



**SUBCONTRACT**

**PROJECT: ADVANCED METERING INFRASTRUCTURE (AMI)**

**LOCATED IN:**

Rialto, California

**PROJECT NO. TBD**

**EFFECTIVE DATE: TBD**

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## Exhibits

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Exhibit B	Construction Documents
Exhibit C	Contract Price Breakdown; Billing Rates
Exhibit D	Scope of Work
Exhibit E	Project Schedule
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Exhibit G	Insurance
Exhibit H	Subcontractor General Conditions (Schedule R.6 of Prime Contract)
Exhibit I	Waiver & Release Forms
Exhibit J	Warranty Form

## **SUBCONTRACT**

**This Subcontract (“Subcontract”)** is entered into as of **TBD** (“**Effective Date**”) by and between:

The contractor below (“**Contractor**”):

Veolia Water West Operating Services, Inc.

437 N. Riverside Ave.  
Rialto, CA 92376

and the subcontractor below (“**Subcontractor**”):

Thirkettle Corporation, a California corporation, dba Aqua-Metric Sales Company  
4050 Flat Rock Drive  
Riverside, CA 92505

The Project (“**Project**”) is: **Advanced Metering Infrastructure (AMI) Project**

The Contractor and Subcontractor agree as set forth below.

### **1. BACKGROUND**

**1.1 Project.** The Project is described in the Construction Documents set forth in Exhibit B.

**1.2 Prime Contract.** The Project is being designed and constructed by Contractor under written agreement with its client Rialto Water Services, LLC (“**Concessionaire**”) pursuant to the terms and conditions of the Prime Contract. The Work is provided to support Contractor’s obligations to Concessionaire pursuant to the terms and conditions of the Prime Contract. By execution of this Subcontract, the Subcontractor is bound and obligated to the Contractor to the same extent that the Contractor is bound to the Concessionaire under the Prime Contract and therefore assumes all of the same obligations, liabilities, and responsibilities that the Contractor has assumed toward Concessionaire with respect to the Work as set forth in this Subcontract.

**1.3 Definitions.** Certain defined terms for this Subcontract are located in Exhibit A.

### **2. THE WORK**

**2.1 Work.** The Subcontractor will provide all labor, materials, equipment, and appurtenances necessary for proper completion of the Work in strict accordance with the Contract Documents as defined in Article 3. The Subcontractor’s Scope of Work is set forth in Exhibit D.

**2.2 Standard of Care.** The Subcontractor will supervise, direct and manage the Work using the Subcontractor's best skill and attention and will perform all Work in a timely, workman-like manner consistent with the degree of care and skill customarily exercised by California State licensed contractors implementing and installing Advanced Metering Infrastructure ("AMI") systems that are of a similar nature, scope, size and complexity as this Project.

**2.3 Applicable Law.** The Subcontractor will perform the Work in full compliance with Applicable Laws in effect at the time the Work is performed.

**2.4 Means and Methods.** The Subcontractor is solely responsible for all construction means, methods, techniques, sequences, and procedures and for safety precautions and programs in connection with the Work. The Subcontractor is entirely responsible for the acts and omissions of its agents or employees, subcontractors, suppliers, any of their agents or employees, or any other persons performing any of the Work on behalf of the Subcontractor and agrees that the City, Authority, Concessionaire, and Contractor are not responsible for Subcontractor's acts or omissions or the acts or omissions of those for whom it is responsible. The Subcontractor acknowledges and agrees that Contractor is not responsible for any failure of Subcontractor to carry out the Work in strict accordance with the Contract Documents.

**2.5 Subcontracts and Purchase Orders.** Those portions of the Work that Subcontractor does not customarily perform with its own personnel will be performed by a tier subcontractor under written subcontract and subject to Contractor's approval, which will not be unreasonably withheld. All subcontracts must incorporate by reference the Contract Documents and bind the tier subcontractor to Subcontractor to the same extent that Subcontractor is bound to the Contractor under this Subcontract. For purposes of this section, tier subcontractors shall not include suppliers or vendors of goods provided under this Subcontract. All tier subcontractors used or employed by the Subcontractor must possess the appropriate California state licenses and certifications required for performance of their respective portion of the Work and carry out their Work using the same degree of skill and care established in Section 2.2. Subcontractor shall be responsible for ensuring each subcontractor and its employees are obligated to carry out their portion of the Work in strict accordance with the Contract Documents. All purchase orders must be in writing.

2.5.1 Subcontractor is responsible for the acts and omissions of its subcontractors and of persons or entities either directly or indirectly employed by its subcontractors. Nothing contained in this Subcontract creates a contractual relationship between a tier subcontractor and any of the Contractor, Concessionaire, Authority or City.

2.5.2 Each agreement with a tier subcontractor must include the following provisions:

- a) overhead and profit mark-up that is consistent with Section 10.6.1;
- b) a waiver of subrogation on the terms of Section 13.2;



- c) a requirement to make payments of builder's risk insurance proceeds per Section 13.3;
- d) the provisions of Article 16 regarding books and records;
- e) a provision assigning the subcontract to Contractor if Subcontractor is terminated, effective upon notice from Contractor to the tier subcontractor that it is taking assignment of the subcontract;
- f) insurance requirements consistent with Exhibit G;
- g) an indemnification provision at least as protective of the Indemnified Parties as the provisions in Article 14, with the Indemnified Parties as indemnitees in addition to Subcontractor; and
- h) a provision that binds the tier subcontractor to the dispute resolution procedures set forth in Article 17.

**2.6 Subcontractor Personnel.** If any employee or tier-subcontractor of the Subcontractor fails or refuses to carry out the Work in accordance with the provisions of this Subcontract or appears to be incompetent or acts in a disorderly or improper manner, the Subcontractor will remove that person or firm immediately from the Project on demand of the Contractor and reassign another person or firm who is similarly qualified and reasonably acceptable to the Contractor.

### **3. CONTRACT DOCUMENTS**

**3.1 Contract Documents.** The Subcontractor's Contract Documents include this Subcontract, the General Conditions (Exhibit H), all of the attachments and exhibits included in the list of Contract Documents listed in Section 3.1.1, the permitted Construction Documents (Exhibit B), and all subsequent contract modifications issued after execution of this Subcontract such as Change Orders. The Contract Documents referred to in this Subcontract are incorporated by reference as though set forth in full.

**3.1.1 Exhibits.** The following exhibits to this Subcontract are Contract Documents:

- a) The definitions in Exhibit A;
- b) The Construction Documents forth in Exhibit B;
- c) The Contract Price breakdown and maximum billing rates set
- d) The Contract Price breakdown and maximum billing rates set
- e) The Scope of Work set forth in Exhibit D;
- f) The Project Schedule set forth in Exhibit E;

- g) The list of Excluded Approvals in Exhibit F;
- h) The insurance requirements set forth in Exhibit G;
- i) The General Conditions attached to Exhibit H;
- j) The statutory waiver and release forms attached to Exhibit I;
- k) The Warranty Form included in Exhibit J.

**3.2 Precedence.** The Contract Documents are intended to be fully cooperative and complementary. Subcontractor will promptly notify Contractor in writing through a request for clarification or information if it notices any conflict between or among Contract Documents. If there is a conflict between or among the various Contract Documents, the most stringent requirement or highest standard will govern unless the Contractor's response to the request for clarification or information dictates otherwise. The general dimensions will be figured on the Construction Documents. These figured dimensions will take precedence over scaled measurements.

**3.3 Acknowledgment.** The Subcontractor acknowledges it has carefully examined and understands this Subcontract and the other Contract Documents; has investigated the nature, locality and site of the Project and the conditions and difficulties under which the Work is to be performed; and enters into this Subcontract on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of the Contractor, Concessionaire, Authority or City, or any of their respective officers, agents, servants, or employees.

#### **4. RELATIONSHIPS OF THE PARTIES**

**4.1 Subcontractor and Contractor.** The Subcontractor's relationship with the Contractor is that of an independent contractor and not as an agent, fiduciary, partner, member of, subsidiary of, or otherwise affiliated with the Contractor. The Subcontractor agrees to cooperate and collaborate with the Contractor, and to exercise the Subcontractor's best skill and judgment in furthering the interests of the Contractor; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in the most expeditious and economical manner consistent with the Contractor's best interests. The Contractor agrees to timely furnish and approve all information required by the Contract Documents and to make timely payments to the Subcontractor in accordance with the requirements of the Contract Documents.

**4.2 Subcontractor and Other Parties.** The Concessionaire is an express third party beneficiary to this Subcontract and is therefore entitled to the performance of the obligations of the Subcontractor intended for the benefit of the Contractor, and to enforcement of the Subcontract. Nothing contained in this Subcontract or the Prime Contract gives the Subcontractor or any third party any claim or right of action against the Concessionaire, Authority and City that does not otherwise exist without regard to this Subcontract.

#### **5. SUBCONTRACTOR**

**5.1 Licensing.** Subcontractor warrants that it is authorized to do business in the State of California and is properly licensed by all necessary Governmental Agencies having jurisdiction over the Project for performance of the Work.

**5.2 Permits and Fees.** Except for the Excluded Approvals, Subcontractor will secure and pay for all permits and fees necessary for execution of the Work. The Subcontractor is not responsible for approvals, easements, assessments and fees required for the development of the Project.

**5.3 Representative.** The Subcontractor will provide a qualified Project representative who is authorized to bind the company regarding the Work. The Project representative may not be changed without Contractor's written consent, which will not be unreasonably withheld. The Subcontractor's authorized representative is Tommy Thirkettle (President) or Chris Newville (Manager).

**5.4 Superintendent.** The Subcontractor will provide a qualified superintendent at the site to receive orders, make decisions, properly supervise all employees, subcontractors and their agents and employees, and other persons performing any Work under the Subcontract and to cause the Work to be carried out according to the Contract Documents. Subcontractor's superintendent may not be changed without Contractor's written consent, which will not be unreasonably withheld. The Subcontractor's superintendent is Anthony Barajas.

**5.5 Constructability and Efficiency.** Throughout the Project, the Subcontractor will analyze the Contract Documents and make recommendations to the Contractor whenever opportunities exist to improve the most current Interim Project Schedule, labor efficiency, or Contractor's costs and to alert the Contractor of problems in the Project design or in the work of Separate Contractors.

**5.6 Coordination of the Work.** Before starting each portion of the Work, the Subcontractor will (i) review and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Contractor and Separate Contractors' submittals that may affect proper installation of the Work; (ii) field measure existing conditions related to that portion of the Work; and (iii) observe any conditions at the site directly affecting that portion of the Work, reporting any improper conditions and defects to the Contractor. The Contractor will review any improper conditions and defects of Separate Contractors and remedy any improperly installed work of Separate Contractors.

**5.7 Submittals.**

5.7.1 Contractor will provide Subcontractor with a submittal schedule that indicates when submittals will be issued and when approval is required. Subcontractor will submit to Contractor for review all shop drawings, product data, samples and other submittals required by the Contract Documents in accordance with Contractor's submittal schedule and in all cases with reasonable promptness and in such sequence as to avoid delays in the Work or in the activities of the Contractor or its Separate Contractors. Subcontractor will not submit any submittal that is merely a tracing or copy of any of the Construction Documents. Each submittal

will be prepared by the Subcontractor, its tier subcontractor, or supplier and will be submitted according to the Contract Documents.

5.7.2 Upon return of any submittal to the Subcontractor, the Subcontractor will make any correction required and, within five (5) business days of receipt, furnish corrected resubmissions to the Contractor for further review. The Subcontractor will not perform any of the Work for which the Contract Documents require a submittal until the respective submittal has been approved by the Contractor. Upon receipt of approval of a submittal, Subcontractor will file a final corrected copy with the Contractor and furnish other copies as may be needed or requested by the Contractor. If Subcontractor fails to submit or resubmit Submittals in a timely manner as required to maintain the Project Schedule, the Subcontractor will be liable for all costs, expenses, and damages resulting from the delays.

5.7.3 Subcontractor's submission of a shop drawing to Contractor constitutes Subcontractor's representation, upon which the Contractor and its consultants may rely, that Subcontractor has reviewed the submission for accuracy and compliance with all Construction Documents and other Contract Documents, and that all original engineering, if any, has been performed by a qualified California State-licensed professional engineer. Review of submittals by Contractor and its consultants will not constitute an undertaking to identify deficiencies in the submittal.

**5.8 Field Measurements.** Notwithstanding the dimensions on the Construction Documents, it is the responsibility of the Subcontractor to take field measurements to allow the proper matching and fitting of its Work with existing conditions and the work of Separate Contractors.

**5.9 Layout and Protection.** Subcontractor is responsible for its own layout. Subcontractor will preserve and protect all line and grade benchmarks and will not cause damage to other contractors' benchmarks or lay-out points. Any additional surveying or layout caused as a result of Subcontractor's failure to take the necessary precautions to protect such data will be performed at Subcontractor's own cost and expense.

**5.10 Project Meetings.** The Subcontractor will attend all Project meetings to discuss jobsite procedures, progress, and scheduling, or other Project matters, and to resolve any pending design or construction issues.

**5.11 Project Reporting.** The Subcontractor will prepare and deliver to the Contractor with each invoice (but no less than monthly) a written progress report in a format approved by the Contractor that includes at least the following: (a) a brief summary of the Work performed, identifying tasks completed, in progress or pending; (b) an estimate of the percentage completed for each task; (c) explanation of significant deviations from the Construction Documents; (d) progress relative to the Project Schedule and any corrective actions by the Subcontractor; and (e) a summary of activities planned for the coming month.

**5.12 Materials and Equipment.** All materials and equipment required under the Contract Documents will be new, of good quality and free from defects. No substitutions will be accepted on this Project unless the specified materials or equipment have been discontinued or

unless the Contractor has approved the substitution through written Change Order. Materials will be furnished in sufficient quantities and procured in time to allow uninterrupted progress of the Work. All materials and equipment will be properly stored and protected by the Subcontractor and any loss or damage will be borne by the Subcontractor.

**5.13 Site Logistics.** The Subcontractor will schedule and coordinate delivery and storage of equipment and materials and the sequencing of its Work with the Contractor's current site logistics plan and the most current Interim Project Schedule.

5.13.1 Subcontractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the project site or other areas identified in the current site logistics plan for such use, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment.

**5.14 Storage of Materials and Equipment.** Storage of equipment and materials will be coordinated through the Contractor. Subcontractor will maintain its storage area and will keep its storage areas clean, safe, and secure. Any materials or equipment stored offsite will be insured or stored in an insured or bonded warehouse. The risk of loss will remain on the Subcontractor for all materials and equipment stored off-site per Section 5.15.

**5.15 Risk of Loss.** All Work at the Project site, or in preparing or delivering materials or equipment to the Project site, is performed exclusively at the risk of the Subcontractor until the completed Work is accepted by the Contractor. Subcontractor's interest in the Work will be insured under the builder's risk policy and, subject to the terms and conditions of that policy, Subcontractor may be insured for some or all of the risk of loss under this provision. Contractor makes no representations or warranties regarding the scope or adequacy of the builder's risk coverage. Any damage or loss to Work prior to completion of such Work will be repaired or replaced promptly by Subcontractor and within any extension of time granted under Article 10.

**5.16 Mock-Ups.** Subcontractor will provide all mock-ups as required by the Contract Documents. Mock-ups will be installed in a location on-site or at such other locations to be designated by the Contractor. Approved mock-ups will remain as standards of acceptance of the Work and, where practical and approved, may be incorporated in the Work. If not so incorporated, they will be demolished and removed by the Subcontractor when directed by the Contractor to do so.

**5.17 Safety.** The Subcontractor will comply with the Contractor's current safety plan and any other safety requirements of the Contract Documents, including the General Conditions (Exhibit H).

**5.18 Prevailing Wages and Labor Requirements.** Subcontractor will comply with all prevailing wage and labor requirements set forth in the General Conditions (Exhibit H).

**5.19 Cutting and Patching.** Subcontractor will be responsible for all cutting and patching required in the prosecution of the Work. Subcontractor will not damage or endanger a portion of the Work or partially or completed construction of Separate Contractors' work by excavating, cutting, patching or otherwise altering the construction. The Subcontractor will

promptly notify the Contractor before cutting, patching or modifying any construction work of Separate Contractors.

**5.20 Cleaning Up.** Subcontractor will perform its Work so as to maintain the site in a clean, safe, and orderly condition, as more particularly provided in the General Conditions (Exhibit H).

**5.21 Test and Inspections.** Tests, inspections and approvals of portions of the Work required by the Subcontract, the Contract Documents, or by Applicable Laws, ordinances, rules, regulations or orders of authorities having jurisdiction over the Project will be coordinated by the Subcontractor with the Contractor. The Subcontractor will give the Contractor not less than 48 hours' notice of when and where tests and inspections are to be made so that the appropriate parties may be present.

5.21.1 Covered Work Prior to Inspection. If a portion of the Work is covered contrary to the Contractor's request, or prior to inspection by the proper authorities, it will be uncovered for inspection and examination by the Contractor, Independent Engineer or other proper authorities and be replaced at the Subcontractor's expense without change in the Subcontractor's Contract Time or Contract Price.

5.21.2 Final Inspections. The Subcontractor will coordinate the correction and completion of the Work with the Contractor. Following Subcontractor's written notice that all Work has been corrected or completed, the Contractor will evaluate the Work to determine if it is ready for final inspection. The Contractor will conduct final inspections with the Subcontractor, and, if required, with the Concessionaire, Independent Engineer and Authority.

**5.22 Non-Conforming Work and Correction.** Within two (2) business days of notice (or longer if reasonably necessary and accepted by the Parties in writing), the Subcontractor will commence correction of Work that is rejected by the Contractor, Governmental Agencies or Independent Engineer for failing to conform to the requirements of the Contract Documents, including destroyed or damaged construction (whether completed or partially completed) caused by the Subcontractor's correction or removal of the non-conforming Work, whether discovered before or after Final Completion (not to exceed a period of six (6) months after Final Completion) and whether or not fabricated, installed, or completed. The Subcontractor will bear all costs associated with correction of non-conforming Work.

**5.23 Record Documents.**

5.23.1 The Subcontractor will prepare and maintain on a current basis an accurate and complete set of "**Record Documents**" consisting of:

a) "**Record Drawings**," which are drawings showing clearly, in a redlined format, all existing conditions, changes, revisions and substitutions during construction, including without limitation, field changes and the final location of all mechanical equipment, utility lines, ducts, outlets, pipes, and other significant features;

b) "**Annotated Specifications**" showing clearly all changes, revisions and substitutions during construction. If a specification allows the election of one of

several brands, makes, or types of material or equipment, the annotations will show which of the allowable items was furnished; and

c) Change Orders, Interim Work Directives, and submittals.

5.23.2 The Record Drawings and Annotated Specifications will be updated regularly, no later than weekly, to reflect the as-built conditions of the Work.

5.23.3 The Record Documents will be kept at the Project site. The Record Documents will be available for inspection by the Contractor, Authority, City, Concessionaire, Independent Engineer, and any Governmental Agency with jurisdiction over the Project. The Record Documents will be used to generate the final as-built documents as part of the Subcontractor's close-out requirements. Subcontractor must include copies of the as-built plans and specifications as required by the Construction Documents in its deliverables to the Contractor.

**5.24 Commissioning.** To the extent required, the Contractor will schedule and oversee the Subcontractor's final testing and start-up of utilities, operational systems, and equipment as part of Contractor's commissioning of the Project. All inspections and testing will be conducted by the Contractor in conjunction with the Independent Engineer and other Governmental Agencies. During commissioning and before Final Completion, the Contractor will oversee Subcontractor's operation, adjustment and balancing of all equipment, and training of Contractor's maintenance personnel in the correct operation and maintenance of equipment.

**5.25 Acceptance Testing.** To the extent directed by the Contractor, the Subcontractor will assist the Contractor in conducting the acceptance test following startup of the completed construction of the Project. If the Project fails to successfully complete the acceptance test, the Subcontractor will provide services to the Contractor as requested to determine the cause of failure and provide corrective actions as necessary to successfully complete the acceptance test. The acceptance test will be conducted by the Contractor in connection with the Independent Engineer and other necessary parties.

**5.26 Punch List.** When the Subcontractor considers its Work substantially complete it will notify the Contractor who, in conjunction with the Subcontractor and the engineer of record, will prepare a list of incomplete or unsatisfactory items and a schedule for their completion. The Contractor will schedule and monitor the progress of all punch list work and conduct inspections to determine whether the Project is ready for inspection by Governmental Agencies with jurisdiction over the Project to determine whether Substantial Completion has been achieved.

5.26.1 Final Punch List. The Contractor will prepare a final punch list upon Substantial Completion. Any non-conforming Work will be corrected by the Subcontractor and its responsible subcontractors under Section 5.22. Subcontractor shall diligently complete its Work shown on the final punch list and notify Contractor when Subcontractor's Work is ready for final inspection. The Contractor will schedule and monitor the progress of all final punch list Work and conduct inspections to determine whether Subcontractor has achieved Final Completion.

**5.27 Early Occupancy.** The Contractor reserves the right for Contractor, Concessionaire, or Authority to occupy or utilize any portion of the Work at any time before Final Completion, and such occupancy or use will not constitute acceptance of any part of the Work.

**5.28 Close-Out.** After Substantial Completion but before Final Completion, the Subcontractor will transmit to the Contractor all required as-built drawings and specifications, operation and maintenance manuals, references, warranties, attic stock, keying schedule, and other items required by the Contract Documents.

## **6. CONTRACTOR**

**6.1 Information and Documents.** The Contractor will provide information regarding requirements for the Project, including the Construction Documents and available surveys and other information describing the Project site (including Schedule M of the Prime Contract) to the extent received from Concessionaire or Authority and applicable to the Work.

**6.2 Contractor's Representative.** The Contractor's designated representative is:

**Chandrasekar Venkatraman.**

**6.3 Excluded Approvals.** The Contractor or Authority, as applicable, is responsible for obtaining the Excluded Approvals (Exhibit F).

**6.4 Timeliness.** Information or services under the Contractor's control will be timely furnished to the Subcontractor by the Contractor to avoid delay in design and the orderly progress of the Work in accordance with the Interim Project Schedule.

