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DESIGN-BUILD AGREEMENT
FOR THE
**COYOTE PUMPING PLANT ASDs
REPLACEMENT PROJECT**

Project No. 91234002

Contract No. C0675

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DESIGN-BUILD AGREEMENT

Between Owner and Design-Builder

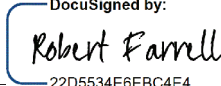
THIS AGREEMENT ("Agreement") is made as of _____ ("Effective Date") between Santa Clara Valley Water District ("Owner"), a special district created by the California legislature, located at 5750 Almaden Expressway, San Jose, CA 95118 and Kiewit Infrastructure West Co. ("Design-Builder"), a stock corporation located at 4650 Business Center Drive, Fairfield, CA, 94534 for design, construction, testing, and commissioning ("Work") of the Coyote Pumping Plant ASDs Replacement Project ("Project") in accordance with the Contract Documents.

By executing this Agreement, each of the Signatories represents that he or she has the authority to bind the Party on whose behalf his or her execution is made.

Owner:
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Design-Builder:
Kiewit Infrastructure West Co.

By: _____
(Signature)

By:  _____
(Signature)

Name: _____

Name: Robert Farrell
Robert R. Farrell
Senior Vice President

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CA License No.: 433176

THE PARTIES AGREE TO THE FOLLOWING TERMS AND CONDITIONS

KEY BUSINESS TERMS SHEET**Project Manager:**

Senior Engineer
Water Utility Capital Division
Santa Clara Valley Water District

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Kiewit Infrastructure West Co.

Jesse Jardin

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Engineer of Record:

Stantec Consulting Services, Inc.

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Other Personnel:

See Key Firms and Personnel in
Exhibit 6B

Compensation:

Phase 1 Not-to-Exceed Price	\$4,314,077
Phase 2 Direct Cost of the Work	\$ _____
Phase 2 Design-Builder Fee	20%
Phase 2 Design-Builder Subcontractor Fee	20%
Phase 2 DB Team Member 1 Fee (Cupertino Electric, Inc.)	18%
Phase 2 DB Team Member 2 Fee (TESCO)	18%
Phase 2 Payment & Performance Bond	\$ _____
Phase 2 Insurance	\$ _____
Phase 2 Construction Contingency percentage	_____ %
PROJECT GMP OR LUMP SUM	\$ _____

Schedule:

Phase 1 Notice to Proceed Date	_____
Phase 1 Completion Date	_____
Phase 2 Notice to Proceed Date	_____
Substantial Completion Date	_____
Final Completion Date	December 2024

Liquidated Damages:

Substantial Completion Date	\$2,500/calendar day
Final Completion Date	\$1,500/calendar day

TABLE OF EXHIBITS

All Exhibits set forth below are incorporated into the Agreement whether attached or included in the Project Repository (Owner's Project SharePoint Site). Some exhibits will be developed over the course of Phase 1 Work and will be incorporated into the exhibits as completed.

Exhibit 1	Supplemental Conditions	Attached
Exhibit 2	Owner's Basis of Design Report	Attached
Exhibit 3	Scope of Work	
Exhibit 3A	Phase 1	Attached
Exhibit 3B	Phase 2	By Amendment
Exhibit 3C	Owner's Project Criteria	Attached
Exhibit 3D	Index of Reference Documents	Attached
Exhibit 4	Permits and Approvals	Attached
Exhibit 5	Compensation	
Exhibit 5A	Design-Builder's Phase 1 Price Proposal	Attached
Exhibit 5B	Design-Builder's Hourly Billable Rates	Attached
Exhibit 5C	Schedule of Values	By Amendment
Exhibit 6	Personnel	
Exhibit 6A	Staffing Plan	Attached
Exhibit 6B	Key Firms and Personnel	Attached
Exhibit 7	Schedule and Site Logistics Plan	
Exhibit 7A-1	Project Baseline Schedule-Phase 1	Phase 1 Deliverable
Exhibit 7A-2	Project Baseline Schedule-Phase 2	Phase 1 Deliverable
Exhibit 7B	Site Logistics Plan	By Amendment
Exhibit 8	Construction Documents	Phase 1 Deliverable
Exhibit 8A	30% Drawings	Attached
Exhibit 8B	30% Specifications	Attached
Exhibit 9	Insurance and Bonding	
Exhibit 9A	Design-Builder's Insurance Requirements	Attached
Exhibit 9B	Payment Bond Form	Attached
Exhibit 9C	Performance Bond Form	Attached
Exhibit 10	Relevant Portions of the Design-Builder's Proposal	Attached
Exhibit 11	Invoicing Guidelines	Attached
Exhibit 12	Project Labor Agreement Forms	Attached
Exhibit 12A	Design-Builder's Proposal Project Labor Agreement Forms	Owner's Project SharePoint Site

Exhibit 13	Select Provisions of 2021 Amended and Restated Agreement with United States Department of Interior, Bureau of Reclamation	Attached
Exhibit 14	Electronic Design	Phase 1 Deliverable

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DESIGN-BUILD AGREEMENT

This Design-Build Agreement (“**Agreement**”) is executed as of _____ (“**Effective Date**”) by and between the “**Owner**” and “**Design-Builder**” for design and construction of the “**Project**.” The Owner and Design-Builder may collectively be referred to as “**the Parties**.”

Owner:

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Design-Builder:

Kiewit Infrastructure West, Co.
4650 Business Center Drive
Fairfield, CA 94534

Project:

C0675 – Coyote Pumping Plant ASDs Replacement Project

The Owner and Design-Builder agree as set forth below:

1. GENERAL

1.1 Definitions. All defined terms will be capitalized throughout the Agreement. The definitions for this Agreement appear in alphabetical order in Section 1 of the “**Supplemental Conditions**” to the Agreement and may also be set forth in quotations the first time the term is used for convenience.

1.2 Project Description. The Project involves design, construction, testing, and commissioning services for: (1) replacement of existing Slip Power Recover (SPR) Adjustable Speed Drives (ASDs) with Pulse Width Modulated (PWM)-output ASDs; (2) rehabilitation 2,000 hp pump motors to extend useful and modify motors to be usable with PWM-output ASDs; (3) replacement of existing switchyard 4.16kV distribution equipment with a consolidated switchgear lineup with walk-in enclosure; (4) replacement of existing 4.16kV to 480V auxiliary transformers; (5) replacement of existing vibration monitoring equipment and the provision of improved monitoring and protection of pumps; (6) replacement of existing obsolete Programmable Logic Controller (PLC) and Remote Terminal Unit (RTU) hardware and pump control panels with modern control systems equipment typical of Valley Water facilities; (7) modernization of PLC programming and SCADA interface for the pumping plant to allow straightforward control of pump speed via the SCADA system and to eliminate interlock requiring pumps to stop running before changing the position of valves 5 and 7; and (8) replacement of existing Hydraulic Valve Operating System (HVOS) and hydraulically operated pump discharge valves with electric motorized discharge valves. The Scope of Work is defined further in **Exhibit 3**.

- 1.3 Project Delivery.** The Project will be delivered using a progressive design-build delivery method.

2. THE DESIGN-BUILD TEAM AND RELATIONSHIP OF THE PARTIES

- 2.1 Design-Build Team.** The Design-Builder is ultimately responsible to the Owner for design and construction of the Project. All “**Design Services**” will be performed by the Engineer of Record and/or other design consultants (collectively, “**Design Professionals**”), with assistance from “**Design-Build Subcontractors**” performing design-assist services. The “**Design-Build Team**” includes all team members providing services to the Design-Builder, and is comprised of, at a minimum, the general contractor, the Design Professionals and Design-Build Subcontractors. The Owner will be a third-party beneficiary to all design service agreements and/or design-build subcontracts. The Design-Build Team is currently comprised of the entities identified in **Exhibit 6B**.
- 2.2 Licensing.** Design-Builder must be a California state licensed general contractor with an Engineering “A” license. Consultants must all possess the appropriate California state design licenses for their particular discipline. Subcontractors must all possess the appropriate California state specialty license for their particular trade. Nothing in this Agreement will require a Design-Build Team member, or any of their respective Consultants or Subcontractors, to perform any portion of the Work outside of their respective licenses or contrary to Applicable Law.
- 2.3 Good Faith.** The Design-Builder will perform all Work under this Agreement in compliance with each of the following requirements: (i) use its best skill and judgment in furthering the interests of the Owner and the Project; (ii) furnish effective and efficient design, construction administration and supervision; (iii) furnish at all times an adequate supply of skilled labor and materials; and (iv) perform the Work consistent with **Exhibit 3C** (Owner’s Project Criteria), good engineering practices, and the best interests of the Project.
- 2.4 Standard of Care.** The Design-Builder warrants that the Design-Build Team possesses all design and construction licenses and expertise required for this Project under Section 2.2 and will use the same degree of care and skill customarily used by California state licensed professionals performing similar services for pumping plant ASDs replacement projects in the state of California. Nothing in this Section 2.4 will in any way limit the Design-Builder’s obligations to meet all Performance Requirements.
- 2.5 Collaboration.** Owner and Design-Builder commit at all times to cooperate fully with each other and proceed on the basis of mutual support for a successful project. Design-Builder and its Design Professionals, Subcontractors, suppliers, and equipment vendors will perform their respective portions of the Work using collaborative tools and methods. The Design-Build Team will actively participate and collaborate with Owner to achieve best value, optimal design, increased labor efficiency, and elimination of waste and re-work. The Design-Builder will collaborate with Owner to develop the design within the budget for the Project,

and to ensure that the design satisfies all Owner's Project Criteria. Design-Builder and Owner shall consider participating in partnering sessions if mutually approved.

- 2.6 Communications.** All communications from the Design-Builder shall be directed to the Owner's Project Manager. Copies of all communications shall also be directed to other recipients as directed by the Owner during the course of the Project.
- 2.7 Relationship of the Parties.** The Design-Builder's relationship with the Owner is that of an independent contractor whose involvement in the Project is to act, by itself or through the Design-Build Team, solely in the capacity of a California licensed design professional and general contractor and not as an agent, fiduciary, partner, member of, subsidiary of, or otherwise affiliated with the Owner.
- 2.8 Responsibility.** Design-Builder acknowledges and agrees that it is solely responsible to Owner for the sufficiency, quality, adequacy and completeness of the Work, and that Design-Builder is responsible for any acts, errors, or omissions of the Design-Builder's principals, employees, agents, and/or any other parties either directly or indirectly in privity of contract with Design-Builder including, but not limited to, the Engineer of Record and other Design Professionals, Subcontractors, suppliers, equipment vendors, and their agents and employees, and other persons performing any portion of the Work on behalf of Design-Builder.

3. CONTRACT DOCUMENTS

- 3.1 Contract Documents.** The "**Contract Documents**" consist of this Agreement, the Supplemental Conditions, and all other Exhibits attached to this Agreement, all subsequent modifications through amendments and change orders executed by Owner and Design-Builder or subject to Section 9.8, and the Construction Documents to be developed by the Design-Builder.
- 3.2 Interpretation and Intent.** The intent of the Contract Documents is to include all items necessary for proper completion of all Work within the "**Contract Time**" and within the "**Contract Price**." The Contract Documents are intended to be complementary and what is required by any one of them is as binding as if called for by all of them.
- 3.3 Inconsistencies.** In the event of inconsistencies between requirements contained in different components of the Contract Documents, the order of precedence of the Contract Documents shall be as follows to resolve the conflicts, listed in order of most important document first:
- 3.3.1** Amendments of the Design-Build Agreement and Supplemental Conditions included in **Exhibit 1** to this Agreement;

- 3.3.2** Change orders executed by Owner and Design-Builder or subject to Section 9.8;
- 3.3.3** This Design-Build Agreement and Supplemental Conditions executed between Owner and Design-Builder, not including Exhibits;
- 3.3.4** The Scope of Work set forth in **Exhibit 3** to the Agreement;
- 3.3.5** The Compensation Terms set forth in **Exhibit 5** to the Agreement;
- 3.3.6** Design-Builder Insurance Requirements included in **Exhibit 9A** to the Agreement;
- 3.3.7** Payment Bond and Performance Bond included in **Exhibits 9B** and **9C** to the Agreement;
- 3.3.8** The Owner's Project Criteria, as amended, and included in **Exhibit 3** to the Agreement;
- 3.3.9** Design-Builder's Basis of Design Report: document to be developed by the Design-Builder during Phase 1 as accepted by Owner;
- 3.3.10** Grant Funding Requirements to the Agreement **[Not Used]**;
- 3.3.11** All other Exhibits to the Design-Build Agreement not listed above;
- 3.3.12** Construction Documents developed by Design-Builder as accepted by Owner;
- 3.3.13** The Electronic Design developed by the Design-Builder as accepted by Owner;
- 3.3.14** Request for Proposal, and all exhibits, unless separately listed in this Section;
- 3.3.15** Relevant Portions of the Proposal, as accepted by the Owner following the conclusion of negotiations and included as **Exhibit 10**;
- 3.3.16** All other Contract Documents not listed above.

4. OWNER'S OBLIGATIONS

- 4.1 Information and Documents.** The Owner will make the Reference Documents related to the Project available to the Design-Builder, including but not limited to any surveys, geotechnical information and other information that describe the Project Site. The Reference Documents are provided for information only and will not be included as part of the Contract Documents. Design-Builder shall perform its own independent site investigations in accordance with the requirements of the Agreement and Contract Appendices.

- 4.2 Owner's Basis of Design Report.** The "Owner's Basis of Design Report," included in Exhibit 2 to this Agreement, was developed by the Owner to provide an understanding of the baseline design requirements for the Project. The Owner's Basis of Design Report, along with other information provided during the Request for Proposal process, provides a basis for the Design-Builder's initial Project Baseline Schedule, and initial design work. The Design-Builder is expected to expand on, elaborate, and enhance the Owner's Basis of Design Report in collaboration with Owner during Phase 1 to create the Design-Builder's Basis of Design Report to guide the remainder of the Work.
- 4.3 Site Access and Ownership of Facilities.** The Owner will own the Facilities, and control easements on which certain Facilities are to be built. Owner will provide Design-Builder with access to the Project site and easements for the purpose of fulfilling its obligations under this Agreement.
- 4.4 Governmental Approvals.** The Owner has obtained or will be responsible for obtaining the following permits and approvals for the Project designated as Owner's responsibility in **Exhibit 4** of the Agreement. Owner will also obtain all necessary rights of way, easements and property access agreements for the project facilities shown in the Environmental Impact Report. Design-Builder shall be responsible for those permits, licenses, or approvals set forth in Section 5.12, and for all other permits not specifically identified as Owner responsibility in this Section 4.4.
- 4.5 Stop Payment Notice.** The Owner will comply with all stop payment notices submitted in compliance with applicable laws.
- 4.6 Separate Contracts.** The Owner reserves the right to perform construction, maintenance, and operations related to the Project with the Owner's own forces, and to award contracts in connection with the Project that are not part of the Design-Builder's responsibilities under this Agreement. The Design-Builder will coordinate its Work with Owner, as reasonably necessary to allow for any other separate contracts to be performed and to minimize interference. Design-Builder shall perform all Work in such a manner as to avoid any interruption of Owner's existing operations.
- 4.7 Timeliness.** In order to avoid any impacts to the Contract Time, information or services under the Owner's control, including reviews and approvals, will be furnished within the timeframes set forth in the Contract Documents.

5. DESIGN-BUILDER'S OBLIGATIONS

- 5.1 Progressive Design-Build Services.** Design-Builder will provide progressive design-build services over two phases of the Project. Phase 1 will include all preconstruction and design services up to completion of the 100% Design as defined in the Scope of Phase 1 services. Phase 2 will proceed upon both parties agreeing on a Guaranteed Price ("GP") for all required construction work. This Section will set forth the Design-Builder's general obligations under the

Agreement, which are described in further detail in the Scope of Work included in **Exhibit 3**.

5.2 Phase 1 Services. Phase 1 services will include preconstruction services during which the Design-Builder will work collaboratively with Owner to validate existing design concepts, propose alternatives, gather additional information, develop a Project cost model, evaluate design and construction phasing alternatives and potential early works packages, develop the Design-Builder's Basis of Design Report, submit preliminary and final sets of construction documents, including schedules and open book cost estimates for the Project for review and comment, all as described in more detail in the Scope of Work detailed in **Exhibit 3**.

5.2.1 Design Services. With regard to design services, the Design-Builder will, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Professionals, the necessary design services, including architectural, engineering and other design professional services, which services shall be performed in accordance with the standard of care described in Section 2.4, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Design-Builder's Basis of Design Report, the Owner's Project Criteria, and all requirements in the Contract Documents.

5.2.2 Design Submissions. Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. Interim design submissions shall be consistent with the Owner's Basis of Design Report and the Design-Builder's Basis of Design Report, and the Owner's Project Criteria, as they may have been augmented or revised through the design process. Requirements for Design Submissions are set forth in more detail in the Scope of Work included in **Exhibit 3**.

5.2.3 Construction Price Submissions. Design-Builder shall submit construction price updates regularly over the course of Phase 1, every six weeks, with the first submission being made no later than 90 days after issuance of the Notice to Proceed for Phase 2. The construction price updates shall be in the form of a Guaranteed Price ("GP") for all construction work on the Project and shall be binding on the Design-Builder if accepted by the Owner. The Owner has discretion to accept the Guaranteed Price, reject it, or to negotiate the terms. If the parties do not come to agreement on the Guaranteed Price, Design-Builder shall submit the next construction price update six weeks later. It is the Owner's expectation that the construction price updates should indicate a reduction in price over time, because as the design becomes more developed less contingencies should be required for the

Construction Services. Design-Builder is encouraged to submit GPs for discrete early work packages, in addition to an overall GP for all Construction Services. GPs for early work packages could address specific scopes of work.

5.2.4 Construction Documents. Design-Builder shall submit to Owner Construction Documents reflecting the completed 100% design and setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the Design-Builder's Basis of Design Report and the Owner's Project Criteria, as well as approved interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meeting minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in the Scope of Work in **Exhibit 3**. Owner's approval shall not limit in any way the Design-Builder's obligations to ensure the adequacy of the design as described further in Section 5.2.5.

5.2.5 Responsibility for Design. The Design-Builder acknowledges and agrees that it is solely responsible to the Owner for the sufficiency, quality, adequacy and completeness of the design work provided for the Project. Design-Builder is responsible for any acts, errors, or omissions of the Design-Builder, its Design Professionals, its Subcontractors, employees, agents, and/or any other parties either directly or indirectly in privity of contract with Design-Builder including, but not limited to, the Design-Build Team identified in **Exhibit 6B**, second tier-subcontractors, and vendors who are performing any portion of the Work. No act or omission by Owner, including, without limitation, review or approval of any or all of the design work, reduces the Design-Builder's obligations and Performance Requirements under this Agreement.

The Design-Builder's design must result in Facilities that meet the minimum requirements as set forth in the Owner's Basis of Design Report, and any Owner-agreed to modifications thereto, and must be completed in accordance with the Design-Builder's Basis of Design Report and the Owner's Project Criteria, and all other design requirements included in the Agreement. Design-Builder shall be entitled to control the means and methods of performing the Work.

5.2.6 Design to Budget. The Design-Builder will provide all design work with a commitment to assist the Owner in its efforts to meet the budget for the Project and schedules. The Design-Builder acknowledges and agrees that the Parties' intent is a design that will allow the Project to be completed within the Project Budget stipulated by the Owner for the Project. The Design-Builder will collaborate with the Owner and participate in the Owner's decision-making process by providing an initial cost model to develop a baseline project estimate, provide continual

project price estimate updates throughout Phase 1 that address trends, quantities and other features of the project, maintain an ongoing cost adjustment process as design progresses, quantify risks, evaluate lifecycle costs, maintain a decision log, provide information, schemes, and recommendations regarding construction materials, methods, systems, phasing, and costs in an efficient manner that will provide a completed Project meeting all Performance Requirements. In the event that cost estimates submitted in accordance with Section 5.2.3 are not within the budget for the Project, the Design-Builder must initiate a dialogue with the Owner within 7 days of the completed cost estimate to either adjust the budget for the Project or modify Project scope in an effort to bring the Project within the budget. All costs related to the design efforts in this Section 5.2.6, including modifications to Project designs developed by the Design-Builder, are included within the Design-Builder's Phase 1 Lump Sum except that Design-Builder may request a Change Order for any Owner Elected Changes pursuant to Section 9 of the Agreement.

5.3 Guaranteed Price Amendment. The Guaranteed Price Amendment will document the agreed upon Guaranteed Price for all construction work on the Project and will include additional terms and conditions that will govern Phase 2 work. Once the Owner accepts a proposed Guaranteed Price submitted by the Design-Builder, Design-Builder shall submit a proposed Guaranteed Price Amendment comprised of the following documents: (1) a form of amendment including the Guaranteed Price for completion of all Construction Services required to complete the Project; (2) the proposed design, at whatever phase of completion it exists in at that time, (3) Phase 2 resource loaded project schedule; (4) "open book" cost model detailing Design Builder's labor, materials, equipment, and subcontractor costs, and Fees . The cost model shall include all material and subcontractor price quote documentation; (5) all documents required prior to commencement of Phase 2 Work, including a number of forms and plans (Site Specific Safety Plan, Traffic Control Plan, Quality Control Plan, various mitigation plans) to be identified by Owner and developed by Design-Builder during the course of Phase 1; and (6) other information requested by Owner reasonably necessary to evaluate the proposed Guaranteed Price Amendment. Design-Builder is required to account for applicable changes in the law that occur during Phase 1 into its proposed Guaranteed Price Amendment, and project schedule.

Owner shall review the information submitted in order to determine if the Guaranteed Price Amendment provides Owner with the best value for completing Phase 2 of the project. If Owner finds the Guaranteed Price Amendment to be acceptable, Owner will authorize the execution of a Guaranteed Price Amendment to the Agreement and issue a Notice to Proceed with Guaranteed Price services.

In lieu of a Guaranteed Price Amendment, Owner and Design-Builder may agree to draft an Amended and Restated Design-Build Agreement to document all terms and conditions applicable to Phase 2 of the Project.

5.4 Contractual Off-Ramp; Termination for Convenience. In the event that a Guaranteed Price Amendment has not been accepted by Owner through the process set forth in Section 5.3, Owner reserves the right to invoke the contractual off-ramp and terminate this Agreement for convenience, in accordance with Section 16.3. Owner may, in its sole discretion, select any of the following off-ramp options described below.

5.4.1 Negotiate revisions to any of the documents submitted, including the Guaranteed Price, specific components of the Guaranteed Price, revisions to the proposed design, or revisions to the Project Baseline Schedule.

5.4.2 Reject the proposed Guaranteed Price Amendment, require the Design-Builder to complete the design with the Engineer of Record to 100% Construction Documents suitable for bidding, and stamp the Construction Documents, which Owner may use to bid out a construction contract to a separate contractor for construction of the Project, and terminate this Agreement with Design-Builder for convenience pursuant to Section 16.3. Owner has the right to require the Design-Builder to assign any subcontract to Owner.

5.4.3 Reject the proposed Guaranteed Price Amendment, require the Design-Builder to facilitate the completion of the design by the Design-Builder's Engineer of Record and/or design consultants to 100% Construction Documents suitable for bidding and stamp the Construction Documents, and terminate this Agreement with Design-Builder for convenience pursuant to Section 16.3. Under this option, Design-Builder agrees to assign any subcontract to Owner upon request from Owner, and to contractually require its Engineer of Record and/or design consultants to negotiate and execute a separate professional services agreement with Owner for the completion of the 100% Construction Documents.

5.4.4 Reject the proposed Guaranteed Price Amendment, terminate the Agreement with Design-Builder for convenience in accordance with Section 16.3, and take possession of all design documents that are less than 100% complete and related work product developed by Design-Builder and contract directly with the design entity for completion of the design documents. Under this option, the Owner will grant Design-Builder a release and hold harmless for any design errors or omissions contained in any unfinished design work or unfinished work product.

5.5 Phase 2 Services. Upon the issuance of a Notice to Proceed with Phase 2 services, Design-Builder will perform all Construction Services required for completion of all components of the Project. Design-Builder will provide all labor, materials, equipment, tools and appurtenances necessary to complete the construction work described in, or reasonably inferable from, the Contract Documents. Design-Builder will complete all required start-up, commissioning and performance testing services upon completion of construction. Phase 2 Services will also include each of the following.

- 5.5.1** Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or members of the Design-Build Team the necessary supervision, labor, inspection, testing, start-up, training, asset management program, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.
- 5.5.2** Design-Builder shall perform all construction activities in a manner that conforms to the requirements of the Owner's Project Criteria and the 100% Construction Documents, as these documents may have been amended during the course of Work under the Agreement. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.
- 5.5.3** Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents and as set forth in Section 2.2, Licensing. Owner may reasonably object in writing to Design-Builder's selection of any Subcontractor within 14 days provided that Owner pays all reasonable verified costs to replace said Subcontractor.
- 5.5.4** Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance.
- 5.5.5** Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate with the Owner in efforts to coordinate its activities with those of such separate contractors as set forth in Section 4.6 so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.
- 5.5.6** Design-Builder shall meet all mitigation requirements set forth in the environmental document, NPDES permit Environmental Impact Report for the Project and all other applicable storm water pollution prevention requirements.

5.5.7 Design-Builder shall keep the Project Site reasonably free from debris, trash and construction waste to permit Design-Builder to perform its Construction Services efficiently and safely. Design-Builder shall perform the Work in a manner so as to minimize interfering with the use of properties adjacent to the Project Site. As a pre-condition to achieving Substantial Completion of the Work, or a portion of the Work, and Final Completion, Design-Builder shall remove all debris, trash, construction waste, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use. Upon Substantial Completion of the Work, Design-Builder shall return the disturbed portions of the Project Site to their pre-existing condition or better, as documented in an inspection report of the Project Site (including, but not limited to video) to be performed by Design-Builder.

5.5.8 Design-Builder shall employ only suppliers who are qualified to perform the Work consistent with the Contract Documents. Owner may reasonably object to Design-Builder's selection of any supplier within 14 days, provided that Owner pays all reasonable costs to replace said supplier.

5.5.9 Design-Builder agrees to comply with all requirements of Public Contract Code 2600 et seq., including use of a skilled and trained workforce to complete the Project, and submission of all applicable reports.

5.6 Site Investigations. Design-Builder is responsible for determining the existing conditions on the Project Site, including, without limitation, geotechnical conditions and hazardous materials, as well as the location and condition of existing structures and facilities.

By executing this Agreement, the Design-Builder represents that it has visited the Project Site, and has reviewed and analyzed all Owner's Basis of Design Report made available by Owner. During Phase 1, the Design-Builder must conduct further investigations, as it deems necessary, to determine the existing conditions of the Project Site, including geotechnical conditions, as well as the locations and conditions of existing structures and facilities. Notwithstanding the foregoing, Design-Builder is not required to conduct testing that would require removal of walls or excavation of buried structures. Design-Builder must also complete the Design-Builder's Geotechnical Interpretive Report ("GIR"), which shall serve as the Parties' understanding of the site conditions for construction during Phase 2 of the Project. The GIR will be developed in coordination with the Owner, and both Design-Builder and Owner must approve the GIR before commencement of construction work during Phase 2. Any geotechnical conditions discovered during the course of the construction work which deviate from those indicated in, or reasonably inferable from, the approved GIR may qualify as a differing site condition under Section 18.14 of the Supplemental Conditions.

- 5.7 Test and Inspections.** The Design-Builder will pay for all testing and inspection including the special inspections, structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents. Owner reserves the right to conduct its own additional tests at Owner's expense, and Design-Builder shall allow access to all Work and Project documents for such additional tests.
- 5.8 Compliance with All Applicable Laws.** The Design-Builder and the Owner agree to comply with all Federal, State, Municipal and local laws, ordinances, rules, regulations, building codes and standards, orders, notices and requirements applicable to proper design and construction of this Project.
- 5.9 Staffing Plan and Key Personnel.** The Design-Builder agrees that it will staff this Project in accordance with the staffing plan included in **Exhibit 6**. The Staffing Plan will include a staff-level organizational chart indicating hierarchy and reporting responsibilities, as well as all Key Personnel.
- 5.9.1 Key Personnel.** The Design-Builder will identify all "**Key Personnel**" in **Exhibit 6B** and will not remove any of its Key Personnel from this Project without the express written consent of the Owner, except for death, disability or departure of person from employment. The Owner will be able to request the removal of any person employed by the Design-Builder whom it believes is incompetent, improper or a hindrance to the design-build process. If any Design-Builder personnel become unavailable to work on the Project, or if the Owner requests that an employee be removed, the Design-Builder will propose a replacement person within 10 business days for approval by the Owner. The recommended replacement person will have similar or better qualifications and experience and must be approved in writing by the Owner. Additional Staffing and Key Personnel requirements are set forth in the Scope of Work in **Exhibit 3**.
- 5.10 Safety.** The Design-Builder is the "Controlling Employer" as defined by Cal/OSHA and will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work and in accordance with the Design-Builder's Health and Safety Program. The Design-Builder shall comply with all statutory safety requirements.
- 5.11 Project Baseline Schedule.** Within 90 days from issuance of the Notice to Proceed for the Project, the Design-Builder must submit the initial Project Baseline Schedule, for review and approval by Owner which will be attached as **Exhibit 7A-1**. This initial Project Baseline Schedule is based on the Project configuration agreed to by the Owner at the completion of Design-Builder's alternatives analysis. During Phase 1 this initial Project Baseline Schedule will be regularly updated in conjunction with Section 8.2 of this Agreement (at least monthly) and refined as project development and design proceeds. The updates to the initial Project Baseline Schedule will coordinate and integrate the progress

of Design Services with milestone dates for design development and Construction Documents, procurement of long lead items and Subcontracts, and construction of major components of the Project. The initial Project Baseline Schedule, and all subsequent versions, shall include all major components of the Work and the Owner's occupancy requirements projecting milestones for each of the following (each a "Milestone Date"):

- a. Preparation of the Design-BUILDER's Basis of Design Report
- b. Submission of proposed Guaranteed Price Amendment, with all required elements
- c. Request for Issuance of the Notice to Proceed with Phase 2
- d. Completion of all Phase 1 Work
- e. Completion of 100% Construction Documents
- f. "Substantial Completion"
- g. "Final Completion" of the Project

The Project Baseline Schedule must be prepared using software as acceptable to the Owner. The schedule must be broken down by activity and duration highlighting the critical path.

The schedule submitted by the Design-BUILDER and agreed to by the Owner as part of the Guaranteed Price Amendment shall be referred to as the Project Baseline Schedule, and shall not be adjusted during Phase 2 except through Change Order under Section 9 for permitted delays as defined in Section 8. The Project owns all float in the Project Baseline Schedule and monthly updates. Therefore, there will not be any adjustments to the Contract Time until all Project float is exhausted, and the critical path is impacted.

5.12 Governmental Approvals. The Design-BUILDER will be responsible for obtaining all permits and approvals which it can in its own right obtain and which are required for the Project, except for those expressly identified as Owner responsibility in **Exhibit 4**. The Design-BUILDER may also be required to reasonably assist the Owner in obtaining permits and approvals that are the Owner's responsibility, including the preparation of permits application materials, coordination with the regulatory agencies, and other required assistance.

5.12.1 Delays In Permit Issuance, and Additional Permit Costs. If a permitting or approval entity delays the issuance of the required permit or approval or fails to issue any required permit or approval, and the Design-BUILDER has taken all reasonable steps to obtain the required permit or governmental approval, Design-BUILDER shall assume no responsibility for any associated delays or impacts, and may request a time extension pursuant to Section 8.4 of the Agreement. Design-BUILDER has the burden

to establish the reasonableness of its efforts to timely obtain the permit or governmental approval described herein to the satisfaction of the District. The Design-Builder is responsible for the imposition of terms and conditions that are more costly than assumed for the issuance of any permit, license, or governmental approval that is the responsibility of the Design-Builder.”

5.13 Taxes and Fees. The Design-Builder will pay all sales, consumer, use, gross receipts, and other similar taxes legally enacted at the time of commencement of the Work.

5.14 Consultants and Laboratories. The Design-Builder will make recommendations to the Owner regarding selecting, retaining and coordinating any additional professional services, special consultants and testing laboratories required for the Project.

5.15 Construction Administration. Should the Owner elect to contract with Design-Builder for Phase 2, the following terms and conditions will apply:

5.15.1 Preliminary Notices. Within 5 business day’s receipt, Design-Builder will forward to the Owner all 20-Day Preliminary Notices (Civil Code sections 9300, 9500 and 9560) served on it by any person or entity entitled to assert a payment bond or stop payment notice claim. Design-Builder will maintain a written record of all 20-Day Preliminary Notices received by it including the manner of receipt, date of receipt, and name and address of person or entity serving the 20-Day Preliminary Notice. This written record will be turned over to the Owner at Project Close-out.

5.15.2 Supervision. The Design-Builder will supervise and direct the Work using its best skill and judgment. The Design-Builder will provide a qualified superintendent at the Project site to properly supervise all of Design-Builder’s employees, Subcontractors and their agents and employees, and other persons performing construction work and to ensure that the construction work is carried out in strict accordance with the Contract Documents. Design-Builder’s superintendent may not be changed without Owner’s written consent.

5.15.2.1 The Design-Builder’s superintendent is Garrett Barnes.
Design-Builder’s backup Superintendent is Chauncey Gray.

5.15.3 Discipline. The Design-Builder will enforce strict discipline and good order at all times among Design-Builder’s employees, Design Professionals and Subcontractors and will not employ or contract with any unfit or unskilled person(s) or entities on this Project. The Design-Builder and its Design-Professionals and Subcontractors will comply with all Owner policies, standards, and procedures throughout the duration of this Project.

5.15.4 Before starting each portion of the construction work, the Design-Builder will: (i) review and compare the various Contract Documents relative to that portion of the construction work, as well as the information furnished by the Owner, Design Professionals and Subcontractors that may affect proper installation of the work; (ii) field measure existing conditions related to that portion of the work; and (iii) observe any conditions at the site directly affecting that portion of the work. In the event Design-Builder becomes aware of or has knowledge of any issues related to this Section 5.15.4, it shall report such issues in writing to the Owner. Design-Builder shall be liable for its failure to provide written notice of any issue in this Section of which it is aware or has knowledge. Design-Builder shall not assume the risk of or be liable or responsible for issues of which it is not aware, has no knowledge, and could not reasonably have discovered by conducting the tasks identified above in this Section.

5.15.5 Field Measurements. The Design-Builder will take field measurements to ensure proper matching and fitting of new construction with existing conditions at the Project site.

5.15.6 Submittals. The Design-Builder and its Subcontractors shall provide timely submittals of all “**Shop Drawings**,” “**Product Data**,” “**Samples**” and similar submittals (collectively referred to as “**Submittals**”) required by the Contract Documents, to the Engineer of Record for review and approval. After approval by the Engineer of Record, all Submittals will also be provided to the Owner for Owner’s information All Submittals will be submitted in a sequence that avoids delays in the Project Schedule. Design Builder will not submit any Submittal that is merely a tracing or copy of any of the Construction Documents. Each Submittal will be prepared by the Design Builder and/or its Subcontractors or suppliers and will be submitted according to the Project specifications. No construction work will be performed without approval by the Design-Builder, as required. Regardless of the Submittal process, the Design-Builder remains responsible to the Owner for proper design and construction in compliance with all requirements set forth in this Agreement.

5.15.6.1 Design-Build Subcontractors. All Submittals prepared by Design-Builder and its Subcontractors shall be reviewed and approved by the Design-Builder’s Engineer of Record who will remain responsible to the Design-Builder and Owner for the design.

5.15.7 [Not Used]

5.15.8 Layout and Protection. The Design-Builder is responsible for all layouts and will preserve and protect all line and grade benchmarks. Any additional surveying or layout caused as a result of Design-Builder or any of its Subcontractor’s failure to take the necessary precautions to protect the data will be performed at Design-Builder’s own cost and expense.

5.15.9 Materials and Equipment. All materials and equipment required under the Contract Documents will be new and industrial grade. Once the Construction Documents are approved by Owner, no substitutions will be accepted on this Project unless: (i) the specified materials or equipment have been discontinued; or (ii) the Owner has authorized the substitution through written Change Order. Materials and equipment will be furnished in ample quantities and procured in time to ensure uninterrupted progress of construction. Substitutions that are included in the Work but not approved will be deemed non-conforming Construction Work and subject to correction per Section 13 of this Agreement. All materials and equipment will be properly stored and protected as required by the Contract Documents and any loss or damage due to improper storage or protection will be borne by the Design-Builder.

5.15.9.1 Long Lead Items. The Design-Builder will collaborate with Owner to establish a program to expedite ordering and delivery of materials and equipment requiring long lead time.

5.15.9.2 Shipment and Deliveries. Prior to shipment, delivery and installation of materials and equipment, the Design-Builder will verify the phase of completion of the Project with Owner to determine the availability of facilities for access, delivery, transportation and storage, and to correlate these observations with the requirements of the Contract Documents. All shipments and deliveries will be scheduled and coordinated in accordance with the most current approved site logistics plan and the most current approved Project Schedule.

5.15.9.3 Storage of Materials and Equipment. Storage of equipment and materials will be coordinated through the Design-Builder and the Owner. Design-Builder will maintain, or cause its Subcontractor's to maintain, all storage areas and will keep storage areas clean, safe, and secure. Storage areas shall also provide for proper protection of all stored materials and equipment from all forms of corrosion. Due to limited onsite space and ongoing operations, Design-Builder will likely need to arrange for off-site storage. The risk of loss will remain on the Design-Builder for all materials and equipment stored.

5.15.9.4 Risk of Loss. All construction work stored at the Project site, or work related to the preparation or delivery of materials or equipment to the Project Site, is performed exclusively at the risk of the Design-Builder and will remain at the risk of the Design-Builder until Final Completion of the Project, unless Owner chooses to use designated facilities before Acceptance (See Section 5.15.9.6 Use Before Acceptance).

5.15.9.5 Maintenance. The Design-Builder will provide all maintenance for systems and equipment at its own costs and expense until Final Completion.

5.15.9.6 Use Before Acceptance. The Owner has the right to utilize or to place into service any item of equipment or other usable portion of the Work before Acceptance of the entire Project. The Owner's exercise of said right shall hereinafter be referred to as Use Before Acceptance.

- a. Where Use Before Acceptance is identified in the Construction Documents, it shall be considered part of the Work; no additional compensation or payment shall be made.
- b. Should the Owner desire to initiate Use Before Acceptance for any item of equipment or other usable portion of the Work that has not been identified in the Construction Documents, the Owner's Project Manager shall notify the Contractor in writing, identifying the specific portion or portions of the Work proposed for Use Before Acceptance.
- c. The Design-Builder shall provide written notice within ten (10) business days after a request for Use Before Acceptance by the Owner stating whether the proposed portions of Work are suitable for Use Before Acceptance and if there are any associated costs, constraints, or other impacts.
- d. Until Use Before Acceptance, the Design-Builder is responsible for all care and maintenance of all items or portions of the Work.
- e. Upon Use Before Acceptance, the District accepts responsibility for the protection and maintenance of all such items or portions of the Work described in the written notice or Construction Documents, with the exception of any injury or damage resulting from the Contractor's actions or from negligence or from repairs required under the warranty terms set forth in Section 13 of this Agreement.
- f. If, by reason of the Owner's unidentified Use Before Acceptance, the premium for the Design-Builder's bodily injury and property damage insurance is increased, the Owner shall reimburse the Design-Builder for the additional amount necessarily incurred, allocable to the area and the period of the Owner's use up to the date of Acceptance of the Work.

- g. The Owner's Use Before Acceptance does not constitute Acceptance of the Work, or of any portion of the Work, by the Owner, nor does it relieve the Design-Builder of responsibility for correcting defective and/or deficient Work or Material found at any time before Acceptance of the Work or during the warranty period after the Owner's Acceptance. Notwithstanding any Use Before Acceptance, the Design-Builder retains full responsibility for fulfilling all of the requirements of the Construction Documents.

5.16 Acceptance Testing. Acceptance Testing is the testing conducted following startup and commissioning to verify overall Project performance as demonstrated by meeting the Owner's Performance Requirements standards. Acceptance Testing will also be used to verify performance of certain unit processes and to demonstrate continuous, trouble-free operation as defined in the Owner's Project Criteria. Successful completion of all Acceptance Testing is necessary to achieve Substantial Completion. Design-Builder will be required to coordinate and conduct startup and successfully complete an Acceptance Test all in accordance with Design-Builder's approved Acceptance Test Plan developed in cooperation with Owner. A preliminary draft of the Plan shall be developed during Phase 1. The Plan shall be revised and finalized during Phase 2 in accordance with the detailed schedule developed in cooperation with Owner.

6. SUBCONTRACTORS

- 6.1 Procurement.** Those portions of the Work that the Design-Builder will not self-perform, or that will not be performed by Design Professionals or Subcontractors named in Design-Builder's proposal, will be performed by Subcontractors added during the course of the Work in accordance with Public Contract Code Sections 22166 and 4100, et seq. All subcontracted work shall be performed under written subcontracts or purchase orders.
- 6.2 Written Agreements.** All subcontracts will be in writing and will bind the Subcontractor to the Design-Builder by the terms of the Contract Documents, and Subcontractor will assume toward the Design-Builder all the obligations and responsibilities that the Design-Builder assumes toward the Owner. Each subcontract agreement will preserve and protect the rights of the Owner and Design-Builder under the Contract Documents with respect to the portion of the Work to be performed by the Subcontractor so that subcontracting the Work does not prejudice the Owner's rights. Where appropriate, the Design-Builder will require Subcontractors to enter into similar agreements with its lower-tier subcontractors. The Supplemental Conditions to this Agreement and all necessary Exhibits to this Agreement will be a part of each Subcontract Agreement.
- 6.3 Licensing Requirements.** All Subcontractors will be properly licensed for their respective portion of the Work. Those Subcontractors that are part of the Design-Build Team will be licensed for design and construction of their respective

portion of the Work. All other subcontractors will hold the proper Class C specialty license.

- 6.4 Standard of Care.** All Subcontractors will warrant that they possesses the design and/or construction licenses and expertise required for this Project and will use the same degree of care and skill customarily used by California state licensed professionals and contractors performing similar services for pumping plant ASDs replacement construction in the state of California during the same time frame.
- 6.5 Conflicting Terms.** All terms and conditions set forth in any subcontract agreement must be consistent with the provisions of this Agreement, and this Agreement will take precedence over any terms and provisions in a subcontract. The retention of Subcontractors by Design-Builder will not relieve Design-Builder of its responsibilities hereunder, including but not limited to the quality of the Work or materials provided by it. No Subcontract entered into by Design-Builder will impose any obligation or liability upon Owner to any such Subcontractor or any of its employees. For clarity, to the extent the Contract Documents require the Design-Builder to include specific language in its subcontracts, this provision does not relieve the Design-Builder of that obligation.
- 6.6 Assignment.** Each subcontract agreement will include an assignment provision. The assignment provision will allow for assignment of subcontracts to the Owner upon termination of the Design-Builder for cause provided: (i) Owner accepts assignment by written notification to the Subcontractor and Design-Builder; and (ii) assignment is subject to the rights of the surety, if any, obligated under a bond or bonds relating to this Agreement. The Design-Builder will not be responsible for acts and omissions of the Subcontractors that occur after the effective date of assignment.
- 6.7 Claims and Dispute Resolution.** The Subcontractor will be bound to the same claims and dispute resolution procedures as set forth in Section 17 and Section 18.12 of the Supplemental Conditions.
- 6.8 Insurance.** The Design-Builder may, at its discretion, require its Subcontractors, through written subcontract, to carry appropriate insurance and bonding. Design-Builder's insurance must satisfy all requirements set forth in **Exhibit 9** regardless of any subcontractor coverage.
- 6.9 Indemnity.** The Design-Builder will cause its Subcontractors, through written subcontract, to include the indemnification provisions set forth in Section 11 and to indemnify and defend the Owner and its directors, officers, employees and agents, and their successors and assigns, and Design-Builder from all claims, damages and liability pursuant to the provisions in Section 11.
- 6.9.1 Third Party Beneficiary.** The Owner will be an express third-party beneficiary to all design-build subcontracts. Notwithstanding the

foregoing, Owner will not have any right to direct work performed by any subcontractor or subconsultant of the Design-Builder.

6.9.2 Compensation to Subcontractor. Subcontracts may be awarded on a lump sum or best value basis.

6.9.3 Change Orders. Subcontractors will be entitled to recover for all changes to their respective scope of work approved by Design-Builder regardless of whether one of the conditions set forth in Section 9.1 exist.

6.9.4 Contract Time. Subcontractors will be tied to similar provisions governing Contract Time under Section 8.

7. COMPENSATION

7.1 General. The delivery method for this Project is progressive design-build. Progressive design-build requires the Design-Builder to submit pricing information with its proposal before the full scope of the design and construction work can be known. Accordingly, the compensation terms for the design and preconstruction work during Phase 1 of the Project will be different from the compensation terms for all construction work during Phase 2.

7.2 Phase 1 Compensation. During Phase 1 of the Project, the Design-Builder will complete all design and preconstruction services summarized in Section 5.2 of this Agreement and elaborated in more detail in the Scope of Work in **Exhibit 3**, including but not limited to completion of the 100% Design (as defined in the Phase 1 Scope of Work); obtaining construction pricing information for trade work, materials and equipment; and submitting a proposed Guaranteed Price for all Construction Services, as well as a proposed Guaranteed Price Amendment. Compensation for all Phase 1 Work, including cost of the design and preconstruction Work, fees of Design-Builder and all of its Design Professionals, and design-assist Subcontractors, will be on the basis of a not-to-exceed amount of \$4,314,077 pursuant to the Invoicing Guidelines set forth in **Exhibit 11** to the Agreement. Design-Builder will be paid pursuant to monthly invoices based on actual labor and expense charges up to budgeted task amount within the milestones allocated Phase 1 Work.

7.3 Guaranteed Price Amendment. Prior to commencing any work on Phase 2 of the Project, Design-Builder shall submit a proposed Guaranteed Price, as well as a proposed Guaranteed Price Amendment to Owner, including an open book cost model detailing all Phase 2 costs, and summarizing the proposed terms of compensation during Phase 2. Design-Builder shall provide Owner with all backup reasonably requested by Owner, which may be reviewed by independent cost estimators on Owner's behalf. The process for submission of the Guaranteed Price Amendment is described further in Section 5.3 of this Agreement. The Design-Builder and Owner must both agree to the terms of the Guaranteed Price Amendment, and execute it, before the Design-Builder is authorized to proceed with Phase 2 Work.

7.4 Phase 2 Compensation. During Phase 2 of the Project, the Design-Builder will perform all Construction Services, as summarized in Section 5 of this Agreement. Compensation for all Phase 2 Construction Services and Post-Construction Services shall be included in the Guaranteed Price Amendment, as described in Section 7.5. The agreed upon Guaranteed Price will cover all labor, equipment, materials, profit, overhead, taxes and any other expenses to be incurred by the Design-Builder during Phase 2. Design-Builder will provide all backup and supporting documentation reasonably requested by the Owner to support the Phase 2 Compensation. The Design-Builder consents to allow the Owner to disclose the proposed Phase 2 Compensation and all backup and supporting documentation to independent cost estimators of the Owner's choosing, subject to a non-disclosure agreement executed by the independent cost estimators. The Design-Builder agrees to negotiate in good faith with the Owner to arrive at an agreed upon amount. Once agreed, the Owner may implement the Guaranteed Price as either a Guaranteed Maximum Price with a shared savings provision, or as a Lump Sum applying a Design-Builder's discount.

7.5 Guaranteed Maximum Price Approach. In the event that the District decides to implement the Guaranteed Price for Phase 2 as a Guaranteed Maximum Price ("GMP"), the provisions of this Section shall apply. Design-Builder guarantees that the sum of the following will not exceed the GMP set forth in the Guaranteed Price Amendment, as adjusted by Change Order: (1) Phase 1 not to exceed compensation set forth above in Section 7.2; (2) Direct Cost of the self-performed and subcontracted Work, as defined in below in Section 7.5.1 and in Exhibit 1 Supplemental Conditions; (3) the applicable Fees applied to Direct Cost of the Work; (4) Bonding costs pursuant to Section 7.5.3; (5) insurance premiums pursuant to Section 7.5.4; (6) sales tax pursuant to Section 7.5.5; and (6) Construction Contingency pursuant to Section 7.5.6. See **Exhibit 3A Scope of Work – Phase 1** for additional requirements about how the GMP will be developed.

7.5.1 Direct Cost of the Work. For purposes of establishing the GMP, the Guaranteed Price Amendment will include a line item reflecting the agreed upon "Direct Cost of the Work," as defined in Exhibit 1 Supplemental Conditions, which amount shall be comprised of each of the following: (a) a line item for Phase 2 services to be performed by each member of the Design-Build Team, inclusive of their respective DB Team Member Fee; (b) a line item for construction work to be performed by each additional subcontractor that was not identified as a Design-Build Team member in the Statement of Qualifications and/or in the Design-Builder's Proposal, inclusive of the subcontractor's markup, either based on a subcontract awarded or estimates for each work package to be awarded in conjunction with Phase 2; (c) a line item for all Design-Builder self-performed work during Phase 2, not including overhead or profit; and (d) a negotiated line item amount for the estimated cost of Design-Builder's General Conditions for all Phase 2 Work, as described in Section 7.5.1.1 below. However, for Phase 2 Work Design-Builder will be

paid the actual Direct Cost of the Work for each payment request based on actual verified costs incurred for each pay period.

7.5.1.1 General Conditions. For purposes of establishing the General Conditions component of Direct Cost of the Work under the GMP, the Design-Builder will propose a sum not to exceed for the estimated cost of the General Conditions for all Phase 2 Work. General Conditions shall include all staff and facilities located at the construction site to manage and support Design-Builder's construction work, all professional construction management and administration services required during Phase 2, as well as all equipment and labor rates as applicable. The allowable categories of costs which may be included in the General Conditions are set forth below:

a. **Design-Builder Employee Supervisory and Administrative Personnel Costs**

1. Hourly costs of wages or salaries of all Design-Builder's supervisory and administrative personnel engaged in the performance of Phase 2 Work but only for that portion of their time required for the Phase 2 Work, including but not limited to the Project Manager, Construction Manager, Superintendent(s), and those responsible for managing and implementing Design-Builder's scheduling, cost control, billing, surveying, QA/QC and Health and Safety expenses. Only the Design-Builder's craft labor shall be excluded from this category.
2. Hourly costs of wages or salaries of the Design-Builder's supervisory and administrative personnel engaged off of the Project Site at suppliers, workshops or on the road, to assist in the coordination, production or transportation of material or equipment necessary for the Phase 2 Work, but only for that portion of their time required for the Phase 2 Work.
3. Hourly costs of wages or salaries of the Design-Builder's personnel stationed at the Design-Builder's principal or branch offices and performing Phase 2 Work.
4. The reasonable cost of travel, accommodations and meals for the Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Phase 2 Work.

b. Field Office Costs for Design-Builder Staff Only

1. Design-Builder field office mobilization and demobilization
2. Office trailer rental
3. Office furniture and equipment
4. Office janitorial
5. Office supplies
6. Office computers, software and maintenance
7. Office telephones, telephone and internet services, and all job site communication for the Project
8. Document reproduction services (off-site or custom)
9. Copy machines, fax machines, printers, scanners and paper shredders
10. Postage, courier, and express delivery
11. Accounting and data processing costs
12. Jobsite radios/cellular phones
13. Job travel, including fuel and vehicle
14. Scheduling expenses
15. Job meeting expenses
16. Employee identification system
17. Project redline drawings
18. Record drawings and specifications
19. Project Preconstruction and Progress Photos

c. Temporary Amenities and Utilities (includes hookup, metering, and consumption costs)

1. Drinking water
2. Temporary toilets
3. Temporary water distribution and meters
4. Temporary fire protection
5. Temporary power
6. Temporary and emergency lighting
7. Temporary construction facilities and services
8. Temporary heat and ventilation

d. Site Cleanup

1. Daily site cleanup, dumpsters and garbage disposal
2. Cleanup at Substantial and Final Completion

The Design-Builder will provide all backup and supporting documentation for the General Conditions reasonably requested by the Owner during negotiations for the Guaranteed Price Amendment and during Phase 2. As with all Direct Cost of the Work, Design-Builder will be paid for its General Conditions

costs on the basis of actual verified costs incurred for each pay period.

