Construction Service Insurance Requirements

Indemnification Language: To the extent permitted by law, Contractor shall defend, indemnify and hold harmless Diablo Water District, its directors, officers, employees, and authorized volunteers from and against all claims, damages, losses and expenses, including reasonable attorneys' fees and costs to defend arising out of the performance of the work described herein, and caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of Diablo Water District, its directors, officers, employees, and authorized volunteers.

Minimum Scope and Limits of Insurance: Contractor shall procure and maintain for the duration of the contract, **and for 10 years thereafter***,* insurance against claims for injuries or death to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

Coverage: Coverage shall be at least as broad as the following:

1. **General Liability:** Commercial **General Liability** (CGL): Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 00 01) including products and completed operations, property damage, bodily injury, personal and advertising injury with a limit of at least 5,000,000 per occurrence or the full per occurrence limits of the policies available, whichever is greater. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (coverage as broad as the ISO CG 25 03 or ISO CG 25 04 endorsement provided to Diablo Water District), or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** Insurance Services Office (ISO) Business Auto Coverage (Form CA 00 01), covering Symbol 1 (any auto) with a limit of $1,000,000 for bodily injury and property damage each accident.

3. **Workers' Compensation Insurance:** The Contractor shall provide workers' compensation coverage as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than $1,000,000 per accident for bodily injury or disease. **Waiver of Subrogation** (also known as Transfer of Rights of Recovery Against Others to Us): The Contractor hereby agrees to waive rights of subrogation to obtain endorsement necessary to affect this waiver of subrogation in favor of Diablo Water District, its directors, officers, employees, and authorized volunteers, for losses paid under the terms of this coverage which arise from work performed by the Named Insured for Diablo Water District; this provision applies regardless of whether Diablo Water District has received a waiver of subrogation from the insurer.

4. **Builder's Risk** (**Course of Construction) if necessary:** insurance utilizing an "All Risk" (Special Perils) coverage form with limits equal to the completed value of the project and no coinsurance penalty provision. See **Responsibility of Work.**

5. **Contractor's Pollution Liability:** (optional: if project involves environmental hazards) with limits no less than $5,000,000 per occurrence or claim and a $10,000,000 policy aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, Diablo Water District requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum of insurance and coverage shall be available to Diablo Water District.

Other Required Provisions: The Commercial General Liability, Auto Liability and Contractors Pollution (if necessary) policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured Status:** Diablo Water District, its directors, officers, employees, and authorized volunteers are to be given insured status (at least as broad as ISO Form CG 20 10 11 85 or, if not available, through the addition of both CG 20 10 10 01 and CG 20 37 10 01), with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance.

2. **Primary Coverage:** For any claims related to this project, the Contractor's insurance coverage shall be primary and at least as broad as ISO CG 20 01 04 13 with respect to Diablo Water District, its directors, officers, employees, and authorized volunteers. Any insurance or self-insurance maintained by Diablo Water District, its directors, officers, employees, and authorized volunteers shall be excess of the Contractor's insurance and shall not contribute to it. This requirement shall also apply to any Excess or Umbrella liability policies.

Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to Diablo Water District.

Acceptability of Insurers: Insurance is to be placed with insurers who have a current A.M. Best rating of not less than A: VII or equivalent or as otherwise approved by Diablo Water District.

The Contractor agrees and they will comply with such provisions before commencing work. All the insurance policies shall be provided on policy forms and through companies satisfactory to Diablo Water District. Diablo Water District reserves the right to obtain complete, certified copies of all required insurance policies, including the policy declarations page with endorsement numbers. Failure to continually satisfy the Insurance requirements is a material breach of contract.

Responsibility for Work: Until the completion and final acceptance by Diablo Water District of all the work under and implied by this agreement, the work shall be under the Contractor's responsible care and charge. The Contractor shall rebuild, repair, restore and make good all injuries, damages, re-erections, and repairs caused or rendered necessary by causes of any nature whatsoever.