**6.5 Separate Contractors.** The Contractor will endeavor to require its Separate Contractors to name the Subcontractor as an additional insured under their commercial general liability policies, and to waive subrogation rights against the Subcontractor under its commercial general liability policy and applicable property insurance. The Subcontractor likewise agrees to name each Separate Contractor as an additional insured under the Subcontractor's commercial general liability policy, and to waive subrogation rights against the Separate Contractors under the commercial general liability policy. The Subcontractor will coordinate the Work with the work and services of Separate Contractors and will accommodate the work and services of the Separate Contractors to effect smooth and efficient workflow and integrated work product. Separate Contractors will remain responsible and liable for all safety violations arising from their respective work.

## **7. COMPENSATION**

**7.1 Contract Price.** The Subcontractor's Contract Price for providing all Work in strict accordance with the Contract Document is the amount of that stated in Exhibit C and constitutes full and complete compensation to Subcontractor for the Work. The Contract Price covers all Subcontractor's Direct Costs, General Conditions Costs, and Overhead and Profit, as defined in Article 9. The breakdown of the Contract Price is set forth in Exhibit C. The Contract



Price is only subject to increases and decreases as a result of approved Change Orders in accordance with Article 10.

## **8. CONTRACT TIME AND SCHEDULING**

**8.1 Contract Time.** Subcontractor must achieve Substantial Completion by October 15, 2026. Subcontractor must achieve Final Completion within ninety (90) days of Substantial Completion.

**8.2 Scheduling.** Overall scheduling will be based on critical path or network precedence methodologies coordinating all major components of the Work including long lead item schedules and Contractor's occupancy requirements projecting milestone dates for Final Completion. The Subcontractor will participate and cooperate with the Contractor in the development of schedules and other efforts to achieve timely completion of the Work as established in the Project Schedule set forth in Exhibit E.

**8.2.1 Monthly Project Schedules.** The Contractor will create Monthly Project Schedule Updates incorporating activities and schedule updates of the various contractors on the Project as necessary to reflect the status of construction and projected milestone dates including Final Completion. The Subcontractor will provide information in an agreed upon format, and as requested by the Contractor, for the scheduling of times and sequences of operations required for its Work in coordination with the Monthly Project Schedule Updates.

**8.2.2 Interim Project Schedules.** The Contractor, with the assistance of the Subcontractor and Separate Contractors, will also create Interim Project Schedules that will provide a 3-week look ahead for the performance of upcoming Project work and document all Project work performed during the prior 3-week period. The Subcontractor will continuously monitor the Monthly Project Schedule Update and Interim Project Schedule so as to understand and accommodate the timing, phasing, and sequencing of operations of its Work and the work of Separate Contractors. The Interim Project Schedule is to be used as a working tool to evaluate any schedule slippages and collaborate on methods for improving labor efficiency.

**8.3 Prosecution of the Work.** Subcontractor will commence the Work after execution of this Subcontract and as directed by Contractor in a written notice to proceed. Subcontractor will diligently prosecute and complete its Work pursuant to the most current Interim Project Schedule. The Subcontractor will coordinate its Work with the work of Separate Contractors being performed on the Project so as not to delay, impede, obstruct, hinder or interfere with the commencement, progress, or completion of the whole or any part of any work being performed on the Project, and in accordance with the Contract Time. Contractor will determine the normal working hours for the Work and overtime shall be subject to Contractor's prior written approval.

**8.3.1 Schedule Slippage.** The Subcontractor will notify the Contractor within five (5) business days of any delays to its Work or other slippage in the Project Schedule as a result of its Work and must submit a detailed recovery plan for evaluation and approval by the

Contractor. All costs associated with the recovery will be the responsibility of the Subcontractor subject to Section 8.4.

8.3.2 Acceleration. The Contractor may direct the Subcontractor to work overtime. If the Subcontractor is in compliance with the Project Schedule, the Subcontractor may submit a request for a Change Order for the actual additional wages paid, if any, per Article 10.

**8.4 Permitted Delays.** If the Subcontractor is delayed in the commencement, prosecution or completion of the Work by (i) any Uncontrollable Circumstance; (ii) Design Changes; (iii) Authority-Directed Changes in the Work or changes directed by the Contractor that were not specified, illustrated or reasonably inferable from the Contract Documents; (iv) a Change in Law; (v) Unknown Site Conditions; and/or (vi) unknown Environmental Conditions, and to the extent that the delay impacts the critical path of the Project Schedule extending the Final Completion Date, then the Subcontractor may be entitled to an extension of the Contract Time for the same period of time that the Final Completion Date was delayed provided that the delay was not caused, in whole or in part, by any fault, neglect, act or omission of the Subcontractor or those for whom it is responsible, and subject to the provisions in Article 10. Notwithstanding the above, the Subcontractor will not be entitled to any extension of Contract Time or an adjustment in Contract Price under Article 10 unless the Subcontractor (1) notifies the Contractor in writing of the cause or causes of the delay within five (5) business days of the commencement of the delay; and (2) demonstrates that it could not have anticipated or avoided the delay and has used all available means to minimize the consequences of the delay, including application of available schedule float.

**8.5 Delays Caused by Subcontractor.** If the progress of the Work or the Project is delayed by any fault or neglect, or act or failure to act by the Subcontractor or any of its employees, consultants, subcontractors or suppliers, and the delay causes any additional cost, expense, liability or damage to the Contractor (including legal fees and disbursements incurred by the Contractor, whether incurred in defending claims arising from the delay or in seeking reimbursement and indemnity from the Subcontractor or its surety, if any), or any damages (including any liquidated damage) or additional costs or expenses for which the Contractor may or will become liable, then the Subcontractor and its surety (if any) will compensate the Contractor for, and indemnify it against, all such costs, expenses, damages and liability.

8.5.1 Liquidated Damages. The Contractor and Subcontractor acknowledge and agree that if Subcontractor fails to achieve Substantial Completion within the Contract Time the Contractor will suffer damages that are both extremely difficult and impracticable to ascertain. Therefore, Contractor and Subcontractor agree that, in the event Subcontractor fails to achieve Substantial Completion within the Contract Time and if as a result of that delay the Substantial Completion Date is extended, Subcontractor will pay to Contractor as liquidated damages, and not as a penalty, the amount of **\$2,000.00** per calendar day until such time that Substantial Completion is achieved. Payment of liquidated damages represents a reasonable estimate of fair compensation for the losses that reasonably may be anticipated. Contractor and Subcontractor acknowledge and agree that this liquidated damages provision will be Contractor's only remedy for delay damages caused by Subcontractor's failure to achieve Substantial Completion within its Contract Time. Nothing contained in this Section 8.5.1 will preclude the Contractor from recovery for actual damages caused by reasons other than the Subcontractor's failure to timely

achieve Substantial Completion within its Contract Time including, but not limited to, claims for actual losses incurred due to breach of contract, negligence, defective work, injury to persons or property or third-party claims. Subcontractor acknowledges and agrees that the liquidated damages amount is a reasonable amount for the Contractor's consequential damages due to delay under the circumstances and existing at the time of the Effective Date of this Subcontract.

## **9. COST OF THE WORK**

**9.1 General.** This Article 9 addresses allowable costs when Subcontractor is compensated for Change Order work on a cost reimbursable basis.

**9.2 Direct Costs.** The term "**Direct Costs**" means all costs from those categories of Subcontractor's own labor set forth in Section 9.2.1, subcontractor costs in accordance with the requirements of their written subcontracts, material, equipment rentals, appurtenances, and those miscellaneous costs set forth in Section 9.2.2, that are necessarily incurred by the Subcontractor for the proper performance of the Work in strict accordance with the Contract Documents.

### **9.2.1 Direct Labor.**

a) All labor performed by Subcontractor's employees at hourly rates that do not exceed the agreed maximum billing rates shown for that classification in Exhibit C.

b) All labor performed by workers directly employed by the Subcontractor to perform Work on-site as documented by weekly certified payroll reports.

### **9.2.2 Miscellaneous Costs.**

a) Sales, use, gross receipt, or similar taxes imposed by a Governmental Agency that are related to the Work.

b) That portion of required Subcontractor insurance coverage and bond premiums that can be directly attributed to the Subcontract.

c) Fees and assessments for permits, licenses and inspections that Subcontractor is required to pay under the Contract Documents.

d) Fees of laboratories for tests required by the Contract Documents.

e) Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents.

f) Costs of removal and disposal of debris from the site and recycle costs not offset by recycle fees or rebates.

g) Cost of document reproduction necessary for proper execution of the Work.

h) Expenses for Subcontractor's personnel incurred while traveling in discharge of duties connected with the Work.

i) Costs associated with safety and protection of person and property required under this Subcontract.

**9.3 General Conditions Costs.** General Conditions Costs consist of the following items of cost:

9.3.1 Labor for Subcontractor's project management, superintending, accounting, engineering, detailing, drafting, planning and scheduling, purchasing, estimating, review and processing of Change Orders, accounting, IT, and data processing for payroll, payables and receivables, whether performed at the site or off-site offices, but only for that portion of their time required for the Work at no more than the agreed maximum billing rates shown for that classification in Exhibit C;

9.3.2 All costs related to on-site temporary office facilities including, but not limited to, temporary office furniture and equipment desk and computers (inclusive of all software, applications, systems, and support), devices, servers, printers, copiers, plotters, cell phones, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site, digital cameras, etc., plus any costs for transportation, installation, minor repairs and replacements, dismantling, and removal thereof.

**9.4 Overhead and Profit.** The following items of cost are covered by Subcontract's Overhead and Profit:

9.4.1 Salaries and other compensation of the Subcontractor's personnel stationed at the Subcontractor's principal office or offices other than the site office to the extent not covered by Sections 9.2.1.1 or 9.3.1;

9.4.2 Costs of small tools, consumables, pick-up trucks for Subcontractor personnel staffing the Project and other Project-related "general requirements" costs approved by Contractor;

9.4.3 All costs associated with repairing or correcting damaged or non-conforming Work executed by the Subcontractor or its subcontractors or suppliers provided damage was not caused by a Separate Contractor;

9.4.4 All costs and expenses associated with Subcontractor's principal office, capital expenses, including interest on the Subcontractor's capital employed for the Work;

9.4.5 Costs due to the negligence or failure of the Subcontractor, its subcontractors and suppliers or anyone directly or indirectly employed by any of them for whose acts any of them may be liable to fulfill a specific responsibility under the Contract Documents;

9.4.6 All other costs and expenses incurred in the performance of the Work under the Contract Documents not covered under the definition of Direct Costs or General Conditions Costs.

## **10. CHANGES IN THE WORK**

**10.1 Change Orders.** All agreed changes in the Work will only be authorized by a Contractor-executed Change Order and performed under the applicable conditions of the Contract Documents. A Change Order signed by the Subcontractor indicates the Subcontractor's agreement to changes in its Contract Price, Contract Time or other contract terms and that the adjustments in the Change Order fully and completely resolve any claim by Subcontractor regarding compensation or time arising from or related to the subject of the Change Order.

**10.2 Allowed Adjustments.** The Contract Price and/or Contract Time may only be adjusted through written Change Order under one of the following circumstances:

10.2.1 Additional time or resources directed by Contractor due to an Uncontrollable Circumstance;

10.2.2 Design Changes;

10.2.3 An Authority-Directed Change in the scope of the Work or changes directed by the Contractor that were not specified, illustrated or reasonably inferable from the Contract Documents;

10.2.4 Acceleration of the Work to the extent an adjustment is directed under Section 8.3.2 and not necessary to mitigate delays caused by the negligence or contractual breach by Subcontractor;

10.2.5 Extra Work required due to Unknown Site Conditions or unknown Environmental Conditions;

10.2.6 Extra Work required due to Change of Law;

10.2.7 To the extent that Contractor receives proceeds from builder's risk insurance attributable to damage or loss to Subcontractor's Work, the Contract Price will be increased by the allocable amount of such proceeds; and

10.2.8 Executive orders, tariffs, or taxes on material that are issued or enacted after the Effective Date that materially increase the cost of the Work for Subcontractor will be treated as a Change of Law.

**10.3 Contractor Initiated Changes.** The Subcontractor must submit a rough order of magnitude of the change to the Contractor within five (5) business days of receipt of the scope of a proposed change order and a complete cost proposal (or longer if reasonably necessary and accepted by the Parties in writing), including any change in Contract Time under Section 8.4, within ten (10) business days of receipt.

**10.4 Subcontractor Initiated Changes.** The Subcontractor must give the Contractor written notice of a requested Change Order within five (5) business days of discovery of the facts or circumstances giving rise to the proposed change order, with contractual justification and back-up required by Sections 8.4 and 10.6 or otherwise reasonably requested by Contractor.

**10.5 Submission.** All claims for additional compensation to the Subcontractor will be based on the billable rates set forth in Exhibit C and presented in writing to the Contractor and approved by the Contractor before the expense is incurred unless Contractor directs the Subcontractor to proceed under an Interim Work Directive.

**10.6 Pricing.** Methods used for determining adjustments to the Contract Price include: (i) mutual acceptance of an adjustment properly itemized and supported by sufficient substantiating data to permit evaluation of the Direct Costs, General Conditions Costs, and Overhead and Profit, if any, as set forth in Section 10.6.1; (ii) Work performed on a time and material basis plus Overhead and Profit, if any, as set forth in Section 10.6.1; or (iii) unit costs agreed upon by Contractor and Subcontractor. If the additional Work is performed on a time and material basis, the Subcontractor will keep and present an itemized accounting for the Work performed based on daily time tickets executed by the Contractor, material and equipment invoices, and other supporting data substantiating the amount of the Change Order. All time and material costs will be limited to Direct Costs and General Conditions Costs, and the adjustment to the Contract Price will be broken down by Direct Costs, General Conditions Costs, Overhead and Profit.

**10.6.1 Overhead and Profit.** Adjustments to Subcontractor's Overhead and Profit on additive and deductive Change Orders will be limited to those percentages set forth below. The Subcontractor's Overhead and Profit will be calculated as a percentage of the subtotal of Direct Costs and General Conditions Costs associated with the Change Order.

**10%** for Subcontractor on its direct subcontractors and suppliers

**10%** for Subcontractor on self-performed trade work

**10%** maximum mark-up by Subcontractor's direct subcontractors on their changed work

**10.6.2 Payment, Performance, and Warranty Bonds.** If Subcontractor is required to provide payment and performance bonds, then all Subcontractor proposals for any and all potential change orders will include payment and performance bond costs at a premium not to exceed 100% of the Subcontractor's Direct Costs and General Conditions costs for Work. The subcontractor shall procure a warranty bond which guarantee shall remain in effect for a period of one (1) year from the date of acceptance of work by the City to guarantee the costs of repair and/or replacement of defective materials or defective workmanship.

**10.6.3 Bond Riders.** The following mentioned will be added to both payment and performance bonds as two separate bond riders (one for the payment another for the performance bond):

1) Rialto Water Services ("RWS, LLC")  
437 North Riverside Avenue Rialto CA  
92376

2) Rialto Utility Authority, a California joint powers authority,  
("RUA") 335 West Rialto Avenue

Rialto CA 92376

3) U.S. Bank Treasury Management Services, N.A.  
P.O. Box 70970, St. Paul, MN 55170-9581

**10.7 Deductive Changes.** The amount of credit for deductive Change Orders resulting in a net decrease to the Contract Price will be the actual net decrease based on the decrease of the Direct Costs pursuant to one of the pricing methods set forth in Section 10.6 plus a decrease in the Overhead and Profit per Section 10.6.1. When both additions and credits covering related Work or substitutions are involved in a proposed change, the Change Order will be determined on the sum of the net increase or decrease. There will not be a decrease in General Conditions Costs for deductive Change Orders unless the Subcontractor's Contract Time is reduced as a result of the change.

**10.8 Continued Performance.** No Work will be allowed to lag pending the adjustment through Change Order, but will be promptly executed as directed, even if a dispute arises.

**10.9 Failure to Reach Agreement.** Provided the requested change meets one of the conditions in Section 10.2, if the Contractor and Subcontractor cannot agree on the value of the proposed change order, or if the Contractor fails to approve or disapprove of the proposed change within 10 business days, the Subcontractor will proceed with the Work promptly upon receipt of a written Interim Work Directive from the Contractor and will perform the Work on a time and material basis per Section 10.6. If the Work is performed under an Interim Work Directive, the Subcontractor must submit all required data under Section 10.6 within 10 Days of completion of the Work covered by the Interim Work Directive in order to perfect its claim. Failure of the Subcontractor to provide the Contractor with notice of its claim and to submit the written claim within 10 Days of completion of the directed Work constitutes an agreement on the part of the Subcontractor that it will not be paid for the directed Work. No claim is allowed after the Work in question has been performed unless a written Change Order has been executed or timely written notice of claim has been made by the Subcontractor. Subcontractor will not be entitled to claim or to bring suit for damages, whether for loss of Profits or otherwise, on account of an omission of any item or portion of Work covered by the executed Change Order.

**10.10 Allowances.** Any allowance items included in the Contract Price set forth in Exhibit C are included in the Contract Price. When the allowance item is capable of firm pricing, the Subcontractor will submit a request for Change Order under Section 10.4 to adjust the Contract Price by the difference between the firm price and the amount of the allowance item.

**10.11 Omitted Work.** If the Subcontractor omits Work that is included in the Contract Documents, the Contractor will have the right to withhold from payments due or to become due to the Subcontractor an amount which, in the Contractor's opinion, is equal to the value of Work that was omitted until the Work is performed.

**10.12 Contract Time Impacts and Extended Costs.** The Subcontractor will not reserve a right to assert impact costs, extended job site costs, extended Overhead, constructive acceleration and/or actual acceleration beyond what is allowable under Article 8 and claimed in a

proposed change order under Article 10. No claims will be allowed for impact, extended Overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. Nothing contained in this Section will be construed as restricting the rights and remedies of Subcontractor in violation of Civil Code section 2782. If this provision is determined to conflict with Civil Code section 2782, this provision will be reformed to provide the greatest protection to the Contractor, Concessionaire, Authority and City under Applicable Law.

**10.13 Surety.** All changes, additions or omissions in the Work ordered in writing by the Contractor are part of the Work and will be performed and furnished in strict accordance with all of the terms and provisions of this Subcontract and the other Contract Documents. The Subcontractor will keep its surety, if any, informed of all modifications to this Subcontract. The obligations of Subcontractor's surety are not to be reduced, waived or adversely affected by the issuance of Change Orders even if the Contractor fails to inform the surety of the Change Order(s) and the Contractor will not be required to obtain consent of any surety to any Subcontract modifications.

## **11. PAYMENTS**

**11.1 Progress Payments.** The Contractor will make monthly progress payments on all undisputed Work within 45 days after approval of Subcontractor's certified application for payment that was properly submitted pursuant to the Contract Documents. Each application for payment will include a completed AIA G702 cover sheet, AIA G703 schedule of values or similar forms approved by Contractor, statutory conditional waivers and release of claims (see Exhibit I) for all amounts included in the application for payment, and all other reasonably requested back-up.

**11.1.1 Schedule of Values.** The schedule of values will allocate the entire Direct Costs among the various portions of the Work except that the Subcontractor's General Conditions Costs, Overhead and Profit will be carried on separate line items. A draft schedule of values must be submitted to the Contractor by the 20th day of each month in order to be included in the monthly billing cycle.

**11.1.2 Evaluation of Application for Payment.** Subcontractor will submit each application for payment to the Contractor by the 20<sup>th</sup> day of each month for review and approval. The approval of an application for payment is subject to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to Final Completion, and to specific qualifications expressed by the Contractor. The Contractor is entitled to rely on the accuracy and completeness of the information furnished by the Subcontractor and approval will not be deemed to represent that any examination, audit, or arithmetic verification of the documentation submitted with the Subcontractor's application for payment has been made or that Contractor has verified that the Work is in accordance with the Contract Documents. Contractor will process an invoice for payment (and pay within the time set forth in Section 11.1) or provide initial grounds for challenging Subcontractor's application for a progress payment within ten (10) business days from the date the application for such application payment was received by Contractor.



11.1.3 Retention. The Contractor will withhold five percent (5%) retention on the entire amount of the monthly application for payment. Retention will be withheld until the Project achieves Final Completion.

11.1.4 Change Orders. Applications for payment may include requests for payment on account of properly authorized changes in the Work.

11.1.5 Stored Materials. Stored materials may be included in the application for payment provided the materials are properly stored in accordance with Section 5.14.

11.1.6 Stop Payment Notices and Claims. By submitting an application for payment, the Subcontractor warrants that all Work included in the application for payment has been performed in accordance with the Contract Documents and that title to all Work covered by an application for payment will pass to the Authority no later than the time of payment and to the best of the Subcontractor's knowledge, information, and belief, will pass to the Authority free and clear of all stop payment notices, claims, security interests, or encumbrances. Subcontractor will provide executed statutory conditional waivers and release of claims (see Exhibit I) for all amounts included in the application for payment.

11.1.7 Subcontractor Payment to Tier Subcontractors and Suppliers. Subcontractor will pay amounts due to its subcontractors, consultants and suppliers no later than seven (7) business days after receipt of payment from Contractor.

11.1.8 Contractor Payment to Tier Subcontractors and Suppliers. The Contractor will not have an obligation to directly pay any of Subcontractor's tier subcontractors, consultants or suppliers for Work performed unless required by Applicable Law. However, if the Contractor is aware that a stop payment notice has been given or has reason to believe that the Subcontractor is not paying its subcontractors and suppliers, the Contractor may make payment of sums due to Subcontractor through joint check or pay those subcontractors and suppliers directly and withhold those payments from Subcontractor.

**11.2 Final Payment.** Upon Final Completion, the Subcontractor will submit a final payment application. If items remain to be completed at that time, then the Subcontractor in conjunction with the Contractor will create a punch list pursuant to Section 5.26. The Contractor will continue to withhold the five percent (5%) retention until Final Completion of the Project, including completion of all punch list items. Upon Final Completion of the Project, final payment of the retention, if unencumbered, will be paid to the Subcontractor within three (3) business days following Contractor's receipt of final payment.

11.2.1 Contract Price Reduction. Upon Final Completion of the Project, the Contractor may reduce the Contract Price to reflect costs charged to the Subcontractor, back-charges, or payments withheld pursuant to the Contract Documents.