- 7.5.2 Fees.** Three separate fees will be applied to different components of the Direct Cost of the Work for each payment request, as described in this section. First, the Design-Builder Fee will be applied, by the Design-Builder, to all Work self-performed by the Design-Builder and to Work performed by any members of the Design-Build Team. Second, the Design-Builder Subcontractor Fee will be applied, by the Design-Builder, to all Work competitively procured after the initial award of this Agreement and performed by subcontractors, after the subcontractor's markup is included. Third, the DB Team Member Fees provided by each individual Design-Build Team member will be applied to their respective subcontracts, before the Design-Builder Fee is added. For all three categories of fees, the fee includes all home-office overhead, profit and any other pricing factor that is not represented by direct cost. The subcontractor's markup includes all home-office overhead, profit and any other pricing factor that is not represented by direct cost. Owner reserves the right to require a breakdown of the overhead and profit components of any of the fees and subcontractor's markup, as well as supporting documentation for the overhead. Collectively, the three categories of fee will be referred to as the "Fees."
- 7.5.3 Bond Costs.** Design-Builder will be paid its actual, verified, costs for each payment bond and performance bond, without markup, within 30 days of submission of documentation of these costs after the commencement of Phase 2.
- 7.5.4 Insurance Premiums.** Design-Builder will be paid its actual, verified pass through direct costs for insurance premiums, without markup.
- 7.5.5 Sales Tax.** Design-Builder will be paid its actual, verified direct sales tax costs only, without markup.
- 7.5.6 Construction Contingency.** Design-Builder will be entitled to provide within the GMP a Construction Contingency, in an amount to be approved by Owner and established in the Guaranteed Price Amendment. The Construction Contingency will be available for Design-Builder to cover any cost of the Work unanticipated by Design-Builder on the effective date of the Guaranteed Price Amendment, such as unanticipated field conditions that do not constitute a differing site condition, and re-sequencing the Work for the good of the Project. Use of the Construction Contingency requires Owner's approval, not to be unreasonably withheld. The Construction Contingency is not a separate fund but is tracked as a separate line item within the GMP and will be used as a cost management tool. When used, the Construction Contingency funds will be subtracted from the Construction Contingency line item to one or more Direct Cost of the Work line items in the GMP.

Where the actual costs incurred under a line item of the Direct Cost of the Work are less than the initial line item amount, Owner will add the difference to the Construction Contingency. Owner will not require Design-Builder to use the Construction Contingency to pay for Change Order work. All unspent funds in the Phase 2 Construction Contingency at Final Completion shall be shared 50/50 between Owner and the Design-Builder.

7.5.7 GMP Calculation. The GMP will be established in conjunction with the Guaranteed Price Amendment by calculating prices for each of the following components, as follows:

a. Phase 1 Design and Preconstruction Services (not-to-exceed)	\$4,314,077	
b. Direct Cost of Work	\$ TBD	
1. Direct Cost of Design Builder self-performed Work	\$ TBD	
2. Direct Cost of Subcontracted Work (excluding DB Team member Work)	\$ TBD	
3. Direct Cost of DB Team member, excluding Design-Builder, Work (add separate line for each DB Team member)	\$ TBD	
4. General Conditions	\$ TBD	
c. Fees		
1. Design-Builder Fee	20%	multiply by (2)(a)(c)&(d)
2. Design-Builder Subcontractor Fee	20%	multiply by (2)(b)
3. DB Team Member Fees (Cupertino Electric, Inc.)	18%	multiply by 2(c)
4. DB Team Member Fees (TESCO)	18%	multiply by 2(c)
d. Bond Costs	\$ TBD	
e. Insurance Premium	\$ TBD	

f. Sales Taxes	\$ TBD
g. Construction Contingency	TBD % of (2)
GMP	\$ TBD

- 7.6 Lump Sum Approach.** At the Owner’s discretion, compensation for Phase 2 Construction Services may convert the Guaranteed Price to a Lump Sum, applying the discount percentages for self-performed and subcontracted work established in the Price Proposal Form (see Exhibit 5A Phase 1 Price Proposal).
- 7.7 Design-Builder Allowances.** In developing the Phase 2 Compensation, the Design-Builder may propose including appropriate allowances for defined items of Work that cannot be appropriately quantified and estimated at the time the Phase 2 Compensation is established, only with specific approval of Owner. Each such item of Work will be covered in a separate line item and have a clear description of what is covered by such allowance in the Phase 2 Compensation. Allowance items will be converted to, and included as, typical contract work by Change Order once conditions exist that allow them to be properly quantified and priced. Allowance items that cannot reasonably be quantified and estimated before the allowance work begins will be reconciled based on the actual cost of the allowance Work. If the actual cost of the Work for any item of Work covered by an allowance will be greater than the amount of the allowance, Design-Builder will so notify Owner and if Owner authorizes the allowance Work in a Change Order, the Phase 2 Compensation will be increased by such difference with an additional agreed upon amount for Fee. If the cost of any item to which such an allowance applies is less than the amount of the allowance, Owner may issue a Change Order decreasing the Phase 2 Compensation by the sum of the amount of such difference and the mark-up for Fee on the difference.

8. CONTRACT TIME

- 8.1 Contract Time.** The Design-Builder must achieve Final Completion of the Work using best practical safe speed to complete the Work so that the Project passes all Acceptance Tests and are in operation as soon as reasonably possible, but no later than the Contract Time. Notwithstanding the foregoing, Design-Builder must achieve Substantial Completion by _____, and Final Completion by December 2024. Other milestones may be established by mutual consent with the Project Baseline Schedule in **Exhibit 7A-1 and 7A-2**, and the Guaranteed Price Amendment.
- 8.1.1 Response Times to Design Builder Submittals.** Owner and Design-Builder agree to work together during preparation of submittals to facilitate Owner review and approval of submittals. Unless otherwise provided in the Contract Documents, Owner will respond to Phase 1 submittals by Design-Builder according to the following schedule:

- a. Within 7 calendar days for minor submittals (e.g., geotechnical investigation plan, subsurface utility engineering drawings, site survey plan);
 1. Within 14 calendar days for intermediate submittals (e.g., GIR); and
 2. Within 30 calendar days for major submittals (e.g., 30% design, 60% design). Response times for submittals during Phase 2 will be set forth in the Guaranteed Price Amendment.

8.2 Monthly Project Schedules. The Design-Builder will create monthly updates of the initial Project Baseline Schedule, referred to as “Monthly Project Schedules,” incorporating activities and schedule updates of the Design Professionals and Subcontractors on the Project as necessary to reflect the status of design and construction and projected milestone dates for Substantial Completion and Final Completion. The Design-Builder will provide information in an agreed upon format, and as requested by the Owner, for the scheduling of times and sequences of operations required for its Work in coordination with the work of Owner’s Operations and Maintenance staff and separate contractors.

8.2.1 3 Week Look-Ahead Schedules. The Owner will require the Design-Builder, with the assistance of its Design Professionals and Subcontractors, to create “**3 Week Look-Ahead Schedules**” on a weekly basis, summarizing the performance of upcoming Work and document all Work performed during the prior 3-week period. The Design-Builder will require its Subcontractors and Design Professionals to continuously monitor the Monthly Project Schedule and 3 Week Look-Ahead Schedules to understand the timing, phasing and sequencing of operations of their respective work with other Work being performed at the Project. The 3 Week Look-Ahead Schedules are to be used as a working tool to evaluate the short term schedule and collaborate on methods for labor efficiency. Workflow will be scheduled based on providing information, material and resources as required by the user of the information, material or resources, optimizing the flow of Work through the Project and reducing bottlenecks and activity that will not advance the Project Schedule. The Design-Builder will provide Owner with copies of the 3 Week Look-Ahead Schedules and will meet with Owner to review and coordinate with any work being performed by Owner’s separate contractors. Design-Builder shall request input from the Owner on 3-week look-ahead schedules, as necessary, no less than one week before the 3-week look-ahead schedule submission date.

8.3 Prosecution of the Work. The Design-Builder will commence the Work when notified to do so by the Owner and will diligently prosecute and complete its Work pursuant to the most current Monthly Project Schedule. The Design-Builder will coordinate its Work with the responsibilities and duties of Owner’s Operations

and Maintenance Division in an effort to avoid delays, obstructions, hindrances, or any interference with the commencement, progress or completion of the whole or any part of the Work on the Project, and in accordance with the Contract Time.

8.3.1 Schedule Slippage. The Design-Builder will notify Owner of any slippage through the Monthly Project Schedules and, if applicable, pursuant to section 8.4. If either the Substantial Completion Date, Final Completion Date, or any Milestone Dates are delayed in excess of thirty (30) days, Design-Builder will submit a detailed recovery plan for evaluation and approval by Owner by the submission of the next Monthly Project Schedule. All costs associated with the recovery will be the responsibility of the Design-Builder unless the Design-Builder is entitled to an extension of time under Section 8.4.

8.3.2 Acceleration. If either the Substantial Completion Date, Final Completion Date, or any Milestone Dates are delayed and the delay is excused under Section 8.4, the Owner may direct the Design-Builder and its Subcontractors and Design Professionals to work overtime through a Change Order pursuant to Section 9.2.

8.4 Delays and Time Extensions. If the Design-Builder is delayed, obstructed, hindered or interfered with in the commencement, prosecution or completion of the Work by: (i) any act or omission of the Owner, or Owner's separate contractors, or any material breach of the Agreement by the Owner; (ii) "Owner Elected Changes"; (iii) delay caused by a "Force Majeure Event"; (iv) "Differing Site Conditions"; (v) "Owner's Suspension of the Work,;" or (vi) delays in the issuance of a permit or governmental approval not caused by the Design-Builder, such that the critical path of the most current, approved Project Baseline Schedule is impacted extending the Final Completion Date, the Substantial Completion Dates, or any specific milestone completion dates, then the Design-Builder will be entitled to an extension for the same period of time that the Design-Builder was delayed in accordance with Section 9. To the extent any delay, obstruction, interference or hindrance was caused by the fault, neglect, act or omission of the Design-Builder, its employees, Design Professionals, Subcontractors or suppliers, then the Design Builder will not be entitled to any additional compensation.

Notwithstanding the above, the Design-Builder will not be entitled to an extension of time unless the Design-Builder provides the Owner with notice in writing of potential delay, obstruction, hindrance or interference within five business days of the discovery of the potential delay. Design-Builder shall follow up with all practical speed, but not later than 7 days after the initial notice, to summarize the cause or causes of the delay, and demonstrates that it could not have anticipated or avoided the delay, obstruction, hindrance or interference and has used all available means to minimize the consequences of the delay. The Design-Builder may also be entitled to an adjustment in the Contract Price based on demonstration that the delay, after implementation of all reasonable mitigation, materially adversely affected Design-Builder's cost of completing the Work.

8.5 Liquidated Damages. The Owner and Design-Builder acknowledge and agree that if Design-Builder's action(s) cause unscheduled shutdowns of Facilities and/or the Design Builder fails to achieve Substantial Completion and Final Completion within the time set forth in Section 8.1, the Owner will suffer damages that are both extremely difficult and impracticable to ascertain. Therefore, Owner and Design-Builder agree that liquidated damages, in the amounts shown, shall be enforced on unscheduled shutdowns and failure to achieve any completion dates as follows:

- a. Unscheduled (including in excess of time scheduled) shutdowns of Facilities, during low demand season (November 15 – March 15), in the amount of \$5,000 per day
- b. Unscheduled (including in excess of time scheduled) shutdowns of Facilities, during high demand season (March 16 – November 14), in the amount of \$10,000 per day
- c. Initial submittal of Phase 1 Project Management Documents in the amount of \$300 per day
- d. Substantial Completion in the amount of \$2,500 per day
- e. Final Completion in the amount of \$1,500 per day

Owner and Design-Builder may agree on liquidated damages for failure to meet additional milestones as part of the Guaranteed Price Amendment negotiations.

Payment of liquidated damages represents a reasonable estimate of fair compensation for the losses that reasonably may be anticipated as a result of Design-Builder's delays in completing the work. Owner and Design-Builder acknowledge and agree that this liquidated damages provision will be Owner's sole and exclusive remedy for damages caused by Design-Builder's failure to timely perform the Work, including, without limitation action(s) that result in an unscheduled shutdown of Facilities, delay damages caused by Design-Builder's failure to achieve Substantial Completion and/or Final Completion within the time set forth in Section 8.1, and/or any of the specific milestone completion dates.

Nothing contained in this Section will preclude the Owner from recovery of actual damages caused by reasons other than the Design-Builder's action(s) that result in an unscheduled shutdown of Facilities, failure to timely achieve any Substantial Completion and/or Final Completion milestone dates, and/or any other Milestone Dates, including but not limited to, claims for actual losses incurred due to breach of contract, negligence, defective work, and injury to persons or property or third party claims, and consequential damages not otherwise waived under this Agreement.

9. CHANGES

9.1 Change Orders. A Change Order is a mutually agreed written order adjusting the Design-Builder's Contract Price, Contract Time, or scope of Work. A Change Order may come through an Owner Elected Change, or Design-Builder's request. All changes in the Work will only be authorized by an Owner Elected Change, or Owner executed Change Order. A Change Order signed by the Design-Builder and Owner indicates an agreement to any adjustment in the Contract Time, Contract Price, or scope of Work. A Change Order signed by the Design Builder, also known as an executed Change order, will include terms regarding all Costs of Work plus applicable Fees, and confirm that the adjustments in the Change Order fully and completely resolves any claim by Design-Builder for additional compensation or time arising from or related to the subject of the Change Order. Potential Change Orders will only be considered in conjunction with the following circumstances:

9.1.1 Owner Elected Changes;

9.1.2 Force Majeure Events;

9.1.3 Differing Site Conditions;

9.1.4 Owner's Suspension of the Work as defined in Section 16.2;

9.1.5 Changes in applicable law, provided that the Design-Builder cooperates with Owner in mitigating the adverse impact of any change in the law;

9.1.6 Government approval issues or delays beyond the Design-Builder's control, pursuant to Section 5.12;

9.1.7 Cost or time impacts caused by anyone other than the design-builder, and

9.1.8 Extensions of time pursuant to section 8.4.

9.2 Owner Elected Change. The Owner will initiate a Change Order by providing the Design-Builder with a written summary of the Owner Elected Change. Within 10 business days of receipt of an Owner Elected Change, or such other mutually-agreed upon period for more complex or extensive Owner Elected Changes, the Design-Builder must submit a complete cost proposal for the revised scope to the Owner, as well as any proposed change in Contract Time under Section 8.4. The Owner will review and evaluate the Design-Builder's cost proposal and any proposed change in Contract Time, before presenting the Design-Builder with a proposed Change Order at either its regular weekly meeting or a special meeting.

9.3 Design-Builder Initiated Changes. The Design-Builder must provide the Owner written notice of a proposed change within 5 business days of discovery of the

facts or circumstances giving rise to the proposed change order. The Owner will meet and discuss the proposed change either at its regular weekly meeting or at a special meeting.

9.4 Submission. All claims for additional compensation or extensions in Contract Time will be presented in writing to the Owner for review. The Owner will either discuss the proposed change at its regular weekly meeting or will call a special meeting to meet and review the proposed change. At the conclusion of the meeting an Owner Elected Change may be issued. Consistent with Owner's internal procedures, a change order request will require Owner approval. All Change Orders must be approved by the Owner before the expense is incurred. Additive Change Orders will affect Contract Price and may affect Contract Time, subject to Section 8.4. Deductive Change Orders will affect Contract Price and may affect Contract Time, subject to Section 9.6.

9.4.1 Disputes Related to Change Orders. In the event of a dispute between Owner and Design-Builder regarding the merits or amount of a proposed Change Order, the dispute may be resolved pursuant to Sections 17 and 18.12 of the Supplemental Conditions included as **Exhibit 1** to this Agreement.

9.5 Pricing. Methods used for determining adjustments to the Contract Price include: (i) mutual agreement on a lump sum for all costs and fee; or (ii) construction work performed on a time and material basis plus Fees, as set forth in Section 9.5.1. If the Work is performed on a time and material basis, the Design-Builder will keep and present an itemized accounting for the construction work performed based on daily time tickets executed by the Owner, material and equipment invoices, and other supporting data substantiating the amount of the Change Order. For such time and material Work, costs will be broken down by direct costs for labor, materials, and equipment, plus Fee. The form of cost model, included as Exhibit 3A, establishes the allowable components of direct costs, labor, and materials for time and material change orders.

9.5.1 Fee. Design-Builder's fee on additive and deductive Change Orders will be either the Design-Builder Fee, or the Design-Builder Subcontractor Fee, as applicable pursuant to the terms set forth in Section 7.5.2, in addition to application of the DB Team Member Fee.

9.6 Deductive Changes. The amount of credit for deductive Change Orders resulting in a net decrease to the Phase 2 Contract Price will be the actual net decrease based on the decrease of any Cost of Work pursuant to one of the pricing methods set forth in Section 9.5. When both additions and credits covering related Work or substitutions are involved in a proposed change, the Change Order will be determined on sum of the net increase or decrease.

9.7 Continued Performance. No Work will be allowed to lag pending the adjustment through Change Order but will be promptly executed as directed through Owner Elected Change, even if a dispute arises. Disputes will be resolved in accordance

with Sections 17 and 18.12 of the Supplemental Conditions. Failure of the Design-Builder to provide the Owner with notice of its disputed claim and to submit the written claim within 10 business days of completion of the Work in dispute constitutes an agreement on the part of the Design-Builder that it will not be paid for the claim. No claim will be considered after the Work in question has been performed unless a written Change Order has been executed or timely written notice of claim has been made by the Design-Builder. The Design-Builder will not be entitled to claim or to bring suit for damages, whether for loss of profits or otherwise, on account of an omission of any item or portion of Work covered by the executed Change Order.

- 9.8 Omitted Work.** If the Design-Builder omits Work that is included in the Contract Documents, the Owner will have the right to withhold from payments due or to become due to the Design-Builder in an amount which, in the Owner's opinion, is equal to the value of Work that was omitted until the Work is performed.
- 9.9 Contract Price Reduction.** The Owner may also reduce the Contract Price to reflect back charges or payments withheld pursuant to the Contract Documents upon written notice, and 48 hours opportunity to cure.
- 9.10 Contract Time Impacts and Extended Costs.** The Design-Builder will not reserve a right to assert impact costs, extended job site costs, extended overhead, constructive acceleration and/or actual acceleration beyond what is allowable under Section 8.4 and claimed in a proposed change order under Section 9.3. No claims will be allowed for impact, extended overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. Nothing contained in this Section will be construed as restricting the rights and remedies of Design-Builder in violation of Civil Code section 2782 or Public Contract Code section 7102. If this provision is determined to conflict with Public Contract Code section 7102 or Civil Code section 2782, this provision will be reformed to provide the greatest protection to the Owner under the law.
- 9.11 Surety.** All changes, additions or omissions in the Work ordered through an Owner Elected Change, or Change Order are part of the Work and will be performed and furnished in strict accordance with all of the terms and provisions of the executed Change Order and the other Contract Documents. The Design-Builder will keep its surety informed of all modifications to this Agreement. The obligations of Design-Builder's surety are not to be reduced, waived or adversely affected by the issuance of Change Orders even if the Design-Builder fails to inform the surety of the Change Order(s) and the Owner will not be required to obtain consent of the surety to the Design-Builder or any of its Subcontractors.

10. PAYMENT

- 10.1 Phase 1 Progress Payments.** The Owner will make monthly progress payments on all undisputed Work performed during Phase 1 within 30 calendar days of

receipt of a monthly invoice that was properly submitted pursuant to the procedures set forth in this Section and as further established by the Owner. Each invoice will be submitted on the forms provided by the Owner, will include an itemized list of the work performed, and will be based on actual labor and expense charges up to budgeted task amount within the milestones allocated to the Phase 1 Work completed. The invoice must be certified by the Design-Builder and made out to the Owner. Before making payment, the Owner will review the invoice for accuracy of the Work completed to date.

10.2 Phase 2 Progress Payments. In accordance with Public Contract Code section 20104.50, the Owner will make monthly progress payments on all undisputed Work within 30 calendar day's receipt of a monthly invoice that was properly submitted pursuant to the procedures set forth in this Section and as further established by the Owner. Each invoice will be submitted on the forms provided by the Owner and will include a completed schedule of values, conditional waivers and release of claims for all amounts included in the invoice, and all documentation necessary to substantiate that the amounts billed as Cost of Work reflects the actual costs incurred by Design-Builder through the date of the invoice. The invoice must be certified by the Design-Builder and made out to the Owner. Before making payment, the Owner will review the invoice for accuracy of the Work completed to date.

10.2.1 Schedule of Values. The schedule of values will allocate the direct costs among the various trades. The insurance, bond, and Overhead costs will be carried on separate line items. A draft schedule of values must be submitted to Owner by the 20th calendar day of each month in order to be included in the monthly billing cycle.

10.2.2 Evaluation of Invoice. The Owner will review the invoice based on the approved schedule of values, on-site observations and evaluation of the Work, and on the data and documentation substantiating the invoice. Based on that review, Owner will pay all undisputed items. An approval of an invoice is subject to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion of the Work and to specific qualifications expressed by the Owner. Owner is entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and approval will not be deemed to represent that a detailed examination, audit, or arithmetic verification of the documentation submitted with the Design-Builder's invoice has been made or that exhaustive or continuous on-site inspections have been made to verify that the Work is in accordance with the Contract Documents. A payment by Owner does not represent that Owner has ascertained how or for what purpose the Design-Builder has used money previously paid.

10.2.3 Retention. The Owner will withhold 5% of each progress payment during Phase 2 of the Project. Retention will be withheld until the Project achieves Final Completion unless the Owner, in its sole discretion, agrees

to release the Design-Builder's retention earlier and provided that the Work has been accepted by the Owner. Within sixty (60) days after Final Completion, Owner will release to Design-Builder all retained amounts, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work; (b) amounts Owner is entitled to withhold pursuant to Contract; and (c) 150% of any disputed amounts.

10.2.3.1 Substitution of Securities. To the extent required by law, Owner will consider and approve reasonable and appropriate requests under Public Contract Code section 22300 for substitution of securities or establishment of an escrow account for retention. Nothing contained in this Section will prevent Owner from withholding payment when grounds exist for doing so under the Contract Documents.

10.2.4 Change Orders. Applications for payment may include requests for payment on account of changes in the Work that have been properly authorized.

10.2.5 Stored Materials and Equipment. Stored materials and equipment may be included in the invoice provided the materials and equipment are properly stored in accordance with Section 5.15.9.3 and a complete invoice accompanies the invoice. Storage of material purchased in advance will be reimbursed as agreed by Owner and Design-Builder.

10.2.6 Stop Payment Notices and Claims. Upon submission of an invoice, the Design-Builder warrants that all Work included in the invoice has been performed in accordance with the Contract Documents and that title to all Work covered by an invoice will pass to the Owner no later than the time of payment and to the best of the Design-Builder's knowledge, information and belief, will pass to the Owner free and clear of all stop payment notices, claims, security interests or encumbrances. Design-Builder will provide executed conditional waivers and release of claims for all amounts included in the invoice. Unless otherwise required by law, Design-Builder shall be entitled to withhold monies in dispute or monies due to any subcontractor if Design-Builder has a justifiable basis to do so. Waivers must comply with the requirements of California Civil Code section 8132.

10.2.7 Owner Payment to Design Professionals, Subcontractors and Suppliers. The Owner will not have an obligation to pay a Design Professional or Subcontractor for Work performed unless required by law. However, if the Owner receives a stop payment notice, the Owner may use joint checks to the Design-Builder and Subcontractor in order to resolve the payment dispute, after providing the Design-Builder a reasonable opportunity to cure.

10.3 Final Payment. Upon Final Completion of the Work, the Design-Builder will submit a final payment application. All prior progress estimates will be subject to correction in the final invoice. If items remain to be completed at that time, then the Design-Builder in conjunction with Owner will revise the Final Punch List and will include 150% of the estimated cost to complete each remaining item. The Owner may withhold from the final payment 150% of the estimated cost to complete the Work. The amount retained by the Owner for Final Punch List items will be released to the Design-Builder as each item is completed. Upon Final Completion of the Project, final payment of all remaining retention, if unencumbered, will be paid on all undisputed amounts no later than 30 calendar days after either Final Completion of the entire Project or recordation of a Notice of Completion (whichever is later), and in no event later than the time prescribed under Section 7107 of the Public Contract Code.

10.3.1 Contract Price Reduction. Upon Final Completion of the Project, the Owner may reduce the Contract Price to reflect costs charged to the Design-Builder, back charges or payments withheld pursuant to the Contract Documents.

10.3.2 Evidence. Before issuance of final payment, Owner may request satisfactory evidence that: (i) all payrolls, materials bills and other indebtedness connected with the Work have been paid or otherwise satisfied or Design Builder protects Owner from such claims with the issuance of a bond or such other security in Design Builders discretion, which security must be acceptable to Owner in Owner's sole discretion; (ii) insurance required by the Contract Documents will remain in force after final payment and will not be canceled or allowed to expire until at least 30 calendar days prior written notice has been given to the Owner; (iii) the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (iv) surety, if any, has consented to final payment, (v) Owner has received all close-out documents required by the Contract Documents; and (vi), other data establishing payment or satisfaction of obligations, such as releases and waivers of stop payment notices, claims, security interests or encumbrances arising out of this Agreement have been received.

10.3.3 Payment Not Acceptance of Work. Approval of an invoice (final or otherwise) or partial or entire use or occupancy of the Project by the Owner will not be used as conclusive evidence that the Work was properly performed or constitute acceptance of Work that is not in accordance with the Contract Documents.

10.4 Payments Withheld. In addition to the Design-Builder's 5% retention, the Owner may withhold payments due to the Design-Builder that may be necessary to cover: (i) stop payment notice claims; (ii) defective Work not remedied; (iii) failure of Design-Builder to make undisputed payments to a third party caused by Design-Builder; (v) amounts due to the Owner for claims against Design-Builder;

(vi) failure to provide Owner with timely schedule updates under Section 8.2.1; (vii) disputed amounts in the invoice; and (viii) legally permitted penalties. Owner shall provide Design-Builder with notice of the reason for the withholding within 7 days after receipt of Design-Builder's payment application and when Design-Builder has cured the basis for withholding, the Owner shall pay the amount withheld to Design-Builder.

10.5 Waiver of Claims. Acceptance of final payment by the Design-Builder will constitute a waiver of claims by Design-Builder and its Design Professionals, Subcontractors and suppliers except for those previously made in writing and identified by the Design-Builder as unsettled at the time of final invoice.

11. INDEMNIFICATION

11.1 Indemnification. Design-Builder shall defend, indemnify, and hold harmless the Santa Clara Valley Water District, and its directors, officers, employees and agents, and its successors and assigns (collectively referred to as "Indemnitees") from and against all third party claims, demands, liability, suits, actions, costs or expenses (including reasonable attorneys' fees) for any and all loss or damage, including, but not limited to, personal injury or property damage, arising out of or resulting from allegations of:

- a. The failure or alleged failure by the Design-Builder or any Design-Build Team member to comply with any applicable law, order, citation, rule, regulation, standard, ordinance or statute, including rules and regulations imposed by Cal-OSHA and caused by the act or omission of the Design-Builder or any Design-Build Team member;
- b. The negligent act, omission, misconduct, or fault, or the alleged negligent act, omission, misconduct or fault of the Design-Builder or any Design-Build Team member;
- c. Any and all claims by any governmental or taxing authority claiming unpaid taxes based on gross receipts, purchases or sales, the use of any property or income of the Design-Builder or any Design-Build Team member with respect to any payment for the Work made to or earned by the Design-Builder or the Design-Build Team member under the Contract Documents;
- d. Any and all stop payment notices and/or liens filed in connection with the Work, including all expenses and attorneys' fees incurred by the Owner in discharging any stop payment notice or lien, provided that the Owner is not in default on payments owing to the Design-Builder with respect to such Work;
- e. Failure of the Design-Builder to comply with the Insurance provisions set forth in **Exhibit 9**;
- f. Any release of Hazardous Materials & Substances:

1. Brought onto the Site by the Design-Builder or any Design-Build Team member; or
2. Where the removal or handling involved negligence, willful misconduct, or breach of Contract by the Design-Builder or any Design-Build Team member.

11.2 Indemnification for Infringement of Intellectual Property Rights. The Design-Builder agrees to fully defend, indemnify, and hold harmless the Indemnitees against any demand, claim, cause of action, suit, proceeding, or judgment that design, service, method, or product called for and provided by the Design-Builder or any Design-Build Team member (herein called “deliverables”) that infringes or allegedly infringes any patent, copyright, trademark, service mark, trade dress, utility model, industrial design, mask work, trade secret, or other proprietary right of a third party (collectively “Intellectual Property Right”).

The Design-Builder shall pay any and all costs of such defense and settlement (including interest, fines, penalties, costs of investigation, costs of appeals, and attorney ‘s fees), and will pay any and all costs and damages finally awarded against any of the Indemnitees. The Design-Builder shall have the exclusive right to conduct its legal defense.

In the event that any deliverable furnished hereunder, or called for in any design or services provided under this Agreement, is in any suit, proceeding, or judgment held to constitute an infringement on any third party’s Intellectual Property Right, and its use is enjoined, the Design-Builder shall, at its own expense, accomplish one of the following:

- a. Procure the fully paid-up, irrevocable, and perpetual right for the Owner to continue using the deliverable;
- b. Modify the deliverable; or
- c. Provide for the replacement of the deliverable with an alternative product that is functionally equivalent to the deliverable and compatible with the Owner’s existing infrastructure.

Design-Builder may decide which of the options detailed above to accomplish. If the Design-Builder is unable to provide the Owner with one of the forms of relief described above, the Design-Builder shall also reimburse to the Owner the total paid by the Owner for the deliverable that is held to constitute an infringement.

11.3 Indemnification for Design Defects. To the fullest extent permitted by law, the Design-Builder shall fully defend (with counsel acceptable to the Owner), indemnify, and hold harmless Indemnitees from any and all claims, demands, causes of action, damages, costs, expenses (including legal, expert witness, and consulting fees and costs), losses, or liabilities of whatsoever nature to the extent they arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the Design-Builder, its employees, any of the Design-Builder’s

Design Professionals or Subcontractors of any tier, or anyone for whom Design-Builder or any of its Design Professionals or Subcontracts may be liable, in relation to any of their design services, including but not limited to errors, omissions, inconsistencies, inaccuracies, or deficiencies, whether or not contained in the Construction Documents furnished by the Design-Builder, and whether or not such errors, omissions, inconsistencies, inaccuracies, or deficiencies were also included in the Owner's Basis of Design Report provided by the Owner. The Design-Builder agrees that, because the Owner's Basis of Design Report is preliminary and conceptual in nature and is subject to review and modification by the Design-Builder, such documents shall not be deemed a "design furnished" by the Owner, any Indemnitees, or any Owner's agents, servants, or independent contractors who are directly responsible to Owner, as the term "design furnished" is used in Civil Code Section 2782, and that this clause is governed by Civil Code Section 2782.8. In addition, Design-Builder shall defend the Owner, with counsel reasonably acceptable to Owner to the extent of Design-Builder's proportionate percentage of fault for the underlying claim.

11.4 Exception. The indemnification provisions in this Section 11 will extend to claims occurring after this Agreement is terminated as well as while it is in force. However, Design-Builder will not be obligated to hold harmless, indemnify or provide a defense to the Indemnitees from claims arising from the sole negligence, willful misconduct, or active negligence of the Indemnitees or Owner's agents, servants, or independent contractors who are directly responsible to Owner. Nothing contained in Section 11 will be construed to impose any obligation in conflict with the provisions of Civil Code section 2782 and/or Insurance Code section 11580.04. In the event of a conflict, the provision conflicting with Civil Code section 2782 and/or Insurance Code section 11580.04 will be modified to limit Design-Builder's obligations to the greatest extent permitted by law. This Section does not apply to the duty to defend claims arising from design defects, which obligation is addressed separately in Section 11.3.

11.5 Duty to Defend. Where a duty to defend is contractually required in this Section 11 (11.1, 11.2 and 11.3), the provisions in this Section 11.5 shall apply and clarify the scope of that duty to defend. Design-Builder will defend all claims defined in Sections 11.1, 11.2, and 11.3 at its own cost, expense and risk and pay and satisfy any judgment or decree that may be rendered against any Indemnitee arising out of a claim, or reimburse Indemnitee(s) for any and all legal expenses incurred by any of them in connection with the claim or in enforcing the indemnity granted in this Section. The duty to defend will apply, and Design-Builder will be required to furnish a defense, regardless of whether the matter has been adjudicated. The Owner shall have the right to approve counsel defending it, which approval will not be unreasonably withheld. Following the resolution of any such dispute, the Owner shall reimburse Design-Builder for the costs incurred by Design-Builder for any Indemnitees' defense, to the extent of the Owner's proportionate responsibility or fault, as determined by a court or arbitrator of competent jurisdiction, or as agreed by settlement or otherwise.

11.6 Consequential Damages. Neither party shall be entitled to recover consequential, incidental or special incidental or special damages under any theory including, without limitation, damages for any breach of the Agreement. However, this limitation of liability does not apply to any of the following:

- a. defense and indemnification obligations;
- b. costs, liabilities or obligations arising from the willful misconduct or fraud, willful injury or violation of the law as defined in California Civil Code section 1668 by the Design-Builder or any of its employees, consultants, subcontractors, or suppliers, or Owner, or anyone working directly or indirectly for whom such parties may be liable;
- c. fines, penalties and other charges assessed by applicable governmental authorities; which are attributable to Design Builder or Owner;
- d. claims covered by insurance required in Section 12 and Exhibit A of this Agreement to the extent there are insurance proceeds available; and
- e. Liquidated damages pursuant to section 8.5.

11.7 Limitation of Liability. Design-Builder's aggregate liability to Owner under this Agreement with respect to damages arising out of the performance or unexcused non-performance of any Work performed on the Project shall not exceed 200% of the Contract Price. This limitation excludes:

- a. defense and indemnification obligations;
- b. costs, liabilities or obligations arising from the willful misconduct or fraud, willful injury or violation of the law as defined in California Civil Code section 1668 by the Design-Builder or any of its employees, consultants, subcontractors, or suppliers, or anyone working directly or indirectly for whom such parties may be liable;
- c. fines, penalties and other charges assessed by applicable governmental authorities; which are attributable to Design Builder;
- d. claims covered by insurance required in Section 12 and Exhibit A of this Agreement to the extent there are insurance proceeds available; and
- e. liquidated damages pursuant to section 8.5.

This limitation of liability shall not affect the Design-Builder's obligation to provide insurance pursuant to Section 12 of this Agreement.

12. INSURANCE AND BONDS

12.1 Design-Builder's Insurance Requirements. The Design-Builder will be required to provide and maintain (including replenishment of limits when

necessary) its own insurance coverage to meet all requirements set forth in **Exhibit 9A** to this Agreement. Santa Clara Valley Water District, and its directors, officers, employees and agents, and its successors and assigns will be a named additional insured under all of Design-Builder's insurance policies except errors and omissions policies and workers' compensation policies. Likewise, the Design-Builder will require all Subcontractors to name the Santa Clara Valley Water District, and its directors, officers, employees and agents, and its successors and assigns as additional insured on all Subcontractor policies except errors and omissions policies and workers' compensation policies. Before commencement of the Work, the Design-Builder will provide certificates of insurance and endorsements per **Exhibit 9A** as evidence of insurance and Owner's, and Owner's additional insured status under those policies.

The Design-Builder shall be prepared to procure and maintain (including by replenishment of limits when necessary) Workers Compensation and Employers' Liability Insurance in the specified amounts.

- 12.2 Performance and Payment Bonds.** The Design-Builder will furnish a payment bond and a performance bond to the Owner, each in the amount equal to 100% of the amount of the Phase 2 GMP or Lump Sum, covering all construction work performed during Phase 2, on the forms provided in **Exhibit 9B and 9C**. The payment and performance bonds will be provided prior to commencement of Phase 2 Work. The performance bond must cover the 3-year Design-Builder Warranty pursuant to Section 13.1 of this Agreement, and an additional 1-year period over any corrective work performed under the Design-Builder Warranty, commencing on the date the final instance of corrected work is accepted, in the amounts stated in **Exhibit 9C**.

The surety supplying the bonds must be an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business as a surety in the State of California and satisfactory to the Owner. Failure to furnish the required payment and performance bonds to the Owner constitutes a default under this Agreement and the Owner will have all of the rights and remedies provided under the Contract Documents and afforded by law. Full compensation for furnishing the payment and performance bonds are included in the Contract Price.

- 12.2.1 Payment of Subcontractors.** Without limiting the responsibilities of Design-Builder and its surety under the terms of this Agreement, the Design-Builder and its surety agree to promptly pay all lawful and undisputed claims of Subcontractors, materialmen, laborers, persons, firms or corporations for labor or services performed or materials, supplies, machinery equipment, rentals, fuels, oils, tools, appliances, insurance and other items furnished, used, or consumed in connection with the prosecution of the construction work including Change Orders, and will indemnify and save harmless the Owner, and Owner from and against all liability loss, damage and expense, including interest, costs and attorneys' fees, which the Owner, and Owner and/or its surety may

sustain by reason of Design-Builder's or its surety's failure to do so. Notwithstanding the foregoing, Design-Builder is not required to indemnify Owner under this Section where Design-Builder's failure to make payments is caused solely by Owner's failure to pay Design-Builder as required by the Agreement.

13. WARRANTY OF THE WORK

13.1 Design-Builder Warranty. The Design-Builder shall provide a 3-year warranty on all furnished labor and materials, commencing on the date of Final Completion of all Work under the Agreement. Design-Builder shall perform all required corrective work and shall be responsible for the cost of all labor, materials, equipment, transport, installation and re-testing required for the corrective work. Moreover, in the event that corrective work is required under the Design Builder Warranty, a 1-year warranty shall apply to the corrected work covering any discrepancies and defects in the corrected work that are discovered after the corrected work is accepted. For clarity, the 1-year warranty on corrective work is additional to the base 3-year warranty. The 1-year warranty on corrective work commences on the date the corrected work is accepted and may extend beyond the base 3-year warranty.

The Design-Builder Warranty shall warrant that:

- a. The Work conforms to the requirements of the Contract Documents;
- b. All design Work furnished under the Agreement conforms to all professional engineering principles generally accepted as standards of the industry in the State of California and complies with the standard of care set forth in Section 2.4, and the minimum requirements set forth in Section 5.2.5;
- c. The construction Work furnished under the Agreement is free from defects in workmanship, and was performed in a workmanlike manner and conforms to the standards of care set forth in Section 2.4, and conforms to the requirements set forth in Section 5.5.2;
- d. Materials and equipment furnished under the Contract Documents are of good quality, new and free from defects in materials and workmanship;
- e. The Facilities shall function up to the standards set forth in the Owner's Project Criteria and all other reliability standards established in the Contract Documents.

Design-Builders' warranty excludes (i) normal wear and tear, (ii) deficiencies caused by Owner's improper operation, maintenance or repair, (iii) unauthorized alteration of the Work, (iv) failure to comply with manufacturers' recommendations, (v) claims due to force majeure events. No other warranties, whether statutory, express or implied (including all warranties of merchantability

and fitness for a particular purpose and all warranties arising from course of dealing or usage of trade) shall apply.

- 13.2 Subcontractor Warranties.** The Design-Builder shall obtain warranties from all Subcontractors and Design-Builder Team members providing design services, labor, equipment, materials, supplies and maintenance equipment that would be given in normal commercial practice; require all such warranties to be executed in writing for the benefit of the Owner and enforce all warranties for the benefit of the Owner, if so directed by the Owner. In no case shall such Subcontractor warranties decrease the warranty provisions specified in the Contract Documents. All such Subcontractor warranties from Design-Builder Team members shall run directly to and be enforceable by the Design-Builder and/or the Owner, any assignee of the Owner, and their respective successors and assigns.

The Design-Builder hereby assigns to the Owner all of the Design-Builder's rights and interest in all warranties that are received by the Design-Builder from any Subcontractor or Design-Builder Team members. All such warranties shall survive Final Completion, acceptance, final payment, and termination of the Agreement if the stated warranty period extends beyond the Final Completion, acceptance, final payment, and termination of the Agreement.

- 13.3 Manufacturers' Warranties.** The Design-Builder and Owner will identify the manufacturer's warranty requirements, including any extended warranties, if needed. The Design-Builder shall obtain manufacturers' warranties for all materials and equipment procured and installed on the Project and assign all such warranties to the Owner prior to Final Completion. Owner and Design-Builder shall agree upon acceptable warranty periods for each item of materials and equipment prior to the procurement of the materials and equipment. Manufacturers' warranties must commence on Final Completion, unless commercially unavailable.

- 13.4 Remedy.** The Design-Builder shall remedy, at its own expense, any failure to conform to the warranty requirements set forth in this Section 13 Warranty of the Work. If the Design-Builder fails to remedy any such failure within a reasonable time after receipt of notice (or immediately in the case of an emergency), the Owner shall have the right in its sole discretion to replace, remove, or otherwise remedy the failure at the Design-Builder's expense.

13.4.1 Notification to Design-Builder. The Owner shall notify the Design-Builder, in writing, within a reasonable time after the discovery of any failure to conform to the warranty requirements set forth in this Section 13, Warranty of the Work.

13.4.2 Warranties Do Not Limit the Design-Builder's Liability. The foregoing warranties are in addition to all rights and remedies available under the Agreement or applicable law, and shall not limit the Design-Builder's

liability or responsibility imposed by the Agreement or applicable law with respect to the Work, including:

- a. Liability for design defects;
- b. Latent construction defects;
- c. Strict liability;
- d. Negligence; and
- e. Fraud.

13.5 Assignment of Warranty. Upon providing written notice to the Design-Builder, any warranty in this Section 13, including all warranties from Subcontractors and Design-Builder Team members that have been assigned to the Design-Builder, shall be immediately assignable by the Owner to any entity, in the Owner's sole discretion.

14. OWNERSHIP OF DOCUMENTS

14.1 Ownership of Construction Documents. The Electronic Design files, the Construction Documents, as well as any technical data or other design-related materials submitted to the Owner by the Design-Builder or any of its Design Professionals or Design-Build Subcontractors for the Project (collectively the "**Design and Construction Documents**"), whether draft or final, are the property of the Owner. The Owner may use and disclose such Design and Construction Documents in any manner and for any purpose necessary during the Owner's normal course of business. The Design-Builder, its Design Professionals and Design-Build Subcontractors will not own or claim a copyright in the Design and Construction Documents and other documents prepared by Design-Builder, its Design Professionals or Design-Build Subcontractors.

14.1.1 Ownership. The master Electronic Design files, the subsidiary models necessary for design and construction of the Project, and any related two-dimensional drawings, calculations, schedules or specifications created for the Project are the property of the Owner. The Parties agree to provide the Owner, as a deliverable before Final Completion, the Electronic Design files that the Owner deems necessary. Notwithstanding the above, design elements that were created by the Design-Builder, before execution of the Agreement, as extensions to commercially available Electronic Design software will remain the property of the respective party that created the extension, regardless of whether it was used in the Electronic Design for this Project.

14.1.2 Licensing. The Design-Builder, its Design Professionals and Design-Build Subcontractors are granted a limited, non-exclusive, license to use and reproduce applicable portions of the Design and Construction Documents and other documents prepared by the Design-Builder for use in the performance of the Design-Builder's Work under this Agreement.

14.1.3 Exception. Nothing contained in Section 14.1 will be construed to limit the Design-Builder, its Design Professionals and Design-Build Subcontractors rights, title and interest to continue to use their respective general design details that each of them uses or has used on multiple projects, or new standard design details that were developed during design of this facility.

14.2 Copies. All copies made under this license will bear the statutory copyright notice, if any, shown on the Design and Construction Documents and any other documents prepared by the Design-Builder, its Design Professionals and Design-Build Subcontractors. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project will not be construed as publication in derogation of the Owner's copyright or other reserved rights and interests.

15. ACCOUNTING RECORDS

15.1 Audit. In accordance with Government Code Section 8546.7, records of both the Owner and the Design-Builder will be subject to examination and audit by the State Auditor General for a period of 3 years after final payment. Design-Builder will make available to the Owner any of the Design-Builder's other documents related to the Work immediately upon request of the Owner as set forth in Section 15.2.

15.2 Records. The Design-Builder will keep full and detailed accounts and exercise controls as may be necessary for proper financial management under this Agreement. In addition to the State Auditor rights above, the Owner will have the right during normal business hours to audit and copy the Design-Builder's documents related to this Project including, but not limited to, records, books, estimates, correspondence, instructions, drawings, receipts and invoices for materials, supplies and equipment, temporary facilities, etc., contracts, purchase orders, vouchers, memorandums, Change Orders and all substantiating documentation, certified payroll, and other data relating to the Cost of Work, the Contract Price in order to evaluate accuracy and completeness of Design-Builder's billing. The Design-Builder will preserve all Project records for a period of at least 3 years after final payment, or for such longer period as may be required by law. The Design-Builder will incorporate Section 15 accounting and auditing provisions into all Design Professional agreements and Subcontracts and require Design Professionals and Subcontractors to keep detailed and accurate accounting records for their portion of the Work for a period of at least 3 years.

16. TERMINATION, SUSPENSION AND ABANDONMENT

16.1 Termination for Fault. The Owner may terminate this Agreement upon not less than 30 calendar days' written notice of the Design-Builder's failure to perform any material obligation under the Agreement. The Design-Builder will have 30 days after receiving reasonably detailed written notice thereof from the

Owner, provided that, if the nature of the breach is such that it will reasonably require more than 30 days to commence curing, the Owner may not terminate so long as Design-Builder (1) promptly, upon receipt of notice to cure, submits a plan to initiate all actions reasonably necessary to correct the default and prevent its reoccurrence, and (2) Owner accepts Design-Builder's plan, and (3) Design-Builder commences and continuously implements the plan to Owner's satisfaction.

The Owner may also terminate this Agreement upon (1) the failure to obtain and maintain any contract security instrument upon 7 days-notice and opportunity to cure, or (2) the insolvency or bankruptcy of the Design-Builder without notice or opportunity to cure. The notice will set forth the reason for termination and the effective date of termination. If the Owner terminates this Agreement for cause, the Design-Builder will not be entitled to any further payments except for work already completed. Unless otherwise limited herein, nothing stated in this paragraph will prevent the Owner from pursuing and recovering any damages allowed by law from Design-Builder arising out of a breach of this Agreement.

If a court of competent jurisdiction deems that termination of the Design-Builder was wrongful or otherwise improper, the termination will be deemed a termination for convenience under Section 16.3.

16.2 Suspension by Owner. If the Project is suspended by the Owner and not due to any fault of the Design-Builder or any of its Design Professionals or Subcontractors, the Design-Builder will be entitled to receive payment for all Work performed as of the effective date of the suspension, plus any documented reasonable direct costs incurred by Design-Builder to implement the suspension. The written notice of suspension will set forth the reason for suspension and the effective date of suspension. If the Project is resumed, and provided that the suspension was not caused or due to any fault or neglect of the Design-Builder or any of its Design Professionals or Subcontractors, then the Design-Builder's compensation will be equitably adjusted through Change Order under Section 9.1.4 and the Contract Time will be equitably adjusted for the additional time required to achieve Final Completion. Suspensions in excess of 90 days in the aggregate constitute a termination for convenience pursuant to Section 16.3, unless otherwise expressly agreed by the Parties. No further notice is required to effectuate such a termination for convenience.

16.3 Termination For Convenience. The Owner may terminate this Agreement, in whole or in part, for convenience upon written notice at any time. The notice will state the extent of the termination and effective date of termination. For Convenience Termination during Phase 1 and through the issuance of a Notice to Proceed for Phase 2, the Design-Builder will be entitled to receive payment for the percentage of Phase 1 work completed, including amounts owed to sub-consultants and subcontractors for work performed, not to exceed the Phase 1 not-to-exceed amount. For Convenience Termination following the issuance of a Notice to Proceed for Phase 2 work, the Design-Builder will be entitled to payment for all Work performed as of the effective date of termination

based on the compensation provisions set forth in Section 7 of this Agreement, including Fees, as well as reasonable demobilization costs, including costs to negotiate termination of subcontracts and Purchase Orders and such other costs so as to prevent Design Builder incurring a loss for work performed on the Project attributable to the termination for convenience. Any dispute over the amount to be paid upon termination will be resolved in accordance with the dispute resolution procedures set forth in Section 17 of the Supplemental Conditions. In the event that the Owner terminates the Design-Build Agreement for convenience during the course of Phase 2 Work, Design-Builder must: (1) assign all subcontracts executed pursuant to the performance of the Design-Build Agreement to Owner promptly upon request; and (2) execute any documents establishing Owner's ownership of completed Work upon request. Design-Builder is entitled to compensation for all authorized payments made to any subcontractor prior to termination, which payments will be credited to Owner under the respective subcontracts, plus Design-Builder's approved costs that are incurred prior to any termination.

17. MISCELLANEOUS PROVISIONS

- 17.1 Governing Law; Jurisdiction.** This Agreement will be governed and construed in accordance with the laws of the State of California without regard to the principles of the conflict of laws. Courts of competent jurisdiction in Santa Clara County have exclusive jurisdiction over any claim or enforcement of a judgment or alternative dispute award arising out of or relating to this Agreement.
- 17.2 No Solicitation of Employees.** Owner will not solicit or employ any of Design-Builder's Project personnel for the duration of the Project.
- 17.3 Assignment.** The Owner and Design-Builder, respectively bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of the other party with respect to all covenants of this Agreement. Neither Owner nor Design-Builder will assign this Agreement without the written consent of the other, and such consent will not be unreasonably withheld or delayed.
- 17.4 Severability.** The terms and conditions of this Agreement will be interpreted in accordance with their plain meaning, and not strictly for or against either party. Any rule of construction or interpretation to the contrary will be of no force or effect with respect to this Agreement. If a court of competent jurisdiction finds any term or provision of this Agreement to be void or unenforceable for any reason that term or provision will be deemed severed, and the remainder of the Agreement will remain in full force and effect according to its terms and provisions, to the maximum extent permitted by law.
- 17.5 No Third-Party Beneficiaries.** Other than the Owner's status as a third-party beneficiary to agreements between the Design-Builder and its subconsultants and subcontractors (See Section 6.9.1), nothing contained in this Agreement creates a contractual relationship with, or a cause of action in favor of any third

party against, either the Owner or Design-Builder. Owner and Design-Builder acknowledge and agree that the obligations of the Design-Builder are solely for the benefit of the Owner and are not intended in any respect to benefit any other third parties.

17.6 Waiver. No action or failure to act by the Owner or Design-Builder will constitute a waiver of a right or duty afforded them under this Agreement, nor will such action or failure to act constitute approval of or acquiescence in a breach of this Agreement, unless specifically agreed to in writing.

17.7 Time is of the Essence. Time is of the essence with respect to each and every provision of the Agreement and any subsequent Change Orders.

17.8 Notice. Any notice required to be given by this Agreement will be in writing and deemed effective upon personal delivery, or 1 business day after being sent via registered or certified mail return receipt requested or by overnight commercial courier providing next business day delivery and addressed to the following respective parties:

To Owner Representative:

With Copies To:

Project Manager
Santa Clara Valley Water District
5700 Almaden Expressway
San Jose, CA 95118

Design-Builder:

Vimal Patel
Project Executive
4650 Business Center Drive
Fairfield, CA 94534

Jessie Jardin
Project Manager
4650 Business Center Drive
Fairfield, CA 94534

17.9 Counterparts. This Agreement, and all amendments, may be executed in one or more counterparts, each of which when executed and delivered shall be an original, and all of which when executed and delivered shall constitute one Agreement. The counterparts of this Agreement, and all amendments, must be manually executed, but the exchange of copies of this Agreement and of manually executed signature pages by facsimile or by electronic mail as an attachment in portable document format (.pdf) to the addresses provided in this Agreement shall constitute effective delivery of this Agreement as to the Parties and may be used as a fully binding original in lieu of the original Agreement for all purposes.

- 17.10 Modifications.** All modifications to the terms and conditions set forth in this Agreement must be in writing and signed by an authorized representative of both parties.
- 17.11 Section Headings.** The Section headings contained in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement.
- 17.12 Legal Citations.** Legal citations to statutory requirements are included in the Agreement for convenience and an omission of any statutory requirement will not relieve the Design-Builder or its Design Professionals and Subcontractors from compliance with the law.
- 17.13 Exhibits.** The Supplemental Conditions and Exhibits listed in the Table of Contents are incorporated by reference into the Agreement as though set forth in full.
- 17.14 Entire Agreement.** This Agreement represents the entire integrated agreement between the Owner and Design-Builder and supersedes all prior oral and written negotiations, representations or agreements by the parties with respect to this subject matter.

This Agreement is entered into as of the Effective Date first written above.

SANTA CLARA VALLEY WATER DISTRICT

Kiewit Infrastructure West Co.

DocuSigned by:

Robert Farrell

22D5534E6EBC4E4...

Robert R. Farrell

Senior Vice President

DocuSigned by:

Brian Gardner

6F036EF2A0FF4A2...

