

COACHELLA VALLEY WATER DISTRICT  
CONTRACT SERVICES-LC AGREEMENT

File: 0001.3

This CONTRACT SERVICES-LC AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Coachella Valley Water District (CVWD), a special district ("District") and \_\_\_\_\_ ("Contractor").

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES OF CONTRACTOR

1.01. Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Contractor shall perform the work or services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by reference. Contractor warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

1.02. Compliance with Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the District and any City, Federal, State or local governmental agency of competent jurisdiction.

1.03. Licenses, Permits, Fees and Assessments. Contractor shall obtain and maintain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement.

2. COMPENSATION

2.01. Contract Sum. For the services rendered pursuant to this Agreement, Contractor shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "B" and incorporated herein by this reference, but not exceeding the maximum contract amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) ("Contract Sum").

2.02. Method of Payment. Provided that Contractor is not in default under the terms of this Agreement, Contractor shall be paid as outlined in Exhibit "B" Schedule of Compensation.

2.03. **Progress Payments.** Pursuant to Public Contract Code section 20104.50, if the District fails to make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from Contractor, the District shall pay interest to the contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure.

Upon receipt of a payment request, the District shall act in accordance with both of the following:

(1) Each payment request shall be reviewed by the District as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request; and

(2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to Contractor as soon as practicable, but not later than seven days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

The number of days available to the District to make a payment without incurring interest pursuant to this section shall be reduced by the number of days by which the District exceeds the seven-day return requirement set forth in subparagraph (2) above.

For purposes of this section, a "progress payment" includes all payments due Contractor, except that portion of the final payment designated by the Contract as retention earnings.

A payment request shall be considered properly executed if funds are available for payment of the payment request, and payment is not delayed due to an audit inquiry by the financial officer of the District.

### 3. COORDINATION OF WORK

3.01. Representative of Contractor. \_\_\_\_\_ is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith ("Contractor's Representative"). Contractor shall notify the District promptly of any subsequent changes of the Contractor's Representative.

3.02. Representative of District. \_\_\_\_\_ is hereby designated as being the representative the District authorized to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith ("Project Coordinator").

3.03. **Prohibition against Subcontracting or Assignment.** Contractor shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the District, and Contractor shall not perform any work with a subcontractor who is ineligible to perform work on the public works project pursuant to California Labor Code sections 1777.1 or 1777.7. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of the District. Any such prohibited assignment or transfer shall be void.

3.04. **Independent Contractor.** Neither the District nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth. Contractor shall perform all services required herein as an independent Contractor of the District and shall remain under only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it, or any of its agents or employees, are agents or employees of the District.

#### 4. BONDS

4.01. **Bonds.** The Contractor shall be required to provide bonds to secure (a) faithful performance of all work, (b) payment of laborers and materials suppliers, and (c) a warranty to cover all guarantees against defective workmanship and materials, or both, for a period of one year after the date of final acceptance of the work by the District. These bonds shall be in sums not less than one hundred percent (100%), one hundred percent (100%), and fifty percent (50%), respectively, of the Contract price. Performance and payment bonds shall be substantially in the form included in the Contract Documents. These bonds shall be kept in full force and effect during the course of this project, and shall extend in full force and effect and be retained by the District for a period of one (1) year from the date of formal acceptance of the project by the District. All bonds must be executed by admitted surety insurers, as defined in Code of Civil Procedure section 995.120.

[NOTE: PAYMENT BOND IS REQUIRED BY CIVIL CODE SECTION 3248; THE OTHER BONDS (AS WELL AS A BIDDER'S BOND (NOT ADDED HERE)) ARE OPTIONAL. ADD EXHIBITS D, E AND F FOR BOND FORM AS REQUIRED.]

#### 5. SUBSURFACE INSTALLATIONS

5.01. **Subsurface Installations.** As provided in Government Code section 4216.2, at least two (2) working days prior to commencing any excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface

installations, Contractor shall contact the regional notification center, Underground Service Alert of Southern California (USA), and shall request all affected utility owners to mark or otherwise indicate the approximate locations of their subsurface installations.

6. **INSURANCE AND INDEMNIFICATION**

6.01. Insurance. The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to District, during the entire term of this Agreement including any extension thereof, the following policies of insurance with insurers rated by A.M. Best with a rating not less than A-VII:

Commercial General Liability Insurance. A policy of commercial general liability insurance written on a per occurrence basis with a combined single limit of at least \$1,000,000 bodily injury and property damage including coverages for contractual liability, personal injury, independent Contractors, broad form property damage, products and completed operations.