11.2.2 Evidence. Before issuance of final payment, Contractor may request satisfactory evidence that (i) all payrolls, materials bills and other indebtedness connected with the Work have been paid or otherwise satisfied; (ii) insurance required by the Contract Documents will remain in force after final payment and will not be canceled or allowed to expire until at least 30 Days prior written notice has been given to the Contractor; (iii) the Subcontractor

knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents; (iv) the surety, if any, has consented to final payment; (v) Project commissioning has occurred and the Contractor has received all close-out documents required under Section 5.28 and as required by the Contract Documents; and (vi) other data establishing payment or satisfaction of obligations, such as statutory unconditional releases and waivers of claims (see Exhibit I), security interests or encumbrances arising out of this Subcontract have been received. If any of Subcontractor's tier subcontractors refuse to furnish a release or waiver required by the Contractor, the Subcontractor will furnish a bond to indemnify the Contractor against stop payment notices under Section 11.2.3, provided that the tier subcontractor's work is Work for which the Subcontractor has been paid by the Contractor.

**11.2.3 Stop Payment Notice.** If any claim or stop payment notice is made or filed against the City, Authority, Concessionaire, Contractor, Contractor's payment bond, or the Project funds by any person claiming that the Subcontractor or any of its subcontractors or suppliers has failed to make payment for any labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, or if at any time there is evidence of nonpayment or of any claim or stop payment notice for which, if established, the Contractor or its payment bond might become liable and that is chargeable to the Subcontractor, the Contractor may, in its discretion, allow the Subcontractor to file a bond in an amount equal to 125% of the claim stated in the stop payment notice pursuant to Applicable Law and the Contractor will release the funds to the Subcontractor. If the Contractor does not permit the Subcontractor to post a bond, the Contractor will have the right to retain from any payment then due or thereafter to become due an amount that it deems sufficient to (1) satisfy, discharge and/or defend against any claim or stop payment notice action that may be brought or judgment, which may be recovered; (2) make good any nonpayment, damage, failure or default; or (3) compensate the Contractor for the claim. The Subcontractor will indemnify and hold each Indemnified Party harmless against any and all losses, liability, damages, costs and expenses, including legal fees and disbursements, which may be sustained or incurred by any or all of them in connection with the Subcontractor's failure to timely and properly make payments to its subcontractors and suppliers. The Contractor will have the right to withhold from Subcontractor a reasonable amount for the foregoing purposes. If the amount is insufficient to cover the amount of the claim, the Subcontractor will be liable for the difference and will make payment to the Contractor upon 30 Days written notice.

**11.3 Payment Not Acceptance of Work.** Approval of an application for payment (final or otherwise) or partial or entire use or occupancy of the Project by the Contractor, Concessionaire, or Authority will not be used as conclusive evidence that the Work was properly performed or constitute acceptance of Work that is not in accordance with the Contract Documents.

**11.4 Payments Withheld.** In addition to the Subcontractor's retention under Section 11.1.3, the Contractor may withhold payments due to the Subcontractor as may be necessary to cover (i) claims to the extent described in Section 11.2.3; (ii) defective Work not remedied; (iii) failure of Subcontractor to make proper payments to its subcontractors, consultants or suppliers; (iv) completion of the Subcontract if there exists a reasonable doubt that the Work can be completed for the balance then unpaid; (v) damage to a Separate Contractor or third party caused by Subcontractor; (vi) amounts that may be due to the Contractor for claims against

Subcontractor; (vii) failure to provide Contractor with timely updates under Section 8.2.1 and 8.2.2; (viii) clean- up of Subcontractor's work area; (ix) failure of the Subcontractor to comply with requirements of the Contract Documents; (x) disputed amounts in the application for payment; and (xi) fines or penalties assessed against the Contractor as a result of the acts or omissions of Subcontractor or those for whom it is responsible.

**11.5 Waiver of Claims.** Acceptance of final payment by the Subcontractor will constitute a waiver of claims by Subcontractor and its subcontractors and suppliers except for those previously made in writing and identified by the Subcontractor as unsettled at the time of final application for payment.

## **12. HAZARDOUS MATERIALS.**

**12.1 Regulated Substances.** If Regulated Substances or materials (of a type legally requiring employer to notify its employees) are being used or stored on the Project site by the Subcontractor, its subcontractor, or anyone directly or indirectly employed or retained by them, the Subcontractor will immediately provide written notice of the chemical composition to the Contractor in sufficient time to permit compliance with the law by the Contractor and Separate Contractors at the Project site. If the Subcontractor encounters a material reasonably believed to be a Regulated Substance on site, the Subcontractor will immediately stop Work in the affected area and report the condition to the Contractor in writing. Work will resume in the affected area once the Regulated Substance is rendered harmless or removed, as determined by a licensed laboratory retained by the Contractor.

**12.2 Indemnification.** To the fullest extent permitted by law, Subcontractor agrees to indemnify, defend, and hold harmless the Indemnified Parties from and against any and all loss, injury, claims, actions, proceedings, liability, damages, fines, penalties, cost and expenses, including legal fees and disbursements: (i) caused by the negligent mishandling by Subcontractor or its subcontractors and suppliers of any Regulated Substances to the extent the materials or substances were brought onto the Project site by the Subcontractor, its tier subcontractors or material suppliers; (ii) to the extent that Subcontractor was aware of an Environmental Condition and expressly accepted remediation as part of its Work under this Subcontract and then negligently performs such remediation services; or (iii) to the extent that the Subcontractor, or any of its employees, subcontractors or suppliers, exacerbates a pre- existing Environmental Condition, or renders the pre-existing Environmental Condition more difficult or more expensive to investigate or remediate after obtaining actual knowledge as to the nature, location and extent of the pre-existing Environmental Condition; or (iv) to the extent that the Subcontractor or any of its subcontractors takes action to disturb the pre-existing Environmental Condition after discovery of such condition, and in taking such action fails to exercise reasonable care consistent with Prudent Industry Practices and in accordance with Applicable Law. Defense obligations are set forth in Section 14.3.

## **13. INSURANCE AND BONDS**

**13.1 Required Insurance.** The Subcontractor agrees that it will maintain insurance, and will cause its subcontractors and consultants to maintain such insurance, and abide by the

Contractor's insurance requirements, as specified in Exhibit G and Schedule R.9 of the Prime Contract. This Section 13.1 will survive the completion or earlier termination of this Subcontract.

**13.2 Waiver of Subrogation.** Subcontractor waives all rights against Contractor, City, Authority, Concessionaire, and Separate Contractors and its own subcontractors for loss or damage to the extent reimbursed by any property or equipment insurance applicable to the Work, except such rights as Subcontractor may have to the proceeds of the insurance. If any applicable policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of those policies will cause them to be endorsed or obtain consent.

**13.3 Builder's Risk.** The Concessionaire will be providing commercially reasonable builder's risk insurance for the Project on a replacement cost basis. This insurance will cover the interests of City, Authority, Contractor, Subcontractor and tier subcontractors in the Project. If there is a covered loss affecting the Work, Contractor will pay Subcontractor its just shares of insurance proceeds received by Contractor, and Subcontractor by appropriate written agreements will require its tier subcontractors to make payments to their subcontractors in similar manner.

**13.4 Option for Subcontractor Bonds.** If Contractor notifies Subcontractor in writing any time prior to the notice to proceed with the Work that Contractor will require Subcontractor to provide payment and performance bonds, then Subcontractor will furnish a payment and a performance bond to the Contractor, each in the amount requested by Contractor, within 10 business days of Contractor's notice. The Contract Price will be adjusted by Change Order for the amount of the bond premium based on the percentage shown in Section 10.6.2. The surety supplying the bonds must be an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business as a surety in the State of California, and be listed in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department except that the surety must have no less than a A-IX rating by A.M. Best. All bonds shall be in the form acceptable to Contractor. All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act. Failure to furnish the required payment and performance bonds to the Contractor within the 10 business day time period constitutes a default under this Subcontract and the Contractor will have all of the rights and remedies provided under this Subcontract and afforded by law.

**13.4.1 Payment of Subcontractors.** Without limiting the responsibilities of Subcontractor and its surety (if any) under the terms of this Subcontract, Subcontractor and its surety (if any) agree to promptly pay all lawful claims of the Subcontractor's tier subcontractors, material men, laborers, persons, firms or corporations for labor or services performed or materials, supplies, machinery equipment, rentals, fuels, oils, tools, appliances, insurance and other items furnished, used, or consumed in connection with the prosecution of the Work including Change Orders, and will indemnify and save harmless the Indemnified Parties from and against all liability, loss, damage and expense, including interest, costs and attorneys' fees, which the Indemnified Party may sustain by reason of Subcontractor's or its surety's failure to do so.

## **14. INDEMNIFICATION**

**14.1 Subcontractor's Performance.** To the fullest extent permitted by law and public policy of the State of California, but subject to Section 14.2, Subcontractor will indemnify, protect, defend and hold harmless the Indemnified Parties and each of them, from and against any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, losses or liabilities, in law or equity, of every kind and nature whatsoever arising out of or in any way relating to (i) this Subcontract; (ii) actual or alleged acts or omissions by Subcontractor or any of its tier subcontractors, vendors, suppliers, employees, or persons for whom it is responsible, regardless of whether the acts or omissions are negligent; or (iii) the Work, including, but not limited to claims for:

14.1.1 Personal injury, including bodily injury, sickness or disease, or death to any persons, employees or agents of Subcontractor, any Indemnified Party, or any Separate Contractor, and/or damage to property of anyone (including loss of use) other than to the Work, caused or alleged to be caused in whole, or in part, by any actual or allegedly negligent act or omission of Subcontractor or anyone directly or indirectly employed by Subcontractor or anyone for whose acts Subcontractor may be liable regardless of whether the personal injury or property damage is caused in part by an Indemnified Party.

14.1.2 Penalties, fees and costs imposed on account of the violation of any Applicable Law, including CalOSHA violations, orders, citations, rules, regulations, standards, ordinances or statutes, caused by the act or omission of the Subcontractor or those for whom it is liable.

14.1.3 Failure to obtain necessary licenses for performance of the Work and infringement of any Intellectual Property rights (including copyright or patent) that are brought against Contractor, City, Authority or Concessionaire arising out of the Work.

14.1.4 Project claims or stop payment notices for labor performed or materials used or furnished to be used for the Work, including all incidental or consequential damages resulting to an Indemnified Party from stop payment notices provided Subcontractor received payment for the Work at issue.

14.1.5 Any vicarious liability, whether real or alleged, of Indemnified Parties, arising or alleged to arise from any negligent acts, errors or omissions of Subcontractor or any of its tier subcontractors or consultants.

14.1.6 Failure of Subcontractor to comply with the insurance provisions set forth in Article 13 and Schedule R.9 of the Prime Contract.

14.1.7 Claims by third parties, including Separate Contractors, alleging or arising, in whole or in part, out of actual or alleged acts or omissions by Subcontractor, any of its subcontractors or suppliers (regardless of tier), and/or any of its or their respective directors, officers, employees, agents, partners, affiliates, subsidiaries, parents, successors and assigns (including without limitation, claims regarding alleged or actual delays, failure to cooperate or coordinate, damage to work performed by others, interferences, disruption, etc.).

14.1.8 Any violation or infraction by Subcontractor of any Applicable Law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees including, but not limited to, the use of Contractor's or others' equipment, hoists, elevators, or scaffolds.

14.1.9 Indemnification for Regulated Substances and Environmental Conditions pursuant to Section 12.2.

The specific listing in Subsections 14.1.1 through 14.1.9 will not in any way limit Subcontractor's agreement to indemnify any Indemnified Party for all acts and omissions of the Subcontractor and anyone for whom Subcontractor is responsible in the performance of the Work and other obligations under this Subcontract including the amount or type of damages, compensation or benefits payable by or for Subcontractor under the Workers' Compensation Acts, disability benefit acts or other employee benefit acts. The obligation to defend and indemnify will apply even if Subcontractor is not actively involved in the events that give rise to the claims for which a defense or indemnity is sought.

**14.2 Exceptions.** The defense and indemnification provisions in this Article 14 will extend to claims occurring after this Subcontract is terminated as well as while it is in force. Such provisions apply regardless of any passive negligence of any Indemnified Party. Subcontractor, however, will not be obligated under this Subcontract to indemnify an Indemnified Party for claims arising from that Indemnified Party's sole or active negligence or willful misconduct. Subcontractor will not be required to provide a defense or to indemnify Contractor to the extent of Contractor's own active negligence, provided that Subcontractor will continue to indemnify Contractor and provide a defense to the extent and in proportion to the degree that the Contractor is not actively negligent. Nothing herein will be construed to impose any obligation in conflict with the provisions of Civil Code section 2782, 2782.05, and/or Insurance Code section 11580.04. In the event of a conflict, the provision conflicting with Civil Code section 2782, 2782.05, and/or Insurance Code section 11580.04 will be reformed to provide the greatest protection to the Indemnified Parties allowed under the law.

**14.3 Duty to Defend.** The Subcontractor will:

14.3.1 At Subcontractor's own cost, expense and risk, defend all claims as required in Section 14.1 that may be brought or instituted by third persons including, but not limited to, Governmental Agencies or employees of Subcontractor, against the Indemnified Parties;

14.3.2 Pay and satisfy any judgment or decree that may be rendered against the Indemnified Parties arising out of a claim covered by Section 14.1; and/or

14.3.3 Reimburse the Indemnified Parties for any and all legal expense incurred by any of them in connection with the claim or in enforcing the indemnity granted in this section.

The duty to defend will apply, and Subcontractor will be required to furnish a defense, notwithstanding that there has not yet been an adjudication or finding of liability on the

part of the Subcontractor or any Indemnified Party, or as to whether an exception to provide a defense or indemnity may apply.

#### **14.4 Limitations of Liability.**

14.4.1 Subject to the exceptions set forth below, the Subcontractor's obligations and liability under this Subcontract (whether arising under any surety bond, breach of contract, tort, strict liability, or any other theory of law or equity), relating to the performance by Subcontractor of its Work with respect to the Project shall not exceed the Contract Price. The foregoing limitation shall not restrict the amount, if any, recoverable up to the minimum required limits under any insurance policy or policies maintained pursuant to the terms of this Subcontract (and listed in Exhibit G) providing coverage to Subcontractor or any of Subcontractor's subcontractors or vendors. Notwithstanding anything to the contrary, the foregoing limitation of liability shall not apply to, or include:

- a) Subcontractor's indemnification obligations hereunder to the extent occurring in respect of third-party claims;
- b) The proceeds of any surety bonds; or
- c) Costs, liabilities or obligations that arise from the gross negligence, willful misconduct, or fraud of Subcontractor.

**14.4.2 Consequential Damages.** UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH DAMAGES ARISE UNDER BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER THEORY OF LAW OR EQUITY. THE FOREGOING EXCLUSION (I) SHALL NOT LIMIT THE PROCEEDS PAYABLE UNDER THE TERMS OF ANY INSURANCE (INCLUDING ANY SELF-INSURANCE) MAINTAINED PURSUANT TO THE TERMS OF THIS SUBCONTRACT; (II) SHALL NOT LIMIT DAMAGES WHICH ARE FINES, PENALTIES OR OTHER CHARGES ASSESSED BY A RELEVANT AUTHORITY; (III) SHALL NOT BE CONSTRUED TO LIMIT RECOVERY UNDER ANY INDEMNITY FOR THIRD PARTY CLAIMS; (IV) SHALL NOT LIMIT LOSSES OR DAMAGES WHICH ARE PAYABLE BY CONTRACTOR TO CONCESSIONAIRE, AUTHORITY, OR CITY UNDER THE O&M AGREEMENT AND FOR WHICH SUBCONTRACTOR IS LIABLE UNDER THIS SUBCONTRACT; AND (V) SHALL NOT LIMIT ANY LIQUIDATED DAMAGES EXPRESSLY AGREED IN THIS SUBCONTRACT.

**14.5 Survival.** This Article 14 will survive Final Completion of the Project or termination of this Subcontract.

#### **15. WARRANTY AND GUARANTEES**

**15.1 Warranty.** Subcontractor expressly warrants that all Work will be of appropriate quality, free from defects, and conforming to the Contract Documents and Applicable Laws. Subcontractor's warranty excludes damage due to improper or insufficient maintenance,

improper operation, or normal wear and tear under normal usage. Subcontractor will procure all tier subcontractor and manufacturer express warranties required under the Contract Documents on Contractor's behalf and will transmit the warranties to the Contractor as part of its close-out documentation. This provision will survive Final Completion of the Project or termination of this Subcontract.

**15.2 Subcontractor General Warranty.** Subcontractor warrants that the services provided by Subcontractor will be performed in a professional and workmanlike manner with a degree of care, skill, and competence that is consistent with the then generally accepted industry standards reasonably expected of similar types of engagements and the work will conform to the deliverables specified within the Subcontract.

**15.3 Product Warranties.** Subcontractor warrants to provide all software and products in new or like-new condition, of good quality, and reasonably free from defect. Where available, Subcontractor's supplier warranties shall apply to all software and products furnished by Subcontractor's third-party suppliers under this Subcontract. Nothing in this Subcontract shall be considered to amend, extend, enhance, or limit the supplier warranties offered to Subcontractor unless such change has been expressly offered by Subcontractor's supplier in writing and incorporated into the Subcontract. Subcontractor will transmit the warranties to the Contractor as part of its close-out documentation.

**15.4 Meter Services Limited Warranty.** In addition to the other warranties set forth in Section 15.4, Subcontractor warrants the quality of workmanship and services provided herein related to the installation of water meters under this Subcontract to be reasonably free from defects within twenty-four (24) linear inches of piping and fittings from the meter connection for ("Meter Services Limited Warranty"). The Meter Services Warranty shall not apply to the extent that warranty claims are caused by an Existing Fault; (ii) work performed by a third party not hired or retained by the Subcontractor, including without limitation any negligent acts or omissions of such third parties; (iii) tampering, damage, or vandalism to the Work caused by third parties, or (iv) Uncontrollable Circumstances. Unless otherwise expressly provided herein, with respect to the Meter Services Limited Warranty, Subcontractor does not warrant that the operation of the services will be uninterrupted or error free. Subcontractor does not warrant against damage(s) or defect(s) to household plumbing, fixtures, water heaters, water softening or filtration systems, Sloan valves, appliances, water pressure, or other related appurtenances that rely on the water services connected to the water meter. Subcontractor does not warrant defective meters used to complete the meter exchange service, and any such meter will be subject to the manufacturer's product warranty, and all product warranty claims will be facilitated through Subcontractor with the appropriate product supplier or manufacturer.

**15.5 Correction of Warranted Work.** With respect to meter exchanges, for a period of one (1) year commencing from the date of meter exchange or the date of repair of nonconforming Work performed pursuant to Section 5.22, whichever is later, and, with respect to all other Work, for one (1) year from Final Completion, or for longer periods specified in the Contract Documents for certain equipment manufacturers or suppliers, the Subcontractor will provide all labor, materials, and equipment necessary to promptly repair or replace any and all deficient, defective or non-conforming Work, provided that the Work was properly maintained and used, together with any other Work that is damaged during repair or replacement, without



expense to the Contractor (including any additional re-inspection fees). If the Contractor's operations or use are impaired by the defective or deficient Work or its correction, the Subcontractor shall use such overtime labor and timesaving procedures as the Contractor may require at the Subcontractor's expense. Establishment of the applicable period for correction of Work relates only to the Subcontractor's express warranty on workmanship and specific obligation to correct defective or non-conforming Work, and has no relationship to statute of limitations periods for legal claims arising from this Subcontract.

15.5.1 The Subcontractor shall provide on-site troubleshooting services within five (5) days after receipt of notice in writing from Contractor of a problem with the Work. Contractor is hereby authorized to repair any defective or non-conforming Work, and the Subcontractor and its surety (if any) shall be liable for the cost thereof, if 10 days (or longer, if reasonably necessary and accepted by the parties in writing) after giving of such notice to the Subcontractor, the Subcontractor has failed to make or undertake the repairs with due diligence. In case of emergency, where, in the opinion of Contractor, delay could cause serious loss or damage, repairs may be made without notice being sent to the Subcontractor, and the expense in connection therewith shall be charged to the Contractor, and its surety (if any) shall be liable for the cost thereof.

15.5.2 Also, as part of the close-out documentation for Final Completion, the Subcontractor shall execute and submit a completed "Warranty Form" in the format included in Exhibit J, for the Work, and any portion of the Work possessed. The Warranty Form shall be submitted prior to Final Completion.

15.5.3 Prior to the expiration of the work correction period, Contractor reserves the right to hold a meeting and require the attendance of the Subcontractor. The purpose of the meeting is to review warranties, bonds, and maintenance requirements, and determine required repair or replacement of defective items.

**15.6 Updated Information.** The Subcontractor shall direct all of its equipment suppliers and/or manufacturers to promptly provide to it and to Contractor any and all information concerning product defects or other problems and shall promptly forward to Contractor any such information received, whether before, during, or after the warranty period.

## **16. DOCUMENT RETENTION & EXAMINATION**

**16.1 Records.** The Subcontractor will keep full and detailed accounts and exercise controls as may be necessary for proper financial management under this Subcontract. The Contractor and Concessionaire will have the right during normal business hours to audit and copy the Subcontractor's documents related to this Project including, but not limited to, records, books, estimates, correspondence, instructions, drawings, receipts and invoices for materials, supplies and equipment, temporary facilities, etc., contracts, purchase orders, vouchers, memorandums, Change Orders and all substantiating documentation, certified payroll, and bid documents in order to evaluate accuracy and completeness of Subcontractor's billing. Should the audit disclose a material discrepancy from the payment applications or requirements of the Contract Documents, then Subcontractor will promptly repay Contractor all sums due and owing, and Subcontractor agrees to remit payment of all monies due and owing no later than 30 Days

after receipt of notice or, at Contractor election, Contractor may deduct the sums against any monies due to Subcontractor. The Subcontractor will preserve all Project records for a period of at least 10 years after final payment or termination, or for such longer period as may be required by law. The Subcontractor will incorporate Article 16 auditing provisions into all its subcontracts for the Project and require its subcontractors to keep detailed and accurate accounting records for their portion of the Work for a period of at least 10 years.

## **17. DISPUTE RESOLUTION PROCEDURE**

**17.1 General. “Disputes”** are disputes, claims, or other matters in question between the Subcontractor and the Contractor arising out of or connected to this Project, including breach of contract. All Disputes will be resolved as provided in this Article 17, which article will survive Final Completion of the Project or termination of this Subcontract.

