Municipal Water District of Orange County

BIDDING AND CONTRACT DOCUMENTS

FOR

HVAC Replacement

COST OF PLANS & SPECS: $6.00

BID OPENING:

Date:	**August 21, 2013**
Time:	**2:00 p.m.**
Bid Opening Place:	**Municipal Water District of Orange County**

18700 Ward Street
Fountain Valley, CA 92708

FOR ADDITIONAL INFORMATION REGARDING THIS PROJECT

call Cathleen Harris at 714/593-5007

Municipal Water District of Orange County

HVAC REPLACEMENT PROJECT

TABLE OF CONTENTS

Page

NOTICE INVITING BIDS 1
INFORMATION FOR BIDDERS 3
CONTRACT PROPOSAL 8
PROPOSED SUBCONTRACTORS 9
BIDDERS INFORMATION 10
CONTRACTOR'S EXPERIENCE AND FINANCIAL QUALIFICATIONS 11
PROPOSED MAJOR MATERIAL/EQUIPMENT SUPPLIERS 13
NONCOLLUSION DECLARATION 14
BID BOND 15
AGREEMENT 17
SECTION 1 - SCOPE 17
SECTION 2 - PRICE 18
SECTION 3 - ENTIRE AGREEMENT 18
SECTION 4 - TIME 18
SECTION 5 - LABOR 19
SECTION 6 - CHANGES IN WORK 21
SECTION 7 - CLAIMS AND DISPUTES 24
SECTION 8 - INSPECTION AND PROTECTION OF WORK 24
SECTION 9 - ASSIGNMENT AND SUBCONTRACTING 25
SECTION 10 - TERMINATION 25
SECTION 11 - HOLD HARMLESS AND INDEMNIFICATION 26
SECTION 12 - BONDS AND INSURANCE 27
SECTION 13 - WARRANTY 28
SECTION 14 - LAWS TO BE OBSERVED 28
SECTION 15 - MISCELLANEOUS 28
SECTION 16 - WAIVERS OF LIEN 33
SECTION 17 - CLEAN-UP 34
SECTION 18 - LICENSE REQUIREMENT 34
SECTION 19 - LABOR COMPLIANCE 34
SECTION 20 - COMPLIANCE WITH STATE STORM WATER PERMIT 36

TABLE OF CONTENTS
(continued)

Page

ATTACHMENT A - SPECIAL PROVISIONS 37
ATTACHMENT B - INSURANCE REQUIREMENTS FOR PUBLIC WORKS PROJECTS 39
FAITHFUL PERFORMANCE BOND 43
PAYMENT FOR LABOR AND MATERIALS BOND 45
CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION 48

NOTICE INVITING BIDS

HVAC REPLACEMENT PROJECT

The Municipal Water District of Orange County ("District" or "Owner") will receive bids until August 21st **at 2:00 p.m.** for the HVAC Replacement Project. Bids shall be **sealed and addressed and marked as follows**:

Municipal Water District of Orange County
18700 Ward Street, Fountain Valley, Ca 92708
BID FOR HVAC REPLACEMENT PROJECT
BID DATE: August 21st 2013 BID TIME: 2:00 PM

Following the closure of the bid submittal period, proposals will be opened and reviewed for performing work as follows:

> Furnishing all labor, materials, equipment, and performing all work necessary and incidental to **HVAC REPLACEMENT PROJECT** in accordance with the Contract Documents and to the satisfaction of the District. The work is generally described as replacement of the air handling unit at the Owner's facility, 18700 Ward Street, Fountain Valley, Ca 92708. Demolition and removal of existing equipment is included. Re-connection of new equipment to existing utilities is included. Detailed descriptions of the scope of work are included in the Specifications, and are part and parcel to this contract, whether by direct description, implication or necessary to provide a complete, functioning replacement of the existing HVAC system.

Bidders may obtain copies of the bidding documents from the District at 18700 Ward Street, Fountain Valley, Ca 92708, or by contacting Cathy Harris at charris@mwdoc.com. A non-refundable charge of $6.00 in the form of cash, or a check payable to the Municipal Water District of Orange County, will be required for each printed set of documents. Prospective bidders must provide an email and mailing address for the District's use in distributing addenda and other bid information. It is the responsibility of each prospective bidder to download and print all Bid Documents for review and to verify the completeness of Bid Documents before submitting a bid. It is the responsibility of each prospective bidder to check on a daily basis through the close of bids for any applicable addenda or updates. The District does not assume any liability or responsibility based on any defective or incomplete copying, excerpting, scanning, faxing, downloading or printing of the Bid Documents.

Each bidder must submit with its bid security in one of the following forms: cash, cashier's check payable to the District, a certified check payable to the District, or a bid bond, in the form included with the bid documents, executed by an admitted surety insurer, made payable to the District. The guaranty shall be forfeited should the bidder, if awarded the contract, fail to enter into the same, or fail to furnish in a timely manner the bonds and/or proof of insurance required under the Contract Documents.

A [MANDATORY] PRE-BID CONFERENCE IS SCHEDULED AT THE JOB SITE AT 1:30 PM ON AUGUST 15, 2013. THIS WILL BE AN OPPORTUNITY FOR PROSPECTIVE CONTRACTORS TO VIEW THE SITE AT WHICH WORK WILL BE PERFORMED.

Pursuant to Section 1770 et seq. of the California Labor Code, the successful bidder and all subcontractors shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations.

Pursuant to Public Contract Code Section 22300, for monies earned by the Contractor and withheld by the District to ensure the performance of the Contract, the Contractor may, at its option, choose to substitute securities meeting the requirements of Public Contract Code Section 22300.

All bidders shall be licensed under the provisions of the Business and Professions Code to do the type of work contemplated in the project. In accordance with provisions of California Public Contract Code Section 3300, the District has determined that the Contractor shall possess a valid **Class B [General Building Contractor]** or **Class C-20 [Warm Air Heating, Ventilating and Air Conditioning]** license issued by the State of California Contractors State License Board at the time that the bid is submitted. Failure to possess the specified license shall render the bid non-responsive.

The successful bidder will be required to furnish payment and performance bonds in the amount equal to one hundred percent (100%) of the Contract Price, The bonds shall be on the forms included in the Contract Documents.

The District reserves the right to reject any or all bids; to make any awards or any rejections in what it alone considers to be in the best interest of the District, and waive any informalities or irregularities in the bids. The contract will be awarded, if at all, to the responsible bidder that submits the lowest responsive base bid. Alternates will not be considered in determining the low bid unless otherwise expressly stated.

The successful bidder shall not discriminate against employees and applicants for employment on the basis of race, religion, creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person, and shall comply with the Americans with Disabilities Act.

Date: 8/5/2013

By: Cathleen Harris
Administrative Services Manager

INFORMATION FOR BIDDERS

HVAC REPLACEMENT PROJECT

SPECIAL NOTE FOR CONTRACTORS: OPERATIONAL MILESTONE

The equipment to be replaced is the sole source of heating and cooling for the District's offices. Contractor may not take the existing equipment out of service until the new equipment is on site and ready for installation, and the District authorizes the contractor in writing to do so.

Contractor shall perform the on-site work of removing the existing unit and installing the new unit in one period of three consecutive days, starting on a Friday morning. Contractor shall have the new HVAC unit installed and providing the specified levels of heating and cooling not later than 6:00 A.M. on the third calendar day – Monday - after the Contractor takes the existing unit out of service (the "Operational Milestone"). If the new unit is not providing the specified heating and cooling by Operational Milestone, Contractor shall pay liquidated damages as set forth in the Special Provisions.

ARTICLE 1 – GENERAL

Bidding procedures are prescribed in the Contract Documents. Bids shall be executed upon the separately bound bid forms provided, which are a part of the Contract Documents.

Bid forms received after the designated time will not be accepted. Bidders and their authorized agents are invited to attend the bid opening.

No bidder may withdraw its bid for a period of ninety (90) days after the date set for the opening of bids.

ARTICLE 2 - PREPARATION OF BIDS

Bids shall be made on the Bid Forms prepared by the District, which should be removed from the bound Contract Documents. All Bids shall give the prices proposed in the space provided, shall give all other information requested therein, and shall be signed by the Bidder or an authorized representative, with their address. Bidders must prepare and submit all required documents. The Bid Forms shall be completed in ink.

All blanks in the Bid Forms shall be filled. A bid price shall be indicated for each bid item listed therein, or the words "Included," "No Bid," "No Charge," or other appropriate phrase shall be entered.

A Bid by a corporation shall be executed in the corporate name by the president or the vice-president or by another corporate officer. Such Bid shall be accompanied by a certificate indicating the authority to sign, attested by the secretary or assistant secretary, and with the corporate seal affixed. The corporate address and state of incorporation must appear below the signature.

A Bid by a partnership shall be executed in the partnership name and signed by a managing partner, accompanied by a certificate indicating the authority to sign, and his/her title must

appear under the signature and the official address of the partnership must appear below the signature.

A Bid by a joint venture shall be executed in the joint venture name and be signed by a joint venture managing partner, accompanied by a certificate indicating the authority to sign, and his/her title must appear under the signature and the official address of the joint venture must appear below the signature.

A Bid by an individual shall show the Bidder's name.

The names of all persons signing shall be legibly printed below their signatures. A Bid by a person who affixes to its signature the word "president", "secretary", "agent", or other designation without disclosing its principal may be held to be the Bid of the individual signing. When requested by District, evidence of the authority of the person signing shall be furnished.

