

PART E

KERN-TULARE WATER DISTRICT

PUBLIC WORKS CONTRACT

THIS PUBLIC WORKS CONTRACT AND AGREEMENT (hereinafter referred to as “Agreement” or “Contract”) is entered into by and between KERN-TULARE WATER DISTRICT, a California water district organized under Division 13 of the California Water Code (hereinafter referred to as the “District”), and _____, a [insert entity information] (hereinafter referred to as “Contractor”), executed this ____ day of _____ 2023 (“Effective Date”). Both District and Contractor may sometimes be referred to herein individually as the “Party” and collectively as the “Parties”.

W I T N E S S E T H:

WHEREAS, the Contractor has submitted a Bid or Bid Proposal to the District for the construction of the Work with respect to the District’s Guzman Reservoir Project; and

WHEREAS, the District has accepted Contractor’s Bid or Bid Proposal, and the District and the Contractor desire to execute this Agreement setting forth the terms, provisions, and conditions pursuant to which the Contractor will perform the Work;

WHEREAS, this Agreement is also utilized for the purpose of setting forth all labor and services necessary and required of Contractor to perform and complete pursuant to the items selected by the District and as described in the Contract Documents for the Kern-Tulare Water District Guzman Reservoir Project;

WHEREAS, the Contract Documents for the Kern-Tulare Water District Guzman Reservoir Project, including, but not limited to, all provisions, terms, conditions, and/or statements presented therein, are hereby incorporated in and made a part of this Agreement by this reference thereto;

WHEREAS, if any terms, provisions, and/or conditions set forth herein contradict, are different, and/or do not comply with the terms, provisions, and/or conditions set forth in the Contract Documents, the terms, provisions, and/or conditions set forth under this Agreement shall be controlling; and

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I.
DEFINITIONS

1.00. Introduction.

The definitions in this article I shall be applied in the interpretation of this Agreement.

1.01. Board.

"Board" means the Board of Directors of the Kern-Tulare Water District.

1.02. Contract Documents.

"Contract Documents" means this Agreement, all bid and contract documents associated with this Agreement and Project, and any change orders issued under section 2.03 hereof. As set forth above, all Contract Documents, including, but not limited to, the Bid Documents and other related documents, as well as all terms, provisions, and conditions set forth therein, are incorporated herein by this reference as if fully set forth.

1.03. Contract Price.

"Contract Price" means the cost of the Work on the basis of the terms set forth in the Bid Schedule submitted by Contractor in its Proposal with respect to this Project. Accordingly, Contractor's Bid Schedule and the terms, provisions, and prices set forth therein are incorporated herein by this reference.

1.04. Contract Time.

"Contract Time" means from the Effective Date until the close of business on _____.

1.05. Contractor.

"Contractor" means .

1.06. Contractor's Address.

"Contractor's Address" means _____.

1.07. Day or Days.

"Day or Days" means a calendar day or calendar days.

1.08. District.

"District" means KERN-TULARE WATER DISTRICT, a California water district organized and existing under and by virtue of the provisions of Division 13 of the California Water Code.

1.09. District's Office or Address.

"District's Address" means 3000 California Avenue, Bakersfield, CA 93309 93309.

1.10. Effective Date.

"Effective Date" means the date of execution and commencement of this Contract by all Parties hereto.

1.11. Engineer or Project Engineer.

"Engineer" or Project Engineer" means Cornerstone Engineering, Inc.

1.12. Engineer's Office or Project Engineer's Office.

"Engineer's Office" or "Project Engineer's Office" means Cornerstone Engineering, Inc. located at 200 M Street, Bakersfield, California 93304.

1.13. General Manager.

"General Manager" means the General Manager of the Kern-Tulare Water District.

1.14. Plans and Specifications.

"Plans and Specifications" means any conditions, plans and specifications for the Project and Work to be performed and completed as set forth under this Agreement and the Contract Documents.

1.15. Project.

"Project" means the Kern-Tulare Water District's Guzman Reservoir Project, and includes the "Work" defined herein and as set forth in the Contract Documents.

1.16. Work.

"Work" means all the Work specified, indicated, set forth, and/or contemplated under this Agreement and the Contract Documents as is necessary to perform and construct the Project.

ARTICLE II.

SCOPE OF WORK, PERFORMANCE AND PAYMENT

2.00. Construction of the Work.

The Contractor shall furnish all labor, tools, materials, equipment, supplies, facilities, and incidentals necessary to construct and complete the Work in a good, workmanlike and substantial manner and in strict conformity with the Contract Documents, and in accordance and consistent with generally accepted industry standards and customs in the geographic area or similar locality with respect to the Contractor's profession that are currently in effect when the Work is rendered, performed, or carried out.

2.01. Examination of Contract Documents.

The Contractor has carefully examined the site where the Work is to be performed and completed and the Contract Documents. The Contractor is satisfied as to the conditions to be encountered, the character, quality and scope of the Work to be performed, the quantities and materials to be furnished and the requirements of and set forth in the Contract Documents. Where the District has made an investigation of site conditions, including subsurface conditions in area where the Work is to be performed, or in other areas, some of which may constitute possible local material sources, the investigation is made only for the purpose of study and design. The records of the investigation are not a part of the Contract Documents and have been shown to the Contractor pursuant to his or her request and/or made available to the Contractor solely for Contractor's convenience. The District assumes no responsibility as to the sufficiency or accuracy of the investigation, the records thereof, the interpretation set forth therein, or the interpretation made by the District in its use thereof. The District neither makes nor provides any warranty or guarantee, whether express or implied, that the conditions indicated by the investigation or records are representative of those existing throughout such areas or any part thereof or that unforeseen developments may not occur or that materials other than, or in proportions different from, those indicated may not be encountered. The Contractor is cautioned to make such independent investigation and examination as Contractor deems necessary to satisfy himself as the conditions to be encountered in the performance of the Work and, with respect to possible local material sources, the quality and quantity of material available from such property and the type and extent of processing that may be required in order to produce material conforming to the requirements of the Plans and Specifications. No information derived from such inspection of records of the investigation or compilations thereof

made by the District or from the Engineer will in any way relieve the Contractor from any liability or from properly fulfilling the terms of the Contract Documents.

