

**COACHELLA VALLEY WATER DISTRICT
PURCHASE AGREEMENT**

This **Purchase Agreement** ("Agreement") is made and entered into this **[**INSERT DAY**]** day of **[**INSERT MONTH**]**, 20__ by and between **Coachella Valley Water District**, a public agency ("CVWD") and **[**INSERT VENDOR NAME**]** ("Seller"). CVWD and Seller may be collectively referred to as the "Parties" and individually as a "Party."

RECITALS

A. CVWD is a public agency of the State of California and is in need of certain equipment and personal property as more particularly described herein.

B. Seller is authorized to sell to CVWD the materials and/or equipment as more particularly described herein.

C. The Parties desire to enter this Agreement for the purpose of setting forth the terms and conditions upon which the equipment and personal property shall be sold to CVWD.

NOW, THEREFORE, the Parties hereto hereby agree as follows:

ARTICLE 1

Purchase and Sale of Goods

1.1 **Goods.** Seller agrees to sell to CVWD and CVWD agrees to purchase the materials and/or equipment per the specifications attached hereto and incorporated herein as Exhibit "A" ("Goods"). Unless specifically stated otherwise, the Goods shall be new and unused and of the current production year.

1.2 **Delivery.** Time is of the essence of this Agreement. Seller shall deliver the Goods at CVWD's **[**INSERT FACILITY NAME**]** located at **[**INSERT ADDRESS**]**, at such time or times as set forth on the schedule attached hereto as Exhibit "A" and by this reference incorporated herein.

1.3 **Acceptance.** The Goods shall be received subject to CVWD's inspection and right of rejection. The Goods shall not be considered accepted until inspection, testing and/or use of the Goods is found to be in accordance with CVWD specifications. Final inspection of the Goods shall be at the location specified herein, unless otherwise agreed in writing. If the Goods are found at any time to be defective in material or workmanship, or otherwise not in conformance with specifications, CVWD shall have the right, in addition to any other rights which it may have under warranties or otherwise, to reject such Goods in whole or in part. Rejected Goods shall be held at Seller's risk for a reasonable time thereafter and shall be returned or disposed of at Seller's expense. No rejected Goods shall be replaced by Seller without written instruction or authorization from CVWD.

1.4 **Changes.** CVWD shall have the right to make changes as to testing, destinations, specifications, designs, and delivery schedules. Seller shall immediately notify CVWD of any increases or decreases in cost or delivery time caused by such changes. No adjustment in prices, schedule, or other terms shall be effective unless and until a written amendment to this Agreement is executed by the Parties.

ARTICLE 2

Shipment and Delivery

2.1 All Goods shall be packed, marked and shipped in suitable containers and in accordance with all regulatory requirements, the requirements of the carrier. In addition to the foregoing, the Goods shall be packed in accordance with good commercial practice to insure against damage from weather and/or transportation. On the date of shipment, Seller shall mail to CVWD all shipping lists and the original of any bill of lading regarding the Goods placed in the possession of any consignee. Any Goods not shipped by Seller or received by CVWD in accordance with those terms may be rejected by CVWD without liability. CVWD assumes no obligation for Goods shipped in excess of the quantities specified in this Agreement. CVWD may, from time to time, change shipping schedules or direct that Seller temporarily suspend any shipments.

2.2 No charge shall be made for packing, crating, drayage or other similar costs.

2.3 All sales are F.O.B. to the location specified in Section 1.2 of this Agreement. Seller shall be fully responsible for the Goods and bear all risk of loss or damage until such Goods are delivered. Seller shall bear all risk of loss or damage to the Goods after written notice from CVWD of its rejection or the cancellation of the Agreement.

ARTICLE 3

Compensation

3.1 Purchase Price. CVWD shall compensate Seller for the purchase of the Goods pursuant to this Agreement [***INSERT in the sum of _____ Dollars (\$_____) *** OR INSERT in the amount set forth on the schedule attached hereto as Exhibit "B" and by this reference incorporated herein***] ("Purchase Price").

3.2 Payment. The Purchase Price shall be paid by CVWD at such times set forth in Exhibit "B". CVWD may withhold payment or a portion thereof because of defective Goods not remedied or unsatisfactory performance by the Seller. CVWD will release any withheld funds upon Seller satisfactorily remedying the issue that resulted in the withholding. CVWD will not pay late fees to the Seller on the compensation due Seller under the terms of this Agreement.

3.3 Federal, State and Local Taxes. All prices stated herein include, unless otherwise specified, all Federal, State or local taxes that may be levied or assessed as a result of this Agreement, or are otherwise applicable to this Agreement.

