

Board Contract Summary

BC _____

For use with Expenditure Contracts submitted to the Board for approval. Complete information below, print, obtain signature of authorized departmental representative, and submit this form, along with attachments, to the appropriate departments for signature. See also: Auditor-Controller Intranet Policies->Contracts.

D1.	Fiscal Year	2018-2019
D2.	Department Name	Public Works
D3.	Contact Person	Martin Wilder
D4.	Telephone	x8755

K1.	Contract Type (check one): <input checked="" type="checkbox"/> Personal Service <input type="checkbox"/> Capital	
K2.	Brief Summary of Contract Description/Purpose	Engineering services to design pipelines, tank, pumps.
K3.	Department Project Number	PLEXP1
K4.	Original Contract Amount	\$ 2,875,377
K5.	Contract Begin Date	February 12, 2019
K6.	Original Contract End Date	December 31, 2023
K7.	Amendment? (Yes or No)	
K8.	- New Contract End Date	
K9.	- Total Number of Amendments	
K10.	- This Amendment Amount	\$
K11.	- Total Previous Amendment Amounts	\$
K12.	- Revised Total Contract Amount	\$

B1.	Intended Board Agenda Date	February 12, 2019
B2.	Number of Workers Displaced (if any)	
B3.	Number of Competitive Bids (if any)	
B4.	Lowest Bid Amount (if bid)	
B5.	If Board waived bids, show Agenda Date	
	and Agenda Item Number	
B6.	Boilerplate Contract Text Changed? (If Yes, cite Paragraph)	

F1.	Fund Number	2870
F2.	Department Number	054
F3.	Line Item Account Number	8200
F4.	Project Number (if applicable)	
F5.	Program Number (if applicable)	
F6.	Org Unit Number (if applicable)	
F7.	Payment Terms	

V1.	Auditor-Controller Vendor Number	513410
V2.	Payee/Contractor Name	MNS Engineers, Inc.
V3.	Mailing Address	201 N. Cesar Chavez, Suite 300
V4.	City State (two-letter) Zip (include +4 if known)	Santa Barbara, CA 93103
V5.	Telephone Number	692-6921 x3519
V6.	Vendor Contact Person	Greg Chelini
V7.	Workers Comp Insurance Expiration Date	June 14, 2019
V8.	Liability Insurance Expiration Date	June 14, 2019
V9.	Professional License Number	48181
V10.	Verified by (print name of county staff)	Martin Wilder

V11 Company Type (Check one): Individual Sole Proprietorship Partnership Corporation

I certify information is complete and accurate; designated funds available; required concurrences evidenced on signature page.

Date: JAN 2, 2019 Authorized Signature: Martin Wilder

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the Laguna County Sanitation District, a dependent special district of the County of Santa Barbara, a political subdivision of the State of California (hereafter DISTRICT) and MNS Engineers, Incorporated, a civil engineering firm, having its principal place of business at 201 North Calle Cesar Chavez, Suite 300, Santa Barbara, California, 93103 (an independent contractor and hereafter ENGINEER) wherein ENGINEER agrees to provide and DISTRICT agrees to accept the services specified herein.

WHEREAS, ENGINEER represents that it is specially trained, skilled, experienced, and competent to perform the special services required by DISTRICT and DISTRICT desires to retain the services of ENGINEER pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE

Martin Wilder, P.E., at phone number (805) 739-8755 is the representative of DISTRICT and will administer this Agreement for and on behalf of DISTRICT. Peter Brennan, at phone number (805) 719-9803 is the authorized representative for ENGINEER. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To DISTRICT: Martin Wilder, P.E.
Laguna County Sanitation District
620 West Foster Road
Santa Maria, CA 93455
Ph: (805) 739-8755
Fax: (805) 739-8753
Email: mwilder@cosbpw.net

To ENGINEER: Peter Brennan, P.E.
MNS Engineers, Incorporated
201 North Calle Cesar Chavez, Suite 300
Santa Barbara, CA 93103
Ph: (805) 692-6921 or (805) 722-4765 cell
Email: pbrennan@mnsengineers.com

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

ENGINEER agrees to provide services to DISTRICT in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM

ENGINEER shall commence performance on January 15, 2019 and end performance upon completion, but no later than December 31, 2023 unless otherwise directed by DISTRICT or unless earlier terminated.