The Bid shall contain an acknowledgment of receipt of all Addenda.

ARTICLE 3 – LIST OF DOCUMENTS TO INCLUDE IN BID

The following is a list of required forms or documents that must be completed and delivered to the District as part of a complete Bid:

A. Bid Forms
B. Bid Security, as a Bid Bond using the form included in the bidding documents, cash, or a cashier's check
C. List of Subcontractors
D. Noncollusion Declaration
E. Workers' Compensation Certification
F. Iran Contracting Act Certification

All Proposals must be submitted, filed, made, and executed in accordance with State and Federal law relating to Bids for contracts of their nature whether said laws are expressly referred to herein or not.

ARTICLE 4 – SUBSTITUTE AND "OR-EQUAL" ITEMS

The contract, if awarded, will require materials and equipment specified or described in the Contract Documents without consideration of possible substitute or "or-equal" items. Application for review of substitute or "or-equal" materials or equipment will not be considered by District until after the Effective Date of the Agreement.

The term "without exception," when used in the Contract Documents following the name of a Supplier or a proprietary item of equipment, product, or material, shall mean that the sources of the product are limited to the listed Suppliers or products and that no like, equivalent, or "or-equal" item and no substitution will be permitted.

If the Contractor's proposal for an "or equal" item is not approved, Contractor shall furnish the specified item(s) without a change in the Contract Sum or the Contract Time.

Any Bid conditioned upon furnishing equipment or materials different from those specified in the Contract Documents will be rejected.

ARTICLE 8 - WITHDRAWAL OF BID & RELIEF OF BIDDERS

A Bid may be withdrawn, in writing, prior to the time fixed in the Invitation to Bid for the opening of Bids. Bids may not be withdrawn after the time fixed in the Instructions to Bidders for the opening of Bids. Failure of the District to open Bids for this Project exactly at the time fixed in said Invitation to Bid shall not extend the time within which Bids may be withdrawn.

Attention is directed to the provisions of Public Contract Code Sections 5100 to 5107, inclusive, concerning relief of Bidders and in particular to the requirement that if the Bidder claims a mistake was made in its Bid, the Bidder shall give the District written Notice within five (5) days after the bid opening of the alleged mistake, specifying in the notice in detail how the mistake occurred.

ARTICLE 9 – MODIFICATIONS AND UNAUTHORIZED ALTERNATIVE BIDS

Conditions, limitations, or provisions attached to the Bid shall render it non-responsive. The completed Bid Forms shall be without interlineations, alterations, or erasures in the printed text. Proposals may be rejected if they show any alterations of form, additions not called for, conditional Bids, incomplete Bids, erasures, or irregularities of any kind. If the Bid amount is changed after the amount has been once inserted, the change should be initialed. Alternative Bids will not be considered unless called for.

ARTICLE 10 - DISCREPANCIES IN BIDS

The Bidder shall furnish a price for all Bid items in the Bid Form, and failure to do so will render the Bid non-responsive and may cause its rejection.

In the event there are unit price Bid items in the Bid Form and the amount indicated for a unit price Bid item does not equal the product of the unit price and the estimated quantity, the unit price shall govern and the amount will be corrected accordingly, and the Bidder shall be bound by said correction. However, if the amount set forth as a unit price is ambiguous, unintelligible or uncertain for any reason, or is omitted, or is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail and shall be divided by the estimated quantity for the item to obtain a unit price.

In the event that the total indicated in the Bid Form does not agree with the corrected dollar sum of the prices bid on the individual items, the prices bid on the individual items shall govern and the total for the Bid Form will be corrected accordingly, and the Bidder shall be bound by said correction.

ARTICLE 11 - EXECUTION OF AGREEMENT

The Bidder will sign and deliver to the District the written Agreement, together with all certificates, evidence of insurance and Bonds required by the Contract Documents within fifteen (15) days after receipt of the District's Notice of Award. Failure or refusal to enter into an Agreement as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for annulment of the award and forfeiture of the Bid security. On the failure or refusal of such second or third lowest Bidder to execute the Agreement, each such Bidder's Bid securities shall be likewise forfeited to the District.

ARTICLE 12 - BID PROTEST PROCEDURES

Any bid protest relating to the form or content of the bidding or Contract Documents must be submitted in writing to the District Manager, Municipal Water District of Orange County, 18700 Ward Street, Fountain Valley, Ca 92708 at least ten (10) business days before the original date set for the bid opening. Any bidder who submits a bid without making a protest shall be deemed to have waived any objection to the form or content of the bidding or Contract Documents not previously stated in writing.

Any bid protest relating to the award of the contract for the Project must be submitted in writing to District Manager, Municipal Water District of Orange County, 18700 Ward Street, Fountain Valley, Ca 92708. The protest must be received before 5:00 p.m. of the fifth business day following bid opening. The initial protest document shall contain a complete statement of the basis for the protest. The protest shall refer to the specific portion(s) of the bid documents which forms the basis for the protest. The protest shall include the name, address and telephone number of the person representing the protesting party.

The party filing the protest shall send a copy of the initial protest document and any attached documentation to all other parties who have a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest. The documents shall be transmitted by fax or mail.

The procedure and time limits set forth in this paragraph are mandatory and are the Bidder's sole and exclusive remedy in the event of bid protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code claim or legal proceedings.

END OF SECTION

ATTENTION BIDDERS

Please remove and submit
ONLY the yellow pages (8 to 16)
from this package with your bid.

Thank you.

CONTRACT PROPOSAL
TO
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

FOR

HVAC REPLACEMENT PROJECT

Name of Bidder: _____

Contact Person: _____

Business Mailing Address: _____

Business Street Address: _____

Telephone: (___)_____ Fax: (___)_____

TO THE BOARD OF DIRECTORS OF THE MUNICIPAL WATER DISTRICT OF ORANGE COUNTY:

Pursuant to and in compliance with your Notice Inviting Bids for **HVAC REPLACEMENT PROJECT** and the other Contract Documents relating thereto, the undersigned Bidder, being fully familiar with the terms of the Contract Documents, the current general prevailing wage rates, local conditions affecting the performance of the Project, the character, quality, quantities and scope of the work, and the cost of the work at the place of performance, hereby proposes and agrees, within the time stipulated in the Contract Documents, to furnish to the Municipal Water District of Orange County all of the transportation, materials, equipment, tools, excavation, sheeting, shoring, bracing, supports, plant and other facilities, labor, services, permits, utilities, and other items necessary to conduct and complete said work, all in strict conformity with the Contract Documents, including Addenda Nos. ___, ____, and ____ on file in District offices, for the total price of _____ dollars ($_____), which is in agreement with the unit prices in the Bid Schedule, hereinafter set forth.

The total price set forth above includes $ _____ for six Variable Volume Terminals (VAV Boxes) at a unit cost of $ _____ for each VAV Box. The District has estimated the number of VAV Boxes that will be required for bidding purposes; payment will be made only for the actual number of _____ installed, and the contract price will be adjusted accordingly.

Bidder declares that the only persons or parties interested in this proposal are those named herein, and that this proposal is made without collusion with any person, firm or corporation. Bidder proposes and agrees, if the proposal is accepted, that Bidder will execute a contract with the District, in strict conformity to the Contract Documents, in the form set forth in the Contract Documents, and will perform the entire work for the prices set forth in the attached Bid Schedule, upon which the award of contract is made.

In the event of a conflict between the numbers given in figures and in words, the words shall control.

PROPOSED SUBCONTRACTORS

HVAC REPLACEMENT PROJECT

Pursuant to California Public Contract Code Section 4100 et seq., the following list gives the name, location of place of business, and portion of work (description of work to be done) for each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvements, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specifically fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars ($10,000), whichever is greater. Additional supporting data may be attached to this page. Each page shall be sequentially numbered, headed "Proposed Subcontractors" and shall be signed.

NAME	LOCATION OF PLACE OF BUSINESS	PORTION OF WORK TO BE PERFORMED

(This form may be duplicated if necessary to list additional subcontractors)

After the award of contract, substitutions for these subcontractors may only be made with the prior approval of the District in accordance with Public Contract Code section 4104.

Signature of Bidder	Company Name of Bidder	Date

BIDDER'S INFORMATION

HVAC REPLACEMENT PROJECT

All bidders/proposers are required to provide the following information **with their bid/proposal.**

Prime Contractor:

Firm Name: _____ Phone: _____

Business Address: _____ Fax: _____

Email: _____

License No.
and Classification: _____ Years in Business: _____

Contact Person: _____

Gross Annual Receipts for last year:
☐ < $1 million ☐ < $5 million ☐ < $10 million ☐ < $15 million ☐ > $15 million

Type of work/ services/ materials provided for this job:
☐ Contractor ☐ Supplier ☐ Manufacturer ☐ Trucking ☐ Broker
☐ Other (describe): _____

_____

_____

Contractor Specialty for this job:

☐ Roadway Construction (including signing, paving, sawcutting, and concrete)
☐ Roadway Painting/Striping
☐ Roadway Lighting & Electrical Signals
☐ Bridge & Tunnel Construction
☐ Water, Sewer, & Pipeline Construction
☐ Power & Communication Transmission Line (including conduit construction)
☐ Landscaping/Irrigation
☐ Other Heavy Construction (including parks, reclamation, reservoir, water & sewer treatment facilities)
☐ Masonry (including retaining walls and foundations)
☐ Concrete Retaining Walls
☐ Building Construction
☐ Other (describe): _____

_____

_____

THIS FORM MUST BE SUBMITTED WITH BID

CONTRACTOR'S EXPERIENCE AND FINANCIAL QUALIFICATIONS

HVAC REPLACEMENT PROJECT

The following statements as to the experience and financial qualifications of the bidder are to be submitted with the Contract Proposal, as a part thereof. The truthfulness and accuracy of the information is guaranteed by the bidder.