3.4 Renewal Option. CVWD shall have the unilateral option, at its sole discretion, to renew this Agreement and negotiate a revised price, if any, for no more than [INSERT NUMBER] additional one-year terms. If the parties are unable to reach an agreement, CVWD, at its sole discretion, will not move forward with the renewal option and shall re-bid the work.

[USE THE PRECEDING LANGUAGE ONLY FOR MULTI-YEAR, OPTIONAL RENEWAL NOT TO EXCEED FOUR CONSECUTIVE YEARS; OTHERWISE, ALWAYS DELETE.]

ARTICLE 4

Warranty

4.1 Warranty. In addition to all warranties which may be provided by law, Seller warrants that the Goods delivered hereunder shall, (a) be free from defect of material or workmanship and conform strictly to the specifications, drawings, or sample specified or furnished; (b) conform to drawings, plans, specifications, samples or other descriptions furnished, specified, accepted or approved by CVWD; and (c) be merchantable and fit for the purposes intended. The warranty shall be for a period of one (1) year, or such longer period as provided by a manufacturer's warranty or as agreed to by Seller and CVWD, from the date of final written acceptance of the Goods by CVWD. This warranty shall survive any inspection, delivery, acceptance, or payment by CVWD of the Goods. Seller, at its own expense, shall repair or replace, at the option of CVWD, any defective Goods within two (2) business days after receipt of notice from CVWD or within four (4) hours in case of emergency, as determined by CVWD. Seller also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Seller is conveying good and marketable title to same, and that Seller owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Seller agrees to indemnify, defend and hold CVWD harmless against any and all third party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

ARTICLE 5

Accounting, Inspection and Audit

5.1 Records. Seller shall keep and shall preserve for four (4) years after acceptance of the Goods, accurate and detailed records of all ledgers, books of account, invoices, vouchers, cancelled checks, and other documents or records evidencing or relating to the scope of this Agreement and disbursements charged to CVWD under this Agreement (collectively, "Books and Records"). Any and all Books and Records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Seller under this Agreement. During such four (4) year period, Seller shall give CVWD and its agents, during normal business hours, access to such Books and Records. CVWD and its agents shall have the right to make copies of any of the said Books and Records.

5.2 Custody. Where CVWD has reason to believe that any of the Books and Records required to be maintained by this Article may be lost or discarded due to dissolution or termination of Seller's business, CVWD may, by written request, require that custody of such Books and Records be given to a person or entity mutually agreed upon and such Books and Records thereafter shall be maintained by such person or entity at Seller's expense. Access to the Books and Records shall be granted to CVWD and its Representatives.

ARTICLE 6

Termination

6.1 Termination. CVWD may terminate the Agreement, in whole or in part, with or without cause, upon ten (10) days written notice to Seller. Upon receipt of the termination notice, Seller shall promptly stop work unless the notice directs to the contrary. In the event

CVWD renders such written notice to Seller, Seller shall be entitled to compensation for all services properly rendered prior to the effective date of the notice and all further services set forth in the notice. CVWD shall be entitled to reimbursement for any compensation paid in excess of services rendered and shall be entitled to withhold compensation for defective work or other damages caused by Seller. Seller acknowledges CVWD's right to terminate this Agreement as provided in this Article, and hereby waives any and all claims for damages that might arise from CVWD's termination of this Agreement. Seller shall deliver to CVWD and transfer title (if necessary) to all completed work, and work in progress including drafts, documents, plans, forms, maps, products, graphics, computer programs and reports. CVWD shall not be liable for any costs other than the charges or portions thereof which are specified herein. Seller shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

ARTICLE 7

California Labor Code Provisions

7.1 Prevailing Wage Rates. Seller is aware of the requirements of California Labor Code sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Seller agrees to fully comply with such Prevailing Wage Laws, if applicable. Seller shall defend, indemnify and hold CVWD, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Seller and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

7.2 Registration. Effective March 1, 2015, if the services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Seller and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Seller shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Seller's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

7.3 Labor Certification. By its signature hereunder, Seller certifies that it is aware of the provisions of section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

ARTICLE 8

Project Management

8.1 Representative of Seller. **[**INSERT SELLER'S REPRESENTATIVE**]** ("Seller's Representative") is hereby designated as the principal and representative of Seller

authorized to act on its behalf with respect to the work and services specified herein and to make all decisions in connection herewith. Seller shall not substitute Seller's Representative without first notifying CVWD in writing of Seller's intent. CVWD shall have the right to review the qualifications of said substitute. If CVWD determines said substitute Seller's Representative is unacceptable, Seller shall submit alternate candidates until CVWD determines that substitute Seller's Representative is acceptable.