2.02. Final Cleaning Up and Restoration.

Before final inspection of the Work, the Contractor shall clean the site of the Work, and any material sites of all rubbish, excess materials, falsework, temporary structures and equipment. Additionally, Contractor shall restore the Project area where the Work has been performed and completed to as near to its original condition and appearance as is reasonably possible. The site of the Work shall be left in an orderly and presentable condition. District shall have the right to inspect and approve of the clean-up work and restoration of the Project area upon completion. Full compensation for final clean-up will be considered as included in the Contract Price and no separate payment will be made therefor.

2.03. Change Orders.

The District reserves the right to make such alterations, deviations, additions to or deletions from the Contract Documents and/or Plans and Specifications, including the right to increase or decrease the quantity of any supply(ies), item(s), and/or portion(s) of the Work to be performed and/or completed, or to delete any item or portion of the Work, as may be deemed by the Engineer to be necessary or advisable, and to require such extra work as may be determined by the Engineer to be required for the proper completion or construction of the Work. Any changes will be set forth in a contract change order which will specify, in addition to the Work to be done in connection with the change made, adjustment of the Contract Time, if any, and the basis of compensation for such Work. A contract change order is to be submitted to both the Engineer and the Board. If a project change order is in excess of \$10,000.00, it will become effective upon being approved in writing by the Board. If a project change order is less than \$10,000.00, it will become effective upon being approved in writing by the Engineer. The Contractor shall proceed with the additional Work upon receipt of an approved written contract change order. If the Contractor disagrees with any of the terms, provisions, and/or conditions of an approved written contract change order which he has not executed, Contractor shall submit a written protest to the Engineer within fifteen (15) days after receipt of the subject approved written contract change order. The protest shall state the points of disagreement and any and all other contentions with respect thereto. If a written protest is not submitted, payment will be made in the manner provided in the approved written contract change order and such payment shall constitute full compensation for all Work included therein or required thereby. If the Contractor signifies its acceptance of the terms, provisions, and conditions of such written contract change order by executing the change order and if such change order is approved by the Engineer and the Board and issued to the Contractor, payment in accordance with the provisions therein set forth shall constitute full compensation for all Work included therein or required thereby.

2.04. Control of Work.

The Engineer shall decide all questions which may arise as to the quality or acceptability of materials furnished and work performed and as to the manner of performance and rate of progress of the Work, all questions which may arise as to the interpretation of the Plans and Specifications, all questions as to the acceptable fulfillment of the Agreement on the part of the Contractor and all questions as to compensation. The Engineer shall have authority to enforce and make effective such decisions and orders which the Contractor fails to carry out promptly.

The Contractor shall designate in writing before starting the Work an authorized representative who shall have the authority to represent and act for the Contractor. The Engineer shall at all times have safe access to the site of the Work during construction and shall be furnished with every reasonable facility for ascertaining that the materials and workmanship are in accordance with the requirements and intentions of the Plans and Specifications. All Work done and all materials furnished shall be subject to Engineer's inspection. The inspection of the Work or materials shall not relieve the Contractor of any of his obligations under the Contract Documents. Any portion of the Work which has been rejected shall be remedied, removed or replaced by the Contractor in an acceptable manner and no compensation will be allowed for such removal, replacement or remedial work. Any portion of the Work done which is not shown or described on or in the Plans and Specifications or any portion of the Work done without written authority will be considered as unauthorized work and will not be paid for. Unauthorized work shall be remedied, removed or replaced by the Contractor at his sole expense.

2.05. Subcontractors.

If any subcontractor or person, entity, consultant, agent, and/or representative employed by the Contractor shall appear to the Engineer to be incompetent or to act in a disorderly or improper manner, he shall be discharged by the Contractor on the request of the Engineer and such person shall not again be employed to perform and/or complete the Work with respect to this Project. No subcontractor or person, entity, consultant, agent, and/or representative will be recognized as an employee, agent, and/or representative of the District, and all subcontractors, persons, entities, employees, agents, and/or representatives engaged in the performance and/or construction of the Work with respect to this Project will be considered to be an employee, agent, and/or representative of the Contractor and the Contractor will be held solely responsible and/or liable for their Work. The Contractor shall perform with its own organization Work amounting to not less than fifty percent (50%) of the original Contract Price. Where an entire item is subcontracted, the value of the Work subcontracted will be based on the contract item bid price determined by the Engineer on the basis of information submitted by the Contractor. Before the Work is started by a subcontractor with respect to a subcontract, the Contractor shall file with the Engineer a written statement demonstrating and establishing the portion of the Work to be subcontracted, the name(s) of the subcontractor(s), the

subcontractor's active California contractor's license number in effect and authorizing subcontractor to perform the Work requested, subcontractor's current registration with the Department of Industrial Relations, and a description of each portion of the Work to be so subcontracted and performed by the subcontractor(s).

2.06. Beginning of Work.

The Contractor shall begin the Work with respect to this Project within fifteen (15) days after receiving notice that this Agreement has been executed by the District and shall diligently prosecute the performance and completion of the Project within the Contract Time. The Contractor shall notify the Engineer in writing of Contractor's intent to begin work at least seventy-two (72) hours before the Work is set to commence. At all times, time is of the essence with respect to the performance and completion of the Project. Determination that a day is a non-working day by reason of inclement weather or conditions resulting therefrom shall be made by the Engineer subject to the right of the Contractor to file written protest within fifteen (15) days of the Contractor's receipt of such determination.