Worker's Compensation Insurance. A policy of worker's compensation insurance in an amount which fully complies with the statutory requirements of the State of California and which includes \$1,000,000 employer's liability.

Business Automobile Insurance. A policy of business automobile liability insurance written on a per occurrence basis with a single limit liability in the amount of \$1,000,000 bodily injury and property damage. Said policy shall include coverage for owned, nonowned, leased and hired cars.

Additional Insurance. Additional limits and coverages, which may include professional liability insurance, if any, are specified in Exhibit "C" attached hereto and incorporated herein by reference.

All of the above policies of insurance shall contain (i) a provision or endorsement which names the District as an additional insured, (ii) a provision or endorsement whereby the insurer waives all rights of subrogation and contribution it may have against the District, its directors, officers, employees, and agents, and their respective insurers, (iii) a provision that such insurance is primary insurance as respects the interests of the additional insureds and that any other insurance maintained by the additional insureds is excess and not contributing insurance with the insurance required herein, and (iv) a provision or endorsement providing that written notice shall be given to the District at least thirty (30) days prior to termination, cancellation, or reduction of coverage in the policy. In the event any of said policies of insurance are terminated, canceled, or coverage is reduced, the Contractor shall, prior

to the effective date, submit new evidence of insurance in conformance with this Section 4.1 to the Project Coordinator. If the Contractor fails to maintain the insurance coverage as required by this Section 4.1, District may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as set forth above, and District may deduct the cost of such insurance from any amounts due or which may become due Contractor under this Agreement. No work or services under this Agreement shall commence or continue until the Contractor has provided the District with Certificates of Insurance, endorsements or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance, endorsements, or binders are approved by the District.

The Contractor agrees that the provisions of this Section 4.1 shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or persons for which the Contractor is otherwise responsible.

In the event the Contractor subcontracts any portion of the work in compliance with Section 3.3 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to this section.

6.02. **Indemnification.** Contractor agrees to indemnify, defend, and hold harmless the District and its directors, officers, agents, and employees against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, errors, omissions, and deficiencies, including reasonable attorneys' fees (collectively, "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or related to performance of the work, operations or activities of Contractor and its agents, employees, subcontractors, or invitees, whether or not there is concurrent passive or active negligence on the part of the District or its directors, officers, agents or employees but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the District or its directors, officers, agents or employees.

Contractor shall defend any action or actions filed in connection with any of said claims or liabilities and shall pay all costs and expenses, including legal costs and attorneys' fee incurred in connection therewith.

Contractor shall promptly pay any judgment rendered against the District, its directors, officers, agents or employees for any such claims or liabilities.

Notwithstanding any other provision herein, Contractor's indemnification obligations shall continue in full force and effect notwithstanding the termination of this Agreement.

7. TERM

7.01. **Term.** Unless earlier terminated in accordance with Section 7.2 below, this Agreement shall continue in full force until \_\_\_\_\_.

7.02. **Termination Prior to Expiration of Term.** Either party may terminate this Agreement at any time, with or without cause upon thirty (30) days written notice to the other party. Upon receipt of the notice of termination, the Contractor shall immediately cease all work or services hereunder except as may be specifically approved by the Project Coordinator. In the event of termination by the District, Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for such additional services specifically authorized by the Project Coordinator and District shall be entitled to reimbursement for any compensation paid in excess of the services rendered.

8. **LABOR AND PERSONNEL**

8.01. **Skilled Labor.** Contractor shall employ only competent and skilled personnel to perform the Work. Contractor shall, if requested to do so by Project Coordinator, remove from the Site any personnel of Contractor whom Project Coordinator determines to be incompetent, dishonest or uncooperative. Contractor shall maintain labor relations in such a manner that there is cooperation among workers performing the Work.

8.02. **Employment Conditions.** Contractor shall comply with the provisions of the Labor Code of the State of California, hereinafter referred to as the Labor Code, regarding minimum wages; the 8-hour day and 40-hour week; overtime, Saturday, Sunday; and Holiday work; and nondiscrimination because of race, color, national origin, sex or religion.