8.2 Representative of CVWD. [****INSERT CVWD REPRESENTATIVE****] is hereby designated as the representative of CVWD and except as otherwise provided herein authorized to act on its behalf with respect to the work and services specified herein and make all decisions in connection therewith.

ARTICLE 9

Title to Work Product

9.1 Title to Work Product. As applicable, CVWD shall at all times retain title to all technical information, trade secrets, samples, blueprints, patterns, drawings and specifications and other materials (collectively, "Work Product") furnished or paid for by CVWD and intended for use in connection with this Agreement. Seller shall use such Work Product only in connection with this Agreement, and shall not disclose such Work Product to any person, firm, or corporation other than CVWD's or Seller's employees, subcontractors, or government inspectors without the prior written consent of CVWD, which consent may be withheld in CVWD's sole and absolute discretion. Seller will take such steps as are necessary to perfect the ownership interest of CVWD in the Work Product. Upon CVWD's request or upon completion of this Agreement, Seller shall promptly return all Work Product to CVWD.

ARTICLE 10

Insurance

10.1 Insurance. Seller agrees to procure and maintain, at Seller's expense all insurance specified in Exhibit "C" attached hereto and by this reference incorporated herein. Seller shall require all subconsultants to carry the same policies and limits of insurance that the Seller is required to maintain pursuant to this Article, unless otherwise approved in writing by CVWD, and shall furnish separate certificates and endorsements for each subcontractor.

10.2 Failure to Procure and Maintain Insurance. If Seller fails or refuses to procure or to maintain the insurance as required by this Agreement or fails or refuses to furnish CVWD with required proof that the insurance has been procured and is in force and paid for, CVWD shall have the right, at CVWD's election and upon ten (10) days' notice to Seller, to terminate this Agreement or procure and maintain such insurance. The premiums paid by CVWD shall be treated as an amount due from Seller with interest at the rate of ten percent (10%), to be paid on the first (1st) day of the month following the date on which the premiums were paid. CVWD shall have the right to offset any amounts CVWD pays hereunder with amounts due Seller for services rendered pursuant to this Agreement. CVWD shall give prompt notice of the payment of such premiums, stating the amounts paid and the names of the insurer or insurers, and interest shall run from the date of the notice.

ARTICLE 11

Indemnification

11.1 Seller's Duty to Indemnify. To the fullest extent permitted by law, Seller shall indemnify and hold CVWD, its Board, members of the Board, employees, and authorized volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Seller, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Seller's services, or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

In addition, Seller shall defend, with counsel of CVWD's choosing and at Seller's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by this section that may be brought or instituted against CVWD or its Board, members of the Board, employees, and authorized volunteers. Seller shall pay and satisfy any judgment, award or decree that may be rendered against CVWD or its Board, members of the Board, employees, and authorized volunteers as part of any such claim, suit, action or other proceeding. Seller shall also reimburse CVWD for the cost of any settlement paid by CVWD or its Board, members of the Board, employees, or authorized volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for CVWD's attorneys' fees and costs, including expert witness fees. Seller shall reimburse CVWD and its Board, members of the Board, employees, and/or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Seller's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by CVWD, its Board, members of the Board, employees, or authorized volunteers.

ARTICLE 12

General Provisions

12.1 Notices. All notices permitted or required under this Contract shall be given at the following address, or at such other address as the parties may provide in writing for this purpose:

Coachella Valley Water District:

P.O. Box 1058
Coachella, CA 92236
Attn: J.M. Barrett, General Manager

SELLER:

[**INSERT ADDRESS
INSERT ADDRESS**]
Attn: [**INSERT NAME**]

The parties may designate, in writing, other individuals to whom notice is to be given. Notices shall be deemed to be received upon personal delivery to the addresses above; if sent by overnight delivery, upon delivery as shown by delivery service records; if sent by facsimile, upon receipt as confirmed by the sending facsimile equipment; if by United States Postal Service, five days after deposit in the mail.

12.2 Notification. In the event of a problem or potential problem that could impact the quality or quantity of work, services or the level of performance under this Agreement, the Seller shall, within one (1) business day of actual knowledge of the problem or potential problem, notify CVWD in writing and by telephone.

12.3 Separate Contracts. Seller understands that this is not an exclusive Agreement and that CVWD shall have the right to negotiate with and enter into separate contracts with others providing the same or similar services as those provided by Seller as CVWD desires.