5. COMPENSATION

In full consideration for ENGINEER's services, ENGINEER shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by DISTRICT and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. ENGINEER

It is mutually understood and agreed that ENGINEER (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to DISTRICT and not as an officer, agent, servant, employee, joint venture, partner, or associate of DISTRICT. Furthermore, DISTRICT shall have no right to control, supervise, or direct the manner or method by which ENGINEER shall perform its work and function. However, DISTRICT shall retain the right to administer this Agreement so as to verify that ENGINEER is performing its obligations in accordance with the terms and conditions hereof. ENGINEER understands and acknowledges that it shall not be entitled to any of the benefits of a DISTRICT employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. ENGINEER shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, ENGINEER shall be solely responsible and save DISTRICT harmless from all matters relating to payment of ENGINEER's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, ENGINEER may be providing services to others unrelated to the DISTRICT or to this Agreement.

7. STANDARD OF PERFORMANCE

ENGINEER represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, ENGINEER shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which ENGINEER is engaged. All products of whatsoever nature, which ENGINEER delivers to DISTRICT pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in ENGINEER's profession. ENGINEER shall correct or revise any errors or omissions, at DISTRICT's request without additional compensation. Permits and/or licenses shall be obtained and maintained by ENGINEER without additional compensation.

8. DEBARMENT AND SUSPENSION

ENGINEER certifies to DISTRICT that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. ENGINEER certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

ENGINEER shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. DISTRICT shall not be responsible for paying any taxes on ENGINEER's behalf, and should DISTRICT be required to do so by state, federal, or local taxing agencies, ENGINEER agrees to promptly reimburse DISTRICT for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST

ENGINEER covenants that ENGINEER presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. ENGINEER further covenants that in the performance of this Agreement, no person having any such interest shall be employed by ENGINEER. ENGINEER must promptly disclose to DISTRICT, in writing, any potential conflict of interest. DISTRICT retains the right to waive a conflict of interest disclosed by ENGINEER if DISTRICT determines it to be immaterial, and such waiver is only effective if provided by DISTRICT to ENGINEER in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

DISTRICT shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. ENGINEER shall not release any of such items to other parties except after prior written approval of DISTRICT.

Unless otherwise specified in Exhibit A, ENGINEER hereby assigns to DISTRICT all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by ENGINEER pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). DISTRICT shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. ENGINEER agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. ENGINEER warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. ENGINEER at its own expense shall defend, indemnify, and hold harmless DISTRICT against any claim that any Copyrightable Works or Inventions or other items provided by ENGINEER hereunder infringe upon intellectual or other proprietary rights of a third party, and ENGINEER shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by DISTRICT in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

12. NO PUBLICITY OR ENDORSEMENT

ENGINEER shall not use DISTRICT's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. ENGINEER shall not use DISTRICT's name or logo in any manner that would give the appearance that the DISTRICT is endorsing ENGINEER. ENGINEER shall not in any way contract on behalf of or in the name of DISTRICT. ENGINEER shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the DISTRICT or its projects, without obtaining the prior written approval of DISTRICT.

13. DISTRICT PROPERTY AND INFORMATION

All of DISTRICT's property, documents, and information provided for ENGINEER's use in connection with the services shall remain DISTRICT's property, and ENGINEER shall return any such items whenever requested by DISTRICT and whenever required according to the Termination section of this Agreement. ENGINEER may use such items only in connection with providing the services. ENGINEER shall not disseminate any DISTRICT property, documents, or information without DISTRICT's prior written consent.

14. RECORDS, AUDIT, AND REVIEW

ENGINEER shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of ENGINEER's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. DISTRICT shall have the right to audit and review all such documents and records at any time during ENGINEER's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), ENGINEER shall be subject to the examination and audit of the California State Auditor, at the request of the DISTRICT or as part of any audit of the DISTRICT, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). ENGINEER shall participate in any audits and reviews, whether by DISTRICT or the State, at no charge to DISTRICT.

If federal, state or DISTRICT audit exceptions are made relating to this Agreement, ENGINEER shall reimburse all costs incurred by federal, state, and/or DISTRICT governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from DISTRICT, ENGINEER shall reimburse the amount of the audit exceptions and any other related costs directly to DISTRICT as specified by DISTRICT in the notification.

15. INDEMNIFICATION AND INSURANCE

ENGINEER agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

DISTRICT hereby notifies ENGINEER that DISTRICT's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and ENGINEER agrees to comply with said ordinance.