8.03. **Prevailing Wages.** As provided in Sections 1771 and 1773 of the Labor Code, District has obtained the prevailing wage rates from the Director of the Department of Industrial Relations, State of California, hereinafter referred to as DIR. Copies of the prevailing wage rates are on file at District office in Coachella and shall be made available to any interested party on request.

8.04. **Public Works & Labor Code Requirements.** As provided in Section 16100 of the California Code of Regulations, Title 8, Chapter 8, the Contractor is informed of the following public work requirements:

"(A) the appropriate number of apprentices is on the job site, as set forth in Labor Code Section 1777.5,

(B) workers' compensation coverage, as set forth in Labor Code Sections 1860 and 1861,

(C) keep accurate records of the work performed on the public works project, as set forth in Labor Code Section 1812,

(D) inspection of payroll records pursuant to Labor Code Section 1776, and as set forth in Section 16400(e) of these regulations.

(E) and other requirements imposed by law."

Contractor shall file a certified copy of the records enumerated in Section 1776(a) of the Labor Code within 10 days after completion of each payroll period.

As provided in Section 1776(g) of the Labor Code, the responsibility for compliance with Section 1776 is fixed on Contractor.

Pursuant to Section 1775 of the Labor Code, Contractor is hereby advised that in the event that the Contractor fails to pay prevailing wages, the Contractor will be held liable for penalties and for shortfalls in wages and such amounts may be withheld from progress payments.

8.05. Worker's Compensation. Pursuant to the requirements of Section 1860 of the State Labor Code, Contractor shall secure the payment of Workmen's Compensation to its employees in accordance with the provisions of Section 3700 of the State Labor Code. Prior to commencement of work, Contractor shall certify that:

"I am aware of provisions of Section 3700 of the State 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 I will comply with such provisions before commencing the performance of the work of this contract."

Said certification is included in the Contract, and signature and return of the Contract, shall constitute signing and filing of said certificate.

8.06. Subcontracts. Contractor shall include the provisions of this Article with the substitution of the word "Subcontractor" for the word "Contractor," in all its subcontracts hereunder.

## 9. **DIFFERING SITE CONDITIONS**

9.01. Differing Site Conditions. Contractor shall promptly, and before such conditions are disturbed, notify Project Coordinator in writing of: subsurface or latent physical

conditions at the Site differing materially from those indicated in the Contract Documents, material that the Contractor believes may be hazardous waste, or unknown physical conditions at the Site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents. Project Coordinator will, as promptly as practicable, investigate such conditions and make a determination, or Project Coordinator will report findings and recommendations to Board for a determination.

In addition, all asbestos related and hazardous substance removal work which is known prior to or at the time of the Contract shall not require a separate Contract from any other work performed. However, in the event that the asbestos or a hazardous substance, and said substance have not been rendered harmless, the Contractor shall immediately cease work in the area affected and report the condition to the District. The asbestos related work or hazardous substance removal will then have to be performed pursuant to a Contract separate from any other work to be performed since the presence of the substance was not known at the time of the original Contract and was subsequently discovered while the work was in progress.

9.02. Contract Changes. If it is determined that such conditions do materially so differ and justify a change of Contract Price or Contract Time, Project Coordinator will so notify Contractor in writing, and an equitable adjustment will be made and the Contract modified in writing accordingly. No claim of Contractor under this Article will be allowed unless Contractor has given the required notice.

9.03. Notice. If it is determined that such conditions do not justify a change in Contract Price or Contract Time, Project Coordinator will so notify Contractor in writing. Said notice will also advise Contractor it must notify Project Coordinator in writing if Contractor does not agree with this determination. If Contractor does notify Project Coordinator of such disagreement, Project Coordinator may direct Contractor, in writing, to proceed with the disputed work.

In case of a dispute, the Contractor shall not be excused from any scheduled completion date and shall proceed with all work to be performed under the Contract and shall retain all rights given by the Contract or by law for resolution of that dispute.

9.04. Records. If Contractor is directed to proceed with disputed work, changes in Contract Price or Contract Time, if any, due to such disputed work shall be as subsequently agreed to by District and Contractor, or as fixed by a court of law.

Contractor shall keep and furnish records on disputed work as follows:

General - At the close of each working day, Contractor shall submit a daily report to Project Coordinator, on forms approved by Project Coordinator, together with applicable delivery tickets, listing all labor, materials, and equipment involved for that day, and for other services and expenditures related to disputed work. An attempt shall be made to reconcile the report daily, and it shall be signed by Project Coordinator and Contractor. In the event of disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each party shall retain a signed copy of the report. Reports by Subcontractors or others shall be submitted through Contractor.