2.07. Progress Schedule.

The Contractor shall submit to the Engineer a practicable progress schedule with respect to the performance and completion of the Work related to the Project at the same time the Contractor delivers his notice of intent to begin work. The schedule shall show the order in which the Contractor proposes to carry out the Work, the dates on which he will start the several salient features of each item of Work, and the estimated dates for completion of such features related to the Work to be performed. The progress schedule submitted shall be consistent in all respect with the time and order of work requirements of the Contract Documents. No progress payments will be made for any Work until a satisfactory schedule has been submitted to the Engineer.

2.08. Temporary Suspension of Work.

The Engineer shall have the authority to suspend the Work, in its entirety or in part, for such period as he may deem necessary, due to unsuitable weather or to such other conditions as are considered unfavorable for the suitable prosecution of the Work or for such time as he may deem necessary due to the failure on the part of the Contractor to carry out orders given or to perform any provision of the Contract Documents. The Contractor shall immediately comply with a written order of the Engineer to suspend the Work in its entirety or in part. The suspended Work shall be resumed when conditions are favorable and methods are corrected, as ordered or approved in writing by the Engineer. The Days during which a suspension for unsuitable weather or on account of other conditions as are considered unfavorable for the suitable prosecution of the Work shall not be considered a day for purposes of section 2.06 hereof; however, if a suspension of Work is ordered by the Engineer on account

of the failure of the Contractor to carry out orders given or to perform any provisions of the Contract Documents, the Days during which a suspension order is in effect shall be considered Days for purposes of determining timely performance under section 2.06 hereof.

2.09. Termination of Contract.

If the Contractor fails to commence the Work within the time specified herein, fails to prosecute the Work in a diligent and timely manner, fails to make necessary progress to timely perform and/or complete the Work, fails to replace, repair, rectify, and/or remediate any damaged or defective Work or materials, and/or fails in any respect to perform the Work in a good, timely, and professional manner, the District may serve written notice to the Contractor and its surety of the District's intention to terminate this Agreement. Such notice shall contain the reasons for termination. If the Contractor does not remedy the deficiencies in the Contractor's performance as specified in the written notice to the satisfaction of the Engineer within five (5) days of receipt of such notice, this Agreement shall be terminated and the District may take over the Work and prosecute the same to completion by contract or as is necessary for the performance and completion of the Project, otherwise and may also take possession and utilize such materials, appliances and plant as may be on the site of the Work and necessary therefor. The Contractor shall be liable for all damages, costs, and expenses, including attorney's fees, sustained or incurred by the District by reason of such default in completing the Work.

ARTICLE III.

CONTRACT PRICE AND PAYMENT

3.00. Contract Price.

In consideration of the terms, provisions, conditions, covenants, and promises to be kept and performed by the Contractor, and for the faithful performance of this Agreement, the Contractor shall receive and accept the Contract Price as full compensation therefor and for all loss or damage arising out of the nature of the Work, the action of the elements or for any unforeseen contingencies or difficulties encountered in prosecution of the Work.

3.01. Notice of Potential Claim.

The Contractor shall not be entitled to the payment of any additional compensation for any act or failure to act by the Engineer or the District, including failure or refusal to issue a change order, or for the happening of any event, thing, occurrence or other cause unless the Contractor shall have given the Engineer due written notice of a potential claim as hereinafter provided, except that compliance with this section shall not be a prerequisite as to matters within the scope of the protest provisions of section 2.03 hereof or section 2.06 hereof. The written notice of potential claims shall set forth the reasons for which the

Contractor believes additional compensation will or may be due, the nature of the cost involved, and, insofar as possible, the amount of the potential claim. Such notice must have been given to the Engineer prior to the time that the Contractor shall have performed the Work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the Engineer or the District, or in all other cases, within fifteen (15) days after the happening of the event, thing, occurrence, or other cause giving rise to the potential claim. It is the intention of this section that differences between the District and the Contractor arising under and by virtue of this Agreement be brought to the attention of the Engineer at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The Contractor shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing, or occurrence for which no written notice of potential claim was filed.

3.02. Stop Notices.

The District may at its option at any time retain out of any amounts due the Contractor sums sufficient to cover claims filed pursuant to law.

3.03. Payment(s).

Following final inspection of the Work by the Engineer and certification to the Board by the Engineer that the Work has been completed in accordance with the Contract Documents, the District shall pay the Contractor 90% of the Contract Price and the District shall retain 10% of the Contract Price until thirty (35) days after recordation by the District of a notice of completion and receipt of conditional waivers and releases upon final payment executed by all subcontractors and suppliers of materials. The Engineer shall also, after the completion of the contract, make a final estimate of the amount of work done thereunder, and the value of such work, and the District shall pay the entire sum so found to be due after deducting therefrom all previous payments and all amounts to be kept and all amounts to be retained under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

If the Contract Time exceeds 60 days, the District shall make partial payments to the Contractor by the 25th day of each month for 90% of all work performed by the Contractor during the preceding month. Subject to Public Contract Code section 9203, the District may elect to pay more than 90% of the amount of any progress estimate upon recommendation of the Engineer but such payment shall not constitute a waiver of the District's right to retain 10% of subsequent progress payments. At the request and expense of the Contractor and pursuant to Public Contract Code section 22300, securities equivalent to any amount withheld by the District to ensure the Contractor's performance under the Contract shall be deposited with the District as substitute security, or, at the Contractor's request, with a state or federally chartered bank in California as the escrow agent. Escrow instructions shall conform to the requirements

of Public Contract Code section 22300.

