



**AGENDA  
FACILITIES COMMITTEE**

**Thursday, June 24, 2021 at 10:30 A.M.**

**In accordance with the current State of Emergency and the Governor's Executive Order N-25-20, of March 12, 2020 and N-33-20 of March 19, 2020, teleconferencing will be used for this meeting. Board members, staff and members of the public will be able to participate by webinar by using the following link: <https://us02web.zoom.us/j/85363418870>**

**Meeting ID: 853 6341 8870**

**Participants will need to download the Zoom app on their mobile device. Members of the public will also be able to participate by telephone using the following dial in information: Dial in #: (310) 372-7549, Passcode 660448.**

Committee Members: Barbara Mroz and Howard Salmon

CEO: Rachel Mason

Staff Members: Linda Bannerman, Pam Knox and Tracy Rosalee

Property Manager: Roy Moosa

1. Call to Order/Roll Call
2. Public Comments
3. Discussion Items
  - a. Update on Rock Rose School Lease at 1636 E. Mission Rd. Property
  - b. Update on HVAC Project for 138 S. Brandon Rd. Property
4. Update from Property Manager
5. Board comments and future agenda items
6. Adjournment

I certify that on June 23, 2021, I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of Fallbrook Regional Health District, said time being at least 24 hours in advance of the meeting. The American with Disabilities Act provides that no qualified individual with a disability shall be excluded from participation in or denied the benefits of District business. If you need assistance to participate in this meeting, please contact the District office 24 hours prior to the meeting at 760-731-9187.

A handwritten signature in blue ink that reads "Linda Bannerman".

Board Secretary/Clerk

**ROCK ROSE**  
**VILLAGE SCHOOL**

1636 E. Mission Road  
Fallbrook, CA 92028

Fallbrook Regional Healthcare District  
138 S. Brandon Road  
Fallbrook, CA 92028

June 7th, 2021

Dear Fallbrook Regional Healthcare District -

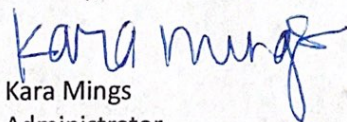
We cannot thank you enough for providing Rock Rose Village School with such a safe and welcoming environment for our students, families and staff these past 2 years! It's been a pleasure working with all of you.

Rock Rose Village School is excited to let you know that our new property will be ready for our 2021-2021 school year.

We will be ending our current month to month lease and vacating the property by July 31st, 2021. We did provide FRHD with a \$5250 security deposit, please let us know when we can meet around that time to do our final inspection.

Thank you again!

Warmly,



Kara Mings  
Administrator  
Rock Rose Village School

**PLANS, SPECIFICATIONS, AND CONTRACT DOCUMENTS**

**FOR**

**FALLBROOK REGIONAL HEALTH DISTRICT**

**HVAC RENEWAL PROJECT for the Property located at  
138 South Brandon Road, Fallbrook, California 92028**

**(July 2021)**

**BOARD OF DIRECTORS**

**Howard Salmon, Chairman**

**Barbara Mroz**

**Jennifer Jeffries**

**Kate Schwartz-Frates**

**Stephanie Ortiz**

**Chief Executive Officer**

**Rachel Mason**

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**PART I - PROCEDURAL DOCUMENTS**

**SECTION 1 - NOTICE INVITING SEALED PROPOSALS (BIDS)**

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD  
FALLBROOK, CALIFORNIA 92028**

NOTICE IS HEREBY GIVEN that the Board of Directors of the FALLBROOK REGIONAL HEALTH DISTRICT (referred to herein as "District") invites and will receive sealed proposals (bids) up to the hour of 10:00 a.m. on the 20th day of July, 2021 for furnishing to said District all transportation, materials (except as otherwise provided for in the Contract Documents), equipment, labor, services, and supplies necessary to perform the HVAC Renewal Project for the property located at 138 South Brandon Road, Fallbrook, California.

Bids will be opened and read aloud at 138 South Brandon Road, Fallbrook, CA 92028 (the "District Office").

Bids shall conform and be responsive to all requirements specified in the Contract Documents for the project and must be accompanied by the security referred to in those documents. The Board of Directors of the District reserves the right to select the schedule(s) under which the bids are to be compared and the Contract awarded, to reject any and all bids, and to waive any irregularity in any bid. The District may make changes in the Contract to comply with environmental regulations.

Copies of the Contract Documents are on file at the District Office and may be downloaded from FRHD website [www.fallbrookhealth.org](http://www.fallbrookhealth.org).

Each bid shall be submitted on a form furnished as part of the Contract Documents and must be accompanied by cash, a cashier's check made payable to the District, a certified check, or a Bidder's Bond executed by a surety insurer admitted to do business in this state, in an amount not less than ten percent (10%) of the bid amount, made payable to or for the benefit of the District.

Bidders on this work will be required to comply with California Government Code Sections 12900 et seq., California Labor Code Sections 1771.4 and 1777.6 and implementing regulations concerning equal opportunity for apprentices, and with the requirements for payment of prevailing wage rates. Copies of the prevailing rate of per diem wages are on file at the District Office and are available upon request. This project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations ("D.I.R.").

Contractor may substitute securities equivalent to the amount withheld by the District from progress payments to ensure performance of the Contract pursuant to provisions of Public Contract Code Section 22300 et seq.

Bidders and any and all subcontractors shall be required at the time of submission of the bid to be licensed as a contractor by the State of California to do the type of work required under the Contract Documents and be registered with the Department of Industrial Relations (D.I.R.), per California Labor Code 1771.1.

## **SECTION 2 - INFORMATION FOR BIDDERS**

Bids will be received by FALLBROOK REGIONAL HEALTH DISTRICT at the District Office, 138 South Brandon Road, Fallbrook, CA 92028, until 10:00 a.m. on July 20, 2021, and then publicly opened and read aloud.

Bids must be submitted in sealed envelopes addressed to the District Secretary at the above address. Each sealed envelope containing a bid must be plainly marked on the outside as "THE HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT 138 SOUTH BRANDON ROAD, FALLBROOK, CALIFORNIA" and the envelope should bear on the outside the name of the Bidder, his address, and his license number. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed to the District Secretary at the above address. The bid must be received at the District Office before 10:00 a.m. on July 20, 2021.

All bids must be made on the Proposal and Bid Schedules included in the Contract Documents, all blank spaces for bid prices must be filled in, and the bid schedules must be fully completed and executed in ink or type written. Only one copy of the Proposal and Bid Schedules is required.

District may waive any informalities or irregularities in bid documents and may reject any and all bids. A bidder may withdraw the bid by a signed written request any time prior to the day and hour for receiving bids designated in the Invitation to Bid. Any bid received after the time and date and hour specified for receipt of bids shall not be considered. The withdrawal of a bid does not prejudice the right of a bidder to file a new bid so long as the bid is delivered as set forth in the Invitation to Bid prior to the closing time specified for receipt of all bids. Except as provided above, no Bidder may withdraw a bid within forty-five (45) days of the opening of bids. Should there be reasons why the Contract cannot be awarded within the specified period, the time may be extended by agreement between District and Bidders. A request to withdraw a bid for bidding error will be permitted only as permitted in accordance with Public Contract Code Section 5100, et seq., regarding relief of bidders.

Bidders must satisfy themselves of the character of the work to be performed by examination of the site and review of the drawings and specifications, including addenda. After bids have been submitted, the Bidder shall not assert that there was a misunderstanding concerning the nature of the work to be done.

To the extent quantities are set forth in the bid schedule they are estimates of the amount of materials and equipment to be furnished and the work to be performed. District does not represent, expressly or by implication, that the actual amount of work to be performed or material or equipment to be furnished under the Contract will correspond to the estimated quantities. Contractor should include provisions in his bid for all supplemental and related equipment, material, supervision, labor, traffic control, signing, and other items necessary to perform the work of improvement.

District shall provide to bidders, upon request prior to bidding, all information that is pertinent to and delineates and describes the land owned and rights-of-way acquired or to be acquired.

The Contract Documents contain the provisions required for the construction of the project. Information obtained from an officer, agent, or employee of District, or any other person shall not affect the risks or obligations assumed by Contractor or relieve him from fulfilling any of the conditions of the Contract Documents.

As soon as the bids have been opened, District will return the security or bonds of all but the three (3) lowest responsible bidders. When the Contract is executed, the security or bonds of the two remaining unsuccessful bidders will be returned. The security of all unsuccessful bidders will be

returned by District no later than sixty (60) days following the date of award of the Contract by the Board of Directors.

Bonds and insurance certificates shall be furnished on the forms provided in the Contract Documents. All sureties and insurers must be companies authorized to do business in the State of California. The insurance company selected shall have at least an "A-V" rating in the most recent Best's Key Rating Guide.

A labor and material payment bond and a contract performance bond, each in the amount of one hundred percent (100%) of the Contract price, with a corporate surety approved by District, will be required for the faithful performance of the Contract. Attorneys-in-fact who sign bid bonds or labor and material payment bonds and contract performance bonds must file with each bond a certified and effective dated copy of their power of attorney-in-fact.

The party to whom the Contract is awarded will be required to execute the Agreement and submit the Labor and Material Payment Bond, Contract Performance Bond, and Insurance Certificates on the required forms within ten (10) calendar days from the date when the Notice of Award is delivered to the Bidder. The Notice of Award shall be accompanied by the necessary Agreement, Bond, and Insurance Certificate forms. In case of failure of the Bidder to execute the Agreement, the District may, at its option, consider Bidder in default in which case the Bid Bond accompanying the Proposal will become property of the District.

Forfeiture of the Bid Bond, or any deposit in lieu thereof, does not preclude District from seeking all other remedies provided by law to recover losses sustained as a result of Contractor's failure to execute a written Agreement to perform the work at his bid price.

District, within ten (10) days of receipt of acceptable Labor and Material Payment Bond, Contract Performance Bond, Insurance Certificates, and Agreement signed by the party to whom the Agreement was awarded, shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should District not execute the Agreement within such period, Bidder may, by written notice, withdraw his signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by District.

The Notice to Proceed shall be issued within ten (10) days of execution of the Agreement by District. Should there be reasons why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement between District and Contractor. If the Notice to Proceed has not been issued within the 10-day period or within the period mutually agreed upon, Contractor may terminate the Agreement without further liability on the part of either party.

District may make such investigations as it deems necessary to determine the ability of Bidder to perform the work, and Bidder shall furnish to District all such information and data for this purpose as District may request. District reserves the right to reject any bid if the evidence submitted by, or investigation of such Bidder fails to satisfy District that such Bidder is properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein.

A conditional or qualified bid will not be accepted.

Award, if made, will be made to the lowest responsive and responsible Bidder, as determined by District.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Contract throughout.



Each Bidder is responsible for inspecting the site and for reading and being thoroughly familiar with the Contract Documents. The failure or omission of any Bidder to do any of the foregoing shall in no way relieve any Bidder from any obligation in respect to his bid.

All Bidders shall supply with their bids the names and addresses of all entities who will be performing more than one-half ( $\frac{1}{2}$ ) of one percent (1%) of the total project Bid, or Ten Thousand Dollars (\$10,000), whichever is greater.

Any party awarded a bid for all or a portion of the work of improvement shall keep and maintain all records of the work, including but not limited to accounting records and plans, for a period of three (3) calendar years after the acceptance of the work by District.

Payment shall be based on a percentage of inspected work completed with respect to the bid amount. Verification of quantities, hours, etc. shall be submitted with request for payment.

In the event extra work beyond the requirements of the bid is required in writing by District, a Change Order shall be mutually executed for provision of additional materials, labor, or equipment.

Payment for additional materials, labor, and equipment in any Change Order shall be made at the unit price set forth in his bid, unless the Contractor can show a change of circumstances requiring a modification of such unit prices and will be presented for approval by the District Board of Directors. No work under the Change Order shall be commenced until the Change Order has been approved in writing by District.

Bidders on this work will be required to comply with California Government Code Sections 12900 et seq., California Labor Code Sections 1777.5, 1777.6, and implementing regulations concerning equal opportunity for apprentices.

Bidders on this work shall be required to comply with Labor Code Sections 1771, 1771.1, 1771.4, and 1776, and bidders are subject to the penalties of Labor Code Section 1775. Copies of the prevailing rate of per diem wages are on file at the District Office and are available upon request. This project is subject to compliance monitoring by the California Department of Industrial Relations ("D.I.R").

The successful bidder shall be subject to the provisions of Labor Code Section 1727 et seq., requiring the awarding body to withhold and retain from payments to the Contractor wages and penalties which have been forfeited pursuant to any stipulation in a contract for public work and providing for resolutions of any dispute.

In the event the contract work includes excavations in excess of five feet (5') in depth, Contractor shall obtain all permits and approvals of the California Division of Occupational Safety and Health and any other agencies having jurisdiction over sheeting, shoring and bracing for excavations.

No contract for public works involving an estimated expenditure in excess of Twenty-Five Thousand Dollars (\$25,000), for the excavation of any trench or trenches five feet or more in depth, shall be awarded unless it contains a clause requiring submission by Contractor and acceptance by the awarding body or by a registered civil or structural engineer, employed by the awarding body, to whom authority to accept has been delegated, in advance of excavation, of a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer. Nothing in this section shall be deemed to allow the use of a shoring, sloping, or protective system less effective than that required by the Construction Safety Orders. Nothing in this section shall be construed to impose tort liability on the awarding body or any of its employees. The terms "public

works" and "awarding body" as used in this section shall have the same meaning as in Sections 1720 and 1722, respectively, of the Labor Code.

The District's Chief Executive Officer is Rachel Mason, who may be contacted at 138 South Brandon Road, Fallbrook, CA 92028, telephone number (760) 731-9187, fax number (760) 731-9131, e-mail address: [rmason@fallbrookhealth.org](mailto:rmason@fallbrookhealth.org).

**SECTION 3 - PROPOSAL**

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD  
FALLBROOK, CALIFORNIA**

NAME OF BIDDER:  
BUSINESS ADDRESS:  
PHONE NUMBER:  
FAX NUMBER:  
D.I.R. NUMBER:

TO THE BOARD OF DIRECTORS OF THE FALLBROOK REGIONAL HEALTH DISTRICT:

Pursuant to and in compliance with your Notice Inviting Sealed Proposals (Bids) and the other documents relating thereto, the undersigned Bidder, having familiarized himself with the terms of the Contract Documents, local conditions affecting the performance of the Contract, and the cost of the work at the place where the work is to be done, hereby proposes and agrees to perform within the time stipulated in the Contract, including all of its component parts and everything required to be performed, and to provide and furnish any and all of the labor, materials (except as otherwise provided for in the Contract Documents), tools, expendable equipment, and all utility and transportation services necessary to perform the Contract and complete in a workmanlike manner, all of the work required in connection with the performance of said work, all in strict conformity with the Plans and Specifications and other Contract Documents, including Addenda Numbers \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ on file in the District Office.