17. NONEXCLUSIVE AGREEMENT

ENGINEER understands that this is not an exclusive Agreement and that DISTRICT shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by ENGINEER as the DISTRICT desires.

18. NON-ASSIGNMENT

ENGINEER shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of DISTRICT and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. TERMINATION

- A. ~~By DISTRICT.~~ DISTRICT may, by written notice to ENGINEER, terminate this Agreement in whole or in part at any time, whether for DISTRICT's convenience, for nonappropriation of funds, or because of the failure of ENGINEER to fulfill the obligations herein.
1. **For Convenience.** DISTRICT may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, ENGINEER shall, as directed by DISTRICT, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on DISTRICT from such winding down and cessation of services.
 2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or DISTRICT governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then DISTRICT will notify ENGINEER of such occurrence and DISTRICT may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, DISTRICT shall have no obligation to make payments with regard to the remainder of the term.
 3. **For Cause.** Should ENGINEER default in the performance of this Agreement or materially breach any of its provisions, DISTRICT may, at DISTRICT's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, ENGINEER shall immediately discontinue all services affected (unless the notice directs otherwise) and notify DISTRICT as to the status of its performance. The date of termination shall be the date the notice is received by ENGINEER, unless the notice directs otherwise.
- B. By ENGINEER. Should DISTRICT fail to pay ENGINEER all or any part of the payment set forth in EXHIBIT B, ENGINEER may, at ENGINEER's option terminate this Agreement if such failure is not remedied by DISTRICT within thirty (30) days of written notice to DISTRICT of such late payment.
- C. Upon termination, ENGINEER shall deliver to DISTRICT all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by ENGINEER in performing this Agreement, whether completed or in process, except such items as DISTRICT may, by written permission, permit ENGINEER to retain. Notwithstanding any other payment provision of this Agreement, DISTRICT shall pay ENGINEER for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall ENGINEER be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. ENGINEER shall furnish to DISTRICT such financial information as in the judgment of DISTRICT is necessary to determine the reasonable value of the services rendered by ENGINEER. In the event of a dispute as to the reasonable value of the services rendered by ENGINEER, the decision of DISTRICT shall be final. The foregoing is cumulative and shall not affect any right or remedy which DISTRICT may have in law or equity.

20. SECTION HEADINGS

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to DISTRICT is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of DISTRICT to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to DISTRICT shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of DISTRICT.

25. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

27. COMPLIANCE WITH LAW

ENGINEER shall, at its sole cost and expense, comply with all DISTRICT, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of ENGINEER in any action or proceeding against ENGINEER, whether DISTRICT is a party thereto or not, that ENGINEER has violated any such ordinance or statute, shall be conclusive of that fact as between ENGINEER and DISTRICT.

28. CALIFORNIA LAW AND JURISDICTION

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

29. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, ENGINEER hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which ENGINEER is obligated, which breach would have a material effect hereon.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

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Agreement for Services of Independent Contractor (between the Laguna County Sanitation District and MNS Engineers, Incorporated.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Ex-Officio Clerk of the Board

By: _____
Deputy Clerk

LAGUNA COUNTY SANITATION DISTRICT:

By: _____
Steve Lavagnino, Chair, Board of Directors

Date: _____


RECOMMENDED FOR APPROVAL:

Scott D. McGolpin, PE
Public Works Department

By: 
Department Head

ENGINEER:

MNS Engineers, Incorporated

By: 
Authorized Representative

Name: Gregory Chelini, PE

Title: Vice President/Principal


APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: 
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA
Auditor-Controller

By: 
Deputy

APPROVED AS TO FORM:

Ray Aromatorio
Risk Manager

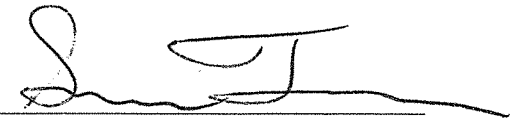
By: 
Risk Management

EXHIBIT A

STATEMENT OF WORK

**CONSTRUCTION PROJECT MANAGEMENT SERVICES
FOR
LAGUNA COUNTY SANITATION DISTRICT
WASTEWATER RECLAMATION PLANT
PHASE 1 UPGRADE PROJECT**