**17.2 Notice and Informal Resolution.** Either party may initiate the dispute resolution procedures stated in this Article by providing the other party with written notice of a potential Dispute which specifies in reasonable detail the basis of the Dispute and the remedy sought. Either party must give notice of a potential Dispute to the other party within fourteen (14) Days following the occurrence of the event or condition or circumstance giving rise to the potential Dispute or else all claims related to the Dispute are waived. Under no circumstances will a claim be made if it is barred by applicable statutes of limitation or repose. The authorized representatives of the parties will meet within seven (7) Days of receipt of a notice of potential Dispute and make good faith efforts to resolve it.

**17.3 Senior Executive Meeting.** If the authorized representatives of the parties are unable to resolve the Dispute, either party may request a meeting of senior executives of each party for the purpose of resolving the Dispute. Each party’s senior executive will review the Dispute in detail and then meet face-to-face to discuss and use good faith efforts to resolve the matter (“**Senior Executive Meeting**”). The Senior Executive Meeting will occur no later than 14 Days after the request made by a party for the meeting, unless the parties agree upon a longer period of time. The parties will promptly designate a senior executive for purposes of this section. Any party may, if necessary, designate by notice a different senior executive at any time during the course of the Project. The Senior Executive Meeting will be for the express purposes of (a) exchanging and reviewing all pertinent non-privileged documents and information relating to the matters and issues in the Dispute; (b) freely and candidly discussing each party’s position; and (c) reaching agreement upon a reasonable, compromise resolution of the Dispute. If a negotiated settlement is reached, the terms of the settlement will be recorded in a written Change Order (prior to Final Completion) or a written settlement agreement (after Final Completion) signed by the parties.

**17.4 Binding Arbitration.** If the senior executives cannot resolve the Dispute as set forth above, the matter must be resolved through arbitration in accordance with the following arbitration procedures:

**17.4.1 Joinder.** The Prime Contract requires binding arbitration of disputes arising under it that are not informally resolved. Each of Contractor and Subcontractor consent to the joinder of any other parties, including Concessionaire, Authority or City, to the arbitration if

the Disputes under this Subcontract and claims of other parties arise from the same, substantially the same, or interrelated facts, issues or incidents, or where separate arbitration of disputes creates risk of inconsistent awards or results. The Subcontractor has no right to join in proceedings between the Contractor and the Concessionaire unless the Contractor consents to the joinder.

17.4.2 Location. The arbitration shall take place at Los Angeles, California, or at such other location as the Contractor and Subcontractor may agree, unless the Dispute is being arbitrated as a part of a larger arbitration under the Prime Contract, in which case the arbitration of the Dispute will be at the location of the arbitration proceeding under the Prime Contract. The arbitration of the Dispute will be in accordance with the terms of this Section and the Arbitration Rules.

17.4.3 Arbitration Notice. Upon the occurrence of a Dispute, and failure of the parties to resolve the dispute through the informal processes described above, either party may initiate the arbitration process by giving written notice to the other parties (“Arbitration Notice”) or as set forth in the Arbitration Rules.

17.4.4 Appointment of Arbitrator. Within 30 days of the Arbitration Notice, the Contractor and Subcontractor will agree upon the appointment of a single mutually approved arbitrator. The arbitrator shall be a retired judge from the California Superior Court or a retired judge or magistrate judge from the United States District Court for the Southern District of California. Such retired judge may be, but is not required to be, affiliated with a private dispute resolution service such as the American Arbitration Association or JAMS. No party to the proceeding may propose a retired judge who previously served in a judicial post in San Bernardino County, California. If the Contractor and Subcontractor are the only parties to the arbitration and are unable to agree upon a single arbitrator within the 30-day period, then the Contractor and Subcontractor will each designate an arbitrator, and the arbitrators so designated by the Contractor and Subcontractor will, within 15 additional days, agree upon a third independent arbitrator. If the Dispute is being resolved under joinder to an arbitration under the Prime Contract, then the arbitrator(s) will be the arbitrator(s) selected pursuant to the Prime Contract. The parties shall mutually cooperate to retain the arbitrator(s) upon terms and conditions mutually satisfactory to the parties as soon as practicable after selection of the arbitrator(s).

17.4.5 Fees. The fees of the arbitrator(s) will be split equally among the parties unless the arbitrator(s) award(s) fees to the prevailing party as set forth in Section 17.4.7.

17.4.6 Discovery. For a period of 90 days following the appointment of the arbitrator(s) (or such longer period as the parties may mutually agree or the arbitrator(s) may direct), the parties to the arbitration will have the right to engage in discovery relevant to the matters in dispute pursuant to the discovery rules of the California Code of Civil Procedure.

17.4.7 Arbitration Rules. The arbitrator(s) will decide disputes pursuant to the Arbitration Rules in force at the time of the arbitration. The arbitrator(s) will be required to make a final determination, not subject to appeal, within 120 days from the designation of the arbitrator(s), and the parties to the arbitration will be bound by the terms of the final

determination. The determination by the arbitrator(s) will be made in writing and will contain written findings of fact, and may be specifically enforced by a court of competent jurisdiction. The arbitrator(s) will determine a fair and equitable allocation of the reasonable expenses of the parties involved in the arbitration that are incurred in connection with the resolution of any dispute hereunder. Each party to the arbitration will bear its own attorney's fees, unless the arbitrator(s) determines that the nature of the action or defense of the losing party was frivolous, in which event the arbitrator will determine a fair and equitable attorney's fee to be paid by the losing party or parties to the prevailing party or parties.

17.4.8 Independence. The arbitrator(s) will retain independence of all parties to the arbitration, and no party shall engage or attempt to engage the services of the arbitrator(s) for any other purpose without prior written notice to the other parties.

**17.5 Continuation of Work.** Subcontractor must diligently continue to prosecute its Work, including Work that is disputed between Contractor and Subcontractor, and Contractor must continue to make all undisputed payments to Subcontractor, regardless of the existence of a Dispute or the pendency of dispute resolution proceedings between Subcontractor and Contractor.

**17.6 Pass-through to Subcontractors.** The Subcontractor will cause the provisions of this Article 17 to be incorporated in the subcontracts with subcontractors of any tier.

## **18. TERMINATION**

**18.1 Contractor for Cause.** The Contractor may terminate this Subcontract upon not less than seven (7) Days written notice and an additional twenty-one (21) Days to commence curing if the Subcontractor is in material breach of any term or provision of this Subcontract; provided that if the material breach is reasonably not capable of being cured within such period, then the effect of the termination shall be immediate; provided, further that the cure period may be extended by the parties by written agreement as reasonably necessary to allow for Dispute Resolution Procedure described in Section 17. The notice will set forth the reason for termination and the effective date of termination after the period to cure. If the Contractor terminates this Subcontract for cause, the Subcontractor will not be entitled to any further payments until Final Completion of the Project. The Subcontractor will be entitled to payment for Work rendered through the effective date of termination upon Final Completion of the Project, less any amounts the Contractor expended for others to perform the Work set forth in this Subcontract or paid under other contracts as a result of the Subcontractor's breach. Nothing stated in this paragraph will prevent the Contractor from pursuing and recovering any damages allowed by law from Subcontractor arising out of the breach of this Subcontract. If a duly appointed arbitrator deems that termination of the Subcontractor was wrongful or otherwise improper, the termination will be deemed a termination for convenience under Section 18.2.

**18.2 Termination By Contractor For Convenience.** The Contractor may terminate this Subcontract for convenience upon seven (7) Days written notice at any time. The notice will state the extent and effective date of termination. The Subcontractor will be entitled to receive (i) payment for all Work properly completed through the effective date of termination; (ii) the reasonable cost incurred by Subcontractor in securing and protecting the Work in progress

against loss, damage, or deterioration; and (iii) no more than two (2) weeks of demobilization costs, plus any cancellation charges of suppliers, and other special costs approved by Contractor in advance. Subcontractor will not be entitled to receive compensation for the portion of the Work not performed or any lost profits. All disputes over termination will be resolved under Article 17.

**18.3 Termination by Subcontractor for Cause.** The Subcontractor may terminate this Subcontract upon fourteen (14) Days written notice and an additional twenty-one (21) Days opportunity to cure, if the Contractor fails to make payment to the Subcontractor in accordance with this Subcontract or if the Project is suspended and all labor is ceased for more than 60 days provided that the suspension was not caused or due to any fault or neglect of the Subcontractor or those for whom it is responsible; provided that if the material breach is reasonably not capable of being cured within such period, then the effect of the termination shall be immediate; provided, further that the cure period may be extended by the parties by written agreement as reasonably necessary to allow for Dispute Resolution Procedure described in Section 17. The Subcontractor will be compensated for Work performed through the effective date of termination.

## **19. MISCELLANEOUS PROVISIONS**

**19.1 Governing Law.** This Subcontract will be governed and construed in accordance with the laws of the State of California without regard to the principles of the conflict of laws. Both parties agree that any enforcement of a judgment or alternative dispute award will be filed with the appropriate court of law in San Bernardino County.

**19.2 Notice.** Any notice required to be given by this Subcontract will be in writing and deemed effective upon: (a) the date of personal delivery, if received by the addressee before 5:00 p.m. local time on a business day; (b) three (3) business days after being sent via registered or certified mail with a return receipt requested; or (c) one (1) business day after being sent by overnight commercial courier providing next-business-day delivery. Notices will be addressed to the following respective parties:

**Contractor:**

Veolia Water West Operating Services, Inc.  
437 N Riverside Ave.  
Rialto, CA 92376  
Attn: Chandrasekar Venkatraman

With a copy to:

Veolia Water West Operating Services, Inc.  
100 Federal Street, 3rd Floor  
Boston, MA 02110  
Attn: General Counsel

**Subcontractor:**

Aqua-Metric Sales Company  
4050 Flat Rock Drive  
Riverside, CA 92505  
Attn: Tommy Thirkettle

**19.3 Effective Date.** The Effective Date set forth above is the date as to which all Contract Documents have reference for purposes of coordination of their meaning and effect. Any Work commenced and any payments made pursuant to an award or letter of intent prior to the execution hereof will be deemed to have been done and paid after the Effective Date and governed by the terms of the Contract Documents.

**19.4 Survival.** The warranty, liability, indemnity, insurance, audit, and ownership of Work Product/Intellectual Property provisions of this Subcontract, along with the provisions of this Article 19, shall survive its termination or final settlement. The provisions of this Subcontract relating to bonds, termination and settlement of disputes and claims shall survive its termination, but not its final settlement.

**19.5 Remedies.** The remedies reserved for Contractor herein shall be cumulative and additional to any other or further remedies provided in law or equity.

**19.6 Severability.** The terms and conditions of this Subcontract will be interpreted in accordance with their plain meaning, and not strictly for or against either party. Any rule of construction or interpretation to the contrary will be of no force or effect with respect to this Subcontract. If a duly appointed arbitrator finds any term or provision of this Subcontract to be void or unenforceable for any reason, such term or provision will be deemed severed, and the remainder of the Subcontract will remain in full force and effect according to its terms and provisions, to the maximum extent permitted by law.

**19.7 Commencement of Statute of Limitations.** Causes of action between the parties to this Subcontract pertaining to acts or failures to act will be deemed to have accrued and the applicable statutes of limitations will commence to run not later than either the date of Final Completion for the Project, or the date of a recorded notice of completion, whichever is later.

**19.8 Waiver.** No action or failure to act by the Contractor or Subcontractor waives any right or duty afforded them under this Subcontract, nor will such action or failure to act constitute approval of or acquiescence in a breach of this Subcontract, unless specifically agreed to in writing.

**19.9 Assignment of Contract.** The Contractor and Subcontractor, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Subcontract and to the partners, successors, assigns and legal representatives of the other party with respect to all covenants of this Subcontract. The Subcontractor may not assign this Subcontract without the written consent of the Contractor, and any unconsented assignment is void. This Subcontract may be assigned, without the consent of Subcontractor, to the Concessionaire or an assignee or designee of the Concessionaire including the City, Authority or an assignee or designee of the Secured Parties if the Prime Contract is terminated, contingent upon the Contractor, Concessionaire, or such assignee or designee providing written notice to

Subcontractor that the Concessionaire or such assignee or designee is taking this Subcontract by assignment.

**19.10 Confidentiality and Non-Disclosure.** During the performance of the Work, and for 10 years after Final Completion, Subcontractor shall not release information regarding the Work, except for information that is in the public domain, to any person. Noncompliance by the Subcontractor or others under the control or direction of the Subcontractor with this obligation shall be sufficient cause for Contractor immediately to terminate this Subcontract for cause without prior written notice, and shall entitle Contractor to injunctive and other relief from a court of competent jurisdiction. In addition, Subcontractor agrees to comply with any more restrictive confidentiality requirements imposed by Concessionaire in the Prime Contract. Subcontractor acknowledges that certain information disclosed by Subcontractor and in possession of Contractor, Concessionaire, Authority or City may be subject to disclosure under the Public Records Act (California Government Code Section 6250 et seq.).

**19.11 Modifications.** All modifications to the terms and conditions set forth in this Subcontract must be in writing and signed by an authorized representative of each party.

**19.12 Counterparts.** This Subcontract may be executed in counterparts, each of which will be deemed an original, and all of which when taken together will constitute one instrument.

**19.13 Section Headings.** The section headings contained in this Subcontract are for reference purposes only and will not in any way affect the meaning or interpretation of this Subcontract.

**19.14 Time is of the Essence.** Time is of the essence with respect to each and every provision of the Contract Documents.

**19.15 Legal Citations.** Legal citations to statutory requirements are included in the Subcontract and the General Conditions to the Subcontract for convenience and an omission of any statutory requirement will not relieve the Subcontractor or its subcontractors from compliance with the law.

**19.16 State Licensing Requirements.** 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 (4) 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, CA 95826. THE CONTRACTOR MUST HAVE A CLASS "A" CONTRACTOR'S LICENSE.

**19.17 Entire Agreement.** The Subcontract and Contract Documents constitute the entire agreement between the Contractor and the Subcontractor and supersede any and all

contemporaneous or prior oral and written negotiations, representations, or agreements by the parties with respect to the subject matter of this Subcontract.



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

**Contractor**  
**Veolia Water West Operating Services, Inc.**

**Subcontractor**  
**Thirkettle Corporation**

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

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

Name:\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title:\_\_\_\_\_

Contractor License No. \_\_\_\_\_

## **EXHIBIT A**

### **DEFINITIONS**

#### **1. DEFINED TERMS**

**1.1 “Applicable Law”** means any federal, State, local (or other political subdivision) constitution, statute, law, rule, code, regulation, consent decree, consent order, consent agreement, permit, Governmental Approval, any determination or order entered, promulgated or approved by any Governmental Agency having jurisdiction, any common law or principle of common law applicable to, as the case may be, any of the Work, Project, parties, activities, requirements or obligations of the parties under the Subcontract.

**1.2 “Arbitration Rules”** means California Code of Civil Procedure, section 1280 et seq., as may be amended by the California State Legislature.

**1.3 “Authority”** means the Rialto Utility Authority, a California joint powers authority.

**1.4 “Authority-Directed Change”** means changes to the Project scope illustrated in the Construction Documents.

**1.5 “Change of Law” means any of the following events occurring after the Effective Date:**

1.5.1 the adoption, modification or repeal, or change in interpretation or application, of any Applicable Law; or

1.5.2 the modification, change in interpretation or application, or imposition of any material conditions, restrictions or limitations in any Governmental Approval, which imposes limitations, additional costs or burdens with respect to Subcontractor’s obligations under this Subcontract.

**1.6 “Change Order”** is a mutually agreed written order amending the Contract Time, Contract Price or other contract terms. All Change Orders will be executed by the Subcontractor and Contractor.

**1.7 “City”** means the City of Rialto, California.

**1.8 “Construction Documents”** means the permitted plans, specifications, calculations (if required) and other technical documents and reports describing the Work and listed in Exhibit B as the Construction Documents.

**1.9 “Contract Documents”** are those documents set forth in Article 3 of the Subcontract and all subsequent contract modifications issued after execution of the Subcontract such as Change Orders.

**1.10 “Contractor”** means Veolia Water West Operating Services, Inc.

**1.11 “Contract Price”** is the price set forth in Section 7.1 of the Subcontract for completing all Work in strict accordance with the Contract Documents, subject to adjustments through approved Change Order.

**1.12 “Contract Time”** is the period of time allotted under the Project Schedule set forth in Exhibit E for the Subcontractor to achieve Final Completion.

**1.13** The word **“delay”** means any and every delay, obstruction, hindrance, interference, loss of productivity, or inefficiency of any kind.

**1.14 “Design Change”** means any change in the Construction Documents that materially affects Subcontractor’s performance of the Work.

**1.15 “Direct Costs”** is defined in Section 9.2 of the Subcontract.

**1.16 “Effective Date”** means the date agreed upon by the Subcontractor and Contractor for the effectiveness of the Subcontract, which is set forth on page 1 of the Subcontract.

**1.17 “Environmental Condition”** means the presence of any Regulated Substance on or at the Project site or any other location included in the sewage collection system or water delivery system, including the presence in surface water, groundwater, soils, or subsurface strata, or the migration of such a Regulated Substance from the Project site.

**1.18 “Excluded Approvals”** means those permits and approvals listed in Exhibit F.

**1.19 “Existing Fault”** shall mean one or more of the following with respect to a water meter installed as part of the Work: (i) pressure in the water line connected to a meter in excess of 90 psi (except for those meters in areas known to have occasional pressure in excess of 90 psi that are in working order and not leaking just prior to meter exchange); (ii) excessive water pressure variance in a water line connected to a meter; (iii) excessive air in a water line connected to a meter; (iv) excessive sediment in the lines or equipment; (v) broken water lines; (vi) conditions outside of Subcontractor’s work area; (vii) pre-existing deterioration to infrastructure; (viii) pre-existing substandard materials; (ix) pre-existing substandard installation processes; (x) damage to water heaters, appliances, plumbing fixtures, irrigation valves, backflow preventers and/or other in-line equipment and devices from existing sediment, pre-existing faulty or failed piping materials, other causes and/or property owner activities; and (xi) property owner activities that contribute to or in any way cause any damage or adverse conditions.

**1.20 “Final Completion”** occurs on the date when Subcontractor has completed all Work in accordance with the Contract Documents; all final punch list items have been completed and accepted by the Contractor; the Project has been commissioned in accordance with the written testing and commissioning procedures; all close-out documentation required under the Construction Documents have been transmitted to the Contractor; a certificate of occupancy, if applicable, has been issued by the Governmental Agency having jurisdiction over construction of the Project; and confirmation of achievement of Final Completion from the Independent Engineer (if required) has been received.

**1.21 “Financing Party”** means any Person that provides debt or equity financing to Concessionaire, including conduit issuers, financial institutions, bondholders, financial insurers, and hedge providers, or any agent or trustee acting on behalf of such Person (including the bond trustee acting on behalf of the bondholders), or that is from time to time a party to, or has rights under, any Financing Document.

**1.22 “Financing Document”** means any loan agreement, trust agreement, credit agreement, continuing disclosure undertaking, tax agreement, pledge agreement, security agreement or other financing agreement or arrangement that Concessionaire may enter into in connection with the Concessionaire financing or additional Concessionaire financing (whether by means of loans, financial insurance, letters of credit, guarantees, or any other means), any bond documents, the trust agreement or the depository agreement and any hedging agreement and, in each case, the security agreements execute in connection therewith.

**1.23 “General Conditions”** means the general conditions attached to this Subcontract as Exhibit H. The Subcontractor will have those obligations described of subcontractors in the General Conditions to the extent applicable to the scope of this Subcontract.

**1.24 “General Conditions Costs”** means those costs described in Section 9.3 of the Subcontract.

**1.25 “Governmental Agency”** means any legislative, executive, judicial, or administrative department, board, commission, court, agency or other instrumentality of the Federal, State or local government, including a joint powers agency formed by two (2) or more of the foregoing.

**1.26 “Governmental Approval”** means any permit, license, approval, consent or other authorization which is required under Applicable Law for the Work or for the performance of any of the obligations under this Subcontract.

**1.27 “Indemnified Party”** includes Contractor, Concessionaire, City, Authority, Trustee and each Financing Party (including Secured Parties) and their respective officers, agents, directors, partners, members, employees, affiliates, parents and subsidiaries.

**1.28 “Independent Engineer”** means any independent third party engineer appointed pursuant to the Prime Contract to fill the role of Independent Engineer under the Prime Contract.

**1.29 “Intellectual Property”** means any patents, copyrights, trade secrets, licensed software, proprietary technology or systems, or other intellectual property right owned or licensed in accordance with Applicable Law.

**1.30 “Interim Project Schedule”** is a detailed work plan created by the Contractor to provide a three-week look ahead of upcoming work by Project contractors as well as documentation of Project work completed three weeks prior.

**1.31 “Interim Work Directive”** means a written directive issued by the Contractor authorizing the Subcontractor to proceed with a modification to the scope of Work. The Interim Work Directive is not a Change Order and will only be assembled and issued when there is not

adequate time to process a Change Order prior to proceeding with revisions to the scope of the Work or where there is disagreement as to whether an item is included scope. The Subcontractor is responsible for providing rough order of magnitude pricing to the Contractor for use in assembling the Interim Work Directive.

**1.32 “Monthly Project Schedule Updates”** is a monthly schedule created by the Contractor incorporating the activities and schedule updates of the contractors on the Project.

**1.33 “Overhead and Profit”** is the amount included in the Contract Price for all costs associated with those categories of items set forth in Section 9.4 of the Subcontract and all profit associated with performance of the Work, as well as the percentage set forth in Section 10.6.1 as the mark-up for any Change Order Work.

**1.34 “Permitted Delay”** means a delay qualifying for an extension of the date for Final Completion under Section 8.4 of the Subcontract.

**1.35 “Person”** means any natural person, corporation, limited liability company, partnership, firm, association, Governmental Agency or any other entity whether acting in an individual, fiduciary or other capacity.

**1.36 “Prime Contract”** means the Operations and Maintenance Subcontract made as of November 29, 2012 between Concessionaire and Contractor and the executed Final Work Authorization for the Project.

**1.37 “Project”** means the project described by the Construction Documents set forth in Exhibit B.

**1.38 “Project Schedule”** means the schedule included in the Subcontract as Exhibit E, as adjusted per the Subcontract.

**1.39 “Prudent Industry Practices”** means those methods, techniques, standards and practices which, at the time they are employed and in light of the circumstances at the time, are generally accepted as reasonably prudent in the wastewater treatment and collection or drinking water distribution industry or recycled water delivery industry as practiced in the Western United States and particularly in California for water and wastewater facilities of a similar size and used for similar purpose as the Project. Prudent Industry Practices is not necessarily defined as the optimal methods, techniques, standards or practices to the exclusion of others, but rather to refer to a range of methods, techniques, standards and practices that are reasonable under the circumstances.