The undersigned, as Bidder, declares that the only persons or parties interested in this Proposal as principals are those named herein; that this Proposal is made without collusion with any person, firm, or corporation; and Bidder proposes and agrees, if the Proposal is accepted, that he will execute a Contract with District in the form set forth in the Contract Documents; and that Bidder will accept in full payment thereof the prices set forth in the Bid Schedules contained in Part I of these Contract Documents (Procedural Documents) and made part hereof by reference.

FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA

HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD  
FALLBROOK, CALIFORNIA

**BID FORM**

**Each bidder offering a proposal must be familiar with all requirements necessary to complete the repair outlined and agrees to utilize manufacture approved installers where applicable.**

The undersigned bidder hereby offers, in the amount stated below, to furnish all labor, materials, tools, equipment, apparatus, facilities, and communication for the project detailed herein.

The Base Bid amount is to be stated in figures only and is the total amount bid for the entire contract work including all applicable taxes. Permits shall be obtained by Contractor; client will reimburse contractor for actual permit costs.

Bidder shall hold all pricing for ninety (90) calendar days after bidding due date. Client reserves the right to adjust by change order the actual quantity of each unit item utilizing the quoted unit prices:

**HVAC RENEWAL:**

**BID SCHEDULE:** \$ \_\_\_\_\_ Lump Sum

**ALTERNATIVE A BID SCHEDULE:** \$ \_\_\_\_\_ Lump Sum

Proposed Start Date: Within ten (10) days of receipt of executed contract, bonds, and insurance certificates.

Proposed Duration: \_\_\_\_\_ days

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

Bidder Signature: \_\_\_\_\_

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

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

In accordance with Section 4104 of the California Public Contracts Code, Contractor shall furnish, in the spaces below, the name and the location of the place of business of each subcontractor who will perform work for the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half (1/2) of one percent (1%) of the Contractor's total bid or Ten Thousand Dollars (\$10,000), whichever is greater.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of sixty (60) calendar days after the scheduled closing time for receiving bids.

DIVISION OF WORK OR TRADE	SUBCONTRACTOR LICENSE CLASSIFICATION AND LICENSE NUMBER	ADDRESS OF MILL, SHOP OR OFFICE/DIR NUMBER
_____	_____	_____
_____	_____	_____
_____	_____	_____

The name of all persons interested in the foregoing Proposals as principals are as follows:

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Bidder

Dated: \_\_\_\_\_, 2021

NOTE: If Bidder is a corporation, the legal name of the corporation and the names of the President, Secretary, Treasurer, and Manager thereof shall be set forth above, together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation, and corporate seal; if Bidder is a co-partnership, the true name of the firm and all individual co-partners composing the firm shall be set forth above, together with the signature of the partner(s) authorized to sign the Contract on behalf of the co-partnership; if a special partnership, the names of the general partners and special partners shall be set forth above, together with the signature of the partner(s) authorized to sign the Contract on behalf of the special partnership; and if Bidder is an individual, his full legal name and signature shall be set forth above.

DECLARATION OF BIDDER

Bidder is licensed under the provisions of Chapter 9, Division 3 of the Business and Professions Code of the State of California as a Class \_\_\_\_\_ Contractor, License No. \_\_\_\_\_, License Expiration Date \_\_\_\_\_.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_, California.

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

Signature of Bidder: \_\_\_\_\_

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



NONCOLLUSION AFFIDAVIT

**(TO BE EXECUTED BY BIDDER, NOTARIZED, AND SUBMITTED WITH BID)**

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

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

Signature of Bidder: \_\_\_\_\_

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

Dated: \_\_\_\_\_, 2021.

**THIS FORM MUST BE NOTARIZED. ATTACH NOTARY ACKNOWLEDGMENT.**

# IMPORTANT

## Contractor Public Agency Reference Sheet

**All contractors bidding on projects for the FALLBROOK REGIONAL HEALTH DISTRICT who have not been awarded a project with the District within the last year, are required to complete the following reference information.** This information will be reviewed as part of the bid package for determining the successful bidder.

List all projects in chronological order from the most recent project, even if not completed, going back at least three (3) years. Make sure to include all projects involving local, county, state, and federal agencies.

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Name of Project: \_\_\_\_\_

Location of Project: \_\_\_\_\_

Amount of Contract: \_\_\_\_\_

Duration in Months: \_\_\_\_\_

Awarding Agency: \_\_\_\_\_

Awarding Agency Address: \_\_\_\_\_

Awarding Agency Phone Number (include area code): \_\_\_\_\_

Awarding Agency Project Liaison Manager: \_\_\_\_\_

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Name of Project: \_\_\_\_\_

Location of Project: \_\_\_\_\_

Amount of Contract: \_\_\_\_\_

Duration in Months: \_\_\_\_\_

Awarding Agency: \_\_\_\_\_

Awarding Agency Address: \_\_\_\_\_

Awarding Agency Phone Number (include area code): \_\_\_\_\_

Awarding Agency Project Liaison Manager: \_\_\_\_\_

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Name of Project: \_\_\_\_\_  
Location of Project: \_\_\_\_\_  
Amount of Contract: \_\_\_\_\_  
Duration in Months: \_\_\_\_\_  
Awarding Agency: \_\_\_\_\_  
Awarding Agency Address: \_\_\_\_\_  
Awarding Agency Phone Number (include area code): \_\_\_\_\_  
Awarding Agency Project Liaison Manager: \_\_\_\_\_

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Name of Project: \_\_\_\_\_  
Location of Project: \_\_\_\_\_  
Amount of Contract: \_\_\_\_\_  
Duration in Months: \_\_\_\_\_  
Awarding Agency: \_\_\_\_\_  
Awarding Agency Address: \_\_\_\_\_  
Awarding Agency Phone Number (include area code): \_\_\_\_\_  
Awarding Agency Project Liaison Manager: \_\_\_\_\_

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Name of Project: \_\_\_\_\_  
Location of Project: \_\_\_\_\_  
Amount of Contract: \_\_\_\_\_  
Duration in Months: \_\_\_\_\_  
Awarding Agency: \_\_\_\_\_  
Awarding Agency Address: \_\_\_\_\_  
Awarding Agency Phone Number (include area code): \_\_\_\_\_  
Awarding Agency Project Liaison Manager: \_\_\_\_\_

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**~ MUST BE SUBMITTED WITH BID - COPY FOR ADDITIONAL PAGES AS NEEDED ~**

## **SECTION 4 - AGREEMENT**

### **HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT 138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

THIS AGREEMENT is made and entered into by and between the FALLBROOK REGIONAL HEALTH DISTRICT, hereinafter referred to as "District" and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, a partnership or joint venture consisting of \_\_\_\_\_, or an individual trading as \_\_\_\_\_, in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, hereinafter referred to as "Contractor".

WITNESSETH: That District and Contractor, for the consideration hereinafter named, agree as follows:

- (1) **SCOPE OF WORK:** Contractor will furnish all materials and will perform all of the work for the HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT 138 SOUTH BRANDON ROAD, FALLBROOK, CALIFORNIA, in accordance with the Plans, Specifications, and Contract Documents therefor.
- (2) **TIME FOR COMPLETION:** The work shall be completed within the times set forth in the Bid Form. District and Contractor have discussed the provisions of Civil Code Section 1671 and the damages which may be incurred by the District if the work is not completed within the time specified in this Agreement. District and Contractor hereby represent that at the time of signing of this Agreement, it is impractical and extremely difficult to fix the actual damage which will be incurred by District if the work is not completed within the number of calendar days allowed. Accordingly, District and Contractor agree that the sum of Two Hundred Fifty Dollars (\$250) per day is a reasonable sum to assess as damages to District by reason of the failure of Contractor to complete the work within the time specified. For each day completion is delayed beyond the specified time, the Contractor shall forfeit and pay to the District Two Hundred Fifty Dollars (\$250) which may be deducted from any payments due or to become due to the Contractor.
- (3) **PRICE:** Contractor agrees to perform all of the work described in the Contract Documents and comply with the terms therein for the sum of \$ \_\_\_\_\_ as shown in the Bid Schedule.
- (4) **PAYMENTS:** Monthly progress payments and the final payment will be made in accordance with Section 10 (Estimates and Payments) of the General Provisions. Contractor agrees to provide documentation satisfactory to District as provided for in the Special Provisions. The filing of the Notice of Completion by District shall be preceded by acceptance of the work made only by an action of the Board of Directors of the District in session. Contractor agrees that final payment will occur only after acceptance of the work.

- (5) **COMPLIANCE WITH PUBLIC CONTRACT LAW:** District is a public agency in the State of California and is subject to the provisions of law relating to public contracts. It is agreed that all provisions of law applicable to public contracts are a part of this Contract to the same extent as though set forth fully herein and will be complied with by Contractor.
- (6) **CONTRACT DOCUMENTS:** The term "Contract Documents" means and includes the following:
- a. Notice Inviting Sealed Proposals (Bids)
  - b. Information for Bidders
  - c. Proposal (Bid)
  - d. Agreement
  - e. Payment Bond
  - f. Contract Performance Bond
  - g. Certificates of Insurance and Endorsements
  - h. Notice of Award
  - i. Notice to Proceed
  - j. Change Order Form
  - k. General Provisions
  - l. Special Provisions
  - m. Specific Standards
  - n. Bid Schedule and Drawings
  - o. Addenda:  
 No. \_\_\_\_\_, dated \_\_\_\_\_, 20 \_\_\_\_\_.  
 No. \_\_\_\_\_, dated \_\_\_\_\_, 20 \_\_\_\_\_.  
 No. \_\_\_\_\_, dated \_\_\_\_\_, 20 \_\_\_\_\_.  
 No. \_\_\_\_\_, dated \_\_\_\_\_, 20 \_\_\_\_\_.  
 No. \_\_\_\_\_, dated \_\_\_\_\_, 20 \_\_\_\_\_.
- (7) **LICENSE:** In accordance with California Public Contracts Code, Section 3300, and the California Business and Professions Code, Section 7059, Contractor certifies that Contractor was, at the time of submission of the bid, and is now licensed as a General Engineering (A) Contractor.

IN WITNESS WHEREOF, this Agreement is executed by the President and Secretary of District pursuant to action of its Board of Directors authorizing same, and Contractor has caused this Agreement to be executed.

**FALLBROOK REGIONAL HEALTH DISTRICT:**

Dated: \_\_\_\_\_, 2021.

By: \_\_\_\_\_  
 (President)

Attest: \_\_\_\_\_  
 (Secretary)

\_\_\_\_\_  
 (Attorney for District)

**CONTRACTOR:**

Dated: \_\_\_\_\_, 2021.

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Official Title)

Contractor's Name: \_\_\_\_\_

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

City and State: \_\_\_\_\_

Contractor's License No.: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

Contractors are required by law to be licensed and regulated by the Contractor's State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractor's State License Board, 9821 Business Park Drive, Sacramento, California (mailing address: P.O. Box 26000, Sacramento, California 95826).

**CORPORATE CERTIFICATE**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_  
of the Corporation named as Contractor in the foregoing Contract; that \_\_\_\_\_  
\_\_\_\_\_ who signed the Contract on behalf of Contractor was then  
\_\_\_\_\_ of said Corporation; and that said Contract was duly signed for and  
in behalf of said Corporation by authority of its governing body and is within the scope of its corporate  
powers.

\_\_\_\_\_  
(Signature)

(CORPORATE SEAL)

**\*\*\*NOTE: Certification requires two principals. You may not certify your own signature.**



**SECTION 5 - BONDS**

5-1 CONTRACT PAYMENT BOND (CALIFORNIA PUBLIC WORK)

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the FALLBROOK REGIONAL HEALTH DISTRICT (referred to hereafter as "District") has awarded to \_\_\_\_\_ (hereinafter designated as the "Contractor"), a Contract dated \_\_\_\_\_, 2021, for work described as follows:

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

(hereinafter referred to as the "Public Work Contract"); and

WHEREAS, said Contractor is required to furnish a bond in connection with said Public Work Contract, providing that if said Contractor, or any of his or its subcontractors, shall fail to pay for any materials, provisions, provender, or other supplies or teams used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code, or for any amounts required to be deducted, withheld, and paid over by the Contractor and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code with respect to such work or labor, that the Surety on this bond will pay the same together with a reasonable attorney's fee if case is brought on the bond;

NOW, THEREFORE, we, \_\_\_\_\_, the undersigned Contractor, as Principal, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the FALLBROOK REGIONAL HEALTH DISTRICT and to any and all material men, persons, companies, or corporations furnishing materials, provisions, provender, or other supplies used in, upon, for, or about the performance of said Public Work, and all persons, companies, or corporations renting or hiring teams, implements, or machinery, for or contributing to said Public Work to be done, and all persons performing work or labor upon the same, and all persons supplying both work and materials as aforesaid, excepting the said Contractor, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount payable by the said Obligee under the terms of said Public Work Contract, for which payments well and truly to be made, we bind ourselves, our heirs, executors, and administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Contractor, his or its heirs, executors, administrators, successors, assigns, or any of his subcontractors fail to pay for any materials, provisions, provender or other supplies, teams, implements, or machinery used in, upon, for, or about the performance of the Public Work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor, or for amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of said Contractor and his subcontractor(s) pursuant to Section 18806 of the Revenue and Taxation Code with respect to such work and labor as required by the provisions of Sections 3247 thru 3252 of the Civil Code, the Surety or Sureties hereon will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be

void. In case suit is brought upon this bond, the said Surety or Sureties will pay a reasonable attorney's fee to be fixed by the court. In addition to the provisions herein above, it is agreed that this bond will inure to the benefit of any and all persons, companies, and corporations entitled to serve stop notices under Section 3181 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or additions to the terms of the said Public Work Contract, or to the work to be performed thereunder of the Specifications accompanying same, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract, the work, or the Specifications.

IN WITNESS WHEREOF, this document has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

Signature of Principal: \_\_\_\_\_

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the Corporation named as Principal to the within bond; that \_\_\_\_\_, who signed the said bond on behalf of the Principal, was then \_\_\_\_\_ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing board.

Signature: \_\_\_\_\_

(CORPORATE SEAL)

**\*\*\*NOTE: Certification requires two principals. You may not certify your own signature.**

SURETY:

By: \_\_\_\_\_  
(Attorney-in-Fact)

NOTE: A copy of the power of attorney to local representatives of the bonding company must be attached hereto.

