securities substituted for moneys withheld and will receive any interest thereon.

10. PROJECT ACCEPTANCE AND CLOSEOUT

10.1 Occupancy. The District reserves the right to occupy or use any part or parts or the entire of the Work before the Work is fully performed. Subject to applicable law, exercising this right will in no way constitute acceptance of any part of the Work so occupied or used or acceptance of the entire Work, nor will such occupancy or use in any way affect the times when payments will become due the Contractor, nor will such occupancy or use in any way prejudice the District's rights under the Agreement, any Agreement bonds, or at law or equity. Occupancy or use shall not waive the District's rights to assess liquidated damages in accordance with Section 7 after the date of such occupancy or use.

10.2 Work Completion and Final Inspection. When the Contractor considers the Work is completed, the Contractor will submit written certification to the Construction Manager specifying that: the Contract Documents have been reviewed; the Work has been inspected for compliance with the Contract Documents; the Work has been completed in accordance with the Contract Documents; and that equipment and systems have been tested in the presence of the District's representative and are operational. The District and/or the District's authorized representatives will make an inspection to verify that the Work is complete and will notify the Contractor in writing of any incomplete or

deficient Work. The Contractor will take immediate steps to remedy the stated deficiencies and give notice of correction to the Construction Manager. Upon receiving a notice of correction, the District or the District's authorized representatives will re-inspect the Work. The Contractor must correct all punch list items within 15 working days after the issuance of the punch list. Before acceptance of the Work the Contractor must submit: one set of reproducible mylars of the Project Record Drawings (As-Builts), and any equipment operating and maintenance instructions and data, warranties.

10.3 Work Acceptance. The District will accept the Work in writing only when the Work has been completed to the District's reasonable satisfaction. Progress payments will in no way be construed as acceptance of any part of the Work.

11. REMEDIES AND DISPUTES

11.1 Failure to Correct Work. Within ten (10) working days of receiving written notice from the District describing Work that is defective or that is otherwise not in accordance with the requirements of the Agreement and/or applicable law and directing that such Work be corrected, the Contractor and/or the Contractor's sureties must give the District written notice of the intent of the Contractor and/or the Contractor's sureties to correct such Work and commence correction of such Work in accordance with the District's notice and the Agreement. If the Contractor and/or the Contractor's sureties do not give the District written notice of intent to correct such Work and commence correction of such Work within ten (10) working days of receipt of the District's notice, then the District may correct such work and/or have such work corrected for the account and at the expense of the Contractor and/or its sureties, and the Contractor and/or its sureties will be liable to the District for any resulting excess cost. The District may, in addition to all other remedies that the District may have under the Agreement and at law or equity, deduct any such excess cost of completing the Work from amounts that are due or that may become due the contractor.

11.2 Termination.

11.2.1 In accordance with California Public Contract Code Section 7105, in addition to all other available remedies that the District may have under the Agreement, and at law or equity, the District may terminate the Contractor's control of the Work:

11.2.1.1 If the Contractor or any of its subcontractors engaged in the performance of the Work fails to timely perform the Work and/or any of the Contractor's material obligations under the Contract Documents, including but not limited to submission of an acceptable schedule, that have accrued except for due to reasons

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beyond the control of the Contractor pursuant to the Contract Documents.

11.2.1.2 If the Contractor is adjudged bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of its creditors.

11.2.1.3 If the Contractor or any of the subcontractors engaged in the performance of the Work persistently or repeatedly refuses or fails to supply enough properly skilled workmen or proper materials for the timely completion of the Work.

11.2.1.4 If the Contractor fails to make prompt payment to subcontractors engaged in the performance of the Work or for material or labor used in the performance of the Work in accordance with the Contract Documents and applicable law.

11.2.1.5 If the Contractor or any subcontractors engaged in the performance of the Work persistently disregards laws or ordinances applicable to the performance of the Work, or the instructions of the District, the Construction Manager, the Architect, or other authorized representatives of the District.