**1.40 “Record Documents”** are described in Section 5.23 of the Subcontract.

**1.41 “Regulated Substances”** means any pollutant, contaminant, substance, hazardous substance, hazardous material, toxic substance, toxic pollutant, solid waste, municipal waste, industrial waste, or hazardous waste, petroleum or petroleum-derived substance, asbestos, or polychlorinated biphenyls, that is defined as such in, is subject to regulation under, or may form the basis for any requirement for investigation or remediation under, any Applicable Law.

**1.42 “Secured Parties”** means the bond trustee, in its capacity as trustee under the bond indenture; the bondholders and any other agents acting on behalf of the bondholders under the bond documents, including any depository bank, collateral agent and the Trustee; and the holders of any water authority parity debt or wastewater authority parity debt and any other agents acting on behalf of such holders, including any depository bank, collateral agent or trustee.

**1.43 “Separate Contractors”** means, as applicable, another subcontractor of Contractor, a separate contractor of the Authority, City, Concessionaire, or any subcontractors of any of the foregoing to the extent they are doing work on or adjacent to the Project site.

**1.44 “Subcontractor”** is defined on page 1 of the Subcontract.

**1.45 “Substantial Completion”** means the date when (i) the AMI System (including the network infrastructure, software, and integrations) has been installed and is operational to receive meter consumption data, and (ii) 100% of the meters for designated utility accounts have been successfully exchanged and installed and are communicating with the AMI System, other than those meters marked by Subcontractor as Return to User.

**1.46 “Trustee”** means U.S. Bank Treasury Management Services, N.A., as trustee under that certain Trust Agreement, dated as of November 29, 2012, as amended, by and among Rialto Water Services, LLC, Rialto Utility Authority, City of Rialto and the Trustee, and its successors and assigns thereunder.

**1.47 “Uncontrollable Circumstance”** means any act, event, condition or circumstance beyond the reasonable control of the Subcontractor, its tier subcontractors or anyone performing a portion of the Work on Subcontractor’s behalf or at Subcontractor’s direction under this Subcontract which prevents, delays or otherwise adversely affects the ability of the Subcontractor to perform its Work. Such acts, events, conditions or circumstances include, but are not limited to, Change of Law; labor disputes such as strikes, lockouts that cannot be resolved by Subcontractor through use of a dual gate, or other labor disturbances; earthquake, flood, hurricanes, or other natural disaster and acts of God; war, terrorism, or civil insurrection; any failure or delay in obtaining any Governmental Approval beyond Subcontractor’s or its tier subcontractors’ control and that was not due to any negligent act or omission in their respective performance of the Work; any failure, delay or interference by a third party (other than City, Authority, Concessionaire or Contractor); or issuance of a temporary restraining order or other form of injunction that prohibits prosecution of a material portion of Subcontractor’s obligations under this Subcontract.

**1.48 “Unknown Site Conditions”** means the discovery of (i) historical, archaeological or cultural finds; (ii) rare, endangered or threatened species; (iii) Regulated Substances; (iv) underground obstructions or underground utilities; (v) geotechnical or soils issues; or (vi) unknown features or conditions with respect to the Project site which were either unknown by Subcontractor or could not have been discovered by a reasonably prudent California state licensed contractor through diligent review of all documentation disclosed relevant to the Project and Subcontractor’s site investigation performed prior to the Effective Date.

**1.49 “Work” or “construction work”** means all labor, materials, services, equipment, supplies, tools, and appurtenances necessary for the proper completion of the construction work described in Exhibit B, and all of Subcontractor’s obligations under this Subcontract.

## **EXHIBIT B**

### **CONSTRUCTION DOCUMENTS**

AMI Project Plans and Specifications are included in or as attachments to this Request for Proposal.



## **EXHIBIT C**

### **CONTRACT PRICE BREAKDOWN; BILLING RATES**

## **EXHIBIT D**

### **SCOPE OF WORK**

# Scope of Work – City of Rialto AMI System Services

## 1. Project Overview

Aqua-Metric Sales Company will provide a complete **turn-key Advanced Metering Infrastructure (AMI) system** to the City of Rialto, including planning, system integration, metering infrastructure installation, data management software deployment, training, and ongoing support.

The system will utilize the **Sensus FlexNet** AMI platform paired with **Sensus Analytics Meter Data Management (MDM)** software, available as Software-as-a-Service (SaaS).

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## 2. Project Objectives

- Replace the City's existing manual/AMR system with a secure, scalable two-way AMI system.
  - Achieve at least **99.5% network coverage** of all metering endpoints within Rialto's service area.
  - Provide real-time hourly consumption data for improved billing accuracy, leak detection, and customer transparency.
  - Integrate AMI data into the City's existing customer portal, CIS and billing platforms.
  - Provide comprehensive training and system handoff to Contractor staff.
- 

## 3. Scope of Services

## A. Project Management & Administration

- Conduct a formal **kick-off meeting** with Contractor representatives.
- Develop and maintain a **Project Plan and Schedule** (GANT Chart Provided).
- Assign a dedicated **Project Manager (Anthony Barajas)** and **Technical Support Specialist (Chris Berg)**.
- Maintain coordination with **Sensus USA** for software integration and network support.

## B. System Design & Engineering

- Perform **RF propagation study** and finalize site locations for four (4) M420B base stations at:
  - Bud Bender Park
  - Flores Park
  - Joe Sampson Park
  - Rialto Park
- Ensure  $\geq 99.5$  % coverage with 95.5 % two-site redundancy.
- Prepare final **network architecture diagrams** and configuration documents.

## C. Equipment Procurement

- Supply all **Sensus iPERL and Cordonel's** antennas, and networking components.

, SmartPoint transmitters, base stations,

- Provide **RNI (Regional Network Interface)** hardware and configuration.
- Manage all product orders, shipping, and verification through the Riverside warehouse.

## D. Installation & Deployment

- Conduct **site surveys** and infrastructure preparation.
- Contractor will be required to provide an electrical base at and run electricity to each base station tower, as well as provide mounting racks and/or antenna mounts, as needed
- Oversee installation of basestations, modems, and antennas.
- Coordinate **endpoint and meter installation** using qualified subcontractors.
- Perform **system commissioning** and validation of communication performance.

## E. Software Integration

- Configure **Sensus Analytics (MDM)** and integrate with the Contractors **Customer Information System (CIS)** and **Customer Portal**.

- Implement **Backhaul**.
- Conduct end-to-end data validation and acceptance testing.
- Cost proposal does not include third-party integration services or fees for any third-party vendor, other than the CIS/billing software as described above

## F. Training & Knowledge Transfer

- Provide **installation and system training** for City and Veolia personnel.
- Conduct **Sensus Analytics and RNI training sessions** (three days) following system integration. Additional training to be provided by Subcontractor as needed.
- Deliver all user manuals, maintenance documentation, and warranty records.

## G. Support & Maintenance

- Provide **20-year SmartPoint warranty** (15-year full + 5-year prorated).
  - Offer ongoing **technical support** via Riverside office and Sensus technical staff.
  - Support firmware updates, troubleshooting, and software version upgrades.
  - Maintain compliance with FCC licensing and system data security standards.
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## 4. Project Schedule & Key Milestones

Please refer to attached GANT Chart.

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## 5. Deliverables

- RF Propagation Analysis Report

- Final Project Plan and Implementation Schedule
- Fully installed and commissioned AMI infrastructure
- Configured Sensus Analytics platform (SaaS)
- CIS and customer portal integration and validation report
- Training materials and completion records
- As-built documentation and warranty certificates
- Final System Performance Acceptance Report

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## 6. Roles & Responsibilities

Name	Role	Responsibilities
<b>Anthony Barajas</b>	Project Manager	Oversee planning, deployment, and coordination with City
	<b>Chris Berg</b>	Technical Support Specialist

Integration, RNI configuration, and system testing		
Steve Kamiyama	Territory Manager	Customer liaison, field coordination, and reporting
<b>Jeff Randolph</b>	Western Sales Manager	Liaison with Sensus, procurement oversight
<b>Chris Newville</b>	Contract Administrator	Proposal and contract documentation

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## 7. Quality Assurance

- Adherence to Sensus installation standards and AMI system specifications.
  - Pre-deployment verification and post-deployment validation.
  - Network coverage testing and data accuracy certification.
  - Continuous monitoring via Sensus Network Command Suite.
- 

## 8. Acceptance Criteria

- Successful installation and operation of  $\geq 99.5$  % of endpoints.
  - Integration and performance verified against RFP requirements.
  - Completion of all training and handoff documentation.
  - Written acceptance by Contractor.
-

## 9. Warranty & Support Period

- 20-year SmartPoint warranty.
- Post-project support per Aqua-Metric maintenance agreement.
- System updates, firmware, and technical assistance included per service level.

## 1. Project Overview

Subcontractor will perform all **field installation, retrofit, and meter replacement services** associated with the Contractors Advanced Metering Infrastructure (AMI) deployment. This work includes removal and replacement of existing water meters, retrofit installation of Meter Interface Units (MIUs), lid replacements, GPS data collection, and documentation through an electronic Work Order Management System (WOMS).

All services will comply with Sensus FlexNet AMI specifications and City's and Contractor's standards for installation, data accuracy, and system performance.



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## 2. Scope of Services

### A. Meter and MIU Replacement

- Replace approximately **7,200 meters** of varying sizes ( $\frac{3}{4}$ " to 6").
- Retrofit an additional **~5,000 existing AML-ready meters** with MIUs, quantities provided by Contractor
- Ensure all meters and transmitters are properly installed, sealed, and leak-tested as well as communicating with the AML network.
- Capture and verify meter serial numbers, radio IDs, and GPS coordinates (within 3– 5 m accuracy).
- Perform “through-the-lid” pit MIU antenna installations where required.
- RTU: A skipped installation (Utility Intervention Required – UIR) occurs when a meter exchange or retrofit cannot be completed after Subcontractor’s reasonable due diligence process due to conditions beyond Subcontractor’s control such as permanent obstructions, customer refusals, safety hazards, abnormal conditions, inaccessible locations, or pre-existing utility side issues. Subcontractor will make up to three total attempts by a supervisor or senior team member. If the initial effort fails, Subcontractor will notify Contractor in writing.. After the first failed attempt, the work order marked as Return to Subcontractor and reviewed w; if the second attempt also fails, is escalated to RTU-Review, triggering subsequent notification to and collaboration with the Contractor to remove the barrier or facilitate completion. If the Subcontractor and Contractor resolve the issue within a ten (10) business day review period (or longer, if reasonably agreed to by the parties), a third and final installation attempt will be scheduled. If the condition remains unresolved after this period or if it involves certain critical issues (e.g. safety concerns, theft/tampering, or customer refusal) the account will be designated RTU-Closed, formally removed from the project scope and returned to the utility for completion.

### B. Lid Replacement and Adjustments

- Replace approximately **12,200 composite or cast-iron lids** with new 18" × 11.25" lids compatible with MIU antenna placement. (Site survey to ascertain lid sizes and quantities)
- Drill and mount transmitters through existing lids when specified.
- Survey and verify all pit and lid sizes prior to installation and placing final material orders.

### C. Data Capture and WOMS Integration

- Utilize Subcontractor’s **Work Order Management System (WOMS)** for programming, setup, and implementation.

- Document every installation with before/after photos, GPS coordinates, and meter data.
- Subcontractor will provide daily updates and meter exchange work order upload files project progress reports to the Contractor via the WOMS. Contractor will be given access to WOMS from the Subcontractor.

#### D. Site Survey and Pre-Notification

- Conduct **comprehensive site surveys** for all meter locations to verify accessibility, lid size, and condition.
- Distribute **customer pre-notification postcards** and **door hangers** to affected addresses prior to and following work.
- Coordinate with the Contractor for any customer communication needs.

#### E. Facilities, Logistics, and Waste Management

- Provide **staging, warehousing, and inventory management** for all materials throughout the 12-month project term.
- Manage on-site waste disposal, pallet recycling, and lid disposal.
- Handle scrap recovery and credit for removed brass components.

#### F. Professional Services and Project Management

- Provide a dedicated **Project Manager** for the duration of the project to oversee staffing, progress tracking, safety compliance, and reporting.
- Coordinate mobilization and demobilization of crews.
- Supply traffic control devices and safety equipment as required by worksite conditions.

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### 3. Deliverables

- Verified installation of all meters and MIUs.
  - Complete GPS dataset for all endpoints.
  - Photographic documentation of each installation.
  - WOMS data export including meter and MIU details.
  - Customer communication records (pre/post notifications).
  - Final project completion report with reconciliation of all work orders.
-

## 4. Schedule

- **Duration:** Approximately **180 days** for active installation, following completion of AMI network setup and system integration.
  - **Project Start:** To commence upon formal Notice to Proceed and confirmation of material readiness.
  - **Warehousing:** 12-month lease term for staging and materials handling (to cover pre-deployment and close-out phases).
- 

## 5. Assumptions and Exclusions

- Work assumes meters are *like-for-like* and accessible; excludes excavation, valve replacement, or customer-side plumbing repairs beyond 36 inches.
  - Subcontractor not responsible for hazardous materials, paving removal/replacement, or community outreach beyond provided door hangers.
  - Contractor will provide accurate GIS and account data, safe access to all meter locations, and isolation valves for large meters.
  - Confined-space work, traffic control beyond cones, and excessive dewatering will be billed separately.
  - Subcontractor is not responsible for corrosion or damage to any AMI ready registers
  - Subcontractor will not be held responsible for any existing inoperative, damaged, or leaky valves
  - Meter installation unit pricing assumes shutoff valve and both meter couplings will be visible and accessible within the meter box
  - The Contractor will provide safe access, including keys and gate codes (gated communities) to all locations
  - Contractor to take responsibility for any damage or repair resulting from excessive deflection on either the Utility side or customer side water lines
  - Meter installation unit pricing does not include adjusting, resetting, removing, or replacing meter box. If we are required to replace setters, risers, valves or fittings, the meter box resetting will be billed separately according to prices listed in the price list below.
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## 6. Roles and Responsibilities

Entity	Role	Responsibilities
Aqua-Metric	Sales	Co.

Sub-Contractor

Project

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nd Sensus, quality assurance. Field installation, meter replacement, retrorits, GPS capture, customer notifications, and WOMS documentation.

**Veolia Water West Operating Services, Inc.**

**Contractor**

Provide access, approve,  
schedule, coordinate  
communications,  
validate installations,  
and sign off on  
acceptance.

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## 7. Quality Assurance s Warranty

- All installations warrantied **for 1 year from installation** as recorded in WOMS.
- All work to be performed by trained, certified technicians in compliance with safety and performance standards.
- Any failures determined to be caused by installation error will be repaired or replaced at no charge within warranty period.

## AMI SaaS

### PRICE PROPOSAL FORMS

#### **1.AMI Head-End Software, MDMS Software and Portal – 1<sup>st</sup> Year Costs**

Provide the cost including installation for the AMI Head-End Computer Hardware and Software

<b>Description</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Total Price</b>
AMI Head End Software		See Pricing Below	
MDMS Software		See Pricing Below	
Customer Portal		See Pricing Below	
Other		See Pricing Below	
<b>Total</b>			

#### **2. One-Time Fees**

Provide costs for all one-time expenses that the City will incur during the project that are not listed elsewhere in the cost proposal; e.g., setup fees, mobilization, etc.

<b>Description</b>	<b>Quantity</b>	<b>Total Price</b>	<b>Note</b>
AMI Head-end Setup Fee	1	\$8,755.00	RNI SaaS Setup Fee
MDM Software Setup Fee	1	\$10,045.40	Sensus Analytics System Setup Fee
Customer Portal Interface	1	\$54,687.50	VertexOne Customer Portal: Setup Fee & Standard Integrations
Billing SystemInterface	1	\$8,593.75	Sensus Analytics Basic Integration
AMI SystemTraining	1	\$9,500.00	RNI Training & Sensus Analytics Training
Staff Operations/ Process Training			See AMI System Training
Pre-Installation Customer Post Card, including design, label, and postage	12,200	Unit Price: \$2.17 Total: \$26,474.00	

## AMI SaaS

Post-Notification Door Hangers(3.5"x8.5"), including design	12,200	Unit Price: \$1.39 Total: \$16,958.00	
Mobilization	1	\$30,889.00	
Facilities - Staging and Warehousing, Monthly Fee	12	Monthly Fee: \$13,335.00 Total: \$160,020.00	
Facilities - Lid Disposal, Monthly Fee	12	Monthly Fee: \$1,111.25 Total: \$13,335.00	
Facilities - Scrap Disposal, Monthly Fee	12	Monthly Fee: \$1,670.00 Total: \$20,040.00	
Facilities - Pallet Jack and Forklift	1	\$33,335.00	Forklift Only
Pit, Lid, and Meter Site Survey for entire service area to verify Meter Lid Sizes	12,200	Unit Price: \$21.67 Total: \$264,374.00	Includes: Survey of Meter Site, Pit, and Lid.
Dirt levels above the bottom of the meter body	1,250	Unit Price: \$16.75 Total: \$20,937.50	
Through the lid pit MTU with antennas	1,250	Unit Price: \$44.45 Total: \$55,562.50	
Emergency plumbing repairs (labor only)	300	Unit Price: \$166.75 Total: \$50,025.00	
Emergency plumbing repairs (materials)	300		Cost + 15%
Replacing adapters (labor only)	300	Unit Price: \$8.35 Total: \$2,505.00	
Meter or MIU replacement in alleyways	300	Unit Price: \$55.56 Total: \$16,668.00	
Other: <a href="#">VertexOne Customer Portal: Sensus Platform Integrations</a>	1	\$12,500.00	\$12,500.00



## AMI SaaS

3. Fees	
Description	Total Price
Head-end Software Hosting Fee	See Annual Sensus SaaS Fee Below
MDM Software Hosting Fee	See Annual Sensus SaaS Fee Below
Customer Portal Interface <a href="#">Includes: VertexOne Customer Portal: Annual Account Fee; and VertexOne Customer Portal: Annual AMI Meter Data Presentment Fee</a>	\$25,784.20
Network (Data Collector, Repeater) Maintenance Fee	
Other: <a href="#">VertexOne Customer Portal: Annual Maintenance Fee for Sensus Platform Integrations, - To Begin Year 2</a>	\$2,500.00
Annual Sensus SaaS Fee (Based on 12,250 Water Services), Year 1 - Includes: Annual RNI SaaS, Annual Sensus Analytics SaaS, Annual Managed Backhaul SaaS, Annual Base Station Protection Plan, and Annual Aqua-Metric VAR Support.	\$60,231.92
All SaaS Fees to Begin Year 1 and will incur a 3% Annual Increase	
<b>Total</b>	<b>\$86,016.12</b>  (Total Excludes "VertexOne Customer Portal: Annual Maintenance Fee for Sensus Platform Integrations, - To Begin Year 2" fee.

4.AMI Network Infrastructure Hardware			
Provide the unit price including installation for all physical components of the AMI communications infrastructure, including data collection units, repeaters, modems, etc., required to meet the requirements herein for the existing water system.			
Description	Quantity	Unit Price	Total Price
Data Collector <a href="#">(M420B Basestation with SPM-900)</a>	4	\$23,769.79	\$95,079.16
Repeater			N/A
Other: <a href="#">M420B Basestation Installation, Estimated Pricing</a>	4	\$15,000.00	\$60,000.00
<a href="#">Managed Backhaul-as-a-Service Setup Fee</a>	4	\$853.66	\$3,414.64
<a href="#">Network Implementation</a>	1	\$10,000.00	\$10,000.00
<b>Total</b>			<b>\$168,493.80</b>

## AMI SaaS

### 5.Portable Devices

Provide the unit price and model number for all mobile devices required to provide the functionality required by Section 7.3.

Description	Quantity	Unit Price	Total Price
Specify: <a href="#">Juniper Archer 4 Handheld Device</a>	5	\$2,000.00	\$10,000.00
Specify: <a href="#">CommandLink II Bluetooth Device</a>	5	\$861.45	\$4,307.25
Specify: <a href="#">FieldLogic Communication Device</a>	1	\$291.84	\$291.84
Other: <a href="#">3096+ Mini Reader/Touch Reader Device</a>	1	\$519.27	\$519.27
Other			
<b>Total:</b>			\$15,118.36

### 6.New Water Meters

Provide costs for supply of new water meters. Additionally provide pricing for an alternative static water meter.