**THIS FORM MUST BE NOTARIZED. ATTACH NOTARY ACKNOWLEDGMENT.**

The rate of premium on this bond is \_\_\_\_\_ per thousand.

The total amount of premium charged is \$ \_\_\_\_\_. (The above must be filled in by corporate surety.)

**IMPORTANT:** Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the state where the project is located. THIS IS A REQUIRED FORM.

Any claims under this bond may be addressed to:

Name and address of Surety

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Name and address of Agent or Representative for service of process in California, if different from above

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Telephone number of Surety and Agent or Representative for service of process in California

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5-2 CONTRACT PERFORMANCE BOND (CALIFORNIA PUBLIC WORK)

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the FALLBROOK REGIONAL HEALTH DISTRICT (referred to hereafter as "District") has awarded to \_\_\_\_\_ (hereinafter designated as the "Contractor"), a Contract dated \_\_\_\_\_, 2019, for work described as follows:

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

(hereinafter referred to as the "Public Work Contract"); and

WHEREAS, said Contractor is required by said Public Work Contract to perform the terms thereof and to provide a bond both for the performance and guarantee thereof;

NOW, THEREFORE, we, \_\_\_\_\_, the undersigned Contractor, as Principal, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the FALLBROOK REGIONAL HEALTH DISTRICT in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount payable by the said Obligee under the terms of said Public Work Contract, for which payments well and truly to be made, we bind ourselves, our heirs, executors, and administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the bounden 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 of the said Public Work Contract, and any alteration thereof made as therein provided, on his or its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill the guarantee of all materials and workmanship and indemnify and save harmless the Obligee, its officers, and agents as stipulated in said Public Work Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect. In case suit is brought upon this bond, the said Surety will pay to Obligee a reasonable attorney's fee to be fixed by the court.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Public Work Contract or to the work to be performed thereunder of the Specifications accompanying same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract, the work, or the Specifications.

No final settlement between the Obligee and the Contractor shall abridge the right of any beneficiary hereunder whose claim may be unsatisfied.

Principal and Surety agree that if the Owner is required to engage the services of an attorney in connection with the enforcement of this bond, the Principal and Surety shall be jointly and severally liable for all of the Owner's costs and reasonable attorney's fees, whether or not litigation or arbitration is actually commenced to enforce the bond.

IN WITNESS WHEREOF, this document has been executed this \_\_\_\_ day of \_\_\_\_\_, 2021.

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

Signature of Principal: \_\_\_\_\_

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the Corporation named as Principal to the within bond; that \_\_\_\_\_, who signed the said bond on behalf of the Principal, was then \_\_\_\_\_ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing board.

Signature: \_\_\_\_\_

(CORPORATE SEAL)

**\*\*\*NOTE: Certification requires two principals. You may not certify your own signature.**

SURETY:

By: \_\_\_\_\_  
(Attorney-in-Fact)

NOTE: A copy of the power of attorney to local representatives of the bonding company must be attached hereto.

**THIS FORM MUST BE NOTARIZED. ATTACH NOTARY ACKNOWLEDGMENT.**

The rate of premium on this bond is \_\_\_\_\_ per thousand.

The total amount of premium charged is \$ \_\_\_\_\_. (The above must be filled in by corporate surety.)

**IMPORTANT:** Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the state where the project is located. THIS IS A REQUIRED FORM.

Any claims under this bond may be addressed to:

Name and address of Surety

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Name and address of Agent or Representative for service of process in California, if different from above

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Telephone number of Surety and Agent or Representative for service of process in California

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## **SECTION 6 - CERTIFICATES OF INSURANCE AND ENDORSEMENTS**

Contractor shall not commence any work under the Contract Documents until he obtains, at his own expense, all required insurance as stipulated by District. The required insurance shall be provided by Contractor in conformance with the requirements of Section 9 of the General Provisions of these Contract Documents and includes the following:

Worker's Compensation Insurance  
Comprehensive General Liability Insurance  
Automobile Insurance

The insurance company or companies utilized by Contractor shall be authorized to transact business in the State of California and to issue policies in the amounts required in said Section 9 of the General Provisions of these Contract Documents. The general liability and automobile insurance carriers selected shall have at least an "A-V" rating in the most recent Best's Key Rating Guide. Insurance companies not meeting this rating requirement may be rejected at the discretion of District.

No substitutions or revisions to the certificates and endorsements which follow will be accepted. If the insurance called for is provided by more than one company, a separate certificate using the format presented, shall be provided for each company.

6-1 WORKERS' COMPENSATION

CONTRACTOR'S CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

Description of Contract:

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

Labor Code Section 3700:

Every employer except the State and all political subdivisions and institutions thereof shall assure the payment of compensation in one or more of the following ways;

- a. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- b. By securing from the Director of Industrial Relations a certificate of consent to self-insure which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation, or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract.

Dated: \_\_\_\_\_, 2021.

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

Signature of Bidder: \_\_\_\_\_

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

( S E A L )

In accordance with Article V (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the certificate of consent to self-insure must be signed and filed with the awarding body prior to performing any work under this Contract.

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

Description of Contract:

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

THIS IS TO CERTIFY that the following numbered policies have been issued by the below stated Company in conformance with the limits and requirements as set forth in Section 9-1 and 9-2 of the General Provisions.

The Company will give at least thirty (30) days' written notice by registered mail to District prior to any material change or cancellation of said policy or policies.

COMPANY	POLICY NO.	EFFECTIVE DATE	EXPIRATION DATE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Insurance provided by said policies comply in all respects as to coverage and limits of liability with the requirements of the Workers' Compensation Insurance Laws of the State of California.

6-2 COMPREHENSIVE GENERAL LIABILITY

CONTRACTOR'S CERTIFICATE OF COMMERCIAL GENERAL LIABILITY INSURANCE

Description of Contract:

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

THIS IS TO CERTIFY that the following numbered policies have been issued by the below stated Company in conformance with the limits and requirements as set forth in Section 9-1 and 9-2 of the General Provisions.

The Company will give at least thirty (30) days' written notice by registered mail to District prior to any material change or cancellation of said policy or policies.

POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS OF LIABILITY	
			BODILY INJURY	PROP. DAMAGE
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

The following coverages are included in this policy (indicate by "X" in the appropriate space):

- Manufacturer's and Contractor's                      Yes \_\_\_\_\_ No \_\_\_\_\_
- Owner's & Contractor's Protection                      Yes \_\_\_\_\_ No \_\_\_\_\_
- Blanket Contractual    Yes \_\_\_\_\_ No \_\_\_\_\_
- Completed Operations    Yes \_\_\_\_\_ No \_\_\_\_\_
- Owned Automobiles    Yes \_\_\_\_\_ No \_\_\_\_\_
- Hired Automobiles    Yes \_\_\_\_\_ No \_\_\_\_\_
- Non-owned Automobiles    Yes \_\_\_\_\_ No \_\_\_\_\_
- Broad Form Property Damage    Yes \_\_\_\_\_ No \_\_\_\_\_
- "XCU" Exposures    Yes \_\_\_\_\_ No \_\_\_\_\_

ENDORSEMENT

District, Construction Manager, and their consultants, and each of their officers, agents, and employees are included as additional insureds under said policies, but only while acting in their capacity as such and only as respects operations of the original named insured, his subcontractors, agents, and employees in the performance of referenced contract; provided however, that if the loss or damage is ultimately determined to be the proximate result of the sole negligence of one or more of the aforesaid additional insureds, this insurance shall not apply.

This endorsement shall not operate to increase the Company's total limits of liability hereunder.

The Insurance Company hereby waives its rights of subrogation against the additional insureds.

Effective: \_\_\_\_\_

\_\_\_\_\_  
Named Insured

\_\_\_\_\_  
Insurance Company

\_\_\_\_\_  
Street Number

\_\_\_\_\_  
Street Number

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
City, State ZIP

Insurance Company Agent for service  
of process in California

By: \_\_\_\_\_  
Authorized Representative  
(Attach Acknowledgment)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Company

\_\_\_\_\_  
Street Number

\_\_\_\_\_  
Street Number

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number

NOTE: No substitution or revision to the above certificate and endorsement will be accepted. If the insurance called for is provided by more than one policy, a separate certificate in the exact above form shall be provided for each policy.

**THIS FORM MUST BE NOTARIZED. ATTACH NOTARY ACKNOWLEDGMENT.**

6-3 AUTOMOBILE

CONTRACTOR'S CERTIFICATE OF AUTOMOBILE INSURANCE

Description of Contract:

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

THIS IS TO CERTIFY that the following numbered policies have been issued by the below stated Company in conformance with the limits and requirements as set forth in Section 9-1 and 9-2 of the General Provisions.

The Company will give at least thirty (30) days' written notice by registered mail to District prior to any material change or cancellation of said policy or policies.

POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS OF LIABILITY	
			BODILY INJURY	PROP DAMAGE
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____



ENDORSEMENT

District, Construction Manager, and their consultants, and each of their officers, agents, and employees are included as additional insureds under said policies, but only while acting in their capacity as such and only as respects operations of the original named insured, his subcontractors, agents, and employees in the performance of referenced contract; provided however, that if the loss or damage is ultimately determined to be the proximate result of the sole negligence of one or more of the aforesaid additional insureds, this insurance shall not apply.

This endorsement shall not operate to increase the Company's total limits of liability hereunder.

The Insurance Company hereby waives its rights of subrogation against the additional insureds.

Effective: \_\_\_\_\_

\_\_\_\_\_  
Named Insured

\_\_\_\_\_  
Insurance Company

\_\_\_\_\_  
Street Number

\_\_\_\_\_  
Street Number

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
City, State ZIP

Insurance Company Agent for service  
of process in California

By: \_\_\_\_\_  
Authorized Representative  
(Attach Acknowledgment)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Company

\_\_\_\_\_  
Street Number

\_\_\_\_\_  
Street Number

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number

NOTE: No substitution or revision to the above certificate and endorsement will be accepted. If the insurance called for is provided by more than one policy, a separate certificate in the exact above form shall be provided for each policy.

**THIS FORM MUST BE NOTARIZED. ATTACH NOTARY ACKNOWLEDGMENT.**

#### 6-4 PUBLIC WORKS AWARD

Labor Code Division 2, Part 7, Chapter 1, Article 2, Section 1773 states:

"An awarding agency whose public works contract falls within the jurisdiction of Section 1777.5 shall, within five days of the award electronically notify the Department of Industrial Relations, ("D.I.R."), and the Division of Apprenticeship Standards. When specifically requested by a local joint apprenticeship committee, the division shall notify the local joint apprenticeship committee regarding all such awards applicable to the joint apprenticeship committee making the request. Within five days of a finding of any discrepancy regarding the ratio of apprentices to journeymen, pursuant to the certificated fixed number of apprentices to journeymen, the awarding agency shall notify the Division of Apprenticeship Standards." (Added by Stats. 1978, Ch. 1249.)

Submission of an online "D.I.R. PWC-100 form" will satisfy the above noted requirement.

Also note Labor Code Sections 1776(g), 1777.5, and 1777.7.

**SECTION 7 - WAIVER AND RELEASE FORMS**

7-1    CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT  
          California Civil Code Section 8132

**NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.**

**Identifying Information:**

Name of Claimant: \_\_\_\_\_

Name of Customer: \_\_\_\_\_

Job Location: \_\_\_\_\_

Owner: \_\_\_\_\_

Through Date: \_\_\_\_\_

**Conditional Waiver and Release:** This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: \_\_\_\_\_

Amount of Check: \_\_\_\_\_

Check Payable to: \_\_\_\_\_

**Exceptions:** This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:

Date(s) of waiver and release: \_\_\_\_\_

Amount(s) of unpaid progress payment(s): \$ \_\_\_\_\_

- (4) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

**Signature:**

Claimant's Signature: \_\_\_\_\_

Claimant's Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

**THIS IS A REQUIRED FORM. NO SUBSTITUTION OR REVISION WILL BE ACCEPTED.**

7-2    CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT  
California Civil Code 8136

**NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.**

**Identifying Information:**

Name of Claimant: \_\_\_\_\_

Name of Customer: \_\_\_\_\_

Job Location: \_\_\_\_\_

Owner: \_\_\_\_\_

**Conditional Waiver and Release:** This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: \_\_\_\_\_

Amount of Check: \_\_\_\_\_

Check Payable to: \_\_\_\_\_

**Exceptions:** This document does not affect any of the following:

Disputed claims for extras in the amount of: \$ \_\_\_\_\_.

**Signature:**

Claimant's Signature: \_\_\_\_\_

Claimant's Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

**THIS IS A REQUIRED FORM. NO SUBSTITUTION OR REVISION WILL BE ACCEPTED.**

## **SECTION 8 - NOTICES AND FORM OF CHANGE ORDER**

The pages following in Section 8 are examples of the notices and forms to be used by the District in administration of this Contract.

8-1 NOTICE OF AWARD

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Description:

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

District has considered the bid submitted by you for the above-described work in response to its Notice Inviting Sealed Proposals (Bids) dated \_\_\_\_\_, 2021.

You are hereby notified that your bid has been accepted in the amount of \$\_\_\_\_\_.

You are required by the Information for Bidders to execute the Agreement and furnish required Contractor's Labor and Material Payment Bond, Contract Performance Bond, and Certificates of Insurance within ten calendar days from date of this notice. Contractor's Documents concerning Agreement, Bond, and Insurance Certificates may be obtained from District Office.

If you fail to execute said Agreement and to furnish said Bonds and Insurance Certificates within ten days from the date of this Notice, said District will be entitled to consider all your rights arising out of the District's acceptance of your bid as abandoned and as a forfeiture of your bid bond. The District will be entitled to such other rights as may be granted by law.

The Board of Directors advises all bidders of District projects that they will be required to strictly comply with the Plans and Specifications that have been approved. The Board has directed District Staff and/or designated Inspectors to cease any work to the extent that an Inspector has instructed the work to be corrected and the Contractor has refused.

**DISTRICT:** FALLBROOK REGIONAL HEALTH DISTRICT

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

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

**You are required to return the acknowledged original of this Notice.**

**ACCEPTANCE OF NOTICE**

Receipt of the above Notice of Award is hereby acknowledged.

**CONTRACTOR:** \_\_\_\_\_

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

Signature of Principal

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

8-2 NOTICE TO PROCEED

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Description:

**FALLBROOK REGIONAL HEALTH DISTRICT  
SAN DIEGO COUNTY, CALIFORNIA**

**HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT  
138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

You are hereby notified to commence work in accordance with the Agreement dated \_\_\_\_\_, 2021, on \_\_\_\_\_, 2021, and that you are to complete the work within \_\_\_\_\_ (\_\_\_\_\_) consecutive calendar days. Therefore, the date of completion of all work is \_\_\_\_\_, 2021.