3.04. Final Claims, Mediation and Arbitration.

If Article 1.5 (commencing with section 20104) of Chapter 1 of Part 3 of the Public Contract Code applies, any "claim" as defined in Public Contract Code section 20104 shall be filed with the District in writing not later than thirty five (35) days after recordation of the notice of completion. Any claim shall include all documents necessary to substantiate the claim. The filing of a notice of potential claim under section 3.01 hereof shall be a condition precedent to filing a final claim under this section. The District shall respond to any final claim of the Contractor as provided in Public Contract Code section 20104.2. If such claim is not resolved, such claim shall be mediated and arbitrated pursuant to Public Contracts Code sections 20104.2 through 20104.6.

ARTICLE IV. LEGAL RELATIONS AND RESPONSIBILITY

4.00. Observance of All Laws.

The Contractor shall keep itself fully informed of all existing and future state, federal, county, municipal and local governmental laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials used in the Work, or which in any way affect the conduct of the Work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the Work. The Contractor at all times shall observe and comply with and shall cause all its agents, representatives, employees, and subcontractors to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect, indemnify, save, and defend the State Water Resources Control Board ("SWRCB"), the District and its Board, as well as all directors, officers, agents, representative, officials, employees, and volunteers of the foregoing and including the Project Engineer, against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by himself or his employees, agents, and/or representatives. If any discrepancy or inconsistency is discovered in the Contract Documents in relation to any such law, ordinance, regulation, order or decree, the Contractor shall forthwith report same in writing to the Engineer.

4.01. Business and Professions Code Requirements.

The Contractor's attention is directed to the provisions of Business and Professions Code section 7028.15 concerning the licensing of contractors. All bidders and contractors shall be licensed in accordance with the laws of the State of California and any bidder or contractor not so licensed is subject to the penalties imposed by such laws.

4.02. Labor Certification:

Contractor and/or Subcontractor(s) states that it is aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with provisions of that Code, and Contractor and/or Subcontractor(s) agree to comply with such provisions before commencing the performance of the Work of this Contract.

4.03. Contractor's License.

Contractor and Subcontractor(s) are required to be licensed under applicable provisions set forth in the Contractor's State License Law (see California business and Professional Code section 7000 et seq.) at all times during the course of performance of the Work hereunder and pursuant to the Contract Documents, and shall comply with all laws, rules, regulations, and/or ordinances adopted and applicable to the foregoing. Furthermore, failure of the bidder to obtain proper and licensing for an award of a contract shall constitute a failure to execute the contract and shall result in forfeiture of the bidder security under Public contract Code Section 20103.5.

4.04. Board of Industrial Relations Registration.

Pursuant to Labor Code section 1725.5, Contractor and Subcontractor(s) are to be registered with the Department of Industrial Relations at all times during the course of performance of the Work set forth herein and in the Contract Documents. Contractor and Subcontractor(s) agree to comply with the provisions set forth in labor Code section 1725.5 prior to and through performance of the Work as set forth under this Agreement and the Contract Documents.

4.05. Civil Code Requirements.

(a) Incorporation by Reference. Unless otherwise set forth herein, all Civil Code provisions and requirements announced and set forth in the Contract Documents are incorporated herein by this reference.

(b) Materials, Labor, and Payment Bond. If the Contract Price exceeds \$25,000, the Contractor, concurrently with the execution and delivery of this Agreement, shall deliver to the District a Payment Bond meeting all the requirements of Civil Code section 9550 et seq. Pursuant to Civil Code section 9550 et seq., commencement of the Work shall not occur prior to the Payment Bond being provided and approved by the District's Board.

4.06. Labor Code Requirements.

The Contractor's attention is directed to the following requirements of the Labor Code:

(a)Incorporation by Reference. Unless otherwise set forth herein, all Labor Code provisions and requirements announced and set forth in the Contract Documents are incorporated herein by this reference.

(b)Payroll Records. The Contractor's attention is directed to the provisions of Labor Code section 1776, a portion of which reads as follows:

"(a) Each contractor and subcontractor shall keep an accurate payroll record, 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 written declaration that 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 of the Labor Code 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) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, 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) 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 in a manner so as 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 of 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 nonredacted 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 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."

The Contractor shall be responsible for seeing that his subcontractors comply with these provisions. The penalties specified in Labor Code section 1776 for noncompliance therewith may be deducted by the District from any monies due or which may become due to the Contractor. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or his agent under penalty of perjury indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by this agreement. The Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The Contractor and each subcontractor shall preserve their payroll records for a period of three years from the date of completion of this Agreement.

(c) No Discrimination. The Contractor's attention is directed to the provisions of Labor Code section 1735 which reads as follows:

"A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all penalties imposed for a violation of this chapter."

(d) Apprentices. The Contractor's attention is directed to the provisions of Labor Code section 1777.5 concerning the employment of apprentices upon public works. The Contractor shall be responsible for compliance with Labor Code Sections 1777.5, 1777.6, and 1777.7 for all apprenticeable occupations with the Contractor.

4.07. Public Contract Code Requirements.

(a) Incorporation by Reference. Unless otherwise set forth herein, all Public Contract Code provisions and requirements announced and set forth in the Contract Documents are incorporated herein by this reference.

(b) Notification of Receipt of Third Party Claims. The District shall give the Contractor timely notice of the District's receipt of any third party claim relating to this Agreement. The Contractor shall reimburse the District pursuant to Public Contract Code section 9201(c) for the reasonable costs incurred by the District in providing the notification required by this subsection 4.04(c).

(c) Claims Against the District. Contractor shall comply with the provisions set forth under Public Contract Code Sections 9204 et seq. and 20104 et seq. for purposes of submitting, filing, and/or lodging a claim against the District. The provisions of Public Contract Code Sections 9204 et seq. and 20104 et seq. are incorporated herein by this reference.