The bidder has been engaged in the contracting business, under the present business name, for _____ years. Experience in work of a nature similar to that covered in the Proposal extends over a period of _____ years.

The bidder, as a contractor, has successfully completed at least two (2) projects of like magnitude, comparable difficulty and rates of progress to the work, including: (list two or more projects).

_____

_____

_____

The bidder, as a contractor, has never failed to satisfactorily complete a contract awarded to the Contractor, except as follows: (name any and all exceptions and reasons therefore).

_____

_____

_____

The bidder has satisfactorily completed the following contracts in the last three (3) years, for the owner indicated, and to whom reference is made (list five contracts). (Provide a contact person and telephone number for each project.)

YEAR	TYPE OF WORK	CONTRACT AMOUNT	CONTACT

The names of all persons interested in the foregoing proposals as principals are as follows: (NOTE: If Bidder or other interested person is a corporation, state the legal name of the corporation, along with the names of the president, secretary, treasurer, and manager thereof; if a general partnership, state true name of the firm, also the names of all individual partners composing the firm; if a limited partnership, the names of all general partners and limited partners; and if Bidder or other interested person is an individual, state first and last names in full.)

_____

_____

Bidder/Contractor Name: _____

Contractor's License Number: _____ License Renewal Date: _____

PROPOSED MAJOR MATERIAL/EQUIPMENT SUPPLIERS

HVAC REPLACEMENT PROJECT

[List items for which District wants this information]

The bidder is required to furnish the following information on major materials and manufacturers. No changes will be allowed in materials or manufacturers without the prior approval of the District.

1. _____
_____

2. _____
_____

3. _____
_____

4. _____
_____

5. _____
_____

6. _____
_____

7. _____
_____

8. _____
_____

_____
Signature of Bidder

_____
Company Name of Bidder (PLEASE PRINT)

_____
Date

NONCOLLUSION DECLARATION

TO BE EXECUTED BY BIDDER
AND
SUBMITTED WITH BID

TO THE MUNICIPAL WATER DISTRICT OF ORANGE COUNTY:

In conformance with Public Contract Code 7106, the undersigned declares:

I am the _____ (title) of _____ (company), the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

This Declaration is made for the purpose of complying with Public Contract Code Section 7016 and/or Title 23 United States Code Section 112.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ (date), at _____ (city), _____ (state).

Signed:_____ Date:_____

Bidder's Name:_____

MUST BE SUBMITTED WITH BID

BID BOND

HVAC REPLACEMENT PROJECT

KNOW ALL PERSONS BY THESE PRESENTS that, _____ hereinafter called the Principal, and _____, a corporation duly organized under the laws of the State of _____, having its principal place of business at _____ in the State of _____, and authorized to do business in the State of California, hereinafter call the Surety, are held and firmly bound unto the Municipal Water District of Orange County, hereinafter called the Obligee, on order, in the sum of _____ Dollars ($_____) (being at least ten percent (10%) of the total amount of Principal's proposal) lawful money of the United States, for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these present.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Principal has submitted its Proposal for the project entitled **HVAC REPLACEMENT PROJECT** to the Obligee, the Proposal, by reference thereto; being hereby made a part hereof.

NOW, THEREFORE, if Principal's Proposal is rejected or, in the alternate, if the Proposal is accepted and the Principal signs and delivers a Contract and furnishes a Performance Bond and Payment Bond and evidence of insurance in the form and within the time required by the Proposal and the Contract Documents, then this obligation shall become null and void, otherwise the same shall remain in full force and effect and upon default of the Principal shall be forfeited to the Obligee, it being expressly understood and agreed that the liability of the Surety for any and all default of the Principal shall be the amount of this obligation as herein stated, as liquidated damages. Such forfeiture and liquidated damages under this bond shall be without prejudice to the Obligee's right to pursue any excess actual damages from the Principal for breach of contract or otherwise.

The Surety, for value received, hereby agrees that its obligations and its bond shall not be impaired or affected by any extension of the time within which the Obligee may accept such Proposal, and the Surety hereby waives notice of any such extension.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay, in addition to the sum set forth above, all costs incurred by the Obligee in such suit, including reasonable attorney's fees and expert witness fees, to be fixed by the court.

Signed this _____ day of _____, 20___

_____
PRINCIPAL

BY _____

_____

SURETY

BY _____

Note: Signature of person executing for Surety must be notarized and evidence of corporate authority attached.

AGREEMENT

HVAC REPLACEMENT PROJECT

This Agreement is made this ___ day of _____, 20__, between the Municipal Water District of Orange County ("District") and _____ ("Contractor") for performance of the following public work of improvement HVAC REPLACEMENT PROJECT (the "Project" or the "Work"), which shall be performed in accordance with the all plans, specifications and other contract documents attached to or incorporated into this Agreement.

SECTION 1 - SCOPE

A. Contractor shall furnish all necessary management, supervision, labor, materials, tools, supplies, equipment, plant, services, engineering, testing and/or any other act or thing required to diligently and fully perform and complete the Project in accordance with the Contract Documents, which is generally described as follows:

> Furnishing all labor, materials, equipment, and performing all work necessary and incidental to **HVAC REPLACEMENT PROJECT** in accordance with the Contract Documents and to the satisfaction of the District. The work is generally described as replacement of the air handling unit at the Owner's facility, 18700 Ward Street, Fountain Valley, Ca 92708. Demolition and removal of existing equipment is included. Re-connection of new equipment to existing utilities is included.

B. The following documents are incorporated into and made part of this Contract by this reference:

- Addenda, if any
- Notice Inviting Bids
- Information for Bidders
- Bid Forms
- Special Provisions (Attachment A)
- Insurance Requirements (Attachment B)
- Plan Sheets prepared by Rosenberg + Associates and dated July 10, 2013
- Technical Specifications prepared by Rosenberg + Associates and dated July 10, 2013
- Non-Collusion Declaration
- Payment and Performance Bonds

C. These documents shall be referred to collectively as the "Contract Documents." The Contract Documents are intended to be complementary, and a requirement in one document is as effective as if it appeared in all of the Contract Documents. In the event of a conflict between any of the Contract Documents, the documents shall be given effect in the following order: Special Provisions, Contract, Insurance Requirements, Technical Specifications, Plans, Information for Bidders, Request for Bids.

D. Contractor shall comply with all requirements of the Contract Documents. Where there is a conflict between the requirements of the several Contract Documents, the more stringent requirements shall govern.

SECTION 2 - PRICE

A. District agrees to pay, and Contractor agrees to accept, the sum of _____ Dollars ($_____) (the "Contract Price") subject to adjustments for changes in the work as may be directed in writing by District, as payment in full for the Work. The Contract Price includes ____ for installation of six zones; the Contract Price will be adjusted for the actual number of zones installed based on the unit price of $_____ for each zone.

B. Contractor shall submit a payment application for the total work completed once each month and upon completion of the Project and satisfaction of all conditions of the Contract Documents. District shall make payment of the amount it determines is due within thirty (30) days of receipt of application, less five percent retention. District shall release the retained funds (less any amounts in dispute or deducted for liquidated damages or other offsets) no less than thirty-five (35) days after the date the District accepts the Work.

C. Pursuant to Public Contract Code Section 22300, for monies earned by the Contractor and withheld by the District to ensure the performance of the Contract, the Contractor may, at its option, choose to substitute securities meeting the requirements of Public Contract Code Section 22300.

D. Contractor agrees to furnish, as a condition of payment, payroll affidavits, receipts, vouchers, certified payroll reports, and other documents, in form satisfactory to District, prior to receipt of any payment. Contractor shall submit Conditional and Unconditional waivers and release of lien upon (as provided in Civil Code Sections 8132, 8134, 8136 and 8138) on behalf of itself, subcontractors and suppliers that furnished labor, material, equipment or services to the Project.

SECTION 3 - ENTIRE AGREEMENT

This Agreement represents the entire agreement between District and Contractor and supersedes any prior written or oral representations. No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the Contract Documents.

SECTION 4 - TIME

A. Contractor shall complete the Project in its entirety no later than **seventy (70) calendar days** following District's issuance of the Notice to Proceed (the "Contract Time").

B. Time is of the essence of this Agreement. Contractor shall provide District with scheduling information in a form acceptable to District, including any changes made by District in the scheduling of work. Contractor shall coordinate its work with that of all other contractors, subcontractors and suppliers so as not to delay or damage their performance.

C. If Contractor fails to complete the Project within the Contract Time or to meet the Operational Milestone (described in the Information for Bidders), the District will sustain damage. It is and will be impracticable to determine the actual damage which the District will sustain in the event of and by reason of such delay, therefore Contractor will pay to the District the sum(s) set forth in the Special Provisions. There are separate liquidated damages for failure to complete the Work within the Contract Time and for failure to meet the Operational Milestone. Contractor agrees to pay such liquidated damages as herein provided, and in case the same

are not paid, agrees that the District may deduct the amount thereof from any monies due or that may become due the Contractor under the Contract.