Scope of Work for the Phase 1 Plant Upgrade Project

Task 1: Pre-Construction Phase Tasks

Task 1.1—Constructability Review

Involvement of the construction management team in the early stages of the design process to provide document review will be beneficial to the success of the project. Establishing a cohesive team and enabling the various project stakeholders to better understand the goals for project delivery will be important. In performing a constructability review of the project plans and specifications, we do not want to “recreate the wheel”, but provide constructive comments and recommendations based upon our construction experience and project understanding. The scope of services will include:

- **Project Understanding.** MNS will also become familiar with current information regarding specific project needs and requirements of the District. As part of this task, we plan to meet with the District’s Plant staff to better understand the current operation of the plant, constraints and/or needs during construction, and any special procedures or needs
- **Geotechnical Report.** We will review the geotechnical report and review how it will be incorporated into the project documents.
- **Permits.** We will review the environmental permits and reports to analyze any impact or constraints they may have on the construction sequencing and/or schedule of the improvements. It is also important to verify any easements or exclusionary zones that may be required as part of the permits.
- **Review of Drawings and Specifications.** MNS will review the 100% contract documents for general constructability, obvious errors and omissions, coordination problems and conflicts, sequencing, ambiguities, and adherence to project conditions as part of constructability review services.
- **Specification Consistency.** The design documents will be reviewed for biddability and constructability. MNS will become familiar with District’s Standard Specifications and Details and will check consistency and clarity in the project’s plans and specifications.
- **Operational Concerns.** MNS will coordinate with the District’s Operations and Maintenance staff in our review to ensure consistency with their existing system and that their concerns are considered as part of the design.
- **Laydown Areas.** MNS will work with the District to determine which areas will be available for disposal of trench spoils (depending upon how much native soil may be used as backfill) and spoils from miscellaneous project excavation.
- **Groundwater.** MNS understands groundwater may be encountered during excavation. MNS will review the specifications to ensure this is clearly defined and will look at potential alternatives for managing ground water and help reduce costs to the District.
- **Contract Coordination/Sequencing.** MNS will review any required sequencing of operations and improvements to ensure this is clearly stated in the specifications. The sequencing and durations for major operations or tie-ins will also be reviewed to ensure there are no conflicts and impacts with the ongoing plant operations.
- **Constructability Report.** Upon completion of these reviews, MNS will submit a report to the District with comments and recommendations detailing the constructability items.

Task 1.2—Bid Service Activities

- **Project Management Plan.** MNS will begin development of a Project Management Plan (PMP) early into the Pre-Construction Phase in order to correspond with the recommended sequencing and recommendations obtained during the Constructability review phase. The PMP will outline the project team’s responsibilities in administering the construction project.
- Bid Assistance (optional as needed)

- *Pre-Bid Conference.* MNS will assist the District in conducting a pre-bid meeting to communicate the intent, important elements, and project goals to the prospective bidders.
- *Bidder Inquiries.* MNS will assist the District and design consultants with responses to bidder questions during advertisement.
- *Review and Tabulate Bids.* MNS will prepare a bid tabulation spreadsheet (if not part of Design Engineer's scope), review the bids for completeness, accuracy, and responsiveness, and make an award recommendation.
- *Bid Protests.* MNS will assist the District in reviewing and resolving any and all bid protests on the project.

Task 1.3—Pre-Job Coordination and Project Setup

MNS Project Manager, Peter Brennan, and Resident Engineer, Kim Lindbery, will meet with the District to establish parameters that include project filing system requirements, lines of communication, levels of authorization, procedures for progress payments, procedures for contract change orders (CCOs) and requests for information (RFIs), potential claims management, and project emergency and notification procedures. MNS will develop project administration, documentation, and filing systems. We plan to utilize the web based administration system EADOC for the project document control and administration.

Task 1.4—Pre-Construction Conference

MNS will schedule a pre-construction conference once the District has received the supporting contract documents from the contractor and the contract has been fully executed. At this meeting, we will establish the protocol to be used throughout the project. The meeting will set the tone of cooperation for the project and elaborate on contract requirements and contract concerns. MNS will distribute meeting minutes to all parties in attendance. The meeting will highlight the contractor's responsibility for such items as:

- Safety
- Funding and contract requirements
- Labor compliance, progress pay requests
- Materials certification
- Submittals, RFIs, CCOs
- Schedule updates, weekly meetings
- Permit agreements
- Order of work, quality control
- Site access (security)
- Shut down requests
- Coordination with Plant operations
- Pay requests

Task 1.5—Pre-Construction Photo and Video Documentation

MNS will photograph all areas of construction just prior to actual construction. Video will also be taken of the project sites, access into the sites, and adjacent areas.