4.08. Payment of Taxes, Permits and Licenses.

The Contract Price shall include full compensation to the Contractor for all taxes, permits, licenses and other fees which the Contractor is required to pay in order to perform the Work.

4.09. Responsibility for Damage.

The District and all its officers and employees thereof connected with the Work, including but not limited to the Engineer, shall not be answerable, responsible or accountable in any manner for any loss or damage that may happen to the Work or any part thereof, for any loss or damage to any of the materials or other things used or employed in performing the Work, for injury to or death of any person, either workmen or the public, or for damage to property from any cause which might have been prevented by the Contractor, its workmen or anyone employed by the Contractor. The Contractor shall be responsible for any liability imposed by law and for injuries to or death of any person, including but not limited to workmen, and the public, or damage to property resulting from defects or obstructions or from any cause whatsoever during the progress of the Work or at any time before its completion and final acceptance. The Contractor shall indemnify and save SWRCB, the District and its Board, as well as all directors, officers, agents, representative, officials, employees, and volunteers of the foregoing and including the Project Engineer, from all claims, suits or actions of every name, kind and description, brought forth, or on account of, injuries to or death of any person, including but not limited to workmen and the public, or damage to property resulting from the performance of this agreement, except as otherwise provided by law. The duty of the Contractor to

indemnify and save harmless includes the duties to defend as set forth in Civil Code section 2778. In addition to any remedy authorized by law, so much of the money due the Contractor under and by virtue of this agreement as shall be considered necessary by the District may be retained by the District until disposition has been made of such suits or claims for damages. The Contractor shall indemnify and hold harmless the SWRCB, the District and its Board, as well as all directors, officers, agents, representative, officials, employees, and volunteers of the foregoing and including the Project Engineer, from any and all claims, suits or actions regardless of the existence or degree of fault or negligence on the part of the foregoing Parties to be indemnified hereunder, excepting therefrom the active negligence committed by and of said Parties.

4.10. Indemnification.

(a) To the fullest extent of the law, the Contractor and its employees, agents, representatives, officials, consultants, and/or subcontractors, shall assume the defense of and indemnify, hold, and save harmless the SWRCB, the District and its Board, the Project Engineer, as well as the directors, officers, employees, representatives and agents of the foregoing, from any and all loss, damage, liability claims, or causes of action of every nature whatsoever for damage to or destruction of property, including the District's property, or for injury to or death of persons, including Contractor's employees, in any manner, arising out of, related or incident to, and/or as a result of the performance of the Work related to this Project and this Contract. Pursuant hereto, Contractor shall also be responsible for all costs and expenses incurred as a result of and/or attributable to the foregoing, including reasonable attorneys' fees.

(b) The Contractor shall at all times preserve and protect the Work installed, performed, and/or completed hereunder, and assume full responsibility for the condition thereof until final acceptance by the District. Contractor shall be responsible and/or liable for any loss or damage to any of the Work performed, completed, and/or in place and to any materials on the Site that may be caused by Contractor and/or its employees, agents, representatives, consultants, subcontractors, and/or guests. Any such damage shall be immediately repaired by Contractor and/or its subcontractors, employees, agents, consultants, and/or representatives, and, upon failure to do so, the District may remedy the same and deduct the cost thereof from any amount due or to become due to the Contractor.

(c) To the fullest extent of the law, the Contractor shall assume the defense of and indemnify, hold, and save harmless the SWRCB, the District and its Board, the Project Engineer, as well as the directors, officers, employees, representatives and agents of the foregoing, against any and all liens, claims, demands, and costs, including attorneys' fees, for labor and material furnished to the Contractor or any of its subcontractors in connection with the performance of this Contract. In the event that the Contractor or any of its subcontractors shall fail to pay for any material or labor used in the performance of this Contract, or any lien is filed against the said property, or any claim is asserted or action is filed against the said property, or any claim is asserted or action filed on any bond, by an person claiming to have furnished labor

or materials to the Contractor or any its subcontractors in connection with the performance of this Contract, the District shall be entitled, at its option, to pay for said material or labor, or discharge any such lien, or to pay or settle any such claim or action and to deduct the amount so paid, together with any and all costs and attorneys' fees incurred by or on behalf of the District in connection with any such payment, discharge, or settlement, from amounts due or to become due to the Contractor hereunder. The District may also deduct from any amounts due or to become due to the Contractor, any other amounts owing by the Contractor to the District, including the cost of any materials, labor, services, equipment, or facilities supplied by the District as to which the Contractor has the obligation to supply the same hereunder. In the event that the balance that otherwise would be due the contractor, shall be insufficient to so reimburse the District, the Contractor shall pay the District any deficiency upon demand.

4.11. Contractor's Responsibility for the Work.

Until final acceptance of the Work by the District, the Contractor shall have the charge and care of the Work and of materials to be used therein and shall bear the risk of injury, loss, or damage to any part thereof by the action of the elements or from any other cause, whether arising from execution or from the non-execution of the Work. The Contractor shall rebuild, repair, restore and make good all injuries, losses or damages to any portion of the Work or the materials occasioned by any cause before its completion and acceptance and shall bear the expense thereof. When the Engineer has made his final inspection and the District has determined that the Work has been completed in all respects in accordance with the Contract Documents, the Board shall formally accept the Work and immediately upon and after such acceptance the Contractor will be relieved of the duty of maintaining and protecting the Work as a whole, subject to the terms and conditions of Section 4.08 below.

4.12. Guarantee.

The Contractor unconditionally guarantees all materials and workmanship furnished from any defect appearing within one year after recordation of the notice of completion. The Contractor shall replace at its expense to the satisfaction of the Engineer and the District any and all materials and workmanship discovered to be defective within such period.