D. Contractor shall perform the on-site work of removing the existing unit and installing the new unit in one period of three consecutive days, Friday to Sunday. Contractor shall not take the existing HVAC equipment out of service until the new equipment is on site and ready for installation and the Owner has authorized Contractor to do so in writing. Contractor shall have the new HVAC unit installed and providing heating and cooling not later than the Operational Milestone (6:00 A.M. on the Monday after the Contractor takes the existing unit out of service on Friday). If the new unit is not providing heating and cooling by the Operational Milestone, Contractor shall pay liquidated damages as set forth in the Special Provisions.

E. It is further agreed that in case Contractor fails to complete the Project in all parts and requirements within the Contract Time, the District shall have the right to extend the Contract Time or not, as may seem best to serve the interest of the District; and if it decides to extend Contract Time, District shall further have the right to charge to the Contractor, his heirs, assigns or sureties, and to deduct from the final payment for the work, all or any part, as it may deem proper, of the actual cost of engineering, inspection, superintendence, and other overhead expenses directly chargeable to the Contract that accrue during the period of such extension.

F. The Contractor will not be assessed with liquidated damages or the cost of engineering and inspection during the delay in the completion of the Project caused solely by acts of God or of the public enemy, fire, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes; provided, that the Contractor shall within one (1) day from the beginning of any such delay, notify the District, in writing of the causes of delay. The District shall ascertain the facts and the extent of delay, and its findings thereon shall be final and conclusive.

G. In the event that Contractor's work is delayed for any reason, including acts of District, Contractor's sole remedy shall be an extension of time equal to the period of delay, provided Contractor has given District written notice of the commencement of delay within three (3) days of its occurrence.

SECTION 5 – LABOR

A. The Contract is subject to California Labor Code Sections 1720 and following, and Contractor and any subcontractor shall pay not less than the specified prevailing rates of wage to all workers employed in performance of the Work. Pursuant to the provisions of Section 1770 of the California Labor Code, the District has obtained the general prevailing rate of wages and employer payments for health and welfare, vacation, pension and similar purposes in the District, as determined by the Director of the Department of Industrial Relations, a copy of which is on file in the office of the District, and shall be made available for viewing to any interested party upon request. The Contractor and each subcontractor shall forfeit as a penalty to the District not more than Two Hundred Dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate in violation of the Labor Code. In addition, the difference between the prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

B. Contractor's attention is directed to the provisions in Section 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor

under the Contractor. It shall be the responsibility of the Contractor to effectuate compliance on the part of itself and any subcontractors with the requirements for employment of apprentices. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

C. Pursuant to Labor Code Section 1776, the Contractor and each subcontractor shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury. In the event of noncompliance with the requirements of this Section, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying any item or actions necessary to achieve compliance with this section. If Contractor or subcontractor does not comply after such ten (10)-day period, the Contractor shall, as a penalty to the District, forfeit One Hundred Dollars ($100) for each day, or portion thereof, for each worker until strict compliance is effectuated.

D. Pursuant to the requirements of Division 4 of the Labor Code, the Contractor will be required to secure the payment of worker's compensation to its employees in accordance with the provisions of Section 3700 of the Labor Code. Prior to commencement of work, the Contractor shall sign and file with the District a certification in the following form:

> "I am aware of the provisions of Section 3700 of the 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 before commencing the performance of the work of this contract."

E. Contractor shall submit to the District, in advance of excavation five feet or more in depth and an estimated expenditure in excess of twenty-five thousand dollars ($25,000), a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five feet or more in depth. If such plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations, and all costs therefor shall be included in the Contract Price. Nothing in this section shall be deemed to allow the use of a shoring, bracing, sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this section shall be construed to impose a tort liability on the Owner, any of its officers, officials, partners, employees, agents, consultants or volunteers. The Owner's review of the Contractor's excavation plan is only for general conformance to the Construction Safety Orders. Prior to commencing any excavation, the Contractor shall designate in writing to the Owner the "competent person(s)" with the authority and responsibilities designated in the Construction Safety Orders.

F. Full compensation for conforming to the requirements of this section shall be considered as included in the Contract Price, and no additional compensation will be allowed therefore.

SECTION 6 - CHANGES IN WORK

A. Contractor shall make no changes in the Work without written direction from the District. Contractor shall not be compensated for any change made without any District's written direction. No changes in the work covered by this Agreement shall exonerate any surety or any bond given in connection with this Agreement.

B. If the District directs the Contractor in writing to make changes in the work that materially affect the cost of performing the work, the Contract Price will be adjusted using one of the following methods:

1. Where the work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities involved in the changed Work;

2. By a combination of existing and new unit prices and related quantities for the changed work;

3. Time and Materials, calculated as set forth in Section 6(C), below; or

4. By mutual acceptance of a lump sum.

C. The cost for extra or changed work performed on a Time and Materials basis shall be determined as follows:

1. Labor: Contractor will be paid cost of labor for workers used in actual and direct performance of extra work, including only :

   (a) Actual Wages: Actual wages paid shall include any employer payments to or on behalf of workers for health and welfare, pension, vacation, and similar purposes.

   (b) Labor Surcharge: Payments imposed by local, county, state, and federal laws and ordinances, and other payments made to, or on behalf of, workers, other than actual wages as defined above, such as taxes and insurance. Labor surcharge shall be and shall not exceed that set forth in California Department of Transportation official labor surcharges schedule which is in effect on date upon which extra or changed work is accomplished and which schedule is incorporated herein by reference as though fully set forth herein.

2. Material: Only materials furnished by Contractor and necessarily used in performance of extra Work will be paid for. Cost of such materials will be cost, including sales tax and delivery charges, to purchaser (Contractor, Subcontractor or other forces) from supplier thereof, except as the following are applicable: (a) If cash or trade discount by actual supplier is offered or available to purchaser, it shall be credited to the District notwithstanding fact that such discount may not have been taken. (b) For materials salvaged upon completion of extra Work, salvage value of materials shall be deducted from cost, less discounts, of materials. (c) If District determines that cost of a material is excessive, then cost of material shall be deemed to be lowest reasonably

available wholesale price at which material is available in quantities concerned delivered to Site, less any discounts described in (a), above.

3. Equipment: For Contractor-owned equipment, payment will be made at rental rates listed for equipment in California Department of Transportation official equipment rental rate schedule which is in effect on date upon which extra Work is accomplished and which schedule is incorporated herein by reference as though fully set forth herein. If there is no applicable rate for an item of equipment, then payment shall be made for Contractor- or Subcontractor-owned equipment at rental rate listed in the most recent edition of the Association of Equipment Distributors (AED) book.

   (a) For rented equipment, payment will be made based on actual rental invoices. Equipment used on extra Work shall be of proper size and type.

   (a) Cost of equipment shall be calculated at rental rate for equipment of proper size and type, as determined by the District. Rental rates paid shall be deemed to cover cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Unless otherwise specified, manufacturer's ratings, and manufacturer-approved modifications, shall be used to classify equipment for determination of applicable rental rates. Rental time will not be allowed while equipment is inoperative due to breakdowns.

   (b) Individual pieces of equipment or tools having a replacement value of $100 or less, whether or not consumed by use, shall be considered to be small tools.

4. Work Performed by Special Forces or Other Special Services: When the District and Contractor, by agreement, determine that special service or item of extra Work cannot be performed by forces of Contractor or those of any Subcontractors, service or extra Work item may be performed by specialist. Invoices for service or item of extra Work on basis of current market price thereof may be accepted without complete itemization of labor, material, and equipment rental costs when it is impracticable and not in accordance with established practice of special service industry to provide complete itemization. In those instances wherein Contractor is required to perform extra Work necessitating a fabrication or machining process in a fabrication or machine shop facility away from Site, charges for that portion of extra Work performed in such facility may, by agreement, be accepted as a specialist billing. In lieu of overhead and profit provided in paragraph 5(a), below, fifteen percent (15%) will be added to specialist invoice price, after deduction of any cash or trade discount offered or available, whether or not such discount may have been taken.

5. OVERHEAD DEFINED

   (a) The following constitutes charges that are deemed included in overhead for all Contract Modifications, including work performed on a Time and Materials basis. Contractor shall not invoice or receive payment for these costs separately: Drawings: field drawings, Shop Drawings, etc., including submissions of drawings; Routine field inspection; General Superintendence; General administration and preparation of cost

proposals, schedule analysis, Change Orders, and other supporting documentation; Computer services; Reproduction services; Salaries of project engineer, superintendent, timekeeper, storekeeper, and secretaries; Janitorial services; Small tools, incidentals and consumables; Temporary on-Site facilities (Offices, Telephones, Plumbing, Electrical Power, lighting; Platforms, Fencing, Water, Home office expenses; vehicles and fuel used for work otherwise included in the Contract Documents; Surveying; Estimating; Protection of Work; Handling and disposal fees; Final cleanup; Other incidental Work; Related warranties.

6. OVERHEAD FOR TIME AND MATERIALS

For work Contractor performs on Time and Materials at the District's direction, the following markups will be added to the cost of labor, materials and equipment, calculated as described above.

(a) Overhead and profit on labor shall be fifteen percent (15%).

