AGREEMENT FOR THE INSTALLATION OF WATER AND/OR SEWER FACILITIES
TO BE DEDICATED TO PADRE DAM MUNICIPAL WATER DISTRICT

This Agreement is made and entered into as of _____, 20___, by and between the PADRE DAM MUNICIPAL WATER DISTRICT (hereinafter referred to as the “District”), organized and existing under the Municipal Water District Law of 1911, Water Code § 71000 et seq., and ________________________, a [INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY] (hereinafter referred to as “Developer”). The District and Developer are sometimes referred to in this Agreement individually as “Party” and collectively as “Parties.”

RECITALS

A. The District is a public agency of the State of California; and

B. Developer desires to improve certain real property commonly described as Tax Assessor Parcel Nos. ________, for development known as [INSERT DEVELOPMENT NAME], or Map No. ________________ (the “Project”) in the County of San Diego, City of Santee, or City of El Cajon.

C. The Project, located within the District’s boundaries, will require construction of water and/or sewer facilities in order to obtain service from the District; and

D. Pursuant to the District’s Rules and Regulations, as amended from time to time, the Developer has submitted, and the District has reviewed and approved, plans and specifications for construction of the necessary water and/or sewer facilities (“Facilities”), to be constructed by the Developer; and

E. Developer shall construct the Facilities at Developer’s sole cost and expense pursuant to the approved plans and specifications (“Plans and Specifications”), attached hereto as Exhibit “A,” and

F. The Facilities shall be dedicated to and accepted by the District following construction, if constructed in accordance with the Plans and Specifications and pursuant to the terms of this Agreement; and

G. The District will always self-perform the installation of connections to existing District owned facilities/infrastructure; and

H. This Agreement is subject to District Rules and Regulations as amended from time to time.
AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Approved Plans and Specifications. Prior to execution of this Agreement, the Developer prepared and submitted to the District the Plans and Specifications for the Facilities to be constructed in accordance with this Agreement, which Plans and Specifications have been reviewed and approved by the District. Water Agencies’ Standard (“WAS”) Specifications shall be used in the absence of specific project specifications. Approval of these plans and specifications by the District shall not relieve the Developer of liability for any improper design or construction of the Facilities required by this Agreement.

2. Environmental Review. If applicable, prior to execution of this Agreement by the District, Developer shall submit to the District all environmental documents previously utilized to obtain approvals for the Project. In the event that the District determines, in its sole discretion, additional environmental review for the Facilities is necessary, all fees and costs to prepare this additional environmental review shall be borne solely by the Developer pursuant to the requirements of Section 3 below, and the provisions of the District’s Rules and Regulations, as amended from time to time, which are hereby incorporated herein.

3. Reimbursement to the District. The Developer shall, at its expense pay for all services supplied and costs incurred by the District in connection with the Project and construction of the Facilities, including but not limited to the following: District staff time in communications with Developer, the Developer’s Representatives, prospective buyers if applicable, other governmental agencies and fire department representatives; preparation and/or review of plans (including but not limited to the Plans and Specifications), final maps, and easements; preparation and review of contracts and agreements, insurance and security documents; inspection of Project job sites and construction work related to construction of the Facilities by a Padre Dam Inspector or Representative; supervision of repair of Facilities; supervision or performance of associated Project and Facilities testing (i.e., compaction, chlorination, hydrostatic and bacteriological), and other required testing related to the Project and construction of the Facilities; preparation of maps of whatever kind necessary, Project databases, drawings, and other documents to incorporate the Facilities into the District’s administrative and operational system; legal, engineering and other fees and charges incurred by the District in connection with the Project and construction of the Facilities; and any other required District labor, equipment, and materials associated with the approval and completion of the Facilities to include but not limited to, Project review, drawing review and approval, coordination with other agencies of jurisdiction, inspection, and installation of necessary facilities by District personnel.