Task 2: Construction Phase Tasks

Task 2.1—Contract Administration

MNS will provide Construction Contract Administration Services as required to maintain accurate documentation of the construction and will utilize EADOC electronic construction management and documentation control software. Administration responsibilities include:

- **Correspondence and Reports.** As part of the Construction Administration, MNS will manage all correspondence including tracking submittals, RFIs, Potential Change Orders (PCOs), CCOs, progress pay estimates, meeting minutes, testing reports, and furnishing reports on a regular basis as required by the District. Other correspondence will be produced as appropriate to the project status.
- **Submittal Review and Coordination.** Prior to beginning the submittal process, MNS will work with the Design Engineer to develop a list of the required submittals. This will be used to ensure all items are submitted and done so in a reasonable amount of time prior to the work they pertain to. The majority of the submittals will be seen at the start of the project. This list can be reviewed at progress meetings and used proactively to help the contractor make submittals with a reasonable amount of time for sufficient review and acceptance without delay to construction. MNS will coordinate with the Design Engineer for the efficient review and processing of all submittals including shop drawings, product data, and project specific plans. An updated submittal log will be maintained to accurately track review and approval of all submittals.
- **RFI Review.** MNS will review and coordinate with the Design Engineer (if needed) to resolve contractor RFIs and other requests in a timely manner. MNS will maintain a running RFI log.
- **Contract Time/Delays.** The MNS team has experience in monitoring contract progress. MNS will track all working days and non-working days including weather days, CCO days, and other delays and will provide a weekly update of contract time at the weekly meeting. MNS will review any contractor requests for time extension and will make a recommendation to the District. Such requests will be cross referenced with the contractor's baseline schedule.
- **Material Substitutions.** Submittals – non-standard or substitute alternatives for items specified – will be forwarded to the Design Engineer for review. MNS will also be proactive in soliciting information from the contractor after bid award to determine if there are any items for which there will be a substitution request.
- **Weekly Meetings.** MNS will hold weekly construction meetings. The meetings are a valuable tool to discuss project issues and concerns, upcoming work items, coordination with plant operations, potential contract change orders, cost and schedule impacts, permit requirements, submittals, RFIs, and quality of work. The contractor will prepare a three-week-look-ahead schedule to be reviewed and discussed at the meeting. Discussion of the contractor's upcoming schedule is important to anticipate any potential conflicts. MNS will prepare and distribute meeting minutes.
- **Reports.** MNS will prepare a monthly report which summarizes the construction cost and progress.
- **Certified Payroll Review.** MNS will review the contractor's certified payroll for completeness, accuracy, and prevailing wage compliance. MNS will perform periodic employee interviews to verify the contractor's labor compliance and that employees are being paid correctly in accordance with their duties. Any discrepancies will be brought to the contractor's attention and the District will be notified.
- **Permits -** MNS will verify that the Contractor is adhering to and has maintained all permits applicable to the project including Storm Water and Regional Water Quality Control Board.

Task 2.2—Photo Record Maintenance

MNS will regularly photograph construction activity in digital format and deliver in electronic format on CD-ROM. A numbered set of prints and a copy of the photo log will be maintained on an ongoing basis as the project proceeds.

Task 2.3—Inspection

MNS will provide a full-time onsite inspector for the construction contract. The Inspector's primary duties will be to inspect and verify all work in place meets the requirements of the contract plans and specifications, shop drawings,

change orders, and operation and maintenance (O&M) manuals as well as maintenance of project documentation. Inspection procedures will be outlined in the PMP.

- 2.3.1 Daily Inspection Diaries.** The project inspector will maintain daily written records of work, including notation of items such as weather, personnel and equipment onsite, sub-contractors onsite, discussions held with contractor and others, project issues that arise, material and equipment received for onsite storage, etc. The inspector will maintain photo documentation as discussed previously.
- 2.3.2 Special Inspections.** MNS will coordinate with the Design Engineer to determine and provide special inspections that may be required for construction.
- 2.3.3 Record Drawing Maintenance.** MNS will regularly review the contractor's record drawing set for completeness and accuracy as well as keeping a separate as-built set throughout the project.
- 2.3.4 Verification of Material and Equipment.** As materials arrive onsite, the MNS inspector will verify the delivered items conform to the project specifications and approved submittals prior to approving them for use on the project.
- 2.3.5 Acceptance/Performance Testing.** The project inspector will coordinate acceptance and performance testing of each system or piece of equipment in conformance with the requirements of the written specifications, industry standards and controlling codes.
- 2.3.6 Offsite Inspections.** We will schedule and coordinate all offsite inspections.