Description	Quantity	Unit Price	Total Price	Static Metal Bodied Meter Name/Model
¾ inch water meter	6,272	\$143.33	\$898,965.76	¾" Long (9" LL) Brass Body iPERL Meter with TR/PL Register
1 inch water meter	586	\$183.80	\$107,706.80	1" Brass Body iPERL Meter with TR/PL Register
1 ½ inch water meter	120	\$1,096.82	\$131,618.40	1 1/2" Cordonel Meter with TR/PL Register
2 inch water meter	186	\$1,253.55	\$233,160.30	2" Cordonel Meter with TR/PL Register
3 inch water meter	23	\$1,937.05	\$44,552.15	3" Cordonel Meter with TR/PL Register
4 inch water meter	11	\$3,077.75	\$33,855.25	4" Cordonel Meter with TR/PL Register
6 inch water meter	2	\$4,657.76	\$9,316.52	6" Cordonel Meter with TR/PL Register
<b>Total</b>			\$1,459,174.18	

## AMI SaaS

<b>7. Meter Interface Unit</b>			
Provide costs for new MIU			
<b>Description</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Total Price</b>
MIUs: 522M Single Port SmartPoint Radio Transmitter for Existing AMI-Ready Meter with Itron or Nicor Connector	<del>12,200</del> 3,723	\$114.11	\$424,831.53
520M Single Port SmartPoint Radio Transmitter for Existing AMI-Ready Sensus Meter or New Sensus Meter with Touch Coupler (TR/PL) Connection	8,497	\$95.36	\$810,273.95
<b>Total:</b>			\$1,235,105.45

<b>8. Meter Pit Lids</b>			
Provide cost for replacement meter pit lids			
<b>Description</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Total Price</b>
Water meter pit lids (Material)	12,200	\$20.12	\$245,464.00
Meter Box Lid Replacement, Labor Only. Pricing Assumes 18" x 11.25" Meter Box Lid Only	12,200	\$16.11	\$196,542.00
<b>Total:</b>			\$442,006.00

<b>9. Labor costs for installation of New Water Meter with MIU – Pit Set</b>			
Provide costs for install new water meter and MIU. Costs shall include equipment (including necessary connectors) and labor for MIU installation, programming, and shall assume the meter is installed in a meter pit			
<b>Description</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Total Price</b>
¾ inch water meter	6,272	\$133.78	\$839,068.16
1 inch water meter	586	\$133.78	\$78,395.08
1 ½ inch water meter	120	\$367.78	\$44,133.60
2 inch water meter	186	\$367.78	\$68,407.08
3 inch water meter	23	\$1,471.11	\$33,835.53
4 inch water meter	11	\$1,634.57	\$17,980.27
6 inch water meter	2	\$4,203.17	\$8,406.34
<b>Total:</b>			\$1,090,226.06

## AMI SaaS

### 10. Labor costs for adding MIU to existing AMI ready water meter

Provide costs for install new water meter and MIU. Costs shall include equipment (including necessary connectors) and labor for MIU installation, programming, and shall assume the meter is installed in a meter pit

Description	Quantity	Unit Price	Total Price
¾ inch water meter	4,173	\$56.60	
1 inch water meter	646	\$56.60	
1 ½ inch water meter	59	\$91.94	
2 inch water meter	134	\$91.94	
3 inch water meter	18	\$105.08	
4 inch water meter	18	\$105.08	
6 inch water meter	2	\$105.08	
<b>Total:</b>			\$294,492.86

### 11. Additional Costs

Description	Quantity	Unit Price	Total Price
MeterSite Surveys for entire service area to verify Meter Lid Sizes	Lump Sum	Duplicate Line Item. See Section 2, One-Time Fees Above.	
AUS Infinity Mass Meter Exchange Transfer File Interface (WOMS Fee: Implementation)	<del>12,200</del> 12,250	\$1.83	\$22,417.50
Supply and installation of solar panels for data collectors	8		N/A
Capturing of sub meter GPS coordinates for water meter locations. (3m - 5m Accuracy / Sub-Meter)	12,200	\$2.78	\$33,916.00
Dirt levels above the bottom of the meter body	1,250	Duplicate Line Item. See Section 2, One-Time Fees Above.	
Through the lid pit MTU with antennas	1,250	Duplicate Line Item. See Section 2, One-Time Fees Above.	
Emergency plumbing repairs (labor only)	300	Duplicate Line Item. See Section 2, One-Time Fees Above.	
Emergency plumbing repairs (materials)	300	Duplicate Line Item. See Section 2, One-Time Fees Above.	
Replacing adapters (labor only)	300	Duplicate Line Item. See Section 2, One-Time Fees Above.	

## AMI SaaS

Meter or MIU replacement in alleyways	300	Duplicate Line Item. See Section 2, One-Time Fees Above.	
Field Deployment Management, Monthly Fee	12	\$8,335.00	\$100,020.00
WOMS Fee: Programming and Setup	1	\$8,335.00	\$8,335.00
WOMS Fee: Integration	1	\$8,335.00	\$8,335.00
Facilities - Project Waste, Monthly Fee Includes: Inventory Packaging, Pallets, Recycle, and Trash Excludes: Dirt, Spoils, or Scram	12	\$1,670.00	\$20,040.00
Drill Existing Plastic Meter Box Lids		\$16.11	
Add-On Fee: Additional Cost for Site Revisit to Replace Register After Failed MIU Install for Any Reason. Pricing in addition to installation cost.		\$22.22	
12-Month Performance and Payment Bond	1	\$111,035.00	\$111,035.00
Estimated Sales Tax	1	\$236,370.43	\$236,370.43
<b>Total:</b>			\$540,468.93

### **12. Total Project Cost**

**Provide the total cost of the project, including all one-time implementation and installation costs plus any recurring Year 1 fees. Do not include recurring fees for Year 2 or beyond in the total. Future recurring annual fees should be detailed separately in Section 3.**

Description	Total Price
Total Project Cost	\$6,086,074.49
Total recurring annual fees included for Year 1	\$60,231.92
<b>Total</b>	<b>\$6,146,306.41</b>

**Aqua-Metric Sales Company**

4050 Flat Rock Drive | Riverside CA 92505

Phone: (951) 637-1400 | Facsimile: (951) 637-1500

**Client:** City of Rialto, CA

**Attention:** C/O Veolia Water North America

**Address** 150 S Palm Avenue

**City, State, Zip:** Rialto, CA 92376

**Project:** RFP 25-047, Advanced Metering Infrastructure System Services

**Due Date:** August 12, 2025 at 2:00 PM

Line No.	Item	Quantity	Unit	Extended
<b>Sensus FlexNet AMI System, SAAS Option</b>				
<b>Network Infrastructure Setup and Configuration</b>				
	M420B Basestation with SPM-900	4	\$23,769.79	\$95,079.16
	M420B Basestation Installation, Budgetary Pricing	4	\$15,000.00	\$60,000.00
	Managed Backhaul-as-a-Service Setup Fee	4	\$853.66	\$3,414.64
	Juniper Archer 4 Handheld Device	5	\$2,000.00	\$10,000.00
	CommandLink II Bluetooth Device	5	\$861.45	\$4,307.25
	FieldLogic Communication Device	1	\$291.84	\$291.84
	3096+ Mini Reader/Touch Reader Device	1	\$519.27	\$519.27
	3/4" Long (9" LL) Brass Body iPERL Meter with TR/PL Register	6,272	\$143.33	\$898,965.76
	1" Brass Body iPERL Meter with TR/PL Register	586	\$183.80	\$107,706.80
	1 1/2" Cordonel Meter with TR/PL Register	120	\$1,096.82	\$131,618.40
	2" Cordonel Meter with TR/PL Register	186	\$1,253.55	\$233,160.30
	3" Cordonel Meter with TR/PL Register	23	\$1,937.05	\$44,552.15
	4" Cordonel Meter with TR/PL Register	11	\$3,077.75	\$33,855.25
	6" Cordonel Meter with TR/PL Register	2	\$4,657.76	\$9,315.52
	522M Single Port SmartPoint Radio Transmitter for Existing AMI-Ready Meter with Itron or Nicor Connector	3,723	\$114.11	\$424,831.53
	520M Single Port SmartPoint Radio Transmitter for Existing AMI-Ready Sensus Meter or New Sensus Meter with Touch Coupler (TR/PL) Connection	8,497	\$95.36	\$810,273.92
	Meter Box Lid: B3P Lid w/ FlexNet 5/16" Recess (Concrete)	12,200	\$20.12	\$245,464.00
	Meter Box Lid: B09XP Lid w/ FlexNet 5/16" Recess (Concrete)		\$26.89	
	Meter Box Lid: B12P Lid w/ FlexNet 5/16" Recess (Concrete)		\$32.80	
	Meter Box Lid: B30P Lid w/ FlexNet 5/16" Recess (Concrete)		\$55.61	
	Meter Box Lid: B65P Lid w/ FlexNet 5/16" Recess (Concrete)		\$65.24	
	Meter Box Lid: B36P Lid w/ FlexNet 5/16" Recess (Concrete)		\$78.17	
	Meter Box Lid: P1017 Lid w/ 2" Through Hole Only (Plastic)		\$33.05	
	Meter Box Lid: P1220 Lid w/ 2" Through Hole Only (Plastic)		\$49.63	
	Meter Box Lid: P1324 Lid w/ 2" Through Hole Only (Plastic)		\$56.22	
	Meter Box Lid: P1730 Lid w/ 2" Through Hole Only (Plastic)		\$135.67	
<b>FlexNet AMI Software Setup and Configuration</b>				
	RNI SaaS Setup	1	\$8,755.00	\$8,755.00
	RNI Training	1	\$5,500.00	\$5,500.00
	Sensus Analytics System Setup	1	\$10,045.40	\$10,045.40
	Sensus Analytics Basic Integration	1	\$8,593.75	\$8,593.75
	Sensus Analytics Training	1	\$4,000.00	\$4,000.00
	Network Implementation	1	\$10,000.00	\$10,000.00
<b>Recurring Annual Fees: SaaS Software Hosting and Support</b>				
	Annual Sensus SaaS Fee (Based on 12,250 Water Services), Year 1 -Includes: Annual RNI SaaS, Annual Sensus Analytics SaaS, Annual Managed Backhaul SaaS, Annual Base Station Protection Plan, and Annual Aqua-Metric VAR Support.	1	\$60,231.92	\$60,231.92
<b>VertexOne Customer Portal Add-On Software</b>				
	VertexOne Customer Portal: Setup Fee & Standard Integrations	1	\$54,687.50	\$54,687.50
	VertexOne Customer Portal: Sensus Platform Integrations	1	\$12,500.00	\$12,500.00
	VertexOne Customer Portal: Annual Account Fee	1	\$14,297.40	\$14,297.40
	VertexOne Customer Portal: Annual AMI Meter Data Presentment Fee	1	\$11,486.80	\$11,486.80
	VertexOne Customer Portal: Annual Maintenance Fee for Sensus Platform Integrations -To Begin Year 2		\$2,500.00	
<b>Product Installation Services</b>				
	Field Deployment Management, Monthly Fee	12	\$8,335.00	\$100,020.00
	Mobilization Fee	1	\$30,889.00	\$30,889.00
	WOMS Fee: Programming and Setup	1	\$8,335.00	\$8,335.00
	WOMS Fee: Integration	1	\$8,335.00	\$8,335.00

**Aqua-Metric Sales Company**

4050 Flat Rock Drive | Riverside CA 92505

Phone: (951) 637-1400 | Facsimile: (951) 637-1500

Line No.	Item	Quantity	Unit	Extended
	WOMS Fee: Implementation	12,250	\$1.83	\$22,417.50
	Facilities - Staging and Warehousing, Monthly Fee	12	\$13,335.00	\$160,020.00
	Facilities - Lid Disposal, Monthly Fee	12	\$1,111.25	\$13,335.00
	Facilities - Project Waste, Monthly Fee Includes: Inventory Packaging, Pallets, Recycle, and Trash Excludes: Dirt, Spoils, or Scram	12	\$1,670.00	\$20,040.00
	Facilities - Scrap Disposal, Monthly Fee	12	\$1,670.00	\$20,040.00
	Facilities- Forklift Only	1	\$33,335.00	\$33,335.00
	Pre-Installation Survey of Meter Site, Pit, and Lid	12,200	\$21.67	\$264,374.00
	Pre-Installation Notification Postcard	12,200	\$2.17	\$26,474.00
	Post-Installation Notification Door Hanger	12,200	\$1.39	\$16,958.00
	3/4" Meter Exchange	6,272	\$133.78	\$839,068.16
	1" Meter Exchange	586	\$133.78	\$78,395.08
	1 1/2" Meter Exchange	120	\$367.78	\$44,133.60
	2" Meter Exchange	186	\$367.78	\$68,407.08
	3" Meter Exchange	23	\$1,471.11	\$33,835.53
	4" Meter Exchange	11	\$1,634.57	\$17,980.27
	6" Meter Exchange	2	\$4,203.17	\$8,406.34
	Endpoint Installation Only on Existing 3/4" Meter	4,173	\$56.60	\$236,191.80
	Endpoint Installation Only on Existing 1" Meter	646	\$56.60	\$36,563.60
	Endpoint Installation Only on Existing 1 1/2" Meter	59	\$91.94	\$5,424.46
	Endpoint Installation Only on Existing 2" Meter	134	\$91.94	\$12,319.96
	Endpoint Installation Only on Existing 3" Meter	18	\$105.08	\$1,891.44
	Endpoint Installation Only on Existing 4" Meter	18	\$105.08	\$1,891.44
	Endpoint Installation Only on Existing 6" Meter	2	\$105.08	\$210.16
	Meter Box Lid Replacement, Labor Only Pricing Assumes 18" x 11.25" Meter Box Lid Only	12,200	\$16.11	\$196,542.00
	Dirt Levels Above the Bottom of the Meter Body Through the Lid Pit MTU with Antenna	1,250 1,250	\$16.75 \$44.45	\$20,937.50 \$55,562.50
	Emergency Plumbing Repairs, Labor Only	300	\$166.75	\$50,025.00
	Emergency Plumbing Repairs, Material	300		Cost Plus 15%
	Replace Adapters, Labor Only	300	\$8.35	\$2,505.00
	Meter or MIU Replacement in Alleyways	300	\$55.56	\$16,668.00
	GPS Coordinates (3m - 5m Accuracy / Sub-Meter	12,200	\$2.78	\$33,916.00
	Drill Existing Plastic Meter Box Lids		\$16.11	
	Add-On Fee: Additional Cost for Site Revisit to Replace Register After Failed MIU Install for Any Reason. Pricing in addition to installation cost.		\$22.22	
	Confined Space per Work Order		\$900.00	
	Hourly Rate for additional Work		\$187.50	
<b>Product Installation Services</b>				
	12-Month Performance and Payment Bond	1	\$111,035.00	\$111,035.00

Subtotal: \$5,909,935.98

Sales Tax: \$236,370.43

**Total: \$6,146,306.41**

**Aqua-Metric Sales Company**

4050 Flat Rock Drive | Riverside CA 92505

Phone: (951) 637-1400 | Facsimile: (951) 637-1500



**EXHIBIT E**

**PROJECT SCHEDULE**

ID	Task Name	Duration	Start	Finish	4th Quarter Oct	Nov	Dec	1st Quarter Jan	Feb
1	<b>Rialto CA - FlexNet Project (2025)</b>	<b>229 days</b>	<b>Mon 12/1/25</b>	<b>Thu 10/15/26</b>					
2	Board Approval	1 day	Tue 12/9/25	Tue 12/9/25					
3	Notice to Proceed	1 day	Tue 12/16/25	Tue 12/16/25					
4	<b>Kickoff Meeting</b>	<b>68 days</b>	<b>Mon 12/1/25</b>	<b>Wed 3/4/26</b>					
5	Project Kick-Off Meeting	1 day	Mon 12/1/25	Mon 12/1/25					
6	Project Plan & Schedule Development	9 days	Tue 12/2/25	Fri 12/12/25					
7	M400 Basestation Site survey	1 day	Mon 12/1/25	Mon 12/1/25					
8	Post Kick-off - Project Plan & Schedule Adjustment	2 days	Mon 12/15/25	Tue 12/16/25					
9	Concord Site Surveys	45 days	Thu 1/1/26	Wed 3/4/26					
10	<b>Endpoint and Meter Order and Delivery</b>	<b>35 days</b>	<b>Mon 12/1/25</b>	<b>Fri 1/16/26</b>					
25	RNI Configuration	10 days	Wed 12/17/25	Tue 12/30/25					
26	<b>TGB Delivery and Install</b>	<b>33 days</b>	<b>Tue 12/16/25</b>	<b>Fri 1/30/26</b>					
35	<b>Base Station Commissioning &amp; Modem Installation</b>	<b>12 days</b>	<b>Mon 2/2/26</b>	<b>Tue 2/17/26</b>					
38	System Testing	1 day	Wed 2/18/26	Wed 2/18/26					
39	Installation Training	1 day	Thu 2/19/26	Thu 2/19/26					
40	<b>Full Deployment</b>	<b>160 days</b>	<b>Sun 3/1/26</b>	<b>Thu 10/8/26</b>					

Project: Rialto

Date: Wed 11/26/25

Task

Split

Milestone

Summary

Project Summary

Inactive Task

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

External Tasks




















External Milestone

Deadline

Progress

Manual Progress

ID	Task Name	Duration	Start	Finish	4th Quarter Oct	Nov	Dec	1st Quarter Jan	Feb
56	Sensus Analytics/Billing Integration(Dependent on CIS Completion)	40 days	Tue 12/23/25	Mon 2/16/26					
57	<b>VertexOne Integration</b>	60 days	Thu 7/9/26	Wed 9/30/26					
58	Sensus Analytics Training	3 days	Tue 2/17/26	Thu 2/19/26					
59	System Tuning	2 days	Thu 10/1/26	Fri 10/2/26					
60	System Clean up	5 days	Mon 10/5/26	Fri 10/9/26					
61	System Performance Acceptance	4 days	Mon 10/12/26	Thu 10/15/26					
62	Substantial Project Closed Out	1 day	Thu 10/15/26	Thu 10/15/26					

Project: Rialto Date: Wed 11/26/25	Task		Inactive Summary		External Tasks	
	Split		Manual Task		External Milestone	
	Milestone		Duration-only		Deadline	
	Summary		Manual Summary Rollup		Progress	
	Project Summary		Manual Summary		Manual Progress	
	Inactive Task		Start-only			
	Inactive Milestone		Finish-only			





## **EXHIBIT F**

### **EXCLUDED APPROVALS**

#### **1. Excluded Approvals**

The Subcontractor is not required to obtain the following permits and approvals:

**1.1** Any notification, approval, certification, environmental assessment, finding of no significant impact, or environmental impact report or equivalent required under the National Environmental Policy Act, 42 U.S.C. §4321 et seq. and CEQA, and the regulations adopted pursuant thereto;

**1.2** Any regulatory permits for the operation of the water or wastewater treatment facility, as applicable; or

**1.3** Any City zoning or land use approvals.

## EXHIBIT G

### INSURANCE

**1. General.** Subcontractor will procure and maintain all insurance required by this Exhibit with limits in accordance with Schedule R.9 to the Prime Contract with companies satisfactory to Contractor and Concessionaire. Certificates evidencing such insurance and, upon request of either Contractor or Concessionaire, copies of the insurance policies and endorsements will be promptly delivered to Contractor. The policies will provide that there will be no cancellation or material modification of coverage without 30 days (except for 10 days for non-payment of premiums) prior written notice to Contractor and Concessionaire. Evidence that the required insurance is currently in force is a condition precedent to Contractor's obligation to pay the Subcontractor. Subcontractor must list the City of Rialto as additional insured.

**2. Types of Required Insurance.** Subcontractor will maintain the following coverages:

**2.1 Workers Compensation; Employer's Liability.** Workers compensation insurance and occupational disease insurance as required by law and employer's liability insurance with statutory minimum limits, covering all work places involved in this Subcontract. If applicable, Subcontractor will furnish a certificate of permission to self-insure under the workers' compensation and employers' liability insurance statutes of California. The workers compensation policy will be endorsed to include coverage for USL&H benefits if Subcontractor's employees work in or about navigable waterways.

2.1.1 Subcontractor and its consultants and subcontractors each waive any and all rights of recovery against Contractor, City, Authority, and Concessionaire for all losses or damages pertaining to the insurance required under this Section 2.1, if such loss or damage is covered by any other insurance policy in force (whether or not described in this Subcontract) or required to be in force at the time of the loss or damage.

**2.2 Commercial General Liability.** Commercial general liability insurance written on the occurrence basis on ISO form CG 00 01 12 04 or an equivalent form, with limits of not less than \$1,000,000 per occurrence and in the annual project aggregate. Modified Occurrence form is not acceptable. The insurance will cover all operations of Subcontractor, including but not limited to: (i) premises, operations and mobile equipment liability; (ii) completed operations and products liability; (iii) contractual liability coverage including the tort liability of another assumed in a business contract; (iv) explosion, collapse, and underground property damage; (v) broad form property damage liability; and (vi) personal injury and advertising liability.

**2.3 Automobile.** Commercial automobile liability insurance coverage with limits not less than \$1,000,000 per accident for bodily injury and property damage combined. Coverage will be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or an equivalent form and will apply to any auto including owned, hired, and non-owned autos.

**2.4 Excess/Umbrella Liability.** Excess or umbrella liability coverage will apply over the employer's liability, commercial general liability and automobile liability policies required

above and will be at least as broad as the underlying coverage, including but not limited to completed operations and contractual liability, with limits per occurrence and annual project aggregate as follows:

2.4.1 If Subcontractor's scope includes any of the following items of Work, Subcontractor's insurance limits will be \$9,000,000:

- installation of pipe, mains, services and meters;
- demolition, excavation and foundations;
- masonry or concrete (other than for projects involving only exterior/interior renovation);
- steel and welding;
- hoisting and scaffolding;
- painting (tanks) and sandblasting;
- roofing and waterproofing;
- carpentry (other than for projects involving only exterior/interior renovation);
- electrical (other than for projects involving only exterior/interior renovation);
- HVAC, plumbing or mechanical (other than for projects involving only exterior/interior renovation);
- use of hazardous equipment including cranes and boom trucks;
- installation of large equipment such as boilers, pumps, HVAC units, etc.
- if the scope of Work is related to plant or distribution systems.

2.4.2 if Subcontractor's scope does not include any of the items listed in Section 2.4.1 above, insurance limits will be \$4,000,000.

**2.5** Property Insurance/Contractor's Equipment. Subcontractor will insure its own property and equipment (owned, rented or borrowed) including but not limited to tools, materials, supplies, equipment, and temporary structures, including their contents except for such contents as are to be included in and remain a part of the permanent construction.

**3.** Subcontractor will require each of its subcontractors to procure and maintain during the life of the Project the same insurance coverages meeting the same requirements as those specified above for Subcontractor. Subcontractor will not allow any subcontractor to provide work in connection with the Project until that party has procured and provided evidence of the insurance specified herein.

**4.** City, Authority, Concessionaire, Contractor, Secured Parties and Separate Contractors as notified by the Concessionaire, and each of their respective officers, directors, employees and affiliates will be named as additional insured parties under the commercial general liability, automobile liability and umbrella/excess liability insurance policies with respect to the Work. The additional insured endorsement on



the commercial general liability policy will include both “ongoing operations” and liability arising from “your work/completed operations” (the equivalent of ISO additional insured endorsement CG20-10-11-85).