11.2.1.6 For any reason or for no reason, at the District's sole discretion.

11.2.2 If the District intends to terminate the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.6, above, the District will immediately serve written notice to the Contractor and its sureties in accordance with the Contract Documents.

11.2.3 Upon termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 - 11.2.1.6, the Contractor will, if so directed by the District, immediately remove from the Work site any and all materials and personal property belonging to the Contractor which have not been incorporated in the Work and the Contractor and its sureties will be liable upon their bond for all damages caused the District by reason of the Contractor's failure to complete the Work.

11.3 Disputes.

11.3.1 The procedures set forth in California Public Contract Code Section 20104.2 apply to claims of \$375,000 or less between the Contractor and the District. These procedures are summarized as follows:

11.3.1.1 The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

11.3.1.2 For claims of less than fifty thousand dollars (\$50,000), the District shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the District may have against the Contractor.

11.3.1.3 For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the District shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the District may have against the Contractor.

11.3.1.4 If the Contractor disputes the District's written response, or the District fails to respond within the time prescribed, the Contractor may so notify the District, in writing, either within 15 days of receipt of the District's response or within 15 days of the District's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the District shall schedule a meet and confer conference within 30 days for settlement of the dispute.

11.3.1.5 Following the meet and confer conference, if the claim or any portion remains in dispute, the Contractor may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code

11.3.2 The procedures set forth California Public Contract Code Section 20104.4, apply to civil actions to resolve claims of \$375,000 or less between the District and the Contractor.

12. NOTIFICATION OF RESIDENTS

Contractor shall be responsible for properly notifying residents and property owners impacted by this project in accordance with District standards. Specific notification procedures vary with the type of work and shall be coordinated with the District before work begins. The District will furnish a list of impacted property owners.

FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
416 Franklin Street
Fort Bragg, California 95437

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS the District Board of the Fort Bragg Municipal Improvement District No. 1 has awarded to Akeff Construction Services, Inc. (designated as the "PRINCIPAL") a contract for the Influent Flow Meter Manhole Installation Project No. 2017-02, which contract and all of the contract documents as defined therein (designated as the "Contract") are hereby made a part hereof; and

WHEREAS, said PRINCIPAL is required under the terms of the Contract to furnish a bond for the faithful performance of the Contract;

NOW, THEREFORE, WE, the PRINCIPAL and

_____ as surety (designated as "SURETY"), an admitted surety insurer authorized to do business in the State of California, are held and firmly bound unto the District (designated as "OBLIGEE"), in the penal sum of Forty-Eight Thousand Eight Hundred Dollars (\$48,800.00), lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, and administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, if the above bound PRINCIPAL, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract and any alteration thereof made as therein provided, on his or their part to be kept and performed at the time and in the manner therein specified and in all respects according to their true intent and meaning, and shall defend, indemnify and save harmless the OBLIGEE, it's officials, officers, employees, volunteers and agents, as therein stipulated, then this obligation shall become null and void, otherwise it shall be and remain in full force and virtue.

And the said SURETY, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or to the specifications or the plans accompanying the same or to any other part of the contract documents, as defined therein, shall in any way affect said SURETY's obligation on this bond, and the SURETY does hereby waive notice of any such change, extension of time, alteration or addition.

Fort Bragg Municipal Improvement District No. 1
Project No. 2017-02
Performance Bond

And the said SURETY, for value received, hereby stipulates and agrees that upon termination of the Principal's control of Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5 of the General Conditions of the Contract, the OBLIGEE reserves the right to refuse tender of the PRINCIPAL by the SURETY to complete the Contract work.

If any action shall be brought by the OBLIGEE upon this bond, a reasonable attorney's fee, to be fixed by the court, shall be and become a part of the OBLIGEE's judgment in any such action.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals this _____ day of _____, 2017, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by their undersigned representatives, pursuant to authority of their governing bodies.

(Corporate Seal)

PRINCIPAL

(Acknowledgement)

By: _____
Title: _____

(Corporate Seal)

SURETY

(Acknowledgement)

By: _____
(Attorney-in-fact)
Title: _____

(NOTE TO SURETY COMPANY: A certified copy of unrevoked resolution of authority for the attorney-in-fact must be submitted with and attached to the executed bid bond.)

FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
416 Franklin Street
Fort Bragg, California 95437

PAYMENT/LABOR AND MATERIALS BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS the District Board of the Fort Bragg Municipal Improvement District No. 1 has awarded to Akeff Construction Services, Inc. (designated as the "PRINCIPAL") a contract for the Influent Flow Meter Manhole Installation Project, Project No. 2017-02, which contract and all of the contract documents as defined therein (designated as the "Contract") are hereby made a part hereof; and

WHEREAS, pursuant to California Civil Code Section 3247, the PRINCIPAL is required, before entering upon the performance of the Contract, to file a payment bond with and have such bond approved by the officer or public entity by whom the Contract is awarded; and

WHEREAS, pursuant to California Civil Code Section 3248, such payment bond must be in a sum not less than one hundred percent (100%) of the total amount payable by the terms of the Contract, and must satisfy the other requirements specified in that section; and

WHEREAS, the PRINCIPAL is required in accordance with the Contract to furnish a payment bond in connection with the Contract to secure payment of claims of laborers, mechanics and materialmen employed on work under the Contract in accordance with applicable law;

NOW, THEREFORE, THESE PRESENTS WITNESSETH:

That the PRINCIPAL and the undersigned _____, as surety (designated as "SURETY"), an admitted surety insurer authorized to do business in the State of California are held and firmly bound unto all laborers, material men, and all other persons named in California Civil Code Section 3181 in the sum of Forty-Eight Thousand Eight Hundred Dollars (\$48,800.00), lawful money of the United States, being a sum not less than one hundred percent of the total amount payable by the terms of the Contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the PRINCIPAL or any of the PRINCIPAL's subcontractors, or the heirs, executors, administrators, successors, or assigns of any, all, or either of them, shall fail to pay any persons named in California Civil Code Section 3181, or fail to pay for any labor, materials, provisions, provender, or

Fort Bragg Municipal Improvement District No. 1
Project No. 2017-02
Payment Bond

other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or fail to pay amounts due under the Unemployment Insurance Code with respect to such work or labor, or fail to pay for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the PRINCIPAL or any subcontractors of the PRINCIPAL pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work or labor, that the SURETY will pay for the same in an amount not exceeding the amount herein above set forth, and also, in case suit is brought upon this bond, will pay a reasonable attorney's fee to be awarded and fixed by the Court; otherwise this obligation shall be void.

It is hereby expressly stipulated and agreed by the said Surety, for value received, that this bond shall inure to the benefit of any and all of the persons named in Section 3181 of the California Civil Code so as to give a right of action to them or their assigns in any suit brought upon this bond.

It is hereby further expressly stipulated and agreed by the said Surety, for value received, that no change, extension of time, alteration or addition to the terms of the Contract or the specifications or drawings accompanying the same or to any other part of the contract documents, as defined therein, shall in any manner affect the obligations of the SURETY on this bond, and SURETY does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals this _____ day of _____, 2017, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by their undersigned representatives, pursuant to authority of their governing bodies.

(Corporate Seal)

PRINCIPAL

(Acknowledgement)

By: _____
Title: _____

(Corporate Seal)

SURETY

(Acknowledgement)

By: _____
(Attorney-in-fact)
Title: _____

(NOTE TO SURETY COMPANY: A certified copy of unrevoked resolution of authority for the attorney-in-fact must be submitted with and attached to the executed bid bond.)

FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
416 Franklin Street
Fort Bragg, California 95437

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS the District Board of the Fort Bragg Municipal Improvement District No. 1 has awarded to Akeff Construction Services, Inc. (designated as the "PRINCIPAL") a contract for the Influent Flow Meter Manhole Installation Project, Project No. 2017-02, which contract and all of the contract documents as defined therein (designated as the "Contract") are hereby made a part hereof; and

WHEREAS, the PRINCIPAL is required under the terms of the Contract to furnish a bond for the correction of any defects due to defective materials or workmanship in the work performed under the Contract.