(Witness)

(Witness)

Brian Gardner

(Printed Name)

(Printed Name)

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CAPITAL PROGRAM SERVICES
5750 ALMADEN EXPRESSWAY
SAN JOSE, CA 95118-3686
TELEPHONE (408) 265-2600
FACSIMILE (408) 979-5631
www.valleywater.org
scvwdplanroom@valleywater.org

Exhibits to Design-Build Agreement
FOR THE
COYOTE PUMPING PLANT ASDs
REPLACEMENT PROJECT
Project No. 91234002

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 1. SUPPLEMENTAL CONDITIONS

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SUPPLEMENTAL CONDITIONS TO DESIGN-BUILD AGREEMENT

1. DEFINITIONS

- 1.1 “Acceptance”** means the formal written acceptance by the Owner of the completed Project, after completion of all Work in accordance with the Contract Documents and any modifications thereof previously approved, and satisfactory demonstration that the Project has met the Acceptance Test procedures and requirements set forth in the Contract Documents.
- 1.2 “Acceptance Test or Acceptance Testing”** means a formal test, conducted in accordance with the Design-Builder’s Acceptance Test Plan, intended to demonstrate that the Project can successfully meet all Performance Requirements, including but not limited to, hydraulic and other performance criteria established in the Design-Build Agreement over a range of expected conditions. The Acceptance Test may also include other tests, such as power failure and emergency generation startup, to demonstrate Project functionality.
- 1.3 “Agreement”** means the Design/Build Agreement between Santa Clara Valley Water District and Design-Builder, dated _____, 2022, including the Supplemental Conditions to the Agreement and all **Exhibits**.
- 1.4 “Allowance”** is a non-binding, good faith, estimate of all Cost of Work attributable to the Allowance item carried in the Contract Price. An Allowance is necessary in certain circumstances because the item, components and/or systems are anticipated but undefined at the time that the Contract Price is set, and may require further development by the Engineer of Record, Owner, or other Design Professionals.
- 1.5 “Design-Builder’s Basis of Design Report”** is the report that provides an understanding of the baseline design requirements for the Project. The report provided by the Owner in **Exhibit 2**, and referred to as the Owner’s Basis of Design Report in the Agreement, will be superseded by the Design-Builder’s Basis of Design Report once that document is reviewed and accepted by the Owner. After acceptance, the Design-Builder’s Basis of Design Report will govern all design work on the Project. The Design-Builder’s Basis of Design Report must be consistent with, and elaborate on, the Base Design Criteria and 30% Design Package provided by the Owner.
- 1.6 “Certificate of Substantial Completion”** is a certificate prepared by the Owner that establishes the date of Substantial Completion of the Project, or portions of the Project, the responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the construction work and insurance, and that fixes the time within which the Design-Builder will finish all items on the Final Punch List accompanying the certificate. The Certificate of Substantial Completion will be submitted to the Owner and Design-Builder for their written acceptance of responsibilities assigned to them in the certificate.

- 1.7 “Change Order”** is a mutually agreed written order adjusting either the Design-Builders Contract Price and/or Contract Time in accordance with the Contract Documents. All Change Orders will be reviewed by the Owner and, if approved, executed by the Design-Builder and Owner.
- 1.8 “Construction Documents”** means the documents developed by Design-Builder that establish requirements for construction Work during Phase 2 of the Project. The Construction Documents will be informed by, and be consistent with the Base Design Criteria and 30% Design Package, the Design-Builder's Basis of Design Report, and the electronic design files.
- 1.9 “Construction Services”** means all labor, materials, equipment and appurtenances provided by the Design-Builder and its Subcontractors for complete construction of the Project in strict accordance with the Contract Documents.
- 1.10 “Contract Documents”** are set forth in Section 3.1 of the Agreement and include the Agreement inclusive of Exhibits, the Supplemental Conditions to the Agreement, the electronic design files, the Construction Documents and the design submissions to be developed by the Design-Builder, and all subsequent contract modifications issued after execution of the Agreement, such as Change Orders.
- 1.11 “Contract Price”** is set forth in Section 7 of the Agreement and reflects the sum total of all compensation due to the Design-Builder for all Phase 1 and Phase 2 design services and Construction Services under the Agreement. Compensation for Phase 1 will be on a not-to-exceed basis, as set forth in Section 7.2 of the Agreement. Compensation for Phase 2 will be on either a Guaranteed Maximum Price or lump-sum basis.
- 1.12 “Contract Time”** is the time within which the Design-Builder must achieve Substantial Completion, and Final Completion on the Project, as set forth in Section 8.1 of the Agreement.
- 1.13 “Daily Construction Reports”** means the daily log kept by the Design-Builder that describes the weather, each Subcontractor's work on the site, the number of workers per trade, identification of equipment, construction work accomplished, problems encountered, and other similar relevant data such as accidents, service connections or disconnections, construction work stoppage, delays, material and labor shortages, and any applicable orders or requests from governing authorities.
- 1.14 “Design-Builder” or “Design-Build Entity”** means Kiewit Infrastructure West Co.
- 1.15 “Design-Build Subcontractors”** means all Subcontractors that contract directly with the Design-Builder to perform design services and Construction Services related to a specific trade or discipline.

- 1.16 “Design-Build Team”** includes the general contractor, Design Professionals and Design Build Subcontractor members of the Design-Builder performing design services and Construction Services for the Project, as further detailed in **Exhibit 6B**.
- 1.17 “Design Professionals”** means the Engineer of Record, the structural engineer, and any other design consultants who are performing Design Services for the Project on behalf of Design-Builder.
- 1.18 “Design Services”** includes all required design work required to complete the Project, consistent with the Design-Builder's Basis of Design Report.
- 1.19 “Design to Budget”** means the Design-Builder's commitment to design the Project to be completed within the Project Budget stipulated by the Owner for the Project, as further described in Section 5.2.6 of the Agreement.
- 1.20 “Direct Cost of the Work”** means the verifiable costs necessarily incurred by the Design-Builder in the proper performance of the construction Work during Phase 2, including General Conditions, to which the applicable Fees will be applied. The Direct Cost of the Work is summarized in more detail in Section 7.5.1 of the Agreement, and may only include the items set forth in the Project cost model included in **Exhibit 3A** Phase 1 Scope of Work.
- 1.21 “Effective Date”** means the date that the Design-Builder and Owner entered into the Agreement, which is set forth on page 1 of the Agreement.
- 1.22 “Electronic Design Protocol”** means the electronic design protocol developed by the Design-Builder collaboratively with Owner and incorporated into the Agreement as **Exhibit 14**.
- 1.23 “Electronic Design”** is a parametric, computable representation of the Project design developed by the Design Build Team and includes construction details. As used in this Agreement, references to the electronic design include the primary design model or models and all linked, related, affiliated or subsidiary models developed for design, detailing, fabrication, or construction of the Project pursuant to the protocol set forth in **Exhibit 14**. The primary design model and subsequent models developed for design and construction are Contract Documents. Portions of the electronic design prepared by the Subcontractors to illustrate how they will construct, fabricate or install the certain components of the Project are Submittals detailing how they will implement the Contract Documents and therefore, are not Contract Documents.
- 1.24 “Engineer of Record”** is the individual retained by the Design-Builder as the lead Design Professional that is responsible for the design of the Project and the stamping of the Construction Documents. The Engineer of Record for this Project is Mark Smith, P.E., Stantec Consulting Services Inc..
- 1.25 “Facilities”** means all equipment, products, materials, and piping required for the Project, both individually and collectively as a completed system comprising the completed Project.

- 1.26 “Final Completion”** occurs on the date when Design-Builder has achieved Substantial Completion; all Final Punch List items have been completed and accepted by the Owner; all close-out documentation required under the Project specifications has been transmitted to the Owner; and the Owner’s personnel have received the required training sessions regarding operation of the building and mechanical, electrical, controls, and plumbing systems.
- 1.27 “Final Completion Date”** This date will be subject to clarification and negotiation during Phase 1.
- 1.28 “Final Punch List”** is the punch list prepared by the Design-Builder in conjunction with the Owner after completing a Project walk-through upon Substantial Completion.
- 1.29 “Force Majeure Event”** means an Act of God as defined under Public Contract Code section 7105, civil disobedience, labor strike, an act of terror, epidemic, pandemic, or unavoidable casualties beyond the Design-Builder’s control, and not due to any act or omission of the Design-Builder or its Design Professionals and/or Subcontractors, that necessarily extends the Final Completion Date. Delays caused by the COVID-19 pandemic are expressly excluded from the definition of Force Majeure Event, except to the extent that COVID-19 variants cause the Project to shut down for more than 3 days, or materially affect Design-Builder’s ability to perform the work or obtain critical equipment in a way that was not anticipatable as of the date of execution of this Agreement.
- 1.30 “Geotechnical Interpretive Report” or “GIR”** means the final assessment of geotechnical conditions on the Project developed by the Design-Builder, if deemed necessary, in coordination with the Owner, and approved by both the Design-Builder and the Owner. The GIR will be based on information provided in the Design-Builder’s Basis of Design Report, but may be enhanced by additional borings, cone penetration soundings, and investigations and studies deemed necessary by the Design-Builder for a successful Project.
- 1.31 “Guaranteed Price”** means an all-inclusive price proposed by the Design-Builder for all construction work on the Project, which may be accepted by the Owner memorialized in the Guaranteed Price Amendment to the Agreement. At the Owner’s discretion, the Guaranteed Price will be converted either to a Guaranteed Maximum Price with a shared savings provision, or to a Lump Sum with applicable discount. Guaranteed Price may also apply to discrete scopes proposed by the Design-Builder as early work packages.
- 1.32 “Hazardous Materials and Substances”** means any substance, product, waste, or other material of any nature that is or becomes listed, regulated or addressed under one or more of the following Environmental Laws: (1) CERCLA, (2) Hazardous Materials Transportation Act, (3) RCRA, (4) the Clean Water Act, (5) the Toxic Substance Control Act, (6) HSAA, (7) the California Porter-Cologne Water Quality Control Act, (8) the California Hazardous Waste Management Act, (9) the California Safe Drinking Water Act, (10) the California Waste Management Act, and (11) any other Federal or State law or local ordinance concerning hazardous, toxic or dangerous substances, wastes, or materials.

- 1.33 “Key Personnel”** means the Design-Builder’s personnel identified as key to the overall success of the Project, and, at a minimum, including those positions defined as Key Personnel in the Design-Builder’s the Statement of Qualifications and Proposal in the RFQ and RFP. The Design-Builder’s Key Personnel are specifically identified in **Exhibit 6B**.
- 1.34 “Milestone Date”** means the milestone dates listed in Agreement section 5.11 and any other milestone dates agreed by the Parties as part of Phase 1 and Phase 2.
- 1.35 “Monthly Project Schedule”** is defined in Section 8.2 of the Agreement.
- 1.36 “Owner”** means the Santa Clara Valley Water District.
- 1.37 “Owner-Elected Changes”** are changes in the Work directed by the Owner that may impact the Contract Price, Substantial Completion Date and/or Final Completion Date and are not: (i) during Phase 1, reasonably inferable from Exhibit 2, Owner’s Basis of Design Report (ii) during Phase 2, reasonably inferable from the Design-Builder’s Basis of Design Report, or (iii) required as a result of design errors and omissions.
- 1.38 “Owner’s Project Criteria”** include criteria that Design Professionals shall perform design work consistent with in designing the Project, which shall include the Owner’s design-standards and Owner’s current Construction Specifications, Standard Provisions S0020 (03-29-22). Owner’s Project Criteria shall not be deemed Performance Requirements unless specifically identified as a Performance Requirements included in the Design-Builder’s Basis of Design Report.
- 1.39 “Owner’s Suspension of Work”** is when the Owner elects to suspend progress of Work on the Project under Section 16.2 of the Agreement.
- 1.40 “Party” or “Parties”** means the Design-Builder or the Owner in the singular or the Design-Builder and Owner collectively who have executed the Agreement.
- 1.41 “Performance Requirements”** means Criteria that define measurable project performance criteria and operational objectives. These criteria include technical requirements, standard construction specifications, and quality standards.
- 1.42 “Phase”** refers to stages of the progressive design-build process, where Phase 1 consists of preconstruction services and Phase 2 consists of construction services, each as further detailed in **Exhibit 3**.
- 1.43 “Preconstruction Survey”** means the preconstruction survey of the Work site conducted by the Design-Builder during Phase 1, as described in more detail in the Scope of Work.
- 1.44 “Product Data”** includes illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the

Design-Builder's Subcontractors illustrating materials or equipment for some portion of the construction work.

- 1.45** “**Project**” means the Coyote Pumping Plant Adjustable Speed Drives (ASDs) Replacement Project.
- 1.46** “**Project Budget**” means the total estimated Project cost of \$25 million, which includes Valley Water’s total budget for design and construction.
- 1.47** “**Project Site**” means those areas where the Design-Builder will be performing Work for the Project, including all areas in the field where construction, engineering or geotechnical work will be formed, as well as field office sites, any property used for storage for material for the Project, staging areas dedicated to the Project, and areas where activities incidental to the Project are being performed by the Design-Builder and its team members but excluding any home office locations of the Design-Builder or team members.
- 1.48** “**Project Baseline Schedule**” means the approved critical path schedule prepared by the Design-Builder for performance of all Phase 1 and Phase 2 Work, as developed and agreed upon in conjunction with the Guaranteed Price Amendment. The initial Project Baseline Schedule will be submitted early during Phase 1 and will be revised over the course of Phase 1.
- 1.49** “**Punch List**” is a list prepared by the Design-Builder, when Design-Builder considers the Project to be substantially complete, that includes all items of remaining Work that are incomplete or unsatisfactorily finished and a schedule for their completion.
- 1.50** “**Reference Documents**” means the planning and geotechnical reports provided to the Design-Builder and which can be accessed at an online location specified by Owner. Reference documents are not part of the Contract Documents.
- 1.51** “**Samples**” means physical examples of materials, equipment or workmanship required by the Construction Documents that are used to establish standards by which the construction work will be judged.
- 1.52** “**Shop Drawings**” means drawings, diagrams, and other data specially prepared by the Design-Builder and/or its Subcontractors, manufacturers, suppliers or distributors to demonstrate the way in which materials and equipment will perform in accordance with the design illustrated in the Construction Documents. Shop Drawings will be approved by Design-Builder, but Owner will also review.
- 1.53** “**Site Logistics Plan**” will provide phasing, establish the areas of the site that will be used for trailers, deliveries, staging, ingress and egress, location of major pieces of equipment, storage containers, stockpiles of materials, clearways used for emergency access, environmental controls, trailers for Design-Builder and Owner, fence line, approach to avoiding damage to existing pipes at the site, etc.
- 1.54** “**Skilled and Trained Workforce**” means a workforce that meets all of the requirements of the Public Contract Code at section 2601(d).

- 1.55 “Staffing Plan”** means the plan attached as **Exhibit 6A**.
- 1.56 “Subcontractor”** means all contractors under direct contract with Design-Builder for performance of a portion of the construction work as well as any lower tier-subcontractors. The term subcontractor includes Design-Build Subcontractors.
- 1.57 “Submittals”** includes Shop Drawings, Product Data, Samples and similar documentation required by the Project specifications or other Construction Documents.
- 1.58 “Substantial Completion”** means completion of all Work for the Project, including but not limited to design, construction, startup, commissioning, and Acceptance Testing requirements, in accordance with the Contract Documents, and sufficient for the Owner to occupy and use the Project for its intended purpose; notwithstanding the foregoing, incomplete minor Punch List work that does not affect Owner’s ability to occupy and use the Project for its intended purpose shall not prevent achievement of Substantial Completion. Owner may choose to use designated facilities before Acceptance, pursuant to Section 5.15.9.6 Use Before Acceptance.
- 1.59 “Substantial Completion Date”** refers to Substantial Completion of the Project, including satisfactory completion of the applicable Acceptance Tests, as set forth in Section 5.16 of the Agreement.
- 1.60 “Supplemental Conditions”** means the Supplemental Conditions to the Agreement attached and incorporated as **Exhibit 1**.
- 1.61 “Differing Site Conditions”** means discovery of unknown, unforeseen or differing site conditions, as defined in Public Contract Code section 7104, or any geotechnical conditions that differ from the approved Geotechnical Interpretive Report.
- 1.62 “Work”** means all necessary programming, design, permitting, construction, construction administration, project management and commissioning required to complete the Project, including all labor, materials, equipment, tools, and appurtenances necessary to complete the Construction Services described in, or reasonably inferable from, the Contract Documents.
- 1.63 “30% Design Package”** means the Project design package commissioned by the Owner to establish Project features, design criteria, and requirements. The Owner’s 30% Design Package includes the Owner’s Basis of Design Report, 30% Drawings, and 30% Specifications. For additional information, see Section 1.1.2 of the Owner’s Project Criteria.

2. **[RESERVED]**

3. **WORK RESTRICTIONS**

- 3.1 Work Hours and Work Periods.** All construction work will be performed between 8:00 a.m. and 5:00 p.m., Monday through Friday unless further restricted by permit requirements. Design-Builder will provide Owner with written notice for any construction work that will need to be performed after hours. All after hour construction work requires Owner's written approval prior to commencement. Work that removes a pump from service must occur during the low demand season (November 15 – March 15).
- 3.2 Noise.** All construction work will be performed with minimal disruption and noise and in accordance with CEQA mitigation requirements.
- 3.3 Traffic Mitigation Measures.** Design-Builder will comply with all traffic mitigation measures specified for the Project in the BODR, and all relevant project approvals and agreements.
- 3.4 Best Management Practices Action Plan.** Before commencing construction work, the Design-Builder will prepare and submit a best management practices action plan to the Owner that confirms compliance with all requirements included in the environmental document, NPDES permit for the Project and all other applicable storm water pollution prevention requirements, as discussed further in **Exhibit 3A** (Phase 1 Scope of Work).
- 3.5 Staging and Storage.** Material will be stored only in the areas indicated on the Site Logistics Plan. Limited short term staging areas will be designated in the Site Logistics Plan.
- 3.6 Owner's Operations.** In the event the Owner determines that the construction activities impact Owner's operations, upon notice from Owner, Design-Builder will stop all construction activities and will collaborate with Owner to reschedule the activity. See Section 16.2 of the Design-Build Agreement.

4. **SOILS INVESTIGATIONS AND HAZARDOUS MATERIALS AND SUBSTANCES**

- 4.1 Required Site Examination.** The Design Builder is required to examine the site before submitting its proposal for the Guaranteed Price Amendment per Section 5.6 of the Agreement. Design-Builder may conduct further testing of the site in preparing the GIR as detailed in Section 5.7 of the Agreement.
- 4.2 Hazardous Materials and Substances.** The Design-Builder is responsible for the proper discovery, handling, removal and disposal of the "**Hazardous Materials and Substances**" that were pre-existing at the Project Site before commencement of construction. The Design-Builder will not be considered the generator of any pre-existing Hazardous Materials and Substances on the Project Site and all manifests will be signed in accordance with applicable local, state, and federal requirements. The Design-Builder is also responsible for all Hazardous Materials and Substances that it either requires through the Project

design specifications or that are brought onto the Project Site by its employees and/or Subcontractors.

4.2.1 Unsafe or Hazardous Conditions. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from any Hazardous Materials and Substances encountered at the Project Site, the Design-Builder will stop any part of the Work that it deems unsafe until corrective measures have been taken. If the Design-Builder fails to take corrective measures, the Owner may do so. Failure on the part of the Owner to stop unsafe practices, or the Owner's efforts to take corrective measures after the Design-Builder fails to do so, does not relieve or diminish the Design-Builder's safety responsibilities.

4.2.2 Verification. Upon discovery of any Hazardous Material and Substances that had not previously been identified in the Design-Builder's Hazardous Material Survey or the Geotechnical Interpretive Report, as discussed further in **Exhibit 3A** (Phase 1 Scope of Work), the Design-Builder will immediately notify the Owner and stop all construction work in the area if necessary. The Owner will retain the services of a licensed laboratory to verify the presence or absence of Hazardous Material and Substances not initially identified in the Geotechnical Interpretive Report. If Hazardous Material and Substance are discovered that was not identified in the Geotechnical Interpretive Report, the Owner will contact its licensed laboratory to verify that the condition has been rendered harmless before construction work recommences in the affected area. The Design-Builder may be entitled to an adjustment in the Contract Time or Contract Price if the Hazardous Materials and Substances are deemed a Differing Site Condition as stated in Sections 8.4 and 9 of the Agreement. If the Hazardous Materials and Substances were pre-existing the Owner will pay for the services of the licensed laboratory. The Design-Builder will reimburse the Owner for the services of the licensed laboratory if the Hazardous Material and Substance was brought on-site by the Design-Builder or any of its Subcontractors or vendors.

5. SAFETY

5.1 Signs. The Design-Builder will erect and maintain, as required by existing conditions and performance of the construction work, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

5.2 Weekly Safety Meetings. The Design-Builder will hold weekly meetings with its Subcontractors to review Subcontractor compliance with the Design-Builder's Health and Safety Program.

5.3 Daily Jobsite Walks. The Design-Builder will also conduct daily jobsite inspections to verify that the construction work is being performed in a safe and workmanlike manner and in accordance with the Design-Builder's Health and

Safety Program. The Design-Builder will provide written notice to its Subcontractors demanding immediate correction of any known safety violation.

6. QUALITY ASSURANCE AND QUALITY CONTROL

- 6.1 Design Quality Control Plan.** The Design-Builder will prepare and submit to the Owner for approval a Design-Quality Control Plan that describes the procedures and methods the Design-Builder will utilize to control the quality of the design work. The Design Quality Control Plan must be approved before the start of design. The Owner reserves the right to require revisions of the Design Quality Control Plan that are necessary to ensure the specified quality of the design work. The Design Builder will assign appropriate personnel to oversee quality control. No change in the Design Quality Control Plan will be implemented without prior Owner approval.
- 6.2 Construction Quality Control Plan.** The Design-Builder will prepare and submit to the Owner for approval a plan that describes the procedures and methods the Design-Builder will utilize to control the quality of the construction work. The Quality Control Plan must be approved before the start of construction. The Owner reserves the right to require revisions of the Quality Control Plan that are necessary to ensure the specified quality of the construction work. The Design Builder will assign appropriate site personnel to oversee quality control. No change in the Quality Control Plan will be implemented without prior Owner approval. At a minimum the Quality Control Plan will provide information regarding the following:
- 6.2.1** Quality control supervision and document control.
 - 6.2.2** Identification of personnel for required training and qualification activities.
 - 6.2.3** Procedures for testing and inspections that identify individual inspection or testing points and acceptance criteria, and include provisions for recording results and the responsible inspection/test personnel.
 - 6.2.4** Procedures for identifying what applicable technical and quality requirements will be required of vendors supplying materials, parts and services to ensure compliance with the Contract Documents.
 - 6.2.5** Procedures for receiving, inspecting and accepting materials and equipment. The procedures will include, at a minimum, examination of the physical condition for compliance with the Contract Documents, purchase order and/or subcontract agreement, and identifying and processing any non-conforming goods.
 - 6.2.6** Provisions for identifying and timely remedying non-conforming or defective construction work.
 - 6.2.7** Documentation control to maintain records of the activities included in the Quality Control Plan. All documentation will be submitted to the Owner as

part of the close-out documentation for this Project and therefore must be logically organized and indexed for reference.

6.3 Manufacturer's Field Services. To the extent required, the Design-Builder will engage in a factory-authorized service representative to inspect field-assembled components and equipment installation, including service connections. All manufacturers' field service reports must be in writing and included as part of the records turned over to Owner during close-out.

6.4 Quality Control Reports. The Design-Builder will keep daily Quality Control Reports throughout the duration of the construction process certifying that the relevant area of the construction work has been inspected. The Quality Control Reports will be prepared, signed and dated by the personnel identified as the supervisor in the Quality Control Plan and will include, at a minimum, the following information:

6.4.1 Identification of the material, equipment or component that was inspected and indicate, if applicable, if the Submittals have been reviewed and approved by the Design-Builder.

6.4.2 Indicate that materials and/or equipment comply with the requirements of Section 5.15.9 of the Agreement and are properly stored, if not yet installed.

6.4.3 Indicate that the construction work has been performed in such a manner that that all required preliminary work has been inspected by Quality Control personnel, was properly performed, and that the area is ready to receive subsequent construction work. If the construction work is not acceptable, provide a written description of any re-work required in the area inspected with an explanation of the cause of the re-work (including which Subcontractors are involved), any cost involved in the required work, and the expected completion date of the required re-work.

6.4.4 Results of any off-site testing or quality control work and any required further actions.

6.4.5 Other necessary information including, directions received, quality control problem areas, deviations from the Quality Control Plan, construction deficiencies encountered, Quality Control meetings held, acknowledgement that as-built drawings and electronic design files have been updated (if applicable), corrective direction given by Quality Control personnel, and corrective action taken by the Design-Builder.

6.5 Quality Control Design Reports. The Design-Builder will keep daily Quality Control Design Reports throughout the duration of the construction process certifying that the relevant area of the construction work has been inspected. The Quality Control Design Reports will be prepared, signed and dated by the personnel identified as the supervisor in the Design Quality Control Plan. Quality Control Design Reports should be submitted as part of each design submittal.

6.6 Test and Inspection Logs. The Design-Builder will maintain an on-site inspection log that is accessible by the Owner. The log will document all tests and inspections performed at the Project during construction. In addition, the Design-Builder will prepare a sequentially numbered record of tests and inspections. The record of tests will include the following information:

6.6.1 Request for Inspection.

6.6.2 Date test or inspection was conducted.

6.6.3 Identity of testing agency or special inspector.

6.6.4 Description of the construction work tested or inspected.

6.6.5 Identification of any drawings or applicable details on the Construction Documents or Submittals that were used during testing and inspection.

6.6.6 Date that the test or inspection was concluded and the date that the results were transmitted to Owner.

7. TEMPORARY FACILITIES

7.1 Temporary Electricity. Design-Builder will provide, maintain, and pay for temporary electrical power at the Project Site for construction purposes and trailers. In certain situations, permanent power may be available through Owner, but the Design-Builder must provide all necessary wiring and appurtenances for connection to Owner's system, if allowed. Design-Builder must meter all connections to Owner's system to determine usage rates.

7.2 Temporary Communications. The Design-Builder will provide, maintain, and pay for all applicable communications and data service connections for field offices pursuant to the terms of the Agreement, including all installation and connection charges.

7.3 Temporary Water. The Design-Builder will provide, maintain, and pay for all required potable water required for construction field personnel as well as water required for and in connection with the construction operations such as dust control. Unnecessary waste of water will not be permitted. The Design-Builder must use special hydrant wrenches for opening and closing fire hydrants in lieu of pipe wrenches.

7.4 Temporary Fences. The Design-Builder will provide all necessary temporary fencing and gates required for the Project Site. Temporary fencing will be subject to restrictions in the use permit. The Design-Builder will maintain all fences for active work areas through Final Completion of the Project. Gates are to remain closed and locked during off-hours.

7.5 Temporary Sanitary Facilities. Provide and maintain all required temporary toilets for use of all design and construction personnel and field labor at the Project Site through Final Completion of the Project. Location of temporary sanitary facilities will be approved by Owner prior to delivery. The Design-builder

will provide at least 1 temporary toilet facility for every 20 persons. The Design-Builder will cause all design and construction personnel (including field labor) to use temporary sanitary facilities rather than Owner's sanitary facilities. All temporary sanitary facilities will comply with the Department of Health standards.

- 7.6 Temporary Barriers and Enclosures.** Provide barriers to prevent unauthorized entry to construction areas, to allow for Owner's safe use of the Project Site, and to protect existing facilities and adjacent properties from damage from construction operations.
- 7.7 Water Control.** Design-Builder will grade the Project Site as required by the civil design included in the Construction Document. During construction, the Design-Builder will maintain all trenches and excavated areas free from water accumulation and will provide the necessary barriers to protect the Project Site from ponding, running water and soil erosion. The Design-Builder will provide for increased drainage of storm water and any water that may be applied or discharged on the Project Site during performance of the construction work. All drainage facilities will be adequate to prevent damage to the construction work, Project Site, and adjacent property. Design-Builder will construct dikes, if necessary, to divert any increased runoff from entering adjacent property (except in natural channels), to protect Owner's property and the construction work, and to direct water to drainage channels or conduits. Design-Builder will provide ponding as necessary to prevent downstream flooding. Design-Builder shall be solely liable for any loss or damages resulting from Design-Builder's failure to comply with the provisions of the Regional Water Quality Control Board Construction General Permit. This includes preparation and compliance with a Stormwater Pollution Prevention Plan ("SWPPP"). All activities shall be consistent with the SWPPP."
- 7.8 Pollution Control.** The Design-Builder will provide a plan that meets the requirements of California Storm Best Management Practices (Stormwater Quality Task Force, 1993) to prevent the pollution of drains and watercourses by sanitary wastes, sediment, debris, and other substances and/or soil erosion during construction operations:
- 7.8.1** No sanitary wastes will be permitted to enter any drain or watercourse other than sanitary sewers. No sediment, debris, or other substance will be permitted to enter sanitary sewers without authorization of the receiving sanitary sewer service, and all possible best management practices will be taken to prevent materials from entering into any drain to watercourse.
- 7.8.2** In the event that dewatering of excavations is required, Design-Builder will obtain the necessary permits from local governmental authorities for discharge of the dewatering effluent. The Design-Builder will be responsible for assuring that water quality of the discharge meets the appropriate permit requirements prior to any discharge.

7.9 Erosion Control. As part of the civil design, the Design-Builder will provide an erosion control plan that is consistent with SWPPP to prevent soil erosion at the Project Site and adjacent property resulting from construction operations. Effective measures will be initiated before commencement of clearing, grading, excavation, or other operations that will disturb the natural protection:

7.9.1 Erosion and sedimentation control practices will include installation of silt fences, straw wattle, soil stabilization, re-vegetation, and runoff control to limit increases in sediment in stormwater runoff, including but not limited to, detention basins, straw bales, silt fences, check dams, geo-fabrics, drainage swales, and sand bag dikes.

7.9.2 The construction work will be scheduled to expose areas subject to erosion for the shortest possible time, and natural vegetation will be preserved to the greatest extent practicable. Temporary storage and construction buildings will be located, and construction traffic routed, to minimize erosion. Temporary fast-growing vegetation or other suitable ground cover will be provided as necessary to control runoff.

7.10 Construction Equipment and Aids. Design-Builder will furnish, install, maintain, and operate all construction equipment required by the performance of the construction work. Construction aids include elevators and hoists, cranes, temporary enclosures, swing staging, scaffolding and temporary stairs. When sandblasting, spray painting, spraying of insulation, or other activities inconveniencing or dangerous to property or the health of design or construction personnel or the public are in progress, Design-Builder will enclose the area of activity to contain the dust, over-spray, or other hazard.

7.11 Traffic Control. The Design-Builder will provide a traffic control plan in accordance with the California Department of Transportation Traffic Manual as part of its Site Logistics set forth in **Exhibit 7B**. The Design-Builder will submit its traffic control plan to the appropriate agency or agencies for approval before commencement of the construction work:

7.11.1 Traffic control will include signs, warning lights, reflectors, barriers, and other necessary safety devices and measures, including sufficient flagmen to direct vehicular traffic through the construction areas. No material or equipment will be stored or parked where it will interfere with the free and safe passage of public traffic. Design-Builder will remove all equipment and other obstructions from the public right-of-way at the end of each day's work, and at other times when construction operations are suspended for any reason.

7.11.2 All traffic associated with construction operations, including without limitation delivery and mail trucks, will enter Design-Builder's access gate and road. Design-Builder will provide signs directing construction and delivery traffic to this gate and will take all necessary steps to minimize inconvenience to the Owner and the general public throughout the construction process. No driveways or private roads will be blocked

without notifying the property owner, and access must be restored during all non-working hours.

7.11.3 Safe access must be maintained for pedestrian traffic throughout any public work area at all times.

7.11.4 At least one lane of traffic in each direction on all roads used on the Project must be kept open at all times unless prior approval is provided by the Owner and any affected agency. No roads will be blocked or made inaccessible, due to Design Builder's construction work, without prior written consent of the Owner and the affected agencies in the form of an encroachment permit. Under no circumstances will the Design-Builder block or obstruct fire lanes at any time.

7.12 Removal of Temporary Facilities and Equipment. The Design-Builder will remove all temporary utilities, equipment, facilities, and materials before final inspection of the Project and clean and repair any damage caused by installation or use of temporary work restoring existing facilities to their original conditions.

8. SURVEYING

8.1 Field Engineering. The Design-Builder will employ a California State licensed civil engineer or land surveyor to provide field engineering services to establish benchmarks and line and grade for horizontal and vertical control.

9. DEMOLITION

9.1 Demolition Plan. Prior to commencing any required demolition work, the Design-Builder will submit a plan to the Owner for review and approval. Under no circumstances, can demolition interrupt the Owner's operations. The Design-Builder's plan, at a minimum, will address the following:

9.1.1 Identify areas that will require demolition and provide a schedule for those demolition activities that is coordinated with the Owner's operations and the approved Project Baseline Schedule.

9.1.2 Inventory materials and equipment that will be salvaged during demolition and whether the salvaged materials and equipment will be reused, returned to the Owner, or sold at fair market value on behalf of the Owner.

9.1.3 Document procedures for protecting the adjacent properties, structures and/or building materials, equipment and components that are remaining, as well as protection plans for adjacent property and persons.

9.1.4 Document procedures for proper ventilation, noise, and dust control during demolition operations and clean-up after demolition is completed.

9.1.5 Document procedures for required disruption of any utility service as a result of demolition activities and a record of any utilities that are capped during the process. Any required shut-off or interruption of service must

be approved in writing by the Owner 14 business days in advance, and all necessary water, emergency power, etc., must be in place prior to shut-off or disruption.

- 9.1.6** Provide for all required temporary sheeting, shoring, bracing or other structural support necessary to ensure stability of adjacent properties and prevent movement, settlement or collapse during demolition operations. All required temporary structural support will be designed by a California licensed structural or civil engineer.
- 9.1.7** Document procedures that deal with encountering Hazardous Materials and Substances that comply with Section 18.14 of these Supplemental Conditions.
- 9.1.8** Document procedures for hauling away and disposal of any demolished materials and equipment. The procedures should include, among other things, requirements for refrigerant recovery under Environmental Protection Agency, a list of all required hauling permits, requirements for hauling and disposing of Hazardous Waste, volatile organic compounds or any other substance that is regulated by Health and Safety Code, the Bay Area Air Quality Management District "BAAQMD" or any other governmental agency that regulates the proper hauling and disposal of certain materials and substances.
- 9.1.9** Document procedures to ensure that removal and replacement of equipment will not void any existing warranties.
- 9.1.10** Require a survey of existing conditions and video or photographic documentation before commencement of the demolition activity to demonstrate existing conditions of adjacent areas or property.

- 9.2 Permits and Fees.** The Design-Builder will secure all required hauling permits. The Owner will reimburse the Design-Builder at cost, for all permits and dumping fees as part of the Cost of Work.

10. PROTECTION OF WORK AND PROPERTY

- 10.1** Design-Builder will be responsible for providing a safe place for the performance of the construction work and for the physical conditions and safety of areas affected by the construction work. Design-Builder will take all necessary precautions to provide for the safety and protection of all persons who may come in contact with the construction work and for all property within or adjacent to the Project Site including adequate precautions to protect existing sidewalks, curbs, pavements, utilities, and other adjoining property and structures. Design-Builder will repair any damage caused by its operations at its own expense and will provide protection to prevent damage, injury or loss to:

- 10.1.1** Employees and other persons at the Project Site.

10.1.2 Equipment, materials, and vehicles stored at the site or off-site if under the care, custody, or control of the Design-Builder or its Design Professionals or Subcontractors.

10.1.3 Existing structures, property and the work of others when carrying out Design-Builder's Work.

10.2 These precautionary measures will apply continuously and not be limited to normal working hours.

10.3 If damage to persons or property occur as a result of the construction work, Design-Builder will be responsible for proper investigation, documentation, including video or photography, to adequately memorialize and make a record of what transpired. The Owner will be entitled to inspect and copy any documentation, video, or photographs.

11. WORKERS AND WORKERS' COMPENSATION

11.1 Design Builder will at all times enforce strict discipline and good order among its employees. Design Builder will not employ on the Project any unfit person or unskilled labor.

11.2 Design Builder and its Subcontractors are required to secure the payment of compensation of its employees in accordance with Labor Code section 3700. Before commencing the Work, the Design Builder, its Design Build Team members, and its Subcontractors will sign and file a certification with the Owner under Labor Code section 1861 stating the following:

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the any work or services under the Design-Build Agreement or any subcontract or design service agreements.

12. CHANGE IN NAME OR LEGAL ENTITY

12.1 If a change in name or nature of the Design-Builder's legal entity is anticipated, the Design Builder will notify the Owner to ensure that the change will be properly reflected on the Agreement.

13. PROHIBITED INTERESTS

13.1 No public official or representative of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, supervise, make, accept, approve, or to take part in negotiating, supervising, making, accepting or approving any engineering, inspection, construction or material supply contract or any subcontract in connection with design and construction of the Project, will be or become directly or indirectly interested financially in this Agreement.

14. LAWS AND REGULATIONS

- 14.1** Design Builder will give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct of Work. If Design Builder observes that the Contract Documents are at variance with any laws, ordinances, etc., Design Builder will promptly notify the Owner, in writing, and any necessary changes will be adjusted. If Design Builder performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without notice to the Owner, it will bear all costs associated with any required corrections or repairs.

15. ELECTRONIC DESIGN

- 15.1 Electronic Design Workshop.** The Design Build Team will meet and develop detailed protocols for the use of electronic design on this Project collaboratively with Owner, which will be documented in the Electronic Design Execution Plan that will be incorporated into the Agreement as **Exhibit 14**. Among other things, the protocols developed will:
- 15.1.1** Specify where and how electronic design files will be maintained including the parties with substantive responsibility for controlling the information within specific models or model elements;
 - 15.1.2** Provide minimum hardware and software requirements, including the software (including software revision or build date if applicable) that will be used to develop the electronic design files;
 - 15.1.3** Specify protocols for naming conventions, data structure, version control, roll-back, gate keeping, and archiving;
 - 15.1.4** Establish a common coordinate system and conventions as to units;
 - 15.1.5** Specify what building components or systems will be modeled and the level of detail that will be modeled and incorporate appropriate allowances for differing construction tolerances. Designers are required to design to accurate dimensions in the electronic design files;
 - 15.1.6** Specify when and how information regarding constructability and cost will be derived from the electronic design files and provided to the designers to inform design;
 - 15.1.7** Specify when and how existing site information is incorporated into the Model;
 - 15.1.8** Specify how RFIs, clarifications, Shop Drawing and Submittal information will be reviewed and incorporated into the electronic design files;
 - 15.1.9** Specify when and how clash detection/conflict resolution sessions will occur;

15.1.10 Determine what information is more efficiently developed and conveyed using traditional 2D design tools and develop protocols for assuring consistency between the electronic design files and ancillary 2D information;

15.1.11 Specify how electronic design files will be updated and function as a Record Model; and

15.1.12 Specify what design information, if any, will be developed or maintained outside of the electronic design files.

15.1.13 The electronic design workshop will be scheduled by the Electronic Design Administrator early in the design process. Any disagreement regarding protocols will be decided by the Owner. The Electronic Design Administrator described in Section 15.2 below will document the decisions reached in the Electronic Design Execution Plan.

15.2 Electronic Design Administrator. Each Design Build Team Member is responsible for maintaining any individual design or analysis models and providing their modeling information, at appropriate intervals, to the administrator of the Electronic Design ("Electronic Design Administrator"). The Design Builder will select an Electronic Design Administrator who is responsible for receiving modeling information from the Design Build Team and incorporating the information into a master electronic design. Unless otherwise agreed, the Electronic Design Administrator will host and manage the modeling information.

15.3 Status of the Electronic Design. Design Builder will construct the Project in accordance with the electronic design that complies with the Base Design Criteria and 30% Design Package, Design-Builder's Basis of Design Report, and all Specifications and other Contract Documents subject to any subsequent modifications. Elements necessary for a fully functional Project, but not modeled due to their size or level of detail, will be provided by the Design Builder as part of its Construction Work with a level of quality consistent with the Base Design Criteria and 30% Design Package, Design-Builder's Basis of Design Report, and all approved Permitted Drawings and Specifications. It is anticipated that some design information, such as construction details, will not be incorporated into the electronic design, but will be prepared as conventional 2D drawings or CAD files. Subject to the agreed level of modeling, the electronic design provides dimensional information supplemental to the 2D Drawings. Some design information will only be contained in the written Specifications. The electronic design, the 2D Drawings, and the written Specifications are all Contract Documents.

15.4 Submission of Signed and Stamped Drawings. 2D Drawings, calculations and Specifications must be generated, reviewed, sealed, and submitted to reviewing agencies and applicable Governmental Authorities. The Engineer of Record and Consultants and the Design-Build Subcontractors will each be responsible for, and will sign and stamp, the Drawings, Specifications and calculations prepared by them. To the greatest extent possible, the 2D Drawings may be generated from the electronic design.

15.5 Miscellaneous Electronic Design Issues

- 15.5.1** Participation by Design Builder or any Subcontractor or supplier, other than Design-Build Subcontractors, in contributing data or advice for use in the electronic design will not be deemed the provision of Design Services.
- 15.5.2** A person may only rely on the substantive information contained within any data in the electronic design files to the extent appropriate to the level of detail required of the electronic design at the time.
- 15.5.3** Any corrections or repairs to the electronic design files as a result of the failure of the Engineer of Record, Design Builder, or those for whom they are responsible to comply with the provisions of the Electronic Design Execution Plan will be a Cost of the Work without an increase in the Contract Price or Contract Time.

16. PARTNERING

The Owner and Design-Builder will consider participating in regular partnering sessions throughout the course of the Project in order to maintain cooperative communication, to resolve potential sources of conflict before they escalate into disputes, to resolve conflicts at the lowest possible management level, and to increase the prospects of success on the Project. If both parties agree that partnering will be beneficial, Design-Builder and Owner will agree on a partnering facilitator, as well as details of the proposed partnering structure and procedures. The partnering facilitator shall schedule and administer a one or two day "Partnering" workshop at a mutually agreeable workshop site, to be conducted within 30 days of the issuance of the Notice to Proceed for the Project.

The costs involved in providing a facilitator and a workshop site will be borne equally by the Owner and the Design-Builder. The Design-Builder will pay all compensation for the wages and expenses of the facilitator, and the expenses for securing the workshop site. The Owner's share of such costs will be reimbursed to the Design-Builder in a change order written by the Owner. Markups will not be added. All other costs associated with the "Partnering" relationship will be borne separately by the party incurring the costs.

The establishment of a "Partnering" relationship will not change or modify the terms and conditions of the contract and will not relieve either party of the legal requirements of this contract.

17. DISPUTE RESOLUTION

There are multiple levels of dispute resolution applicable to the Work under the Agreement, which must be satisfied in sequence, as follows: (1) Change Order procedures pursuant to Section 9 of the Agreement; (2) Dispute Resolution procedures outlined in this Section 17; and (3) Public Contract Code Claims Procedures summarized in Section 18.12 of these Supplemental Conditions.

As a prerequisite to proceeding with the Dispute Avoidance and Resolution procedures under Section 17.1, Design-Builder must first comply with all Change Order procedures in Section 9 of the Agreement.

17.1 Dispute Avoidance and Resolution. The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes. If disputes do arise, Design-Builder and Owner each commit to resolving such disputes in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and the Owner which will conclude within fourteen (14) days of the date notice of the dispute is submitted to the other party. In no event will such notice be provided more than ten (10) days of the occurrence of the event giving rise to the dispute, unless the Owner and Design-Builder mutually agree otherwise.

If a dispute or disagreement cannot be resolved through field level discussions, senior executives of the Design-Builder and the Owner, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the senior executives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement. If the senior executives of the Design-Builder and Owner are unable to resolve a dispute or if a senior executive conference is not held within the time provided herein, either Party may submit the dispute to mediation. Notwithstanding the foregoing, the Design-Builder must proceed with the Public Contract Code Claims Procedures identified in Section 18.12 of these Supplemental Conditions prior to proceeding to mediation and/or filing a construction claim.

17.2 Filing of Public Works Construction Claim, and Civil Actions. In the event the Parties are unable to come to agreement on a disputes addressed under the Dispute Avoidance and Resolution procedures, the Design-Builder may proceed with the claims procedures set forth in Section 18.12 of these Supplemental Conditions.

18. STATUTORY PUBLIC WORKS CONTRACT REQUIREMENTS

The following requirements apply to all public works construction work performed under this Agreement.

18.1 Public Works Registration. Design-Builder or its contractor, and all subcontractors, must be registered with the California Department of Industrial Relations pursuant to Labor Code section 1725.5. This Agreement is subject to monitoring and enforcement by the DIR pursuant to Labor Code section 1771.4. Design-Builder shall furnish the records specified in Labor Code section 1776 directly to the Labor Commissioner on a monthly basis, and in a format

prescribed by the Labor Commissioner. Design-Builder must also post notices at the work site pursuant to Title 8 California Code of Regulations section 16451.

- 18.2 Use of Subcontractors.** Design-Builder shall not subcontract any work to be performed by it under this Agreement without the prior written approval of Owner, which approval will not be unreasonably withheld. Design-Builder shall be solely responsible for reimbursing any subcontractors and Owner shall have no obligation to them. Attention is directed to the requirements of section 4100 to 4113, inclusive of the California Public Contract Code which are applicable to the work covered by this Agreement.
- 18.3 Prohibition Against Contracting with Debarred Subcontractors.** Design-Builder is prohibited from performing work on a public works project with a subcontractor who is ineligible to perform work on the public works project pursuant to section 1777.1 or 1777.7 of the Labor Code.
- 18.4 Prompt Payment to Subcontractors.** Design-Builder shall pay any subcontractors approved by Owner for work that has been satisfactorily performed no later than seven (7) days from the date of Design-Builder's receipt of progress payments by Owner. Within thirty (30) days of receipt of retention by Design-Builder and satisfactory completion of all work required of the subcontractor, Design-Builder shall release any retention payments withheld to the subcontractor. In the event Design-Builder does not make progress payments or release retention to the subcontractors in accordance with the time periods in this Section, Design-Builder will be subject to a charge of two percent (2%) per month on the untimely or improperly withheld payment. Owner may require Design-Builder to provide documentation satisfactory to Owner of Design-Builder's compliance with this requirement as a condition of final payment and release of contract retentions, if any.
- 18.5 Payment Bond for Construction Work.** Pursuant to Civil Code section 9550, Design-Builder shall furnish to Owner a Payment Bond in amount of the Phase 2 GMP or Lump Sum, covering all construction work performed during Phase 2, to provide Owner with security for Design-Builder's full payment to workers and subcontractors for costs of materials, equipment, supplies, and labor furnished in the course of the performance of the work applicable to this Section. A form of payment bond is included in **Exhibit 9B**.
- 18.6 Labor Code Provisions.** In the performance of this Contract, Design-Builder's attention is directed to the following requirements of the Labor Code:
- 18.6.1 Hours of Labor.** Eight hours labor constitutes a legal day's work. Design-Builder shall forfeit, as penalty to Owner, \$25 for each worker employed in the performance of the Agreement by Design-Builder or by any subcontractor under it for each calendar day during which such worker is required or permitted to work more than eight hours in any one day and 40 hours in any one calendar week in violation of the provisions of the California Labor Code and in particular, sections 1810 to 1815, inclusive. Work performed by employees of the Design-Builder in excess of eight hours per day and 40 hours during any one week shall be

permitted upon compensation for all hours worked in excess of eight hours per day at not less than one-and-one-half times the basic rate of pay, as provided in section 1815.

18.6.2 Prevailing Wages. Design-Builder shall comply with California Labor Code sections 1770 to 1780, inclusive. In accordance with section 1775, the Design-Builder shall forfeit as a penalty to Owner an amount as determined by the Labor Commissioner not to exceed \$200 for each calendar day or portion thereof for each worker paid less than stipulated prevailing wage rates for such work or craft in which such worker is employed for any work done under the Agreement by him or by any subcontractor under it in violation of the revisions of the Labor Code and in particular, Labor Code sections 1770 to 1780, inclusive. In addition to said penalty and pursuant to 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 Design-Builder. Pursuant to the provisions of section 1773 of the Labor Code, Owner has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work applicable to the work to be done from the Director of the Department of Industrial Relations. Copies of the prevailing wage rates are on file at Owner and are available for review upon request.

18.6.3 Payroll Records. The Design-Builder's attention is directed to the following provisions of Labor Code section 1776. The Design-Builder shall be responsible for the compliance with these provisions by his subcontractors.

- a. Each contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.
- b. The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Design-Builder on the following basis:
 1. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
 2. A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to Owner, the Division of Labor Standards Enforcement and the Division of

Apprenticeship Standards of the Department of Industrial Relations.

3. A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either Owner, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the Design-Builder, subcontractor and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Design-Builder.
 4. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the Division.
 5. The Design-Builder shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within ten (10) days after receipt of a written request.
 6. Any copy of records made available for inspection as copies and furnished upon request to the public or Owner, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Design-Builder shall not be marked or obliterated.
- c. The Design-Builder shall inform Owner of the location of records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
 - d. In the event of noncompliance with the requirements of this Section, the Design-Builder shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects such contractor must comply with this Section. Should noncompliance still be evident after such 10-day period, the Design-Builder shall, as a penalty the State or Owner, forfeit Twenty-five Dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is

effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due. The penalties specified in subdivision (g) of Labor Code section 1776 for noncompliance with the provisions of said section 1776 may be deducted from any monies due or which may become due to the Design-Builder.

- e. The Design-Builder and each subcontractor shall preserve their payroll records for a period of three (3) years from the date of completion of the Contract.

18.6.4 Labor Non-discrimination. Attention is directed to section 1735 of the Labor Code which provides that Design-Builder shall not discriminate against any employee or applicant for employment because of race or color, religion, physical or mental disability, national origin or ancestry, medical condition, marital status or sex of such persons, except as provided in section 12940 of the Government Code. Design-Builder further agrees to include a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

18.6.5 Apprentices. The Design-Builder and all subcontractors shall comply with the requirements of California Labor Code sections 1777.5, 1777.6 and 1777.7 regarding the employment and of apprentices.

18.7 Equal Employment Opportunity. The Santa Clara Valley Water District is an equal opportunity employer and requires its contractors to have and adhere to a policy of equal opportunity and nondiscrimination. In the performance of the Agreement, the Design-Builder will comply with all applicable Federal, State, Local Laws and Regulations, and will not discriminate against any subcontractor, employee, or applicant for employment in the recruitment, hiring, employment, utilization, promotion, classification or reclassification, transfer, recruitment advertising, evaluation, treatment, demotion, layoff, termination, rates of pay or other forms of compensation, and selection for professional development training (including apprenticeship); or against any other person on the basis of sex (which includes pregnancy, childbirth, breastfeeding, and medical conditions related to pregnancy, childbirth, or breastfeeding); race, religion, color, national origin (including language-use restrictions); ancestry, religious creed (including religious dress and grooming practices); political affiliation, disability (mental and physical, including HIV or AIDS); medical condition (cancer and genetic characteristics) and genetic information; marital status, parental status, gender, age (40 and over); pregnancy, military, and veteran status; sexual orientation, gender identity, and gender expression; the exercise of family and medical care leave; the exercise of pregnancy disability leave; or the request, exercise, or need for reasonable accommodation.

The Design-Builder's policy must conform with applicable State and Federal guidelines, including the Federal Equal Opportunity Clause, "Section 60-1.4 of Title 41, Part 60 of the Code of Federal Regulations;" Title VII of the Civil Rights Act of 1964 as amended; the American's with Disabilities Act of 1990; the

Rehabilitation Act of 1973 (Sections 503 and 504); the Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et. seq.); California Fair Employment and Housing Act (Government Code Section 12900 et. seq.); and California Labor Code Sections 1101 and 1102.

The Design-Builder must designate a specific position within its organization to be responsible for investigating allegations of non-compliance with the anti-discrimination and anti-harassment provisions of this Agreement. Design-Builder must conduct a fair, prompt, and thorough investigation of all allegations directed to Design-Builder by the Owner. In cases where such investigation results in a finding of discrimination, harassment, or hostile work environment, Design-Builder must take prompt, effective action against the offender.

18.8 Skilled and Trained Labor Force Requirements. Design-Builder agrees to comply with all requirements related to providing a skilled and trained workforce, pursuant to Public Contract Code section 22164(c), and Public Contract Code sections 2600-2603, including but not limited to the requirement to submit monthly reports to the Owner.

18.9 Retention on Progress Payments. Owner will deduct and hold in retention five percent (5%) from each progress payment to Design-Builder for construction work, or portion thereof. The remainder, less any other deductions taken in accordance with the Agreement, will be paid to Design-Builder as progress payments.

18.10 Securities in Lieu of Retention. Pursuant to Public Contract Code section 22300, Design-Builder may elect, in lieu of having progress payments retained by Owner, to deposit in escrow with Owner, or with a bank acceptable to Owner, securities eligible for investment under 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 Design-Builder and Owner. If Design-Builder elects to submit securities in lieu of having progress payments retained by Owner, Design-Builder shall, at the request of any subcontractor performing more than 5% of Design-Builder's total bid, make the same option available to the subcontractor.

18.11 Assignment of Claims. In entering into a public works contract or a subcontract to supply goods, services, or materials, Design-Builder or subcontractor offers and agrees to assign to Owner all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 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 Owner tenders final payment to Design-Builder, without further acknowledgement by the parties.

18.12 Third-Party Claims. Pursuant to Public Contract Code section 9201, Owner shall have full authority to compromise or otherwise settle any claim relating to the Agreement at any time. Owner shall provide for timely written notification to

Design-Builder of the receipt of any third-party claim, within thirty (30) days. Without limiting Owner's rights and in the Owner's sole discretion, for Third-Party claims that involve Design-Builder, Owner may provide a reasonable opportunity for Design-Builder to seek consent from Design-Builder's relevant insurer(s) prior to Owner settling the applicable claims.

18.13 Public Contract Code Claims Procedures

18.13.1 Mandatory Prerequisites to Filing a Construction Claim. Prior to filing a construction claim pursuant to Public Contract Code sections 9203 and 20104-20104.6 and this Section, Design-Builder must first complete all Change Order procedures in Section 9 of the Design-Build Agreement, and all Dispute Resolution procedures set forth in Section 17 of these Supplemental Conditions. Any claim submitted prior to satisfaction of the Change Order procedures or the Dispute Resolution Board procedures will be rejected as premature and untimely. A construction claim must be submitted no later than (a) 30 days after the completion of all Dispute Resolution procedures are completed, or (b) 30 days after the occurrence of the event giving rise to the claim.