5. Certificates of insurance will be provided/updated annually until one year after Final Completion.
6. All insurance coverage (except workers compensation) to be maintained and furnished by Subcontractor will be primary and non-contributory with respect to any insurance maintained by any additional insured.
7. Each policy of liability insurance will include a waiver of subrogation in favor of all additional insured parties and will be endorsed to recite the name of the Project and the location of the Project site. If the Subcontractor’s liability policies do not contain the standard ISO separation of insureds condition, or a substantially similar clause, they will be endorsed to provide cross-liability coverage.
8. Insurance coverage will be maintained by insurance companies that have a rating of at least A-VII in the most recent edition of A.M. Best’s Key Rating Guide and are otherwise satisfactory to the Contractor and Concessionaire. The Contractor and Concessionaire have the right to periodically review Subcontractor’s insurance policies and coverages and require changes to such policies to the extent that said insurance is relevant to this Subcontract. Any additional premiums or other associated costs for such changes will be at the Contractor’s expense unless the policy fails to comply with the requirements of this Exhibit, in which case the Subcontractor will bear such costs.
9. The Subcontractor will be responsible for any and all deductibles under all policies without adjustment to the Contract Price.
10. If the policies of insurance referred to in this Exhibit require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.
11. Failure to maintain the required insurance is a material breach of contract. Also, if Subcontractor fails to maintain the insurance as set forth herein, Contractor will have the right, but not the obligation, to purchase said insurance at Subcontractor’s expense.
12. By requiring insurance herein, Contractor does not represent that coverage and limits will necessarily be adequate to protect Subcontractor and such coverage and limits will not be deemed as a limitation on Subcontractor’s liability under the indemnities granted in this contract.
13. Insurance form C G 20 12 will also be completed at the City’s request which shall include the following additional insured:

- 1) Rialto Water Services (“RWS, LLC”) 437 North Riverside Avenue  
Rialto CA 92376
- 2) Rialto Utility Authority, a California joint powers authority, (“RUA”) & City of Rialto  
335 West Rialto Avenue Rialto CA 92376
- 3) U.S. Bank Treasury Management Services, N.A.  
P.O. Box 70970, St. Paul, MN 55170-9581

## **EXHIBIT H**

### **SUBCONTRACTOR GENERAL CONDITIONS (SCHEDULE R.6 OF PRIME CONTRACT)**

#### **1. WORKERS AND WORKERS COMPENSATION**

**1.1 Strict Discipline and Good Order.** At all times, Subcontractor will enforce strict discipline and good order among its employees. Subcontractor will not employ any unfit person or anyone not skilled in the construction work assigned on the Project.

**1.2 Removal of Persons.** The Concessionaire or Contractor can request removal of any person in the employ of the Subcontractor whom Concessionaire or Contractor believes incompetent, improper, disruptive, or a hindrance to Subcontractor's performance of its work. If the person is dismissed, he or she will not be re-employed to perform any portion of the work required under the Contract Documents without written approval of the Concessionaire and Contractor.

**1.3 Insurance Certification.** Subcontractor and its tier subcontractors and vendors are required to secure the payment of compensation of their respective employees in accordance with Labor Code section 3700. Before commencing any construction work on the Project, Subcontractor and each of its tier subcontractors and vendors will sign and file a certification with the Contractor and Concessionaire under Labor Code section 1861 stating the following:

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

#### **2. CONSTRUCTION RELATED WORK**

**2.1 Employment Standards.** Subcontractor and all tier subcontractors performing material construction work for the Project, including delivery to the job site of major construction materials, shall:

2.1.1 Observe area standards for wages and other terms and conditions of employment, including fringe benefits.

**2.2 Equipment and Machinery Procurement.** Subcontractor and its tier subcontractors will seek to have a "best value" policy with respect to procurement of significant equipment or machinery (including fabrication) utilized in the Project. This best value approach will consider the quality assurance of equipment and machinery.

#### **3. WORKERS RIGHTS AND EMPLOYMENT PRACTICES**

**3.1 Employee Rights.** The Subcontractor and its tier subcontractors shall comply with all applicable federal and state labor and employment laws, including the National Labor Relations Act, the Fair Labor Standards Act, and applicable state wage, hour, and safety laws. Each worker shall have the right to make personal choices regarding association or representation, free from coercion, discrimination, or retaliation.

3.1.1 Recognize that employees have the legal right, as set forth under the National Labor Relations Act, to determine whether to engage in concerted activity or to be represented for purposes of collective bargaining, and that such decisions rest solely with the employees.

3.1.2 Refrain from conduct that unlawfully interferes with, restrains, or coerces employees in the exercise of their lawful rights, and maintain a workplace that promotes open communication, respect, and equal opportunity for all workers.

3.1.3 Maintain control over project sites and access consistent with safety, security, and operational needs. Any third-party access shall be governed by the Subcontractor's reasonable site-access policies and applicable law.

3.1.4 Maintain the confidentiality of employee information and provide it only as required by law or lawful order.

#### **4. PREVAILING RATES OF WAGES**

**4.1 Applicability of Laws.** Pursuant to Government Code section 5956.8, the Project is subject to California State prevailing wages. Subcontractor and its tier subcontractors will comply with any applicable California prevailing wage laws commencing with Section 1720 of Part 7 of Division 2 of the Labor Code. The Subcontractor acknowledges and agrees that it has performed its own investigation as to the applicability of California prevailing wage laws under Government Code section 5956.8 and commencing with Labor Code section 1720 et seq., and that the following provisions only include a summary of the requirements for prevailing wages under the California Labor Code. Prior to the start of construction, Subcontractor will acknowledge in writing, and cause each of its tier subcontractors to acknowledge in writing, that the final pricing includes full compensation for all labor in compliance with California Labor Code and that no additional compensation will be owed to Subcontractor or its tier subcontractors in the event that Subcontractor or its tier subcontractors are required to pay higher wages or incur additional costs related to compliance.

**4.2 Subcontractor Compliance.** The Subcontractor is aware of the requirements of Labor Code sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Although the Project is being performed pursuant to a public private partnership under Government Code section 5956, et seq., Subcontractor acknowledges that it must fully comply with the Prevailing Wage Laws with respect to the Project. The Subcontractor will obtain a copy of the prevailing rates of per diem wages before commencement of Project

construction from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at [http://www.dir.ca.gov/OPRL/statistics\\_research.html](http://www.dir.ca.gov/OPRL/statistics_research.html). Subcontractor will make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to perform construction work on the Project to interested parties upon request, and will post copies at the Subcontractor's principal place of business and at the Project site office. Subcontractor will defend, indemnify and hold the Contractor, Concessionaire, City and the Authority, and their respective elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of labor union disputes for failure by Subcontractor or any of its tier subcontractors to comply or allegedly fail to comply with the Prevailing Wage Laws.

**4.3 Penalty for Paying Less Than Prevailing Wage.** Under Labor Code section 1775, the Subcontractor and each of its tier subcontractors will forfeit as a penalty 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 for any construction work done by Subcontractor, or by its tier subcontractor, in violation of the provisions of the Labor Code. The difference between the stipulated 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, will be paid to each worker by the Subcontractor or its tier subcontractor.

**4.4 Monitoring Tier Subcontractor Compliance.** The Subcontractor will monitor the payment of the specified general prevailing rate of per diem wages by its tier subcontractors to their respective employees by periodic review of the certified payroll records of its tier subcontractors. Upon becoming aware of the failure of any of its tier subcontractors to pay its workers the specified prevailing wage rate, the Subcontractor will diligently take corrective action to halt or rectify the failure including, but not limited to, requesting that the Contractor retain sufficient funds due the tier subcontractor for construction work performed on the Project. As part of its application for final payment, the Subcontractor will cause each of its tier subcontractors to provide an affidavit signed under penalty of perjury that the tier subcontractor has paid the specified general prevailing rate of per diem wages to its employees and any amounts due under Section 1813.

**4.5 Penalty for Exceeding Maximum Hour Limits.** The Subcontractor or its tier subcontractors will, as a penalty to the state or political division on whose behalf the Prime Contract is made, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the construction work for each calendar day that the worker is required or permitted to work more than eight (8) hours in any one (1) calendar day and 40 hours in any one (1) calendar week in violation of the provisions of Section 1813. Notwithstanding the provisions of sections 1810 to 1814, inclusive, of the Labor Code, or any stipulation inserted in the Contract Documents, work performed by employees of contractors in excess of eight (8) hours per day, and 40 hours during any one (1) week, will be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than 1 ½ times the basic rate of pay.

**4.6 Posting of Rates.** Contractor will post, at appropriate conspicuous points at the Project site(s), a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

**4.7 Notice Regarding Complaints.** The Division of Labor Standards Enforcement will notify the Subcontractor within 15 days of receipt of a complaint of the failure of any of its tier subcontractors to pay workers the general prevailing rate of per diem wages.

**4.8 Copy of Certain Labor Code Provisions.**

**Section 1771.** Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

**Section 1775**

(a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor

on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

### **Section 1776**

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after



receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29

U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fees and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided unredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract

stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

### **Section 1777.5**

(a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program.

"Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body.

Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen,

the Chief of the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m)(1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:

(A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(B) If there are two or more approved multiemployer apprenticeship

programs serving the same craft or trade and geographic area for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices registered in each program.

(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Division of Apprenticeship Standards.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all money in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) All decisions of an apprenticeship program under this section are subject to Section 3081.

**Section 1813.** The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

**Section 1815.** Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

## **5. EMPLOYMENT OF APPRENTICES**

**5.1 Applicability of Laws.** The Subcontractor's attention is directed to the provisions of Sections 1777.5, 1777.6, and 1777.7 of the Labor Code concerning employment of apprentices by the Subcontractor or any of its tier subcontractors. The Subcontractor will obtain a certificate

of apprenticeship before employing any apprentice pursuant to Sections 1777.5, 1777.6, and 1777.7 of the Labor Code. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, the Administrator of Apprenticeships, or from the Division of Apprenticeship Standards, and its branch offices.

## **6. PAYROLL RECORDS**

**6.1 Maintenance.** Pursuant to Labor Code section 1776, the Subcontractor and each of its tier subcontractors will 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 performing labor in connection with construction work at the Project. Subcontractor will certify under penalty of perjury that records maintained and submitted by Subcontractor are true and accurate and that the employer has complied with the requirements of Labor Code sections 1771, 1811, and 1815 for any construction work performed on the Project. Subcontractor will also require its tier subcontractor(s) to certify weekly payroll records under penalty of perjury.

**6.2 Submission and Availability.** The payroll records will be certified and submitted by the Subcontractor on a monthly basis with its application for payment or at other times that may be designated by the Contractor. The Subcontractor will also provide the following:

6.2.1 A certified copy of the employee's payroll records will be made available for inspection or furnished to the employee or his or her authorized representative on request.

6.2.2 A certified copy of all payroll records described will be made available for inspection or furnished upon request of the Division of Labor Standards Enforcement ("DLSE"), the Division of Apprenticeship Standards ("DAS"), or the Department of Industrial Relations ("DIR").

**6.3 Forms.** The certified payroll records will be on forms provided by the DLSE of the DIR or will contain the same information as the forms provided by the DLSE.

**6.4 Privacy.** Any copy of records made available for inspection and furnished upon request to the public will be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Subcontractor or any of its tier subcontractors will not be marked or obliterated.

**6.5 Compliance.** In the event of noncompliance with the requirements of this Article 6, the Subcontractor will have 10 days in which to comply subsequent to receipt of written notice specifying any item or actions necessary to ensure compliance with this Article. If non-compliance is evident after the 10-day period, the Subcontractor will, as a penalty, forfeit one hundred dollars (\$100) for each day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the DAS or the DLSE, the penalties will be withheld from progress payments due.

## **7. REMOVAL, RELOCATION, OR PROTECTION OF EXISTING UTILITIES.**

**7.1 Responsibility.** Unless specifically required in Subcontractor's scope of work, Contractor will be responsible for the timely removal, relocation, or protection of existing main or trunk-line utility facilities located on the Project site. If Subcontractor discovers utility facilities not identified in the Construction Documents, it will immediately notify the Contractor in writing and the Contractor will notify the utility company. If, however, removal, relocation or protection of existing main or trunk-line facilities is required by Subcontractor's scope of work, subcontractor may be reasonably compensated for the cost of locating or repairing damage to utilities that are not identified in the Construction Documents provided that the damage was not caused due to the negligence of the Subcontractor. Under no circumstance will Subcontractor be entitled to additional compensation if the removal, relocation or protection of the existing utilities was included in its scope of work and the presence of such utilities at the Project site can be inferred from other aboveground, visible facilities, such as buildings, meter and junction boxes, or on or adjacent to the Project site.

## **8. INSPECTION FEES FOR PERMANENT UTILITIES.**

**8.1 Fees.** All governmental inspection fees and other municipal charges for permanent utilities including, but not limited to, sewer, electrical, phone, gas, water, and irrigation will be Contractor's responsibility.

## **9. SOILS INVESTIGATIONS**

**9.1 Examination of Site.** Subcontractors are required to examine the site before submitting a bid and must make whatever tests they deem appropriate.

## **10. TRENCHING, SHORING AND UNKNOWN SITE CONDITIONS**

**10.1 Labor Code Compliance.** Subcontractor will comply with Labor Code sections 6500, 6705, and 6707, and Public Contract Code section 7104 regarding trenching and shoring.

### **10.1.1 Permit Requirements for Trenches 5'-0" or More in Depth.**

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

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

**10.1.1.2 Separate Bid Items for Sheet piling, Shoring, etc.** To the extent the construction work involves construction of a pipeline, sewer, sewage disposal system, boring and jacking pits, or similar trenches or open excavations, which are 5'-0" or deeper, Subcontractor and its tier subcontractors will comply with all Applicable Laws, regulations, and codes, and all bids will contain, as a bid item, adequate sheet piling, shoring, and bracing, or equivalent method, for the protection of life or limb pursuant to Labor Code section 6707, which will conform to applicable safety orders. Nothing in this Article 10 will be construed to impose tort liability on the Contractor, Authority, City, Concessionaire or any of their respective employees.

**10.2 Excavations Deeper than 4'-0".** If Subcontractor's work involves digging trenches or other excavation that extend deeper than 4'-0" below the surface, Subcontractor will promptly, and before the following conditions are disturbed, notify the Contractor, in writing, of any:

10.2.1 Material that the Subcontractor believes may be 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 Applicable Law.

10.2.2 Subsurface or latent physical conditions at the site differing from those indicated in the Contract Documents or otherwise disclosed to Subcontractor as pre-existing Environmental Conditions.

10.2.3 Unknown Site Conditions.

**10.3 Unknown Site Conditions or Environmental Conditions.** The Contractor in conjunction with the Concessionaire and Authority will promptly investigate the conditions, and to the extent the conditions result in an adjustment to the Contractor's compensation or schedule under the Prime Contract, Contractor will be obligated to adjust Subcontractor's compensation or schedule to the extent applicable to Subcontractor's work.

**10.4 Adjustment.** If the physical conditions at the site are not Unknown Site Conditions or unknown Environmental Conditions and no change in terms of the Prime Contract is made due to such site conditions, the Contractor will notify the Subcontractor in writing, stating the reasons. Also, Subcontractor will not be entitled to an adjustment in compensation or schedule regarding claimed Unknown Site Conditions (whether above or below grade) or unknown Environmental Condition if:

10.4.1 Subcontractor knew of the existence of the conditions, or could have reasonably discovered the existence of the condition through diligent review of all disclosed documentation relating to the Project, at the time Subcontractor or any of its tier subcontractors submitted a bid for the Project, and did not qualify its contract price for such conditions; or

10.4.2 Subcontractor or any of its tier subcontractor should have known of the existence of the conditions as a result of having complied with the requirements of the Contract Documents; or

10.4.3 Subcontractor, or any of its tier subcontractor, was required to give written



notice of the Unknown Site Conditions or unknown Environmental Condition under the Contract Documents, and failed to do so within the time required.

**10.5 Dispute.** In the event of a dispute, the Subcontractor and its tier subcontractor(s) will not be excused from the Final Completion Date for the Project and will proceed with all construction work to be performed under the Contract Documents. Disputes between the parties will be resolved in accordance with the dispute resolution provisions set forth in the Subcontract.

## **11. SURVEYING**

**11.1 Field Engineering.** If specified in its scope of Work, Subcontractor or one of its tier subcontractors will employ a California State licensed civil engineer or land surveyor to provide field engineering services to establish benchmarks and line and grade for horizontal and vertical control.

## **12. DEMOLITION**

**12.1 Demolition Plan.** Prior to commencing any required demolition work, Subcontractor will submit to Contractor, and Contractor will submit to the Concessionaire, a demolition plan for review and approval. Under no circumstances can demolition interrupt operations of the existing water and wastewater facilities without seven (7) days written notice to Contractor and Contractor's prior approval. The Subcontractor's demolition plan will address, at a minimum, the following:

12.1.1 Identify areas that will require demolition and provide a schedule for those demolition activities that are coordinated with the operations and the approved project schedule;

12.1.2 Inventory materials and equipment that will be salvaged during demolition and whether the salvaged materials and equipment will be reused, recycled, or sold at fair market value on Concessionaire's behalf;

12.1.3 Document procedures for protecting the existing structures and/or materials, equipment and components that are remaining, as well as protection plans for adjacent property and persons that comply with the requirements in Article 15.

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

12.1.5 Document procedures for required disruption of any utility service as a result of demolition activities and a record of any utilities that are capped during the process. Any required shut-off or interruption of service must be approved in writing by Concessionaire and notice must be provided by Contractor in writing to affected utility customers at least \_\_\_\_\_ calendar days in advance of any disruption in service, which requires Subcontractor to notify Contractor at least five (5) more calendar days beforehand, and all necessary water, emergency power, etc., must be in place prior to shut-off or disruption.

12.1.6 Document procedures to ensure that fire protection and fire life safety

equipment remain operable during demolition.

12.1.7 Provide for all required temporary sheeting, shoring, bracing or other structural support necessary to ensure stability of the existing structure or adjacent properties and prevent movement, settlement or collapse during demolition operations. All required temporary structural support will be designed by a California licensed structural or civil engineer and will comply with any trenching and shoring requirements in Article 10.

12.1.8 Document procedures to deal with encountering Environmental Conditions and Unknown Site Conditions.

12.1.9 Document procedures for hauling away and disposal of any demolished materials and equipment. The procedures should include, among other things, requirements for refrigerant recovery under the Environmental Protection Agency, a list of all required hauling permits, requirements for hauling and disposing of hazardous waste, volatile organic compounds or any other substance that is regulated by Health and Safety Code, the South Coast Air Quality Management District or any other governmental agency that regulates the proper hauling and disposal of certain materials and substances.

12.1.10 Document procedures to ensure that removal and replacement of equipment will not void any existing warranties.

12.1.11 Require a survey of existing conditions and video or photographic documentation before commencement of the demolition activity to demonstrate existing conditions of adjacent areas or property.

**12.2 Permits and Fees.** Subcontractor or its tier subcontractors will secure all required hauling permits. The cost for all permits and dumping fees is included in Subcontractor's Contract Price, subject to any approved Change Orders for Unknown Site Conditions or unknown Environmental Conditions in accordance with Article 10.

### **13. ENVIRONMENTAL CONTROLS**

**13.1 Water Control.** During construction, Subcontractor or its tier subcontractors will maintain all trenches and excavated areas free from water accumulation and will provide the necessary barriers to protect the improvements at the Project site from ponding, running water and soil erosion. Subcontractor or its tier subcontractors will provide for increased drainage of stormwater and any water that may be applied or discharged on the site during performance of the construction work. All drainage facilities will be adequate to prevent damage to the construction work, Project site, and adjacent property. Subcontractor or its tier subcontractors will construct dikes, if necessary, to divert any increased runoff from entering adjacent property (except in natural channels), to protect the Project site and the construction work, and to direct water to drainage channels or conduits. Subcontractor or its tier subcontractors will provide ponding as necessary to prevent downstream flooding.

**13.2 Pollution Control.** Subcontractor or its tier subcontractors will provide a plan that meets the requirements of California Stormwater Best Management Practices (Stormwater Quality Task Force, 1993) to prevent the pollution of drains and watercourses by sanitary wastes,

sediment, debris, and other substances and/or soil erosion during construction operations.

13.2.1 No sanitary wastes will be permitted to enter any drain or watercourse other than sanitary sewers. No sediment, debris, or other substance will be permitted to enter sanitary sewers without authorization of the receiving sanitary sewer service, and all possible best management practices will be taken to prevent materials from entering into any drain or watercourse.

13.2.2 In the event that dewatering of excavations is required, Subcontractor or its tier subcontractors will obtain the necessary permits from local governmental authorities for discharge of the dewatering effluent. Subcontractor will be responsible for assuring that water quality of the discharge meets the appropriate permit requirements prior to any discharge.

**13.3 Erosion Control.** Subcontractor or its tier subcontractors will provide an erosion control plan that is consistent with Storm Water Pollution Prevention Plan (“SWPPP”) requirements to prevent soil erosion at the Project site and adjacent property resulting from construction operations. Effective measures will be initiated before commencement of clearing, grading, excavation, or other operations that will disturb the natural protection.

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

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

**13.4 Traffic Control.** Unless specifically required in Subcontractor’s scope of Work, Contractor will provide a traffic control plan in accordance with the California Department of Transportation Traffic Manual as part of its site logistics plan. Contractor will submit its traffic control plan to the Concessionaire and the appropriate agency for approval before commencement of the construction work. Subcontractor will comply with the approved traffic plan.

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

13.4.2 All traffic associated with construction operations, including without limitation delivery and mail trucks, will enter Contractor’s access gate and road. Subcontractor or its tier subcontractors will provide signs directing construction and delivery traffic to this gate

and will take all necessary steps to minimize inconvenience to the general public throughout the construction process. No driveways or private roads will be blocked without notifying the property owner, and access must be restored during all non-working hours.

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

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

**13.5 Air Pollution Control.** Subcontractor and its tier subcontractors will comply with all applicable air pollution control rules, regulations, ordinances and statutes. All containers of paint, thinner, curing compound, solvent or liquid asphalt will be labeled to indicate that the contents fully comply with the applicable material requirements. Dust control will be provided for all demolition operations and Subcontractor and its tier subcontractors will provide dust control as required for their respective operations.

**13.6 Fire Protection Control.** Subcontractor will provide fire watch and be responsible for all fire prevention in connection with its scope of Work. Open fires will not be permitted on or around the Project site.

13.6.1 The Subcontractor will make chemical fire extinguishers available at the location where the Subcontractor or its tier subcontractors perform any torch cutting or welding operations. Subcontractor will provide the Contractor with notice prior to undertaking any torch cutting and welding operations. Subcontractor and its tier subcontractors, if performing cutting or welding operations, will undertake all appropriate safety measures including but not limited to a fire watch, fire extinguishers, and fire blankets and will be responsible for any damage caused by its operations.

## **14. SAFETY**

**14.1 OSHA.** Subcontractor and its tier subcontractors will maintain emergency first aid treatment for their employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.), and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations, Chapter 4.