**DISTRICT:** FALLBROOK REGIONAL HEALTH DISTRICT

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

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

**You are required to return an acknowledged copy of this Notice.**

ACCEPTANCE OF NOTICE

Receipt of the above Notice to Proceed is hereby acknowledged by:

\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CONTRACTOR: \_\_\_\_\_

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

Signature of Principal

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

8-3 CHANGE ORDER

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

Change Order No. \_\_\_\_\_

Contractor: \_\_\_\_\_

Location of Work: \_\_\_\_\_

The following changes are hereby made to the Contract Documents:

Justification: \_\_\_\_\_

PRICE CHANGES:

Original Price	\$ _____
Current Price adjusted by previous Change Orders	\$ _____
This Change Order adjustment increase/decrease	\$ _____
New Price including this Change Order	\$ _____
Source of Funding: _____	

TIME CHANGES:

Completion time increased/decreased	_____
Revised date for completion	_____

APPROVALS:

FALLBROOK REGIONAL HEALTH DISTRICT

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

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

CONTRACTOR:

By: \_\_\_\_\_  
Signature of Principal

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

By acceptance of this Change Order, Contractor is authorized to proceed with the work described above. Contractor agrees to furnish all labor and material in accordance with the terms and conditions as stated above and with all instructions given to Contractor by the FALLBROOK REGIONAL HEALTH DISTRICT.



## **PART II - GENERAL PROVISIONS**

### **SECTION 1 - DEFINITIONS, TERMS, AND ABBREVIATIONS**

#### 1-1 DEFINITIONS

Whenever the following terms occur in the Contract Documents, the meaning shall be interpreted as follows:

##### 1-1.1 Acceptance, Final Acceptance

The formal action by District accepting the work as being complete.

##### 1-1.2 Accepted bid

The bid (proposal) accepted by District.

##### 1-1.3 Attorney for the District

Attorney for District shall mean the duly appointed General Counsel of the FALLBROOK REGIONAL HEALTH DISTRICT.

##### 1-1.4 Bidder

Any individual, partnership, corporation, or combination thereof submitting a bid (proposal) for the work contemplated, acting directly or through an authorized representative.

##### 1-1.5 Board of Directors

Board of Directors shall mean the Board of Directors of the FALLBROOK REGIONAL HEALTH DISTRICT.

##### 1-1.6 Contract

The written Agreement executed between District and Contractor covering the performance of the work.

##### 1-1.7 Contract Documents

The Contract Documents set forth in the Agreement; also, any and all supplemental agreements amending or extending the work contemplated. Supplemental agreements are written agreements covering alterations, amendments, or extensions to the Contract and include Contract Change Orders.

##### 1-1.8 Contractor

The individual, partnership, corporation, or combination thereof who has entered into the Contract with District for the performance of the work. The Contractor is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term "Contractor" means the Contractor or his authorized representative.

1-1.9 District or Owner

The FALLBROOK REGIONAL HEALTH DISTRICT. District is referred to throughout the Contract Documents as if singular in number and masculine in gender. The terms "District" or "Owner" means the District or its authorized representative.

1-1.10 Construction Manager

Construction Manager shall mean the duly appointed Construction Manager of the FALLBROOK REGIONAL HEALTH DISTRICT. The Construction Manager is authorized by the District to represent it during the performance of the work and until final acceptance. The Construction Manager is referred to throughout the Contract Documents as if singular in number and masculine in gender.

1-1.11 Chief Executive Officer

Chief Executive Officer shall mean the duly appointed Chief Executive Officer of the FALLBROOK REGIONAL HEALTH DISTRICT. The Chief Executive Officer is referred to throughout the Contract Documents as if singular in number and masculine in gender.

1-1.12 Laboratory

The laboratory authorized by District or Construction Manager to test materials and work involved in the Contract.

1-1.13 Plans and Drawings

The Plans (drawings) or reproductions thereof, which show the location, character, dimensions, and details of the work to be done.

1-1.14 Special Provisions

Additions, deletions, and changes to the General Provisions and of the current edition of the "Standard Specifications for Public Works Construction", prepared and promulgated by the Southern California Chapter of the American Public Works Association and the Southern California District Associated General Contractors of California.

1-1.15 Specifications

The directions, provisions, and requirements contained in the General Provisions, and "Standard Specifications for Public Works Construction", current edition, prepared and promulgated by the Southern California Chapter of the American Public Works Association and the Southern California District Associated General Contractors of California.

1-1.16 Standard Drawings and Standard Plans

Standard Drawings of San Diego County or as shown on plans.

1-1.17 Specific Standards

The Contract Documents identified as such.

#### 1-1.18 Subcontractor

An individual, partnership, corporation, or combination thereof who has a contract with the Contractor to perform any of the work at the site. The term "subcontractor" is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a subcontractor or his authorized representative. Subcontractor also means an individual, partnership, corporation, or combination thereof who has a contract with a subcontractor to perform any of the work at the site.

#### 1-1.19 Utility

Public or private fixed works for the transportation of fluids, gasses, power, signals, or communications.

#### 1-1.20 Work

The term "work" includes all labor necessary to produce the construction or improvement required by the Contract and all materials and equipment incorporated in such construction or improvement.

### 1-2 TERMS

Wherever the terms "directed", "required", "permitted", "ordered", "designated", "prescribed", or terms of like import are used it shall be understood that the direction, requirements, permission, order, designation, or prescription of the District's Representative is intended.

Similarly, the terms "approved", "acceptable", "satisfactory", "equal", or terms of like import shall mean approved by, or acceptable to, or satisfactory to the District's Representative unless otherwise expressly stated. The word "provide" is understood to mean furnish and install.

### 1-3 ABBREVIATIONS

Wherever abbreviations and symbols are used they shall have the meaning indicated in Section 1-3.1 through 1-5 of the Standard Specifications for Public Works Construction, current edition.

## **SECTION 2 - PROPOSAL (BID) REQUIREMENTS AND CONDITIONS**

### 2-1 CONTRACT DOCUMENTS

The Contract Documents are set forth in the Agreement (Section 4 of Part I - Procedural Documents) and the definition of "Contract Documents" (Section 1-1.7 of these General Provisions).

### 2-2 LICENSE

The District has determined the license classification necessary to bid and perform the subject Contract. In no case shall this Contract be awarded to a specialty contractor whose classification constitutes less than a majority of the project. When a specialty contractor is authorized to bid a portion of the work of this Contract, all work to be performed outside of the contractor's license specialty, except work specifically authorized by District, shall be performed by a licensed subcontractor in compliance with the Subletting and Subcontracting Fair Practices Act commencing with Section 4100 et seq., of the Public Contract Code. (See Bus. & Prof. Code, § 7059.)

### 2-3 PROPOSALS (BIDS)

#### 2-3.1 Methods of Completing Proposals (Bids)

Bids shall be made upon the Bid Form furnished by the District as a part of the Contract Documents. All bids shall be properly executed and with all items filled in and the signatures of all persons signing shall be in longhand. Erasures, interlineation, or other corrections shall be authenticated by affixing in the margin immediately opposite the correction the initials of the person signing the bid. If the unit price and the total amount named by the Bidder for any item are not in agreement, the unit price alone shall be considered as representing the Bidder's intention, and the totals shall be corrected to conform thereto.

#### 2-3.2 Limitations

Bids shall not contain any recapitulation of the work to be done. Alternative proposals will not be considered, except as called for. No oral, telegraphic, or telephone proposals or modifications will be considered.

#### 2-3.3 Submission of Proposals (Bids)

Bids shall be sealed in an envelope marked and addressed as set forth in the Special Provisions. Bids shall be delivered to addressee at the location designated in the Notice Inviting Sealed Proposals on or before the day and hour set for the opening of bids in the Notice Inviting Sealed Proposals and shall bear the name of the Bidder. It is the sole responsibility of the Bidder to see that his bid is delivered and received in proper time. Any bid received after the scheduled closing time for receipt of bids shall be returned to the Bidder.

#### 2-3.4 Late Bids

A bid will not be accepted after the designated closing date even if bids are opened at a time later than that designated on the Bid Notice Form (Government Code Section 14315).

#### 2-3.5 Bidders Interested in More than One Bid

No person, partnership, or corporation shall be allowed to make, file, or be interested in more than one bid for the work unless alternative bids are called for. A person, partnership, or corporation submitting a sub-proposal to a Bidder, or who has quoted prices on material to a Bidder, is not thereby disqualified from submitting or quoting prices to other Bidders.

### 2-4 WITHDRAWAL OF PROPOSAL (BID)

#### 2-4.1 Method of Withdrawal

A Bidder may withdraw his bid either personally or by a signed written request any time prior to the scheduled time for opening of the bids. The request for withdrawal shall be executed by the Bidder or by his duly authorized representative.

#### 2-4.2 Filing New Proposal (Bid)

The withdrawal of the bid does not prejudice the right of a Bidder to file a new bid so long as the new bid is filed with the District prior to the closing date specified for all bids (Gov. Code, § 14316).

### 2-5 INTERPRETATION OF PLANS AND OTHER DOCUMENTS

#### 2-5.1 Request for Interpretation/Correction

If any person contemplating submitting a bid for the proposed Contract is in doubt as to the true meaning of any part of the Plans, Specifications, and Contract Documents, or finds discrepancies in, or omissions from the Plans, Specifications, and Contract Documents, he may submit to the Construction Manager a written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery.

#### 2-5.2 Interpretation/Correction by Addendum

An interpretation or correction of the Contract Documents will be made only by addendum duly issued by the Construction Manager; a copy of such addendum will be mailed or delivered to each person receiving a set of such Documents. District and the Construction Manager will not be responsible for any other explanation or interpretation of the Contract Documents. All addenda issued are a part of the Contract Documents and must be listed in the Agreement.

### 2-5.3 Waiver of Right for Interpretation/Correction

Contractors failing to point out defects, discrepancies in, or omissions from the Plans, Specifications, and Contract Documents hereby waive any right to do so at a later date.

## 2-6 EXISTING CONDITIONS AND EXAMINATIONS OF CONTRACT DOCUMENTS

### 2-6.1 General

Bidder shall carefully examine the Contract Documents and the site where the work is to be performed. The submittal of a bid shall be conclusive evidence that Bidder has investigated and is satisfied as to the conditions to be encountered and as to the character, quality, and scope of the work.

### 2-6.2 Plans for Work

The Plans for the work show conditions as they are supposed or believed by the Construction Manager to exist, but it is not intended or to be inferred that the conditions as shown thereon constitute a representation that such conditions are actually existent. District and Construction Manager shall not be liable for any loss sustained by Contractor as a result of any variance of the conditions as shown on the Plans and the actual conditions revealed during the progress of the work or otherwise.

### 2-6.3 Investigation of Subsurface Condition

Where District or Construction Manager or their consultants have made investigations of subsurface conditions in areas where the work is to be performed, such investigations were made only for the purpose of study and design. Conditions indicated by such investigations apply only at the specific location of each boring or excavation at the time the boring or excavation was made. Where such investigations have been made, Bidders or Contractors may inspect the records as to such investigations subject to and upon the conditions hereinafter set forth. The inspection of the records shall be made at the office of the Construction Manager.

### 2-6.4 Records of Investigation not Part of Contract

The records of such investigations are not a part of the Contract and are shown solely for the convenience of Bidder or Contractor. It is expressly understood and agreed that District, Construction Manager, and their consultants assume no responsibility whatsoever with respect to the sufficiency or accuracy of the investigation, the records thereof, or of the interpretations set forth therein or made by District's consultants, Construction Manager, or his consultants in the use thereof by the Construction Manager. There is no warranty or guarantee, either express or implied, that the conditions indicated by such investigations or record thereof are representative of those existing throughout such areas, or any part thereof, or that unlooked for developments may not occur, or that materials other than, or in proportions different from those indicated may not be encountered.

#### 2-6.5 Log of Test Borings not Part of Contract

When a log of test borings showing a record of the data obtained by the investigation of subsurface conditions by District, Construction Manager, or their consultants is included with the Contract Documents, it is expressly understood and agreed that said log of test borings does not constitute a part of the Contract; represents only the opinion of District, Construction Manager, or their consultants as to the character of the materials encountered by them in the test borings; is included in the Contract Documents only for the convenience of Bidders; and its use is subject to all of the conditions and limitations that are set forth in this section.

#### 2-6.6 No Waiver of Contractor Responsibility

The availability or use of information described in this section is not to be construed in any way as a waiver of the provisions of the first paragraph in this section, and a Bidder or Contractor is cautioned to make such independent investigations and examinations as he deems necessary to satisfy himself as to conditions to be encountered in the performance of the work.

No information derived from such inspection of records of investigations or compilation thereof made by District, Construction Manager, or their consultants will in any way relieve Bidder or Contractor from any risk or from properly fulfilling the terms of the Contract.

#### 2-7 ADDENDA

Addenda issued before the time in which to submit bids expires or forming a part of the Contract Documents furnished to Bidder for preparation of this bid, shall be covered in the bid and shall be made a part of the Contract.

## **SECTION 3 - AWARD AND EXECUTION OF CONTRACT**

### 3-1 AWARD OF CONTRACT OR REJECTION OF BIDS

#### 3-1.1 Award to Lowest Responsible Bidder

The award of the Contract, if it be awarded, will be to the lowest responsible Bidder complying with the instructions contained in the Contract Documents.

#### 3-1.2 Rights Reserved by District

District reserves the right to select the schedules under which the bids are to be compared, to reject any and all bids, and to waive any irregularities, discrepancies, and technical errors in bids received. If, in the judgement of District, a bid is unbalanced or if Bidder is not responsible, it shall be considered sufficient grounds for rejection of the entire bid.

#### 3-1.3 Time for Consideration by District

District shall have the period of time set forth in the Special Provisions after the opening of bids within which to accept or reject the bids. No Bidder may withdraw his bid during said period. District will return the proposal guarantees, except Bidders' bonds and any guarantees which have been forfeited, to the respective Bidders whose proposals they accompanied within ten days after the execution of the Contract by the successful Bidder, or upon rejection of all bids, or upon receipt of a written request therefore received after the period of time set forth in the Special Provisions.

#### 3-1.4 Request for Financial Statement and Experience Statement

Before award of Contract any Bidder, upon request, shall furnish a recent statement of his financial conditions and previous construction or other experience as may be required by the District.