18.13.2 Claims Procedures. In accordance with the procedures set forth in Public Contract Code sections 9204 and 20104-20104.6, Design-Builder may submit a claim by registered or certified mail with return receipt requested, for one or more of the following: (a) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by the Owner; (b) payment by the Owner of money or damages arising from work done by, or on behalf of, the Design-Builder pursuant to this contract and payment for which is not otherwise expressly provided or to which the Design-Builder is not otherwise entitled; or (c) payment of an amount that is disputed by the Owner.

18.13.3 Support for Claim. The Design-Builder shall furnish reasonable documentation to support the claim, including but not limited to: (1) a clear, concise recital of the basis upon which the claim is asserted, including a designation of the provisions of the Contract Documents upon which the claim is based, (2) a statement as to the amount of time and/or compensation sought pursuant to the claim; (3) whether the Design-Builder's claim arises from an ongoing occurrence, and if so a description of the specific Work activities affected by the claim, (4) a time impact analysis in the event that Design-Builder requests a time extension, (5) full and complete cost records supporting the amount of any claim for additional compensation, and (6) a notarized certification by the Design-Builder as follows: "Under the penalty of law for perjury or falsification and with specific reference to the California False Claims Act, Government Code section 12650 et seq., the undersigned hereby certifies that the information contained herein is a true, accurate and complete statement of all features relating to the claim asserted." Failure by the Design-Builder to provide sufficient

documentation will result in denial of the claim. The Owner reserves the right to request additional documentation, or clarification of the documentation provided.

18.13.4 Response to Claim. Upon receipt of a claim, the Owner will conduct a reasonable review and provide a written statement to the Design-Builder identifying what portion of the claim is disputed and what portion is undisputed within 45 days of receipt of the claim. The Owner and Design-Builder may, by mutual agreement, extend the 45-day time period. For any undisputed portion of a claim, the Owner must make payment within 60 days of its issuance of the written statement.

If the Design-Builder disputes the Owner's written statement, or if the Owner fails to respond, the Design-Builder may demand an informal conference to meet and confer for settlement of the issues in dispute. The Owner will then schedule the meet and confer conference within 30 days of the demand. Within 10 business days following the meet and confer conference, the Owner will provide a written statement identifying the portion of the claim that remain in dispute. Any payment due on an undisputed portion of the claim will be made within 60 days of the meet and confer conference.

After the meet and confer conference, any disputed portion of the claim shall be submitted to non-binding mediation. Alternatively, upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable. If mediation is unsuccessful, the parts of the claim that remain in dispute shall be subject to applicable procedures set forth below.

Failure of Owner to respond to a claim within the time periods described above shall result in the claim being deemed rejected in its entirety. Additionally, amounts not paid in a timely manner shall bear interest at 7 percent per year.

In the event that the mediation is unsuccessful, Design-Builder must file a government claim pursuant to Government Code section 910 et seq. in order to initiate a civil action.

18.14 Utility Relocation. It is acknowledged that pursuant to the **Exhibit 3** Scope of Work tasks, during Phase 1 Design-Builder will investigate the locations of utilities on the Project Site. Accordingly, during Phase 2, Design-Builder is responsible for all costs and delays incurred as a result of any utility conflicts, except for unknown utilities or utility conflicts that could not have been reasonably identified through the investigation during Phase 1, which may be subject to a Change Order under Section 9 of the Agreement.

18.15 Trenching, Shoring, and Differing Site Conditions

18.15.1 Compliance. Design-Builder will comply with Labor Code sections 6500, 6705, and 6707, and Public Contract Code section 7104 regarding trenching and shoring.

18.15.2 Permit Requirements for Trenches 5'-0" or More in Depth. Design-Builder agrees to comply in full with section 6500 of the Labor Code and to provide the required permits prior to the initiation of any work, method, operation or process that involves: (i) construction of trenches or excavations that are 5'-0" or deeper and into which a person is required to descend; (ii) the construction of any building, structure, falsework, or scaffolding more than 3 stories high or the equivalent height; (iii) the demolition of any building, structure, falsework, or scaffold more than 3 stories high or the equivalent height; or (iv) the underground use of diesel engines in work in mines and tunnels.

18.15.2.1 Detailed Plans for Trenches 5'-0" or More in Depth. In compliance with Labor Code section 6705, the Design-Builder will submit to the Owner's Project Manager, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches 5'-0" or more in depth. If the plan varies from shoring system standards, the plan will be prepared by a registered civil or structural engineer. The plan will not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations.

18.15.2.2 Separate Bid Items for Sheet piling, Shoring, etc. To the extent that Design-Builder's Work involves construction of a pipeline, sewer, sewage disposal system, boring and jacking pits, or similar trenches or open excavations, which are 5'-0" or deeper, Design-Builder will comply with all applicable laws, regulations, and codes and its bid and the Contract Price will contain, as a line item, adequate sheet piling, shoring, and bracing, or equivalent method, for the protection of life or limb pursuant to Labor Code section 6707, which will conform to applicable safety orders. Nothing in this Section will be construed to impose tort liability on the Owner or any of its employees.

18.15.3 Excavations Deeper than 4'-0". If Work under this Agreement involves digging trenches or other excavation that extends deeper than 4'-0" below the surface, Design-Builder will promptly, and before the following conditions are disturbed, notify Owner's Project Manager, in writing, in accordance with Public Contract Code section 7104, of any:

18.15.3.1 Material that the Design-Builder believes may be hazardous waste, as defined in section 25117 of the Health and Safety Code, which is required to be removed to a Class I, Class II, or

Class III disposal site in accordance with provisions of existing law.

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

18.15.3.3 Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in the construction work of the character provided for in the Bid Documents and under this Agreement.

18.15.4 Differing Site Conditions. For Differing Site Conditions, Design-Builder's notice to Owner shall be issued by telephone or in person and followed within 24 hours thereafter by written notice, providing a brief description of why the condition encountered is considered a Differing Site Condition. Promptly upon receipt of Design-Builder's notice, Owner will investigate the site conditions. If, during construction, the Design-Builder encounters an alleged Differing Site Condition, the Design-Builder shall immediately give written notice and may continue work; provided however that the following documents and information shall be submitted on a daily basis:

1. Digital photographs (paper and electronic copy) that detail the Differing Site Conditions;
2. An electronic copy of the pertinent data (e.g., settlement monitoring data, boring logs, dewatering production rates, etc.) for the previous 24 hours;
3. As applicable, sample of soil and groundwater in the alleged Differing Site Condition area;
4. Design-Builder's applicable daily reports for each day that the alleged Differing Site Condition exists; and
5. Detailed daily records (which shall include, but not be limited to, labor and equipment), describing the alleged Differing Site Conditions and the impact the Differing Site Conditions are having on the progress of the construction.

Written notice shall describe the specific conditions encountered and the measures taken to deal with the conditions. The Design-Builder will provide the Owner with written notice within 5 business days discovery of an Differing Site Condition. The Owner, will promptly investigate the conditions, and if they find that the conditions are a Differing Site Condition, and cause a decrease or increase in Design-Builder's Contract Price or Contract Time for any part of the Work, the Owner issue a Change Order under Section 9 of the Agreement. If it is determined that physical conditions at the site are not a Differing Site Condition, or that no

change in terms of the Contract Documents is justified, the Owner will notify Design-Builder in writing, stating reasons the Design-Builder will not be entitled to an adjustment in the Contract Price or Contract Time. Such reasons may include any of the following:

18.15.4.2 Design-Builder knew of the existence of the conditions at the time Design-Builder submitted its proposal; or

18.15.4.3 Design-Builder should have known of the existence of the conditions as a result of having complied with the requirements of Contract Documents; or

18.15.4.4 Design-Builder was required to give written notice of differing site conditions under the Contract Documents and failed to do so within the time required.

The Design-Builder will not be excused from the Contract Time to complete its Work and will proceed with all Work to be performed under the Agreement unless or until it is determined that Design-Builder is entitled to an adjustment under Section 9 of the Agreement. If the Design-Builder disagrees with the decision regarding an alleged Differing Site Condition, Design-Builder may pursue a claim under Section 18.12 of these Supplemental Conditions.

18.16 Design-Builder's License Requirements. Design-Builder and any approved subconsultants (for architectural design, engineering, construction project management services) or subcontractors shall hold such current and valid licenses as required by California Law, including the Department of Industrial Relations (DIR) contractor and subcontractor registration requirements articulated in part by Cal. Labor Code section 1725.5.

18.17 Examination and Audit of Records. Pursuant to Government Code section 8546.7, Design-Builder shall retain all project-related records for a period of 3 years after final payment on this Agreement, which shall be subject to audit or inspection by the Owner or the State Auditor during this period.

18.18 Safety Requirements. The Design-Builder shall promptly and fully comply with and carry out, and shall without separate charge therefore to the Owner, enforce compliance with the safety and first aid requirements prescribed by applicable State and Federal laws and regulations, rules and orders and as may be necessary to ensure that all Construction Work shall be done in a safe manner and that the safety and health of the employees, agents and the people of local communities is safeguarded. Compliance with the provisions of this Section by subcontractors shall be the responsibility of the Design-Builder. All installed, dismantled, and removed material, equipment and facilities, without separate charge therefore to Owner, shall fully conform with all applicable State and Federal safety laws, rules, regulations and orders and it shall be the Design-Builder's responsibility to furnish only such material, equipment and facilities.

The Design-Builder and each Design-Build Team Member will follow the most current safety orders and requirements on Novel Coronavirus COVID-19 issued by the Santa Clara County Public Health Officer when performing work on the Project. The Design-Builder and each Design-Build Team Member will provide a signed certification indicating that it understands the Owner's Notification of Vaccine requirements in compliance with Santa Clara County Public Health. Compliance with this requirement will be at no additional costs to the Owner. See Attachment x for Vaccination Notification Requirements Certification.

18.19 Notice of Third-Party Claims. Pursuant to Public Contract Code section 9201, the Owner will provide Design-Builder with timely notification of the receipt of any third-party claim relating to the Agreement.

18.20 Assignment of Anti-Trust Actions. Pursuant to Public Contract Code section 7103.5 and Government Code sections 4554 and 4553, in entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, Design-Builder, its Design Professionals and Subcontractors offer and agree to assign to the Owner all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. section 15) or under the Cartwright Act (chapter 2 (commencing with section 16700) of part 2 of division 7 of the Business and Professions Code), arising from the purchase of goods, services, or materials pursuant to this Agreement or any Subcontract. This assignment will be made and become effective at the time the Owner makes final payment to the Design-Builder, without further acknowledgment by the parties.

18.21 Compliance with All Applicable Laws. Design-Builder shall comply with all the applicable requirements of federal, state and local laws, statutes and ordinances relative to the execution of the Construction Work. In the event Design-Builder fails to comply with these requirements, Owner may stop any Construction Work until such noncompliance is remedied. No part of the time lost due to any such cessation of the Construction Work shall be made the subject of a claim for an extension of time or increase in the compensation.

18.22 Iran Contracting Certification. Design-Builder certifies that it is not on the California Department of General Services (DGS) list of persons determined to be engaged in investment activities in Iran or otherwise in violation of the Iran Contracting Act of 2010 (Public Contract Code Section 2200-2208).

18.23 Notice of Taxable Possessory Interest. In accordance with Revenue and Taxation Code Section 107.6, the Agreement may create a possessory interest subject to personal property taxation for which Design-Builder will be responsible.

19. PROJECT LABOR AGREEMENT COMPLIANCE.

Owner and the Santa Clara and San Benito Counties Building and Construction Trades Council have entered into a Project Labor Agreement (PLA) approved by Owner's Board of Directors on January 11, 2022. A PLA is a multi-union pre-hire agreement that governs wages, benefits, work rules, and other terms and conditions of employment at a

construction site. The PLA is an agency-wide agreement applicable to all Covered Projects (as defined in the PLA) which exceed two million dollars (\$2,000,000).

The DBE must execute Project Labor Agreement, Addendum A – Agreement to be Bound (**Exhibit 12**) and submit in accordance with the deadline stated in the PLA or instruction from the Trades Council.

20. UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION AGREEMENT REQUIREMENTS FOR EQUAL EMPLOYMENT.

This project is located on property owned by the United States of America. Pursuant to an agreement executed on June 7, 1977, titled,

“UNITED STATES

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES AND SANTA CLARA VALLEY WATER DISTRICT FOR WATER SERVICE AND FOR OPERATION AND MAINTENANCE OF CERTAIN WORKS OF THE SAN FELIPE DIVISION, Contract No. 7-07-20-W0023” (“1977 U.S. Contract”),

the care, operation and maintenance of the Coyote Pumping Plant was transferred to Valley Water.

Pursuant to an agreement executed on June 28, 2021, titled,

“UNITED STATES

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

Central Valley Project, California

AMENDED AND RESTATED CONTRACT BETWEEN THE UNITED STATES AND SANTA CLARA VALLEY WATER DISTRICT FOR WATER SERVICE, FACILITIES REPAYMENT, AND FOR OPERATION AND MAINTENANCE OF CERTAIN WORKS OF THE SAN FELIPE DIVISION, Contract No. 7-07-20-W0023AB-P” (“2021 U.S. Contract”),

Valley Water has promised to include the provisions of paragraphs (a) through (g) of Section 35 in every contract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon Design-Builder and its subcontractors and vendors. Accordingly, paragraphs (a) through (g) of the 2021 U.S. Contract are hereby incorporated into this Agreement such

that these provisions are binding upon the Design-Builder, and are included in **Exhibit 13**.

21. UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION AGREEMENT REQUIREMENTS FOR CONTAMINATION OR POLLUTION OF FEDERAL PROPERTY.

Pursuant to Section 18 of the 2021 U.S. Contract, Valley Water has promised not to allow contamination or pollution of Federal project lands, Project Waters, or project works of the United States for which Valley Water has the responsibility for care, operation, and maintenance by its employees or agents. In furtherance of that promise, Valley Water hereby incorporates the requirements of Section 18 in the 2021 U.S. Contract into this Agreement such that these provisions are binding upon the Design-Builder and its subcontractors and vendors. All such applicable provisions are set forth in **Exhibit 13**.

22. UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION AGREEMENT REQUIREMENTS FOR CLEAN AIR AND WATER.

Pursuant to Section 19 of the 2021 U.S. Contract, Valley Water has agreed to perform specific U.S. Contract obligations in compliance with the requirements of the Clean Air Act and Clean Water Act for facilities which Valley Water has the responsibility for care, operation, and maintenance by its employees or agents. In furtherance of that promise, Valley Water hereby incorporates the provisions of Section 19 of the 2021 U.S. Contract into this Agreement such that these provisions are binding upon the Design-Builder and its subcontractors and vendors. All such applicable provisions are set forth in **Exhibit 13**.

23. UNITED STATE DEPARTMENT OF INTERIOR BUREAU OF RECLAMATION AGREEMENT REQUIREMENTS FOR PEST MANAGEMENT.

Pursuant to Section 22 of the 2021 U.S. Contract, Valley Water has agreed to perform specific U.S. Contract obligations in compliance with the specific federal pest management laws, rules, regulations, and requirements for facilities which Valley Water has the responsibility for care, operation, and maintenance by its employees or agents. In furtherance of that promise, Valley Water hereby incorporates the provisions of Section 22 of the 2021 U.S. Contract into this Agreement such that these provisions are binding upon the Design-Builder and its subcontractors and vendors. All such applicable provisions are set forth in **Exhibit 13**.

24. UNITED STATES DEPARTMENT OF INTERIOR BUREAU OF RECLAMATION AGREEMENT DEFINITIONS.

The following terms used in the 2021 U.S. Contract shall have the following meanings for the purpose of this Agreement:

24.1 Pursuant to Section 1(h) of the U.S. Contract, the term “The Contracting Officer” shall mean the duly authorized representative of the Secretary of the Interior.

24.2 The “United States” shall mean the United States of America.

24.3 The term “Contractor” shall mean the Santa Clara Valley Water District.

25. STRICTER STANDARD WILL CONTROL.

In the event of a conflict or inconsistency between the select provisions of the 2021 U.S. Contract provisions set forth in **Exhibit 13**, and any other provision in this Design-Build Agreement entered into by Valley Water and Design-Builder, or subsequent amendments thereto, the stricter standard will control.

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 2. Basis of Design Report

CONFIDENTIAL

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**Valley Water
Coyote Pumping Plant ASDs Replacement Project**

EXHIBIT 3. SCOPE OF WORK

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 3A. PHASE 1 SCOPE OF WORK

PHASE 1 SCOPE OF SERVICES TASKS

The Phase 1 Scope of Services includes the following tasks:

- Task 1: Phase 1 Project Management
- Task 2: Reference Document Review
- Task 3: Field Investigations and Permitting Support
- Task 4: Design Development and Documents
- Task 5: Cost Modeling and Scheduling
- Task 6: Guaranteed Price Proposal
- Task 7: Supplemental Phase 1 Services

Specific tasks and subtasks for Phase 1 are described below.

TASK 1 PHASE 1 PROJECT MANAGEMENT

Design-Builder shall provide all necessary project management, oversight, and coordination throughout Phase 1. Project management shall include the following subtasks.

Subtask 1.1 Project Management and Administration

1. Project Management Documents. As part of Subtask 1.1 and within 15 days of notice-to-proceed, the Design-Builder shall prepare the following documents for review and concurrence by Valley Water. The Design-Builder shall also implement the activities described by the documents, ensure that the Project team is familiar with their contents, and keep the documents up to date throughout Phase 1.
 - a. Project Management Plan (PMP). The PMP shall communicate basic Project requirements and approach to the Project team, including subconsultants.
 - b. Phase 1 Health and Safety Plan. Phase 1 Health and Safety Plan shall identify the Design-Builder's approach and Project team requirements regarding health and safety, including site visits, in-person meeting attendance, and applicable Valley Water procedures for working with electrical equipment.
 - c. Phase 1 Quality Management Plan (QMP). The Phase 1 QMP shall identify a plan to ensure that all deliverables are reviewed for technical accuracy, compliance with Phase 1 Scope of Services and readability before delivery to Valley Water.

2. Project Coordination and Communication. Subtask 1.1 includes general project coordination and communication with the Design-Builder's Project team and with Valley Water regarding issues as they arise, including scheduling, progress of Project activities etc.
3. Project Progress Tracking and Reporting. The Design-Builder shall actively track Project progress, including:
 - a. Developing a Phase 1 Project Schedule. The Phase 1 Project Schedule shall include at a minimum the following requirements:
 - 1) Activities for each subtask and deliverable in the Phase 1 Scope of Services, including, as applicable, time for: developing investigation plans, field work, evaluations, and preparation of deliverables, draft submission dates, Valley Water review periods, and final submission dates.
 - 2) Start and finish dates for each activity.
 - 3) Progress meeting and working meeting dates.
 - 4) Expected duration for GMP negotiations.
 - 5) Major milestones.
 - 6) Critical path analysis.
 - 7) Float.
 - b. Tracking progress against the Phase 1 Project Schedule and completing updates as needed.
 - c. Identifying and resolving potential scope and schedule changes.
 - d. Identifying and tracking project issues / action items using an Action Item Log, and resolving them in a timely manner.
 - e. Tracking Project decisions using a Decision Log to maintain a record of all decisions made during Phase 1.
4. Risk Management. Subtask 1.1 shall include overall Project risk management, including both Phase 1 and Phase 2 risks that become evident as the Project development progresses. The Design-Builder shall prepare and provide updates to a Project Risk Register that includes the following information:
 - a. Risk identification and description
 - b. Estimated percent likelihood that risk may occur
 - c. Potential schedule impact should risk occur
 - d. Potential cost impact should risk occur
 - e. Probability weighted cost associated with each risk item
 - f. Risk management/mitigation strategy

The Design Builder shall update the Risk Register for submittal to Valley Water at major decision or design submittal milestones, or when significant changes to the project risk profile or risk mitigation strategies occur.

5. **Monthly Reporting.** The Design-Builder shall submit monthly reports summarizing Project progress. The monthly progress reports shall include a narrative summarizing the progress of the Project and shall identify any recommended actions by Valley Water or the Design-Builder to mitigate risks or modify the Project approach and scope. Monthly progress reports shall be due by the 15th of each month. Attachments to the monthly progress report shall include:
 - a. Summary of work: identifying activities worked on and/or completed during the last month.
 - b. Project schedule: table of major milestones with originally scheduled completion dates and updated scheduled completion dates, including explanation of any changes to schedule since the last progress report.
 - c. Budget: table showing each of the Phase 1 tasks, with the following information for each task: billing for the current reporting period, the retention for the current period, previous billing, previous retention, billed to date, retention to date, budget limit, budget remaining, percent budget expended, and percent of work complete.
6. **Planned Activities:** summarize planned activities and scheduled meetings/workshops for the next month.
7. **Issues and Concerns:** identify issues and concerns that may affect project schedule or budget and require discussion between the Design-Builder and Valley Water.
8. **Attachments:**
 - a. Updated Project schedule in Gantt chart format.
 - b. Draft invoice and supporting data.
 - c. Updated Action Item Log
 - d. Updated Risk Register (if changed)
 - e. Updated Decision Log

Deliverables:

1. Draft and Final Project Management Plan
2. Draft and Final Phase 1 Health and Safety Plan
3. Draft and Final Phase 1 Quality Management Plan
4. Risk Register (periodic updates included in monthly status reports as risk status changes or new risks are identified)
5. Monthly Progress Reports, including all required attachments

Subtask 1.2 Meetings

The Design-Builder shall schedule, prepare for, and conduct Project kickoff and progress meetings with Valley Water, including key firms and individuals from the Design-Builder's project team, and Valley Water project team members.

Project meetings shall include:

1. Project kickoff meeting: A single kickoff meeting will provide a forum for the Design-Builder's Project team and Valley Water to meet and align on project goals and procedures.
2. Bi-weekly progress meetings: Progress meetings shall be conducted for the duration of Phase 1, and provide a routine forum for reviewing items included in the monthly progress report, discussing ideas, and confirming short-term and long-term Project priorities.

Deliverables:

1. Kickoff meeting draft and final meeting agenda and draft and final meeting notes.
2. Draft and final progress meeting agendas and draft and final meeting notes.

ASSUMPTIONS:

1. Phase 1 duration assumed to be 9 months.
2. Project progress meetings will occur every other week, average 1 hour in duration, and will involve the Design-Builder's Project Manager, the Design Manager, and on average one other member of the Design-Builder's team.

TASK 2 REFERENCE DOCUMENT REVIEW

The Design-Builder shall review and become familiar with Reference Documents provided by Valley Water in preparation for field investigations and design. The Design-Builder shall also consult with Valley Water to develop a better understanding of the Project, Project site, constraints, project requirements, and other information relevant to the Project.

Deliverables:

1. Letter verifying that Design-Builder has reviewed all provided Reference Documents, identifying any follow-up questions for Valley Water, and summarizing any Project risks identified through review of the Reference Documents.

TASK 3 FIELD INVESTIGATIONS AND PERMITTING SUPPORT

Field investigations will be required in order to confirm project and site conditions prior to evaluation of improvement concepts and development of design documents.

Subtask 3.1 Field Investigation Plan

1. Prior to conducting field investigations, the Design-Builder must submit for Valley Water review and approval a Field Investigation Plan, which includes the following information:
 - a. Outline of proposed investigations, including which areas and pieces of equipment will be investigated.
 - b. Valley Water technical staff support needed during field investigation (e.g., operations, maintenance, mechanical, electrical, controls, IT).
 - c. Equipment access and shutdowns needed (e.g., de-energization of an individual pump, control panel, or electrical distribution equipment and opening of covers or doors for interior inspection).
 - d. Planned field inspection methods, testing methods, repair procedures for any destructive testing that will be conducted (e.g., examination of concrete foundations), and lab procedures for any lab testing that will be conducted (e.g., testing of existing transformers/switchgear for hazardous materials).

Deliverables:

1. Field Investigation Plan (draft and final)

Subtask 3.2 Field Investigations (Project Conditions, Survey, and Hazardous Materials)

1. The Design-Builder shall conduct the following field investigations:
 - a. Perform a Preconstruction Survey, including all necessary survey activities and field investigations required to verify exterior and interior topography and features at the facility, to support development of the Design-Builder's design documents.
 - b. Perform follow-up investigations during design development (prior to GMP) as needed to verify conditions and locations.
 - c. Perform underground utility location in the existing switchyard as required to intercept existing underground conduits cables where they are being reconnected and relocate or avoid existing underground utilities where they potentially conflict with the location of new equipment or foundations.
 - d. Perform resistance testing of the existing switchyard ground grid as necessary to determine improvements required to bring the updated switchyard into conformance with IEEE 80-2013 – IEEE Guide for Safety in AC Substation Grounding.

- e. Perform a hazardous materials survey to assess potential hazardous substances associated with equipment and materials to be demolished by the Project, and potential soil contamination in areas where soil disturbance is anticipated. On the recent Coyote Warehouse project, pesticides in soil were identified that required special procedures to address during construction. It is not known if similar conditions exist in areas that will be disturbed by the Project. Summarize findings and any applicable hazardous materials management procedures in a Hazardous Material Survey report.

Deliverables:

1. Summary of Field Investigation findings (draft and final)
2. Hazardous Material Survey Report

Subtask 3.3 Geotechnical Investigations

1. Perform Geotechnical Investigations as required to design foundations for new equipment in the switchyard.

Deliverables:

1. Geotechnical Interpretive Report for geotechnical investigations conducted under this task (if applicable).

ASSUMPTIONS

1. Geotechnical work under this task shall be performed by a geotechnical engineer licensed in the State of California.
2. Assume an allowance of \$30,000 for Geotechnical Investigations and Geotechnical Interpretive Report development (Subtask 3.3).

Subtask 3.4 Permitting Plan

1. The Design-Builder shall develop a draft Project Permitting Plan consistent with Agreement Exhibit 4 and any other permits or approvals identified by the Design-Builder. The draft Project Permitting Plan shall address all permits and approvals including those being obtained by Valley Water. The Design-Builder shall consult with Valley Water regarding the timing for obtaining any other permits or approvals identified by the Design-Builder.
2. The Plan shall include a detailed schedule for obtaining permits and approvals. The schedule shall identify each permit and approval and show discrete activities for draft application development, review of each application by Valley Water, incorporation of Valley Water comments and revising the application, submittal of application to the approving entity, preparing responses to approving entity comments, Valley Water review of responses, resubmittal to the approving entity, and anticipated duration for obtaining final approval.
3. For each identified permit/approval, the Plan shall include the following information:

- a. The name of the permit/approval
 - b. Name and contact information for the approving entity
 - c. Responsibilities (individuals) for developing the permit application and supporting technical information
 - d. A summary of application and supporting technical requirements
 - e. Expected approval dates
 - f. Permit tracking procedures and responsibilities
 - g. Protocols for incorporating permit/approval conditions into design and construction
4. The Design-Builder shall provide the draft Plan to Valley Water for review, and shall revise the Plan to address Valley Water comments.
 5. The Design-Builder shall update the Plan as Project development activities progress if such progression results in the identification of additional permits or changes to the permitting requirements and durations.

Deliverables:

1. Permitting Plan (draft, and periodic updates reflecting Valley Water comments and project progression)

Subtask 3.5 Permitting Support

1. For all permits/approvals listed in Exhibit 4 as Design/Builder responsibility, the Design-Builder shall:
 - a. Periodically meet or otherwise coordinate with Valley Water regarding the strategy for and status of obtaining those permits.
 - b. Develop permit/ approval applications and supporting documentation to meet the requirements of the entities issuing the permits and approvals. Provide Valley Water with a draft of all applications for review and concurrence prior to submittal to the approving entity. Obtain Valley Water signatures and other signatures as needed for the applications.
 - c. Actively monitor the status of permit / approval processing and respond to requests for clarification, additional information, and application revisions by the approving entities.
 - d. Report to Valley Water once the permit or approval has been obtained.
 - e. Develop supporting technical materials for any additional applications identified to be developed by Valley Water. Applications for permits included in draft Exhibit

4 with the RFP have already been developed and submitted by Valley Water, and no additional technical support is anticipated for those permitting efforts.

Deliverables:

1. Permit application documents and supporting materials

ASSUMPTIONS:

1. Efforts to identify additional permits required for the Project, of which includes permits not listed in Exhibit 4, will be conducted by the Design-Builder.
2. Assume local jurisdiction building type permits will be required for the Project. If local permits are not needed, the budget allocated for that work shall be left unused.

TASK 4 DESIGN DEVELOPMENT AND DOCUMENTS

Subtask 4.1 Recommended Project Changes Memorandum

1. After review of Reference Documents, performance of field investigations, and review of the existing Basis of Design Report, provide a memorandum identifying recommended changes to the project as defined in the existing Basis of Design Report and existing 30 percent design documents provided by Valley Water in Exhibit 3C.
2. Describe each proposed change along with the intended benefit to the project (e.g., improvement in cost, schedule, constructability, reliability, maintainability, etc.).
3. At the Design-Builder's option, include for Valley Water consideration any recommended early procurement of long-lead items, and any suggested early works packages that would require early authorization to conduct.

Deliverables:

1. Recommended Project Changes Memorandum (draft and final)

Subtask 4.2 Basis of Design Report Update

1. Provide an updated Design-Builder's Basis of Design Report incorporating any items from the Recommended Project Changes Memorandum that have been accepted by Valley Water, any findings from field investigations, and any project design criteria that need to be updated to reflect current conditions.
2. Conduct a workshop with Valley Water staff to review proposed changes to the Basis of Design Report. Prepare workshop materials and handouts. Take workshop notes, prepare workshop decision log and action log.

Deliverables:

1. Workshop materials and handouts
2. Draft and final workshop notes, decision log, and action log
3. Draft and final Design-Builder's Basis of Design Report

Subtask 4.3 HVAC Technical Memorandum

1. Prepare a technical memorandum presenting options to replace the existing heating, ventilation, and air conditioning system serving the ASD gallery, mechanical room, and communications room. Calculate estimated cooling loads for each of these spaces. Obtain historical runtime and speed data for ASDs to be used in cooling load analysis. Obtain worst-case (maximum) operating conditions for equipment from Valley Water operations.
2. Perform a 30-year lifecycle cost analysis for three potential HVAC replacement options (e.g., liquid-cooled chiller and AHUs to match existing, air cooled chiller with AHUs, packaged DX units, evaporative coolers, etc.). Include capital cost, energy cost, and O&M cost (with breakdown of tasks and intervals) in lifecycle cost analysis.
3. Conduct two workshops with Valley Water staff to facilitate development of the technical memorandum:
 - a. HVAC Options Workshop: present three options for HVAC systems design. Show the proposed system configurations diagrammatically and describe the theory of operation, show physical layouts in plan, and describe required operations and maintenance tasks. Present basis and findings of lifecycle cost analysis.
 - b. HVAC Control Workshop: present proposed architecture for HVAC controls and building automation system (BAS) and its integration with Valley Water's system-wide building automation system.
4. Document the selected HVAC option and HVAC control system architecture in a Technical Memorandum.

Deliverables:

1. Workshop materials and handouts
2. Draft and final workshop notes, decision log, and action log
3. Draft and final Technical Memorandum

Subtask 4.4 Pump Optimization Technical Memorandum

1. Prepare a technical memorandum presenting options for pump optimization systems that monitor process variables (pump speed, suction and discharge pressure, header flow, etc.) and identify possibilities to improve efficiency, save energy, and track pump performance over time. Options could include dedicated pump station analytics software for this purpose or development of PLC and SCADA code to accomplish this.
2. Conduct a workshop with Valley Water staff to facilitate development of the technical memorandum: present options for pump optimization including real world examples of where these approaches have been implemented and the benefits gained.

Deliverables:

1. Workshop materials and handouts
2. Draft and final workshop notes, decision log, and action log

3. Draft and final Technical Memorandum

Subtask 4.5 60 Percent Design

Design-Build shall develop and submit a 60 Percent Design Submittal to Valley Water for review and comment. The 60 Percent Design Submittal shall include all documents, drawings and specifications required under this task or identified as being submitted along with the 60 Percent Design Submittal under other tasks. At a minimum, the 60 Percent Design Submittal shall include:

1. Narrative description of revisions to the design and construction concepts since the Design Approach/Concept Workshop, including any revisions to design criteria, and rationale for changes.
2. Electrical improvements, including:
 - a. Drawings and specifications for the following:
 - (1) Replacement of existing ASDs and unit substations.
 - (2) The addition of new vertical break switches on incoming busway, including layout drawings demonstrating conformance to the national electrical safety code (NESC) and California General Order No. 95.
 - (3) The addition of a new central uninterruptible power supply (UPS) for control power.
 - b. Conduit and cable tray routing plans.
 - c. Grounding plans to ensure conformance with IEEE 80-2013 – IEEE Guide for Safety in AC Substation Grounding.
 - d. Recommended motor rehabilitation procedure based on analysis of test data and input from potential motor service shops.
 - e. Vendor supporting information for materials.
3. Control system improvements, including:
 - a. Drawings and specifications for PLC and RTU replacement and modification of pump control panels.
 - b. P&ID drawings showing ASDs and new/modified instruments.
 - c. Network block diagram(s) defining connections to new and existing equipment.
 - d. Vendor supporting information for materials.
4. Mechanical improvements, including:

- a. Drawings and specifications for replacement of existing hydraulic valve operating system with electric motorized valve actuators.
 - b. Drawings and specifications for replacement of cooling water pumps for the 2,000HP main pump motors.
 - c. Vendor supporting information for equipment and materials.
5. HVAC improvements, including:
 - a. Equipment schedules, system diagram(s), and system layout drawing(s) for replacement of existing HVAC system including air handlers, chiller, chilled water pumps, condenser water pumps, and controls.
 - b. HVAC Controls / Building Automation System (BAS) system diagram.
 - c. Calculations for equipment, ductwork, and pipe sizing.
 - d. Vendor supporting information for equipment and materials.
6. Structural improvements, including:
 - a. General foundation, support, and anchorage requirements and notes.
 - b. Preliminary equipment foundation design.
7. Design planning for protection and repair of existing infrastructure during construction.
8. Design planning for constructability of improvements.
9. Summary of status of any applicable permits.
10. Updated Phase 2 cost model based on 60 percent design.
11. Updated Phase 2 schedule based on 60 percent design.
12. Preliminary Design and Construction Phasing Plan, including plans for procurement of any long-lead items, and any suggested early works packages.
 - a. Include required coordination with upstream utility substation and action required by electric utility (WAPA).
 - b. Include required coordination with adjacent chiller plant that receives electrical power from CPP, including any outages required to switch sources.
13. Site Logistics Plan, which defines staging and storage areas, weight limitations for staging and storage areas and plans for complying with those weight limitations, site ingress and egress, access and haul routes, and areas off-limits to the Design-Builder.
14. Best Management Practices Action Plan, which identifies applicable requirements from environmental permits, the NPDES stormwater permit for the Project, and all other

stormwater pollution prevention control requirements, and how those requirements will be complied with during construction.

15. Preliminary Annotated Outline of Startup and Commissioning Plan, which identifies preliminary procedures and requirements for equipment testing, systems testing, startup, and commissioning. The Plan shall be consistent with the Owner's Project Criteria and reflect input from Valley Water.
16. Preliminary Annotated Outline of Acceptance Test Plan, which identifies preliminary procedures and requirements for Acceptance Testing. The Plan shall be consistent with the Owner's Project Criteria and reflect input from Valley Water.
17. Updated Project Risk Register.
18. Preliminary Self-Performance and Subcontracting Plan, identifying work packages planned to be self-performed and subcontracted, the value of each package, whether those packages are being procured competitively or sole sourced, description of approach to procurement for competitive packages, and identity of subcontractor for sole sourced packages. Plan shall identify plans for local and WMBE outreach and subcontracting.
19. All QA/QC Review documentation, including signature pages documenting completed reviews, and if requested by Valley Water, reviewer comments and design team responses.
20. Plans and specifications consistent with a 60 percent design milestone, including at a minimum the items identified in Table 1.
21. The Design-Builder shall be responsible for developing front-end specifications that incorporate elements of the Valley Water Standard Provisions and Special Provisions that are applicable to the progressive design-build delivery method (i.e., omitting requirements that are only applicable to design-bid-build), and which define the roles of the Design-Builder, Engineer of Record, and Valley Water during construction, commissioning and testing, training and O&M, handover to Valley Water, and project closeout phases.

TABLE 1. 60% Drawings and Specifications Minimum Requirements

Drawings	Specifications
General	
Cover Sheet	Preliminary general and front-end specifications (all sections)
List of Drawings	
Site Map (May be combined with List of Drawings) - Locate contractor staging areas and access routes. - Identify construction fencing and other access control measures, including plans for preserving Valley Water operations access.	

Drawings	Specifications
General Legends and Abbreviations	
Demolition	
Demolition Legend and Notes	Preliminary demolition specifications (all sections)
Demolition Plan – Overall	
Demolition Plan – Building Area 1	
Demolition Plan – Building Area 2	
Demolition Plan – Switchyard	
Demolition Detail – Hydraulic Valve Operating System	
Demolition Detail – HVAC	
Structural	
Structural Legend and Abbreviations	Preliminary structural specifications (all sections)
Equipment Foundation Details	
Mechanical	
Mechanical Legend and Abbreviations	Preliminary mechanical specifications (all sections)
Mechanical Systems Upgrade Plan	
Discharge Valve Actuator Replacement Detail	
HVAC	
HVAC Legend and General Notes	Preliminary HVAC specifications (all sections)
HVAC System Diagram	
HVAC Plan – Building Area 1	
HVAC Plan – Building Area 2	
HVAC Details	
Electrical	
Electrical Legend and General Notes	Preliminary electrical specifications (all sections)
Overall One-line Diagram – Demolition	
Overall One-line Diagram – Modification	
4.16kV One-line Diagram	
4.16kV Switchgear Elevation	
480V One-line Diagram	
48VDC One-line Diagram	
Panelboard Schedules	
ASD Schematic	
Electrical Plan – Overall	
Electrical Plan – Building Area 1	
Electrical Plan – Building Area 2	
Electrical Plan – Switchyard	
Electrical Details	

Drawings	Specifications
Instrumentation	
Instrumentation Legend and General Notes	
Typical Control Panel Power Distribution	
Typical Wiring Diagram – Discrete Input	
Typical Wiring Diagram – Discrete Output	
Typical Wiring Diagram – Analog Input	
Typical Wiring Diagram – Analog Output	
P&ID – Pump Station Overview	
P&ID – Typical Pump 1	
P&ID – Typical Pump 2	
P&ID – Tag Tables	
Control System Block Diagram 1	
Control System Block Diagram 2	
Typical Pump Control Panel Elevation	
Instrumentation Details	

22. The Design-Builder shall submit three (3) paper copies of the 60 Percent Design Documents and one electronic copy in Adobe PDF, MS Word, and native CADD formats.
23. The Design-Builder shall facilitate the following workshops identified in Table 2 as part of the 60% submittal to ensure Valley Water staff engagement and input.

TABLE 2. 60% Design Workshops

Workshop	Purpose
Electrical Design Workshop 1	Review proposed configuration and layout for incoming busway from WAPA, vertical break switches, switchgear, transformers, and ASDs, and UPS.
ASD Selection Workshop	Present four or more options for potential adjustable speed drive equipment from different manufacturers. Compare capital cost, operating cost, redundancy/reliability, and required maintenance activities. Show details of the internal components of each potential ASD.
Control Strategy Workshop	Review proposed operating procedures and automation for overall pump station operations, individual valve operations, individual pump startup and shutdown sequences.
PLC/SCADA Design Workshop 1	Review proposed network architecture. Identify which network each proposed piece of equipment will connect to. Identify the physical location of each proposed PLC, network switch, and server. Review proposed instrument and I/O tagging.

Workshop	Purpose
60% Design Workshop	Present overview of 60% design to broad group, including major decisions made, proposed system configurations and layouts, and important outstanding items. Review proposed construction sequencing plan and necessary equipment outages and switchovers.

24. Within two weeks of receipt of Valley Water comments on the 60 percent design package, submit responses to comments to Valley Water.

Deliverables:

1. Workshop materials and handouts
2. Draft and final workshop notes, decision log, and action log
3. 60 Percent Design Package (including Adobe PDF, MS Word, and native CADD formats)
4. 60 Percent Design Package comment responses

Subtask 4.6 90 Percent Design

Design-Build shall develop and submit a 90 Percent Design Submittal to Valley Water for review and comment. The 90 Percent Design Submittal shall include all documents, drawings and specifications required under this task. At a minimum, the 90 Percent Design Submittal shall include:

1. Narrative description of revisions to the design and construction concepts since the 60 percent design, including any revisions to design criteria, and rationale for changes.
2. Updated drawings and specifications further developed from the 60 percent submittal.
3. Structural design of equipment foundations and supports based on the equipment selections and layouts finalized in the 60 percent design, including supporting calculations.
4. Summary of status of any applicable permits.
5. Updated Phase 2 schedule based on 90 percent design.
6. Updated Design and Construction Phasing Plan, including plans for procurement of any long-lead items. Include a brief narrative describing changes to the Plan (if any) from the 60 percent submittal.
7. Updated Site Logistics Plan.
8. Updated Best Management Practices Action Plan.
9. Updated Project Risk Register.
10. Preliminary Draft of Startup and Commissioning Plan.

11. Preliminary Draft of Acceptance Test Plan.
12. All QA/QC Review documentation, including signature pages documenting completed reviews, and if requested by Valley Water, reviewer comments and design team responses.
13. Plans and specifications consistent with a 90 percent design milestone, including at a minimum the items identified in Table 3.

TABLE 3. 90% Drawings and Specifications Minimum Requirements

Drawings	Specifications
All drawings included in 60 percent submittal, and any additional drawings identified by the Design-Builder, advanced to 90 percent completion. Addition of structural drawings based on the equipment selections and layouts finalized in the 60 percent design, including: busway and vertical break switch structure details, cable tray support structure details, and exposed raceway and pipe support details.	All specifications included in 60 percent submittal, and any additional specifications identified by the Design-Builder, advanced to 90 percent completion.

14. The Design-Builder shall submit three (3) paper copies of the 90 Percent Design Documents and one electronic copy in Adobe PDF, MS Word, and native CADD formats.
15. The Design-Builder shall facilitate the following workshops identified in Table 4 as part of the 90% submittal to inform Valley Water staff of design progression and show updates made based on previous review comments.

TABLE 4. 90% Design Workshops

Workshop	Purpose
Electrical Design Workshop 2	Review changes and updates from Electrical Design Workshop #1. Review proposed raceway routing, grounding system. Present proposed pump motor rehabilitation and/or conversion plan.
PLC/SCADA Design Workshop 2	Review changes from PLC/SCADA Design Workshop 1. Review proposed control panel layouts. Review proposed startup and testing plan.
90% Design Workshop	Present overview of 90% design to broad group, including major decisions made, proposed system configurations and layouts, and important outstanding items. Review proposed construction sequencing plan and necessary equipment outages and switchovers.

- 16. Within two weeks of receipt of Valley Water comments on the 90 percent design package, submit responses to comments to Valley Water.

Deliverables:

- 1. Workshop materials and handouts
- 2. Draft and final workshop notes, decision log, and action log
- 3. 90 Percent Design Package (including Adobe PDF, MS Word, and native CADD file formats)
- 4. 90 Percent Design Package comment responses

Subtask 4.7 Final Design

Design-Builder shall develop and submit a Final Design Submittal to Valley Water. The Final Design Submittal shall include all documents, drawings and specifications required under this task, each stamped and signed by the responsible engineer. At a minimum, the Final Design Submittal shall include:

- 1. Narrative description of revisions to the design package since the 90 percent design, and rationale for changes.
- 2. Summary of status of any applicable permits.
- 3. Updated Phase 2 schedule based on final design.
- 4. Updated Design and Construction Phasing Plan, including plans for procurement of any long-lead items. Include a brief narrative describing changes to the Plan (if any) from the 90 percent submittal.
- 5. Updated Site Logistics Plan.
- 6. Updated Best Management Practices Action Plan.
- 7. Updated Project Risk Register.
- 8. All QA/QC Review documentation, including signature pages documenting completed reviews, and if requested by Valley Water, reviewer comments and design team responses.
- 9. Plans and specifications consistent with issuance for construction, including at a minimum the items identified in Table 5.

TABLE 5. Final Drawings and Specifications Minimum Requirements

Drawings	Specifications
All drawings included in 90 percent submittal, and any additional drawings identified by the Design-Builder, advanced to final design completion.	All specifications included in 90 percent submittal, and any additional specifications identified by the Design-Builder, advanced to final design completion.

10. The Design-Builder shall submit one full-sized set of the stamped and signed Final Design Documents and one electronic copy in Adobe PDF, MS Word, and native CADD formats. Wet signatures are not required for the full-size submittal, a printed copy is acceptable.

Deliverables:

1. Final Design Package (stamped and signed)

ASSUMPTIONS:

1. Effort for preparing for and conducting/attending design concept, design submittal review, and other technical meeting(s) is to be included in Task 4.
2. Assume up to 10 technical workshops or meetings will be required, including the workshops identified in Table 2 and Table 4, averaging 3 hours in duration and attended by an average of 4 members of Design-Builder's team.

TASK 5 COST MODELING AND SCHEDULING

Subtask 5.1 Cost Model Development

1. The Design-Builder shall develop a draft cost model for the Project for review and approval by Valley Water. The intent of cost model development and review is to have Valley Water and the Design-Builder agree on the format for presenting cost models that will be used consistently throughout the Project, so that Valley Water can easily track the evolution of estimated costs through the Guaranteed Price Proposal.
2. An example cost model template is included as Exhibit 3A.1 and will be provided to the Design-Builder in Excel format. The example cost model template is provided to indicate the desired types and organization of information included in the cost model. The Design-Builder is not required to use this template, and may use an alternate format that communicates the same information.
3. The cost model shall use an "Open Book" approach such that all costing details are transparent and openly shared with Valley Water. Costs shall be broken down to show labor, equipment and materials for each item. All escalation factors shall be identified. Fees shall be included consistent with the Design-Build Agreement. Contingency shall be included and derived directly from the probability-weighted Risk Register developed for the Project. The draft cost model template shall be submitted to Valley Water for review prior to the design concept meeting, so that a first draft cost model can be developed for the design concept meeting.
4. The Design-Builder shall incorporate and address Valley Water comments on the draft cost model template, and submit a revised cost model template to Valley Water. The Design-Builder shall submit additional revisions as needed to reach agreement with Valley Water on the format of the cost model.

Deliverables:

1. Draft, revised draft and final cost model template in Adobe PDF and spreadsheet (or other native form) formats.

Subtask 5.2 Cost Model Updates

1. The Design-Builder shall use Valley Water-approved cost model template for developing cost model updates and its Guaranteed Price Proposal; however, with Valley Water approval the cost model template may be further refined as greater detail becomes available on the project.
2. The Design-Builder shall conduct continuous cost modeling to assist with design and value engineering decisions, and shall develop and submit Project cost model updates at the following points in time:
 - a. Baseline cost model;
 - b. Design-Builder's Basis of Design Report;
 - c. The 60 percent design submittal;
 - d. The 90 percent design submittal (if 90 percent design completed prior to the Guaranteed Price Amendment); and
 - e. The Guaranteed Price Proposal.
3. Cost models shall be provided in hard copy, Adobe PDF and spreadsheet (or other native form) formats.
4. Design-Builder and Valley Water shall meet and confer about the submissions, with Design-Builder identifying the evolution of the costs. The Design-Builder shall revise the cost models as needed in response to Valley Water's comments.

Deliverables:

1. Baseline cost model within 30 days of notice-to-proceed
2. Cost models to support review of design concepts
3. Cost model with Design-Builder's Basis of Design Report
4. Cost model with 60 percent design submittal
5. Cost model with 90 percent design submittal (if 90 percent design completed prior to the Guaranteed Price Amendment)
6. Cost model with Guaranteed Price Proposal
7. Revised cost models as needed to address Valley Water questions and comments

Subtask 5.3 Phase 2 Schedule Development

1. The Design-Builder shall develop and update estimated schedules for the Phase 2 work. Estimated Phase 2 schedules shall be developed and / or updated to support design concept review, and with each design submittal milestone (Design-Builder's Basis of Design Report, 60 percent design, 90 percent design, Final design). An initial draft Phase 2 schedule shall be submitted within 30 days of Design-Builder notice-to-proceed.
2. As part of its Guaranteed Price Proposal, the Design-Builder shall develop and submit a proposed Project Baseline Schedule (as defined in the Design-Build Agreement) that, subject to negotiations, will set contractual dates for key milestones including Substantial Completion and Final Completion.
3. All Project schedules, developed as part of Phase 1, shall be consistent with the following requirements.
 - a. All schedules shall be prepared using an industry standard scheduling software.
 - b. Schedules shall be submitted as electronic files (native and Adobe PDF format) and shall be updated at the indicated design milestones to show progress and changes.
 - c. Schedules shall include all activities needed to complete the design and construction.

Deliverables:

1. Initial draft Phase 2 schedule within 30 days of Design-Builder NTP.
2. Estimated Phase 2 schedule (including any variations based on design and construction approach as needed) to support design concept review.
3. Estimated and updated Phase 2 schedules with Design-Builder's BODR, 60 percent design, 90 percent design, and Final design.
4. Proposed Phase 2 Project Baseline Schedule included with Guaranteed Price Proposal.

ASSUMPTIONS:

1. Effort for preparing for and conducting/attending cost and schedule development and review meeting(s) is to be included in Task 5.

TASK 6 GUARANTEED PRICE PROPOSAL

The Design-Builder shall conduct all work necessary to develop, revise, and negotiate its Guaranteed Price Proposal in accordance with the requirements of the Design-Build Agreement. Valley Water anticipates submission of the Guaranteed Price Proposal following completion of 60 percent design, and incorporating Valley Water comments on the 60 percent design submittal, although Valley Water may elect to accept or reject a Guaranteed Price Proposal at any point in the process. The Design-Builder shall utilize an "open book" approach

to develop the Guaranteed Price Proposal, providing Valley Water with full access to all the details that make up the final Guaranteed Price Proposal.

The Guaranteed Price Proposal shall include the following items, and any other materials required by the Design-Build Agreement or deemed necessary by the Design-Builder:

1. Design submittal, including:
 - a. Design documents (drawings, specifications, and other milestone submittal documents) consistent with the design progression at the point at which the Design-Builder opts to make a Guaranteed Price Proposal (likely at or around the 60% design milestone, including drawings and specifications necessary to define the design, and incorporating Valley Water comments from the most recent design milestone completed [e.g., submit revised 60% design documents]).
 - b. Owner's Project Criteria, as may have been modified consistent with the Design-Build Agreement.
 - c. A list of assumptions and clarifications made by the Design-Builder in the preparation of the Guaranteed Price Proposal.
 - d. Identification of permits and approvals to be obtained by the Design-Builder during Phase 2, if any.
2. Project Management submittal, including:
 - a. Proposed Phase 2 Project Schedule including an accompanying narrative describing key assumptions in the proposed Project Baseline Schedule upon which the Guaranteed Price (GP) is based, and including dates for Substantial Completion and Final Completion.
 - b. Proposed Phase 2 Health and Safety Plan.
 - c. Proposed Phase 2 Construction Quality Control Plan.
 - d. Revised Self-Performance and Subcontracting Plan, identifying work packages planned to be self-performed and subcontracted, whether those packages are being procured competitively or sole sourced, description of approach to procurement for competitive packages, and identity of subcontractor for sole sourced packages.
 - e. Descriptive summary of all engineering, procurement, materials, construction labor and equipment, and other services necessary to perform the Phase 2 Work as required under this Design-Build Agreement.
 - f. A Phase 2 scope of work for engineering services during construction, describing the work tasks and activities to be provided by the Engineer of Record and other engineering or geotechnical firms during Phase 2.
 - g. A Phase 2 staffing plan describing the construction oversight activities to be completed by the Design-Builder, by the Engineer of Record, by other

engineering or geotechnical firms, and by Valley Water. The intent of this document is to demonstrate a shared understanding of oversight roles and responsibilities during construction, and to minimize duplication of efforts.

3. Pricing submittal, including:

- a. The proposed Cost of the Phase 2 Work as defined in the Design-Build Agreement (including all services required for construction of the Project through Final Completion) using Valley Water-approved cost model.
- b. Supporting documentation for the proposed Cost of the Phase 2 Work at a minimum shall include:
- c. Subcontractor and materials vendor bids and quotations.
 - 1) Details supporting estimates for self-performed construction work (labor, materials and equipment).
 - 2) Expense rates such as mileage charges, per diem for meals and lodging, and personnel vehicle rentals.
 - 3) Unburdened rental rates on construction equipment, trailers, storage and staging space and major tools.
 - 4) Allowances (where appropriate).
 - 5) Labor and expense costs for engineering construction support consistent with the Phase 2 professional services billing rates included in Exhibit E of the Design-Build Agreement.
 - 6) The proposed Contract Price and breakdown consisting of the proposed Cost of the Phase 2 Work (including the Design-Builder's contingency), the Design-Build Fee, the Construction General Conditions Fee, and Pass-Through Costs (if any).
- d. All other proposed Contract Price assumptions and clarifications on terms and conditions used not covered in the preceding items in this section.
- e. A list of work activities, expenses and fees not included in the Contract Price which Valley Water may be expected to pay for.