(b) Overhead and profit on materials shall be fifteen percent (15%).

(c) Overhead and profit on equipment rental shall be ten percent (10%).

(d) When work is performed by a first tier Subcontractor, Contractor shall receive a five percent (5%) markup on Subcontractor's total costs of extra work. First tier Subcontractor's markup on its Work shall not exceed fifteen percent (15%).

(e) When extra Work is performed by a lower tier Subcontractor, Contractor shall receive a total of five percent (5%) markup on the lower tier Subcontractor's total costs of extra work. Contractor and first tier Subcontractors and lower tier Subcontractors shall divide the fifteen percent (15%) markup as mutually agreed.

(f) Notwithstanding the foregoing, in no case shall the total markup on any extra work exceed twenty percent (20%) of the direct cost, notwithstanding the actual number of Contract tiers.

(g) On proposals covering both increases and decreases in Contract Price, overhead and profit shall be allowed on the net increase only as determined in this paragraph. When the net difference is a deletion, no percentage for overhead or profit will be allowed, but rather a deduction shall apply.

(h) The markup shall include profit, small tools, cleanup, supervision, warranties, cost of preparing the cost proposal, jobsite overhead, and home office overhead. No markup will be allowed on taxes, insurance, and bonds.

D. If the District directs the Contractor in writing to make changes in the Work that materially affect the time required to perform the Work, the District will make a reasonable adjustment to the Contract Time.

SECTION 7 – CLAIMS AND DISPUTES

A. If any dispute shall arise between District and Contractor regarding performance of the work, or any alleged change in the work, Contractor shall timely perform the disputed work and

shall give written notice of a claim for additional compensation for the work to District within three (3) days after commencement of the disputed work. Contractor's failure to give written notice within the three (3)-day period constitutes an agreement by Contractor that it will receive no extra compensation for the disputed work.

B. Disputes arising under this Agreement shall be resolved in accordance with the procedures set forth in Section 20104.50 of the Public Contract Code.

C. Pursuant to Public Contract Code Section 9201, the District shall provide Contractor with timely notification of the receipt of any third-party claim relating to the Contract.

SECTION 8 - INSPECTION AND PROTECTION OF WORK

A. Responsibility for, and security of, all work and materials is the responsibility of the Contractor until final acceptance of the project by the District.

B. Contractor shall make the work accessible at all reasonable times for inspection by the District. Contractor shall, at the first opportunity, inspect all material and equipment delivered to the jobsite by others to be used or incorporated in the Contractor's work and give prompt notice of any defect therein. Contractor assumes full responsibility to protect the work done hereunder until final acceptance by the District.

C. When the Work is completed, Contractor shall request, in writing, a final inspection. Within ten (10) days of the receipt of such request, the District shall make a final inspection. The Contractor or its representatives may be present at the final inspection. The purpose of such final inspection shall be to determine whether the Work has been completed in accordance with the Contract Documents, including all change orders and all interpretations and instructions previously issued.

SECTION 9 – ASSIGNMENT AND SUBCONTRACTING

A. Contractor shall give personal attention to the performance of the Contract and shall keep the Work under its control.

B. No subcontractors will be recognized as such, and all persons engaged in the work of construction will be considered as employees of the Contractor, who will be held responsible for their work which shall be subject to the provisions of the Contract and specifications.

C. No subcontractor who is ineligible to bid work on, or be awarded, a public works project under Labor Code Sections 1771.1 or 1777.7 can bid on, be awarded or perform work as a subcontractor on the Project. The Contractor is prohibited from performing work on the Project with a subcontractor who is ineligible to perform work on a public works project under these sections of the Labor Code.

D. When a portion of the work which has been subcontracted by the Contractor is not being prosecuted in a manner satisfactory to the District, the subcontractor shall be removed immediately on the requisition of the District and shall not again be employed on the work.

E. Contractor may not assign performance of the Contract may not be assigned except upon written consent of the District.

SECTION 10 - TERMINATION

A. Should Contractor fail within seven (7) calendar days from receipt of District's written notice to correct any default, including but not limited to failure perform the Work in accordance with the Contract Documents, failure to comply with the directions of District, or failure pay its creditors, District may terminate this Agreement. Following a termination for default, District shall have the right to take whatever steps it deems necessary to correct Contractor's deficiencies and charge the cost thereof to Contractor, who shall be liable for the full cost of District's corrective action, including reasonable overhead, profit and attorneys' fees.

B. District may at any time terminate the Contract at District's convenience upon five days written notice to Contractor; in the event of termination for convenience, Contractor shall recover only the actual cost of work completed to the date of termination, which costs are documented to District's satisfaction, plus a reasonable amount not to exceed fifteen percent (15%) of the actual cost of the Work performed for overhead and profit. Contractor shall not be entitled to any claim or lien against District for any additional compensation or damages in the event of such termination.

C. If District terminates Contractor for cause, and if it is later determined that the termination was wrongful, such default termination shall automatically be converted to and treated as a termination for convenience. In such event, Contractor shall be entitled to receive only the amounts payable under this section, and Contractor specifically waives any claim for any other amounts or damages, including, but not limited to, any claim for consequential damages or lost profits.

SECTION 11 – HOLD HARMLESS AND INDEMNIFICATION

A. The Municipal Water District of Orange County and all officers and employees thereof connected with the Work, including but not limited to the District Board of Directors, shall not be answerable or accountable in any manner: for any loss or damage that may happen to the Work or any part thereof; for any loss or damage to any of the materials or other things used or employed in performing the Work; for injury to or death of any person; or for damage to property from any cause except losses due to sole or active negligence of the Municipal Water District of Orange County' officers or employees.

B. To the fullest extent allowed by law, Contractor shall defend, indemnify and hold harmless the Municipal Water District of Orange County, its elected and appointed officials, Rosenberg + Associates, and all of their employees and agents (together, “Indemnitees”), from all liability, penalties, costs, losses, damages, expenses, fines, causes of action, claims or judgments, including attorney's fees and other defense costs, resulting from injury to or death sustained by any person (including Contractor's employees), or damage to property of any kind, or any other injury or damage whatsoever, which injury, death or damage arises out of or is in any way connected with the performance of the Work, regardless of the Contractor's fault or negligence, including any of the same resulting from an Indemnitee’s alleged or actual negligent act or omission, or its agents, contractors or employees; except that this indemnity obligation shall not be applicable to injury, death or damage to property arising from the sole or active negligence or willful misconduct of an Indemnitee. This indemnification shall extend to claims asserted after termination of this Contract for whatever reason.

C. Contractor shall indemnify, defend with legal counsel approved by District, and hold harmless District, its officers, officials, employees and volunteers from and against all liability,

loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or related to the Work or the Project, except such loss or damage which is caused by the sole or active negligence or willful misconduct of the District. Should conflict of interest principles preclude a single attorney from representing both District and Contractor, or should District otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse the District its costs of defense, including without limitation reasonable attorney's fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay any final judgment rendered against the District (and its officers, officials, employees and volunteers) except for claims determined by a trier of fact to have been the result of the District's sole or active negligence or willful misconduct. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

D. Contractor's obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of District under any provision of this agreement, Contractor shall not be required to indemnify and hold harmless District for liability attributable to the active negligence of District, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where District is shown to have been actively negligent and where District's active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of District.

E. Contractor's indemnification obligations under Paragraph 11 shall not extend to the liability to the extent caused by the negligent, reckless or willful acts, errors or omissions of Rosenberg + Associates, it officers, directors, partners, employees, agents, and consultants in performance of the professional services shown below:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them.

F. In addition to any remedy authorized by law, so much of the money due the Contractor under and by virtue of the contract as shall be considered necessary by the District, may be retained by the Municipal Water District of Orange County until disposition has been made of such suits or claims for damage.

SECTION 12 – BONDS AND INSURANCE

A. <u>Bonds</u>

1. Within ten (10) days after being notified of the award of the contract, and before the District will execute the agreement for construction, the Contractor to whom the Contract is awarded shall furnish and file with the District Performance and Payment Surety bonds as set forth below.

2. Contractor shall submit the bonds on the forms provided with the Contract Documents, duly executed by a responsible corporate surety listed in the United States Department of the Treasury circular entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," authorized to do business in the State of California and acceptable to District conditioned upon the faithful performance by the Contractor of all requirements of the Contract Documents. Each of the bonds shall be in a sum no less than one hundred percent (100%) of the Contract Price.

B. Insurance

1. Contractor shall obtain, at its sole cost and expense, all insurance required by Attachment B. Certificates of such insurance and copies of the insurance policies and endorsements shall be delivered to District within ten (10) days after being notified of the award of the contract, and before execution of the agreement for construction by the District.

SECTION 13 - WARRANTY

Contractor warrants to District that all materials and equipment furnished shall be new, free from faults and defects and of good quality. Contractor hereby warrants its work against all deficiencies and defects for the period required by the prime contract or the longest period permitted by the law of this State, whichever is more.

SECTION 14 - LAWS TO BE OBSERVED

A. Contractor shall keep itself fully informed of all existing and future state and federal laws and county and municipal ordinances and regulations that in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

B. Contractor shall at all times observe and comply with, and shall cause all of its agents and employees to observe and comply with all such existing and future Federal, State and local laws, ordinances, regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority over the Project ("Applicable Laws"); and shall protect and indemnify the District, and all officers and employees thereof connected with the Project, against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the District's representative or their employees. If any discrepancy or inconsistency is discovered in the plans, drawings, specifications, or contract for the work in relation to any such law, ordinance, regulation, order or decree, Contractor shall promptly report the same to the District in writing.