### 3-2 AGREEMENT AND BONDS

#### 3-2.1 Form of Agreement and Bonds

The form of agreement, bonds, and other documents which the successful Bidder, as Contractor, will be required to execute are included in the Contract Documents and should be carefully examined by the Bidder.

#### 3-2.2 Payment and Performance Bonds Required

The successful Bidder, simultaneously with the execution of the Agreement, will be required to furnish a payment bond in an amount equal to one hundred percent (100%) of the Contract price, and a faithful performance bond in an amount equal to one hundred percent (100%) of the Contract price; said bonds shall be secured from a surety company satisfactory to District and who is authorized to transact business in this state. Said bonds shall continue in full force and effect for the guarantee period.



### 3-3 INSURANCE REQUIREMENTS

The successful Bidder will be required to furnish District proof of full compliance with all insurance requirements as specified in the section on Contractor's Insurance (Section 9 of these General Provisions). The form of certificates of insurance which the successful Bidder, as Contractor, will be required to furnish are included in the Contract Documents and should be carefully examined by the Bidder.

### 3-4 EXECUTION OF CONTRACT

The Contract shall be signed by the successful Bidder and returned to District, together with the Contract bonds and certificates of insurance coverage, within five calendar days after the Bidder has received notice from District that the Contract is ready for signature.

### 3-5 FAILURE TO EXECUTE CONTRACT

Failure by a Bidder to whom the Contract is awarded to execute the Contract and file acceptable bonds and certificates of insurance coverage as provided herein shall be just cause for the annulment of the award.

## **SECTION 4 - SCOPE OF WORK**

### **4-1 WORK TO BE DONE**

#### **4-1.1 Work to be Done**

The work to be done consists of furnishing all labor, materials, methods or processes, implements, tools, and machinery which are required for or appurtenant to the construction and completion of the entire project designated in the Contract, and to leave the grounds in a neat condition. Any work not shown in the Plans and Specifications but necessary to complete the work according to law and governmental codes and regulations shall be performed by the Contractor as if in the Plans and Specifications, subject to the provision of Section 4-2 of these General Provisions.

#### **4-1.2 Scope of Eligible Work**

The quantities of material or labor listed shall constitute the scope of eligible work. Any change in quantities of material or labor shall constitute a change in the scope of eligible work and shall be subject to the notice and Change Order provisions of Section 4-2 of these General Provisions.

### **4-2 CHANGES IN THE WORK**

#### **4-2.1 District Order for Changes in Work**

District may require changes in, additions to, or deductions from the work. Adjustment in the amounts to be paid to Contractor by reason of any such change, addition, or deduction shall be determined as set forth in Section 10 (Estimates and Payments) in these General Provisions.

#### **4-2.2 Minor Changes in Work**

Construction Manager may order minor changes in work not involving an increase or decrease in Contract amount, not involving a change in time for completion and not inconsistent with the purpose for which the works are being constructed.

#### **4-2.3 Changes Involving Change in Contract Amount or Time of Completion**

If Contractor believes that any order for minor changes in the work involves changes in the Contract amount or time for completion, he shall not proceed with the minor changes so ordered and shall, within two working days of the receipt of such order, give written notification to the Construction Manager of his estimate of the changes in Contract amount and time for completion he believes to be appropriate.

#### **4-2.4 Payment for Changes in Work**

No payment for changes in the work will be made and no change in the time for completion by reason of changes in the work will be made, unless the changes are covered by a written Change Order approved by District in advance of the Contractor's proceeding with the changed work.

#### 4-3 REMOVAL OF OBSTRUCTIONS

Contractor shall not remove and dispose of any structure, or other obstruction of any character necessary to accommodate the work, except debris, until he has received the approval of the Construction Manager. Where such obstructions consist of improvements not required by law to be removed by District, all such improvements shall be removed, maintained and permanently replaced by Contractor at his expense.

#### 4-4 UTILITIES

Contractor shall make his own investigations, including exploratory excavations, to determine the locations and type of service laterals or other appurtenances when their presence may be inferred from the presence of other visible facilities. The Plans do not show the locations of utility services or lines. It is Contractor's responsibility to make his own determination as to the existence, location and depth of all utilities. Where utilities interfere with required grading, Contractor shall provide coordination with the utility companies for relocation.

#### 4-5 FINAL CLEANUP

Upon completion and before making application for acceptance of the work, Contractor shall clean and leave in an acceptable condition all rights-of-way, streets, borrow pits, and all other grounds occupied by him in connection with the work of all rubbish, excess materials, temporary structures and equipment, and all parts of the work and grounds occupied by him shall be left in a neat and presentable condition. Contractor shall remove and cleanup, at his sole expense, any hazardous waste used at, or brought to the jobsite by Contractor.

## **SECTION 5 - QUALITY OF THE WORK**

### **5-1 AUTHORITY OF THE CONSTRUCTION MANAGER**

#### **5-1.1 Authority to Decide Questions of Quality or Acceptability**

Construction Manager shall decide any and all questions which may arise as to the quality or acceptability of the materials and the equipment furnished and the work performed and all questions as to the interpretations of the Plans and Specifications. Construction Manager may be represented by his authorized representatives.

#### **5-1.2 Limit on Authority**

All work performed on the project must be executed in conformity with the Contract Documents. Construction Manager is not authorized to approve changes which will affect materials, design, or workmanship that do not conform to the Plans, Specifications, and Contract Documents and alterations, amendments, or changes in any materials, designs, or methods required by the Contract Documents to be approved through the use of a written Change Order as specified by Section 10-1 of these General Provisions.

### **5-2 COORDINATION OF PLANS AND SPECIFICATIONS**

The Plans, Specifications, and Contract Documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be cooperative and to describe and provide for the complete work. In the event of an apparent difference between Plans and Specifications, reference shall be made to Construction Manager whose decisions thereon shall be final.

Special Provisions shall govern over General Provisions and Specific Standards.

### **5-3 ERRORS OR DISCREPANCIES NOTED BY CONTRACTOR**

#### **5-3.1 Duty of Contractor to Inform Construction Manager**

It is the duty of Contractor to inform Construction Manager of any alleged defects in design, method, or materials that he discovers while working on the project. This includes a duty to advise District of any materials, methods, or designs that Contractor believes may prove defective or insufficient.

#### **5-3.2 Waiver by Contractor on Failure to Note Discrepancy**

A Contractor who discovers an alleged defect or believes that a defect exists in design, method, or materials as to any portion of the project, and who fails to inform Construction Manager of this discovery or belief, waives any right to assert that defect in design, materials, or method at any later date in any legal or equitable proceeding against District, or in any subsequent arbitration or settlement conference between District and Contractor.

#### 5-4 SUPERVISION

Contractor shall provide competent supervision of the work. Unless personally present on the job site, Contractor shall designate an authorized representative who shall have the authority to represent and to act on his behalf, and any written or verbal directions or requests of Construction Manager delivered to such representative shall have the same force and effect as if it was delivered directly to Contractor.

#### 5-5 INSPECTION

Construction Manager shall at all times have access to the work during construction and shall be furnished with every reasonable facility for ascertaining full knowledge respecting the progress, workmanship, and character of materials and equipment used and employed in the work.

#### 5-6 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK

##### 5-6.1 Removal of Defective & Unauthorized Work by Contractor

All work which has been rejected shall be remedied or removed and replaced by the Contractor in an acceptable manner, and no compensation will be allowed him for such removal, replacement, or remedial work. Any work done beyond the lines and grades shown on the Plans or established by Construction Manager, or any changes in, additions to, or deductions from the work done without written authority will be considered as unauthorized and will not be paid for. Work so done may be ordered remedied, removed, or replaced at Contractor's expense.

##### 5-6.2 No Compensation for Defective and Unauthorized Work

Upon failure on the part of Contractor to comply promptly with any order of Construction Manager made under the provisions of this section, Construction Manager shall have authority to cause rejected work or unauthorized work to be remedied, removed, or replaced and to deduct the costs from any monies due or to become due to Contractor.

#### 5-7 STANDARDS, CODES, AND TESTS

Whenever reference is made to a standard, code, specification, or test, and the designation representing the date of adoption or latest revision thereof is omitted, it shall mean the latest revision of such standard, code, specification, or test in effect on the day the Notice Inviting Sealed Proposals (Bids) is dated.

#### 5-8 DEFECTIVE MATERIALS

##### 5-8.1 Materials Not Conforming to Specifications

All materials not conforming to the Specifications shall be considered defective, and all such materials, whether in place or not, shall be rejected and shall be removed immediately from the site of the work. No rejected material, the defects of which have been subsequently corrected, shall be used until permitted by Construction Manager.

#### 5-8.2 Removal and Replacement of Defective Materials

Upon failure on the part of Contractor to comply with any requirement of Construction Manager made under the provisions of this section, District shall have the authority to remove or replace defective material at the expense of Contractor.

#### 5-9 GUARANTEES

Besides guarantees required elsewhere, Contractor shall and hereby does guarantee all work for a period of one year after the date of acceptance of the work by District, and Contractor shall repair and replace any and all such work, together with any work which may be displaced in so doing, that may prove defective.

Contractor shall not be required to repair or replace work which may prove defective due to defects of improvements in the project area existing prior to the work performed by Contractor under this Contract. A prior existing defective condition of improvement of the project area known to or discovered by Contractor shall be reported to Construction Manager immediately.

This section does not in any way limit the guarantee on any items for which a longer guarantee is specified, or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish District all appropriate guarantee or warranty certificates upon completion of the project.

## **SECTION 6 - PROSECUTION AND PROGRESS**

### 6-1 SUBCONTRACTING

If Contractor subcontracts any part of this Contract, then Contractor shall be as fully responsible to District for the acts and omissions of his subcontractor, and of the persons either directly or indirectly employed by his subcontractor, as he is for the acts and omissions of persons directly employed by himself. Nothing contained in the Contract Documents shall create any contractual relationship between any subcontractor and District. Contractor shall bind every subcontractor to be bound by the terms of the Contract Documents as applicable to his work.

### 6-2 ASSIGNMENT

The performance of the Contract may not be assigned except upon the written consent of District. Consent will not be given to any proposed assignment which would relieve Contractor or his surety of their responsibilities under the Contract, nor will District consent to any assignment of any part of the work covered under this Contract.

### 6-3 TIME FOR COMPLETION AND FORFEITURE DUE TO DELAY

#### 6-3.1 Time for Completion

Contractor shall complete all or any designated portion of the work called for under the Contract within the time set forth in the Bid Form. Time is of the essence in this Contract.

#### 6-3.2 Liquidated Damages for Delay

In accordance with Government Code Section 53069.85, Contractor agrees to pay to District the amount per day set forth in the Agreement for each and every day of delay, which amount shall be deducted from any payments due or to become due to Contractor.

#### 6-3.3 Delay Due to Unforeseen Causes

No forfeiture due to delay shall be made because of any delays in the completion of the work due to unforeseeable causes beyond the control, and without the fault or negligence of Contractor (including but not restricted to acts of the public enemy, acts of the government, acts of District, or acts of another contractor in the performance of a contract with District, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes, or delays caused by the failure of District or the owner of a utility to provide for removal or relocation of existing utility facilities). Any such delays shall not entitle Contractor to any additional compensation. The sole remedy of Contractor shall be an extension of time obtained for completing the work in accordance with this section.

#### 6-3.4 Request for Extension of Time

Contractor shall, within ten (10) days from the beginning of such delay, notify District, in writing, of the cause of the delay, whereupon District shall ascertain the facts and extent of the delay, and extend the time for completing the work if, in District's judgment, the findings of fact justify such an extension of time. District's findings of facts thereon shall be final and conclusive.

### 6-3.5 Extension of Time

District may extend the time fixed for completion of the work under the Contract from time to time. All applications for extensions of time shall be in writing and shall be filed with District before expiration of the original time fixed in the Contract or as previously extended.



## **SECTION 7 - LEGAL RELATIONS AND RESPONSIBILITIES**

### 7-1 OBSERVING LAWS AND ORDINANCES

#### 7-1.1 Contractor's Responsibility

Contractor shall keep himself fully informed of all existing and future laws, ordinances, and regulations which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such order and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency is discovered in the Plans, Specifications, and Contract Documents for the work in relation to any such law, ordinance, regulation, order, or decree he shall forthwith report the same to Construction Manager in writing.

#### 7-1.2 Observance by Contractor and his Agents

Contractor shall at all times observe and comply with and shall cause all his agents, employees, and subcontractors to observe and comply with all such existing and future laws, ordinances, regulations, orders, and decrees and shall hold harmless, indemnify, and defend District, Construction Manager, and their consultants, and each of their officers, employees, and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself, his employees, his agents, or his subcontractors.

### 7-2 PERMITS AND LICENSES

Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

### 7-3 PUBLIC CONVENIENCE AND SAFETY

#### 7-3.1 Conduct of Operations by Contractor

Contractor shall conduct his operations as to offer the least possible obstruction and inconvenience to the public, and he shall have under construction no greater length or amount of work than he can prosecute properly with due regard to the rights of the public.

#### 7-3.2 Access to Driveways, Houses, and Buildings

Convenient access to driveways, grove roads, houses, and buildings along the line of work shall be maintained and temporary crossing shall be provided and maintained in good condition. Not more than one crossing or intersecting street or road shall be closed at any one time.

#### 7-3.3 Maintenance of Safety Devices and Personnel

Contractor shall provide and maintain such fences, barriers, directional signs, lights, and flagmen as are necessary to give adequate warning to the public at all times of any

dangerous conditions to be encountered as a result of the construction work, and to give directions to the public.

#### 7-4 RESPONSIBILITY FOR LOSS, DAMAGE OR INJURIES

Contractor shall be solely responsible for all claims, demands, or liability arising from Contractor's failure to comply with any provision of this Contract and for all claims, demands, or liability caused in whole or in part by the negligence or intentional misconduct of Contractor or Contractor's directors, officers, agents, employees, subcontractors, suppliers, or independent contractors performing any of the work until a court of competent jurisdiction renders a final judgment, either with or without arbitration, determining that Owner's active negligence contributed to the claim, demand, or liability. Owner shall be rendered liable for the claim, demand, or liability only to the extent that the final judgment determines Owner, or its agents or employees was actively negligent and only to the extent of the percentage of active negligence of Owner or its agents or employees determined by the final judgment. This responsibility shall extend to claims, demands or liability for loss, damage, or injuries occurring after completion of the work as well as during the progress of the work.

#### 7-5 CONTRACTOR'S RESPONSIBILITY FOR THE WORK

Until the acceptance of the work, Contractor shall have the responsible charge and care of the work and of the materials to be used therein (including materials for which he has received partial payment or materials which have been furnished by District) and shall bear the risk of injury, loss, or damage to any part thereof by the action of the elements or from any other cause whether arising from the execution or from the non-execution of the work.