After delivery of the Guaranteed Price Proposal, the Design-Builder will meet with Valley Water for a technical meeting to present, review, and answer questions about the content of the Guaranteed Price Proposal. The Design-Builder will continue to revise the Guaranteed Price Proposal as needed and conduct additional workshops and meetings as needed to obtain Valley Water agreement. Additional Design-Builder effort to revise and negotiate the Guaranteed Price Proposal after the first submission is not reimbursable.

Deliverables:

1. Guaranteed Price Proposal and revisions

ASSUMPTIONS:

1. Effort for preparing for and conducting/attending Guaranteed Price Proposal meeting(s) is to be included in Task 6.

TASK 7 SUPPLEMENTAL PHASE 1 SERVICES

Valley Water may require, and the Design-Builder will perform, Supplemental Services for Phase 1 services on an as-needed basis. Prior to performing any Supplemental Services, Design-Builder must receive an approved Task Order issued by Valley Water and executed by both Parties. Refer to Exhibit 3A.2 for Task Order Template.

1. Additional Services. The Design-Builder will provide additional quantities of previously identified services as requested by Valley Water. Design-Builder will provide additional services for any quantity of tasks and deliverables beyond those stated in Tasks 1 through 6 as Task 7 Supplemental Phase 1 Services, to include but not limited to:
 - a. Additional meetings
 - b. Additional status/progress reports
 - c. Additional field investigations and environmental evaluations
 - d. Other unanticipated work identified by Valley Water
2. Specific Supplemental Services: Specific examples of possible Supplemental Services include:
 - a. Pest Management – provide engineering and preconstruction services for pest management for this project, as it pertains to compliance with provisions in this Design-Build Agreement for the Coyote pumping Plant ASDs Replacement Project.

Deliverables:

1. To be subsequently determined (effort to be excluded from Proposal submission for Phase 1 Not-to-Exceed Pricing)

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 3A.1 Valley Water Approved Cost Estimate Example

INSTRUCTIONS

1	Only RED or yellow cells needs to be filled in on Estimate Summary sheet, all other fields are links or formulas
2	Fill in the costs on the Cost Detail tabs in the white fields only, all other fields are formulas
3	Indirect costs for entire project are on the first Cost Detail tab
4	Provide the following supporting information and back-up with EACH GP Submittal
	A. Estimate Summary – see template B. Estimate Cost Detail – see template C. Estimate Backup a. Quantity Takeoffs b. General Conditions cost breakdown/details beyond the Estimate Template c. Calculations d. Drawings/Sketches e. Equipment List f. Material Vendor quotes g. Sub-Contractor quotes D. Basis of Estimate – Listing all the assumptions and exclusions for developing the cost estimate. BOE needs to be broken down in following sub-categories (see attached AACEI BOE guidelines) a. Estimate Classification b. Estimating methodology c. Work breakdown structure d. Basis of Design e. Basis of Cost f. Labor Pricing & Productivity Methodology g. Material & Equipment Pricing Methodology h. Subcontractor Pricing Methodology i. Contingency j. Escalation k. Assumptions & Clarifications for each CSI division (see log below) l. Exclusions E. Construction Schedule F. Labor Rate Analysis – past project template available G. Equipment Rental Rates H. Value Engineering/ Innovations Log I. Assumption/Clarifications Log J. Risk Analysis (Risk Register) K. Comment Log (this will be AFTER first submittal to resolve comments to the estimate)

<INSERT Project Title>
<Insert Scope Description
Project No. <insert WS number(s)>
<State the deliverable (i.e., Engineer Est, 30%, 60%, etc.)>

<Insert Date>
Estimate Summary Sheet

DESIGN BUILD SERVICES					AMOUNT		
DIRECT COSTS				Total	Self-Performed by DB Team	Subcontracted	
A	Division 2 - Site Work			#REF!	#REF!	#REF!	
B	Division 3 - Concrete			#REF!	#REF!	#REF!	
C	Buildings			#REF!	#REF!	#REF!	
D	Division 4 - Masonry - Non-Building			#REF!	#REF!	#REF!	
E.	Division 5 - Metal (Non-Building)			#REF!	#REF!	#REF!	
F	Division 6 - Woods and Plastics (Non-Building)			#REF!	#REF!	#REF!	
G	Division 7 - Thermal and Moisture Protection (Non-Building)			#REF!	#REF!	#REF!	
H	Division 9 - Finishes (Non-Building)			#REF!	#REF!	#REF!	
I	Division 10 - Specialties (Non-Building)			#REF!	#REF!	#REF!	
J	Division 11 - Equipment (Non-building)			#REF!	#REF!	#REF!	
K.	Division 13 - Special Construction			#REF!	#REF!	#REF!	
L	Division 14 - Conveying Systems			#REF!	#REF!	#REF!	
M	Division 15 - Mechanical			#REF!	#REF!	#REF!	
N	Division 16 - Electrical			#REF!	#REF!	#REF!	
O	Division 17 - Instrumentation			#REF!	#REF!	#REF!	
P	Division 18 - Security			#REF!	#REF!	#REF!	
Q	Start-up and Commissioning			#REF!	#REF!	#REF!	
R	OTHER			#REF!	#REF!	#REF!	
S SUBTOTAL DIRECT COSTS				#REF!	#REF!	#REF!	
INDIRECT COSTS				CALCULATED RATE:			
T	General Conditions			#REF!	\$0.00	\$0.00	
U	Contingency			#REF!	\$0.00	\$0.00	
V SUBTOTAL GENERAL CONDITIONS COSTS				0.00%	\$0.00	\$0.00	
W SUBTOTAL DIRECT AND INDIRECT COSTS				#REF!	#REF!	#REF!	
X1	Design-Builder Fee on Work Self-Performed by Team (Overhead & Profit)			0.00%	NA	NA	
X2	Design-Builder Fee on Subcontracts and POs (Overhead & Profit)			0.00%	NA	NA	
X3	Total Design-Builder Fee for all Work (Overhead and Profit)			#REF!			
Y SUBTOTAL DIRECT AND INDIRECT COSTS (INCLUDING FEE)				#REF!			
Z	Insurance				\$0.00		
AA	Bonds				\$0.00		
AB	Rework Contingency				\$0.00		
AC	Sales Tax				\$0.00		
AD	Incentives				\$0.00		
AD SUBTOTAL PASS THROUGH COMMERCIAL COSTS				\$0.00			
				AE. Total GP	#REF!		
				AF. Phase 1 Price	\$0.00		
				AG. Total Prior Change Orders	\$0.00		
				AH. Total Contract Amount	#REF!		

<INSERT Project Title>

<Insert Scope Description

<State the deliverable (i.e., Engineer Est, 30%, 60%, etc.)>

Cost Detail (Including Indirects)

<Insert Date>

ITEM No.	DESCRIPTION	QTY	UNIT	Labor Cost	Permanent Material Cost	ST&S Cost	Subcontractor Cost	Construction Equipment	Other Cost/Unit	Total Cost	NOTES
SUMMARY											
Direct Costs Subtotal				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Total Project Indirect Costs Subtotal				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
TOTAL COST				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
DIRECT COSTS DETAIL											
2	Division 2 - Site Work	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 2 to include items from the Division 2 series of technical specifications including, but not limited to, mass excavation/fill, rough grading, excavation, backfill, erosion and sediment control, general site preparation, access gate(s), temporary access roads, utilities, etc.
2.1	Site Remediation & Demolition, if needed		LS							\$ -	Demo of existing structures, utilities, concrete, asphalt, landscaping, etc. shall be broken out in multiple line items.
2.2	Site Preparation/Clearing		Acre							\$ -	
2.3	Grading		SY							\$ -	
2.4	Excavation & Backfill		CY							\$ -	
2.5	Deep Foundations		EA							\$ -	Any kind of deep foundation, piles, micro piles, drilled shafts, caissons, etc
2.6	Erosion & Sedmination Control		LS							\$ -	
2.7	Paving		SY							\$ -	Any aggregate and paving activites for new or replacement roads. Temp roads for construction use only should be in the general conditions under temp work
2.8	Landscaping & Architectural Features		LS							\$ -	includes any landscaping, planting, decorative retaining walls, or other architectural features not part of buildings
2.9	Permanent Fencing/ Perimeter Barrier		LF							\$ -	
2.10	Site restoration and Rehabilitation		LS							\$ -	
2.11	Other Division 2 Activities									\$ -	ADD DESCRIPTION IF THIS LINE IS USED
3	Division 3 - Concrete	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 3 to include items from the Division 3 series of technical specifications including, but not limited to, foundations, slabs, equipment pads, transformer pads, chemical containment, etc. Each separate pad shall be broken out into individual line items.
3.1	"Slab on grade" Concrete		CY	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	horizontal concrete (does not include deep foundation concrete), includes all formwork, blockouts, embeds, palcing of concrete, stripping etc. to build the foundation. DOES NOT include rebar
3.11	NAME Foundation		CY							\$ -	add additional lines for each major foudation. Insert below this line to keep formulas intact
3.12	NAME Foundation		CY							\$ -	
3.13	Misc small foundations, stoops, etc		CY							\$ -	
3.2	Concrete Structures		CY	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Any elevated or concrete structure that includes walls etc. Includes all work to to build the structure. DOES NOT include rebar
3.11	NAME Foundation		CY							\$ -	add additional lines for each major foudation. Insert below this line to keep formulas intact
3.12	NAME Foundation		CY							\$ -	
3.3	Rebar		TN							\$ -	All rebar for project
3.4	Other Division 3 Activities									\$ -	ADD DESCRIPTION IF THIS LINE IS USED
4a	Buildings	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	This line is a sum of all lines below it. ***If additional buildings are added, update formulas in this line
4a.1	Building 1- subtotal			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Repeat for each building on site. Scope applicable to specific building only
4a.1.1	Division 4 - Masonry for buildings only									\$ -	includes masonry applicable to specific building only, does not apply to general site or process equipemnt/structures

<INSERT Project Title>

<Insert Scope Description

<State the deliverable (i.e., Engineer Est, 30%, 60%, etc.)>

Cost Detail (Including Indirects)

<Insert Date>

ITEM No.	DESCRIPTION	QTY	UNIT	Labor Cost	Permanent Material Cost	ST&S Cost	Subcontractor Cost	Construction Equipment	Other Cost/Unit	Total Cost	NOTES
4a.1.2	Division 5 - Metals for buildings only									\$ -	includes metals applicable to specific building only (structural steel framing for building, or steel to support maintenance activities such as davit arms or bridge cranes, etc) Does not apply to general site or process equipemnt/structures
4a.1.3	Division 6 - Wood and Plastics									\$ -	
4a.1.4	Division 7 - Thermal and Moisture Protection									\$ -	Roofing, Insulation,
4a.1.5	Division 8 - Doors and Windows									\$ -	
4a.1.6	Division 9 - Finishes									\$ -	
4a.1.7	Division 10 - Specialties									\$ -	
4a.1.8	Division 11 - Equipment									\$ -	
4a.1.9	Division 12 - Furnishings									\$ -	
4a.1.10	Division 13 - Special Construction									\$ -	ADD Description
4a.1.11	Division 15 - Mechanical									\$ -	Mechanical applicable to building only, such as sewer, potable water, etc or such things typically in a building subcontractors scope. Explicitly DOES NOT include any process piping
4a.1.12	Division 15 - Electrical									\$ -	Electrical applicable to building only, such as lighting, communications, house power for outlets etc. Explicitly DOES NOT include any power or controls to process equipment
4a.1.13	Division 21 - Fire Supression									\$ -	all aspects of building specific fire protection/detection/alarm
4a.1.14	Division 23 - HVAC									\$ -	
4a.1.15	Division 27 - Communications									\$ -	
4a.1.16	Division 28 - Electronic Safety and Security									\$ -	
4a.2	Building 2- subtotal			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Repeat for each building on site. Scope applicable to specific building only
4a.2.1	Division 4 - Masonry for buildings only									\$ -	includes masonry applicable to specific building only, does not apply to general site or process equipemnt/structures
4a.2.2	Division 5 - Metals for buildings only									\$ -	includes metals applicable to specific building only (structural steel framing for building, or steel to support maintenance activities such as davit arms or bridge cranes, etc) Does not apply to general site or process equipemnt/structures
4a.2.3	Division 6 - Wood and Plastics									\$ -	
4a.2.4	Division 7 - Thermal and Moisture Protection									\$ -	Roofing, Insulation,
4a.2.5	Division 8 - Doors and Windows									\$ -	
4a.2.6	Division 9 - Finishes									\$ -	
4a.2.7	Division 10 - Specialties									\$ -	
4a.2.8	Division 11 - Equipment									\$ -	
4a.2.9	Division 12 - Furnishings									\$ -	
4a.2.10	Division 13 - Special Construction									\$ -	ADD Description
4a.2.11	Division 15 - Mechanical									\$ -	Mechanical applicable to building only, such as sewer, potable water, etc or such things typically in a building subcontractors scope. Explicitly DOES NOT include any process piping
4a.2.12	Division 15 - Electrical									\$ -	Electrical applicable to building only, such as lighting, communications, house power for outlets etc. Explicitly DOES NOT include any power or controls to process equipment
4a.1.13	Division 21 - Fire Supression									\$ -	all aspects of building specific fire protection/detection/alarm
4a.1.14	Division 23 - HVAC									\$ -	
4a.1.15	Division 27 - Communications									\$ -	
4a.1.16	Division 28 - Electronic Safety and Security									\$ -	
4b	Division 4 - Masonry - Non-Building	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	

<INSERT Project Title>

<Insert Scope Description

<State the deliverable (i.e., Engineer Est, 30%, 60%, etc.)>

Cost Detail (Including Indirects)

<Insert Date>

ITEM No.	DESCRIPTION	QTY	UNIT	Labor Cost	Permanent Material Cost	ST&S Cost	Subcontractor Cost	Construction Equipment	Other Cost/Unit	Total Cost	NOTES
4b.1	Any non-building masonry		LS							\$ -	masonry retaining walls or other masonry not associated with a building
5	Division 5 - Metal (Non-Building)	0	Ton	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 5 to include Non-building items from the Division 5 series of technical specifications to include, but not limited to, structural supports, bollards, grating, metal barriers on top of walls, shade canopy, etc.
5.1	Structural Steel and Connections		Ton							\$ -	Includes, steel framing (non-building), pipe racks, significant support structures, canopies etc
5.2	Misc Access steel		Ton							\$ -	Includes stairs, handrails, grating, decking,
5.3	Other Division 5 Activities		Ton							\$ -	ADD DESCRIPTION IF THIS LINE IS USED
6	Division 6 - Woods and Plastics (Non-Building)	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
6.1	Any non-building or concrete wood and plastics		LS							\$ -	
7	Division 7 - Thermal and Moisture Protection (Non-Building)	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
7.1	Pipe Thermal Protection		LF							\$ -	
7.2	Non-building Fire and Smoke Protection/Detection/Alarm		LS							\$ -	scope typically provided by a specialty fire protection sub, fire main or fire water loop should be in underground pipe
7.3	Other Division 6 Activities									\$ -	ADD DESCRIPTION IF THIS LINE IS USED
9	Division 9 - Finishes (Non-Building)	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 9 to include items from the Division 9 series of technical specifications to include, but not limited to, coating systems, lining systems, etc.
9.1	Concrete Coatings		SF							\$ -	
9.2	Painting (steel, pipe, etc)		LS							\$ -	
9.3	Other Division 9 Activities		LS							\$ -	ADD DESCRIPTION IF THIS LINE IS USED
10	Division 10 - Specialties (Non-Building)	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 10 to include items from the Division 10 series of technical specifications including, but not limited to, identification signs, warning signs, etc.
10.1	Permanent Signage		LS							\$ -	Any permanent signage required by the project
10.2	Other Division 10 Activities		LS							\$ -	ADD DESCRIPTION IF THIS LINE IS USED
11	Division 11 - Equipment (Non-building)	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 11 to include items from the Division 11 series of technical specifications to include, but not limited to, pumps, surge tanks, chemical storage/metering pumps, compressors, etc. Line items shall be broken out by equipment/ system being supplied (pumps, control valves, filters, UV, ozone, compressors, transformers, MCCs etc.)
11.1	LIST EACH PIECE OF EQUIPMENT (redundancy captured in qty)		EA							\$ -	
11.2			EA							\$ -	
11.3			EA							\$ -	
11.4			EA							\$ -	
11.5			EA							\$ -	
11.6			EA							\$ -	
11.7			EA							\$ -	
11.8			EA							\$ -	
11.9			EA							\$ -	
11.10			EA							\$ -	
11.11			EA							\$ -	
11.12			EA							\$ -	
11.13			EA							\$ -	add additional lines for each piece of equipment. Insert below this line to keep formulas intact
11.14			EA							\$ -	

<INSERT Project Title>

<Insert Scope Description

<State the deliverable (i.e., Engineer Est, 30%, 60%, etc.)>

Cost Detail (Including Indirects)

<Insert Date>

ITEM No.	DESCRIPTION	QTY	UNIT	Labor Cost	Permanent Material Cost	ST&S Cost	Subcontractor Cost	Construction Equipment	Other Cost/Unit	Total Cost	NOTES
13	Division 13 - Special Construction	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 13 to include items from the Division 13 series of technical specifications to include, but not limited to, cathodic protection systems, acoustic enclosures, etc. Line items shall be broken out by equipment/ system being supplied. ***NOTE: all process equipment to be included in Division 11*** ***NOTE: all instrumentation to be included in Division 17***
13.1	Sound, Vibration, and seismic control (non-building)		LS							\$ -	
13.2	Lightning Protection		LS							\$ -	not included in building subcontractor's scope
13.3	Cathodic Protection		LF							\$ -	
13.4	Field Erected Tanks (non-concrete)		EA							\$ -	Shop fabricated tanks should be listed above in Equipment
13.5	Hazardous Material Remediation, if necessary		LS							\$ -	
13.6	Other Division 13 Activities		LS							\$ -	ADD DESCRIPTION IF THIS LINE IS USED
14	Division 14 - Conveying Systems	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 14 to include items from the section 14 series of CSI division. ***NOTE: temp scaffolding is to be included in Division 1 - temp work***
14.1	Material Handling									\$ -	
14.2	Hoists, Bridge Cranes, etc									\$ -	
14.3	Other Division 14 Activities		LS							\$ -	ADD DESCRIPTION IF THIS LINE IS USED
15	Division 15 - Mechanical	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 15 to include items from the Division 15 series of technical specifications to include, but not limited to, pipe, valves, fittings, hangers and supports, testing, disinfection, and flushing for all piping systems, etc.
15.1	Above ground pipe	0	LF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
15.1.1	Above ground metal pipe large bore (greater than 2" dia)		LF							\$ -	
15.1.2	Above ground plastic pipe large bore (greater than 2" dia)		LF							\$ -	
15.1.3	Above ground fiberglass pipe large bore (greater than 2" dia)		LF							\$ -	
15.1.4	Above ground metal pipe small bore (2" dia or smaller)		LF							\$ -	
15.1.5	Above ground plastic pipe small bore (2" dia or smaller)		LF							\$ -	
15.1.6	Above ground fiberglass pipe small bore (2" dia or smaller)		LF							\$ -	
15.1	Underground pipe	0	LF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
15.1.1	Undergroundd metal pipe large bore (greater than 2" dia)		LF							\$ -	
15.1.2	Underground plastic pipe large bore (greater than 2" dia)		LF							\$ -	
15.1.3	Underground fiberglass pipe large bore (greater than 2" dia)		LF							\$ -	
15.1.4	Underground metal pipe small bore (2" dia or smaller)		LF							\$ -	
15.1.5	Underground plastic pipe small bore (2" dia or smaller)		LF							\$ -	
15.1.6	Underground fiberglass pipe small bore (2" dia or smaller)		LF							\$ -	
16	Division 16 - Electrical	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 16 to include items from the Division 16 series of technical specifications to include, but not limited to, electrical equipment, conduit, wire, duct bank, terminations, building receptacles, building lighting, site lighting, VFDs (if not provided with equipment), power studies, etc.
16.1	Ductbank		LF							\$ -	All-inclusive, except excavation and back-fill and wiring
16.2	Raceway		LF							\$ -	conduit (except what is in ductbank), cable tray
16.3	Wiring & Terminations		LF							\$ -	power and control wire
16.4	Grounding		LF							\$ -	ground grid and stingers
16.5	Lighting		EA							\$ -	
16.6	Heat trace		LF							\$ -	
16.7	Misc Small Electrical Equipment		LS							\$ -	Lighting panels, power panels, etc
16.8	Other Division 16 Activities		LS							\$ -	ADD DESCRIPTION IF THIS LINE IS USED
17	Division 17 - Instrumentation	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Division 17 to include items from the Division 17 series of technical specifications to include, but not limited to, instruments, PLC and hardware, software, programming, testing, etc.

<INSERT Project Title>

<Insert Scope Description

<State the deliverable (i.e., Engineer Est, 30%, 60%, etc.)>

Cost Detail (Including Indirects)

<Insert Date>

ITEM No.	DESCRIPTION	QTY	UNIT	Labor Cost	Permanent Material Cost	ST&S Cost	Subcontractor Cost	Construction Equipment	Other Cost/Unit	Total Cost	NOTES
17.1	Instruments		Ea							\$ -	
17.2	DCS/ PLCs		LS							\$ -	
17.3	Programming		LS							\$ -	
17.4	Instrument Calibration and Testing		LS							\$ -	
17.5	Other Division 17 Activities		LS							\$ -	ADD DESCRIPTION IF THIS LINE IS USED
18	Division 18 - Security	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
18.1	Permanent Facility Security		LS							\$ -	inclusive of gates, card readers, cameras, motion detection, security guard shacks etc
18.2	Other Division 17 Activities		LS							\$ -	ADD DESCRIPTION IF THIS LINE IS USED
19	Start-up and Commissioning	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
19.1	Pre-Commissioning	1	LS							\$ -	all activities to ensure plant is ready to receive process water
19.2	Commissioning & Testing	1	LS							\$ -	
20	Allowances	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
20.1	ADD Description of Allowance									\$ -	
20.2	ADD Description of Allowance									\$ -	
21	OTHER	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
21.1	ADD Description of other direct costs not captured above									\$ -	
21.2	ADD Description of other direct costs not captured above									\$ -	
INDIRECT COSTS (OVERALL PROJECT)											
1	Division 1 - General Conditions	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	This line is a sum of all lines below it.
1.1	Commerical Costs			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
1.11	Licenses, Permits, Fees									\$ -	fees, special licenses, permit costs specific to project and required by 3rd party agencies
1.12	Subcontractor markup		%				\$ -				
1.13	Other Commercial Costs (not listed below in "pass through"		LS							\$ -	ADD DESCRIPTION IF THIS LINE IS USED
1.2	Site Staff - not included in Direct Work			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	payroll costs and expenses for project manager or construction manager for work conducted at the site; superintendent, general foremen, Office Staff (scheduler, cost control, payroll etc) other management personnel working on the site
1.21	Supervision									\$ -	Project Manager, Constrution Manager, Superinendents, Field Engineers , General Foreman
1.22	Office/Support Staff									\$ -	Office Engineer, Project Engineer, Scheduler, Payroll, Warehouse, Purchasing, Maintenance etc
1.23	Safety									\$ -	Includes staff, incentives, saftey supplies etc
1.24	Quality									\$ -	Includes staff, incentives, quality supplies, testing etc
1.25	Environmental, if required									\$ -	Includes staff, supplies, testing etc
1.26	Survey									\$ -	Includes staff, supplies, testing etc
1.27	Other									\$ -	INCLUDE DESCRIPTION IF THIS FIELD IS USED
1.3	Mobilization/ Demobilization									\$ -	
1.4	Temp Facilities									\$ -	offices and temporary facilities including office materials, office supplies, office equipment, minor office expenses; utilities, fuel, sanitary facilities, construction related electrical and telephone services at the site, security, land/misc facilities rentals, temp warehouse etc
1.5	Temp Work									\$ -	All work necessary to suppor the site, but not considered direct work (scaffolding, dust control, material handling, maintenace of temp roads and access, falsework, traffic control etc)
1.6	Duration Based Construction Equipment									\$ -	Any equipment that is not assigned to specific work, generators, welding machines, cranes, forklifts etc
1.7	Engineering									\$ -	Engineering costs to complete design, engineering during construction services, inspections etc
2	Contingency	1	LS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Labor Contingency									\$ -	

<INSERT Project Title>
<Insert Scope Description
<State the deliverable (i.e., Engineer Est, 30%, 60%, etc.)>
Cost Detail (Including Indirects)
<Insert Date>

ITEM No.	DESCRIPTION	QTY	UNIT	Labor Cost	Permanent Material Cost	ST&S Cost	Subcontractor Cost	Construction Equipment	Other Cost/Unit	Total Cost	NOTES
	Procurement Contingency									\$ -	buy-out of subs, materials, and equipment
	ADD Description of other contingencies									\$ -	
	ADD Description of other contingencies									\$ -	
	ADD Description of other contingencies									\$ -	
	ADD Description of other contingencies									\$ -	
	ADD Description of other contingencies									\$ -	Insert below this line to keep formulas intact
	ADD Description of other contingencies									\$ -	

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 3A.2 Task Order Template

Task Order No. _____

Title: _____

Agreement: Design-Build Agreement _____ ("Agreement") Between the Santa Clara Valley Water District ("Valley Water") and _____ ("Design-Builder"), dated _____.

Valley Water: _____

Design-Builder: _____

Dollar Amount of Task Order Not-to-Exceed _____

1. Upon full execution of this Task Order No. _____, and the issuance of a Notice to Proceed by Valley Water Project Manager, the Design-Builder is hereby authorized to perform the Services described in Attachment A to this Task Order. Any costs incurred, Services performed or expenditures by the Design-Builder before this Task Order is executed or before the issuance of the Notice to Proceed will be considered outside the contracted Scope of Services and will not be eligible for payment.
2. Both the Scope of Services to be performed and the deliverables to be provided in accordance with this Task Order are described in Attachment A which is attached hereto and incorporated by this reference. Attachment A shall include at a minimum the following:
 - A. The Design-Builder personnel to be assigned to perform the Services, including resumes if not previously provided to Valley Water;
 - B. The total not-to-exceed fees amount for Design-Builder to complete the Services, including estimated number of hours required to perform the Services assigned to each Design-Builder classification;
 - C. Estimated cost of each other direct cost and reimbursable expense, including any applicable fees; and
 - D. Project schedule for completing the Scope of Services.
3. Design-Builder shall be compensated at fixed fees or at the hourly rates previously established. Consultant agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted in the Attachment A.
4. This Task Order becomes effective on the date of full execution by authorized representatives of the Parties and remains in effect until the earlier of: completion of the tasks set forth in Attachment A; or [expected completion date].

5. Copies of applicable local, state and federal permits required to perform the Services described in Attachment A are attached to this Task Order, unless the Design-Builder previously provided the appropriate permits to Valley Water.
6. Design-Builder shall perform all Services described in Attachment A to this Task Order in accordance with the Terms and Conditions of the Agreement.
7. Prevailing Wage Requirements [NOT USED]
 - A. The Scope of Services described in this Task Order is considered by Valley Water to be "Public Works" requiring the payment of prevailing wages..
 - B. In accordance with prevailing wage laws, the Director of the California Department of Industrial Relations (Director) has ascertained the general prevailing rate of wages and employer payments for health and welfare, pension, vacation, and similar purposes available to the particular craft, classification, or type of workers employed on the Project. These rates are set forth in the latest determination obtained from the Director, which is on file in Valley Water's Office of the Clerk of the Board of Directors and incorporated herein by reference the same as though set forth in full. The rates are also available on the State of California Department of Industrial Relations website at <http://www.dir.ca.gov>.

8. Signatures:

Signature:

 NAME OF DESIGN-BUILD FIRM
 [PRINT NAME]
 [PRINT TITLE]

 DATE

Signature:

 SANTA CLARA VALLEY WATER DISTRICT
 [PRINT NAME]
 [PRINT TITLE]

 DATE

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 3B. Phase 2 (by Amendment)

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 3C. OWNER'S PROJECT CRITERIA

CONFIDENTIAL

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**Valley Water
Coyote Pumping Plant ASDs Replacement Project**

EXHIBIT 3D. INDEX OF REFERENCE DOCUMENTS

The final version of this document will be included as an Exhibit to the Design-Build Agreement.

The Design-Builder shall review the Reference Documents as directed in the RFP to support their proposal, and during Phase 1. Valley Water may also update the Reference Documents list from time to time with new information during Phase 1.

All documents listed below are provided via PlanetBids.

Unless otherwise indicated in the table, the Reference Documents are provided to Proposers and the Design-Builder for information and background purposes only, and shall not be relied on for design.

Document Number	Document Title, Author, and Date	Reliance
CPP ASD Replacement Project-Specific Reference Documents		
REF-01	CPP Motor Test Data, Omicron, 2020	Technical data collected during testing be relied on to support design. Any calculations or conclusions are for information use only and shall not be relied upon for design.
REF-02	O&M Manuals, Siemens, 1986	For informational and background use only and shall not be relied upon for design
REF-03	CEQA Categorical Exemption, Coyote Pumping Plant, Valley Water, June 2021	For informational and background use only and shall not be relied upon for design
Santa Clara Valley Water District Standards		
REF-04	Guide Specifications, Valley Water, 2015-2021	For informational and background use only and shall not be relied upon for design
REF-05	CADD Standards, Valley Water, December 2010	May be relied upon for design and planning purposes
Reports		
REF-06	Geologic Design Data Report, US Dept of Interior, January 1983	For informational and background use only and shall not be relied upon for design
REF-07	Geotechnical Investigation, Coyote Pumping Plant Maintenance Building Project, Kleinfelder, September 2013	For informational and background use only and shall not be relied upon for design

Document Number	Document Title, Author, and Date	Reliance
Environmental		
REF-08	Final Initial Study / Mitigated Negative Declaration, Coyote Warehouse Project, ESA Inc., May 2017	For informational and background use only and shall not be relied upon for design
Drawings		
REF-09	Original Construction Drawings, Coyote Pumping Plant, USBR, 1984-1988	The as built or record documents are for reference only; Valley Water does not guarantee their completeness or correctness. Valley Water makes no representation, either expressed or implied, that the conditions indicated in the Drawings, documents, or records are representative of those existing at the Site, or that different conditions may not occur or material other than that indicated or in proportions different from those indicated may not be encountered.
REF-10	ASD Cable Replacement Project, Coyote Pumping Plant, SCVWD, 2007	

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 4. PERMITS AND APPROVALS

This draft permits and approvals matrix is intended for the Design-Builder's reference only. In providing this document, Valley Water does not guarantee that all required permits are listed. The selected Design-Builder and the Owner will collaborate during Phase 1 of the Project to develop a full understanding of the permitting requirements of the Project. Additional permits for which the Design-Builder will be responsible may be added. Valley Water does not currently anticipate any additional permits or approvals will required: the site is exempt from local building-type permits per federal regulations, and no significant environmental permits beyond those shown are anticipated to be required. The Design-Builder shall be responsible for obtaining and maintaining any permits and approvals that are not explicitly identified as a Valley Water responsibility, irrespective of whether any such permit or approval is identified in this Exhibit.

TABLE X. Permits and Approvals Matrix

Name of Government Approval/Submittal	Issuing Entity	Permittee/ Approval Holder	Application Manager	Information Supply Responsibility	Fee Payment Responsibility
NEPA	USBR	VW	VW	VW	VW
CEQA	CA Department of Fish and Wildlife	VW	VW	VW	VW
USBR Letter of Agreement	USBR	VW	VW	VW	VW
[Other permits/approvals – to be added by Design-Builder in Phase 1]	[agency]	[DB or VW]	[DB or VW]	[DB or VW]	[DB or VW]

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 5. Compensation (from the Selected DBE)

Valley Water
Coyote Pumping Plant ASDs Replacement Project
EXHIBIT 5A. Design-Builder Phase 1 Price Proposal
(from the Selected DBE)

ADDENDUM NO. 3
TO REQUEST FOR PROPOSALS
FOR DESIGN-BUILD ENTITIES SEEKING TO BID ON
COYOTE PUMPING PLANT ASDs
REPLACEMENT PROJECT
Project No. 91234002 Contract No. C0675

ATTACHMENT 2

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 14. PROGRESSIVE DESIGN-BUILD PRICE PROPOSAL **(AMENDED)**

(This form shall be completed and attached to Proposal Section 6.1 Progressive Design-Builder Price Proposal)

Phase 1. Design and Preconstruction Services

<u>EVALUATED</u> Not-to-Exceed Price for Design and Preconstruction Phase <i>(Do not include Supplemental and/or Deductive Scope Proposed Price)</i>	4,314,077.00
Task 1: Phase 1 Project Management	\$ 1,186,298.00
Task 2: Reference Document Review	\$ 92,513.00
Task 3: Field Investigations and Permitting Support	\$ 284,915.00
Task 4: Design Development and Documents	\$ 1,871,291.00
Task 5: Cost Modeling and Scheduling	\$ 238,550.00
Task 6: Guaranteed Price Proposal	\$ 248,321.00
Task 7: Supplemental Phase 1 Services	\$ 392,189.00

Phase 2. Construction Services Fees

EVALUATED Guaranteed Maximum Price Option.

Construction phase fee on construction cost per requirements in RFP.

1. <u>Design-Builder Fee</u> (Fees applied by Design Builder) A percent (%) markup to be applied by the Design-Builder to the Direct Cost of Work that is to be self-performed by the Design-Builder and applied to subcontracted Work provided by all other members of the DB Team (i.e., all firms named in Respondent's SOQ and/or Proposal as a DB Team member, except the Design-Builder).	20	%
2. <u>Design-Builder Subcontractor Fee</u> (Fees applied by Design-Builder) A total percent (%) markup to be applied by the Design-Builder to all Work and purchases from entities not named in the Respondent's SOQ and/or Proposal as a DB Team member.	20	%
3. <u>DB Team Member Fee(s)</u> (Fees applied by DB Team members) A separate, individual percent (%) markup to be applied by each DB Team member named in the SOQ and/or Proposal. Fee to apply to the Direct Cost of Work that is performed by named members of the DB Team (except the Design-Builder) as estimated using an open-book process to support the Design-Builder's development of the Guaranteed Price Proposal.		
The DB Team Member Fee(s) will not be used for evaluation of the proposal , but will be binding as the only markup on the Direct Cost of Work allowed by the respective DB Team members.		
(Add rows below as necessary to list all DB Team members)		
DB Team Member 1 Name Cupertino Electric, Inc.	18	%
DB Team Member 2 Name TESCO	18	%

EVALUATED Lump Sum Price Option.

Adjusted fee to be applied to construction cost should Valley Water elect to exercise the Guaranteed Price on a Lump Sum basis.

1a. Design-Builder Fee. Percent (%) discount on listed Design-Builder Fee (listed in Item 1 above) should Valley Water elect to exercise the Guaranteed Price on a Lump Sum basis:		
	Discount on Design-Builder Fee	3 %
1b. Math check:		
	Design-Builder Fee (from GMP option Item 1 above)	20 %
	minus	
	Lump Sum discount	3 %
	Equals	17 %
2a. <u>Design-Builder Subcontractor Fee</u> . Percent (%) discount on listed Design-Builder Subcontractor Fee (listed in Item 2 above) should Valley Water elect to exercise the Guaranteed Price on a Lump Sum basis:		
	Discount on Design-Builder Subcontractor Fee	3 %
2b. Math check:		
	GMP Fee (from GMP option Item 2 above)	20 %
	minus	
	Lump Sum discount	3 %
	Equals	17 %

ADDITIONAL INFORMATION

- As-proposed Design-Builder Fee will be applied to the actual, verifiable Direct Cost of the Work, as defined in the Supplement Conditions, Section 1.20 and DB Agreement Section 7.5.1.
- The Guaranteed Price will be calculated as described in Section 7.5.7 of the DB Agreement.
- Fees will not be applied to pass through costs as described in Sections 7.5.3 through 7.5.6 of the DB Agreement.
- The final Guaranteed Price is a fixed dollar amount which represents the maximum total compensation available for Phase 2 (Construction) to the Design-Builder as described in Sections 5.3 and 7.3 of the DB Agreement.
- Other than the three fee categories described above, no additional mark-up or fees are to be included on Phase 2 Construction Work incurred for any member of the Design-Build Team. Design-Build Team members are considered pre-selected for self-performed scope may not otherwise compete for subcontracted scope in Phase 2 (Construction).
- For the development of all iterations of the draft Guaranteed Price Amendment, all members of the Design-Build Team are required to document costs in open-book format as described in Sections 5.3 and 7.3 of the DB Agreement.
- The selected Design-Builder will be required to develop its Guaranteed Price estimate, and all subsequent Guaranteed Price iterations in accordance with the level of detail set forth in the Valley Water Approved Cost Estimate Example (provided as DB Agreement Exhibit 3A, Attachment 1).
- Variations of how the Fees are applied to costs, from the Valley Water Approved Cost Estimate Example, will not be allowed without express written approval by Valley Water. Modifications to the Valley Water Approved Cost Estimate Example that do not affect how Fees are applied (e.g., specific line items and organization of construction scope) will be allowed, and will be developed collaboratively with Valley Water, upon selection.

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 5B. Design-Builder Hourly Billable Rates
(from the Selected DBE)

Valley Water
Coyote Pumping Plant ASDs Replacement Project

**FORM 15. PHASE 1 ALL-INCLUSIVE BILLING RATES
AND LABOR CATEGORIES**

(This form may be expanded to span multiple pages, as needed, and attached to Proposal Section 6.1 Progressive Design-Builder Price Proposal)

Phase 1 Professional Services All-Inclusive Billing Rates and Labor Categories			
Staff Name	Firm	Labor Category	Billing Rate (Include all markups for benefits, overhead and profit)
Vimal Patel	Kiewit	Design Project Executive	\$290.00
Jesse Jardin	Kiewit	Project Manager	\$250.00
TBD	Kiewit	Project Engineer	\$225.00
TBD	Kiewit	Scheduler	\$225.00
James Cordero	Kiewit	Start-Up Manager	\$225.00
TBD	Kiewit	Estimator	\$160.00
TBD	Kiewit	Superintendent	\$225.00
TBD	Kiewit	Field Engineer	\$160.00
TBD	Cupertino Electric, Inc.	Construction Project Executive	\$240.63
Chauncey Gray	Cupertino Electric, Inc.	Project Manager	\$185.63
TBD	Cupertino Electric, Inc.	Project Engineer	\$111.46
TBD	Cupertino Electric, Inc.	Project Administration	\$75.63
TBD	Cupertino Electric, Inc.	Project Scheduler	\$178.75
TBD	Cupertino Electric, Inc.	Electrical Estimate Lead	\$163.63
TBD	Cupertino Electric, Inc.	Electrical Estimate Support	\$103.13
TBD	Cupertino Electric, Inc.	Superintendent	\$264.57
TBD	Kiewit Engineering	Engineering Project Manager	\$250.00
TBD	Kiewit Engineering	Engineering Coordinator	\$180.00
TBD	Kiewit Engineering	Project Controls	\$110.00
Adam Reab	Kiewit Engineering	Lead Engineer	\$200.00
John Liu	Kiewit Engineering	Lead Engineer	\$200.00
TBD	Kiewit Engineering	Support Engineer	\$180.00
TBD	Kiewit Engineering	Designer	\$150.00
TBD	Stantec	VP	\$330.00
Phil Atkinson	Stantec	Sr. Principal	\$315.00
Nathan Gronlund	Stantec	Sr. Principal	\$280.00
Mark Smith	Stantec	Sr. Principal	\$315.00
TBD	Stantec	Sr. Associate	\$190.00
TBD	Stantec	Sr. Designer	\$300.00
TBD	Stantec	Designer	\$150.00

Rates shown are 2022 and 2023 rates, and are not subject to escalation in 2024. Rates are subject to a 4% escalation starting in January 1, 2024.

Form 15 Notes: Rates shown are 2022 and 2023 rates, and are not subject to escalation in 2024. Rates are subject to a 4% escalation starting in January 1, 2024.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 5C. Schedule of Values (by Amendment)

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Valley Water
Coyote Pumping Plant ASDs Replacement Project
EXHIBIT 6. Personnel (from the Selected DBE)

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 6A. Staffing Plan (from the Selected DBE)

Exhibit 1-1: Our Organization Chart is provided to recommunicate our proposal personnel and structure with updated information to reflect the RFP requirements.

OUR PROJECT TEAM REMAINS UNCHANGED

Our project team remains unchanged and laser focused on producing a design that fits your budget, maximizes reliability, and delivers an easy to operate project at a low-life cycle cost. We are uniquely aligned with achieving your project goals as follows:

- 1

Relationship | We're providing a direct line of contact and simple interface with Jesse and Mark so you'll know who to coordinate with.
- 2

Consistent Management | Consistent management from Phase 1 through Phase 2 to ensure the experience and knowledge gained in Phase 1 carries over directly through Phase 2.
- 3

Experience | The Kiewit Team knows the level of quality and commitment Valley Water expects. We have brought together an experienced PDB team to help guide Valley Water through value identification, discussion and critical decision making.
- 4

Team | Kiewit and Stantec are currently working together on three alternative delivery projects and have completed over 50 design-build contracts valued at over \$18B. To best develop, design, and build the scope on this particular project, we have supplemented our team with electrical designers from Kiewit, electrical construction from Cupertino, and SCADA with Tesco. This team will be integrated from day one, adding key insight and input to the design and finished product.

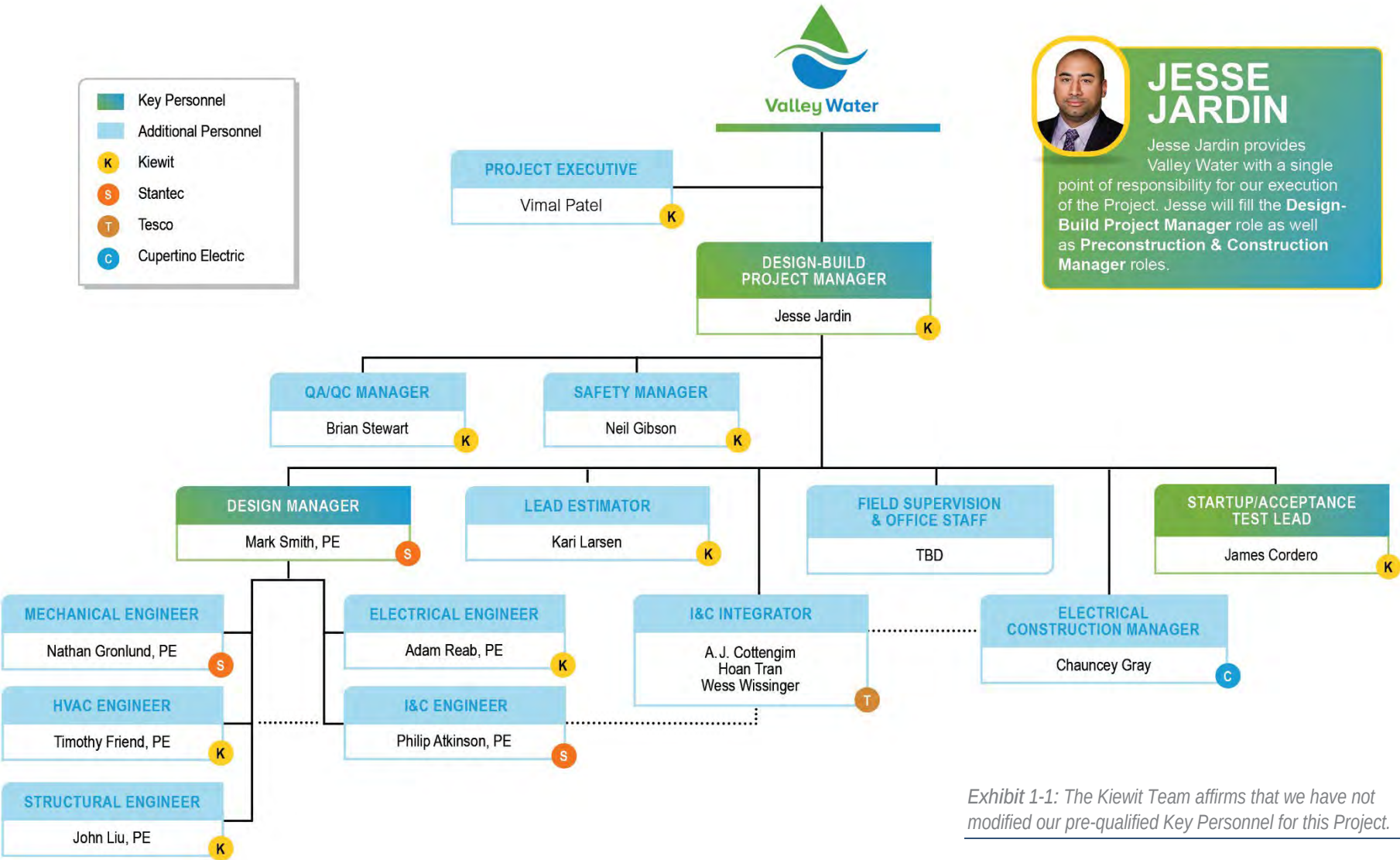


Exhibit 1-1: The Kiewit Team affirms that we have not modified our pre-qualified Key Personnel for this Project.

KEY PERSONNEL



JESSE JARDIN
Design Build Project Manager / Preconstruction and Construction Manager

- 15 years of experience
- Extensive leadership experience in water infrastructure and pump station projects
- Experience in progressive design-build delivery
- Hands-on technical knowledge and management and communication skills
- Experience working with Valley Water



MARK SMITH
Design Manager

- 30 years of experience
- Extensive experience designing water infrastructure and pump station projects
- Experience in progressive design-build delivery
- Strong technical knowledge and communication skills



JAMES CORDERO
Startup / Acceptance Test Lead

- 15 years of experience
- Experience in progressive design-build delivery
- Proven success commissioning plants
- Certified California Plant Operator
- Excellent trainer for Valley Water staff



VALUE ADDED

VIMAL PATEL | Project Executive

- Partnered and successfully delivered projects with Valley Water since 2003
- Worked with Key Personnel, Jesse and James for over 15 years



ADAM REAB, P.E. | Electrical Engineer

- 8 years of experience as electrical design engineer
- Experience in progressive design-build delivery
- Has led or been on the electrical design team for 6 EPC/DB projects worth \$2B in total value
- Proven success as Electrical Design Engineer on several water infrastructure plants, including Charles Meyer Desalination Project and North Hollywood Central and Tujunga Well Field Response Action Treatment Facilities



Cupertino brings over 3,000 full time Union IBEW electricians in the Bay Area.



Tesco provides 19 years of experience on more than 20 projects with Valley Water.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 6B. Key Firms and Personnel (from the Selected DBE)



KEY AND PARTICIPATING FIRMS

CPP ASD REPLACEMENT PROGRESSIVE DESIGN-BUILD PROJECT

All firms that will be significant participants in providing the contract services ("Participating Firms") are identified below. Such entities shall include, as applicable, (1) the Respondent who will serve as the single point of responsibility under the Design-Build Agreement (which may be a new company formed for the sole purpose of executing and performing the Design-Build Agreement); (2) the entity that will design the Project; (3) the entity that will construct the Project; (4) the Guarantor; and (5) any other significant participant, subconsultant or subcontractor including all firms identified as Key Firms in the RFQ.

(1) The Respondent:	<u>Kiewit Infrastructure West Co.</u>
(2) Engineer of Record:	<u>Stantec Consulting Services, Inc.</u>
(3) General Contractor:	<u>Kiewit Infrastructure West Co.</u>
(4) Guarantor:	<u>Kiewit Infrastructure West Co.</u>
(5) Other Key Firms:	<u>Tesco Controls, Inc. / Cupertino Electric, Inc.</u>

Each member of a joint venture should be listed separately.

Name of Respondent:	<u>Kiewit Infrastructure West Co.</u>
Name of Authorized Signatory:	<u>Eric M. Scott</u>
Signature:	<u></u>
Title:	<u>Senior Vice President</u>

NO CHANGES OR
ADDITIONS PROPOSED.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 6. SUBSTITUTIONS OR ADDITIONS TO KEY FIRMS

(To be completed and attached to the Proposal Section 1.1 Qualifications Update, if applicable)

Identify any substitutions or additions to the Key Firms identified in Proposer’s SOQ in Proposal Form 6. If no changes are proposed, Proposal Form 6 need not be submitted.

Substitutions to Key Firms listed in Proposer’s SOQ shall have obtained prior Valley Water approval under the provisions of RFQ Section 4.5 and Section 6.1 of the RFP. Additions to Key Firms will be considered enhancements and do not require prior Valley Water approval.

- (1) Design-Builder: _____
- (2) Engineer of Record: _____
- (3) Construction Entity (General Contractor): _____
- (4) Other Key Firms: _____

Each member of a joint venture should be listed separately below.

- Name of Proposer (Design-Builder): _____
- Name of Authorized Signatory: _____
- Signature: _____
- Title: _____

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 9. KEY PERSONNEL AND STAFF TIME COMMITMENTS

(To be completed and attached to the Proposal Section 1.1 Qualifications Update, if applicable)

Key Personnel Time Commitments			
Project Role	Name	Commitment of Availability Phase 1	Commitment of Availability Phase 2
Design-Build Manager	Jesse Jardin	<u>90</u> %	<u>70</u> %
Design Manager	Mark Smith	<u>70</u> %	<u>30</u> %
Preconstruction Manager	Jesse Jardin	<u>90</u> %	<u>70</u> %
Construction Manager	Jesse Jardin	<u>90</u> %	<u>70</u> %
Startup/Commissioning/Acceptance Testing Lead	James Cordero	<u>25</u> %	<u>30</u> %
Other Key Personnel and Project Staff (list) Project Executive	Vimal Patel	<u>30</u> %	<u>30</u> %
Electrical Engineer	Adam Reab	<u>70</u> %	<u>25</u> %
Electrical Construction Manager	Chauncey Gray	<u>30</u> %	<u>50</u> %

*For commitment of availability, Proposers shall indicate average percent of time the individual could be available to work on the Project if needed. Assume 10 percent of each individual's time will be committed for vacation, holidays, and sick leave. Provide footnotes as needed for clarity.

Proposer shall identify Key Personnel for each role listed in the table above and other proposed project staff designated by the Proposer as important to the successful completion of the Work.

NO ADDITIONS OR
CHANGES PROPOSED.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 7. SUBSTITUTIONS OR ADDITIONS TO KEY PERSONNEL¹

(To be completed and attached to the Proposal Section 1.1 Qualifications Update, if applicable)

Identify any substitutions or additions to the Key Personnel identified in Proposer’s SOQ in Proposal Form 7. If no changes are proposed, Proposal Form 7 need not be submitted.

Substitutions to Key Personnel listed in Proposer’s SOQ require prior City approval under the provisions of RFQ Section 4.6 and under Section 6.1 of the RFP. Additions to Key Personnel will be considered enhancements and do not require prior City approval.

Resumes, limited to 2 pages each, for each substituted or added individual shall be included as an attachment to Proposal Section 1.1 using Proposal Form 8.

Name	Company Affiliation	Proposed Role on Project

1. Key Personnel positions are defined in the RFP Definitions.

NO ADDITIONS OR
CHANGES PROPOSED.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 8. RESUME INFORMATION

(To be completed and attached to the Proposal Section 1.1 Qualifications Update, if applicable)

Provide the information requested on this form for additions or changes to Key Personnel or other staff additions occurring subsequent to submittal of the SOQ. If no additions or changes to Key Personnel are proposed, Proposal Form 8 need not be submitted.

General Information

Name: _____
Firm/Office Location: _____
Title: _____
Year Employed by Firm: _____ years
Total Professional Experience: _____ years
Professional Registrations, Certifications, and Licenses (type, state/organization, year):

Proposed Role on the Project

Title/Assignment: _____
Description of Role/Responsibilities: _____

Commitment to Project¹

Phase 1 _____ %
Phase 2 _____ %

Relevant Project Experience²

Project/Client Delivery Method: _____
Location/Brief Description: _____
Current Status: _____
Date of Involvement: from _____ through _____.

Description of Specific Roles and Responsibilities:

Client References³

Name

Title/Organization:

Address:

Phone:

Email:

Notes:

1. Commitment indicates the amount of time (in percent) that the staff person would be available to work on the Project during a typical week during Phase 1 and Phase 2 considering other project and business commitments. For example, if a person would be available 20 hours per week out of a 40-hour work week, reply 50%. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Work.
2. Provide this information for up to seven relevant projects.
3. Provide two client references.

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 7. Schedule and Site Logistics Plan (from the Selected DBE)

2.2 PDB Implementation Approach Milestone Timeline

We have developed a PDB Implementation Approach Milestone Timeline (**Exhibit 2.5**) with critical decisions and processes we will use across Phase 1 through final design, to the extent it overlaps into Phase 2. As shown in the timeline, our project planning focuses on critical decision-making early in the Project, when decisions have the biggest impact on Project success.

Key decisions and milestones Valley Water will be involved in are shown on the timeline. Our project planning focuses on these critical activities in the Project, when decisions have the biggest impact on Project success. In these cases, Valley Water's responsibilities are:

- Empower Project Team within a defined hierarchy to make critical decisions efficiently
- Review and approve key design and process equipment submittals within 20 days
- Approve long lead and specialty equipment for on-time arrival
- Engage with Project Team during permitting to help expedite regulatory approvals
- Participate in weekly meetings to help progress the work on schedule
- Participate in regular partnering and alignment meetings

We look forward to discussing our PDB Implementation Approach with Valley Water and BC for the success of the Project and also as a pilot for future PDB deliveries with Valley Water.