**14.2 Health and Safety Plan.** Employers on a construction project are responsible for the health and safety for their workers as regulated by municipal, State, and Federal acts and regulations. If Contractor does not provide Subcontractor with a safety plan, Subcontractor will prepare and submit a safety plan that complies with OSHA regulations regarding health and safety of workers to Contractor before commencement of any construction work. Regardless of the safety program, Subcontractor and its tier subcontractors are obligated to comply with all Applicable Laws, regulations, and codes concerning safety applicable to the construction work and to the safety standards established under Applicable Laws during the progress of the Project.

**14.3 Signs.** Subcontractor and its tier subcontractors will erect and maintain, as required by existing conditions and performance of the construction work, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

**14.4 Weekly Safety Meetings.** Subcontractor will hold weekly meetings with its tier subcontractors to review tier subcontractor compliance with the health and safety program.

**14.5 Material Safety Data Sheets (“MSDS”).** Subcontractor and its tier subcontractors must comply with all requirements of the Hazard Communication Standard (Title 29, Code of Federal Regulations, Part 1910, as amended). Subcontractor will, at a minimum (i) keep all MSDS on file electronically at the Project site, with regularly updated lists of the MSDS copied to Contractor; (ii) cause all tier subcontractors and employees to clearly label all hazardous compounds as to content with appropriate warnings noted and the name and address of the manufacturer listed; and (iii) ensure that all tier subcontractors and employees using hazardous compounds are trained in protective handling and are knowledgeable about the potential hazards.

**14.6 Safety Walks.** Subcontractor will conduct daily jobsite inspections to verify that the construction work is being performed in a safe and workmanlike manner and in accordance with the health and safety program. Subcontractor will provide written notice to its tier subcontractors demanding immediate correction of any known safety violation.

## **15. PROTECTION OF WORK AND PROPERTY**

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

15.1.1 Employees and other persons at the Project site;

15.1.2 Equipment, materials, and vehicles stored at the sites or off-site if under the care, custody, or control of the Subcontractor or its tier subcontractor;

15.1.3 Existing structures, property and the work of other separate contractors performing separate work on behalf of the Authority, Concessionaire or Contractor (other than Subcontractor).

**15.2 Requirements.** Subcontractor and its tier subcontractors will:

15.2.1 Enclose the working area with a substantial barricade, and arrange construction work to cause minimal inconvenience and danger to the public;

15.2.2 Provide substantial barricades around any shrubs or trees indicated to be preserved;

15.2.3 Ensure that existing facilities, fences and other structures are all adequately protected and that, upon completion of all construction work, all facilities that may have been damaged are restored to a condition acceptable to the Contractor, Concessionaire and the Authority;

15.2.4 Preserve and protect from injury all buildings, pole lines and all direction, warning, and mileage signs that have been placed within the right-of-way.

**15.3 Field Offices.** All Subcontractor field offices will be constructed of fire resistant materials. The Subcontractor will coordinate with Contractor regarding site logistics, storage and field offices as Project site conditions permit. Construction details of the Subcontractor's or its tier subcontractor's field office(s) and their location on the site will be subject to the approval of the Contractor and Concessionaire, which will not be unreasonably withheld, and will contain adequate fire protection equipment. Field office relocation, if required, will be at the Subcontractor's expense.

**15.4 Temporary Protection.** Subcontractor will provide barricades (lighted, if required), fences, and protection necessary for general safety as related to its scope of work. Subcontractor will notify the Contractor 48 hours prior to removing any safety installation. Subcontractor and its tier subcontractors who damage or remove safety or protective work during the performance of their respective construction work will be responsible for the immediate restoration of the safety or protective installations to ensure continuous compliance with all applicable safety regulations and any safety requirements per OSHA regulations.

**15.5 Damages to Materials and Equipment.** Subcontractor is responsible to notify the Contractor of any damage to material or equipment during the Project and will immediately repair or restore the damage to the satisfaction of the Contractor and Concessionaire.

**15.6 Precautionary Measures.** These precautionary measures will apply continuously and not be limited to normal working hours.

**15.7 Investigation and Reporting.** If damage to persons or property occurs as a result of construction work during the Project, Subcontractor will be responsible for proper investigation and documentation, including video or photography, to adequately memorialize and make a record of what transpired. The Contractor and Concessionaire will be entitled to inspect and copy any documentation, video, or photographs.

## **16. TEMPORARY FACILITIES**

**16.1 Temporary Electricity.** Unless specifically required in Subcontractor's scope of work, Contractor will provide, maintain, and pay for temporary electrical power at the Project site for construction purposes and trailers. In certain situations, permanent power may be available

through Authority, but Subcontractor must provide all necessary wiring and appurtenances for connection to Authority's facilities system. Contractor will meter all connections to determine usage rates. For smaller loads, such as test equipment, work area lighting, and small hand tools, Subcontractor may use existing electrical circuits following approval in writing by Contractor.

**16.2 Temporary Communications.** Subcontractor will provide, maintain, and pay for all applicable communications and data service connections for its field offices, including all installation and connection charges.

**16.3 Temporary Water.** Subcontractor will provide, maintain, and pay for all required potable water required for construction field personnel as well as water required for and in connection with its construction operations such as dust control. Unnecessary waste of water will not be permitted. Subcontractor and its tier subcontractors must use special hydrant wrenches for opening and closing fire hydrants in lieu of pipe wrenches.

**16.4 Temporary Fences.** Subcontractor will provide all necessary temporary fencing and gates required for the Project site. Temporary fencing will be subject to restrictions in the use permit. Subcontractor will maintain all fences through Final Completion of the construction work. Gates are to remain closed and locked during off-hours.

**16.5 Temporary Sanitary Facilities.** Unless specifically required in Subcontractor's scope of work, Contractor will provide and maintain all required temporary toilets for use of all construction personnel and field labor through Final Completion of the construction work. Location of temporary sanitary facilities must be approved by Contractor prior to delivery. Contractor will provide at least one (1) temporary toilet facility for every 20 persons. Unless otherwise permitted, Subcontractor and its tier subcontractors will cause all construction personnel (including field labor) to use temporary sanitary facilities rather than the Authority's facilities. All temporary sanitary facilities will comply with the Department of Health standards.

**16.6 Temporary Barriers and Enclosures.** Subcontractor or its tier subcontractors will provide barriers to prevent unauthorized entry to construction areas, to allow for safe use of the Project site, and to protect existing facilities and adjacent properties from damage from construction operations.

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

**16.8 Removal of Temporary Facilities and Equipment.** Subcontractor or its tier subcontractors will remove all temporary utilities, equipment, facilities, and materials before final inspection of the Project and clean and repair any damage caused by installation or use of temporary work restoring Authority's existing facilities to their original conditions.

## **17. QUALITY ASSURANCE AND QUALITY CONTROL**

**17.1 Testing and Inspection.** Materials and equipment to be furnished under the Contract Documents are subject to testing and inspection.

**17.2 Permits, Licenses, and Certificates.** Subcontractor will submit to Contractor record copies of the all permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, and other similar documentation demonstrating compliance with standards and regulations bearing on performance of the construction work.

**17.3 Quality Control Plan.** Subcontractor will assist Contractor to prepare and submit to the Concessionaire for approval a plan that describes the procedures and methods Subcontractor and its tier subcontractors will utilize to control the quality of the construction work. The Quality Control Plan must be approved before the start of construction and will reflect any testing and inspection requirements. Contractor may require revisions of the Quality Control Plan that are necessary to ensure the specified quality of the construction work. Contractor and Subcontractor will assign appropriate site personnel to oversee quality control. At a minimum, the Quality Control Plan will provide information regarding the following:

17.3.1 Quality control supervision and document control;

17.3.2 Identification of personnel for required training and qualification activities;

17.3.3 Procedures for testing and inspections that identify individual inspection or testing points and acceptance criteria, and include provisions for recording results and the responsible inspection/test personnel;

17.3.4 Procedures for identifying what applicable technical and quality requirements will be required of vendors supplying materials, parts and services to ensure compliance with the approved Construction Documents;

17.3.5 Procedures for receiving, inspecting and accepting materials and equipment. The procedures will include, at a minimum, examination of the physical condition for compliance with the approved Construction Documents, purchase order and/or subcontract agreement, and identifying and processing any non-conforming goods;

17.3.6 Provisions for identifying and timely remedying non-conforming or defective construction work;

17.3.7 Documentation control to maintain records of the activities included in the Quality Control Plan. All documentation will be submitted to Contractor for submission to Concessionaire as part of the close-out documentation for the Project and therefore must be logically organized and indexed for reference.

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



**17.5 Quality Control Reports.** Subcontractor will keep daily Quality Control Reports throughout the duration of the construction process certifying that the relevant areas of the construction work have been inspected. The Quality Control Reports will be prepared, signed and dated by the Subcontractor's personnel identified as the supervisor in the Quality Control Plan and will include, at a minimum, the following information:

17.5.1 Identification of the material, equipment or component that was inspected and indicate, if applicable, if the submittals have been reviewed and approved;

17.5.2 Indicate that all materials and/or equipment that have not been installed have been properly stored and protected;

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

17.5.4 Results of any off-site testing or quality control work and any required further actions;

17.5.5 Other necessary information including, directions received, quality control problem areas, deviations from the Quality Control Plan, construction deficiencies encountered, Quality Control meetings held, acknowledgement that as-built drawings or building information models have been updated (if applicable), corrective direction given by Quality Control personnel, and corrective action taken by Subcontractor or its tier subcontractors.

**17.6 Test and Inspection Logs.** Subcontractor will maintain an on-site inspection log that is accessible by the Contractor, Concessionaire, Authority, independent engineer, testing agency, special inspector, and any governmental authority with jurisdiction over the Project. Subcontractor will timely provide information necessary for Subcontractor to maintain the log with respect to Subcontractor's scope of work. The log will document all tests and inspections performed on the Project during construction. The record of tests will include the following information:

17.6.1 Request for Inspection;

17.6.2 Date test or inspection was conducted;

17.6.3 Identity of testing agency or special inspector;

17.6.4 Description of the construction work tested or inspected;

17.6.5 Identification of any drawings or applicable details on the approved Construction Documents or submittals that were used during testing and inspection;

17.6.6 Date that the test or inspection was concluded and the date that the results

were transmitted to Contractor.

## **18. LAWS AND REGULATIONS**

**18.1 Notices.** Subcontractor will give all notices and comply with all Applicable Laws, ordinances, rules and regulations bearing on conduct of its construction work. If Subcontractor observes that the Construction Documents are at variance with any laws, ordinances, etc., Subcontractor will promptly notify the Contractor, in writing, and any necessary changes will be made. If Subcontractor or its tier subcontractors perform any construction work knowing it to be contrary to Applicable Law and without notice to the Contractor, Subcontractor will bear all costs associated with any required corrections or repairs.

**18.2 Americans with Disabilities.** Subcontractor will be responsible for familiarity with the Americans with Disabilities Act ("ADA") (42 U.S.C. § 12101 et seq.) in relation to requirements related to the construction work.

## **19. NOTICE OF THIRD-PARTY CLAIMS**

**19.1 Third-Party Claims.** Contractor will provide Subcontractor with timely notification of the receipt of any third-party claim relating to the Subcontractor's work. Subcontractor will provide Contractor with timely notification of the receipt of any third-party claims relating to the Subcontractor's work.

## **20. DRUG FREE WORKPLACE CERTIFICATION.**

**20.1 Subcontractor's Certification.** Subcontractor certifies, and will cause its tier subcontractors to certify, that it has complied with Government Code section 8355 relating to a drug-free workplace and will address these requirements in its health and safety program. Subcontractor will submit a certificate under penalty of perjury stating that Subcontractor and its tier subcontractors will:

20.1.1 Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition;

20.1.2 Establish a drug-free awareness program to inform employees about: (i) the dangers of drug abuse in the workplace; (ii) the person's or organization's policy of maintaining a drug-free workplace; (iii) any available drug counseling, rehabilitation, and employee assistance programs; and (iv) the penalties that may be imposed upon employees for drug abuse violations;

20.1.3 Subcontractor will require that each employee, as well as tier subcontractors and each of their respective employees, performing construction work on the Project be given a copy of the statement required by Section 20.1.1 and that the employee agrees to abide by the terms of the statement as a condition of employment.

## **21. NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY**

**21.1 Non-Discrimination Policy.** Pursuant to Labor Code section 1735 and other applicable provisions of law, Subcontractor and its tier subcontractors will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, political affiliation, marital status, or disability in the performance of its obligations under the Contract Documents. Subcontractor will take affirmative action to ensure that employees are treated during employment or training without regard to their race, color, religion, sex, national origin, age, political affiliation, marital status, or disability and will comply with the following requirements:

21.1.1 During the performance of the Contract Documents, Subcontractor and its tier subcontractors will not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor will they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40) or sex. Subcontractor will ensure that the evaluation and treatment of employees and applicants for employment are free of discrimination.

21.1.2 Subcontractor will comply with the provisions of the Fair Employment and Housing Act (Gov. Code section 12900 et seq.), the regulations promulgated thereunder (Cal. Admin. Code, Tit. 2, sections 7285.0 et seq.), and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code sections 11135-11139.5).

21.1.3 Subcontractor will permit access by representatives of the Department of Fair Employment and Housing upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to its books, records, accounts, other sources of information and its facilities as the Department requires to ascertain compliance with this clause.

21.1.4 Subcontractor and its tier subcontractors will give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other agreements.

21.1.5 Subcontractor will include the nondiscrimination and compliance provisions of this clause in all subcontracts.

## **22. OWNERSHIP OF DESIGN DOCUMENTS**

**22.1 Non-Exclusive, Irrevocable License.** Subcontractor and its tier subcontractors and consultants each assign or grant to Contractor and Concessionaire a non-exclusive, irrevocable license with respect to all Intellectual Property that is required to complete the design and construction of the Project or otherwise required for Contractor to perform its services under the Prime Contract including any Intellectual Property regarding the operation and management of the Project facility. With respect to Intellectual Property that is licensed by Subcontractor or an affiliate of Subcontractor from any design professional, tier subcontractor or other person or entity, or any Intellectual Property that is owned by Subcontractor, an affiliate of Subcontractor or any of Subcontractor's tier subcontractors or consultants, Subcontractor and its tier subcontractors and consultants each assign or grant to Contractor a non-exclusive, irrevocable license for the additional purpose of completing the design and construction of the Project, but

only to the extent that such license is required in order to properly design and construct the Project facility in accordance with the terms and conditions of the Prime Contract.

**22.1.1 Exceptions.** The following exceptions apply:

22.1.1.1 Nothing contained in Section 22.1 limits the rights, title and interest of the Subcontractor, or any of its design professional or their design consultants, or any design-build tier subcontractor, or vendor to continue to use their respective general design details that each of them uses or has used on multiple projects, or new standard design details that were or may be developed during design of the Project.

22.1.1.2 If Subcontractor is providing design-build services and Subcontractor is terminated rather than assigned to Concessionaire before completion of its services and Concessionaire or Contractor uses incomplete design documents for further work or services connected with the Project, then Concessionaire and Contractor will each release the Subcontractor from claims and causes of action arising from further development of the design-build documents. However, the design professional who was responsible for the design-build documents will remain liable to Contractor, Concessionaire and Authority for the information contained therein prior to the termination date, and other design professionals retained by the Contractor, Concessionaire and/or Authority to complete the Project will be entitled to rely on the accuracy of the information reflected in those design-build documents. Concessionaire and Contractor, as applicable, will indemnify and hold the Subcontractor and its designers harmless from claims and causes of action arising out of future use of the design-build documents but only to the extent that the claims or causes of action arise from the further development of the design-build documents after the termination date and provided that the error and omission was not present in the design-build documents prepared by the Subcontractor or its designers or caused by the negligent performance of the design-build services for the Project.

**22.2 Statutory Copyright.** All copies made under this license will bear the statutory copyright notice, if any, shown on the Intellectual Property. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the copyright or other reserved rights and interests.

**23. TRUTH IN NEGOTIATIONS/REPRESENTATIONS.**

**23.1 Employees.** Subcontractor warrants that Subcontractor has not employed or retained any company or person other than a bona fide employee working solely for subcontractor, to solicit or secure this Subcontract and that has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Subcontractor, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Subcontract.

**23.2 Contract Price.** Subcontractor warrants that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of the Subcontract. The Subcontractor agrees that the original Contract Price and any additions thereto may be adjusted to exclude any significant sums by which Contractor or Concessionaire determines the Contract Price was increased due to inaccurate, incomplete, or non-current wage

rates and other factual unit costs.

**23.3 Gratuities.** The Subcontractor represents and warrants that in connection with its performance of this Subcontract, it has not or will not, directly or indirectly, pay, give, offer, promise to pay or give, or authorize the payment or giving of any money, gift, or things of value to any governmental official, political party, or candidate for political office; or to any person who knowingly will give all or a portion of the money, gift, or thing of value to any such official in its official capacity. Breach of this representation or warranty will be considered a default under the terms of this Subcontract and will, in addition to any other remedies, entitle Contractor to recover all amounts paid to Subcontractor under this Subcontract.

## **24. COMMUNICATIONS.**

**24.1 Inquiries.** All inquiries the Subcontractor may have concerning this Subcontract will be made to Contractor and not directly to the Concessionaire.

**24.2 Correspondence.** All of Subcontractor's written correspondence or communication regarding this Subcontract will include Contractor's Subcontract Number and Work description, and shall be mailed or delivered to Contractor's designated representative.

## **25. CLEAN UP AND RECYCLING**

**25.1 Material Recycling.** Subcontractor will endeavor to reduce the amount of waste material generated during construction. Construction waste that is unavoidably generated will be segregated into recyclable and non-recyclable materials. Recyclable materials will preferably be reused during construction, but if reuse is not practical, will be recycled rather than being transported to a landfill.

**25.2 Cleaning Up.** Subcontractor will keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by the work of Subcontractor or its tier subcontractors. At completion of the construction work, Subcontractor and its tier subcontractors are responsible for removing their waste materials, rubbish, construction tools and equipment, machinery and surplus materials from and about the Project site. If Subcontractor fails to clean up as provided in the Contract Documents, the Concessionaire or Contractor may do so and the cost associated with the clean-up will be at Subcontractor's sole expense.

## **EXHIBIT I**

### **WAIVER & RELEASE FORMS**

See attached.

**CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**  
(CA CIVIL CODE §8132)

**NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.**

**Identifying Information:**

Name of Claimant: \_\_\_\_\_

Customer: \_\_\_\_\_

Job Location: \_\_\_\_\_

Owner: \_\_\_\_\_

Through Date: \_\_\_\_\_

**Conditional Waiver and Release**

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: \_\_\_\_\_

Amount of Check: \$ \_\_\_\_\_

Check Payable to: \_\_\_\_\_

**Exceptions**

This document does not affect any of the following:

- (1) Retentions;
- (2) Extras for which the claimant has not received payment;
- (3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:

Date(s) of waiver and release: \_\_\_\_\_

Amount(s) of unpaid progress payment(s): \$ \_\_\_\_\_

- (4) Contract rights, including:
  - (A) a right based on rescission, abandonment, or breach of contract; and
  - (B) the right to recover compensation for work not compensated by the payment.

**SIGNATURE**

Claimant's  
Signature: \_\_\_\_\_

Claimant's Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_



**UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**  
(CA CIVIL CODE §8134)

**NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.**

**Identifying Information:**

Name of Claimant:

Name of Customer:

Job Location:

Owner:

Through Date: \_\_\_\_\_

**Unconditional Waiver and Release**

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has received the following progress payment:

\$

**Exceptions**

This document does not affect any of the following:

- (1) Retentions;
- (2) Extras for which the claimant has not received payment;
- (3) Contract rights, including:
  - (A) a right based on rescission, abandonment, or breach of contract, and
  - (B) the right to recover compensation for work not compensated by the payment.

**SIGNATURE**

Claimant's  
Signature:

Claimant's  
Title:

Date of  
Signature:

---

**CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**  
(CA CIVIL CODE §8136)

**NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.**

**Identifying Information:**

Name of

Claimant: Name

of Customer:

Job Location: \_\_\_\_\_

Owner:

**Conditional Waiver and Release**

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job.

Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check:

Amount of Check: \$

Check Payable to: \_\_\_\_\_

**Exceptions**

This document does not affect any of the following:

Disputed claims for extras in the amount of: \$ \_\_\_\_\_

**SIGNATURE**

Claimant's  
Signature: \_\_\_\_\_

Claimant's Title: \_\_\_\_\_

Date of  
Signature:

---

# UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

(CA CIVIL CODE §8138)

**NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.**

## Identifying Information:

Name of Claimant:

Name of Customer:

Job Location:

Owner:

## Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has been paid in full.

## Exceptions

This document does not affect any of the following:

Disputed claims for extras in the amount of: \$ \_\_\_\_\_

## SIGNATURE

Claimant's  
Signature: \_\_\_\_\_

Claimant's  
Title: \_\_\_\_\_

Date of  
Signature: \_\_\_\_\_

**EXHIBIT J**  
**WARRANTY**  
**FORM**

Advanced Metering Infrastructure System Services

Rialto, California

We hereby guarantee the Advanced Metering Infrastructure System Services that we have constructed for a period of one year from   (Date)  , which is the date of Final Completion of the Project or within such longer period of time as may be prescribed by Applicable Law or by the terms of any applicable special guarantee or extended warranty required by the Contract Documents.

The following are excluded from the provisions of this warranty:

We agree that if any of the equipment should fail due to any reason other than improper maintenance or improper operation, if any pipe or appurtenances should develop leakage, or if any settlement of fill or backfill occurs, or should any portion of the Work fail to fulfill any of the requirements of the Contract Documents, we will, within five (5) days after receipt of written notice of such defects, provide on-site troubleshooting services, and within 10 days after receipt of written notice, commence to repair or replace the same together with any other work which may be damaged or displaced in so doing.

In the event of our failure to comply with the above mentioned conditions or should the exigencies of the case require repairs or replacements to be made before we can be notified or respond to notification, we do hereby authorize Veolia Water West Operating Services, Inc. to proceed to have the defect repaired and made good at our expense, and we will pay the cost therefore upon demand. We acknowledge and agree that Rialto Water Services, LLC has an express right to enforce this warranty or to proceed to have the defect repaired and made good at our sole expense should Veolia Water West Operating Services, Inc. fail to timely do so.

**The warranty provided herein shall not be in lieu of, but shall be in addition to, any warranties or other obligations otherwise imposed by the Contract Documents and by Applicable Law.**

Contractor: \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_