SECTION 15 – MISCELLANEOUS

A. UTILITY FACILITIES

1. The location of known existing utilities and pipelines are shown on the Plans in their approximate locations. However, nothing herein shall be deemed to require the Owner to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the project can be inferred

from the presence of other visible facilities, such as buildings, cleanouts, meter and junction boxes, on or adjacent to the site of the Project.

2. Contractor shall take all steps reasonably necessary to ascertain the exact location of all underground facilities prior to doing work that may damage such facilities or interfere with their service, including but not limited to calling Underground Service Alert to locate utilities in accordance with the procedures described in Government Code 4215 et seq.

3. Contractor shall protect from damage any utility facilities that are to remain in place, be installed, relocated or otherwise rearranged.

4. If Contractor while performing the Work discovers utility facilities not identified in the Contract Documents, Contractor shall immediately notify the District and the utility owner. District shall arrange the removal, relocation, or protection of existing main or trunk line utility facilities located at the site of the Work but not identified in the Contract.

5. If the Contractor is required to locate, repair damage not due to the Contractor's failure to exercise reasonable care, and remove or relocate existing main or trunk line utility facilities, it shall be compensated under Section 6 of this Contract – Changes in the Work - including payment for equipment on the Project necessarily idled during such work.

6. Contractor will not be entitled to damages or additional payment for delays caused solely by the failure of District, or the owner of the utility, to provide for removal or relocation of existing main or trunk line utility facilities not identified in the Contract Documents, except for equipment necessarily idled during such work.

7. Contractor shall not be assessed liquidated damages for delay in completing the WORK solely attributable to the failure of District, or the owner of the utility, to provide for removal or relocation of existing main or trunk line utility facilities not indicated in the Contract Documents with reasonable accuracy.

8. The right is reserved by the District and the owners of facilities or their authorized agents, to enter the job for the purpose of making such changes as are necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. The Contractor shall cooperate with forces engaged in such work and shall conduct his operations in such a manner as to avoid any delay or hindrance to the work being performed by such other forces.

9. Attention is directed to the possible existence of underground facilities not known to the District, or in a location different from that which is shown on the plans or in the Special Provisions.

10. The Owner will assume the responsibility for the timely removal, relocation, or protection of existing main or trunk line utility facilities located on the Project site if such utilities are not identified by the Owner in the Contract Documents or which can reasonably be inferred from the presence of other visible facilities.

B. Utility Location. It shall be the Contractor's responsibility to determine the exact location and depth of all utilities, including service connections, which have been marked by the respective utility owners and which the Contractor believes may affect or be affected by the Contractor's operations. The Contractor shall not be entitled to additional compensation nor time extensions for work necessary to avoid interferences nor for repair to damaged utilities if the Contractor does not expose all such existing utilities as required by this section.

The locating of utilities shall be in conformance with Government Code Section 4216 except for the Owner's utilities located on the Owner's property and not on public right-of-way.

Pursuant to Government Code Section 4216.2 the Contractor shall contact the appropriate regional notification center at least two (2) working days but not more than 14 calendar days before performing any excavation. The Contractor shall request that the utility owners conduct a utility survey and mark or otherwise indicate the location of their service. The Contractor shall furnish to the Construction Manager written documentation of its contact(s) with the regional notification center prior to commencing excavation at such locations.

After the utility survey is completed, the Contractor shall commence "potholing" or hand digging to determine the actual location of the pipe, duct, or conduit. The Construction Manager shall be given notice prior to commencing potholing operations. The Contractor shall uncover all piping and conduits, to a point one (1) foot below the pipe, where crossings, interferences, or connections are shown on the Drawings, prior to trenching or excavating for any pipe or structures, to determine actual elevations. New pipelines shall be laid to such grade as to clear all existing facilities, which are to remain in service for any period subsequent to the construction of the run of pipe involved.

The Contractor's attention is directed to the requirements of Government Code Section 4216.2(a)(2) which provides: "When the excavation is proposed within 10 feet of a high priority subsurface installation, the operator of the high priority subsurface installation shall notify the excavator of the existence of the high priority subsurface installation prior to the legal excavation start date and time, as such date and time are authorized pursuant to paragraph (1) of subdivision (a) of 4216.2. The excavator and the operator or its representative shall conduct an onsite meeting at a mutually-agreed-on time to determine actions or activities required to verify the location of the high priority subsurface installation prior to start time." The Contractor shall notify the Construction Manager in advance of this meeting.

Utility Relocation and Repair – If interferences occur at locations other than those indicated in the Contract Documents with reasonable accuracy, the Contractor shall notify the Construction Manager in writing. The Construction Manager will supply information for correcting the interferences in accordance with the responsibilities of this section and Government Code Section 4215.

Care shall be exercised by the Contractor to prevent damage to adjacent existing facilities and public or private works; where equipment will pass over these obstructions, suitable planking shall be placed. If high priority subsurface installations are damaged and the operator cannot be contacted, the Contractor shall call 911 emergency services.

The Owner will compensate the Contractor for the costs of locating and repairing damage not due to the failure of the Contractor to exercise reasonable care, and for removing or relocating such main or trunk line utility facilities not indicated in the Contract Documents with reasonable accuracy, and for the cost of equipment on the Project necessarily idled during such work. The

payment for such costs will be made as provided in Section 6 – Changes in the Work. The Contractor shall not be assessed liquidated damages for delay in completion of the Project, when such delay is caused by the failure of the Owner or utility company to provide for removal or relocation of such utility facilities.

The public utility, where it is the owner of the affected utility, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price. The right is reserved to the Owner and the owners of utilities or their authorized agents to enter upon the Work area for the purpose of making such changes as are necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. The Contractor shall cooperate with forces engaged in such work and shall conduct its operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by such forces and shall allow the respective utilities time to relocate their facility.

When the Contract Documents indicate that a utility is to be relocated, altered or constructed by others, the Owner will conduct all negotiations with the utility company and the work will be done at no cost to the Contractor, unless otherwise stipulated in the Agreement.

Temporary or permanent relocation or alteration of utilities desired by the Contractor for its own convenience shall be the Contractor's responsibility and it shall make arrangements and bear all costs for such work.

D. DIFFERING SITE CONDITIONS.

1. The Contractor shall promptly, and before the following conditions are disturbed, notify the District in writing of any:

   (a) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

   (b) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to bidders prior to the deadline for submitting bids.

   (c) 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 this Contract.

2. The District shall promptly investigate the conditions, and if it finds that such conditions do materially so differ, or do involve hazardous waste, and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the Work, it shall issue a change order under the provisions described in the Contract Documents.

3. No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in the Contract Documents.

4. In the event a dispute arises between the District and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for,

performance of any part of the work, Contractor shall not be excused from completing the Work as provided in the Contract Documents. The Contractor shall proceed with all work to be performed under the Contract. The Contractor shall retain any and all rights provided either by this Contract or by law, which pertain to the resolution of disputes and protests.

C. RECORDS AND AUDITS

1. Contractor and its subcontractors shall establish and maintain records pertaining to this contract. Contractor's and subcontractors' accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of all costs charged under this contract, including properly executed payrolls, time records, invoices and vouchers.

2. Contractor shall permit District and its authorized representatives to inspect, examine and make copies of Contractor's books, records, accounts, and any and all data relevant to this Contract at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by Contractor pursuant to this contract and shall provide such assistance as may be reasonably required in the course of such inspection. District further reserves the right to examine and re-examine said books, records, accounts, and data during the three (3)-year period following the termination of this Contract; and Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatever for three (3) years after the termination of this Contract.

3. Pursuant to California Government Code Section 8546.7, the parties to this Contract shall be subject to the examination and audit of representative of the Auditor General of the State of California for a period of three (3) years after final payment under the contract. The examination and audit shall be confined to those matters connected with the performance of this contract including, but not limited to, the cost of administering the contract.

D. CLAYTON ACT AND CARTWRIGHT ACT

Section 7103.5 of the Public Contract Code specifies that 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 Sec. 16700) of Part 2 of Division 7 of the Business Profession Code, arising from purchase of goods, services or materials pursuant to the contract or subcontract. Pursuant to Public Contract Code Section 7103.5 the Contractor and all of its Subcontractors hereby offer and agree to assign to the District 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 Sec. 16700) of Part 2 of Division 7 of the Business Profession Code, arising from purchase of goods, services or materials pursuant to this Agreement. This assignment shall become effective when the District tenders final payment to the Contractor without further acknowledgement by the parties.

E. SITE SUPERINTENDANT

The Contractor shall provide competent supervision and staffing of the Work as approved by the District. The Contractor or designated representative shall be present at the site at all times while work is actually in progress. Superintendent must be able to proficiently speak, read and write in English.

F. CHARACTER OF WORKERS

If any subcontractor or person employed by the Contractor shall appear to the District to be incompetent or to act in a disorderly or improper manner, he shall be discharged immediately on the request of the District, and such person shall not again be employed on the Work.

G. NOTICES

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

DISTRICT:	**CONTRACTOR**
18700 Ward Street	
Fountain Valley, Ca 92708	
Email: charris@mwdoc.com	Email:
Attn: Cathleen Harris	Attn.: _____

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 email, upon delivery; 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.