Task 2.4—Quality Assurance

MNS will review and inspect all work in progress to assure that it meets the requirements and quality of work outlined in the contract documents. Any deficient work will be rejected.

Task 2.5—Safety

MNS will review compliance of contractor's safety plan as well as Cal/OSHA requirements. We will notify the contractor of safety problems immediately and direct the contractor to suspend work if imminent hazard is not immediately remedied or a dangerous condition persists.

Task 2.6—Construction Materials Testing

MNS will coordinate with the District's materials testing firm to ensure all material meets the project documents. All tests will be logged and copies of all test reports will be maintained in the project files. Items include:

- Site grading consisting of observation and testing of structure backfill.
- Field sampling and testing of ready-mix concrete for reinforced concrete construction and casting and testing of concrete compression test cylinders.
- Special inspection for high strength bolts and pipe coatings.

Task 2.7—Progress Payments

Cost control is an ongoing task throughout the life of the project. Our cost control system will be used to track and monitor the actual construction costs on the contract. The tracking of contract item payments and quantities is incorporated into the progress payment spreadsheet. Tracking of contract change order payments, extra work, and supplemental work will also be tracked. The project monthly and overall cost as well as the contingency balance will be verified as part to the monthly progress pay request review and submission. Upon our review and approval of the contractor's payment request, we will forward a copy of the Monthly Payment Report form to the District for final approval and payment.

Task 2.8—Schedule

MNS will ensure the contractor maintains an up-to-date computerized schedule in critical path format. MNS will review the contractor's baseline and monthly critical path method (CPM) schedule updates, coordinate changes, and forward written conclusions to the District. We will review to ensure milestone dates and any shutdown dates for tie-ins are realized in the schedule. The schedule will be used as the basis of determination for granting extra days relative to change orders. Should the contractor start to fall behind schedule, we will request a recovery schedule and discuss methods to expedite the work. This is one of the more useful tools in controlling both costs and budget for the project.

Task 2.9—Change Order Processing and Review

Prior to the start of construction, MNS will meet with the District to establish change order procedures. During construction, MNS will review and evaluate CCO requests, recommend solutions, verify costs, negotiate change orders, prepare change order forms, and maintain a log of all change orders and costs. MNS will coordinate design-related changes with the Design Engineer or other affected agencies and check to make sure all pertinent information is provided for timely review. All changes are reviewed against the project schedule to determine any time impact. Upon evaluation of any changes, MNS will make a recommendation to the District.

Task 2.10—Claims Management

The main objective relating to claims on any project is to avoid them when possible. Good tools toward accomplishing this include anticipating and addressing any potential problems before they occur, providing timely responses to RFIs, promptly processing change orders, thoroughly reviewing the contractor's schedule and providing experienced review of the project work. If unforeseen conditions occur, MNS will work to identify and resolve cost and schedule related issues to keep the project on schedule and within budget. During construction MNS will work to ensure conflicts in the field are identified ahead of the scheduled work they may affect, work to reduce or minimize third party impacts to the work, and notify the contractor in a timely manner so the schedule is not disrupted.

Notices of Potential Claims (NOPCs) submitted by the contractor will be acted on and processed in a timely manner in accordance with the Contract Documents. Detailed record keeping throughout the project is paramount in evaluating the validity and costs associated with any NOPC. It is the objective of MNS to resolve any potential claims at the job level prior to becoming actual claims.

Task 2.11—Stormwater Pollution Prevention Plan (SWPPP) Support

MNS will review the contractor's SWPPP and will provide stormwater oversight throughout the project. We will monitor the project site to verify the contractor complies with the SWPPP requirements such as best management practice (BMP) maintenance and routine reporting.

Task 3: Project Closeout

MNS will be proactive during the close out of the contract.

Task 3.1—"Punch list" Inspection

The project inspector and Construction Manager will administer the specifications' final acceptance requirements and develop a deficiency list (punch list) for the work performed, notify the contractor, and re-inspect the completed work. MNS will also conduct a final inspection in presence of District representatives and the contractor.