Exhibit 2.5. Our PDB Implementation Approach Milestone Timeline leverages the entirety of the design development Phase 1 timeframe to enable informed, thoughtful decision-making

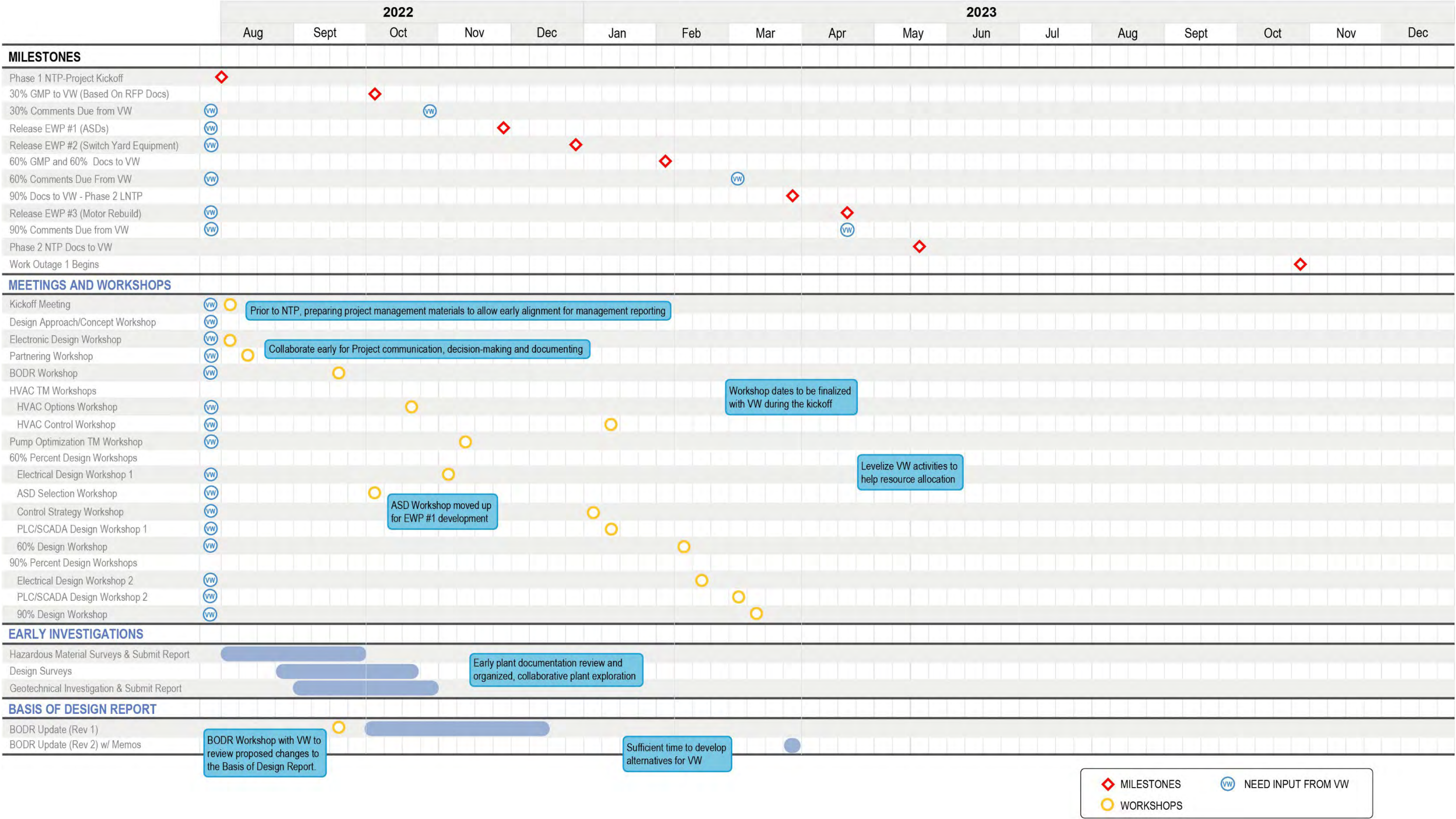
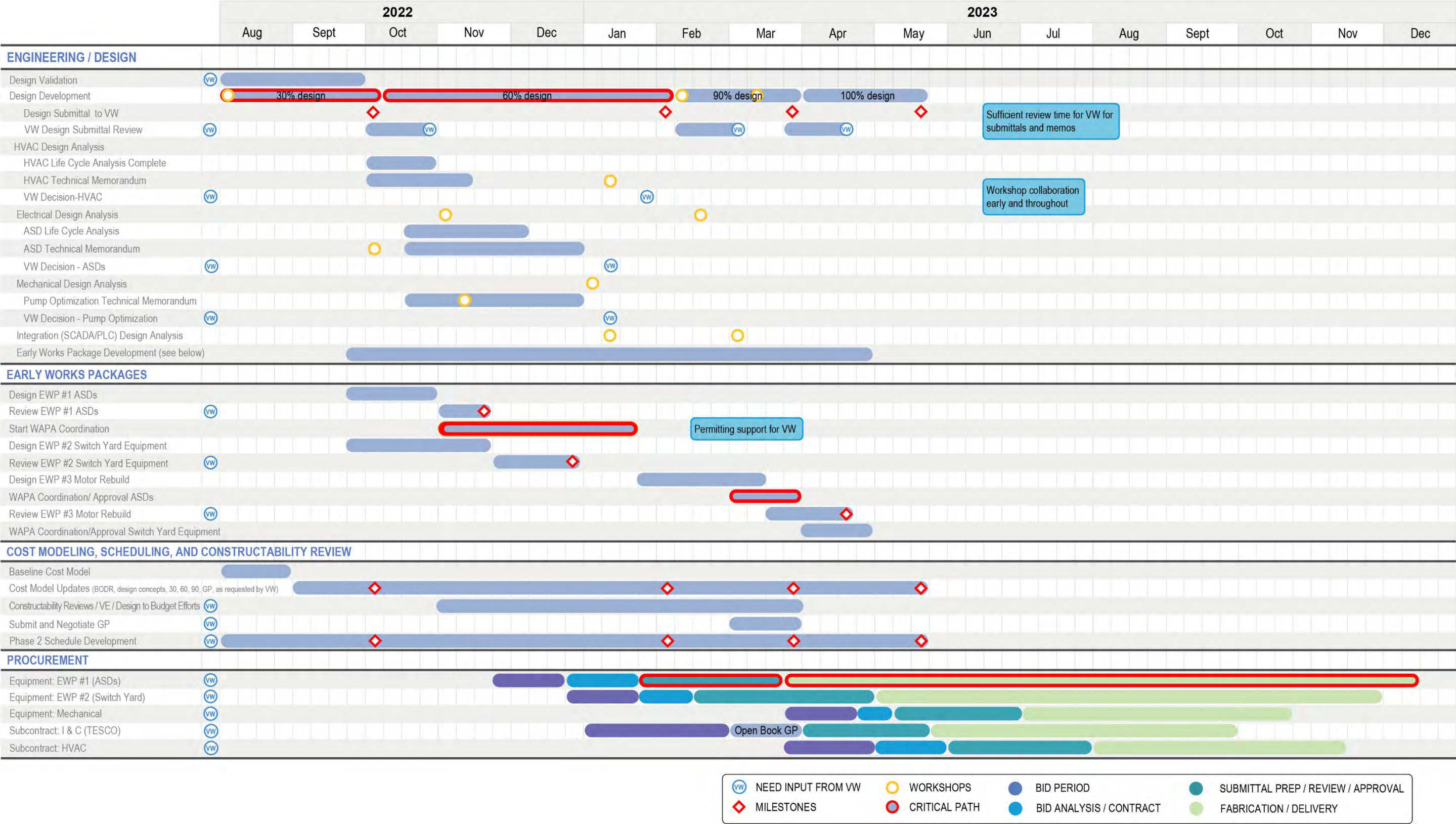


Exhibit 2.5 (cont...). Our PDB Implementation Approach Milestone Timeline leverages the entirety of the design development Phase 1 timeframe to enable informed, thoughtful decision-making



Valley Water
Coyote Pumping Plant ASDs Replacement Project
EXHIBIT 7A-1. Project Baseline Schedule-Phase 1
(Phase 1 Deliverable)

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Valley Water
Coyote Pumping Plant ASDs Replacement Project
EXHIBIT 7A-2. Project Baseline Schedule-Phase 2
(Phase 1 Deliverable)

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 7B. Site Logistics Plan (by Amendment)

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 8. Construction Documents

CONFIDENTIAL

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 9. Insurance and Bonding

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 9A. Insurance Requirements

Please Note Failure to comply with the instructions below could result in a delay in receiving the Notice to Proceed. The District will not be responsible for time lost or costs incurred due to failure to comply with these requirements. Please note the checklist of documents needed at the end of this Appendix B insurance requirement.

Without limiting the Design-Build Entity (DBE)'s indemnification of, or liability to, the Santa Clara Valley Water District ("District" or "Valley Water"), the DBE must provide and maintain at its own expense, during the term of the Design-Build (DB) Agreement, or as may be further required herein, the following insurance coverages and provisions as listed below.

The DBE must provide its insurance broker(s)/agent(s) with a copy of these requirements and warrants that these requirements have been reviewed by the DBE's insurance agent(s) and/or broker(s), who have been instructed by the DBE to procure the insurance coverage required herein.

In addition to certificates, the DBE must furnish District with copies of all original endorsements affecting coverage required by this Appendix. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by District before the DB Agreement is executed. In the event of a claim or dispute, District has the right to require the DBE's insurer to provide complete, certified copies of all required pertinent insurance policies, including endorsements affecting the coverage required by this Appendix insurance document.

If your insurance broker has any questions about the above requirements, please advise him/her to call Mr. David Cahen, District Risk Manager at (408) 630-2213.

CERTIFICATES OF INSURANCE

The DBE shall furnish the District with a Certificate of Insurance. The certificates will be issued on a standard ACORD Form.

The DBE shall instruct their insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to the designated District Contract Administrator and email a copy to valleywater@ebix.com.

The certificates will:

1. Identify the underwriters, the types of insurance, the insurance limits, the deductibles and the policy term;
2. Include copies of all the actual policy endorsements required herein; and

3. In the "Certificate Holder" box include:

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Contract No. C0675

IMPORTANT The contract number must be included.

In the Description of Operations/Locations/Vehicles/Special Items Box:

1. Certificate Holder shall be named as Additional Insured;
2. District agreement or project number shall appear;
3. The list of policies scheduled as underlying on the Umbrella policy shall be listed; and
4. Waiver of Subrogation must be indicated as endorsed to all policies.

If the DBE receives any notice that any of the insurance policies required by this Appendix B Insurance may be cancelled or coverage reduced for any reason whatsoever, the DBE or insurer shall immediately provide written notice to the designated District Contract Administrator that such insurance policy required by this Appendix B Insurance is canceled or coverage is reduced.

MAINTENANCE OF INSURANCE

If the DBE fails to maintain such insurance as is called for herein, District, at its option, may suspend payment for work performed and/or may order the DBE to suspend all the DBE's work at the DBE's expense until a new policy of insurance is in effect.

RENEWAL OF INSURANCE

The DBE will provide the District with a current Certificate of Insurance and endorsements within thirty (30) business days from the expiration of insurance.

The DBE shall instruct its insurance broker/agent to:

1. Submit all renewals of insurance certificates and required notices electronically in PDF format to:

valleywater@ebix.com

2. Provide the following information in the "Certificate Holder" box:

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Contract No. C0675

IMPORTANT The contract number must be included.

The DBE must, at its sole cost and expense, procure and maintain during the entire period of the DB Agreement the following insurance coverage(s).

REQUIRED COVERAGES

1. Commercial General Business Liability Insurance with coverage as indicated:

5,000,000 per occurrence / 5,000,000 aggregate limits for bodily injury and property damage.

5,000,000 Products/Completed Operations aggregate (to be maintained for at least three (3) years following acceptance of the work by District.

General Liability insurance must:

- a. Be written on standard ISO forms, or inspected by the District Risk Manager
- b. Include coverage at least as broad as found in standard ISO form CG 0001
- c. Include Premises and Operations
- d. Include Contractual Liability expressly including liability assumed under the DB Agreement.
- e. If the DBE will be working within fifty (50) feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, overpass, underpass, or crossway must be deleted, or a railroad protective policy in the above amounts provided
- f. Include Owners and Contractors' Protective liability
- g. Include Severability of Interest
- h. Include Explosion, Collapse and Underground Hazards, (X, C, and U)
- i. Include Broad Form Property Damage liability
- j. Contain no restrictive exclusions (such as but not limited to CG 2153, CG 2144 or CG 2294)

The District reserves the right to require certain restrictive exclusions be removed to ensure compliance with the above.

2. Business Auto Liability Insurance with coverage as indicated:

2,000,000 combined single limit for bodily injury and property damage per occurrence, covering all owned, non-owned and hired vehicles.

Excess or Umbrella policies may be used to reach the above limits for the General Liability and/or Business Auto Liability insurance limits, however all such policies must

contain a primacy clause (See Section 2, General Conditions) and meet all other General Conditions below.

3. Builders' Risk (Course of Construction) Insurance

Covering all risks of loss, less policy exclusions, for an amount equal to the completed value of the project with no coinsurance penalty provisions.

The DBE's coverage shall provide the following:

- a. Coverage shall be provided on an "all-risk" or "special forms" basis (including perils of earthquake and flood, unless waived by the District's Risk Manager), including coverage for "soft costs" such as design, engineering, and construction management fees.
- b. Coverage shall be provided on the work and materials which are the subject to DB Agreement, whether in process or manufactured or finished, including "in transit" coverage to the final agreed upon destination of delivery, and including loading and unloading operations, and such coverage shall be in force until the work and materials are accepted by the District.
- c. Builder's Risk policy shall name Santa Clara Valley Water District as loss payee and additional insured as its interests may appear at the time of the loss.
- d. Deductible shall not exceed \$25,000 per occurrence and shall be borne by the DBE, except that higher deductibles for earthquake and flood may be approved by the District's Risk Manager.
- e. Loss, if any, shall be adjustable with and payable to the District as trustees for all entities having an insurable interest, except in cases as may require payment of all or a proportion of such insurance to be made to a mortgagee as its interest may appear.
- f. The insurer shall agree to waive all rights of subrogation against the District.
- g. If the DBE fails to maintain such insurance as is called for herein, the District, at its option, may order the DBE to suspend work at the DBE's expense until a new policy of insurance is in effect and on file with the District's project manager.
- h. The policy shall provide Santa Clara Valley Water District the right to occupy the premises without termination of the policy until final acceptance of the project.

4. Workers' Compensation and Employer's Liability Insurance

Statutory California Workers' Compensation coverage covering all work to be performed for the District.

Employer Liability coverage for not less than \$1,000,000 per occurrence.

5. Surety Bonds

The DBE shall provide the following Surety Bonds:

- a. A performance bond. A written guarantee from a bank or insurer submitted by the DBE ensuring payment of the contract in case DBE fails in the full performance of the contract.
- b. A payment bond. (Deposit or guarantee backed by a third party that all sums owed by the DBE to its employees, suppliers, subcontractors and other creditors will be paid on time and in full.)

6. Professional Errors and Omissions Liability with coverage as indicated:

5,000,000 per claim/ 5,000,000 aggregate

Professional/Errors and Omission Liability appropriate to the DBE's profession, and must include:

- a. If coverage contains a deductible, or self-insured retention, it shall not be greater than one hundred thousand dollars (\$100,000) per occurrence/event
- b. Coverage shall include contractual liability
- c. If coverage is claims-made:
 - (i) Certificate of Insurance shall clearly state that the coverage is claims-made
 - (ii) Policy retroactive date must coincide with or precede the DBE's start of work (including subsequent policies purchased as renewals or replacements).
 - (iii) Policy must allow for reporting of circumstances or incidents that might give rise to future claims.
 - (iv) Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.

7. Pollution Legal Liability

DBE's Pollution Legal Liability in the amount of \$1,000,000 per occurrence and \$1,000,000 general aggregate limits, including pollution that occurs during transport.

GENERAL REQUIREMENTS

With respect to all coverages noted above, the following additional requirements apply:

1. Additional Insured Endorsement(s): The DBE must provide an additional insured endorsement for Commercial General/Business Liability (for both on-going and completed operations) and Business Automobile liability coverage naming the Santa Clara Valley Water District, its Directors, officers, employees, and agents, individually and collectively, as additional insureds, and must provide coverage for acts, omissions, etc. arising out of the named insureds' activities and work. Other public entities may also be added to the additional insured endorsement as applicable and the DBE will be notified of such requirement(s) by the District. NOTE: This section does not apply to the Workers' Compensation and Professional Liability policies.

(NOTE: Additional insured language on the Certificate of Insurance is NOT acceptable without a separate endorsement such as Form CG 20 10, CG 2033, CG 2037, or CG 2038. Editions dated 07/04 are not acceptable.)

2. Primacy Clause: The DBE will provide evidence (either through the Certificate of Insurance, endorsement or language in the insurance contract) that DBE's insurance is primary with respect to any other insurance which may be carried by the District, its Directors, its officers, agents and employees, and the District's coverage must not be called upon to contribute or share in the loss. NOTE: This section does not apply to the Workers' Compensation policies.
3. Cancellation Clause: The DBE will provide endorsements for all policies stating that the policy will not be cancelled without 30 days prior notification to the District.
4. Acceptability of Insurers: All coverages must be issued by companies admitted to conduct business in the State of California, which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the District's Risk Manager. Non-Admitted companies may be substituted on a very limited basis at the Risk Manager's sole discretion
5. Self-Insured Retentions or Deductibles: Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the DBE shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The DBE agrees that in the

event of a claim they will pay down any agreed upon SIR in a prompt manner as soon as bills are incurred in order to trigger the insurance related to the SIR.

6. Subcontractors: The DBE shall secure and maintain or shall be responsible for ensuring that all subcontractors performing the Contract Services secure and maintain all insurance coverages appropriate to their tier and scope of work in a form and from insurance companies reasonably acceptable to the District.
7. Amount of Liability not Limited to Amount of Insurance: The insurance procured by the DBE for the benefit of the District must not be deemed to release or limit any liability of the DBE. Damages recoverable by the District for any liability of the DBE must, in any event, not be limited by the amount of the required insurance coverage.
8. Coverage to be Occurrence Based: Except for Professional Liability, all coverage must be occurrence-based coverage. Claims-made coverage is not allowed.
9. Waiver of Subrogation: The DBE agrees to waive subrogation against the District to the extent any loss suffered by the DBE is covered by any Commercial General Liability policy, Automobile policy, Workers' Compensation policy described in Required Coverages above. The DBE agrees to advise its broker/agent/insurer and agrees to provide evidence (either through the Certificate of Insurance, endorsement or language in the insurance contract) that subrogation has been waived by its insurer.
10. Non-compliance: The District reserves the right to withhold payments to the DBE in the event of material noncompliance with the insurance requirements outlined above.

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 9B. Payment Bond Form



BE IT KNOWN BY THESE PRESENTS:

WHEREAS, the Santa Clara Valley Water District (hereinafter called "the Public Entity"), and _____ (hereinafter designated as "Principal") have entered into an agreement for the COYOTE PUMPING PLANT ASDs REPLACEMENT PROJECT which said agreement is dated as of _____, 20____; and

WHEREAS, said Principal is required by California Civil Code Sections 9550 and 9554 to furnish a bond in connection with said agreement;

NOW, THEREFORE, we, the Principal and _____, a corporation duly organized under the laws of the State of _____, having its principal place of business at _____ in the State of _____, and authorized to do business in the State of California, hereinafter "Surety," are held and firmly bound unto the Public Entity in the penal sum of _____ Dollars (\$_____) lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, Administrators, and successors and assigns, jointly and severally, firmly by these presents.

1. THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal or the Principal's subcontractor fails to pay any of the persons named in Section 9100, or amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the agreement, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and the Principal's subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor, that the Surety or Sureties will pay for the same, in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the court. The Principal may require of the Principal's subcontractors a bond to indemnify the Principal for any loss sustained by the Principal because of any default by the Principal's subcontractors under Section 9554 of the California Civil Code.
2. This bond shall inure to the benefit of any of the persons named in Section 9100 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.
3. Surety, for value received, hereby agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or to the Contract Documents accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the other portions of the Contract Documents.
4. Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.



IN WITNESS WHEREOF two identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety or Sureties above named on the _____ day of _____, 20_____.

PRINCIPAL:

SURETY:

Signature

Signature

Name

Name (Seal)

Title

Title

Address

Address

NOTE: Signature of those executing for Surety must be properly acknowledged.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 9C. Performance Bond Form



BE IT KNOWN BY THESE PRESENTS: That

WHEREAS, the Santa Clara Valley Water District, State of California, has awarded to

(hereinafter designated as "Principal") a Contract for the COYOTE PUMPING PLANT ASDs REPLACEMENT PROJECT, and

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

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

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

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

In the event suit is brought upon this bond by District and judgment is recovered, Surety shall pay all costs incurred by District in such suit, including a reasonable attorney's fee to be fixed by the Court.

CONTRACT DOCUMENTS
Performance Bond

Page 2 of 2

IN WITNESS WHEREOF two identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by Principal and Surety above named, on the _____ day of _____, 20_____.

PRINCIPAL:

SURETY:

Signature

Signature

Name

Name (Seal)

Title

Title

Address

Address

NOTE: Signature of those executing for Surety must be properly acknowledged.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 10. Relevant Portions of the Design-Builder's Proposal

SUBMITTED TO:

**SANTA CLARA
VALLEY WATER DISTRICT
(VALLEY WATER)**



TECHNICAL PROPOSAL // FEBRUARY 16, 2022

VOLUME 1

COYOTE PUMPING PLANT ASDs REPLACEMENT PROJECT

PROJECT NO: 91234002 // CONTRACT NO: C0675 // INVITATION NO: VW 0073

SUBMITTED BY:



Kiewit

IN ASSOCIATION WITH:



Stantec

TESCO
CONTROLS, INC.



**CUPERTINO
ELECTRIC INC.**



February 16, 2022

David Montenegro
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

RE: Coyote Pumping Plant ASDs Replacement Project – Request for Proposals (Project No. 91234002, Contract No. C0675, Invitation No. VW 0073)

Dear Mr. Montenegro,

The Coyote Pumping Plant ASDs Replacement Project (Project) is a critical component of the Santa Clara Valley Water District's (Valley Water's) water system and integral to supplying water to the community. Kiewit Infrastructure West Co. (Kiewit), in partnership with designer Stantec Consulting Services, Inc. (Stantec) and subcontractors Tesco Controls, Inc. (Tesco) and Cupertino Electric, Inc. (CEI), is prepared to help Valley Water navigate your first Progressive Design-Build (PDB) project and deliver a modernized pumping plant that improves efficiency, electrical safety and operational reliability.

The Kiewit Team's proposal is based on three success factors. We use the icons below to highlight application of these success factors throughout our proposal:



Design to Budget

Through transparency, collaboration and open communication in planning, design and execution, we will work with Valley Water to **achieve the goal of maximizing the value of your budget.**



Improve Reliability

Our experience with Valley Water's current systems, combined with Tesco's instrumentation and control systems expertise, will bridge the gap between current systems and **improving reliability with the latest technology.**



Low Life-Cycle Cost

The Kiewit Team will collaborate with Valley Water from day one to **deliver an easy-to-operate project at a low life-cycle cost.** This approach leads to a best-value design to improve water delivery maintainability and reliability.

Thank you for this opportunity to present our proposal. In accordance with the RFP:

- Kiewit has fully informed itself of the matters affecting the Project and that the Proposal is complete, correct, and as intended.
- Kiewit acknowledges we received Addendum 1, Addendum 2 and Addendum 3.
- Under penalty of perjury that the information provided in the Proposal is true and correct.

If you have questions or would like additional information regarding this proposal, please reach out to Vimal Patel, our single point of contact for all procurement related communication.

Vimal Patel, Project Executive
ncestimating@kiewit.com or (707) 548-3331
4650 Business Center Drive, Fairfield, CA 94534

Sincerely,

KIEWIT INFRASTRUCTURE WEST CO.

A handwritten signature in blue ink that reads 'Eric M. Scott'.

Eric M. Scott, Senior Vice President

KIEWIT INFRASTRUCTURE WEST CO.
4650 BUSINESS CENTER DRIVE, FAIRFIELD, CA 94534
(707) 439-7300 (707) 439-7301

**Valley Water
Coyote Pumping Plant ASDs Replacement Project**

FORM 1. CERTIFICATE OF AUTHORIZATION*

(To be completed and attached to the Proposal Transmittal/Cover Letter)

I, Kari L. Larsen a resident of Vacaville in the State of California DO HEREBY CERTIFY that I am the **Assistant Secretary** of Kiewit Infrastructure West Co. a Corporation (form of entity i.e. corporation, joint-venture, LLC etc.) duly organized and existing under and by virtue of the laws of the State of Delaware that I have custody of the records of the Proposer; and that as of the date of this certification, Eric M. Scott holds the title of Senior Vice President the Proposer, and is authorized to execute and deliver in the name and on behalf of the Proposer, the Proposal submitted by the Proposer in response to the Request for Proposals for the Coyote Pumping Plant Adjustable Speed Drives (ASDs) Replacement Project (Project) issued by Valley Water on November 8, 2021 and all documents, letters, certificates and other instruments which have been executed by such officer on behalf of the corporation in connection therewith.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Proposer this 16 day of February 22.



Handwritten signature of Kari L. Larsen in blue ink.

Kari L. Larsen, Assistant Secretary

*Note: Separate certifications shall be submitted if more than one corporate officer has executed documents as part of the Proposal. Modify this certificate for use by entities other than a corporation or corporations.

**CERTIFIED COPY OF RESOLUTION
OF
KIEWIT INFRASTRUCTURE WEST CO. (the "Corporation")**

"WHEREAS, the Corporation intends to submit a response to the Request for Proposals (the "RFP") to the Santa Clara Valley Water District ("Valley Water"), with regard to the Design-Build of the Coyote Pumping Plant ASDs Replacement Project, Project No. 91234002, Contract No. C0675, Invitation No. VW0073, Merced County, California (the "Project").

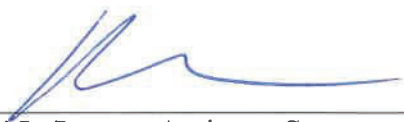
NOW, THEREFORE, BE IT RESOLVED, that Eric M. Scott, as Senior Vice President of the Corporation, is hereby authorized to execute and deliver the RFP for the Project to Valley Water on behalf of the Corporation, and upon award of the Project, to execute and deliver the Project Contract and related documents and further certify on behalf of the Corporation that the information provide in the RFP is true, full and correct."

* * * * *

I, Kari L. Larsen, certify that I am an Assistant Secretary of Kiewit Infrastructure West Co., a Delaware corporation ("Corporation").

I certify that: (1) The resolution quoted above was adopted by the Consent Action of the Board of Directors, signed on December 21, 2021; (2) Any action of the directors of the Corporation may be taken without a formal meeting if the directors consent in writing; (3) The signed Consent Action has been filed in the minute book of the Corporation; and (4) The resolution has not been revoked or amended and is now in full force and effect.

SIGNED on December 21, 2021.



Kari L. Larsen, Assistant Secretary

**Valley Water
Coyote Pumping Plant ASDs Replacement Project**

FORM 2. NON-COLLUSION DECLARATION

(To be completed and attached to the Proposal Transmittal/Cover Letter)

The undersigned declares:

I am the Senior Vice President of Kiewit Infrastructure West Co., the party making the foregoing bid. The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. 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. All statements contained in the bid are true. 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, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on February 16, 2022 [date], at Fairfield [city], CA [state]."

Name of Proposer (Design-Builder): Kiewit Infrastructure West Co

Name of Authorized Signatory: Eric M. Scott

Signature: 

Title: Senior Vice President

Date: February 16, 2022

**Valley Water
Coyote Pumping Plant ASDs Replacement Project**

**FORM 3. CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS**

(To be completed and attached to the Proposal Transmittal/Cover Letter)

By signing this document, the Proposer certifies to the best of their knowledge and belief that, except as noted on an attached Exception, the Proposer and any subconsultant or subcontractor named in the Statement of Qualifications or Proposal:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal Board or agency;
- B. Have not, within a three-year period preceding this RFP, been convicted of, or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records making false statements, or receiving stolen property;
- C. Are not presently indicted for, or otherwise criminally or civilly charged by a government entity (Federal, State or local) with, commission of any of the offenses enumerated in paragraph (b) of this certification; and
- D. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the Proposer is unable to certify to any of the statements in this certification, Proposer shall attach an explanation to this Form.

NOTE: For any exception noted, indicate to whom it applies, initiating agency and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

Name of Proposer (Design-Builder):	<u>Kiewit Infrastructure West Co.</u>
Name of Authorized Signatory:	<u>Eric M. Scott</u>
Signature:	<u></u>
Title:	<u>Senior Vice President</u>
Date:	<u>February 16, 2022</u>

**Valley Water
Coyote Pumping Plant ASDs Replacement Project**

FORM 4. REQUIRED LICENSES

(To be completed and attached to the Proposal Transmittal/Cover Letter)

DESIGN-BUILD ENTITY: Kiewit Infrastructure West Co.

Business Address:	4650 Business Center Dr., Fairfield, CA 94534
Contact Person/Title:	Eric M. Scott
Email:	ncestimating@kiewit.com
Phone Number:	707-439-7300
Dept. of Industrial Relations (DIR) Registration No.:	1000001147
Contractors State License Board (CSLB) No. (if applicable):	433176
California Class A Contractor's License No. (if applicable):	433176
Other Requisite Company Licensure (if applicable):	Not Applicable
Engineer of Record (EOR) Name (if applicable):	Not Applicable
EOR CA Professional Engineering License No. (if applicable):	Not Applicable

Attach copies of licenses and registrations.



CONTRACTORS
STATE LICENSE BOARD
ACTIVE LICENSE



License Number: **433176** Entity: **CORP**
Contractor Name: **KIEWIT INFRASTRUCTURE WEST
CO**

Contract Classification: **A B C10 C31 HAZ C36**

Expiration Date: **01/31/2023**

www.cslb.ca.gov





Contractor's License Detail for License # 433176

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- ▶ CSLB complaint disclosure is restricted by law (B&P 7124.6) If this entity is subject to public complaint disclosure click on link that will appear below for more information. Click here for a definition of disclosable actions.
- ▶ Only construction related civil judgments reported to CSLB are disclosed (B&P 7071.17).
- ▶ Arbitrations are not listed unless the contractor fails to comply with the terms.
- ▶ Due to workload, there may be relevant information that has not yet been entered into the board's license database.

Data current as of 12/31/2021 7:23:22 AM

Business Information

KIEWIT INFRASTRUCTURE WEST CO
4650 BUSINESS CENTER DRIVE
FAIRFIELD, CA 94534
Business Phone Number:(707) 439-7300

Entity Corporation
Issue Date 01/05/1983
Expire Date 01/31/2023

License Status

This license is current and active.

All information below should be reviewed.

Classifications

- ▶ A - GENERAL ENGINEERING
- ▶ B - GENERAL BUILDING
- ▶ C10 - ELECTRICAL
- ▶ C31 - CONSTRUCTION ZONE TRAFFIC CONTROL
- ▶ C36 - PLUMBING

Certifications

- ▶ HAZ - HAZARDOUS SUBSTANCES REMOVAL

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA.

Bond Number: 415404843303BCM

Bond Amount: \$15,000

Effective Date: 01/01/2016

Contractor's Bond History

Bond of Qualifying Individual

- ▶ This license filed Bond of Qualifying Individual number **106598142** for JOHN CHARLES BLEY II in the amount of **\$12,500** with TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA.
Effective Date: 10/14/2016
- ▶ This license filed Bond of Qualifying Individual number **105385923** for ROBERT RYAN FARRELL in the amount of **\$12,500** with TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA.
Effective Date: 03/29/2010
- ▶ This license filed Bond of Qualifying Individual number **106598141** for ERIC MATTHEW SCOTT in the amount of **\$12,500** with TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA.
Effective Date: 10/14/2016

NOTE: There are 5 qualifiers (with bonding information) for this license. Up to 3 are displayed on this page.

Workers' Compensation

This license has workers compensation insurance with the OLD REPUBLIC INSURANCE COMPANY

Policy Number: MWCEX316021

Effective Date: 03/01/2021

Expire Date: 03/01/2022

Workers' Compensation History

Other

- ▶ Personnel listed on this license (current or disassociated) are listed on other licenses.

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Contractor Information

Registration History

Legal Entity Name

KIEWIT INFRASTRUCTURE WEST CO.

Legal Entity Type

Corporation

Status

Active

Registration Number

1000001147

Registration effective date

7/1/2019

Registration expiration date

6/30/2022

Mailing Address

4650 Business Center Drive Fairfield 94534 CA U...

Physical Address

4650 Business Center Drive Fairfield 94534 CA U...

Email Address
Trade Name/DBA

KIEWIT INFRASTRUCTURE WEST CO.

License Number(s)

Other:433176

CSLB:433176

Effective Date
Expiration Date

6/4/2018

6/30/2019

5/10/2017

6/30/2018

6/3/2016

6/30/2017

6/3/2015

6/30/2016

9/4/2014

6/30/2015

7/1/2019

6/30/2022

Legal Entity Information

Corporation Number:

47-0647803

Federal Employment Identification Number:
President Name:

DAVID MILES

Vice President Name:

PATRICK SODERBERG

Treasurer Name:

STEPHEN THOMAS

Secretary Name:

MARY CARNAZZO

CEO Name:
Agent of Service Name:

CT CORPORATION SYSTEM

Agent of Service Mailing Address:

818 WEST 7TH STREET LOS ANGELES 90017 CA United States of America

Workers Compensation

LEAD ENGINEER: STANTEC CONSULTING SERVICES, INC.

Business Address:	3875 Atherton Road, Rocklin, CA 95765
Contact Person/Title:	Mark Smith
Email:	mark.smith@stantec.com
Phone Number:	(916) 773-8100
Dept. of Industrial Relations (DIR) Registration No.:	1000008020
Contractors State License Board (CSLB) No. (if applicable):	N/A
California Class A Contractor's License No. (if applicable):	N/A
Other Requisite Company Licensure (if applicable):	N/A
Engineer of Record (EOR) Name (if applicable):	Mark Smith
EOR CA Professional Engineering License No. (if applicable):	PE 44197

Attach copies of licenses and registrations.

Contractor Information

Legal Entity Name

STANTEC CONSULTING SERVICES INC.

Legal Entity Type

Corporation

Status

Active

Registration Number

1000008020

Registration effective date

7/1/2021

Registration expiration date

6/30/2022

Mailing Address

370 Interlocken Blvd., suite 300 Broomfield 80021 C...

Physical Address

38 TECHNOLOGY DRIVE, SUITE 100 IRVINE 80033 C...

Email Address
Trade Name/DBA
License Number(s)

Surveyor:6697

CSLB:952595

Surveyor:6697

CSLB:952595

Registration History

Effective Date	Expiration Date
6/6/2018	6/30/2019
6/14/2017	6/30/2018
5/25/2016	6/30/2017
6/1/2015	6/30/2016
2/3/2015	6/30/2015
7/1/2019	6/30/2020
7/1/2020	6/30/2021
7/1/2021	6/30/2022

Legal Entity Information

Agent of Service Name:

CORPORATION SERVICE COMPANY DBA CSC - LAWYERS INCORPORAT

Agent of Service Mailing Address:

2710 GATEWAY OAKS DR., STE. 150N SACRAMENTO 95833 CA United States of America

Corporation Number:
Federal Employment Identification Number:
President Name:

Gordon A. Johnston

Vice President Name:

Stuart E. Lerner

Treasurer Name:

Theresa Jang

Secretary Name:

Christopher O. Heisler

CEO Name:

Workers Compensation

Do you lease employees through Professional Employer Organization (PEO)?:

No
Please provide your current workers compensation insurance information below:

PEO Information	PEO Name	PEO Phone	PEO Email
-----------------	----------	-----------	-----------

Insured by Carrier
Policy Holder Name:STANTEC CONSULTING SERVICES INC.Insurance Carrier: TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICAPolicy Number:TC2J-UB-8E08592
Inception date:5/1/2018Expiration Date:5/1/2022



**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS,
AND GEOLOGISTS**

LICENSING DETAILS FOR: 44197

NAME: SMITH, BERNALILAN
LICENSE TYPE: CIVIL ENGINEER
LICENSE STATUS: CLEAR

ADDRESS
HOTHOLD OREGON TRAIL
REDDING CA 96003
SHASTA COUNTY
UNITED STATES
96P

ISSUANCE DATE
JANUARY 27, 1988
EXPIRATION DATE
JUNE 30, 2023
CURRENT DATE / TIME
JULY 19, 2024
11:47 AM

GENERAL CONTRACTOR: Kiewit Infrastructure West Co.

Business Address:	4650 Business Center Dr., Fairfield, CA 94534
Contact Person/Title:	Eric M. Scott
Email:	ncestimating@kiewit.com
Phone Number:	707-439-7300
Dept. of Industrial Relations (DIR) Registration No.:	1000001147
Contractors State License Board (CSLB) No.:	433176
California Class A Contractor's License No.:	433176
Other Requisite Company Licensure (if applicable):	Not Applicable
Engineer of Record (EOR) Name (if applicable):	Not Applicable
EOR CA Professional Engineering License No. (if applicable):	Not Applicable

Attach copies of licenses and registrations.

GENERAL CONTRACTOR/CONTRACTOR: Kiewit Infrastructure West Co.

Copy this form for additional Key Firms that will provide construction-related services.

Contractor License Certification

Pursuant to the Business and Professions Code of the State of California, Section 7030: Contractors are required by law to be licensed and regulated by the Contractors State License Board. Any questions concerning a contractor may be referred to the Registrar:

Physical Address:

Contractors State License Board
9821 Business Park Drive
Sacramento, California 95827

Mailing Address:

P.O. Box 26000
Sacramento, California 95826

The undersigned Contractor certifies that it is now licensed in accordance with the provisions of the Contractor's License Law of the State of California, and the number of said license is **433176**, and the classification of said license is **A, B, C10, C31, C36, HAZ**, and the said license expires **01/31/2023**.

Company Name: Kiewit Infrastructure West Co.

Business Address Line 1 4650 Business Center Dr., Fairfield, CA 94534

Business Address Line 2 _____

Authorized Signature: _____



Name: Eric M. Scott

Title: Senior Vice President

Date: 02/16/2022

If Contractor is a Corporation,
State of Incorporation: _____

Delaware



CONTRACTORS
STATE LICENSE BOARD
ACTIVE LICENSE



License Number **433176**

Entity **CORP**

Contractor Name **KIEWIT INFRASTRUCTURE WEST
CO**

Contract Classification **A B C10 C31 HAZ C36**

Expiration Date **01/31/2023**

www.cslb.ca.gov



 Contractor's License Detail for License # 433176

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- ▶ Only construction related civil judgments reported to CSLB are disclosed (B&P 7071.17).
- ▶ Arbitrations are not listed unless the contractor fails to comply with the terms.
- ▶ Due to workload, there may be relevant information that has not yet been entered into the board's license database.

Data current as of 12/31/2021 7:23:22 AM

Business Information

KIEWIT INFRASTRUCTURE WEST CO
4650 BUSINESS CENTER DRIVE
FAIRFIELD, CA 94534
Business Phone Number:(707) 439-7300

Entity Corporation
Issue Date 01/05/1983
Expire Date 01/31/2023

License Status

This license is current and active.

All information below should be reviewed.

Classifications

- ▶ A - GENERAL ENGINEERING
- ▶ B - GENERAL BUILDING
- ▶ C10 - ELECTRICAL
- ▶ C31 - CONSTRUCTION ZONE TRAFFIC CONTROL
- ▶ C36 - PLUMBING

Certifications

- ▶ HAZ - HAZARDOUS SUBSTANCES REMOVAL

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA.

Bond Number: 415404843303BCM

Bond Amount: \$15,000

Effective Date: 01/01/2016

Contractor's Bond History

Bond of Qualifying Individual

- ▶ This license filed Bond of Qualifying Individual number **106598142** for JOHN CHARLES BLEY II in the amount of **\$12,500** with TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA.
Effective Date: 10/14/2016
- ▶ This license filed Bond of Qualifying Individual number **105385923** for ROBERT RYAN FARRELL in the amount of **\$12,500** with TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA.
Effective Date: 03/29/2010
- ▶ This license filed Bond of Qualifying Individual number **106598141** for ERIC MATTHEW SCOTT in the amount of **\$12,500** with TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA.
Effective Date: 10/14/2016

NOTE: There are 5 qualifiers (with bonding information) for this license. Up to 3 are displayed on this page.

Workers' Compensation

This license has workers compensation insurance with the OLD REPUBLIC INSURANCE COMPANY

Policy Number: MWCEX316021

Effective Date: 03/01/2021

Expire Date: 03/01/2022

Workers' Compensation History

Other

- ▶ Personnel listed on this license (current or disassociated) are listed on other licenses.

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Contractor Information

Registration History

Legal Entity Name

KIEWIT INFRASTRUCTURE WEST CO.

Legal Entity Type

Corporation

Status

Active

Registration Number

1000001147

Registration effective date

7/1/2019

Registration expiration date

6/30/2022

Mailing Address

4650 Business Center Drive Fairfield 94534 CA U...

Physical Address

4650 Business Center Drive Fairfield 94534 CA U...

Email Address
Trade Name/DBA

KIEWIT INFRASTRUCTURE WEST CO.

License Number(s)

Other:433176

CSLB:433176

Effective Date
Expiration Date

6/4/2018

6/30/2019

5/10/2017

6/30/2018

6/3/2016

6/30/2017

6/3/2015

6/30/2016

9/4/2014

6/30/2015

7/1/2019

6/30/2022

Legal Entity Information

Corporation Number:

47-0647803

Federal Employment Identification Number:
President Name:

DAVID MILES

Vice President Name:

PATRICK SODERBERG

Treasurer Name:

STEPHEN THOMAS

Secretary Name:

MARY CARNAZZO

CEO Name:
Agent of Service Name:

CT CORPORATION SYSTEM

Agent of Service Mailing Address:

818 WEST 7TH STREET LOS ANGELES 90017 CA United States of America

Workers Compensation

Do you lease employees through Professional Employer Organization (PEO)?:

No
Please provide your current workers compensation insurance information below:

PEO Information	PEO Name	PEO Phone	PEO Email
-----------------	----------	-----------	-----------

Insured by Carrier
Policy Holder Name:KIEWIT INFRASTRUCTURE WEST COInsurance Carrier:
ZURICH AMERICAN INSURANCE COMPANYPolicy Number:MWXS 312909Inception date:
3/1/2021Expiration Date:3/1/2022

OTHER KEY FIRM **Kiewit Engineering Group Inc.**

Copy this form for additional Key Firms.

Business Address:	10055 Trainstation Circle, Lone Tree, CO 80124
Contact Person/Title:	John A. Donatelli, President-Infrastructure Engineering
Email:	john.donatelli@kiewit.com
Phone Number:	(303) 325-0300
Dept. of Industrial Relations (DIR) Registration No.:	1000001393
Contractors State License Board (CSLB) No. (if applicable):	N/A
California Class A Contractor's License No. (if applicable):	N/A
Other Requisite Company Licensure (if applicable):	N/A
Engineer of Record (EOR) Name (if applicable):	Adam Reab, Timothy Friend, John Liu
EOR CA Professional Engineering License No. (if applicable):	Adam Reab/23366, Timothy Friend/38686, John Liu/5448

Attach copies of licenses and registrations.

Contractor Information

Registration History

Legal Entity Name

KIEWIT ENGINEERING GROUP INC.

Legal Entity Type

Corporation

Status

Active

Registration Number

1000001393

Registration effective date

7/1/2019

Registration expiration date

6/30/2022

Mailing Address

8900 RENNER BLVD LENEXA 66219 KS United St...

Physical Address

8900 RENNER BLVD LENEXA 66219 KS United St...

Email Address
Trade Name/DBA
License Number(s)

CSLB:805175

Effective Date
Expiration Date

6/14/2018

6/30/2019

6/23/2017

6/30/2018

6/15/2016

6/30/2017

6/25/2015

6/30/2016

9/18/2014

6/30/2015

7/1/2019

6/30/2022

Legal Entity Information

Corporation Number:

2179660

Federal Employment Identification Number:
President Name:

JAMES K NEEDHAM

Vice President Name:

JAY D STEINMETZ

Treasurer Name:

STEPHEN S THOMAS

Secretary Name:

MICHAEL F NORTON

CEO Name:

DANIEL H LUMMA

Agent of Service Name:

C T CORPORATION SYSTEM

Agent of Service Mailing Address:

818 WEST 7TH STREET LOS ANGELES 90017 CA United States of America

Workers Compensation



**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND
GEOLOGISTS**

ISSUANCE DATE

JULY 31, 2020

EXPIRATION DATE

DECEMBER 31, 2022

CURRENT DATE / TIME

JULY 22, 2021
6:42:07 AM

LICENSING DETAILS FOR: 23366

NAME: REAB, ADAM PAUL

LICENSE TYPE: ELECTRICAL ENGINEER

LICENSE STATUS: CLEAR

ADDRESS

7331 ANTIOCH ROAD
OVERLAND PARK KS 66204
OUT OF STATE COUNTY

[MAP](#)



**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND
GEOLOGISTS**

LICENSING DETAILS FOR: 38686

NAME: FRIEND, TIMOTHY

LICENSE TYPE: MECHANICAL ENGINEER

LICENSE STATUS: CLEAR

ADDRESS

10200 LINDEN STREET
OVERLAND PARK KS 66207
OUT OF STATE COUNTY
[MAP](#)

ISSUANCE DATE

SEPTEMBER 20, 2017

EXPIRATION DATE

DECEMBER 31, 2023

CURRENT DATE / TIME

FEBRUARY 15, 2022
2:10:34 PM





BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

LICENSING DETAILS FOR: 5448

NAME: LIU, ZHONG

LICENSE TYPE: STRUCTURAL ENGINEER

LICENSE STATUS: CLEAR 

ADDRESS

15340 STEARNS ST
OVERLAND PARK KS 66221
OUT OF STATE COUNTY

MAP

ISSUANCE DATE
JANUARY 14, 2010

EXPIRATION DATE
JUNE 30, 2022

CURRENT DATE / TIME
FEBRUARY 15, 2022
2:09:24 PM

LICENSE RELATIONSHIPS

NAME: LIU, ZHONG

LICENSE/REGISTRATION TYPE: CIVIL ENGINEER

LICENSE NUMBER: 69485 PRIMARY STATUS: CLEAR

ADDRESS :

15340 STEARNS ST
OVERLAND PARK KS 66221
OUT OF STATE COUNTY

MAP

Attachment 1
Page 224 of 318

OTHER KEY FIRM TESCO CONTROLS, INC.

Copy this form for additional Key Firms.

Business Address:	8440 Florin Road, Sacramento, CA 95828
Contact Person/Title:	Delven Diaz, Sales Manager
Email:	ddiaz@tescocontrols.com
Phone Number:	916-395-8800
Dept. of Industrial Relations (DIR) Registration No.:	1000011729
Contractors State License Board (CSLB) No. (if applicable):	N/A; Not Applicable for System Integration scope. TESCO is not performing any trade construction-related services.
California Class A Contractor's License No. (if applicable):	N/A; Not Applicable for System Integration scope. TESCO is not performing any trade construction-related services.
Other Requisite Company Licensure (if applicable):	UL E62062; CA C0685504; Seller's Permit 28-663741; Business License GNB32013-03345
Engineer of Record (EOR) Name (if applicable):	N/A; TESCO is not EOR for this project, but is supplemented by our System Integration Engineer: Douglas Bloom, P.E., E.E.
EOR CA Professional Engineering License No. (if applicable):	N/A; TESCO is not EOR for this project, but is supplemented by our System Integration Engineer: Douglas Bloom, P.E., E.E. (#19039)

Attach copies of licenses and registrations.



State of California

Department of Industrial Relations

Contractor Information

Legal Entity Name
TESCO CONTROLS, INC.

Legal Entity Type
Corporation

Status
Active

Registration Number
1000011729

Registration effective date
07/01/19

Registration expiration date
06/30/22

Mailing Address
PO BOX 299007 SACRAMENTO 95829 CA United St...

Physical Address
8440 FLORIN ROAD SACRAMENTO 95828 CA Unite...

Email Address
lthomas@tescocontrols.com

Trade Name/DBA
License Number (s)

Other:

Registration History

Effective Date	Expiration Date
06/18/18	06/30/19
05/08/17	06/30/18
06/08/16	06/30/17
06/30/15	06/30/16
02/24/15	06/30/15
07/01/19	06/30/22

Legal Entity Information

Corporation Entity Number: C0685504
Federal Employment Identification Number: 942218097
President Name: SHAIN THOMAS
Vice President Name:
Treasurer Name:
Secretary Name:
CEO Name: SHAIN THOMAS

Agency for Service:

Agent of Service Name: TESCO CONTROLS
Agent of Service Mailing Address: PO BOX 299007
SACRAMENTO 95829 CA United States of America

Worker's Compensation

Do you lease employees through Professional Employer Organization (PEO)?: No

Please provide your current worker's compensation insurance information below:

PEO Information	Name	Phone	Email
PEO	PEO	PEO	

Insured by Carrier

Policy Holder Name: TESCO CONTROLS, INC.
Insurance Carrier: NATIONAL UNION FIRE INSURANCE COMPANY WC
Policy Number: 080-756-394
Inception date: 03/01/19
Expiration Date: 03/01/20



Secretary of State Certificate of Status

I, ALEX PADILLA, Secretary of State of the State of California, hereby certify:

Entity Name	TESCO CONTROLS, INC.
File Number	C0685504
Registration Date	07/19/1973
Entity Type	DOMESTIC STOCK CORPORATION
Jurisdiction	CALIFORNIA
Status	ACTIVE (GOOD STANDING)

As of August 30, 2020 (Certification Date), the entity is authorized to exercise all of its powers, rights and privileges in California.

This certificate relates to the status of the entity on the Secretary of State's records as of the Certification Date and does not reflect documents that are pending review or other events that may affect status.

No information is available from this office regarding the financial condition, status of licenses, if any, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of August 31, 2020.

A handwritten signature in black ink, appearing to read "Alex Padilla".

ALEX PADILLA
Secretary of State

Certificate Verification Number R366DJR

To verify the issuance of this Certificate, use the Certificate Verification Number above with the Secretary of State Certification Verification Search available at bebizfile.sos.ca.gov/certification/index.



County of Sacramento General Business License



**TESCO CONTROLS INC.
TESCO CONTROLS INC
8440 FLORIN RD
SACRAMENTO,, CA 95828**

License Number: **GNB32013-03345** Expiration Date: **November 19, 2022**

Issue Date: **November 20, 2013**

Owner Name: **TESCO CONTROLS INC.**

Business Name: **TESCO CONTROLS INC**

Location: **8440 FLORIN RD
SACRAMENTO, CA 95828**

NOV 01 2019

Business Activities: **MANUFACTURING OF ELECTRONIC & ELECTRICAL CONTROLS**

This License is approved with the following conditions. Failure to comply with the following conditions may result in revocation of this license and civil or criminal penalties.

SEE THE ENCLOSED NOTIFICATION OF POTENTIALLY APPLICABLE CODES AND ORDINANCES. LICENSEE SHALL ABIDE BY ALL APPLICABLE COUNTY REGULATIONS, STATE AND FEDERAL LAWS. SIGNAGE ONLY ALLOWED ON 50 % OF ANY WINDOW PANE. ENTIRE OPERATION MUST BE CONDUCTED WITHIN A COMPLETELY ENCLOSED BUILDING OR SCREENED FROM PUBLIC VIEW.

**License not transferable. Not Valid at any other location.
Post in public view in a conspicuous place.**

APPL2013-04528

**Ben Lamera
Director of Finance**

Department of Finance, Tax Collection and Licensing
700 H Street, Room 1710, Sacramento, California 95814
phone (916) 874-6644 | fax (916) 874-8909 | www.finance.saccounty.net

CALIFORNIA STATE BOARD OF EQUALIZATION

SELLER'S PERMIT

ACCOUNT NUMBER

9/1/1973 SR S KH 28-663741

TESCO CONTROLS, INC.
 TESCO CONTROLS INC.
 8440 FLORIN RD
 SACRAMENTO, CA 95828-2506

NOTICE TO PERMITTEE:

You are required to obey all Federal and State laws that regulate or control your business. This permit does not allow you to do otherwise.

IS HEREBY AUTHORIZED PURSUANT TO **SALES AND USE TAX LAW** TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT THE ABOVE LOCATION. THIS PERMIT IS VALID ONLY AT THE ABOVE ADDRESS.

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED AND IS NOT TRANSFERABLE. IF YOU SELL YOUR BUSINESS OR DROP OUT OF A PARTNERSHIP, NOTIFY US OR YOU COULD BE RESPONSIBLE FOR SALES AND USE TAXES OWED BY THE NEW OPERATOR OF THE BUSINESS.

Not valid at any other address

For general tax questions, please call our Information Center at 800-400-7115.

For information on your rights, contact the Taxpayers' Rights Advocate Office at 888-324-2798 or 916-324-2798.