NOW, THEREFORE, we the PRINCIPAL and the undersigned _____, as surety (designated as "SURETY"), an admitted surety insurer authorized to do business in the State of California, are held and firmly bound unto the Fort Bragg Municipal Improvement District No. 1, (designated as the "OBLIGEE"), in the penal sum of Four Thousand Eight Hundred Eighty Dollars (\$4,880.00), lawful money of the United States, being a sum not less than ten percent (10%) of the final Contract price, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if, during a maintenance period of one (1) year from the date of acceptance by the OBLIGEE of the contracted work, the PRINCIPAL upon receiving written notice of a need for repairs which are directly attributable to defective materials or workmanship, shall diligently take the necessary steps to correct said defects within seven (7) days from the date of said notice, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

If any action shall be brought by the OBLIGEE upon this bond, a reasonable attorney's fee, to be fixed by the Court, shall be and become a part of OBLIGEE's judgment in any such action.

No right of action shall accrue on this bond to, or for the use of, any person or corporation other than the OBLIGEE named herein or the heirs, executors, administrator or successor of the OBLIGEE.

Fort Bragg Municipal Improvement District No. 1
Project No. 2017-02
Maintenance Bond

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their seals this _____ day of _____, 2017, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

PRINCIPAL

(Acknowledgement)

By: _____

Title: _____

(Corporate Seal)

SURETY

(Acknowledgement)

By: _____

(Attorney-in-fact)

Title: _____

(NOTE TO SURETY COMPANY: A certified copy of unrevoked resolution of authority for the attorney-in-fact must be submitted with and attached to the executed bid bond.)

FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
416 Franklin Street
Fort Bragg, California 95437

**ESCROW AGREEMENT FOR
SECURITY DEPOSITS IN LIEU OF RETENTION**

This Escrow Agreement is made and entered into by and between the Fort Bragg Municipal Improvement District No. 1, whose address is 416 North Franklin Street, Fort Bragg, California 95437, hereinafter called "District", Akeff Construction Services, Inc., whose address is 31201 Thomas Lane, Fort Bragg, CA 95437, hereinafter called "Contractor", and _____, whose address is _____, hereinafter called "Escrow Agent"

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

1. Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by District pursuant to the Construction Contract entered into between the District and Contractor for the project entitled Influent Flow Meter Manhole Installation Project in the amount of Forty-Eight Thousand Eight Hundred Dollars (\$48,800.00) dated February 13, 2017 (hereinafter referred to as the "Contract"). Alternatively, on written request of the Contractor, the District shall make payments of the retention earnings directly to the Escrow Agent. When Contractor deposits the securities as substitute for Contract earnings, the Escrow Agent shall notify the District within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the District and Contractor. Securities shall be held in the name of _____ and shall designate the Contractor as the beneficial owner.
2. The District shall make progress payments to the Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
3. When the District makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until such time as the escrow created under this contract is terminated. The Contractor may direct the investments of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the District pays the escrow agent directly.

Fort Bragg Municipal Improvement District No. 1
Project No. 2017-02
Escrow Agreement for Security Deposits

4. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the District. These expenses and payment terms shall be determined by the District, Contractor and Escrow Agent.
5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of the Contractor and shall be subject to withdrawal by contractor at any time and from time to time without notice to the District.
6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from District to the Escrow Agent that District consents to the withdrawal of the amount sought to be withdrawn by Contractor.
7. The District shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven day's written notice to the Escrow Agent from the District of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the District.
8. Upon receipt of written notification from the District certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all monies and securities on deposit and payments of fees and charges.
9. Escrow Agent shall rely on the written notifications from the District and the Contractor pursuant to Sections (5) to (8) inclusive, of this agreement and the District and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.
10. The names of the persons who are authorized to give written notice or to receive written notice on behalf of the District and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures, are as follows:

On behalf of District:

On Behalf of Contractor

Title

Title

Name

Name

On behalf of Escrow Agent:

Title

Name

Signature

Address

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

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

District:

Contractor:

Title

Title

Name

Name

Signature

Signature

Address

Address