ARTICLE V.
MISCELLANEOUS PROVISIONS

5.00. Insurance.

Contractor shall at all times during the duration of the Agreement provide and maintain, at its own expense, the following insurance coverages set forth under this Section. The insurance companies are required to be licensed to do business and provide coverage in the State of California and shall the policies shall be obtained from a company acceptable to the

District. Concurrently with the execution of this Agreement Contractor shall provide written proof and evidence of the required insurance policies to the General Manager of the District. The policies and/or certificates set forth under this Section shall provide that thirty (30) days' notice be given to the General Manager of the District by certified mail, return receipt requested prior to cancellation of the policy(ies).

(a) **Workers' Compensation Coverage** – Contractor shall, in compliance with all applicable statutes of the State of California, provide and maintain Workers' compensation Coverage including, but not limited to, employer's liability coverage, with a minimum policy coverage limit of liability of \$1,000,000.00.

(b) **General Commercial Liability Coverage** – Contractor shall provide and maintain General Commercial Liability Coverage with a minimum limit of liability per occurrence of \$1,000,000.00 for bodily injury, personal injury, and property damage, and \$2,000,000.00 in aggregate. This coverage shall indicated on the certificate of insurance the following coverages are applicable and covered under Contractor's General Commercial Liability Policy and indicate the policy aggregate applying thereto: premises and operations coverage; broad form contractual liability coverage; independent consultants and subcontractors coverage; and products and completed operations coverage, as applicable.

(c) **Automobile Liability Coverage** – Contractor shall provide and maintain Automobile Liability Coverage with a minimum of liability per occurrence of \$1,000,000.00 for bodily injury and property damage. This insurance shall cover any automobile, whether owned, hired, or non-owned by the Contractor, and for purposes of providing coverage for bodily injury and property damage.

(d) **Professional Liability Coverage** - Contractor shall provide and maintain Professional Liability Coverage, inclusive of errors and omissions coverage thereunder, with a minimum limit of \$1,000,000.00 per claim and policy aggregate. If coverage is on a claims made basis it shall be maintained for at least three (3) years following the completion of work.

The State Water Resources Control Board ("SWRCB"), the District and its Board, as well as directors, officers, agents, representative, officials, employees, and volunteers of the foregoing, shall be named as an additional insured on the General Commercial Liability and Automobile Liability Policies. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the District and its Board, officers, agents, employees, and volunteers for losses, damages, claims, and/or liabilities arising from work performed by Contractor on or within proximity to the Project area that is the subject of this Agreement. Contractor's policies shall also include a provision that Contractor' coverage is primary with respect to the SWRCB, the District and its Board, as well as directors, officers, agents, representative, officials, employees, and volunteers of the foregoing. Any insurance or self-insurance maintained by the SWRCB, the District and its Board, as well as directors, officers, agents, representative, officials, employees,

and volunteers of the foregoing shall be considered as excess to Contractor's insurance coverage and policies, and shall not provide for contribution in any manner.

5.01. Notices.

Any notice, request, tender, demand, delivery, approval or other communication provided for, required or arising under this Agreement shall be in writing and shall be deemed delivered if delivered in person to an individual, or to an officer of a corporate party, or, if mailed, three business days following deposit in the United States Mail, registered or certified, return receipt requested, postage prepaid, addressed to the Engineer at the Engineer's Office, the District at the District's Office, and/or the Contractor at the Contractor's Office, as the case may be, or at such address or addresses of which such party may give notice in accordance with the provisions of this section.

5.02. Assignment.

The Contractor shall not assign this Agreement in whole or in part, and any such assignment shall be null and void and shall constitute at the District's election a material breach by the Contractor of this Agreement.

5.02. Independent Contractor. Contractor and Subcontractors, at all times in the performance of this Agreement and Project, shall act in an independent contractor relationship with the SWRCB, the District, and the Engineer. Contractor and Subcontractors will not be considered as agents, employees, partners, joint venturers, and/or representatives of the SWRCB, the District, and the Engineer. Contractor and Subcontractors shall not be entitled to any of the rights, benefits, and/or privileges attributable to employees, agents, and/or representatives of the SWRCB, the District, or the Engineer. Contractor and Subcontractors shall not have any right or authority to make any representation nor to assume or create any obligation, express or implied, on behalf of the SWRCB, the District, or the Engineer. Contractor and Subcontractors shall have the control of the means, methods, and performance of the Work related to this Project, and shall only be subject to the general direction and supervision of the District and/or Engineer to ensure the results contracted for are achieved.

5.03. Construction of Terms and Severability. All parts of this Agreement shall in all cases be construed according to their plain meaning and shall not be construed in favor or against either of the Parties hereto. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, the remainder of this Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated. In the event of such invalidity, voidness or unenforceability, the Parties agree to enter into supplemental agreements to effectuate the intent of the Parties and the purposes of this Agreement. If it is ever held that any restriction hereunder is too broad to permit enforcement of such restriction to its fullest extent, each Party

agrees that a court of competent jurisdiction may enforce such restriction to the maximum extent permitted by law, and each party hereby consents and agrees that such scope may be judicially modified accordingly in any proceeding brought to enforce such restriction.

5.04. No Third Party Rights. The Parties to this Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, covenant, obligation, or undertaking established herein.

5.05. Controlling Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California, and for any action arising out of this Agreement, said action shall be filed and venue set in the Superior Court for the County of Kern in California.

5.06. Authorization. All officers and individuals executing this and other Contract Documents on behalf of their respective Parties certify and warrant that they have the capacity and have been duly authorized to execute said documents on behalf of the Parties indicated and set forth.

5.07. Waiver. Any waiver at any time of the District's right with respect to a breach of this Agreement or the Contract Documents, or of any matter arising in connection with this Agreement or the Contract Documents, shall not be deemed to be a waiver with respect to any subsequent breach or related matter that may have been previously waived.