BOE-442-R REV. 15 (2-06)

A MESSAGE TO OUR NEW PERMIT HOLDER

As a seller, you have rights and responsibilities under the Sales and Use Tax Law. In order to assist you in your endeavor and to better understand the law, we offer the following sources of help:

- Visiting our website at www.boe.ca.gov
- Visiting a district office
- Attending a Basic Sales and Use Tax Law class offered at one of our district offices
- Sending your questions in writing to any one of our offices
- Calling our toll-free Information Center at 800-400-7115

As a seller, you have the right to issue resale certificates for merchandise that you intend to resell. Conversely, you have the responsibility of not misusing resale certificates. While the sales tax is imposed upon the retailer,

- You have the right to seek reimbursement of the tax from your customer
- You are responsible for filing and paying your sales and use tax returns timely
- You have the right to be treated in a fair and equitable manner by the employees of the Board
- You are responsible for following the regulations set forth by the Board

As a seller, you are expected to maintain the normal books and records of a prudent businessperson. You are required to maintain these books and records for no less than four years, and make them available for inspection by a Board representative when requested. You are also expected to notify us if you are buying, selling, adding a location, or discontinuing your business, adding or dropping a partner, officer, or member, or when you are moving any or all of your business locations. If it becomes necessary to surrender this permit, you should only do so by mailing it to a Board office, or giving it to a Board representative.

If you would like to know more about your rights as a taxpayer, or if you are unable to resolve an issue with the Board, please contact the Taxpayers' Rights Advocate Office for help by calling toll-free, 888-324-2798 or 916-324-2798. Their fax number is 916-323-3319.

Please post this permit at the address for which it was issued and at a location visible to your customers.

STATE BOARD OF EQUALIZATION

Sales and Use Tax Department



Tesco Controls, Inc.

has been audited and conforms to all requirements necessary to be a

CERTIFIED MEMBER

of the

CONTROL SYSTEM INTEGRATORS ASSOCIATION

February 4, 2021 – January 15, 2024


Jose M. Rivera, CSIA CEO

CSIA Member Since: 2003


Lynda Patterson, FASAE, CAE, CSIA President

CSIA Certified Since: 2006



Tesco Controls, Inc.

has been audited and conforms to all requirements necessary to be a
CSIA Certified Member

The certification audit covers the following business and management categories:

- General Management
- Human Resources Management
- Marketing, Business Development and Sales Management
- Financial Management
- Project Management
- System Development Lifecycle
- Supporting Activities
- Quality Management
- Service and Support
- Information Systems Management and Cyber Security

Date of Certification:	February 4, 2021
Date of Expiration:	January 15, 2024
Certified Member Since:	February 1, 2006
CSIA Member Since:	October 17, 2003

UL Product iQ™

SEARCHMY SEARCHESMY TAGSDELVEN

DashboardSearch

5 Results :: Company Name: TESCO CONTROLS INC

Display Images

Document Name	UL CCN Description	Related Images
NITW.E62062	INDUSTRIAL CONTROL PANELS	
NITW7.E62062	INDUSTRIAL CONTROL PANELS CERTIFIED FOR CANADA	
NJBR.E498878	RETROFIT MOTOR CONTROL CENTER UNITS CERTIFIED FOR USE IN SPECIFIED EQUIPMENT	
NRBX.E193107	INDUSTRIAL CONTROL PANELS RELATING TO HAZARDOUS LOCATIONS	
WEVZ.E126033	SWITCHBOARDS, DEAD-FRONT	

1 of 1

REFINE RESULTS

Build or filter your results by keyword and/or adding criteria like document type, file number and country name.

Keyword

Filter by Keyword

Search

UL Category Control Number

Click to view and filter values

Company Name

* TESCO CONTROLS INC

Click to view and filter values

File Number

Click to view and filter values

Country Name

Click to view and filter values

Add Filter

Cancel

Reset

Save Search

Work more efficiently with an upgraded Product iQ account

Learn more

Life Is On



Tesco Controls Inc.

has been recognized as a System Integrator

Alliance Certified Partner

by Schneider Electric

Certified in EcoStruxure™ Edge Control

Partnership number

SEAP2193US

Authorized by

A handwritten signature in black ink, appearing to be "AM", written over a light gray rectangular background.

Andre Marino
Industry VP Global

Valid through

December 31, 2023

A handwritten signature in black ink, appearing to be "SL", written over a light gray rectangular background.

Shaun Loesch
Alliance Director

With leading-edge
industrial software from



EcoStruxure™ Plant & Machine Certificate

Apps,
Analytics
& Services

Certified by AVEVA:

Edge Control System
Control

Certified by AVEVA:

AVEVA System Platform

Connected
Products

Life Is On

Schneider
Electric

With leading-edge
industrial software from

AVEVA



Certificate of Completion

This is to acknowledge

A.J. Cottengim

Has successfully completed:

EcoStruxure Plant: EcoStruxure Control Expert (Test)

Issued date: 12/20/2021



Certificate of Completion

This is to acknowledge

Brendon Horn

Has successfully completed:

EcoStruxure Plant: Ethernet Networking (Test)

Issued date: 12/20/2021



Intelligent Platforms

GE Intelligent Platforms

presents this certificate to

Hoan Tran

**For the successful completion of the course entitled
Proficiency HMI/SCADA iFIX Advanced**

A handwritten signature in black ink, appearing to read 'Peter Miller'.

Peter Miller
CB Pacific, Inc

Completion Date: 6 March 2015

OTHER KEY FIRM CUPERTINO ELECTRIC, INC.

Copy this form for additional Key Firms.

Business Address:	1132 N 7th Street, San Jose, CA 95112
Contact Person/Title:	Rob Thome, Senior Vice President of Operations
Email:	info@cei.com
Phone Number:	(877) 747-4234
Dept. of Industrial Relations (DIR) Registration No.:	1000003692
Contractors State License Board (CSLB) No. (if applicable):	174637
California Class A Contractor's License No. (if applicable):	N/A
Other Requisite Company Licensure (if applicable):	N/A
Engineer of Record (EOR) Name (if applicable):	N/A
EOR CA Professional Engineering License No. (if applicable):	N/A

Attach copies of licenses and registrations.



Contractor Information

Legal Entity Name

CUPERTINO ELECTRIC, INC

Legal Entity Type

Corporation

Status

Active

Registration Number

1000003692

Registration effective date

7/1/2019

Registration expiration date

6/30/2022

Mailing Address

1132 NORTH SEVENTH STREET SAN JOSE 95112 CA...

Physical Address

1132 NORTH SEVENTH STREET SAN JOSE 95112 CA...

Email Address**Trade Name/DBA**

CUPERTINO ELECTRIC, INC.

License Number(s)

CSLB:174637

Registration History

Effective Date	Expiration Date
6/14/2018	6/30/2019
5/10/2017	6/30/2018
5/5/2016	6/30/2017
6/9/2015	6/30/2016
12/11/2014	6/30/2015
7/1/2019	6/30/2022

Legal Entity Information

Corporation Number:

3236259

Federal Employment Identification Number:**President Name:**

TOM SCHOTT

Vice President Name:**Treasurer Name:**

WILLIAM SLAKEY

Secretary Name:

DEBRA OLSON

CEO Name:

TOM SCHOTT

Agent of Service Name:

CT CORPORATION SYSTEM

Agent of Service Mailing Address:

208 SOUTH LASALLE ST., SUITE 814 CHICAGO 60604 IL United States of America

Workers Compensation

Do you lease employees No
through Professional

**Valley Water
Coyote Pumping Plant ASDs Replacement Project**

FORM 5. WORKERS' COMPENSATION CERTIFICATION

(To be completed and attached to the Proposal Transmittal/Cover Letter)

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

Name of Proposer (Design-Builder):	<u>Kiewit Infrastructure West Co.</u>
Name of Authorized Signatory:	<u>Eric M. Scott</u>
Signature:	<u></u>
Title:	<u>Senior Vice President</u>
Date:	<u>February 16, 2022</u>

**SANTA CLARA
VALLEY WATER DISTRICT
(VALLEY WATER)**

TECHNICAL PROPOSAL // FEB 16, 2022

**COYOTE PUMPING PLANT ASDs
REPLACEMENT PROJECT**

**PROJECT NO: 91234002 // CONTRACT NO: C0675
INVITATION NO: VW 0073**

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VOLUME 1

TECHNICAL PROPOSAL

Transmittal/Cover Letter

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- ATTACHMENT 2: Form 2. Non-Collusion Declaration
- ATTACHMENT 3: Form 3. Certification Regarding
Debarment, Suspension, and Other
Responsibility Matters
- ATTACHMENT 4: Form 4. Required Licenses and
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- ATTACHMENT 5: Form 5. Workers' Compensation
Certification

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- Attachment 7: Form 7. Substitutions or Additions to Key
Personnel
- Attachment 8: Form 8. Resume Information
- Attachment 9: Form 9. Key Personnel and Staff Time
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- Attachment 10: Form 10. Updated Surety Letter of Intent
- Attachment 11: Form 11. Updated Insurance Company
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SECTION 2: Project Understanding

SECTION 3: Approach to Phase 1 Services

SECTION 4: Management and Delivery Approach

- Attachment 12: Primavera P6 Phase 1 and Phase 2
Schedules

SECTION 5: Proposal Attachments

- Attachment 13: Form 12. Suggested Revisions
to Draft DB Agreement and
Supplemental Conditions
- Attachment 14: Form 13. Suggested Revisions to
the Phase 1 Scope of Work
- Attachment 15: Comments to Risk
Register (provided as RFP
Appendix B) and identification
of additional risks

SUBMITTED BY:

IN ASSOCIATION WITH:



PROJECT NO: 91234002 // CONTRACT NO: C0675 // INVITATION NO: VW 0073
COYOTE PUMPING PLANT ASDs REPLACEMENT PROJECT



SECTION 1

QUALIFICATIONS UPDATE

SUBMITTED BY:



Kiewit

IN ASSOCIATION WITH:



Stantec

TESCO
CONTROLS, INC.



**CUPERTINO
ELECTRIC INC.**

SECTION 1

QUALIFICATIONS UPDATE

1

Section 1 Overview

Kiewit Infrastructure West Co. (Kiewit) commits the same pre-qualified team based on our knowledge gained partnering with clients on collaborative delivery projects, such as San Jose Headworks 3, US Army Corps of Engineers Permanent Canal Closures and Pumps, and San Francisco Public Utilities Commission Tesla Water Treatment Facility.

The Kiewit Team affirms that we have not modified our pre-qualified Key Personnel for this Project. Our Organization Chart is provided in Exhibit 1-1 to recommunicate our proposal personnel and structure with updated information to reflect the RFP requirements.



Design to Budget



Improve Reliability



Low Life-Cycle Cost

Evaluation Criteria	Kiewit Team Response	Page #
1 If there are substitutions to Key Firms and/or Key Personnel, were they approved in advance, by Valley Water?	There are no substitutions to Key Firms and/or Key Personnel.	N/A

1.1 Technical Qualifications Update

Substitutions or Additions to Key Firms or Key Personnel

There are no changes to the key firms or key personnel comprising the Kiewit Team since the SOQ.

Firm Qualifications Summaries and Resumes for New or Modified Staffing

There are no changes to the key firms or key personnel comprising the Kiewit Team since the SOQ.

1.2 Updated Bonding and Insurance Information

Updated Bonding Information

There have been no changes to Kiewit's bonding capacity and/or per-Project bonding limits. In accordance with the RFP, an updated letter from Kiewit's surety Travelers Casualty and Surety Company of America is provided using Form 10.

Updated Insurance Information

There have been no material changes to Kiewit's ability to obtain the required insurance. In accordance with the RFP, an updated letter from the Kiewit's insurer Old Republic Insurance Company is provided using Form 11.

Exhibit 1-1: Our Organization Chart is provided to recommunicate our proposal personnel and structure with updated information to reflect the RFP requirements.

OUR PROJECT TEAM REMAINS UNCHANGED

Our project team remains unchanged and laser focused on producing a design that fits your budget, maximizes reliability, and delivers an easy to operate project at a low-life cycle cost. We are uniquely aligned with achieving your project goals as follows:

- 1

Relationship | We're providing a direct line of contact and simple interface with Jesse and Mark so you'll know who to coordinate with.
- 2

Consistent Management | Consistent management from Phase 1 through Phase 2 to ensure the experience and knowledge gained in Phase 1 carries over directly through Phase 2.
- 3

Experience | The Kiewit Team knows the level of quality and commitment Valley Water expects. We have brought together an experienced PDB team to help guide Valley Water through value identification, discussion and critical decision making.
- 4

Team | Kiewit and Stantec are currently working together on three alternative delivery projects and have completed over 50 design-build contracts valued at over \$18B. To best develop, design, and build the scope on this particular project, we have supplemented our team with electrical designers from Kiewit, electrical construction from Cupertino, and SCADA with Tesco. This team will be integrated from day one, adding key insight and input to the design and finished product.

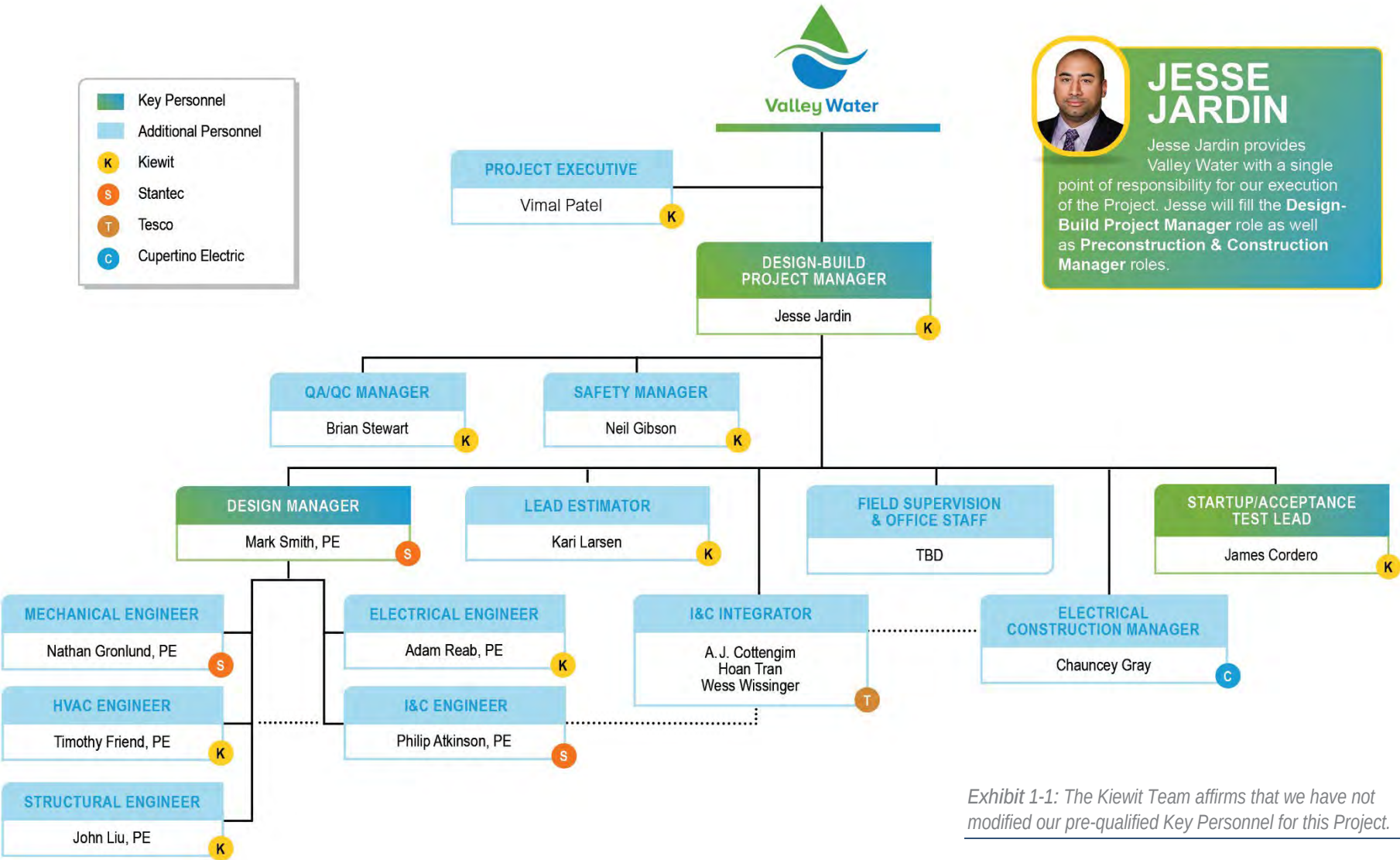


Exhibit 1-1: The Kiewit Team affirms that we have not modified our pre-qualified Key Personnel for this Project.

KEY PERSONNEL



JESSE JARDIN
*Design Build Project Manager /
Preconstruction and Construction
Manager*

- 15 years of experience
- Extensive leadership experience in water infrastructure and pump station projects
- Experience in progressive design-build delivery
- Hands-on technical knowledge and management and communication skills
- Experience working with Valley Water



MARK SMITH
Design Manager

- 30 years of experience
- Extensive experience designing water infrastructure and pump station projects
- Experience in progressive design-build delivery
- Strong technical knowledge and communication skills



JAMES CORDERO
*Startup / Acceptance
Test Lead*

- 15 years of experience
- Experience in progressive design-build delivery
- Proven success commissioning plants
- Certified California Plant Operator
- Excellent trainer for Valley Water staff



VALUE ADDED
VIMAL PATEL | Project Executive

- Partnered and successfully delivered projects with Valley Water since 2003
- Worked with Key Personnel, Jesse and James for over 15 years



ADAM REAB, P.E. | Electrical Engineer

- 8 years of experience as electrical design engineer
- Experience in progressive design-build delivery
- Has led or been on the electrical design team for 6 EPC/DB projects worth \$2B in total value
- Proven success as Electrical Design Engineer on several water infrastructure plants, including Charles Meyer Desalination Project and North Hollywood Central and Tujunga Well Field Response Action Treatment Facilities



Cupertino brings over 3,000 full time Union IBEW electricians in the Bay Area.



Tesco provides 19 years of experience on more than 20 projects with Valley Water.

NO CHANGES OR
ADDITIONS PROPOSED.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 6. SUBSTITUTIONS OR ADDITIONS TO KEY FIRMS

(To be completed and attached to the Proposal Section 1.1 Qualifications Update, if applicable)

Identify any substitutions or additions to the Key Firms identified in Proposer’s SOQ in Proposal Form 6. If no changes are proposed, Proposal Form 6 need not be submitted.

Substitutions to Key Firms listed in Proposer’s SOQ shall have obtained prior Valley Water approval under the provisions of RFQ Section 4.5 and Section 6.1 of the RFP. Additions to Key Firms will be considered enhancements and do not require prior Valley Water approval.

- (1) Design-Builder:
- (2) Engineer of Record:
- (3) Construction Entity (General Contractor):
- (4) Other Key Firms:

Each member of a joint venture should be listed separately below.

- Name of Proposer (Design-Builder):
- Name of Authorized Signatory:
- Signature:
- Title:

NO ADDITIONS OR
CHANGES PROPOSED.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 7. SUBSTITUTIONS OR ADDITIONS TO KEY PERSONNEL¹

(To be completed and attached to the Proposal Section 1.1 Qualifications Update, if applicable)

Identify any substitutions or additions to the Key Personnel identified in Proposer’s SOQ in Proposal Form 7. If no changes are proposed, Proposal Form 7 need not be submitted.

Substitutions to Key Personnel listed in Proposer’s SOQ require prior City approval under the provisions of RFQ Section 4.6 and under Section 6.1 of the RFP. Additions to Key Personnel will be considered enhancements and do not require prior City approval.

Resumes, limited to 2 pages each, for each substituted or added individual shall be included as an attachment to Proposal Section 1.1 using Proposal Form 8.

Name	Company Affiliation	Proposed Role on Project

1. Key Personnel positions are defined in the RFP Definitions.

NO ADDITIONS OR
CHANGES PROPOSED.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 8. RESUME INFORMATION

(To be completed and attached to the Proposal Section 1.1 Qualifications Update, if applicable)

Provide the information requested on this form for additions or changes to Key Personnel or other staff additions occurring subsequent to submittal of the SOQ. If no additions or changes to Key Personnel are proposed, Proposal Form 8 need not be submitted.

General Information

Name: _____
Firm/Office Location: _____
Title: _____
Year Employed by Firm: _____ years
Total Professional Experience: _____ years
Professional Registrations, Certifications, and Licenses (type, state/organization, year):

Proposed Role on the Project

Title/Assignment: _____
Description of Role/Responsibilities: _____

Commitment to Project¹

Phase 1 _____ %
Phase 2 _____ %

Relevant Project Experience²

Project/Client Delivery Method: _____
Location/Brief Description: _____
Current Status: _____
Date of Involvement: from _____ through _____.

Description of Specific Roles and Responsibilities:

Client References³

Name	
Title/Organization:	
Address:	
Phone:	
Email:	

Notes:

- 1. Commitment indicates the amount of time (in percent) that the staff person would be available to work on the Project during a typical week during Phase 1 and Phase 2 considering other project and business commitments. For example, if a person would be available 20 hours per week out of a 40-hour work week, reply 50%. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Work.
- 2. Provide this information for up to seven relevant projects.
- 3. Provide two client references.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 9. KEY PERSONNEL AND STAFF TIME COMMITMENTS

(To be completed and attached to the Proposal Section 1.1 Qualifications Update, if applicable)

Key Personnel Time Commitments			
Project Role	Name	Commitment of Availability Phase 1	Commitment of Availability Phase 2
Design-Build Manager	Jesse Jardin	<u>90</u> %	<u>70</u> %
Design Manager	Mark Smith	<u>70</u> %	<u>30</u> %
Preconstruction Manager	Jesse Jardin	<u>90</u> %	<u>70</u> %
Construction Manager	Jesse Jardin	<u>90</u> %	<u>70</u> %
Startup/Commissioning/Acceptance Testing Lead	James Cordero	<u>25</u> %	<u>30</u> %
Other Key Personnel and Project Staff (list) Project Executive	Vimal Patel	<u>30</u> %	<u>30</u> %
Electrical Engineer	Adam Reab	<u>70</u> %	<u>25</u> %
Electrical Construction Manager	Chauncey Gray	<u>30</u> %	<u>50</u> %

*For commitment of availability, Proposers shall indicate average percent of time the individual could be available to work on the Project if needed. Assume 10 percent of each individual's time will be committed for vacation, holidays, and sick leave. Provide footnotes as needed for clarity.

Proposer shall identify Key Personnel for each role listed in the table above and other proposed project staff designated by the Proposer as important to the successful completion of the Work.



Travelers
Bond, Home Office
(860) 277-9355
(860) 277-3931 (fax)

One Tower Square
Hartford, CT 06183

January 20, 2022

Santa Clara Valley Water District (Valley Water)
5750 Almaden Expressway
San Jose, CA 95118

Re: Coyote Pumping Plant Adjustable Speed Drives (ASDs) Replacement Project
Letter of Intent to Issue Security

Dear David Montenegro, Principal Construction Contracts Administrator:

Kiewit Infrastructure West Co. (the "Proposer") has been invited to submit a Proposal in response to the Request for Proposals (the "RFP") for the Coyote Pumping Plant ASDs Replacement Project (the "Project"), issued by Valley Water ("Owner") on November 8, 2021, as amended, pursuant to which the Proposer may be selected to enter into a Design-Build Agreement (the "Agreement") with Valley Water for the Project.

Travelers Casualty and Surety Company of America (the Surety) has reviewed Valley Water's RFP and the Proposer's Proposal. The Surety hereby certifies that Proposer, as part of an overall work program commitment for the Kiewit companies, has \$10 Billion total and \$3.01 Billion available bonding capacity and at least 100% of the contract value per project bonding limits.

The Surety(ies) further certifies that, in the event the Proposer is selected as the Design-Builder and subject to review of the Design-Build Agreement and Guaranteed Price Amendment by the Surety(ies), that the Surety(ies) intends to issue on behalf of the Proposer, as security for performance of Phase 2 services under the Design-Build Agreement, a Performance Bond and a Payment Bond for the benefit of the Owner. The Performance Bond and the Payment Bond will each be in an amount equal to the value of the Guaranteed Price Amendment and shall be increased to reflect any subsequent price adjustment.

The surety(ies) further certify that the surety(ies) meet or exceed a minimum A.M. Best Company rating of A.

This letter is based on the Proposer's current financial condition and bonding capacity, which is subject to change. This letter does not constitute an assumption of liability on the part of the surety.

If you have any other questions, please feel free to contact me at (402) 271-2956.

Travelers Casualty and Surety Company of America
Name of Surety

Traci Sutton

Name of Designated Surety

Traci Sutton
Signature

Attorney-in-Fact

Title



Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

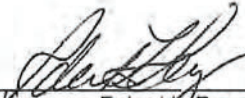
KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Philip G. Dehn, Tammy Pike, Paul A. Foss, Marie Huggins, Traci Sutton, and Deanne Jones of Omaha, Nebraska**, their true and lawful Attorney (s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in the, r business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st day of April, 2021**.



State of Connecticut

City of Hartford ss.

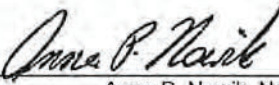
By: 
 Robert L. Raney, Senior Vice President

On this the **21st day of April, 2021**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th day of June, 2026**




 Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

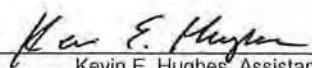
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **20th** day of **January**, **2022**




 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
 Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.

NOTARY ACKNOWLEDGMENT

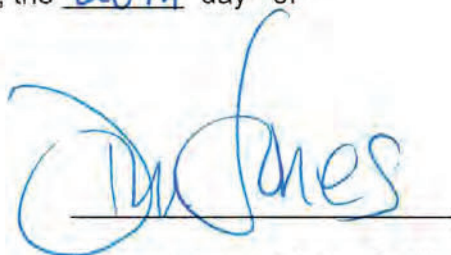
STATE OF NEBRASKA

COUNTY OF DOUGLAS

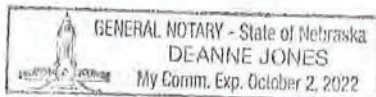
I, Deanne Jones, a Notary Public in and for said County and State, do hereby certify that Traci Sutton, Attorney-in-Fact of Travelers Casualty and Surety Company of America, proved to me on the basis of satisfactory evidence to be the person who appeared before me, and acknowledged that she signed, sealed and delivered a said instrument, for and on behalf of Travelers Casualty and Surety Company of America for the uses and purposes therein set forth.

Given under my hand and notarial seal, the 20th day of

January, 2022.



Deanne Jones, Notary Public





OLD REPUBLIC INSURANCE COMPANY

445 South Moorland Road, Suite 300, Brookfield, Wisconsin 53005 | T: 262.797.3400

January 20, 2022

Santa Clara Valley Water District (Valley Water)
5750 Almaden Expressway
San Jose, CA 95118

Re: Coyote Pumping Plant Adjustable Speed Drives (ASDs) Replacement Project
Letter of Intent to Issue Security

Dear David Montenegro, Principal Construction Contracts Administrator:

Kiewit Infrastructure West Co.(the "Proposer ") has been invited to submit its Proposal in response to the Request for Proposals (the "RFP") for the Coyote Pumping Plant ASD Replacement Project (Project) (the "Project"), issued by Valley Water ("Owner") on November 8, 2021, as amended, pursuant to which the Proposer may be selected to enter into a Design-Build Agreement (the "Agreement") with Valley Water for the Project.

We have reviewed the Proposer's Proposal and the RFP. We hereby certify Proposer has or has the ability to obtain the required insurance and that we intend to provide all required insurance as described in the Agreement in the event that the Proposer is selected for final negotiations and execution of the Agreement by Valley Water.

Old Republic Insurance Company
AM Best Rating A+XV

Name of Insurance Company/Broker

Philip G. Dehn

Name of Designated Signatory

Signature

Authorized Representative
Title



NOTARY ACKNOWLEDGMENT

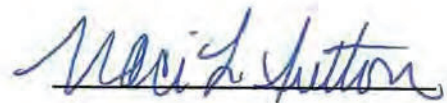
STATE OF NEBRASKA

COUNTY OF DOUGLAS

I, Traci L. Sutton, a Notary Public in and for said County and State, do hereby certify that Philip G. Dehn, Authorized Representative of Old Republic Insurance Company, proved to me on the basis of satisfactory evidence to be the person who appeared before me, and acknowledged that he signed, sealed and delivered a said instrument, for and on behalf of Old Republic Insurance Company for the uses and purposes therein set forth.

Given under my hand and notarial seal, the 20th day of

January, 2022.



Traci L. Sutton, Notary Public



SUBMITTED TO:

CONFIDENTIAL

**SANTA CLARA
VALLEY WATER DISTRICT
(VALLEY WATER)**



PRICE PROPOSAL // FEBRUARY 16, 2022

VOLUME 2

COYOTE PUMPING PLANT ASDs REPLACEMENT PROJECT

PROJECT NO: 91234002 // CONTRACT NO: C0675 // INVITATION NO: VW 0003

SUBMITTED BY:

IN ASSOCIATION WITH:



Kiewit



Stantec

TESCO
CONTROLS, INC.



**CUPERTINO
ELECTRIC INC.**

**SANTA CLARA
VALLEY WATER DISTRICT
(VALLEY WATER)**

PRICE PROPOSAL // FEB 16, 2022

**COYOTE PUMPING PLANT ASDs
REPLACEMENT PROJECT**

**PROJECT NO: 91234002 // CONTRACT NO: C0675
INVITATION NO: VW 0073**

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PRICE PROPOSAL

SECTION 6: PDB Price Proposal

Attachment 1: Form 14. Progressive Design-Build
Price Proposal

Attachment 2: Form 15. Phase 1 All-Inclusive
Billing Rates

SUBMITTED BY:

IN ASSOCIATION WITH:



PROJECT NO: 91234002 // CONTRACT NO: C0675 // INVITATION NO: VW 0073
COYOTE PUMPING PLANT ASDs REPLACEMENT PROJECT



SECTION

PRICE PROPOSAL



SUBMITTED BY:



Kiewit

IN ASSOCIATION WITH:



Stantec

TESCO
CONTROLS, INC.



**CUPERTINO
ELECTRIC INC.**

ADDENDUM NO. 3
TO REQUEST FOR PROPOSALS
FOR DESIGN-BUILD ENTITIES SEEKING TO BID ON
COYOTE PUMPING PLANT ASDs
REPLACEMENT PROJECT
Project No. 91234002 Contract No. C0675

ATTACHMENT 2

Valley Water
Coyote Pumping Plant ASDs Replacement Project

FORM 14. PROGRESSIVE DESIGN-BUILD PRICE PROPOSAL

(This form shall be completed and attached to Proposal Section 6.1 Progressive Design-Builder Price Proposal)

Phase 1. Design and Preconstruction Services

<u>EVALUATED</u> Not-to-Exceed Price for Design and Preconstruction Phase	3,994,888.00
<i>(Do not include Supplemental and/or Deductive Scope Proposed Price)</i>	
Task 1: Phase 1 Project Management	\$ 1,186,298.00
Task 2: Reference Document Review	\$ 92,513.00
Task 3: Field Investigations and Permitting Support	\$ 284,915.00
Task 4: Design Development and Documents	\$ 1,871,291.00
Task 5: Cost Modeling and Scheduling	\$ 238,550.00
Task 6: Guaranteed Price Proposal	\$ 248,321.00
Task 7: Supplemental Phase 1 Services	\$ 73,000.00

Phase 2. Construction Services Fees

EVALUATED Guaranteed Maximum Price Option.

Construction phase fee on construction cost per requirements in RFP.

1. <u>Design-Builder Fee</u> (Fees applied by Design Builder) A percent (%) markup to be applied by the Design-Builder to the Direct Cost of Work that is to be self-performed by the Design-Builder and applied to subcontracted Work provided by all other members of the DB Team (i.e., all firms named in Respondent's SOQ and/or Proposal as a DB Team member, except the Design-Builder).	20	%
2. <u>Design-Builder Subcontractor Fee</u> (Fees applied by Design-Builder) A total percent (%) markup to be applied by the Design-Builder to all Work and purchases from entities not named in the Respondent's SOQ and/or Proposal as a DB Team member.	20	%
3. <u>DB Team Member Fee(s)</u> (Fees applied by DB Team members) A separate, individual percent (%) markup to be applied by each DB Team member named in the SOQ and/or Proposal. Fee to apply to the Direct Cost of Work that is performed by named members of the DB Team (except the Design-Builder) as estimated using an open-book process to support the Design-Builder's development of the Guaranteed Price Proposal.		
The DB Team Member Fee(s) will not be used for evaluation of the proposal , but will be binding as the only markup on the Direct Cost of Work allowed by the respective DB Team members.		
(Add rows below as necessary to list all DB Team members)		
DB Team Member 1 Name Cupertino Electric, Inc.	18	%
DB Team Member 2 Name TESCO	18	%

EVALUATED Lump Sum Price Option.

Adjusted fee to be applied to construction cost should Valley Water elect to exercise the Guaranteed Price on a Lump Sum basis.

1a. Design-Builder Fee. Percent (%) discount on listed Design-Builder Fee (listed in Item 1 above) should Valley Water elect to exercise the Guaranteed Price on a Lump Sum basis:		
	Discount on Design-Builder Fee	3 %
1b. Math check:		
	Design-Builder Fee (from GMP option Item 1 above)	20 %
	minus	
	Lump Sum discount	3 %
	Equals	17 %
2a. <u>Design-Builder Subcontractor Fee</u> . Percent (%) discount on listed Design-Builder Subcontractor Fee (listed in Item 2 above) should Valley Water elect to exercise the Guaranteed Price on a Lump Sum basis:		
	Discount on Design-Builder Subcontractor Fee	3 %
2b. Math check:		
	GMP Fee (from GMP option Item 2 above)	20 %
	minus	
	Lump Sum discount	3 %
	Equals	17 %

ADDITIONAL INFORMATION

- As-proposed Design-Builder Fee will be applied to the actual, verifiable Direct Cost of the Work, as defined in the Supplement Conditions, Section 1.20 and DB Agreement Section 7.5.1.
- The Guaranteed Price will be calculated as described in Section 7.5.7 of the DB Agreement.
- Fees will not be applied to pass through costs as described in Sections 7.5.3 through 7.5.6 of the DB Agreement.
- The final Guaranteed Price is a fixed dollar amount which represents the maximum total compensation available for Phase 2 (Construction) to the Design-Builder as described in Sections 5.3 and 7.3 of the DB Agreement.
- Other than the three fee categories described above, no additional mark-up or fees are to be included on Phase 2 Construction Work incurred for any member of the Design-Build Team. Design-Build Team members are considered pre-selected for self-performed scope may not otherwise compete for subcontracted scope in Phase 2 (Construction).
- For the development of all iterations of the draft Guaranteed Price Amendment, all members of the Design-Build Team are required to document costs in open-book format as described in Sections 5.3 and 7.3 of the DB Agreement.
- The selected Design-Builder will be required to develop its Guaranteed Price estimate, and all subsequent Guaranteed Price iterations in accordance with the level of detail set forth in the Valley Water Approved Cost Estimate Example (provided as DB Agreement Exhibit 3A, Attachment 1).
- Variations of how the Fees are applied to costs, from the Valley Water Approved Cost Estimate Example, will not be allowed without express written approval by Valley Water. Modifications to the Valley Water Approved Cost Estimate Example that do not affect how Fees are applied (e.g., specific line items and organization of construction scope) will be allowed, and will be developed collaboratively with Valley Water, upon selection.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

**FORM 15. PHASE 1 ALL-INCLUSIVE BILLING RATES
AND LABOR CATEGORIES**

(This form may be expanded to span multiple pages, as needed, and attached to Proposal Section 6.1 Progressive Design-Builder Price Proposal)

Phase 1 Professional Services All-Inclusive Billing Rates and Labor Categories			
Staff Name	Firm	Labor Category	Billing Rate (Include all markups for benefits, overhead and profit)
Vimal Patel	Kiewit	Design Project Executive	\$290.00
Jesse Jardin	Kiewit	Project Manager	\$250.00
TBD	Kiewit	Project Engineer	\$225.00
TBD	Kiewit	Scheduler	\$225.00
James Cordero	Kiewit	Start-Up Manager	\$225.00
TBD	Kiewit	Estimator	\$160.00
TBD	Kiewit	Superintendent	\$225.00
TBD	Kiewit	Field Engineer	\$160.00
TBD	Cupertino Electric, Inc.	Construction Project Executive	\$240.63
Chauncey Gray	Cupertino Electric, Inc.	Project Manager	\$185.63
TBD	Cupertino Electric, Inc.	Project Engineer	\$111.46
TBD	Cupertino Electric, Inc.	Project Administration	\$75.63
TBD	Cupertino Electric, Inc.	Project Scheduler	\$178.75
TBD	Cupertino Electric, Inc.	Electrical Estimate Lead	\$163.63
TBD	Cupertino Electric, Inc.	Electrical Estimate Support	\$103.13
TBD	Cupertino Electric, Inc.	Superintendent	\$264.57
TBD	Kiewit Engineering	Engineering Project Manager	\$250.00
TBD	Kiewit Engineering	Engineering Coordinator	\$180.00
TBD	Kiewit Engineering	Project Controls	\$110.00
Adam Reab	Kiewit Engineering	Lead Engineer	\$200.00
John Liu	Kiewit Engineering	Lead Engineer	\$200.00
TBD	Kiewit Engineering	Support Engineer	\$180.00
TBD	Kiewit Engineering	Designer	\$150.00
TBD	Stantec	VP	\$330.00
Phil Atkinson	Stantec	Sr. Principal	\$315.00
Nathan Gronlund	Stantec	Sr. Principal	\$280.00
Mark Smith	Stantec	Sr. Principal	\$315.00
TBD	Stantec	Sr. Associate	\$190.00
TBD	Stantec	Sr. Designer	\$300.00
TBD	Stantec	Designer	\$150.00

Rates shown are 2022 and 2023 rates, and are not subject to escalation in 2024. Rates are subject to a 4% escalation starting in January 1, 2024.

Form 15 Notes: Rates shown are 2022 and 2023 rates, and are not subject to escalation in 2024. Rates are subject to a 4% escalation starting in January 1, 2024.

SUBMITTED TO:

CONFIDENTIAL

**SANTA CLARA
VALLEY WATER DISTRICT
(VALLEY WATER)**



UPDATED FIRM FINANCIAL INFO // FEBRUARY 16, 2022

VOLUME 3

COYOTE PUMPING PLANT ASDs REPLACEMENT PROJECT

PROJECT NO: 91234002 // CONTRACT NO: C0675 // INVITATION NO: VW 0003

SUBMITTED BY:

IN ASSOCIATION WITH:



Kiewit



Stantec

TESCO
CONTROLS, INC.



**CUPERTINO
ELECTRIC INC.**

**SANTA CLARA
VALLEY WATER DISTRICT
(VALLEY WATER)**

UPDATED FIRM FINANCIAL INFO // FEB 16, 2022

**COYOTE PUMPING PLANT ASDs
REPLACEMENT PROJECT**

**PROJECT NO: 91234002 // CONTRACT NO: C0675
INVITATION NO: VW 0073**

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UPDATED FIRM FINANCIAL INFO

SECTION 7: Updated Firm Financial Information

SUBMITTED BY:

IN ASSOCIATION WITH:



PROJECT NO: 91234002 // CONTRACT NO: C0675 // INVITATION NO: VW 0073
COYOTE PUMPING PLANT ASDs REPLACEMENT PROJECT



SECTION

UPDATED FINANCIAL INFORMATION



SUBMITTED BY:

In Association with:



Kiewit



Stantec

TESCO
CONTROLS, INC.



**CUPERTINO
ELECTRIC INC.**



January 10, 2022

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Contract No. C0675

RE: Request for Proposals – Coyote Pumping Plant ASDs Replacement Project
Contract No. C0675
Kiewit Infrastructure West Co. Material Change Letter

To Whom it May Concern:

In accordance with the Request for Proposals – Coyote Pumping Plant ASDs Replacement Project, Section 7.1 – Updated Financial information, Kiewit Infrastructure West Co. (“KIWC”) is to describe any material changes to the financial status of the company since the date of the SOQ.

The unaudited financial statements for KIWC as of September 25, 2021 have been provided. KIWC is not aware of any material adverse changes and does not currently anticipate any material changes in its tangible net worth for the next fiscal year other than normal operating activity which we consider to include any dividends paid to its parent.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Loree Runyan-Pick', is written over a faint, circular blue ink stamp.

Loree Runyan-Pick
Controller

KIEWIT INFRASTRUCTURE WEST CO. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEET

September 25, 2021
(U.S. dollars, in thousands)
(unaudited)

ASSETS

Current assets:	
Cash and cash equivalents	\$ 379,001
Investment in affiliate	144,650
Accounts receivable, less allowance of \$882	253,517
Affiliate receivables	1,497
Contract assets	77,583
Investment in nonconsolidated construction partnerships	30,163
Other	15,410
Total current assets	901,821
Property, plant and equipment, at cost	92,918
Less accumulated depreciation	(51,281)
Net property, plant and equipment	41,637
Goodwill	18,427
Investment in leasing affiliate	109,856
Deferred income taxes	5,154
	<u>\$ 1,076,895</u>

LIABILITIES AND EQUITY

Current liabilities:	
Accounts payable:	
Trade, including retainage of \$18,566	\$ 43,356
Affiliates	40,355
Total accounts payable	83,711
Accrued construction costs	180,309
Contract liabilities	316,355
Distributions and costs in excess of investment in nonconsolidated construction partnerships	1,020
Accrued insurance costs	4,191
Accrued payroll and payroll taxes	41,370
Income taxes payable	37,727
Other	1,040
Total current liabilities	665,723
Other	13,326
Total liabilities	679,049
Commitments and contingencies	
Equity:	
Common stock, \$1,000 par value, 10,000 shares authorized, 150 shares issued and outstanding	150
Additional paid-in capital	212,868
Retained earnings	142,828
Total Kiewit Infrastructure West Co. equity	355,846
Minority interest	42,000
Total equity	397,846
	<u>\$ 1,076,895</u>

These unaudited consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles. However, since they do not include footnotes and other information required by these principles to be considered complete financial statements, they are intended to be used for management purposes only.

The information contained herein is confidential and proprietary and is being provided to the recipient on the condition that the recipient not divulge or disclose such information to any other person or entity, or use the information for any purpose other than the express purpose for which it has been provided. Any other use or disclosure without prior written consent is strictly prohibited.

KIEWIT INFRASTRUCTURE WEST CO. AND SUBSIDIARIES
CONSOLIDATED INCOME STATEMENT
for the nine months ended September 25, 2021
(U.S. dollars, in thousands)
(unaudited)

Revenue	\$ 1,446,225
Cost of revenue	(1,180,104)
Margin	266,121
Operating expenses	(96,747)
Equity earnings from nonconsolidated construction partnerships	20,268
Gain on sale of property, plant and equipment	2,881
Operating income	192,523
Other income (expense):	
Investment income	290
Interest expense	(4)
Equity in earnings of affiliate	238
Other	56
	580
Income before income taxes and equity in net losses of leasing affiliate	193,103
Equity in net losses of leasing affiliate	(9,103)
Income tax expense	(48,889)
Net income	135,111
Net loss attributable to minority interests	7,717
Kiewit Infrastructure West Co. net income	<u><u>\$ 142,828</u></u>

These unaudited consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles. However, since they do not include footnotes and other information required by these principles to be considered complete financial statements, they are intended to be used for management purposes only.

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Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 11. Invoicing Guidelines

PROGRESS PAYMENT No. XX

PAGE: 1 of 2
TODAY'S DATE: 2-Nov-21
PAY (FROM) 1-Oct-21
PERIOD (TO): 25-Oct-21

PROJECT	Project Name
CONTRACTOR	Contractor Name
ADDRESS	Contractor Address
REMIT PAYMENT TO:	Contractor Billing Address
CONTRACT #	Contract Number

ORIGINAL BID :	
ORIGINAL BID INCLUDING C.C.O.S: \$	-
AMOUNT TO DATE INCLUDING C.C.O.s: \$	-

[illegible]

ORIGINAL TIME:
ALLOWED (Days):
TOTAL CONTRACT TIME:

FIRST CHARGEABLE DAY
TOTAL TIME ALLOWED AS
AMENDED BY CCO's (Days).....
% COMPLETE.....
% TIME ELAPSED.....

```
#DIV/0!  
#DIV/0!
```

CONTRACT COMPLETION DATE:
ACTUAL COMPLETION DATE:

	A M O U N T S		
	PREVIOUS	THIS PERIOD	TO DATE
Gross Earnings/Total Worth Of Work			0.00
Retention (5%)	\$	-	0.00
Less Total Stop Notices			
Less Total Liquidated Damages			
Net Earnings	\$	-	\$ -
Less Total Previous Payment			0.00
Payment Due Contractor This Period			0.00

- Milestone 1
- Milestone 2
- Milestone 3
- Milestone 4
- Milestone 5

This Must Be
Paid by

Approval Recommended:

Approved:

Chief Construction Inspector, Eric Zozaya

Engineering Unit Manager, Gary Ohea

PROCESSED
DATE _____
BY _____

Santa Clara Valley Water District

Construction Services Unit

PROGRESS PAYMENT No. XX

PROJECT
CONTRACTOR
ADDRESS

Project Name
Contractor Name
Contractor Address

PAGE: 2 of 2
TODAY'S DATE:
PAY (FROM)
PERIOD (TO):

Item No.	DESCRIPTION	UNIT	QUANTITIES		QUANTITY OF WORK PERFORMED			UNIT PRICE	AMOUNT DONE THIS PERIOD	TOT. AMOUNT DONE TO DATE
			CONTRACT	REVISED	PREVIOUS	THIS PERIOD	TO DATE			
	BASE BID ITEMS									
1	Compliance with Environmental Permits	LS	1		0.00%	0.00%	0.00%	\$ -	\$ -	\$ -
2	Mobilization & Demobilization Demolition and Disposal	LS	1		0.00%	0.00%	0.00%	\$ -	\$ -	\$ -
3	Contractor's Quality Control	LS	1		0.00%	0.00%	0.00%	\$ -	\$ -	\$ -
4	Control of Water	LS	1		0.00%	0.00%	0.00%	\$ -	\$ -	\$ -
5	Steel Channel	LS	1		0.00%	0.00%	0.00%	\$ -	\$ -	\$ -
6	Structural Steel Hollow Structural Steel	LS	1		0.00%	0.00%	0.00%	\$ -	\$ -	\$ -
	SUPPLEMENTAL BID ITEMS				0.00%					
1	Winterization	LS	1		0.00%	#DIV/0!	#DIV/0!	\$ -	\$ -	#DIV/0!
2	Unplanned Water Discharges	LS	1		0.00%	0.00%	0.00%	\$ -	\$ -	\$ -
3	Spot Repair Spalling Concrete (Non-Anchor Related)	LS	1		0.00%	0.00%	0.00%	\$ -	\$ -	\$ -
						TOTAL BASE BID & SUPPLEMENTAL BID ITEMS			\$ -	#DIV/0!

TOTAL BASE BID & SUPPLEMENTAL BID ITEMS \$ - #DIV/0!
TOTAL PAYMENT \$ - #DIV/0!

Item No.	PCO No.	DESCRIPTION CONTRACT CHANGE ORDERS	UNIT	QUANTITIES		QUANTITY OF WORK PERFORMED			UNIT PRICE	AMOUNT DONE THIS PERIOD	TOT. AMOUNT DONE TO DATE
				CONTRACT	REVISED	PREVIOUS	THIS PERIOD	TO DATE			
	1	CCO 1	1.00			0.00%	100.00%	100.00%	\$ -	\$ -	\$ -
	2	CCO 1	1.00			0.00%	100.00%	100.00%	\$ -	\$ -	\$ -

CCO Sub-Total: \$ - \$ -
GRAND TOTAL: \$ - #DIV/0!

Valley Water
Coyote Pumping Plant ASDs Replacement Project
EXHIBIT 12. Project Labor Agreement Forms

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SCVWD ENACTED COPY
Contract Administration Unit
AGMT: A4584M **FILE:** N/A

**SANTA CLARA VALLEY WATER DISTRICT
PROJECT LABOR AGREEMENT**

This Agreement is entered into this 11 day of January, 2022 by and between the Santa Clara Valley Water District (hereinafter "Valley Water"), together with contractors and subcontractors of all tiers, who shall become signatory to this Agreement by signing the "Agreement to be Bound" (Addendum A) (referred to collectively herein as "Contractor(s)/Employer(s)"), and the Santa Clara and San Benito Counties Building & Construction Trades Council (hereinafter the "Council") and its affiliated local Unions that have executed this Agreement (referred to collectively herein as "Union" or "Unions").

PURPOSE & RECITALS

The purpose of this Agreement is to promote the efficiency of construction operations for Valley Water through the use of skilled labor resulting in quality construction outcomes, to develop a skilled workforce for future Valley Water construction, and to provide for the orderly and peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting Valley Water's and the public interest in assuring the timely and economical completion of Covered Projects subject to this Agreement.

WHEREAS, the Santa Clara Valley Water District ("Valley Water") is an independent special district responsible for providing Santa Clara County with safe, clean water, flood protection; and stewardship of streams. Valley Water's Mission is to provide Silicon Valley safe, clean water for a healthy life, environment, and economy; and

WHEREAS, nearly two million people currently reside in Santa Clara County's 1,300 square miles and 15 cities; making it the most populous county in the San Francisco Bay Area and the fifth most populous in the state; and

WHEREAS, the population of Santa Clara County is expected to increase almost thirty percent (30%) to 2.3 million by 2030; and

WHEREAS, the Valley Water Capital Budget for Fiscal Years 2021 to 2025 exceeded \$3.5 billion; and

WHEREAS, this Agreement is intended to apply to projects where the complexity of the work and/or the presence of multiple contractors and numerous workers and/or other factors increases the risk of labor disputes or work disruptions that could interfere with the timely and economical completion of the work; and

WHEREAS, the timely and successful completion of Covered Projects is of the utmost importance to meet the needs of Valley Water and avoid increased costs resulting from delays in construction; and

WHEREAS, the work covered by this Agreement will require maximum cooperation from the Parties; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work and will be represented by the Unions signatory to this

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Agreement and employed by contractors and subcontractors who may or may not be signatory to Master Agreements with the Unions; and

WHEREAS, it is recognized that on projects with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption is substantial unless there is a shared overriding commitment to maintain continuity of work; and

WHEREAS, the interests of Valley Water, the Unions, the Contractor(s)/Employer(s) and the public would be best served if construction work proceeds in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractor(s)/Employer(s) and the Unions desire to mutually establish and stabilize wages, hours and working conditions for workers employed on Covered Projects and to encourage close cooperation among Contractor(s)/Employer(s) and the Unions so that a satisfactory, continuous and harmonious relationship will exist among the parties to this Agreement; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on a Covered Project if Union and non-union workers of different employers were to work side by side on a Covered Project, potentially leading to labor disputes that could delay completion of a Covered Project; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of a Covered Project, insofar as a legally binding agreement exists between the Contractor(s)/Employer(s) and the affected Union(s), except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event, the provisions of this Agreement shall prevail; and

WHEREAS, the contract(s) for construction work on a Covered Project will be awarded in accordance with the applicable provisions of the California State Public Contract Code and all state, local and federal laws; and

WHEREAS, Valley Water has the right to select the lowest responsive and responsible bidder and/or the bidder offering the best value to Valley Water for the award of the construction contract(s) on a Covered Project in accordance with law; and

WHEREAS, Valley Water has determined that a project labor agreement will be beneficial to the Projects covered by this Agreement and will serve Valley Water's interests as the proprietor of construction projects; and

WHEREAS, Valley Water places high priority upon the development of comprehensive programs for the recruitment, training and employment of traditionally underrepresented and targeted workers, and recognizes the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable careers in the building and construction industry; and

WHEREAS, the use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work; and

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WHEREAS, the construction industry is one of the few industries that provide a path to middle-class careers for individuals who face barriers to quality employment; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of Covered Projects;

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

ARTICLE 1 DEFINITIONS

1.1 “Agreement” means this Project Labor Agreement.

1.2 “Agreement to be Bound” means the agreement (attached hereto and incorporated herein as Addendum A) that shall be executed by each and every Contractor/Employer as a condition of performing Project Work.

1.3 “Completion” means that point at which there is a Final Acceptance by Valley Water related to a Construction Contract and Valley Water has filed a Notice of Completion.

1.4 “Construction Contract” means a public works or improvement contract(s) (including design-bid, design-build, lease-leaseback, or other contract under which construction is done) awarded by the Valley Water Board that is necessary to complete a Covered Project.

1.5 “Contractor(s)/Employer(s)” or “Contractor(s)” or “Employer(s)” means any individual, firm, partnership or corporation (including the prime contractor, general contractor as construction manager, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and enters into a contract with Valley Water for construction of any part of a Covered Project, under contract terms and conditions approved by Valley Water and which incorporate this Agreement, and all contractors and subcontractors of any tier.

1.6 “Council” means the Santa Clara and San Benito Counties Building & Construction Trades Council.

1.7 “Covered Project” means a public works project paid for in whole or in part with Valley Water funds, to be performed under contract with Valley Water and not by Valley Water employees covered under this agreement, where either the engineer’s estimate or the cumulative bid amount(s) submitted by the contractor(s) awarded a Construction Contract(s) for the Covered Project exceeds two million dollars (\$2,000,000).

1.8 “Master Agreement” or “Schedule A” means the Master Collective Bargaining Agreement of each craft Union signatory hereto, which the Unions shall provide to Valley Water upon request.