12.4 Compliance with Applicable Laws. Seller shall, in the performance of this Agreement, comply with all federal, state and local laws and regulations and orders issued under any applicable law.

12.5 Disputes. If any dispute should arise between the Parties concerning the performance of this Agreement, the payments to be made, or the manner of accomplishment of the work, Seller shall nevertheless proceed to perform the work as directed by CVWD pending settlement of the dispute.

12.6 Setoffs and Counterclaims. All claims for moneys due or to become due to Seller shall be subject to deduction by CVWD for any setoff or counterclaim arising out of this or any other of CVWD's agreements with Seller.

12.7 No Waiver. The fact that CVWD has made payment under this Agreement shall not be interpreted so as to imply CVWD has inspected, approved or accepted the work which has been performed by Seller. No delay or omission in the exercise of any right or remedy by the non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of the Agreement.

12.8 Assignment and Subcontractors. Seller shall not assign or subcontract any portion of the work to be performed under this Agreement or any of the rights or obligations under this Agreement, without the prior written consent of CVWD, which consent may be withheld in CVWD's sole and absolute discretion. Any attempted assignment in violation of the provisions of this paragraph shall be void. Subject to the foregoing, this Agreement shall be binding upon the heirs, administrators, successors and assigns of CVWD and Seller.

12.9 Independent Contractor. Seller shall act as an independent contractor in the performance of this Agreement and in no respect shall Seller be considered an agent or employee of CVWD. No provisions of this Agreement shall be intended to create a partnership or joint venture between Seller and CVWD and neither Party shall have the power to bind or obligate the other Party, except as expressly set forth in this Agreement.

12.10 Non-Liability of CVWD Officials and Employees. No official or employee of CVWD shall be personally liable to the Seller in the event of any default or breach by CVWD or for any amount which may become due to the Seller or for any breach of the terms of this Agreement.

12.11 Conflict of Interest. The Seller warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

12.12 Confidential Information. All information gained or Work Product produced by Seller in the performance of this Agreement will be considered confidential, unless such information is in the public domain. Seller shall not release or disclose any such information or Work Product to persons or entities other than CVWD without the prior written consent of the General Manager of CVWD, except as otherwise required by law. Seller shall promptly notify CVWD should Seller, or its Representatives be served summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions or other discovery request or court order from any third party regarding this Agreement and the services performed under this Agreement.

12.13 Amendment. This Agreement may not be amended except by a subsequent writing which is signed by the Parties.

12.14 Cooperation. Seller shall cooperate in the performance of work with CVWD and all other agents.

12.15 Incorporation of Recitals. The Recitals and section titles set forth herein are incorporated herein and are an operative part of this Agreement.

12.16 Governing Law, Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The Parties agree that any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the federal or state courts located in Riverside County, California, and the Parties hereto consent to the exercise of personal jurisdiction over them by any such courts for purposes of any such action or proceeding

12.17 Attorneys' Fees and Costs. If any action in law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, each Party shall pay its own attorneys' fees.

12.18 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, then the Parties agree that such invalidity or unenforceability shall have no effect whatsoever on the balance of this Agreement.

12.19 Counterparts. This Agreement may be signed and delivered in any number of counterparts, each of which, when signed and delivered, shall be an original, but all of which shall together constitute one and the same Agreement.

12.20 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter of this Agreement and any agreement or representation with respect to the same or the obligations of either Party with respect to the same which is not expressly provided in this Agreement or in a written document which is signed by the Party to be charged, shall be null and void.

12.21 Time is of the Essence. Time shall be of the essence as to all dates and times of performance contained in this Agreement. If deliveries are not made at the time agreed upon, CVWD reserves the right to cancel or to purchase elsewhere and hold Seller accountable therefor. Seller shall be liable to CVWD for any loss or damage caused by Seller's failure to

make timely delivery and/or installation of the Goods, including, without limitation, consequential and incidental damages and costs of obtaining replacement Goods.

12.22 Authority to Execute. Each Party represents and warrants to the other Party that all necessary action has been taken by such Party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder.

12.23 Binding on Successors. 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.

12.24 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

12.25 Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than CVWD and the Seller.

IN WITNESS WHEREOF, the Parties have hereunto set their hands on the first day date above written.