5.08. Attorneys' Fees. In the event of any litigation under and/or relating to this Agreement, the prevailing Party shall be entitled to recover such Party's reasonable costs incurred in connection therewith, including without limitation, reasonable attorneys' fees.

5.09. Cooperation. The Parties agree to cooperate in good faith with each other in order to fulfill their respective responsibilities, duties, and obligations under this Agreement.

5.10. Entire Agreement.

This Agreement supersedes any and all other agreements, either oral or in writing, between the District and the Contractor with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to such matter, and the District and the Contractor hereby acknowledge that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the District and the Contractor have caused this Agreement to be executed as of the Effective Date.

KERN-TULARE WATER DISTRICT

[Contractor]

By: _____

By _____

Date: _____

Date: _____

FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, THAT,

WHEREAS, the **KERN-TULARE WATER DISTRICT**, a California water district organized under Division 13 of the California Water Code, hereinafter designated the "District," awarded the Project Contract to _____, hereinafter designated as the "Contractor," on _____, 2023, for purposes of performing and completing work and services with respect to the Guzman Reservoir Project ("Project"); and,

WHEREAS, said Contractor is required under the terms of said contract to furnish a bond for the faithful performance of said contract; and

NOW, THEREFORE, WE, the Contractor, and _____, a corporation organized and existing under the laws of the State of _____ and duly authorized to transact business under the laws of the State of California, as surety, are held and firmly bound unto the District in the penal the sum of \$_____, said sum being equal in amount to one-hundred percent (100%) of the terms of the Contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above mentioned Contractor, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and faithfully perform the covenants, conditions, and agreements in the said contract and any alterations made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless, the District, its officers and agents as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue and Contractor and Surety, in the event suit is brought on this bond, will pay to the District such reasonable attorney's fees as shall be fixed by the court.

As a condition precedent to the satisfactory completion of the said contract, the above obligation in the said amount shall hold good for a period of one (1) year after the completion and acceptance of the said work with respect to this Project, during which time if the above mentioned Contractor, his or its heirs, executors, administrators, successors, or assigns shall fail to make full, complete, and satisfactory repair and replacements or totally protect the said District from loss of damage made evident during said period of one (1) year from the date of acceptance of said work, and resulting from or caused by defective materials and/or faulty workmanship in the prosecution of the work done, the above obligation in the said amount shall remain in full force and effect. However, anything in this paragraph to the contract notwithstanding, the obligation of the Surety hereunder shall continue so long as any obligation of the Contractor remains. And the said surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall, in any way, affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract or to the work or to the specifications. Said Surety hereby waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

As a part of the obligation secured hereby and in addition to the amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the Owner in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

IN WITNESS WHEREOF, the above mentioned parties have executed this instrument under their seals this _____ day of _____, 20_____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

[SIGNATURES ON NEXT PAGE]

(Seal)

Principal

Title

(Seal)

Surety

Surety Address & Telephone No.

Signature for Surety, Title

NOTICE:

Sureties must be authorized to do business in and have an agent for service of process in California. A certified copy of Power of Attorney must be attached.

Please Note: Contractor and Surety to attach notarization form for each required signature. Also, a legally sufficient power of attorney must be attached to the Bond to verify the authority of any party signing on behalf of a surety.

MATERIAL, LABOR, AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, THAT,

WHEREAS, the **KERN-TULARE WATER DISTRICT**, a California water district organized under Division 13 of the California Water Code, hereinafter designated the "District," awarded the Project Contract to _____, hereinafter designated as the "Contractor," on _____, 2023, for purposes of performing and completing work and services with respect to the Guzman Reservoir Project ("Project"); and,

WHEREAS, Contractor is required by the provisions of Division 4, Part 6, Title 3, Chapter 5 of the Civil Code of the State of California, including, but not limited to Civil Code Sections 9550 et seq., inclusive, is required to furnish a bond in connection and with said contract, providing that if said Contractor, or any of his or its subcontractors, shall fail to pay for any materials, provisions, or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, the Surety of this bond will pay the same to the extent hereinafter set forth:

NOW, THEREFORE, WE, _____
_____ the undersigned Contractor, as Principal, and _____
_____ a corporation, a limited liability company, partnership (general or limited), or sole proprietorship, of which is organized or has been formed under the laws of the State of _____ and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the District in the sum of _____ Dollars (\$_____), lawful money of the United States, said sum being equal in amount to one-hundred percent (100%) of the total Contract amount payable by the said District under the terms of the Contract, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Contractor, his or its heirs, executors, administrators, successors, assigns, and/or subcontractors shall fail to pay for any materials, provisions, or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind or for any amount due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts due, or to be withheld pursuant to Sections 18806 of the Revenue and Taxation Code of the State of California with respect to such work or labor, as required by the provisions of Chapter III, Division V, Title I of the Government Code of the State of California, or with respect to any work or labor for which a bond is required by the provisions of Sections 9550 through 9566 of the Civil Code of the State of California, and provided that the persons, companies, or corporations so furnishing said materials, provisions, or other supplies, appliances, or power use, in, upon, for, or about the performance of the work contracted to be executed or performed, or any person who performs work or labor upon same, or any person who supplies both work and materials, thereto, shall have complied with the provisions of said Civil Code, then said Surety will pay the same in or to an amount not exceeding the amount hereinabove set forth, and also will pay in case suit is brought upon this bond, such reasonable attorney's fees to the District as shall be fixed by the court.

This bond shall inure to the benefit of the District and any and all persons, companies, and corporations and their respective assigns entitled to file claims under applicable State law, including, but not limited to, California Civil Code Section 9100 et seq., so as to give a right of action to them or their assigns in any suit brought upon this bond.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition of the terms of the contract or the work to be performed thereunder or the specifications accompanying the same shall, in any way, affect its obligations of this bond, and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the contract or to the work or to the specifications. Said Surety hereby waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the above mentioned parties have executed this instrument under their seals this _____ day of _____, 20_____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Seal)

Principal

Signature for Principal, Title

(Seal)

Surety

Surety Address & Telephone No.