The Contractor shall provide and maintain **builder's risk** (course of construction) or an installation floater (for materials and equipment) covering all risks of direct physical loss, damage or destruction to the work in the amount specified in the General Conditions, to insure against such losses until final acceptance of the work by Diablo Water District. Such insurance shall insure at least against the perils of fire and extended coverage, theft, vandalism and malicious mischief, and collapse. The Policy shall be endorsed with Diablo Water District, its directors, officers, employees, and authorized volunteers named as loss payee, as their interest may appear. The making of progress payments to the Contractor shall not be construed as creating an insurable interest by or for Diablo Water District or be construed as relieving the Contractor or their subcontractors of responsibility for loss from any direct physical loss, damage or destruction occurring prior to final acceptance of the work by Diablo Water District.

Deductibles and Self-Insured Retentions: Insurance deductibles or self-insured retentions must be declared by the Contractor and approved by Diablo Water District. At the election of Diablo Water District, the Contractor shall either cause the insurer to reduce or eliminate such self-insured retentions with respect to Diablo Water District, its directors, officers, employees, and authorized volunteers or the Contractor shall provide a financial guarantee satisfactory to Diablo Water District guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the Named Insured or Diablo Water District.

Verification of Coverage: Evidence of Insurance. The Contractor shall furnish Diablo Water District with copies of certificates and amendatory endorsements effecting coverage required by this contract. All certificates and endorsements are to be received and approved by Diablo Water District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Diablo Water District reserves the right to require complete, certified copies of all required insurance policies, including policy Declaration pages and Endorsement pages, required by these specifications, at any time. Failure to continually satisfy the Insurance requirements is a material breach of contract.

Continuation of Coverage: The Contractor shall, upon demand of Diablo Water District, deliver evidence of coverage showing continuation of coverage for at least ten (10) years after completion of the project (not applicable to Builders' Risk). Contractor further waives all rights of subrogation under this agreement. When any of the required coverages expire during the term of this agreement, the Contractor shall deliver the renewal certificate(s) including the General Liability additional insured, primary/non-contributory endorsements and evidence of waiver of rights of subrogation against Diablo Water District (for Workers' Compensation) to Diablo Water District at least ten (10) days prior to the expiration date.

Umbrella or Excess Policies: The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable if all the Primary and Umbrella or Excess Policies shall provide all the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by Diablo Water District, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

Subcontractors: In the event that the Contractor employs other contractors (subcontractors) as part of the work covered by this agreement, it shall be the Contractor's responsibility to require and confirm that each subcontractor meets the minimum insurance requirements specified above (via CGL endorsement as broad as ISO CG 20 38 04 13). The Contractor shall, upon demand of Diablo Water District, deliver to Diablo Water District copies such policy or policies of insurance and the receipts for payment of premiums thereon.

Other Considerations/Exceptions:

If scope includes Design/Build exposures, include:

Professional Liability: with limits no less than $1,000,000 per occurrence or claim and a $2,000,000 policy aggregate.

Professional Liability and/or Claims Made Policies – include the following provisions:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained, and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**

3. If coverage is canceled or non-renewed and **not replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

General Conditions:

Safety: In the performance of this contract, the Contractor shall comply with all applicable federal, state and local statutory and regulatory requirements, including, but not limited to, California Department of Industrial Relations (Cal/OSHA) regulations and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act, related to their scope of work and operations. In case of conflict in regulations, the most stringent shall apply. The Contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. Safety precautions shall include adequate life protection and life-saving equipment associated with this project.

Contractor must obtain all applicable Division of Occupational Safety and Health (Cal/OSHA) permit(s) and others required by California Labor Code and California Government Code prior to the initiation of any practices, work, method, operation, or process related to the work covered in the contract. Permits required by governmental authorities will be obtained at Contractor's expense.

It is a condition of this contract, and shall be made a condition of each subcontract, which the Contractor enters into pursuant to this contract, that the Contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions that are unsanitary, hazardous or dangerous to their health or safety, as determined under Cal/OSHA safety and health standards.

The Contractor shall be responsible for safeguarding all utilities, including requirements with GC 4216, Regional Notification Center System "811."