Labor - The report shall show names of workers, classifications, and hours worked.

Material - The report shall describe and list quantities of materials used.

Equipment - The report shall show type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable.

Other Services and Expenditures - Other services and expenditures shall be described in such detail as required.

10. **SUBSTITUTION OF SECURITIES IN LIEU OF RETENTION [ONLY IF RETENTION IS USED]**

10.01 Securities In Lieu of Retention. Section 22300 of the California Public Contract Code mandates that the Contractor be permitted to substitute securities in place of any funds withheld by the District to ensure performance under a Contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the District or with a State or federally chartered bank in California as escrow agent, who shall then pay such moneys to the Contractor. Upon satisfactory completion of the Contract the securities shall be returned to the Contractor. Upon satisfactory completion of the Contract, the Contractor shall receive from the escrow agent, all securities, interest and payments received by the escrow agent from the District pursuant to the statute. The escrow agreement in regard to Section 22300 of the California Public Contract Code is set forth in the Contract Documents.

11. **ANTITRUST CLAIMS**

11.01 Antitrust Claims. As provided in California Public Contract Code Section 7103.5, in entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the

Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

12. **RESOLUTION OF CONSTRUCTION CLAIMS**

12.01 Claim Resolution. The provisions of Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3 of Division 2 of the California Public Contract Code apply to this Contract and are set forth below:

“20104. (a) (1) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency. (2) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2. (b) (1) "Public work" has the same meaning as in Sections 3100 and 3106 of the Civil Code, except that "public work" does not include any work or improvement contracted for by the state or the Regents of the University of California. (2) "Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency. (c) The provisions of this article or a summary thereof shall be set forth in the plans or specifications for any work which may give rise to a claim under this article. (d) This article applies only to contracts entered into on or after January 1, 1991.

20104.2. For any claim subject to this article, the following requirements apply: (a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims. (b) (1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant. (2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency

and the claimant. (3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater. (c) (1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant. (2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant. (3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater. (d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute. (e) Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process. (f) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code 20104.4. The following procedures are established for all civil actions filed to resolve claims subject to this article: (a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual

stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator. (b) (1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. (2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds. (3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo. (c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

20104.06. (a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract. (b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.”

### 13. GENERAL PROVISIONS

13.01. **Covenant against Discrimination.** Contractor covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to ensure that applicants are employed and

that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin or ancestry.

13.02. **Non-liability of District Officers and Employees.** No director, officer, or employee of the District shall be personally liable to the Contractor, or any successor in interest, **in the event of any default or breach** by the District or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

13.03. **Conflict of Interest.** No director, officer or employee of the District shall have any financial interest, direct or indirect, in this Agreement nor shall any such director, officer or employee participate in any decision relating to the Agreement which affects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly interested, in violation of any State statute or regulation. The Contractor 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.

13.04. **Notice.** Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in case of the District, to the General Manager and to the attention of the Project Coordinator, CVWD, Post Office Box 1058, Coachella, California 92236, and in the case of the Contractor, to the Contractor's Representative at the address designated on the execution page of this Agreement.

13.05 **Interpretation.** The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

13.06 **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding any choice of law provisions.

13.07 **Jurisdiction, Venue.** Any action taken to enforce this Agreement shall be maintained in the Superior Court of Riverside County, California. The parties expressly consent to the jurisdiction of said court and agree that said court shall be a proper venue for any such action.

13.08. **Integration; Amendment.** The parties agree that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between

the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time only by the mutual consent of the parties by an instrument in writing.

13.09 **Severability**. In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

13.10. **Waiver**. No delay or omission in the exercise of any right or remedy by a nondefaulting 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 this Agreement.

13.11. **Corporate Authority**. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

COACHELLA VALLEY WATER DISTRICT

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

Address: P.O. Box 1058  
Coachella, CA 92236

CONTRACTOR:

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

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

EXHIBIT "A"  
SCOPE OF WORK

EXHIBIT "B"  
SCHEDULE OF COMPENSATION

EXHIBIT "C"

ADDITIONAL INSURANCE COVERAGES AND LIMITS

EXHIBIT "D"  
PAYMENT BOND