SECTION 16 - WAIVERS OF LIEN

Upon request the Contractor shall submit a complete list of major suppliers and/or subcontractors who will be providing material and/or labor for the performance of the Work, and shall submit with each payment request waivers of lien from each major supplier and/or subcontractor. Sample forms to be used will be furnished by the District.

SECTION 17 - CLEAN-UP

Contractor will remove from the project site all debris resulting from performance of the Work no less often than daily. If Contractor fails to do so, District may, after twenty-four (24) hours' notice to Contractor, clean up the site and deduct the cost from the Contract Price.

SECTION 18 - LICENSE REQUIREMENT

Contractor's attention is directed to Business and Professions Code Sections 7000 et seq. concerning the licensing of contractors. At the time Contractor enters into this Contract and all times Contractor is performing the Work, Contractor shall have a valid license issued by the Contractors State License Board in the classification stated in the Special Provisions. All

bidders and subcontractors shall be licensed in accordance with the laws of this State and any contractor or subcontractor not so licensed is subject to penalties imposed by such laws.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.

SECTION 19 – LABOR COMPLIANCE

Pursuant to Subchapter 4.5 of Chapter 8 of Title 8 of the California Code of Regulations, this Project may be subject to labor compliance oversight by the Department of Industrial Relations, Division of Labor Standards Enforcement, Compliance Monitoring Unit (CMU). The Contractor shall comply with all the labor compliance requirements under this contract and applicable provisions of the California Labor Code and California Code of Regulations. In bidding on this Project, it shall be the Contractor's sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this contract and applicable law in its bid.

Contractor shall post, at each job site, the notice required by Section 16451(d) of Title 8 of the California Code of Regulations. Template notices are available upon request by emailing a request to CMU@dir.ca.gov or at the following location.

District Office of the Division of Labor Standards Enforcement
1515 Clay Street, Suite 801
Oakland, CA 94612

Contractor and each subcontractor shall keep certified payroll records in accordance with Labor Code section 1776, and such records shall be furnished to the District on a monthly basis, and within ten (10) days of any separate request by the CMU. Payroll records shall be in the format prescribed by Section 16401 of Title 8 of the California Code of Regulations, with use of the current version of the Department of Industrial Relations' Public Works Payroll Reporting Form (A-1-131) and Statement of Employer Payments (DLSE Form PW26).

Contractor and subcontractor shall also submit electronic certified payroll reports to the CMU on a monthly basis, and within ten (10) days of any separate request by the CMU, via the Department of Industrial Relations' online payroll system called Labor Compliance Management (MyLCM), and/or in any other format requested/required by the CMU. The District shall contact Contractor with registration details for MyLCM, and Contractor, within three (3) days thereafter, shall register itself and any subcontractors in MyLCM. Contractor shall work with District staff and consultants to ensure full compliance with the CMU requirements and all other labor compliance requirements under this contract and applicable labor law.

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SECTION 20 – COMPLIANCE WITH STATE STORM WATER PERMIT

Contractor shall be required to comply with all aspects of the State Water Resources Control Board (State Water Board) Water Quality Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity (Permit) for all projects that involve construction on or disturbance of one acre or more of land or which are part of a larger common area of development.

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY: CONTRACTOR:

By: _____

Dated: _____

ATTEST:

_____

_____

APPROVED AS TO FORM:

_____

By: _____
(Authorized Representative of Contractor)

Printed Name:

Title: _____
(Attach Acknowledgment for Authorized Representative of Contractor)

License No.

Dated: _____

(Contractor Signatures must be Notarized)

ATTACHMENT A
SPECIAL PROVISIONS

SC 1. LIQUIDATED DAMAGES

A. Contractor shall pay to District the sum of Five Hundred Dollars ($500.00) for each and every calendar day's delay in final completion of the Work beyond expiration of the Contract Time.

B. As separate liquidated damages, and in addition to liquidated damages for delay in completing the Work, Contractor shall pay liquidated damages in the amount of Five Hundred Dollars ($500) per hour for each of the first forty-eight (48) hours that the new HVAC unit is not installed and providing heating and cooling after the "Operational Milestone." If the new HVAC unit is not providing the specified heating and cooling forty eight hours after the Operational Milestone, the Contractor shall pay the District the sum of Seven Hundred and Fifty Dollars ($750) for each hour until the new HVAC unit is providing the specified heating and cooling.

SC 2. LICENSE CLASSIFICATION

In accordance with Section 3300 of the Public Contract Code, the District has determined that the Contractor shall have a **B [General Building Contractor]** or **C-20 [Warm Air Heating, Ventilating and Air Conditioning]** at the time it submits a bid and enters into the Contract and at all times it is performing the Work.

SC 3. COOPERATION AND CARE

A. Should construction be under way by the District, other agencies or other contractors within or adjacent to the limits of the work specified or should work of any other nature be under way by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other contractors or other forces to the end that any delay or hindrance to their work will be avoided. The District reserves the right to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.

B. Until the final acceptance of the contract, the Contractor shall have the charge and care of the Work and of the materials to be used therein, including materials for which partial payment has been received. The Municipal Water District of Orange County shall not be held responsible for the care or protection of any material or parts of the Work prior to final acceptance, except as expressly provided in the Special Provisions.

SC 4. PROGRESS OF THE WORK

A. The work will be performed on District property. The District offices will remain open to the public during construction. Contractor and all subcontractors shall, as part of the Work and without any increase in the Contract Price, comply with any and all rules, procedures, or requirements the District may adopt or have in effect related to performance of the Work. These include, but are not limited to, safety, appropriate attire and communication with the public.

B. Contractor shall provide temporary heating and cooling for all affected District offices at any time the HVAC system is not in service.

C. Hours of work – Contractor shall perform the Work on Friday, Saturday and Sunday only. All costs related to this schedule are included in the Contract Price, and no additional compensation will be allowed on account of the work schedule.

D. If Contractor requests overtime work in which the District will incurs costs, Contractor shall be responsible for payment of the District's costs incurred in connection with the overtime work. The District will invoice the Contractor at time and one half to cover the costs incurred. If Contractor does not pay the invoice within ten (10) days, the District may deduct the amount billed from other payments due or to become due to Contractor under the Contract.

E. The District shall have the authority to suspend the Work wholly or in part, for such a period as it may deem necessary.

SC 5. LIMITS OF WORK

The Owner will identify the "limits of work". The Contractor shall make its own arrangements, and pay all expenses for additional area required outside of the limits of work unless provided in the Special Provisions.

ATTACHMENT B

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

INSURANCE REQUIREMENTS FOR PUBLIC WORKS PROJECTS

Without limiting Contractor's indemnification of District, and within ten (10) days after award of the Contract, Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to District.

Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least one million dollars ($1,000,000)) for Contractor's employees in accordance with the laws of the State of California, Section 3700 of the Labor Code. In addition, Contractor shall require each subcontractor to similarly maintain Worker's Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California, Section 3700 for all of the subcontractor's employees.

Contractor shall submit to District, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the District, its elected and appointed officers, agents, officials, employees and volunteers.

General Liability Insurance. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Officer form CG 00 01, in an amount not less than One Million ($1,000,000) per occurrence, two million dollars ($2,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability, and a two million ($2,000,000) completed operations aggregate.

Automobile Liability Insurance. Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million ($1,000,000) combined single limit for each accident.

Umbrella or Excess Liability Insurance. At the option of the Contractor, primary limits may be less than required, with an Umbrella or Excess Liability Policy providing the additional limits needed. This form of insurance will be acceptable provided that the Primary and Umbrella or Excess Liability Policies both provide the insurance coverage's herein required, and the Umbrella or Excess Liability Policy provides bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverage's set forth above, including commercial general liability and employers liability. Such policy or policies shall include the following terms and conditions:

- A drop down feature requiring the policy to respond in the event that any primary insurance that would otherwise have applied proves to be uncollectable in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrency of effective dates with primary policies; and

- Policies shall "follow form" to the underlying primary policies.

- Insureds under primary policies shall also be insureds under the Umbrella or Excess Policies.

Builder's Risk Insurance. The Contractor shall provide and maintain builder's risk insurance/or installation floater covering all risks of direct physical loss, damage or destruction to the work, including but not limited to equipment, to insure against such losses until final acceptance of the work by Owner. Policy shall be provided for replacement value on an "all risk" basis. There shall be no coinsurance penalty provision in any such policy. Such insurance shall insure at least against the perils of fire and extended coverage, theft, vandalism and malicious mischief, and collapse. Owner, its directors, officers, employees, and authorized volunteers shall be named insureds on any such policy. The making of progress payments to the Contractor shall not be construed as creating an insurable interest by or Owner or be construed as relieving the Contractor or his/her subcontractors of responsibility for loss from any direct physical loss, damage or destruction occurring prior to final acceptance of the work by Owner.

Policy must include: (1) coverage for any ensuing loss from faulty workmanship, nonconforming work, omission or deficiency in design or specifications; (2) coverage against machinery accidents and operational testing; (3) transit coverage, including ocean marine coverage (unless insured by the supplier), with sub-limits sufficient to insure the full replacement value of any key equipment item; and (4) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off the Site. Such insurance shall be on a form acceptable to District to ensure adequacy and sublimits.