   (a) Upon execution of this Agreement, the Developer shall deposit a sum of money with the District (“Deposit”), based upon the Project’s estimated cost, as determined by the
District, and as required by the District’s Rules and Regulations. In no event may any work regarding the construction and installation of the Facilities commence unless the Deposit is paid to the District no later than 48 hours prior to the start of construction or issuance of any building permit. Upon determination that the amounts deposited are inadequate to cover the actual or anticipated cost of providing necessary services related to the Facilities and the Project, the District may demand the deposit of additional sums by the Developer, and the District shall suspend any activities related to the Facilities and/or the Project until such additional sum is paid.

4. Construction Facilities. The Developer shall construct or cause to be constructed, at Developer’s sole expense, subject to inspection by and to the satisfaction of District, all of the work and improvements necessary to construct and install the Facilities and other appurtenances shown on the District approved Plans and Specifications. The District Engineer’s estimate of the total cost of the Project Facilities is $________. Developer’s contractor shall be a State of California licensed General Engineering Contractor (Class A). The WAS Standard Specifications, as adopted by the District, shall be used in the absence of specificity in the Plans and Specifications. Developer promises to furnish all the necessary labor, equipment, and materials necessary for construction and installation of the Facilities pursuant to the Plans and Specifications, the Standard Specifications, District Rules and Regulations, and shall undertake all such work in a good and workerlike manner. The Developer shall be responsible for performing all changes found necessary to successfully install the Facilities due to any variation between conditions as shown on the approved Plans and Specifications and the actual conditions revealed during the progress of the work or otherwise.

(a) Related Items of Work: Developer shall assure that all items related to the successful completion of the Facilities are performed, such as but not limited to: preliminary Project as-builts, Project engineer’s performance, Project Record Drawings (final as-built mylars), and payment of all fees.

5. Facility Commencement and Completion. Developer promises to commence the construction and installation of Facilities within one year of the date of execution of this Agreement. As a material part of this Agreement, all Facilities shall be fully constructed and installed no later than ______________. In the event the construction and installation of Facilities is not commenced within one year or completed and installed by the above date, the Developer may be required to revise the Plans and Specifications, and to resubmit them for review and approval of the District, to comply with any new standards applicable on the date upon which construction is commenced. Developer shall diligently pursue the completion of Facilities. The Developer shall supply all miscellaneous construction items necessary to complete Facilities within a reasonable period of time. Once a water service has been initiated and provided or sewer service has been extended to the Project, if the Developer fails to complete the miscellaneous construction items, the District reserves the right to either terminate water service
or to directly or indirectly finish the construction and installation of the Facilities and the District may reimburse itself for all of its costs and expenses from funds remaining in the Deposit. In the event the Deposit is insufficient to reimburse the District for its costs and expenses the Developer and its surety shall be liable to the District for any excess costs or other damages incurred by the District to complete construction and installation of the Facilities.

6. **Easements.** The Developer shall comply with all applicable requirements of the District’s Rules and Regulations regarding easements. When the Facilities are not located in a dedicated street, Developer shall convey to District, at no cost to District, easements covering all properties in which the Facilities are located. The legal description of the easements, and the title conveyed, must be approved by District.

7. **Security and Insurance.**

   (a) **Security.** Performance of Developer’s obligations under this Agreement shall be secured by a faithful performance bond, or by other security satisfactory to District in an amount equal to at least the estimated cost of such work, as determined by the District and set forth in Section 4. If the Project Facilities’ costs exceed $25,000.00 (twenty five thousand dollars), Developer shall also secure its obligations under this Agreement with a payment bond. The security in the form of bonds may be required from the Developer’s contractor. The form of security shall meet the requirements outlined in the District’s Rules and Regulations and shall list the District as the co-obligee thereunder. Security in the form of a Performance Bond shall be submitted to District upon execution of this Agreement and shall continue through the construction of Facilities and remain as warranty security for one year from the date of filing of a Notice of Completion. Partial release of security shall conform to the requirements set forth in the District’s Rules and Regulations.

   (b) **Insurance.** Prior to commencing any work related to construction and installation of the Facilities under this Agreement, Developer shall provide evidence of insurance, deemed satisfactory to the District, in the forms and amounts specified in Exhibit “B” attached hereto and by this reference incorporated herein.