#### 7-6 PRESERVATION OF PROPERTY

Contractor shall exercise due care to avoid injury to existing improvements or facilities, utilities, adjacent property, trees, and shrubbery that are not to be moved.

#### 7-7 SAFETY

In accordance with generally accepted construction practices, Contractor shall be solely and completely responsible for conditions of the jobsite, including safety of all persons and property during performance of the work. Contractor shall fully comply with all state and federal laws, rules, regulations, and orders relating to safety of the public workmen.

Contractor agrees to maintain first aid facilities for treatment of all employees which comply with those standards imposed by the Federal Occupational Health and Safety Act of 1970 (Labor Code Section 6708).

#### 7-8 PERSONAL LIABILITY

No officer, employee, or agent of District, Construction Manager, or their consultants shall be personally responsible for any liability arising under or by virtue of the Contract.

#### 7-9 INDEMNITY

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless Owner, the Engineer/Architect, Owner's Representative, and their consultants, and each of their directors,

officers, agents, and employees from and against all claims, damages, losses, expenses, and other costs including costs of defense and attorney's fees, arising out of or resulting from, or in connection with the performance of the work, both on and off the jobsite, provided that any of the foregoing (1) is attributable to personal injury, bodily injury, sickness, disease, or death, or to injury to, or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom, and (2) is caused in whole or in part by any act or omission of the Contractor, any subcontractor, any supplier, anyone directly or indirectly employed by any of them or anyone for whose acts or omissions any of them may be liable, regardless of whether or not it is caused in part by any act or omission (active, passive, or comparative negligence included, excepting the active negligence of Owner), of a party indemnified hereunder.

In any and all claims against the indemnified parties by any employees of Contractor, any subcontractor, any supplier, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under the first and fourth paragraphs in this section on "Indemnity" shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor, or any subcontractor, or any supplier or other persons under workers' compensation acts, disability benefit acts, or other employee acts.

The obligations of Contractor under the 1st and 4th paragraphs in Article 7-9 INDEMNITY shall not extend to any third party claims or causes of action for injury, death, or property damage to the extent a final judgment by a court of competent jurisdiction, whether or not based upon arbitration, determines Owner's own active negligence caused the injury, death, or property damage. Until a court of competent jurisdiction either by judge, jury or following arbitration determines the active negligence of Owner or its agents or employees was a cause of the injury, death, or damage, Contractor shall have an obligation to defend Owner against the claim, cause of action, or lawsuit by independent counsel of Owner's choosing and agrees to pay all attorney's fees, court costs, and expert fees and costs incurred by Owner in defending the claim, cause of action, or lawsuit within thirty (30) days following a written demand for these fees and costs from Owner. Any fees or costs incurred by Contractor to defend Owner shall not be reimbursed to Contractor following any settlement, arbitration award or final judgment. To the extent that a court of competent jurisdiction renders a final judgment determining that the active negligence of Owner or its agents or employees is a partial cause of the injury, death, or damage Contractor shall be relieved of this Indemnity only to the extent Owner or its agents or employees is determined to be actively at fault and shall not be relieved of any provisions of this Indemnity for non-compliance with any terms of this Agreement or for any portion of the injury, death, or property damage determined to be caused by the active or passive negligence or intentional misconduct of Contractor, or Contractor's directors, officers, agents, employees, subcontractors, or suppliers. Contractor shall remain fully liable for all terms of this Indemnity where Owner's negligence is passive rather than active. The parties hereby expressly agree that each of the following shall be treated as passive negligence by the Owner: (1) Inspection or approval of any work by any employee or any agent of the Owner; (2) Approval of any changes to the work requested by Contractor or any subcontractor or supplier; (3) Approval of any deviation from any of the plans and specifications requested by Contractor or any subcontractor or supplier and (4) Any other action or inaction by District's employees or agents which is not treated as active negligence under California law.

Contractor shall also indemnify and hold harmless Owner, the Engineer/Architect, Owner's Representatives, and their consultants, and each of their directors, officers, employees, and agents from and against all losses, other costs, including all costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the work

and all of Contractor's obligations under the Contract. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by the indemnified parties in any lawsuit to which they are a party.

## 7-10 LABOR CODE COMPLIANCE

Contractor's attention is directed to Division 2, Part 7, Chapter 1 of the Labor Code of California and especially to Article 2 (Wages), and Article 3 (Working Hours), as amended.

- a. Prevailing Wage. The general provisions governing prevailing wages should be altered as follows:

Contractor shall comply with Labor Code Section 1775. In accordance with said Section 1775, the Contractor shall forfeit as a penalty to Owner up to \$200.00 for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for such work or craft in which the worker is employed for any work done under the Contract by him or her or by any subcontractor under him or her. The amount of the forfeiture will be determined by the Labor Commissioner based on the considerations specified in Labor Code Section 1775. In addition to said penalty and pursuant to said Section 1775, the difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by Contractor. Pursuant to Labor Code Section 1775, to the extent there is insufficient money due a contractor to cover all penalties forfeited and amounts due, the Division of Labor Standards Enforcement shall be notified of the violation and the Division of Labor Standards Enforcement shall be entitled to maintain an action in any court of competent jurisdiction to recover the penalties and the amount due pursuant to Labor Code Section 1775.

Section 1776 of the Labor Code requires each contractor and its subcontractors to keep accurate payroll records and make such available for inspection by entities identified in that section in the manner stated therein. Section 1776(g) places the responsibility for compliance with Section 1776 on the prime contractor.

Pursuant to Labor Code Section 1777.1, whenever any contractor or subcontractor performing a public works project is found by the Labor Commissioner to be in violation of Labor Code Section 1770, et. seq., except Section 1775, the contractor or subcontractor or any firm, corporation, partnership, or association of which the contractor or subcontractor has a substantial interest shall be ineligible to bid on or to receive any public works contract for a period of not less than one year or more than three years. The period of debarment shall run from the date determination of the violation is made by the Labor Commissioner.

Willful violations of Section 1777.5 will result in a forfeiture of \$50.00 for each calendar day of noncompliance which shall be withheld from progress payments by Owner upon notice from the Department of Industrial Relations. (Labor Code 1777.7.)

- b. In accordance with Sections 1773.1 and 1773.8 of the Labor Code, Contractor shall pay travel and subsistence payments to each workman needed to execute the work as such travel and subsistence payments are defined in the applicable collective bargaining assurances filed with the Department of Industrial Relations.

- c. Pursuant to Labor Code Section 1810 et. seq., it is stipulated hereby that eight hours' labor constitutes a legal day's work hereunder.
- d. Pursuant to Labor Code Section 1813, it is stipulated hereby that Contractor shall, as a penalty to Owner, forfeit \$25.00 for each workman employed in the execution of this Contract by Contractor or by any subcontractor hereunder for each calendar day during which such workman is required or permitted to work more than eight hours in any one calendar day and forty hours in any one calendar week in violation of the provisions of Article 3 commencing with Section 1810, Chapter 1, Part 7, Division 2 of the Labor Code.
- e. Contractor is aware of and will comply with the provisions of Labor Code Sections 1777.5 and 1777.6, as amended, with respect to the employment of apprentices. Pursuant to Section 1777.5, it is hereby stipulated that Contractor will be responsible for obtaining compliance therewith on the part of any and all subcontractors employed by him in connection with this Contract.

In accordance with Section 1773.3 of said Labor Code, Owner will file with the Department of Industrial Relations, Division of Apprenticeship Standards, a "D.I.R. PWC-100 Form" upon issuance of the Notice of Award in the form appended hereto and made a part hereof as Page I-6.10.

- f. Attention is directed to provisions in Section 1777.5, 1777.6, and 1777.7 of the Labor Code concerning employment of apprentices by Contractor or any subcontractor under him.

Contractor and any subcontractor under him shall comply with requirements of Section 1777.5 and 1777.6 of the Labor Code in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from Division of Apprenticeship Standards and its branch offices.

Willful violations of Section 1777.5 will result in Contractor, and the business entity under which Contractor is doing business, being denied the right to bid on, or to receive, any public works contract for a period of up to one year for the first violation and for a period of up to three years for the second and subsequent violations commencing from the date the determination of noncompliance by the Administrator of Apprenticeship becomes an order of the California Apprenticeship Council. In addition, if Contractor violates Section 1777.5, he will forfeit as a civil penalty the sum of \$50.00 for each calendar day of noncompliance which shall be withheld from progress payments by Owner upon notice from the Department of Industrial Relations. (Labor Code Section 1777.7.)

NEW (effective 01/01/2015) In addition to the above, Contractor also agrees as follows:

- a. Contractor acknowledges, for itself and for all subcontractors, its obligation to maintain current registration with the D.I.R., and that prior to execution of this Contract, Contractor shall furnish, for itself and for any subcontractor it employs on the project, proof of Contractor's registration with the D.I.R., as required by Labor Code Section 1771.1(b).
- b. Contractor further acknowledges that this project is subject to compliance

monitoring and enforcement by the D.I.R., and that Contractor shall post job site notices of D.I.R., jurisdiction as prescribed by applicable D.I.R., regulations (Labor Code Section 177401(a)(1)-(2)).

#### 7-11 TERMINATION FOR BREACH

If Contractor refuses or fails to prosecute the work or any separable part thereof with such diligence as will ensure its completion within the time specified herein, or any extension thereof, or fails to complete such work within such time, District may serve written notice upon Contractor and his surety of its intention to terminate the Contract, said notice to contain the reasons for such intention to terminate the Contract, and unless within five days after the service of such notice such violations shall cease and satisfactory arrangements for the corrections thereof be made, the Contract shall upon the expiration of said five days cease and terminate. In such case, Contractor shall not be entitled to receive any further payment until work is finished.

#### 7-12 NOTICE AND SERVICE THEREOF

Any notice required or given by one party to the other under this Contract shall be in writing and shall be dated and signed by the party giving such notice or by an authorized representative of such party. Any such notices shall not be effective for any purpose whatsoever, unless served in the following manner, namely; the notice is given to District by personal delivery thereof, or by depositing the same in the United States mail, enclosed in a sealed envelope addressed to the District, postage prepaid and registered.

#### 7-13 LIMITATION OF LIABILITY

Notwithstanding any other provision of this contract, the liability of District or its directors, officers, employees, and agents to Contractor shall be limited to the greater of Fifty Thousand Dollars (\$50,000) or the total amount of the contract price. Contractor acknowledges that it has had the opportunity to accept, reject, or modify the terms of this contract and that this limitation of liability of the District and its directors, officers, agents, and employees has been negotiated between the parties after bargaining. Contractor acknowledges that this provision complies with Civil Code Section 2782.5 and Contractor expressly waives the right to contend that this provision does not comply with Civil Code Section 2782.5 in any subsequent arbitration or litigation between the parties. By signing this contract, Contractor acknowledges that Contractor has read and understood this provision and agrees to be bound by all of its terms.

## **SECTION 8-TERMINATION FOR CONVENIENCE OF OWNER OR ON BREACH OF CONTRACT**

### 8-1 TERMINATION BY DISTRICT

The performance of work under this Contract may be terminated by the District in accordance with this clause in whole or from time to time in part whenever District or District's Representative determines that such termination is in the best interest of District. Any such termination shall be effected by delivery to Contractor of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated, the date upon which the termination becomes effective, and the reason for the termination.

#### 8-1.1 Termination Procedure

After receipt of a Notice of Termination, except as otherwise directed by District or District's Representative, Contractor shall:

- a. Stop work under the Contract on the date and to the extent specified in the Notice of Termination;
- b. Place no further orders or subcontract for materials, services, or facilities, except as may be necessary for a completion of such portion of work under the Contract as is not terminated;
- c. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
- d. Assign to District in the manner, at the times, and to the extent directed by District or District's Representative all of the right, title, and interest of Contractor under the orders and subcontracts terminated, in which case District shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such orders and subcontracts;
- e. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts to extent District may require;
- f. Transfer title and deliver to District in the manner, at the times, and to the extent, if any, directed by District (1) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of work terminated by the Notice of Termination and (2) the completed or partially completed plans, drawings, information, and other property which, if Contract had been completed, would be required to be furnished to District;
- g. Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by District or District's Representative any property of the types referred to in subparagraph "f" above, provided Contractor (1) shall not be required to extend credit to any purchasers, and (2) may acquire any such property under conditions prescribed by and at the prices approved by District or District's Representative. Proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by District to Contractor under the Contract, or shall otherwise be credited to the price or cost of the work

covered by Contract, or paid in such other manner as District or District's Representative may direct;

- h. Complete performance of such part of the work as shall not have been terminated by the Notice of Termination to the satisfaction of District;
- i. Take such action as District or District's Representative may direct for the protection and preservation of the property related to this Contract which is in the possession of Contractor and in which the District has or may acquire an interest.

After receipt of a Notice of Termination, Contractor shall submit to District his termination claim, in the form and with certification prescribed by District or District's Representative. This claim shall be submitted promptly but in no event later than three months from the effective date of termination, unless one or more written extensions are granted by the District or District's Representative upon Contractor's written request within such three-month period, or any authorized extension of the three-month period. District may deny or grant the request for an extension of time as District may determine in its sole discretion. The District's decision to grant or deny the extension shall be final and binding on all parties to this Contract. Upon failure of Contractor to submit his termination claim within the time allowed District or District's Representative may determine, on the basis of information available to him, the amount, if any, due Contractor by reason of termination and shall thereupon pay Contractor the amount so determined.

#### 8-1.2 Payment Estimate

Contractor and District may agree upon the whole or any part of the amount paid to Contractor by reason of the total or partial termination of work pursuant to this clause provided a written agreement has been reached within three months following effective date of the Termination Notice.

In the event Contractor and District are unable to agree on the termination price, District shall pay to Contractor the amount determined by District or District's Representative, in its sole discretion, to be fair and equitable under the circumstances, excluding amounts District and Contractor have agreed to in accordance with the terms of this section.

In no event shall Contractor be entitled to receive any amount upon termination of this Contract which exceeds the total Contract price, reduced by the amount of payments otherwise made, and further reduced by the Contract price of work not terminated, by the fair value, as determined by District or District's Representative, in its sole discretion, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to District, by all unliquidated advances or other payments on account made to Contractor applicable to the terminated portion of the Contract, by any claim which District may have against Contractor in connection with this Contract, by the agreed price for or the proceeds of sale of any materials, supplies, or other things acquired by Contractor or sold pursuant to the provisions of this clause and not otherwise recovered or credited to District, and by estimated or actual costs to correct Contractor's work which District or District's Representative, in its sole discretion, determines to be defective. The decision of District or District's Representative in determining the proper termination amounts shall be final and binding on all parties to this Contract.