OTHER REQUIREMENTS

Proof of Insurance. Contractor shall provide certificates of insurance and original endorsements to District as evidence of the insurance coverage required herein. Insurance certificates and endorsements must be approved by District prior to commencement of performance. Current certification of insurance shall be kept on file with District at all times during the term of this Agreement. District reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of Coverage. Contractor shall procure and maintain for the duration of the contract 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 by Contractor, his agents, representatives, employees or subcontractors. Contractor must maintain general liability and umbrella or excess liability insurance for as long as there is a statutory exposure to completed operations claims. District, its elected and appointed officers, agents, officials, employees and volunteers shall continue as additional insureds under such policies.

District Rights of Enforcement. In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, District has the right but not the duty to obtain the insurance it deems necessary and any premium paid by the District will be promptly reimbursed by Contractor, or District will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, District may cancel this Agreement.

Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholder's Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the District.

Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against the District, its elected and appointed officers, agents, officials, employees and volunteers or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

Enforcement of Contract Provisions (non estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the District to inform Contractor of non-compliance with any requirement imposes no additional obligations on the District nor does it waive any rights hereunder.

Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

Notice of Cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide District with thirty (30) days' notice of cancellation (except for nonpayment for which ten (10) days' notice is required) or nonrenewal of coverage for each required coverage.

Additional Insured Status. Commercial general liability policies shall provide or be endorsed to provide that District, its elected and appointed officers, Rosenberg + Associates, and all of their agents, officials, employees and volunteers shall be additional insureds under such policies. This provision shall also apply to any umbrella or excess liability policies. Additional insured endorsement shall use the standard ISO for CG 2010 with an edition date prior to 1992. If unable to obtain the CG 2010 prior to 1992, a combination of CG 2010 and CG 2037 may be submitted to the District for consideration. Commercial general liability policies shall apply on a primary, non-contributory basis.

District's Right to Revise Requirements. The District reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Contractor ninety (90) days' advance written notice of such change. If such change results in substantial additional costs to the Contractor, the District and Contractor may negotiate Contractor's compensation.

Self-insured Retentions. Any self-insured retentions must be declared to and approved by the District. District reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the District.

Timely Notice of Claims. Contractor shall give District prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Injury or Illness Reports. The Contractor shall furnish the District with a copy of the Employers Report of Injury immediately following any incident requiring the listing of said report on the OSHA Log during the prosecution of the Work under this contract. The Contractor shall also furnish the District with a copy of the Employer's Report of Injury involving any subcontractor on this Project.

Additional Insurance. Contractor shall also procure and maintain at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of this Agreement.

END OF INSURANCE REQUIREMENTS

FAITHFUL PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the Municipal Water District of Orange County, California (hereinafter referred to as "District") and _____ (hereinafter referred to as "Principal"), have entered into a written contract for furnishing of all labor, materials, equipment, transportation and services for the construction of the _____ (hereinafter referred to as the "Agreement");the terms and conditions of which are incorporated herein by reference; and the terms of the Agreement require the Principal to furnish performance security.

NOW, THEREFORE, Principal and _____ ("Surety"), are hereby held and firmly bound unto the District in the amount of _____ _____ Dollars ($_____), for payment of which Principal and Surety hereby bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if Principal (or its heirs, executors, administrators, successors, or assigns approved by the District) performs all of the covenants, conditions, and obligations of the Agreement, including the obligation to indemnify, defend, and hold harmless the District, then this obligation shall be null and void; otherwise it shall be and remain in full force and effect.

The Surety's obligation under this bond shall arise after the District has provided written notice to the Surety, at the address set forth below, of the Principal's default under the Agreement, and the Principal's failure to cure the default in accordance with the terms of the Agreement.

Surety agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Work to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Workt, including but not limited to the provisions of Sections 2819 and 2845 of the California Civil Code.

In the event suit is brought upon this bond, the surety shall pay reasonable attorneys' fees and costs incurred by the prevailing parties in such suit, which fees and costs shall be in addition to the face amount of the bond.

IN WITNESS WHEREOF, the undersigned represent and warrant that they have the right, power, legal capacity, and authority to enter into and execute this document on behalf of the Principal and the Surety, and have caused this document to be executed by setting hereto their names, titles, and signatures.

CONTRACTOR, as Principal	SURETY
By: _____	By: _____
Its:_____	Its: _____

Address: _____ Address: _____

_____ _____

_____ _____

_____ _____

FAX: _____ FAX: _____

NOTE: NOTARY ACKNOWLEDGMENT FOR SURETY AND SURETY'S POWER OF ATTORNEY MUST BE ATTACHED.

PAYMENT FOR LABOR AND MATERIALS BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the Municipal Water District of Orange County, California (hereinafter referred to as "Owner") and _____ (hereinafter referred to as "Contractor"), have entered into a written contract for furnishing of all labor, materials, equipment, transportation and services for the construction of the **HVAC REPLACEMENT PROJECT, Project No. _____** (hereinafter referred to as the "Construction Contract"); and

WHEREAS, Contractor is required by the terms of the Construction Contract to furnish a bond to secure payment for all work, labor, materials, equipment or services furnished in connection with the Construction Contract;

NOW, THEREFORE, Contractor, as principal, and _____ _____ (hereinafter referred to as "Surety"), as surety, are held and firmly bound unto Claimants, as defined herein, in the penal sum of _____ _____ Dollars ($_____), lawful money of the United States, for the payment of which sum well and truly to be made as provided in this Payment Bond.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Owner to pay for work, labor, materials, equipment, services, or other items furnished for use and actually used in the performance of the Construction Contract, which is incorporated herein by reference.

2. With respect to Owner, this obligation shall be null and void if Contractor:

2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2. Defends, indemnifies and holds Owner harmless from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for work, labor, materials, equipment, services or other items furnished for use in the performance of the Construction Contract, provided Owner has promptly notified Contractor and Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to Contractor and Surety.

3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.

4. Surety shall have no obligation to Claimants under this Bond until:

4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described below) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Payment Bond and, with substantial accuracy, the amount of the claim.

4.2. Claimants who do not have a direct contract with the Contractor:

4.3. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, as required by and conforming with Civil Code sections 9300 - 9306; and

4.4. Not having been paid within thirty (30) days of sending the required notice, have sent a written notice to Surety (at the address described below) and sent a copy to the Owner, stating that a claim is being made under this Payment Bond and enclosing a copy of the previous written notice furnished to Contractor.

5. When the Claimant has satisfied the conditions of Paragraph 4, Surety shall promptly and at Surety's expense take the following actions:

5.1. Send an answer to the Claimant, with a copy to Owner, within twenty (20) days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

5.2. Pay or arrange for payment of any undisputed amounts.

6. Surety's total obligation shall not exceed the amount of this Payment Bond, and the amount of this Payment Bond shall be credited for any payments made in good faith by Surety.

7. Amounts owed by Owner to Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under the Performance Bond. By Contractor furnishing and Owner accepting this Payment Bond, they agree that all funds earned by Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work or the satisfaction of Owner's claims, including liquidated damages, under the Construction Contract.

8. Surety shall not be liable to Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. Owner shall not be liable for payment of any costs or expenses of any Claimants under this Payment Bond, and shall have under this Payment Bond no obligation to make payments to, give notices on behalf of, or otherwise have any obligation to Claimants under this Payment Bond.

9. The Surety agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Work to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Work, including but not limited to the provisions of Sections 2819 and 2845 of the California Civil Code.

10. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction. The prevailing party in any such action shall be entitled to recover its attorneys' fees, to be taxed as costs.

11. Notice to Surety, Owner or Contractor shall be mailed or delivered to the address shown on the signature page.

12. This Payment Bond has been furnished to comply with Civil Code sections 9550 et seq. Any provision in this Payment Bond conflicting with those statutory requirements shall be deemed deleted and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Payment Bond shall be construed as a statutory bond and not as a common law bond.

13. Upon request by any person or entity appearing to be a potential beneficiary of this Payment Bond, the Contractor shall promptly furnish a copy of this Payment Bond or shall permit a copy to be made.

14. DEFINITIONS

14.1. Claimant: An individual or entity identified in California Civil Code section 9100.

14.2. Construction Contract: The agreement between Owner and Contractor identified above, including all Contract Documents and changes thereto.

IN WITNESS WHEREOF, the undersigned represent and warrant that they have the right, power, legal capacity, and authority to enter into and execute this document on behalf of the Principal and the Surety, and have caused this document to be executed by setting hereto their names, titles, and signatures.

CONTRACTOR, as Principal	SURETY
By: _____	By: _____
Its: _____	Its: _____
Address: _____	Address: _____
_____	_____
_____	_____
_____	_____
FAX: _____	FAX: _____

NOTE: NOTARY ACKNOWLEDGMENT FOR SURETY AND SURETY'S POWER OF ATTORNEY MUST BE ATTACHED.

CONTRACTOR'S CERTIFICATE
REGARDING WORKERS' COMPENSATION

PROJECT NAME:

Labor Code Section 3700 states:

"Every employer, except the State, and all political subdivisions or institutions thereof, will secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation by one or more insurers, duly authorized to write compensation insurance in this State.

(b) By securing from the Director of Industrial Relations a certificate on consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to employees."

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

CONTRACTOR:

By: _____

Printed Name: _____

Title: _____

Date:_____

(SEAL)

(Labor Code Section 1861, provides that the above certificate must be signed and filed by Contractor, with District prior to performing any work under this contract.)