COACHELLA VALLEY WATER DISTRICT

[INSERT SELLER NAME]:

By: _____

By: _____
(Authorized Representative of Vendor)

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

EXHIBIT LIST

EXHIBIT "A" – Goods Specification & Delivery Schedule

EXHIBIT "B" – Compensation (Bid Submittal)

EXHIBIT "C" – Insurance Requirements

EXHIBIT "A"
GOODS SPECIFICATION & DELIVERY SCHEDULE

EXHIBIT "B"
COMPENSATION (BID SUBMITTAL)

EXHIBIT "C"
INSURANCE REQUIREMENTS

1. Time for Compliance. Contractor shall not commence Work under this Agreement until it has provided evidence satisfactory to CVWD that it has secured all insurance required under this Section. Contractor shall require and verify that all subcontractors maintain insurance meeting all of the requirements stated herein. Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence to CVWD that the subcontractor has secured all insurance required under this Section.

2. Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement and shall verify subcontractors' compliance. Contractor's and subcontractors' insurance shall meet at least the following minimum levels of coverage:
 - (A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability:* Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability:* Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto) or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned); and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance, with statutory limits. The policy shall not contain any exclusion contrary to the Agreement, including but not limited to endorsements or provisions limiting coverage for (1) contractual liability or (2) cross liability for claims or suits by one insured against another.

 - (B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability:* \$1 Million per occurrence, \$2 Million aggregate for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability:* \$1 million per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation: statutory limits. Employer's Liability limits of \$1 million per accident for bodily injury or disease. Defense costs shall be paid in addition to the limits. Notwithstanding the minimum limits set forth above, any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds.

 - (C) Notices; Cancellation or Reduction of Coverage. At least fifteen (15) days prior to the expiration of any such policy, evidence showing that such insurance coverage has been renewed or extended shall be filed with CVWD. If such coverage is cancelled or materially reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with CVWD evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not

replaced, CVWD has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CVWD will be promptly reimbursed by Contractor or CVWD may withhold amounts sufficient to pay the premium from Contractor payments. In the alternative, CVWD may suspend or terminate this Agreement.

3. Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by CVWD, to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall include or be endorsed (amended) to state that: (1) using ISO CG forms 20 10 and 20 37 (including completed operations), or endorsements providing the exact same coverage, CVWD, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the Work or ongoing and completed operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work; and (2) using ISO form 20 01, or endorsements providing the exact same coverage, the insurance coverage shall be primary insurance as respects CVWD, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any excess insurance shall contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of CVWD, before CVWD's own primary insurance or self-insurance shall be called upon to protect it as a named insured. Any insurance or self-insurance maintained by CVWD, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall include or be endorsed (amended) to state that: (1) CVWD, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; and (2) the insurance coverage shall be primary insurance as respects CVWD, its directors, officials, officers, employees, agents, and volunteers and any other Additional Insured named in the Special Provisions, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by CVWD, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth above, any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds.

(C) Workers' Compensation and Employer's Liability Coverage. The insurer shall agree, using form WC 00 03 13 or the exact equivalent to waive all rights of subrogation against CVWD, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to include the following provisions:

- (i) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days (10 days for nonpayment of premium) prior written notice by

certified mail, return receipt requested, has been given to CVWD and all additional insureds,

(ii) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to CVWD and any other additional insureds,

(iii) standard separation of insureds provisions,

(iv) no special limitations on the scope of protection afforded to CVWD, and all additional insureds,

(v) waiver of any right of subrogation of the insurer against CVWD, its officials, officers, employees, agents, and volunteers, or any other additional insureds, or shall specifically allow Contractor or others required to provide insurance in compliance with these specifications to waive their right of recovery prior to a loss. By signing this agreement, Contractor hereby waives its own right of recovery against CVWD or any other additional insureds, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

4. Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by CVWD. Contractor shall guarantee that, at the option of CVWD, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CVWD, its directors, officials, officers, employees, agents, and volunteers and any other Additional Insured named in the Special Provisions; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.
5. Claims Made Policies. Claims made policies are not acceptable.
6. Subcontractor Insurance Requirements. Contractor shall not allow any subcontractors to commence work on any subcontract relating to the work under the Agreement until Contractor has verified that the subcontractor has provided evidence to CVWD that it has secured all insurance required under this Section. If requested by Contractor, CVWD may approve different scopes or minimum limits of insurance for particular subcontractors. The Contractor and CVWD shall be named as additional insureds on all subcontractors' policies of Commercial General Liability Insurance.
7. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VII, licensed to do business in California, and satisfactory to CVWD.
8. Verification of Coverage. Contractor shall furnish CVWD with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to CVWD. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by CVWD before work commences. CVWD reserves the right to require complete, certified copies of all required insurance policies, at any time.

9. Reservation of Rights. CVWD reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

END OF INSURANCE REQUIREMENTS