### 8-1.3 Availability of Contractor's Records

Unless otherwise provided for in this Contract, Contractor shall from the effective date of termination until the expiration of three years after final settlement under this Contract, preserve and make available to District at all reasonable times at the office of the Contractor, and without charge of any kind to District, all Contractor's books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this Contract. For this purpose, Contractor specifically consents to allow District to receive such copies of Contractor's tax returns as District may deem necessary to verify Contractor's costs.

### 8-1.4 Surety's Right to Complete Contract

In the event District terminates the Contract in whole or in part due to the failure of Contractor, its agents, servants, employees, or subcontractors to perform any work in the time or manner designated in the Contract Documents, District shall immediately serve written notice of the termination upon the Surety and the Contractor, and the Surety shall have the right to take over and perform the Contract, provided that if the Surety within fifteen days after the serving upon it of a Notice of Termination does not give District written notice of his intention to take over and perform the Contract, or does not commence performance thereof within thirty days from the date of serving said Notice, District may take over the work and prosecute the same to completion by Contract or by any other method District may deem advisable for the account and at the expense of Contractor, and his Surety shall be liable to District for any excess costs, or other damages occasioned District thereby, and in such event District may, without liability for so doing, take possession of and utilize in completing the work such materials, appliances, plants, and other property belonging to Contractor that may be on the site of the work and be necessary therefor. For any portion of such work that District elects to complete by furnishing employees, materials, tools, and equipment, District shall be compensated for such in accordance with the schedule of compensation for force account work in the Section on payment for changes in the work.

### 8-1.5 Termination for Breach of Contract Terms

In the event District terminates the Contract as a result of a breach of any Contract terms by Contractor, its agents, servants, employees, or subcontractors, if the unpaid balance of the Contract price exceeds the direct and indirect costs of completing the work, including but not limited to all costs to District arising from professional services and attorney's fees, and all costs generated to insure or bond the work of substituted contractors or subcontractors utilized to complete the work, such excess shall be paid to Contractor. If such costs exceed the unpaid balance Contractor shall pay the difference to District promptly upon demand. On failure of Contractor to pay, the Surety shall pay on demand by District. Excessive costs not paid by Contractor or its Surety within thirty days following the mailing of a demand for such costs by District shall earn interest of eighteen percent (18%) per annum or the maximum rate authorized by California Law, whichever is lower.

## **SECTION 9 - CONTRACTOR'S INSURANCE**

### 9-1 GENERAL

Contractor shall not commence any work until he obtains, at his own expense, all required insurance. Contractor shall not permit any subcontractor to commence work on this project until the same insurance requirements have been complied with by such subcontractor. All required insurance for Contractor shall be from insurers duly authorized and admitted in the State of California to issue insurance policies for the specific line(s) of coverage which each is providing to the Contractor, and each insurer shall have an agent for service of process in California.

#### 9-1.1 Certificate Forms

As evidence of specified insurance coverage, Contractor shall provide certificates of insurance on the certificate forms provided herein. Substitution of the certificates will not be allowed.

#### 9-1.2 Types and Limits

##### 9-1.2.1 Workers' Compensation Insurance

The Contractor shall provide Workers' Compensation Insurance.

##### 9-1.2.2 General Liability Insurance

The Contractor shall provide Commercial General Liability Insurance, providing bodily injury coverage for not less than \$500,000 for one person, and property damage coverage for not less than \$250,000, or alternatively, \$1,000,000 Combined Single Limit. Included in such insurance shall be blanket contractual coverage sufficiently broad to insure the requirements of Section 7-9 entitled "Indemnity" set forth in these General Provisions. Such insurance shall include the following types of coverage: Manufacturer's and Contractors'; Owners' and Contractors' Protective; Completed Operations; Owned, Non-Owned, and Hired Automobiles; Broad Form Property Damage; and Explosion, Collapse, and Underground (XCU) Exposures. The insurance company selected shall have at least an "A-V" rating in the most recent Best's Key Rating Guide.

The Commercial General Liability Insurance shall include as additional named insured; the District, the Construction Manager, and their Consultants, and each of their officers, agents, and employees.

##### 9-1.2.3 Automobile Insurance

Contractor shall provide automobile/vehicle coverage in amounts of \$500,000 General Liability per person, \$1,000,000 per occurrence, and \$100,000 property damage, or alternatively, \$1,000,000 Combined Single Limit. The insurance company selected shall have at least an "A-V" rating in the most recent Best's Key Rating Guide.

**Note: Contractor to provide a Certificate of Liability Insurance per attached "SAMPLE ONLY". The amounts shall be per County of San Diego sample or greater. Also, Contractor shall show the County of San Diego as an additional insurer per the sample.**

## 9-2 CONTRACTOR'S RESPONSIBILITY NOT LIMITED BY INSURANCE

Nothing contained in these insurance requirements is to be construed as limiting the extent of Contractor's responsibility for payment of damages resulting from his operations under this Contract.

## 9-3 EXCLUSION OF ACTS OF GOD

Contractor shall not be responsible for the cost of repairing or restoring damage to the work in excess of five percent (5%) of the contracted amount caused by an act of God, provided the work is built in accordance with accepted and applicable building standards, and that of the Plans and Specifications of Owner. Acts of God are defined as earthquakes in excess of 3.5 on the Richter Scale and tidal waves. Contractor may be required to obtain insurance to indemnify the public agency for any damage to the work caused by an act of God, so long as this insurance is set forth as a separate bid item. (Gov. Code, §§ 4150 and 4151.)

## **SECTION 10 - ESTIMATES AND PAYMENTS**

### **10-1 PAYMENT FOR CHANGES IN THE WORK**

#### **10-1.1 Estimate in Writing**

Changes in, additions to, or deductions from the work, including increases or decreases in the quantity of any item or portion of the work, shall be set forth in a written Change Order executed by District and Contractor.

#### **10-1.2 Contents of Written Change Order**

The written Change Order shall specify the changes, additions, deductions to be made, any increase or decrease in compensation due to Contractor, and any adjustments in the time of completion.

### **10-2 PROGRESS PAYMENTS**

#### **10-2.1 Progress Payment Invoice by Construction Manager**

District shall, on or before the fifth day of each calendar month after actual construction work is started, except in case of final progress payment hereinafter provided, cause a written progress payment invoice to be made by the District's Inspector of the value of the total amount of the work completed by Contractor, and of materials delivered on the ground or stored subject to written approval of District and unused to the first of the month in which the estimate is made. In estimating such value, along with other facts and conditions deemed by him to be proper are materials furnished and stored at the site of the work and the ratio of the difficulty or cost of the work done to the probable difficulty or cost of the work remaining to be done.

#### **10-2.2 Submission of Invoice**

Contractor must sign and return District's invoice for payment on or before the tenth calendar day immediately following any month for which such payment is requested. Invoices must be accompanied by certified payroll and a release form covering period being billed. Contractor must submit releases on the forms provided in Section I-7 of Procedural Documents. Faxed copies of invoices, payroll, or releases will not be considered timely for payment purposes. Invoices shall be presented to the Board of Directors for consideration at the regular monthly meeting of the Board of Directors with the Engineer's certification and recommendation for approval or disapproval.

#### **10-2.3 Security Retention and Approval of Payment**

Upon completion by the District Inspector of the invoice for the value of the work completed, he shall submit the document to the Chief Executive Officer together with his certification, and any accompanying invoices, claims, or other documents submitted by Contractor. The Chief Executive Officer shall deduct five percent (5%) of the invoice value and said amount shall be retained by District as part security for the fulfillment of the Contract by Contractor. Contractor may substitute securities equivalent to the amount withheld by District from progress payments to insure performance of the Contract pursuant to provisions of Government Code Section 4590. At the request and expense of

Contractor, securities equivalent to the amount withheld shall be deposited with District, or with a state or federally chartered bank as the escrow agent, who shall pay such monies to Contractor upon satisfactory completion of the Contract. Securities eligible for investment under this section shall 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 Contractor and District. Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon. Should Contractor elect to substitute equivalent securities, he shall make his intentions known, in writing, fifteen days prior to the date at which the first payment is due.

If all documents are in order, the Chief Executive Officer, in accordance with Government Code Section 61737.05, shall approve the claim and present it to District's Board of Directors for approval at the immediately following meeting of the Board of Directors who will act upon the claim at that meeting. Upon approval of claim for payment by the Board of Directors, and receipt of documents required of Contractor in Section II-10-2.2, the Chief Executive Officer shall issue a warrant to the order of Contractor amounting to balance of invoice, after deducting therefrom all previous payments, and all sums to be kept or retained under terms of the Contract.

#### 10-2.4 Failure of District to Make Timely Progress Payments

Any local agency which fails to make a progress payment with thirty (30) days after receipt of an undisputed and properly submitted payment request from a contractor on a construction contract shall pay interest to the contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.020 of the Code of Civil Procedure. Upon receipt of payment request, each local agency shall act in accordance with the following: (1) Each payment request shall be reviewed by the local agency as soon as practicable after receipt for purpose of determining that the payment request is a proper payment request; and (2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to the contractor as soon as practicable, but not later than seven (7) days after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

The number of days available to a local agency to make a payment without incurring interest pursuant to this section shall be reduced by the number of days by which a local agency exceeds the seven (7) day return requirement set forth in Paragraph (2) of Subdivision (c) of Public Contract Code Section 20104.50.

A local agency includes, but is not limited to, a city, including a charter city, a county, and a city and county, and is any public entity subject to this part. A "progress payment" includes all payments due contractors, except that portion of the final payment designated by the contract as retention earnings. A payment request shall be considered properly executed if funds are available for payment of the payment request, and payment is not delayed due to an audit inquiry by the financial officer of the local agency.

### 10-2.5 Right to Withhold from Progress Payments

Before making payments to Contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all wages and penalties which have been forfeited pursuant to any stipulation in a contract for public work. But no sum shall be withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Standards Enforcement or by the awarding body.

Every awarding body shall transfer all wages and penalties that have been withheld pursuant to Labor Code Section 1727 to the Labor Commissioner, for disbursement pursuant to Labor Code Section 1775, whenever a contractor fails to bring a suit against the awarding body for recovery of wages and penalties that are withheld pursuant to Labor Code Section 1727 within ninety (90) days after the completion of the contract and formal acceptance of the job.

If suit is brought against the awarding body within the ninety (90) day period and formal notice thereof is given to the awarding body within the ninety (90) day period, either by service of summons or by registered mail which is received within the ninety (90) day period, the wages and penalties shall be retained by the awarding body pending the outcome of the suit, and be forwarded to the Labor Commissioner for disbursement pursuant to Labor Code Section 1775 if the contractor does not prevail in the action. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Wage Fund and held in trust for the workers pursuant to Labor Code Section 96.7. Penalties shall be paid into the General Fund.

Notwithstanding any other provision of law, the time for action by the contractor or his or her assigns for the recovery of wages or penalties is limited to the 90-day period and suit on the contract for alleged breach thereof in not making the payment is the exclusive remedy of the contractor or his or her assignees with reference to those wages or penalties.

Suit may be brought by Contractor or his or her assignee without permission from the state or other authority and is limited to the recovery of the wages and penalties without prejudice to the contractor's or assignee's rights in regard to other matters affecting the contract. No other issues shall be presented to the court in the case and the burden shall be on the contractor or his or her assignee to establish his or her right to wages or penalties withheld. The Division of Labor Standards Enforcement may intervene in any court proceeding brought pursuant to this section. In case the action is not commenced, and actual notice thereof received by the awarding body within the 90-day period, the action shall be dismissed on motion of the awarding body or the Division of Labor Standards Enforcement. The Division of Labor Standards Enforcement may, upon written request of any awarding body, assist in the defense of the action.

## 10-3 FINAL ESTIMATE AND PROGRESS PAYMENT

### 10-3.1 Final Estimate in Writing by Construction Manager

When the work has been completed to the satisfaction of Construction Manager, he shall make a final estimate of the total amount of work done and the amount to be paid therefor

under the terms of the Contract. He shall then certify satisfactory completion of the work to the District's Board of Directors.

#### 10-3.2 Acceptance of Work by Board of Directors

The work shall be deemed accepted when the Board passes a minute order or adopts a resolution accepting the work of improvement.

#### 10-3.3 Filing of Notice of Completion

Upon passage of a minute order or upon adoption of a resolution by the Board of Directors finding that the work has been completed according to the Contract and is accepted by the District, the Secretary shall file a Notice of Completion.

#### 10-3.4 Approval of Final Payment by Chief Executive Officer and Board

The District's Inspector shall submit his final progress payment estimate as provided for in Section 10-3.1 of these General Provisions to the Chief Executive Officer with his certification of completion of the Contract, together with all invoices, claims, and other documents relating to the cost of the work. If all documents are in order, the Chief Executive Officer, in accordance with Government Code Section 61737.05, shall approve the claim and present the claim to the Board of Directors for approval, with the certification of the Construction Manager of completion of the Contract. Upon approval of the claim by the Board of Directors, the Chief Executive Officer shall pay the entire sum found to be due, after deducting therefrom all previous payments and all amounts to be retained under the provisions of the Contract when the final payment is due and payable. All prior progress estimates and payments shall be subject to correction in the final estimate and payment.

The retention withheld by the public entity shall be released no sooner than thirty-five (35) days after the date of recording of the Notice of Completion by the County of San Diego. In the event of a dispute between the public entity and the original contractor, the public entity 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 a work of improvement, excluding any operation only for testing, start up, or commissioning, by the public agency, or its agent, accompanied by cessation of labor on the work of improvement; the acceptance of the public agency or its agents, of the work of improvement; or after the commencement of a work of improvement, a cessation of labor on the work of improvement for a continuous period of one hundred (100) days or more, due to factors beyond the control of the contractor.

### 10-4 VENUE

In the event of any legal or equitable proceeding to enforce terms or conditions of this Contract, the parties agree that venue shall lie only in the state court having jurisdiction over the matter in the North County Judicial District for the County of San Diego, State of California, or in a federal court having jurisdiction over the matter nearest to the District Office.

## 10-5 ASSIGNMENT OF CLAYTON ACT AND CARTWRIGHT ACT CLAIMS

In entering into this public works contract or any subcontract to supply goods, services, or materials pursuant to this public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes or action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tender's final payment to the Contractor, without further acknowledgment by the parties.

## 10-6 PARTIAL INVALIDITY

If any provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

## 10-7 RESOLUTION OF CONSTRUCTION CLAIMS

### 10-7.1 Definitions

This section applies to all public works claims of Three Hundred Seventy-Five Thousand Dollars (\$375,000) or less which arise between a contractor and the District.