Task 3.2—O&M Manual and Warranty Coordination

MNS will review vendor operation and maintenance manuals for conformance with the specifications and assist the contractor in organizing the manuals. We will also ensure the contractor submits all warranty information and assists the District during this period if corrective work is needed by the contractor.

Task 3.3—Startup and Operator Training

MNS will review the project specifications to ascertain startup and training requirements for each system and piece of equipment; we will ensure these requirements are satisfied.

Task 3.4—Record Drawing

MNS will review the contractor's record set for completeness and accuracy and will compare with our field copy. Submittal of Final Record Drawings will be required prior to recommending final completion.

Task 3.5—Closeout

Upon satisfactory completion of all contract work, we will perform a final inspection, compile final invoices, assemble and submit contract closeout packages, prepare project closeout files and reports, and recommend final acceptance of the project. A certificate of completion will be submitted to the District.

Task 3.6—Final Report

MNS will prepare a final construction report for the project. The report will contain the following:

- Final costs of the project (items, change orders and settled claims)
- Summary of key dates (advertisement, bid opening, award, pre-construction meeting, first working day, and completion date)
- Summary of working days, non-working days, change order days, weather days, and other days
- Summary of major milestone or activity durations
- Summary of change orders (approved costs and final costs)
- Final progress pay estimate spreadsheet with final contingency balance
- Discussion of significant issues or problems encountered or addressed during construction

EXHIBIT B

PAYMENT ARRANGEMENTS Periodic Compensation

- A. For ENGINEER's services to be rendered under this contract, ENGINEER shall be paid a total contract amount, including cost reimbursements, not to exceed \$2,875,377.

- B. Payment for services and/or reimbursement of costs shall be made upon ENGINEER's satisfactory performance, based upon the scope and methodology contained in EXHIBIT A as determined by DISTRICT.
- C. Because the scope of work will extend through multiple years, this amendment estimates an annual escalation to derive the total cost. District shall apply an actual escalation based on the Consumer Price Index (annual average U.S. Bureau of Labor Statistics for Los Angeles-Long Beach-Anaheim, all urban consumers, not seasonally adjusted, Series ID CUURS49ASA0). A negative CPI will mean no change. The CPI will be applied to labor costs in the following calendar year. Escalation that exceeds the actual CPI will be paid from a contingency of \$150,000 upon written authorization by the Public Works Director or designee.
- D. Monthly, ENGINEER shall submit to the DISTRICT DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory shall initiate payment processing. DISTRICT shall pay invoices or claims for satisfactory work within 30 days of presentation.
- E. DISTRICT's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of DISTRICT's right to require ENGINEER to correct such work or billings or seek any other legal remedy.

EXHIBIT C

Indemnification and Insurance Requirements (For Professional Contracts)

INDEMNIFICATION

~~A. Indemnification pertaining to other than Professional Services:~~

ENGINEER agrees to indemnify, defend and hold harmless DISTRICT and its officers, officials, employees, and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, arising out of or related to the ENGINEER'S work or activities for the DISTRICT and for any costs or expenses (including but not limited to reasonable attorneys' fees) incurred by DISTRICT on account of any such claim except where such indemnification is prohibited by law. ENGINEER's indemnification obligation does not apply to the DISTRICT'S sole negligence or willful misconduct.

B. Indemnification pertaining to Professional Services:

ENGINEER agrees to defend, indemnify and hold harmless DISTRICT and its officers, officials, employees, and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of the negligent performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the ENGINEER or his agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

ENGINEER shall notify DISTRICT immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

ENGINEER shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the ENGINEER, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 or equivalent covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 or equivalent covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the ENGINEER's profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the ENGINEER maintains higher limits than the minimums shown above, the DISTRICT requires and shall be entitled to coverage for the higher limits maintained by the ENGINEER. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the DISTRICT.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – DISTRICT, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL or equivalent policy with respect to liability arising out of work or operations performed by or on behalf of the ENGINEER including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the ENGINEER's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the ENGINEER's insurance coverage shall be primary insurance as respects the DISTRICT, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the DISTRICT, its officers, officials, employees, agents or volunteers shall be excess of the ENGINEER's insurance and shall not contribute with it.
3. **Notice of Cancellation** – 30 day notice for cancellation except non-payment of premium where 10 day notice is provided.
4. **Waiver of Subrogation Rights** – ENGINEER hereby grants to DISTRICT a waiver of any right to subrogation which any insurer of said ENGINEER may acquire against the DISTRICT by virtue of the payment of any loss under such insurance. ENGINEER agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the DISTRICT has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the DISTRICT. The DISTRICT may require the ENGINEER to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – ENGINEER shall furnish the DISTRICT with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof

of insurance, certificates and endorsements are to be received and approved by the DISTRICT before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the ENGINEER's obligation to provide them. The ENGINEER shall furnish evidence of renewal of coverage throughout the term of the Agreement. The DISTRICT reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, DISTRICT has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by DISTRICT as a material breach of contract.
9. **Subcontractors** – ENGINEER shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and ENGINEER shall ensure that DISTRICT is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the ENGINEER must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – DISTRICT reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. ENGINEER agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of DISTRICT to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of DISTRICT.

EXHIBIT B

PAYMENT ARRANGEMENTS Periodic Compensation

- A. For ENGINEER's services to be rendered under this contract, ENGINEER shall be paid a total contract amount, including cost reimbursements, not to exceed \$2,875,377.
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- B. Payment for services and/or reimbursement of costs shall be made upon ENGINEER's satisfactory performance, based upon the scope and methodology contained in EXHIBIT A as determined by DISTRICT.
- C. Because the scope of work will extend through multiple years, this amendment estimates an annual escalation to derive the total cost. District shall apply an actual escalation based on the Consumer Price Index (annual average U.S. Bureau of Labor Statistics for Los Angeles-Long Beach-Anaheim, all urban consumers, not seasonally adjusted, Series ID CUURS49ASA0). A negative CPI will mean no change. The CPI will be applied to labor costs in the following calendar year. Escalation that exceeds the actual CPI will be paid from a contingency of \$150,000 upon written authorization by the Public Works Director or designee.
- D. Monthly, ENGINEER shall submit to the DISTRICT DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory shall initiate payment processing. DISTRICT shall pay invoices or claims for satisfactory work within 30 days of presentation.
- E. DISTRICT's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of DISTRICT's right to require ENGINEER to correct such work or billings or seek any other legal remedy.

EXHIBIT C

Indemnification and Insurance Requirements (For Professional Contracts)

INDEMNIFICATION

A. Indemnification pertaining to other than Professional Services:

ENGINEER agrees to indemnify, defend and hold harmless DISTRICT and its officers, officials, employees, and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, arising out of or related to the ENGINEER'S work or activities for the DISTRICT and for any costs or expenses (including but not limited to reasonable attorneys' fees) incurred by DISTRICT on account of any such claim except where such indemnification is prohibited by law. ENGINEER's indemnification obligation does not apply to the DISTRICT'S sole negligence or willful misconduct.

B. Indemnification pertaining to Professional Services:

ENGINEER agrees to defend, indemnify and hold harmless DISTRICT and its officers, officials, employees, and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of the negligent performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the ENGINEER or his agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

ENGINEER shall notify DISTRICT immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

ENGINEER shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the ENGINEER, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 or equivalent covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 or equivalent covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions) Insurance** appropriate to the ENGINEER's profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the ENGINEER maintains higher limits than the minimums shown above, the DISTRICT requires and shall be entitled to coverage for the higher limits maintained by the ENGINEER. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the DISTRICT.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – DISTRICT, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL or equivalent policy with respect to liability arising out of work or operations performed by or on behalf of the ENGINEER including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the ENGINEER's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the ENGINEER's insurance coverage shall be primary insurance as respects the DISTRICT, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the DISTRICT, its officers, officials, employees, agents or volunteers shall be excess of the ENGINEER's insurance and shall not contribute with it.
3. **Notice of Cancellation** – 30 day notice for cancellation except non-payment of premium where 10 day notice is provided.
4. **Waiver of Subrogation Rights** – ENGINEER hereby grants to DISTRICT a waiver of any right to subrogation which any insurer of said ENGINEER may acquire against the DISTRICT by virtue of the payment of any loss under such insurance. ENGINEER agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the DISTRICT has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the DISTRICT. The DISTRICT may require the ENGINEER to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
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of insurance, certificates and endorsements are to be received and approved by the DISTRICT before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the ENGINEER's obligation to provide them. The ENGINEER shall furnish evidence of renewal of coverage throughout the term of the Agreement. The DISTRICT reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, DISTRICT has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by DISTRICT as a material breach of contract.
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 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the ENGINEER must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
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Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. ENGINEER agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of DISTRICT to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of DISTRICT.