Signature for Surety, Title

NOTICE:

Sureties must be authorized to do business in and have an agent for service of process in California. A certified copy of Power of Attorney must be attached.

Please Note: Contractor and Surety to attach notarization form for each required signature. Also, a legally sufficient power of attorney must be attached to the Bond to verify the authority of any party signing on behalf of a surety.

ESCROW AGREEMENT
FOR
SECURITY DEPOSITS IN LIEU OF RETENTION

(To be completed by the Contractor, if he elects to substitute securities in lieu of retention)

THIS ESCROW AGREEMENT is made and entered into by and between:

whose address is _____

hereinafter called "District";

whose address is _____

hereinafter called "Contractor" and

whose address is _____

hereinafter called "Escrow Agent".

For the consideration hereinafter set forth, the District, Contractor, and Escrow Agent agree as follows:

1. Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by District pursuant to the Construction Contract entered into between the District and Contractor for

in the amount of _____ dated _____

(hereinafter referred to as the Contract). When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the District within ten (10) days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the District and Contractor. Securities shall be held in the name of _____, and shall designate the Contractor as the beneficial owner.

2. The Owner shall make progress payments to the Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent hold securities in the form and amount specified above.

3. Alternatively, the District may make payments directly to Escrow Agent in the amount of retention for the benefit of the District until such time as the escrow created hereunder is terminated.

4. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the escrow account. These expenses and payment terms shall be determined by the Contractor and Escrow Agent.

5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the District.

6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from District to the Escrow Agent that District consents to the withdrawal of the amount sought to be withdrawn by Contractor.

7. The District shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven (7) days written notice to the Escrow Agent from the District of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the District.

8. Upon receipt of written notification from the District certifying that the Contract is final complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

9. Escrow Agent shall rely on the written notifications from the District and the Contractor pursuant to Sections (4) to (6), inclusive, of this agreement and the District and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

10. The names of the persons who are authorized to give written notice on behalf of the District and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures, are as follows:

On behalf of District:

Title

Name

Signature

Address

On behalf of Escrow Agent:

Title

Name

Signature

Address

On behalf of Contractor:

Title

Name

Signature

Address

At the time the Escrow Account is opened, the District and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

District:

Title

Name

Signature

Contractor:

Title

Name

Signature

GUARANTEE
MATERIAL AND WORKMANSHIP

KERN-TULARE WATER DISTRICT
3000 California Avenue
Bakersfield, California 93309

In accordance with the terms of the Contract for:

awarded on _____, between the Kern-Tulare Water District (hereinafter referred to as "District"), and the undersigned, which contract provides for

_____, and other facilities and under which contract the undersigned has installed such facilities, the following guarantee of the said facilities is hereby made:

When the project is completed and accepted, we guarantee the same to be free from imperfect workmanship and/or materials, and we agree to repair and/or replace at our own cost and expense, any and all such work, and/or materials which may prove defective in workmanship or materials within a period of one (1) year from the date of acceptance of the above named construction project, ordinary wear and tear or neglect excepted. We also agree to repair and/or replace, at our own cost and expense, any work and/or materials that we may disturb or displace in making good such defects.

Within twenty-four (24) hours after being notified in writing by the District or the District's representative, or the agent of either of them, of any defects in said work or materials, we agree to commence and prosecute with due diligence, all work necessary to fulfill the terms of this guarantee and to complete the work within a reasonable period of time, and in the event of our failure to so comply, we collectively and expressly do hereby authorize the District and/or the District's representative, or the agent of either of them, to proceed to have such work done at our expense and we will honor and pay the cost and charges therefor upon demand.

This guarantee is made expressly for and to the benefit of both the District of the above mentioned construction project and the District's representative, and shall be enforceable by either of them.

Dated _____

Contractor's Name

Authorized Signature

GUARANTEE
EQUIPMENT

KERN-TULARE WATER DISTRICT
3000 California Avenue
Bakersfield, California 93309

In accordance with the terms of the Contract for:

awarded on _____, between the Kern-Tulare Water District (hereinafter referred to as "District"), and the undersigned, which contract provides for

_____, and under which contract the undersigned has furnished and installed such system, the following guarantee of the said system is hereby made:

Should any of the equipment installed pursuant to said contract prove defective or should the system as a whole prove defective, due to faulty workmanship, material furnished, or method of installation, or should said system or any part thereof fail to operate properly, as planned, due to any of the above causes, all within one (1) year after date on which said contract is accepted by the District, the undersigned agrees to reimburse the District, upon demand, for its expenses incurred in restoring said systems to the condition contemplated in said contract, including the cost of any equipment or materials replaced, or, upon demand by the District, to replace any such equipment and repair said systems completely without cost to the District, so that they will operate successfully as originally contemplated.

The District shall have the option to make any needed repairs or replacements itself or to have such replacements or repairs done by the undersigned. Prior to such replacement or repair work being done by the District, the undersigned shall have the option to make any needed repairs or replacements. In the event the District elects to have said work performed by the undersigned, the undersigned agrees that the repairs shall commence to be made and such materials as are necessary shall commence to be furnished and installed within twenty-four (24) hours of the date specified in the District's written notification. Contractor shall prosecute with due diligence to complete the work within a reasonable period of time, as specified in the District's written notification.

Said system will be deemed defective within the meaning of this guarantee in the event that they fail to operate as originally intended by the manufacturers thereof and in accordance with the plans and specifications included in said contract.

Dated _____

Contractor's Name

Authorized Signature