This section shall not apply to any claims resulting from a contract between a contractor and the District when the District has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2 of the Government Code. This article applies only to contracts entered into on or after January 1, 1991.

- a. "Public Work" has the same meaning as in Sections 3100 and 3106 of the Civil Code, except that "public work" does not include any work or improvement contracted for by the state or the Regents of the University of California.
- b. "Claim" means a separate demand by the contractor for (1) a time extension, (2) payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (3) an amount the payment of which is disputed by the District.

### 10-7.2 Claim Requirements

For any claim subject to this article, the following requirements apply:

- a. 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.
- b. For claims of less than fifty thousand dollars (\$50,000), the District shall respond in writing to any written claim within forty-five (45) days of receipt of the claim, or



may request, in writing, within thirty (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 claimant.

If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the District and the claimant.

The District's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

- c. 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 sixty (60) days of receipt of the claim, or may request, in writing, within thirty (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 claimant. If additional information is required, it shall be requested and provided upon mutual agreement of the District and the claimant.

The District's written response to the claim, as further documented, shall be submitted to the claimant within thirty (30) days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

- d. If the claimant disputes District's written response, or District fails to respond within the time prescribed, the claimant may so notify the District, in writing, either within fifteen (15) days of receipt of the District's response or within fifteen (15) days of the District's failure to respond within the time prescribed, 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 thirty (30) days for settlement of the dispute.
- e. Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant 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. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits the written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.
- f. This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900), and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

### 10-7.3 Procedures to Resolve Claims

The following procedures are established for all civil actions filed to resolve claims subject to this article:

- a. Within sixty (60) days, but not earlier than thirty (30) days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within fifteen (15) days by both parties of a disinterested third person as mediator, shall be commenced within thirty (30) days of the submittal, and shall be concluded within fifteen (15) days from the commencement, unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the fifteen (15) day period, any party may petition the court to appoint the mediator.
- b. If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986, Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

- c. The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

### 10-7.4 Payment of Approved Claims

District shall pay money as to any portion of a claim that is undisputed except as otherwise provided in the contract. In any suit filed under California Public Contract Code Section 20104.4, the District shall pay interest at the legal rate on any arbitration award or judgment.

## PART III - SPECIAL PROVISIONS

### SECTION 1 - SPECIAL CONDITIONS

#### 1-1 PROPOSAL REQUIREMENTS

##### 1-1.1 Authority for the Work

The Plans and Specifications have been authorized by the Board of Directors.

##### 1-1.2 Scope of Work

The work to be done under these Specifications consists of performing all operations and furnishing all materials necessary or appurtenant to the construction and completion of all work as herein specified and in accordance with the Plans.

##### 1-1.3 Proposals

Proposals (Bids) shall be sealed in an envelope marked “**HVAC Renewal Project for the Property located at 138 South Brandon Road, Fallbrook, California,**” addressed to the Secretary of the District, and delivered to the District Office at 138 South Brandon Road, Fallbrook, CA 92028, no later than 10:00 a.m. on July 20, 2021.

#### 1-2 AWARD OF CONTRACT OR REJECTION OF BIDS

##### 1-2.1 Award of Contract or Rejection of Bids - Time

The District shall have a period of sixty (60) calendar days after the opening of the bids within which to accept or reject the bids.

#### 1-3 SPECIAL CONDITIONS

##### 1-3.1 Time of Completion

The Contractor shall complete the entire work within thirty (30) calendar days from the date specified on the “Notice to Proceed.”

##### 1-3.2 Variation in Quantities

District does not expressly or by implication represent or agree that the actual amount of work or material to be performed or furnished under this Contract will correspond with the estimated quantities. It is conclusively presumed that the bid of Contractor is based on the amount of work to be performed and material to be supplied to complete the work of improvement determined by independent investigation of Contractor made to prepare his bid. Change Orders or extras will not be granted for additional quantities of work or material due to the failure of the Contractor to correctly estimate quantities of work and material required. The Contractor shall perform work and provide material for changes ordered at unit prices set forth in his bid unless he can show a change of circumstances requiring modification of such unit prices. All stationing is approximate, and Contractor should satisfy himself of the actual station locations from field conditions and by consulting with the Engineer.

### 1-3.3 Contractor's Representative at the Job Site

Contractor shall designate a full-time "superintendent" of the project who shall be fully authorized to represent Contractor and to whom the Construction Manager may make known decisions, instructions, interpretations, and with whom either the Construction Manager or his authorized representative can carry on negotiations relating to the work. In addition, at each site within the project, the Contractor shall at all times when work is actually taking place, have a foreman who is knowledgeable and fully qualified to oversee those trades involved in accomplishing that portion of the work.

#### 1-3.3.1 Communications

Contractor shall furnish and pay for a mobile communications system that will allow full-time communications between the various project locations, the project superintendent, and the District Office. Contractor shall also furnish a list of 24-hour telephone numbers for District's use in contacting Contractor or his representatives during non-working hours. District will furnish to Contractor 24-hour telephone numbers for District representatives during non-working hours. All telephone numbers shall be kept current and in service throughout the entire life of the contract.

### 1-3.4 Transportation Facilities

Contractor shall make his own investigation of the conditions of existing roads affecting transportation, ingress and egress of the job site.

### 1-3.5 Layout of Work

Except as noted below under "Survey Monuments," no formal layout of work will be furnished at any of the sites.

### 1-3.6 Geotechnical Investigation and Observation

OMITTED

### 1-3.7 Measurement

For progress payments the Construction Manager shall make such determinations as needed to verify the Contractor's estimate of the amount of work performed. All final measurements of quantities for payment for items of work will be described in the various sections of the Technical Specifications. All payments to the Contractor for the entire work will be made for the items bid. No separate payment will be made for the requirements and activities described in the Special Conditions, and all costs in connection therewith shall be considered a subsidiary obligation of the Contractor and included in the prices bid. Contractor invoices shall set forth the charges for work performed in a manner conforming in form and content to the Bid Schedule. Failure to present invoices in this manner will result in delay until District can obtain approval for payment of a corrected invoice.

### 1-3.8 Maintenance of Traffic

The Contractor shall conduct his operations so as to cause the least obstruction and inconvenience to public traffic. The Contractor shall be responsible for preparing an informal traffic control and detour plan, to be submitted to the District for review no later than ten (10) working days before the actual proposed start of work, as shown in the Contractor's schedule. Notification of construction shall be posted a minimum of seven (7) days prior to start of work. Contractor shall provide and maintain all necessary detour signs.

Contractor shall also be responsible for safely directing traffic within the intersections at each end of each section so that required construction can be completed within the intersections.

#### 1-3.8.1 Traffic Control

The Contractor shall furnish and maintain adequate barriers, flashing arrow boards, and other traffic control devices, properly trained and equipped personnel, radio communications, pilot cars, remote controlled traffic signals and other materials and equipment, all in accordance with the "Work Area Traffic Control Handbook" ("W.A.T.C.H. Manual"), current edition, published by BNI Books, Los Angeles, California, throughout the project to adequately warn of the construction work and control traffic through the work area.

### 1-3.9 Regional Notification Center

Contractor, except in an emergency, shall contact the appropriate regional notification center (800/422-4133) at least two working days prior to commencing any excavation, if the excavation will be conducted in an area or in a private easement which is known, or reasonably should be known to contain subsurface installations other than the underground facilities owned or maintained by the District, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and carried out by the Contractor, unless such an inquiry identification number has been assigned to the Contractor, or any subcontractor of the Contractor, and the District has been given the identification number by the Contractor.

Emergency shall be defined as a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage. (Gov. Code, § 4215.5.)

Subsurface installation means any underground pipeline, conduit, duct, wire, or other structure. (Gov. Code, § 4215.5.)

### 1-3.10 Protection of Existing Facilities

Contractor is to protect all existing facilities. Any damage to roadways, utilities, or other facilities shall be repaired by Contractor at no expense to District.

### 1-3.11 Facilities or Property within Right-of-Way

#### 1-3.11.1 Private Property

Private property including, but not limited to trees, irrigation facilities, fences, driveways, and appurtenant structures exist within the road right-of-way within the project area. Wherever possible Contractor shall avoid damage or disturbance of private property. Where work requires removal of or damage to such private property, other than is shown in bid documents, Contractor shall immediately advise Construction Manager; work at the site shall not proceed without express instructions from Construction Manager.

#### 1-3-11.2 Public Utility Property

Property of public utilities may exist within road right-of-way. Work adjacent to such property shall be accomplished in accordance with the owner of the utility. Where the work requires removal or relocation of the property, Contractor shall immediately contact the Construction Manager who will contact the owner of the utility and shall not proceed with the work without the express approval of the Construction Manager. Short time termination of services or temporary relocation shall be arranged with users, in writing, prior to disconnection.

### 1-3.12 Water for Construction Purposes

Contractor shall obtain water for construction purposes from the company which serves the area. Obtaining water and all related permits, costs, transport, etc., is Contractor's responsibility.

## 1-4 EXCAVATIONS ADJACENT TO OR CROSSING UTILITIES

Excavations that are adjacent to or cross other pipelines and/or utilities shall be accomplished in accordance with the requirements of the owner of the pipeline or utility. The following are some of the agencies that are to be contacted to provide advance planning and contacted again at least seventy-two (72) hours in advance of construction.

Contact Underground Service Alert (800/227-2600) forty-eight (48) hours prior to starting work. Be prepared to furnish USA receipt numbers representing all work areas to District Inspector upon request.

## 1-5 EXCAVATIONS BELOW FOUR FEET

If any work required by contract includes digging trenches or other excavations extending deeper than four feet below the surface, Contractor shall promptly, before the following conditions are disturbed, notify owner in writing of any:

- (1) Material that Contractor believes may be material 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 the provisions of existing law;
- (2) Subsurface or latent physical conditions at the site differing from those indicated;

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

Nothing in this section is intended to relieve Contractor of his responsibility to carefully examine the Contract Documents and the site where the work is to be performed; to familiarize himself with the local conditions and federal, state, and local laws, ordinances, rules, and regulations that may affect the performance of any work; to study all surveys and investigation reports about subsurface and latent physical conditions pertaining to the job site; to perform such additional surveys and investigations as Contractor deems necessary to complete the work at his bid price; and to correlate the results of all such data with the requirements of the Contract Documents.

If Owner determines that hazardous waste exists or that conditions exist which Contractor could not discover through the investigations required by the preceding paragraph, then Owner shall notify Contractor and Contractor may request a Change Order in accordance with Part II, Section 4-2 of the General Provisions. Nothing in this section shall relieve Contractor of the obligation to pay all fees and costs associated with removal and cleanup of any hazardous waste used at or brought to the job site by Contractor as specified in Part II, Section 4-5 of the General Provisions, nor shall this section relieve Contractor of the responsibility for site conditions discoverable by any investigation required by the preceding paragraph.

In the event that a dispute arises between Owner and Contractor involving hazardous waste or with respect to site conditions which differ materially from those that Contractor could or should have discovered by the investigations required by this Contract, then Contractor shall not be excused from the scheduled completion date provided in the Contract Documents. Contractor and shall proceed with all work in the manner and in the time required by the Contract Documents.

In the event that hazardous material is discovered, District shall have the option to terminate the Contract subject to the provisions on termination contained in Part II, Section 8.

## 1-6 RECORDS AND DOCUMENTATION FOR PAYMENT

### 1-6.1 Payment Vouchers

Contractor shall maintain and submit all records pertaining to labor costs in the manner and form required by District. In addition, certified payroll forms must accompany all requests for payment. Receipt of requests for payment will not be considered until all necessary documentation is provided. (See Sections 10-2.2 and 10-2.3 of the General Provisions.)

### 1-6.2 Payment

Payment will only be made for those items listed in the Bid Schedule in Part I, Section 3. All other work, labor, materials, tools, and equipment required to complete the project shall be considered as included in the most closely related item in the Bid Schedule, and no additional allowance will be made therefore.

Payment of an undisputed contract amount is contingent upon Contractor furnishing District with a release of all claims against District arising by virtue of the public works contract related to those amounts. Disputed contract claims in stated amounts may be specifically excluded by the Contractor from the operation of the release.

### 1-6.3 Government Agency Accounting

In the event funding for this Contract is dependent upon audit and approval of any government or private agency, Contractor shall maintain all records required to support documentation of claims for payment. Contractor shall submit to any audit requirements of the funding agency concerning this Contract, and Contractor shall promptly submit all required documentation to support any request of District for funding, reimbursement, or approval of the granted funds.



## **SECTION 2 - CONSTRUCTION DETAILS**

### 2-1 GENERAL REQUIREMENTS

#### 2-1.1 Standard Specifications

The term "Standard Specifications" shall mean the "Standard Specifications for Public Works Construction," current edition, popularly known as the "Green Book" published by Building News, Inc., 3055 Overland Avenue, Los Angeles, CA 90034, (213) 870-9871.

#### 2-1.2 Description of Work

The Work to be done consists of furnishing all labor, materials, tools, and equipment and testing necessary to complete:

### **FALLBROOK REGIONAL HEALTH DISTRICT SAN DIEGO COUNTY, CALIFORNIA**

### **HVAC RENEWAL PROJECT FOR THE PROPERTY LOCATED AT 138 SOUTH BRANDON ROAD FALLBROOK, CALIFORNIA**

#### **A. Scope**

#### **BID SCHEDULE**

1. Remove and properly dispose 3 existing 3-Ton RT Package Units; 1 existing 4-Ton Split System; 1 existing 5-ton Split System.
2. Furnish and install three (3) new refrigerant 14 SEER (Seasonal Energy Efficiency Ration), 3-ton Package units on adapter curbs including all required appurtenances and advanced function programmable thermostats.
3. Furnish and install one (1) new refrigerant 14 SEER, 4-ton Split System units including all required appurtenances and advanced function programmable thermostat.
4. Furnish and install new refrigerant 14 SEER, 5-ton Split System units including all required appurtenances and advanced function programmable thermostat.

#### **ALTERNATE A BID SCHEDULE**

1. Remove and properly dispose 3 existing 3-Ton RT Package Units; 1 existing 4-Ton Split System; 1 existing 5-ton Split System.
2. Furnish and install three (3) new refrigerant 15 SEER, 3-ton Package units on adapter curbs including all required appurtenances and advanced function programmable thermostats.
3. Furnish and install one (1) new refrigerant 16 SEER, 4-ton Split System units including all required appurtenances and advanced function programmable thermostat.
4. Furnish and install one (1) new refrigerant 16 SEER, 5-ton Split System units including all required appurtenances and advanced function programmable thermostat.