1.9 “Project Work” means work on a Covered Project that is with the craft jurisdiction of one or more of the Unions and is not otherwise excluded pursuant to Section 2.4 of this Agreement.

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1.10 “Project Manager” means the person(s) or business entity(ies) designated by Valley Water to oversee all phases of construction on the Covered Project and to oversee the implementation of this Agreement and who works under the guidance of Valley Water’s Authorized Representative.

1.11 “Union” or “Unions” means the Santa Clara and San Benito Counties Building & Construction Trades Council, AFL-CIO, and its affiliated local Unions signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations, whose names are subscribed hereto and who have through their officers executed this Agreement.

1.12 “Valley Water” means the Santa Clara Valley Water District, its Board of Directors, officers, agents, employees and administrative staff, including managerial personnel.

ARTICLE 2 SCOPE OF AGREEMENT

2.1 Parties: This Agreement applies to and is limited to all Contractors/Employers performing Construction Contracts on a Covered Project (including subcontractors at any tier), and their successors and assigns, Valley Water, the Council and its affiliated Unions signatory to this Agreement.

2.2 Applicability: This Agreement shall govern all craft work on a Covered Project pursuant to a Construction Contract. For the purposes of this Agreement, a Covered Project shall be considered completed as set forth in Section 1.3, except when Valley Water directs a Contractor to engage in repairs, warranty work, punch list work, modifications or change orders pursuant to a Construction Contract. Valley Water and the Council may mutually agree in writing to add or exclude projects or project components to be covered by this Agreement.

2.3 Covered Work: This Agreement covers, without limitation, all on-site site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures and other works, and related activities for a Covered Project that is within the craft jurisdiction of one or more of the Unions and which is directly or indirectly part of a Covered Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve a Covered Project), pumps, pump stations, start-up, modular furniture installation and final clean-up. On-site work includes work done for a Covered Project in temporary yards, dedicated sites, or areas adjacent to a Covered Project, and at any on-site or off-site batch plant constructed solely to supply materials to a Covered Project. This scope of work includes all soils and materials testing and inspection within the craft jurisdiction of the Unions.

2.3.1 This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems performed after Completion pursuant to a Construction Contract, except if excluded by Section 2.4.10.

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2.3.2 This Agreement covers all on-site fabrication work over which Valley Water, Contractor(s)/Employer(s) or subcontractor(s) possess the right of control (including work done for a Covered Project in any temporary yard or area established for a Covered Project). Additionally, this Agreement covers off-site work, including fabrication necessary for a Covered Project defined herein, that is traditionally performed by any of the Unions and is directly or indirectly part of the Covered Project, provided such work is covered by a current Schedule A agreement or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution date of this Agreement and contains an express reference to such off-site work.

2.3.3 The furnishing of supplies, equipment or materials which are stockpiled for later use shall not be covered by this Agreement. Construction trucking work, such as the hauling and delivery of ready-mix, asphalt, aggregate, sand, soil, or other fill or similar material which is incorporated into the construction process as well as the off-hauling of soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris and excess fill, material and/or mud, shall be covered by the terms and conditions of this Agreement. Contractor(s)/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to Valley Water within ten (10) days of written request or as required by bid specifications.

2.3.4 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Agreement of Elevator Constructors, the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, with the exception that Articles 4, 13 and 14 of this Agreement shall apply to such work.

2.3.5 This Agreement shall apply to work performed pursuant to a construction warranty during the construction warranty period.

2.4 Exclusions. Notwithstanding any other provision of this Agreement, the following shall be excluded from the scope of this Agreement:

2.4.1 This Agreement shall not apply to non-construction craft employees, including executives, managerial employees, engineering employees, architects, quality control/assurance personnel (unless covered by a Master Agreement), guards, supervisors above the level of General Foreman (unless covered by a Master Agreement), administrative, office and clerical employees.

2.4.2 This Agreement shall not apply to work performed on, near, or leading to a Covered Project site(s) that is undertaken by state, county, city or other governmental bodies or their contractors, or by public or private utilities or their contractors. Work performed by public or private utilities including all electrical utility, voice-data video, and security installation work ahead of and up to the electrical service entry connection or the main point of service or the main point of entry shall be excluded. All electrical utility, voice-data video, and security installation work performed after the electrical utility service entrance or the main point of entry shall be

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Covered Work. Additionally, all contracted work performed ahead of the service entrance connection and main point of entry that is inside the property line and that provides for access to the building via a conduit or series of conduits shall be Covered Work.

2.4.3 This Agreement shall not apply to off-site maintenance of leased equipment and on-site supervision of such work.

2.4.4 This Agreement shall not apply to work performed by Valley Water's own forces.

2.4.5 This Agreement applies to capital construction and rehabilitation, including new facilities and/or pipeline extensions. This Agreement shall not apply to emergency remediation performed without formal notice of a competitive solicitation for bids as explicitly permitted by Public Contract Code section 22050.

2.4.6 In limited circumstances involving a manufacturer's warranty or guarantee, or requiring special knowledge of a particular item, work may be performed by persons not covered by this Agreement provided that the Contractor/Employer or manufacturer responsible for such work demonstrates by an enumeration of specific tasks that the work cannot be performed by craft workers covered by this Agreement.

2.4.7 This Agreement shall not apply to work substantially funded by any federal, state, other local, private or public agency that prohibits the use of project labor agreements on projects receiving its funding, or the funding of projects on which such agreements are used. With respect to such work, Valley Water agrees that it will make a reasonable effort to defend the application of this Agreement, including by making a written request to the funding source. Notwithstanding the foregoing, however, should only a specific provision of the Agreement be prohibited by the funding source, the parties shall modify the requirements of this Agreement accordingly, to advance the purposes of this Agreement to the maximum extent feasible without the loss of funding.

2.4.8 This Agreement shall not apply to work that is jointly performed with another public agency, unless the work is awarded by Valley Water, or unless otherwise agreed to by the Parties on a case by case basis. With respect to such work jointly performed with another public agency, Valley Water will make a request to the other public agency to apply the terms of this Agreement, or in the alternative, request that the other public agency communicate with Valley Water representatives and the Council to discuss application of this Agreement.

2.4.9 This Agreement shall not apply to any work performed outside the geographical jurisdiction of the Council, absent agreement by the applicable Building Trades Council to adhere to the terms of this Agreement for the duration of such work.

2.4.10 This Agreement shall not apply to any work undertaken pursuant to any contract or agreement, or extension thereof, which was awarded by Valley Water before the execution of this Agreement.

2.4.11 The parties recognize that pursuant to Valley Water Board Governance Policy [], Valley Water's Chief Executive Officer, or his/her designee, may recommend to

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the Valley Water Board an individual exemption if a Covered Project has a unique feature or requirement that would warrant an exemption, provided the conditions stated in the policy are satisfied. The Valley Water Board retains the power and discretion to approve such recommendations and issue individual exemptions of projects to this Agreement.

2.5 Award of Contracts: It is understood and agreed that Valley Water has the right to select any qualified bidder for the award of Construction Contracts under this Agreement, notwithstanding the existence or non-existence of any agreements between such Contractor and any Union parties. The qualified bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors and subcontractors for Project Work that are issued on or after the effective date of this Agreement. A copy of all invitations to bid shall be provided at time of issuance to the Council.

2.6 Combining, Consolidating, or Canceling Project Work. Valley Water has the absolute right to combine, consolidate, or cancel work or portions of work that would otherwise be covered by Sections 2.2 and 2.3 and not excluded by Section 2.4. If Valley Water cancels such work or portions of work and thereafter reauthorizes such work, then such work shall be performed under the terms of this Agreement.

ARTICLE 3 EFFECT OF AGREEMENT

3.1 By executing this Agreement, the Unions and Valley Water agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of work under a Construction Contract, whether as a Contractor or subcontractor thereunder, the Contractor/Employer agrees to be bound by each and every provision of the Agreement and agrees that it will evidence its acceptance prior to the commencement of work by executing the Agreement to be Bound in the form of Addendum A.

3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of work under a Construction Contract, the Contractor/Employer shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor as a condition of accepting the award of a subcontract, to agree in writing, by executing the Agreement to be Bound, to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor/Employer may not be evaded by subcontracting. No Contractor or subcontractor shall commence Project Work without having first provided an executed copy of the Agreement to be Bound to Valley Water and to the Council.

3.4 This Agreement shall only be binding on the signatory parties hereto and their successors and assigns and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Any dispute between the Union(s) and the Contractor/Employer respecting compliance with the terms of the Agreement shall not affect the rights, liabilities, obligations and duties between the Union(s) and other Contractor(s)/Employer(s) party to this

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Agreement. This Agreement alone shall not have the effect of creating any joint employment relationship between or among Valley Water and/or any Contractor/Employer.

3.5 It is mutually agreed by the parties that any liability by a Contractor and the liability of the separate Unions under this Agreement shall be several and not joint. Any alleged breach of this Agreement by a Union shall not affect the rights, liabilities, obligations and duties between the Contractor(s)/Employer(s) and the other Union(s) party to this Agreement.

3.6 The provisions of this Agreement, including the Schedule A is incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement is inconsistent with a Schedule A, the provisions of this Agreement shall prevail. Where a provision of a Schedule A is not inconsistent with this Agreement, the provisions of the Schedule A shall apply.

ARTICLE 4

WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS

4.1 The Unions, Valley Water and Contractor(s)/Employer(s) covered by this Agreement agree that for the duration of a Covered Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, hand billing, slowdowns, withholding of work, refusals to work, sickouts, walk-offs, sit-downs, stand-ins, boycotts, or other work stoppages, or otherwise advising the public that a labor dispute exists, or other slowdowns of any kind, for any reason, by the Unions or employees employed on a Covered Project, at any job sites for a Covered Project or at any other Valley Water facility because of a dispute on a Covered Project. Disputes arising between the Unions and Contractor(s)/ Employer(s) on other Valley Water projects are not governed by the terms of the Agreement or this Article.

4.1.2 There shall be no lockout of any kind by a Contractor/Employer of workers employed on a Covered Project.

4.1.3 If any Union or any other persons, whether parties to this Agreement or otherwise, engage in any picketing or work stoppage, the signatory Unions shall not honor such picket line or work stoppage.

4.1.4 Neither the Council nor local Unions may sanction, aid or abet, encourage or continue any work stoppage, strike, picketing or other disruptive activity prohibited by Section 4.1.1 at any Covered Project site and shall undertake all reasonable means to prevent or to terminate such activity. No employee shall engage in activities which violate this Article. Any employee who engages in any activities that violate this Article shall be subject to disciplinary action, including discharge.

4.1.5 If a Master Agreement expires before the Contractor/Employer completes the performance of work under a Construction Contract, and the Union or Contractor/Employer signatory to that Master Agreement gives notice of demands for a new or modified Master Agreement, the Union agrees that it will not strike on work covered by this Agreement or engage

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in any work disruption as described in Section 4.1.1 and the Union and the Contractor/Employer agree that the expired Master Agreement will continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor/ Employer agrees to comply with any retroactive terms of the new or modified Master Agreement that are applicable to any employee(s) on a Covered Project during the interim, with retroactive payment due within seven (7) calendar days of the effective date of the new or modified Master Agreement.

4.1.6 In the case of nonpayment of wages or trust fund contributions on a Covered Project, the Union shall give Valley Water and the Contractor/Employer five (5) business days' notice when nonpayment of trust fund contributions has occurred and two (2) business day's notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck as a result of insufficient funds, of the intent to withhold labor from the Contractor/Employer's or their subcontractor's workforce, during which time the Contractor/Employer may correct the default. Notice shall be by email and by registered or certified mail, or hand delivery to the involved Contractor, the prime contractor and/or equivalent, and to Valley Water. In this instance, a Union's withholding of labor (but not picketing) from a Contractor/Employer who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article.

4.1.7 Notification: If Valley Water or any Contractor/Employer contends that any Union has violated this Article, it will so notify, in writing, the Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council will immediately use its best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately inform the workers of their obligations under this Article.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred.

4.2.1 A party invoking this procedure shall notify David Weinberg, as the permanent arbitrator, or Robert Hirsch, as the alternate arbitrator under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then the parties shall select the arbitrator from the list in Section 13.4. Notice to the arbitrator shall be by the most expeditious means available, with notices by email or telephone to Valley Water, the Council, and the party alleged to be in violation, and to the involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, Valley Water will contact the permanent arbitrator named above, or his alternate, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

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4.2.3 The arbitrator shall notify the parties and the Council by email or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of an award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but the parties shall not delay compliance with or enforcement of the award due to the issuance of a written opinion. The arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance. A party found in violation of this Agreement shall immediately comply with the order of the Arbitrator. Should a party found in violation of this Article fail to comply with an Arbitrator's award to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of fifteen thousand dollars (\$15,000) per shift for which it failed to comply, or portion thereof, until such violation is ceased. Such payment, however, shall not prevent the moving party from seeking judicial enforcement of the initial decision. The Arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.5 Such award shall be final and binding on all parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. The party filing such enforcement proceedings shall give written notice to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceedings may be *ex parte*. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance, are waived by the parties.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.2.8 Should either the permanent or alternate arbitrator identified above no longer work as a labor arbitrator, Valley Water and the Council shall mutually agree to a replacement.

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ARTICLE 5 PRE-CONSTRUCTION CONFERENCE

5.1 Timing: The Project Manager shall convene and conduct a pre-construction conference at a time and location mutually agreeable to the Council, with the Unions and with representatives of all involved Contractors/Employers, who shall be prepared to announce craft assignments and to discuss in detail the scope of work and the other issues set forth below, at least fourteen (14) calendar days prior to:

- (a) The commencement of any Project Work; and
- (b) The commencement of Project Work on each subsequently awarded Construction Contract.

5.2 The pre-construction conference shall be attended by a representative of each participating Contractor and each affected Union, and the Council and Valley Water may attend at their discretion.

5.3 Pre-Construction Conference: The pre-construction conference shall include, but not be limited to, the following subjects:

- (a) A listing of each Contractor's scope of work;
- (b) The craft assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Transportation arrangements;
- (e) The estimated start and completion dates of the work;
- (f) Discussion of prefabricated materials;
- (g) Discussion of any warranty items per Section 2.4.6; and
- (h) Discussion of Targeted Hire Agreement goals and procedures.

5.4 Joint Administrative Committee: This Agreement is intended to provide close cooperation between management and labor. To that end, Valley Water shall designate two (2) representatives and the Council shall designate two (2) representatives to serve on a Joint Administrative Committee ("JAC"), each of whom may designate an alternate. JAC members may invite participation by a Contractor or Union as needed. The JAC shall meet periodically, at the request of any member, to review progress on a Covered Project, and to discuss matters of general concern, such as safety and security. The JAC shall serve as a forum to foster communication between management and labor, and to assist the Unions and the Contractors to complete a Covered Project in an economically efficient manner without interruption, delays or work stoppages. The JAC shall have no authority to review grievances or disputes involving this Agreement, which are subject to the applicable grievance procedure.

ARTICLE 6 NO DISCRIMINATION

6.1 The Contractor(s)/Employer(s) and Unions agree to comply with all anti-discrimination provisions of federal, state and local law to protect employees and applicants for employment on a Covered Project.

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ARTICLE 7 UNION SECURITY

7.1 The Contractor(s)/Employer(s) recognize the Union(s) as the sole bargaining representative of all craft employees working within the scope of this Agreement, and all such employees must be represented by a Union for the duration of their employment on the Covered Project.

7.2 The Contractors/Employers shall make and transmit all deductions for Union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable Master Agreement. This Agreement does not require any employee of a non-Union contractor to join a Union or to pay dues or fees to a Union as a condition of working on the Covered Project; however, nothing in this Article is intended to supersede the independent requirements of the applicable Master Agreements as to Contractors/Employers signatory to such Master Agreements and as to employees of those Contractors/Employers who are performing Covered Work.

7.3 Authorized representatives of the Union(s) shall have access to a Covered Project whenever work covered by this Agreement is being, has been, or will be performed on the Covered Project.

ARTICLE 8 REFERRAL

8.1 Contractor(s)/Employer(s) performing construction work on a Covered Project shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor(s)/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

8.2 Contractor(s)/Employer(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman that it considers necessary and desirable, without such persons being referred by the Union(s) (unless such craft workers are covered by existing Master Agreements).

8.3 The Unions will exert their utmost efforts to recruit sufficient numbers of qualified applicants to fulfill the workforce requirements of Contractor(s)/Employer(s). In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain workers from any source. A Contractor/Employer that hires any worker(s) to perform Covered Work on a Covered Project pursuant to this section shall immediately provide the appropriate Union with the name and address of such employee(s) and shall refer such employee(s) to the appropriate Union to satisfy the requirements of Article 7 of this Agreement.

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8.4 Core Workers. A Contractor may request by name, and the local Union shall honor, referral of Core Workers who have applied to the local Union for Project Work and who demonstrate to the Union dispatcher and provide satisfactory proof that the worker meets all the following qualifications:

- a) Appearance on the Contractor's active payroll for at least ninety (90) of the last one hundred and twenty (120) working days prior to award of a Construction Contract;
- b) Possession of all licenses and certifications required by applicable state and federal law for the work being performed;
- c) Ability to safely perform the basic functions of the applicable trade as required by law; and
- d) Has worked at least three thousand (3,000) hours in the appropriate construction craft.

8.5 The Contractor/Employer shall be allowed to employ five (5) Core Workers pursuant to the following methodology: The Union will first refer to such Contractor one (1) worker from the applicable hiring hall, and then will refer one (1) of the Contractor's Core Workers. This alternating procedure shall repeat until such Contractor/Employer has hired five (5) Core Workers. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the applicable hiring hall out-of-work list. For the duration of the Contractor's work, this ratio shall be maintained and when the Contractor's workforce is reduced, employees shall be reduced in reverse order and in the same ratio of Core Workers to hiring hall referrals as was applied in the initial hiring.

8.5.1 This provision applies only to employers not currently working under a current Master Agreement and is not intended to limit the transfer provisions of the Master Agreement of any trade. As part of this process, and in order to facilitate the contract administration procedures and appropriate fringe benefit fund coverage, all Contractor(s)/Employer(s) shall require their Core Workers to register with the appropriate Union hiring hall on, or before, the eighth [8th] day of consecutive or cumulative employment on a Covered Project.

8.5.2 Prior to each Contractor performing any Project Work, such Contractor or subcontractor shall provide a list of its Core Workers to Valley Water and the Council. Failure of such a Contractor to do so will result in that Contractor being prohibited from using any Core Workers on that Construction Contract. Upon request by any Party to this Agreement, the Contractor hiring any core workforce employee shall provide satisfactory proof (i.e., payroll records, quarterly tax records, and such other documentation) evidencing the worker's qualification as a Core Worker to Valley Water and the Council.

ARTICLE 9 WAGES AND BENEFITS

9.1 The Contractor(s)/Employer(s) agree to pay contributions to the vacation, pension and other form of deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement(s) for each hour

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worked on a Covered Project, in the amounts designated in the Master Agreement(s) of the appropriate local Union(s).

9.2 By signing this Agreement, the Contractors/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements, as described in Section 9.1, which may from time to time be amended, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors/Employers authorize the parties to such local trust agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if made by the Contractor(s). The Contractors/Employers agree to execute a Subscription Agreement(s) for Covered Work performed, when such Trust Fund(s) requires such document(s).

9.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on a Covered Project shall be governed by the Master Agreement of the respective crafts, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

9.4 Holidays: Holidays shall be in compliance with the applicable Schedule A agreement.

ARTICLE 10 APPRENTICES

10.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractors/Employers shall employ apprentices from a California state-approved Joint Apprenticeship Training Program in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured.

10.2 The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determinations.

10.3 Consistent with the Master Agreements, there shall be no restrictions on the utilization of apprentices in performing the work of their craft, provided they are properly supervised.

10.4 In order to increase apprenticeship opportunities for traditionally underrepresented and targeted workers, the parties agree to comply with the Targeted Hire Agreement, attached hereto as **Addendum B**.

ARTICLE 11 HELMETS TO HARDHATS

11.1 The Contractor(s)/Employer(s) and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the

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building and construction industry. The Contractor(s)/Employer(s) and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

11.2 The Unions and Contractor(s)/Employer(s) agree to coordinate with the Center to participate in an integrated database of veterans interested in working on a Covered Project and of apprenticeship and employment opportunities for this Covered Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE 12 COMPLIANCE

12.1 It shall be the responsibility of the Contractor(s)/Employer(s) and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article 9. Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Contractor(s)/Employer(s) on a Covered Project. Valley Water shall monitor and enforce compliance with the prevailing wage requirements of the state, and the Contractors/Employers' compliance with this Agreement.

ARTICLE 13 GRIEVANCE ARBITRATION PROCEDURE

13.1 Project Labor Disputes: All disputes involving the application or interpretation of the Master Agreement to which a Contractor/Employer and a Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement, other than disputes under Article 4 (Work Stoppages, Strikes, Sympathy Strikes and Lockouts) and Article 14 (Work Assignments and Jurisdictional Disputes), shall be subject to resolution by the grievance arbitration procedures set forth below.

13.2 Employee Discipline: All disputes involving the discipline and/or discharge of an employee working on a Covered Project shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected employee. No employee working on a Covered Project shall be disciplined or discharged without just cause in accordance with the standards for review of discipline in the applicable Master Agreement.

13.3 No grievance shall be recognized unless the grieving party (Local Union or District Council, on its own behalf, or on behalf of an employee whom it represents, or a Contractor/Employer on its own behalf) provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute but in no event more than thirty (30) calendar days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual agreement of the parties.

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13.4 Grievances shall be settled according to the following procedures:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the representative of the involved Local Union or District Council, or his/her designee, or the representative of the employee, and the representative of the involved Contractor/Employer, shall confer and attempt to resolve the grievance.

Step 2: In the event that the representatives are unable to resolve the dispute within five (5) business days of the Step 1 meeting, the alleged grievance may be referred in writing by either involved party to the Business Manager(s) of the affected Union(s) involved, and the Labor Relations Manager of the Contractor/Employer, or the Contractor/Employer's designated representative, for discussion and resolution. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2 meeting, and the International Union representative shall advise if it intends to participate in the Step 2 meeting. The Project Manager and the Council shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not settled in Step 2, within five (5) business days of the Step 2 meeting, either party may request the dispute be submitted to arbitration or the time may be extended by mutual consent of both parties. Within five (5) business days after referral of a dispute to Step 3, the representatives shall notify the permanent arbitrator, or if he is not available, his alternate, for final and binding arbitration. The parties agree that if the permanent arbitrator or his alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

1. Barry Winograd
2. Carol Vendrillo
3. Catherine Thompson

13.5 The decision of the Arbitrator shall be final and binding on all parties. The Arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the Arbitrator shall be borne equally by both parties. The Arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding Arbitrator.

13.6 The time limits specified at any step of the Grievance Procedure may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing and/or resolution of like or similar grievances or disputes.

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13.7 In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.

13.8 Should any of the arbitrators listed in this Article or Article 4 no longer work as a labor arbitrator, Valley Water and the Council shall mutually agree to a replacement.

13.9 Nonpayment of Wages or Trust Fund Contributions/Failure to Adhere to the Agreement: At the time a grievance is submitted under this Agreement or any Master Agreement, the Union may request that Valley Water withhold and retain an amount from what is due and owing to the Contractor against whom the grievance is filed, or its higher-tier Contractor, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail. The amount shall be agreed and retained by Valley Water until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, and the retained amount shall be paid to whomever the parties to the grievance shall jointly decide, or to whomever an Arbitrator shall so order. Valley Water shall be excused from the withholding requirement where it would constitute a violation of law or would subject Valley Water to statutory penalties.

ARTICLE 14 WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

14.1 The assignment of Covered Work will be solely the responsibility of the Contractor/Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of the Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

14.2 All jurisdictional disputes on Covered Projects between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Unions parties to this Agreement.

14.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California, within fourteen (14) days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

14.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge. Each Employer will conduct a pre-job conference with the Council prior to commencing work. Valley Water will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

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**ARTICLE 15
MANAGEMENT RIGHTS**

15.1 Consistent with the applicable Schedule A agreements, the Contractor(s)/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, except that lawful manning provisions in the Master Agreement shall be recognized.

15.2 In addition to the rights of Contractors/Employers specifically enumerated in this Agreement, Contractors/Employers expressly reserve their management rights and all the rights conferred upon them by law, consistent with the Schedule A agreements, including, but not limited to, the right to:

15.2.1 Plan, direct and control operations of all work;

15.2.2 Hire, promote, transfer and layoff their employees as deemed appropriate to satisfy work and/or skill requirements and to reject any applicant for employment;

15.2.3 Promulgate and require all employees to observe reasonable, uniformly applicable job rules and security and safety regulations;

15.2.4 Discharge, suspend or discipline their employees, subject to applicable Master Agreement procedures;

15.2.5 Utilize, in accordance with Valley Water approval, any work methods, procedures or techniques;

15.2.6 Select, use and install certain materials, equipment and systems of a highly technical and specialized nature;

15.2.7 Assign and schedule work at their discretion; and

15.2.8 Assign appropriately paid overtime, determine when it will be worked and the number and identity of employees who will engage in such work, subject to such provisions in the applicable Master Agreement(s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner.

**ARTICLE 16
DRUG & ALCOHOL TESTING**

16.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

16.2 Drug and alcohol testing shall be conducted in accordance with the Substance Abuse Prevention Policies contained in the applicable Schedule A.

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ARTICLE 17 SAVINGS CLAUSE

17.1 The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect, and the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or word in question.

17.2 If the Parties are unable to reach an agreement on substitute language, or an agreement that substitute language is unnecessary, and as a result Valley Water unilaterally determines that the Agreement or its terms will no longer be required on a Covered Project, the Unions shall no longer be bound by the provisions of Article 4.

17.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins Valley Water from complying with all or part of its provisions, and as a result either party reasonably determines that the intent of the parties has been defeated, the entire Agreement shall be declared null and void.

ARTICLE 18 TERM

18.1 The Agreement shall be included in the bid documents, requests for proposals, or other equivalent solicitations for a Covered Project, which shall indicate that entering into this Agreement is a condition of the award of a Construction Contract(s) for a Covered Project.

18.2 This Agreement shall become effective on the day it is executed by Valley Water and by the Council and shall remain in full force and effect for a term of five (5) years. This Agreement shall continue to apply to each Covered Project which was advertised for bid or commenced during the term until Completion as defined herein, notwithstanding the expiration date of this Agreement. Approximately ninety (90) days prior to the five (5) year anniversary of the effective date of this Agreement, Valley Water and the Council shall meet to discuss whether to extend this Agreement, the effect of the Agreement and any necessary modifications to it. Either Valley Water or Council may terminate this Agreement effective the end of the five (5) year term by providing written notice to the other party prior to the expiration of the term. Absent such written notice to terminate this Agreement by either the Valley Water Board or the Council, this Agreement, with any agreed-upon modifications, will roll over for no more than an additional five (5) years.

18.3 Valley Water and the Council agree to meet and confer annually, subsequent to approval of this Project Labor Agreement by Valley Water, regarding the status of and experience with Covered Projects and any future projects that may be considered for coverage by this Agreement.

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**ARTICLE 19
MISCELLANEOUS PROVISIONS**

19.1 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Faxed or emailed PDF signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

19.2 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the parties signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

19.3 The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

19.4 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

SANTA CLARA VALLEY WATER DISTRICT

By: 
Tony Estremera
Chair, Board of Directors

Date: January 11, 2022

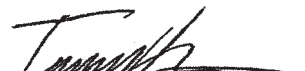
SANTA CLARA AND SAN BENITO COUNTIES
BUILDING & CONSTRUCTION TRADES COUNCIL

By: 
David Bini, Executive Director

Date: January 10th 2022

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UNION SIGNATORIES


Boilermakers Local 549

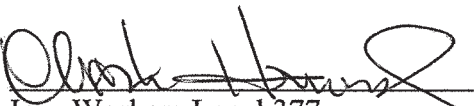

Bricklayers and Allied Craftworkers Local 3

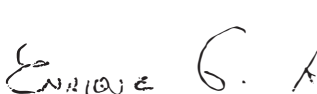

Cement Masons Local 400


Electrical Workers Local 332 7/23/21


Elevator Constructors Local 8


Insulators and Asbestos Workers Local 16


Iron Workers Local 377

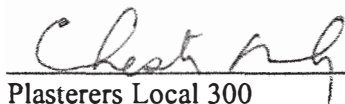

Laborers Local 270 08/15/21


Laborers Local 67

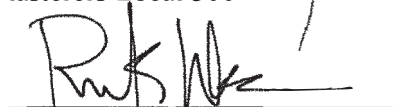

Northern California Carpenters Regional Council, for itself and its affiliated local Unions

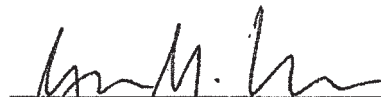

Operating Engineers Local 3

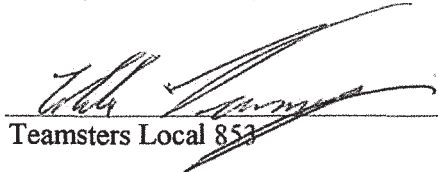

Painters and Allied Trades District Council 6. for itself and its affiliated local Unions

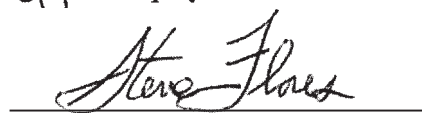

Plasterers Local 300

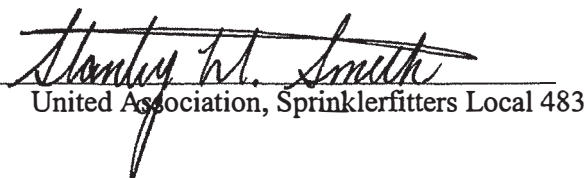

Roofers and Waterproofers Local 95

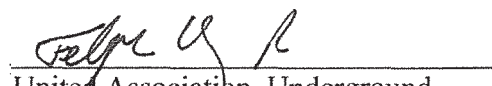

Sheet Metal Workers Local 104


Sign and Display Local 510


Teamsters Local 853


United Association, Plumbers and Steamfitters Local 393


United Association, Sprinklerfitters Local 483


United Association, Underground Utility/Landscape Irrigation Local 355

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**Addendum A:
Agreement to Be Bound**

[Addressee]
[Address]
[City and State]

Re: Santa Clara Valley Water District Project Labor Agreement.

Dear _____:

The undersigned party confirms that it agrees to be a party to and bound by the Santa Clara Valley Water District Project Labor Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this **Agreement To Be Bound**, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust agreements as set forth in Section 9.1, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate Subscription Agreement(s) for Trust Funds when such Trust Fund(s) requires such document(s).

The obligation to be a party to and bound by this Agreement shall extend to all work covered by the Santa Clara Valley Water District Project Labor Agreement undertaken by the undersigned. The undersigned shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of this Agreement by signing an identical Agreement To Be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR: _____

Contractor State License Number or Motor Carrier (CA) Permit Number: _____

Name of Authorized Person (print): _____

Signature of Authorized Person: _____

Title of Authorized Person: _____

Telephone Number of Authorized Person: _____

Address of Authorized Person: _____

State Public Works Registration Number: _____

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Addendum B: Targeted Hire Agreement

Purpose. The Parties to the Santa Clara Valley Water District Project Labor Agreement (“Agreement”) recognize the need to increase training and career opportunities for underrepresented and targeted individuals in the construction trades through apprenticeship and pre-apprenticeship programs, to and develop a pipeline to ensure the continued availability of skilled, qualified, and readily available construction workers for future construction projects.

Additionally, the Santa Clara and San Benito Counties Building and Construction Trades Council (“Council”) is signatory, with other parties, to the Santa Clara County Construction Careers Collaborative Memorandum of Understanding (“MOU”), which established a pre-apprenticeship program in Santa Clara County that serves as a pipeline for youth and job-seekers into the construction trades.

Additionally, in order to increase construction career opportunities for individuals presently underrepresented in the building trades, the Parties to the Agreement agree to exert their best efforts to recruit, refer, and employ Targeted Workers as apprentices, and to cooperate with the Community Workforce Coordinator to maximize the employment of Targeted Workers on Covered Projects.

In furtherance of these goals, the Parties to the Agreement enter into this Targeted Hire Agreement for Targeted Hire of Apprentices (“Targeted Hire Agreement”), to participate in the community workforce pipeline as set forth in the MOU.

I. Definitions.

All capitalized terms not defined in this Targeted Hire Agreement are as defined in the Agreement.

Approved Pre-Apprenticeship Program. An Approved Pre-Apprenticeship Program means the Santa Clara County Trades Orientation Program or an equivalent structured, MC-3 certified career training and placement program or Union-sponsored program, that: (1) serves Underrepresented Workers, and (2) is sponsored by a Council-approved community-based organization, a Council affiliate, the Council itself, the California State Building & Construction Trades Council, or North America’s Building Trades Unions (“NABTU”).

At-Risk Youth. At-Risk Youth means a person between 18 and 24 years old that is either: 1) disconnected from school and/or work; 2) currently or formerly justice engaged; 3) in the foster care system; 4) pregnant/parenting; or 5) homeless.

Community Workforce Coordinator. Community Workforce Coordinator means the Santa Clara County Trades Orientation Program, or another entity as determined by mutual written agreement between the Council and Valley Water. The Community Workforce Coordinator is responsible for maintaining an up-to-date list of Targeted

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Workers who are available for work and their current contact information, and will provide this list to any of the Parties upon request.

Covered Contractor. Covered Contractor means a contractor of whatever tier that performs \$250,000 or more of Covered Work (as that term is defined in Section 2.3 of the Agreement) on a Covered Project. A Covered Contractor is subject to the Workforce Goal set forth in Section II below. If a contractor performs less than \$250,000 of Covered Work on a Covered Project, that contractor is not subject to the Targeted Workforce Goal, but may nonetheless participate voluntarily in the Targeted Workforce Goal.

Targeted Worker. Targeted Worker means an individual who has completed an Approved Pre-Apprenticeship Program.

Underrepresented Worker. An Underrepresented Worker is an individual who, prior to commencing work on a Covered Project, has at least one of the following barriers to employment:

- Veteran of the U.S. military;
- Currently receiving public assistance;
- Emancipated from the foster care system;
- Currently participating in a reentry program or was formerly incarcerated;
- Currently homeless, recently housed (within the past twelve months), or at risk of losing their housing;
- Continuously unemployed for the previous one year;
- Family or household income that falls below the current HUD threshold for Low Income Households in Santa Clara County;
- An At-Risk Youth; or
- A survivor of labor trafficking.

II. Targeted Workforce Goal. The Parties have a goal of employing one (1) or more Targeted Worker(s) as a registered Apprentice on all Covered Projects, consistent with the applicable hiring hall procedures, Master Agreement(s), and apprenticeship program standards, for at least twenty-five percent (25%) of each Covered Contractor's apprentice hours on a Covered Project. Priority shall be given to the employment of First Year Apprentices, subject to the needs of the Covered Project.

- a) Nothing herein requires a Covered Contractor either to hire a particular individual or to retain a particular individual in employment. Any individual referred to a Covered Contractor shall be hired and employed at the Covered Contractor's discretion.
- b) A Covered Contractor will receive credit toward the Workforce Goal for hours performed by a Targeted Worker assigned to work on a Covered Project or on another jobsite at the employer's discretion, provided the worker is assigned to the same job classification that would apply to the Targeted Worker on a Covered Project.

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- c) Covered Contractors shall properly supervise and pay all apprentices in accordance with the Master Agreements.
- d) Covered Contractors will provide, upon request, certified payroll records and/or records of hours worked by Targeted Workers to the General Contractor (or equivalent), Valley Water, the Council, the Unions, or the Community Workforce Coordinator.
- e) Covered Contractors will retain documentation sufficient to demonstrate that the Covered Contractor requested a sufficient number of Targeted Worker apprentices to satisfy the Targeted Workforce Goal.
- f) **Community Workforce Coordinator Obligations.** The Community Workforce Coordinator will, upon request, refer the names of qualified, available, and willing Targeted Workers to Valley Water, the Council, the Unions and Covered Contractors. The Community Workforce Coordinator will also work with Valley Water to facilitate outreach events.
- g) **Union Obligations.** To the maximum extent allowable, consistent with the applicable hiring hall procedures, Master Agreement(s), and apprenticeship program standards, the Unions shall:
 - Refer Targeted Workers as apprentices to Covered Contractors;
 - Cooperate with Valley Water and community-based organizations designated by mutual agreement of Valley Water and the Council in conducting outreach to recruit and refer Underrepresented Worker applicants to Approved Pre-Apprenticeship Programs for which they are qualified or qualifiable;
 - Cooperate with the Community Workforce Coordinator and Covered Contractors in order to satisfy the requirements of this Targeted Hire Agreement; and
 - Facilitate, encourage, and assist Targeted Worker apprentices in their progress and success in joint labor/management apprenticeship programs.
- h) **Valley Water Obligations.** Valley Water shall have a designated person or persons responsible for liaising with the Community Workforce Coordinator and conducting at least the following activities, to maximize the employment of Targeted Workers on Covered Projects:
 - Notify the Community Workforce Coordinator on a quarterly basis of upcoming Covered Projects;
 - Communicate with the Community Workforce Coordinator regarding Covered Project work schedules, delays, major changes in scope, or other updates affecting labor demand in order to facilitate timely referral of Targeted Workers;

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- Host or coordinate outreach events with Covered Contractors or prospective contractors on Covered Projects;
- Monitor compliance with this Addendum B via reporting requirements in its Construction Contracts.

III. *Satisfying Workforce Goal.* A Covered Contractor meets its obligations under this Targeted Hire Agreement by complying with both of the following:

- (a) Prior to commencing work on the Covered Project, submitting a Targeted Hiring Form to the Community Workforce Coordinator and the Santa Clara & San Benito Counties Building and Construction Trades Council;
- (b) Making best efforts to employ Targeted Workers as registered Apprentices on all Covered Projects for a least twenty-five percent (25%) of apprentice hours (or equivalent work on another jobsite, provided the apprentice is assigned to the same job classification the apprentice would have been assigned to on the Covered Project). Best faith efforts shall include, at a minimum:
 - 1) Requesting a list of available and qualified Targeted Workers from the Community Workforce Coordinator prior to hiring for Covered Project work; and
 - 2) Requesting that the applicable Union(s) provide qualified and available Targeted Workers for employment consideration in a number sufficient to meet the Workforce Goal under Section II; and
 - 3) If a Targeted Worker is not otherwise available, and if permissible under the applicable Master Agreement, hiring hall procedures and apprenticeship program standards, sponsoring at least one (1) Targeted Worker into a Union apprenticeship program and employing that Targeted Worker on a Covered Project.

IV. *Consequences of Non-Compliance.* The Joint Administrative Committee (“JAC”) established by the Agreement shall consider allegations of non-compliance with this Targeted Hire Agreement. If there is a determination by the JAC that a Party failed to meet its obligations hereunder, the issue will be referred to the grievance procedure as provided in Article 13 of the Agreement. At any time during the process of compliance review, the JAC shall have the authority to reach a resolution with the Covered Contractor.

V. *Reporting.* The Council and Community Workforce Coordinator shall report to Valley Water on an annual basis regarding the goals of this Targeted Hire Agreement. Such reports will be discussed and approved at JAC meetings before provision to Valley Water. Covered Contractors agree to provide information upon request to the Council, the Community Workforce Coordinator, or Valley Water, as needed to assess the effectiveness of this Targeted Hire Agreement.

Valley Water PLA

Valley Water and the Council may request to meet and confer regarding additional or revised terms and/or procedures in order to improve the employment of Targeted Worker apprentices on Covered Projects.

Nothing in this Targeted Hire Agreement is intended to conflict with or supersede the reporting requirements imposed by Valley Water on its contractors.

VI. *Implementation.* The JAC shall help monitor and implement this Targeted Hire Agreement.

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 12A. Design-Builder's Proposal Project Labor Agreement
Forms (Owner's Project SharePoint Site)

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EXHIBIT 13. SELECT PROVISIONS OF 2021 AMENDED AND RESTATED
AGREEMENT WITH UNITED STATES DEPARTMENT OF INTERIOR,
BUREAU OF RECLAMATION (USBR)

“UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

Attachment 1
Page 305 of 318

1154 (d) Upon discovery of any event which may or does result in contamination or
 1155 pollution of Federal Project lands, Project Water, or project works, the Contractor shall
 1156 immediately undertake all measures necessary to protect public health and the environment,
 1157 including measures necessary to contain or abate any such contamination or pollution, and shall
 1158 report such discovery with full details of the actions taken to the Contracting Officer. Reporting
 1159 shall be within a reasonable time period but shall not exceed 24 hours from the time of discovery
 1160 if it is an emergency and the first working day following discovery in the event of a non-
 1161 emergency.

1162 (e) If violation of the provisions of this Article occurs and the Contractor does
 1163 not take immediate corrective action, as determined by the Contracting Officer, the Contractor
 1164 may be subject to remedies imposed by the Contracting Officer, which may include termination
 1165 of this Contract.

1166 (f) The Contractor shall be liable for any response action or corrective
 1167 measure necessary to protect public health and the environment or to restore Federal Project
 1168 lands, Project Waters, or project works that are adversely affected as a result of such violation,
 1169 and for all costs, penalties or other sanctions that are imposed for violation of any Federal, State,
 1170 local, or Tribal laws and regulations concerning hazardous material. At the discretion of the
 1171 Contracting Officer, the United States may also terminate this Contract, as a result of such
 1172 violation.

1173 (g) The Contractor shall defend, indemnify, protect and save the United States
 1174 harmless from and against any costs, expenses, claims, damages, demands, or other liability
 1175 arising from or relating to Contractor's violation of this Article.

1176 (h) The Bureau of Reclamation agrees to provide information necessary for
 1177 the Contractor, using reasonable diligence, to comply with the provisions of this Article."

Section 19 of the 2021 U.S. Contract

1178 CLEAN AIR AND WATER

1179 19. (a) The Contractor agrees as follows:

1180 (1) To comply with all the requirements of Section 114 of the Clean
 1181 Air Act, as amended (42 U.S.C. § 7414), and Section 308 of the Clean Water Act (33 U.S.C. §
 1182 1318), relating to inspection, monitoring, entry, reports, and information, as well as other
 1183 requirements specified in those sections, and all applicable regulations and guidelines issued
 1184 thereunder.

1185 (2) That no portion of the work required by this contract will be
 1186 performed in a facility listed on the Environmental Protection Agency List of Violating Facilities
 1187 on the date when this contract was executed unless and until the Environmental Protection
 1188 Agency eliminates the name of such facility or facilities from such listing.

1189 (3) To use its best efforts to comply with clean air standards and clean
 1190 water standards at the facility where the contract work is being performed.

1191 (4) To insert the substance of the provisions of this article into any
1192 nonexempt subcontract, including this subparagraph (a)(4).

1193 (b) The following definitions apply for purposes of this article:

1194 (1) The term "Clean Air Act" means the Act enacted by Pub. L. 88-
1195 206 of Dec. 17, 1963, and amendments thereto, as codified at 42 U.S.C. § 7401, et seq.

1196 (2) The term "Clean Water Act" means the Act enacted by Pub. L. 92-
1197 500 of Oct. 18, 1972, and amendments thereto, as codified at 33 U.S.C. § 1251, et seq.

1198 (3) The term "clean air standards" refers to all enforceable rules,
1199 regulations, guidelines, standards, limitations, orders, controls, prohibitions, and other
1200 requirements which are contained in, issued under, or otherwise adopted pursuant to the Clean
1201 Air Act or Executive Order 11738, an applicable implementation plan as described in Section
1202 110 of the Clean Air Act (42 U.S.C. § 7410), an approved implementation procedure or plan
1203 under subsection 111(c) or subsection 111(d) of the Clean Air Act (42 U.S.C. § 7411(c) or (d)),
1204 or an approved implementation procedure under subsection 112(d) of the Clean Air Act (42
1205 U.S.C. § 7412(d)).

1206 (4) The term "clean water standards" refers to all enforceable
1207 limitations, controls, conditions, prohibitions, standards, and other requirements which are
1208 promulgated pursuant to the Clean Water Act or contained in a permit issued to a discharger by
1209 the Environmental Protection Agency or by a state under an approved program, as authorized by
1210 Section 402 of the Clean Water Act (33 U.S.C. § 1342), or by local government to ensure
1211 compliance with pretreatment regulations as required by Section 307 of the Clean Water Act (33
1212 U.S.C. § 1317).

1213 (5) The term "comply" refers to compliance with clean air or water
1214 standards. It also refers to compliance with a schedule or plan ordered or approved by a court of
1215 competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control
1216 agency in accordance with the requirements of the Clean Air Act or Clean Water Act and
1217 regulations issued pursuant thereto.

1218 (6) The term "facility" means any building, plant, installation,
1219 structure, mine, vessel or other floating craft, location, or site of operations owned, leased, or
1220 supervised by a contractor or subcontractor to be utilized in the performance of a contract or
1221 subcontract. Where a location or site of operations contains or includes more than one building,
1222 plant, installation, or structure, the entire location or site shall be deemed to be a facility except
1223 where the Director, Office of Federal Activities, Environmental Protection Agency, determines
1224 that independent facilities are collocated in one geographical area."

Section 22 of the 2021 U.S. Contract

1267 PEST MANAGEMENT

1268 22. (a) The Contractor is responsible for complying with applicable Federal,
1269 State, and local laws, rules, and regulations related to pest management in performing its

1270 responsibilities under this Contract.

1271 (b) The Contractor is responsible for effectively avoiding the introduction and
1272 spread of, and for otherwise controlling, undesirable plants and animals, as defined by the
1273 Contracting Officer, on or in Federal Project lands, Federal Project Waters, and Federal project
1274 works for which and to the extent that the Contractor has Operation and Maintenance
1275 responsibility. The Contractor is responsible for exercising the level of precaution necessary in
1276 meeting this responsibility, including inspecting its vehicles, watercraft, and equipment for
1277 reproductive and vegetative parts, foreign soil, mud, or other debris that may cause the spread of
1278 weeds, invasive species and other pests, and removing such materials before moving its vehicles,
1279 watercraft, and equipment onto any Federal land, into any Federal Project facility waters, or out
1280 of any area on Federal Project land where work is performed.

1281 (c) Where decontamination of the Contractor's vehicles, watercraft, or
1282 equipment is required prior to entering Federal Project land or waters, the decontamination shall
1283 be performed by the Contractor at the point of prior use, or at an approved offsite facility able to
1284 process generated cleaning wastes, pursuant to applicable laws, rules, and regulations. Upon the
1285 completion of work, the Contractor will perform any required decontamination within the work
1286 area before moving the vehicles, watercraft, and equipment from Federal Project lands and
1287 waters.

1288 (d) Programs for the control of undesirable plants and animals on Federal
1289 Project lands, and in Federal Project Waters and Federal project works for which the Contractor
1290 has Operation and Maintenance responsibility will incorporate Integrated Pest Management
1291 (IPM) concepts and practices. IPM refers to a systematic and environmentally compatible
1292 program to maintain pest populations within economically and environmentally tolerable levels.
1293 In implementing an IPM program, the Contractor will adhere to applicable Federal and State
1294 laws and regulations and Department of the Interior and Bureau of Reclamation policies,
1295 directives, guidelines, and manuals, including but not limited to, the Department of the Interior
1296 Manual, Part 517 Integrated Pest Management Policy and Part 609 Weed Control Program, the
1297 Plant Protection Act of June 20, 2000 (Pub. L. 106 224), and Executive Order 13112 of February
1298 3, 1999."

Section 35 of the 2021 U.S. Contract

"1470 EQUAL EMPLOYMENT OPPORTUNITY

1471 35. During the performance of this Contract, the Contractor agrees as follows:

1472 (a) The Contractor will not discriminate against any employee or applicant for
1473 employment because of race, color, religion, sex, sexual orientation, gender identity, or national
1474 origin. The Contractor will take affirmative action to ensure that applicants are employed, and
1475 that employees are treated during employment, without regard to their race, color, religion, sex,
1476 sexual orientation, gender identity, or national origin. Such action shall include, but not be
1477 limited to the following: employment, upgrading, demotion, or transfer; recruitment or
1478 recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and
1479 selection for training, including apprenticeship. The Contractor agrees to post in conspicuous

1480 places, available to employees and applicants for employment, notices to be provided by the
1481 Contracting Officer setting forth the provisions of this nondiscrimination clause.

1482 (b) The Contractor will, in all solicitations or advertisements for employees
1483 placed by or on behalf of the Contractor, state that all qualified applicants will receive
1484 consideration for employment without regard to race, color, religion, sex, sexualorientation,
1485 gender identity, or national origin.

1486 (c) The Contractor will not discharge or in any other manner discriminate
1487 against any employee or applicant for employment because such employee or applicant has
1488 inquired about, discussed, or disclosed the compensation of the employee or applicant or another
1489 employee or applicant. This provision shall not apply to instances in which an employee who
1490 has access to the compensation information of other employees or applicants as part of such
1491 employee's essential job functions discloses the compensation of such other employees or
1492 applicants to individuals who do not otherwise have access to such information, unless such
1493 disclosure is in response to a formal complaint or charge, in furtherance of an investigation,
1494 proceeding, hearing, or action, including an investigation conducted by the employer, or is
1495 consistent with the Contractor's legal duty to furnish information.

1496 (d) The Contractor will send to each labor union or representative of workers
1497 with which it has a collective bargaining agreement or other contract or understanding, a notice,
1498 to be provided by the Contracting Officer, advising the labor union or workers' representative of
1499 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,
1500 1965, and shall post copies of the notice in conspicuous places available to employees and
1501 applicants for employment.

1502 (e) The Contractor will comply with all provisions of Executive Order No.
1503 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary
1504 of Labor.

1505 (f) The Contractor will furnish all information and reports required by
1506 Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the
1507 Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and
1508 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to
1509 ascertain compliance with such rules, regulations, and orders.

1510 (g) In the event of the Contractor's noncompliance with the nondiscrimination
1511 clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be
1512 canceled, terminated or suspended in whole or in part and the Contractor may be declared
1513 ineligible for further Government Contracts in accordance with procedures authorized in
1514 Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and
1515 remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule,
1516 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1517 (h) The Contractor will include the provisions of paragraphs (a) through (g) in
1518 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1519 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24,
1520 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor
1521 will take such action with respect to any subcontract or purchase order as may be directed by the

1522 Secretary of Labor as a means of enforcing such provisions, including sanctions for
1523 noncompliance: *Provided, however, That* in the event the Contractor becomes involved in, or is
1524 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
1525 Contractor may request the United States to enter into such litigation to protect the interest of
1526 the United States.”

Valley Water
Coyote Pumping Plant ASDs Replacement Project

EXHIBIT 14. Electronic Design (Phase 1 Deliverable)

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Certificate Of Completion

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Status: Completed

Subject: Complete with DocuSign: Attachment 1 - Design-Build Agreement (11-21-22) - FINAL-V1.pdf

Source Envelope:

Document Pages: 649

Signatures: 3

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Certificate Pages: 5

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Huggen Angeles

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5750 Almaden Expressway

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San Jose, CA 95123

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HAngeles@valleywater.org

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Robert Farrell

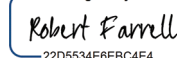
robert.farrell@kiewit.com

Area Manager

Kiewit

Security Level: Email, Account Authentication
(None)

DocuSigned by:


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Using IP Address: 50.247.71.205

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Accepted: 12/12/2022 6:16:31 PM

ID: 8caa2dde-6b0d-4d87-aae4-63ed44226574

Brian Gardner

BRIAN.GARDNER@KIEWIT.COM

Project Manager

Security Level: Email, Account Authentication
(None)

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6F036EF2A0FF4A2...

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Vimal Patel

Vimal.patel1@kiewit.com

Operations Manager

Security Level: Email, Account Authentication
(None)

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Carbon Copy Events	Status	Timestamp
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Raja Ponniah rajasegaran.ponniah@kiewit.com Sr Engineer Kiewit Infrastructure West Co. Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/12/2022 6:53:17 PM
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BRANDON PONCE bponce@valleywater.org Capital Engineering Manager Santa Clara Valley Water District Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 12/12/2022 6:40:24 AM ID: 71f70510-1653-4296-89b3-78bc76f8a07b	COPIED	Sent: 12/12/2022 6:53:22 PM
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Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
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Completed	Security Checked	12/12/2022 6:53:22 PM
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Electronic Record and Signature Disclosure		

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From time to time, Santa Clara Valley Water District (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

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At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

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Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Santa Clara Valley Water District:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by phone call: (408) 630-2360

To contact us by email send messages to: RecordsStaff@valleywater.org

To contact us by paper mail, please send correspondence to:

Santa Clara Valley Water District

5750 Almaden Expressway

San Jose, CA 95123

To advise Santa Clara Valley Water District of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at RecordsStaff@valleywater.org and in the body of such request you must state: your previous email address, your new email address. Please contact the requesting department or our main Front Desk at (408) 630-2600 to be transferred to the appropriate department.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Santa Clara Valley Water District

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to mcook@valleywater.org and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Santa Clara Valley Water District

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to RecordsStaff@valleywater.org and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. Please contact the requesting department or our main Front Desk at (408) 630-2600 to be transferred to the appropriate department..

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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Santa Clara Valley Water District as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Santa Clara Valley Water District during the course of your relationship with Santa Clara Valley Water District.

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