8. **Cost of Facilities.** Developer’s obligation under this Agreement extends to the construction and installation of the Facilities. It is not limited by the amount of the cost estimate referenced in this Agreement for purposes of the required security required under Section 7, above together with the Deposit. The cost estimate is an estimate only and is not intended to constitute liquidated damages or a limitation on the Developer’s obligation.
9. **Inspection by District; Inspector Safety.**

   (a) **Inspection by District.** Pursuant to the WAS Standard Specifications, the District shall be allowed to inspect the system during all stages of construction. The Developer shall notify the District a minimum of 48 hours prior to commencement of construction. The District shall not accept any Facilities that have been installed without District's inspection.

   (b) **Inspector Safety.** The Developer shall submit two (2) copies of trenching and shoring plans to the District in advance of the pre-construction meeting. The trenching and shoring plan will be reviewed and discussed during the pre-construction meeting. The Developer shall also have a fully trained competent person knowledgeable of the CAL/OSHA trenching and shoring regulations on the job site. The Developer shall also submit a copy of the required CAL/OSHA excavation permit for the work related to construction and installation of the Facilities.

   (c) The District’s Inspector reserves the right to refuse inspection of Facilities within the trench if the Inspector determines, in the Inspector’s sole discretion, the trenching and shoring does not conform to the trenching and shoring plan. The Developer’s contractor shall be required to comply with all applicable CAL/OSHA Excavation Safety Orders.

10. **Compliance with Applicable Law.** The Developer shall ensure that all work performed related to construction and installation of the Facilities is performed in a manner that complies with all applicable federal, state, county, and local government rules and regulations. In addition, the Board of Directors may modify the District’s Rules and Regulations from time to time. The Developer shall be solely responsible for obtaining and paying for all permits, licenses, and approvals necessary to construct the water facilities. The Developer shall provide verification that permits, licenses, and approvals have been obtained promptly upon demand from the District. Developer shall comply with the contractor license requirements as provided by California Business and Professions Code section 7059 as amended. As a material part of this Agreement, Developer agrees to assume all risk of liability arising from non-compliance with applicable federal, state, county, and local government rules and regulations, including all District Rules and Regulations.

11. **California Labor Code Requirements.**

   (a) The Developer is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” projects. If the requirements of this Agreement are performed as part of an applicable “public works” project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Developer agrees to fully
comply with such Prevailing Wage Laws, if applicable. The Developer shall defend, indemnify and hold the District, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Developer and Developer’s contractor and all subcontractors to comply with all California Labor Code provisions, including, but not limited to, prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

(b) If the services are being performed as part of an applicable “public works” or “maintenance” project, in addition to the foregoing, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Developer’s contractor and all subcontractors must be registered with the Department of Industrial Relations (“DIR”). Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1. The Developer’s contractor shall maintain registration for the duration of the project and require the same of any subcontractors. This project may also be subject to compliance monitoring and enforcement by the DIR. It shall be the Developer’s sole responsibility to comply with all applicable registration and labor compliance requirements, including submitting payroll records directly to the DIR.

12. District Liability. In no case shall District or any director, officer, employee or agent thereof be liable for any portion of the expense of the work or materials aforesaid, nor shall any such person or his sureties or bondsmen be liable for the payment of any sum or sums for the above-mentioned work, nor for any labor, equipment or materials furnished therefor.

13. Indemnification. District shall not, nor shall any director, officer, employee or agent of District, be liable or responsible for any accident, loss or damage happening or occurring to the construction and installation of the Facilities or the Project prior to the completion and acceptance of the same, nor shall District, nor any director, officer, employee or agent of District be liable to any persons or for any property injured by reason of construction and installation of the Facilities or the Project, but all of said liabilities shall be assumed by Developer, who agrees to indemnify and save harmless District and the directors, officers, employees and agents of District from and against any and all claims, demands, losses, costs and causes of action of any nature, and any expense incident to defense thereof (including attorney’s fees), for injury to or death of persons or damage of property arising out of the construction and installation of the Facilities or the Project; provided, however, that nothing herein shall relieve any Party indemnified hereunder from liability to the extent that such liability arises from such Party’s sole established negligence, willful misconduct, or active negligence. The Developer further agrees to protect the District and the directors, officers, employees and agents of District from all liability or claims because of, or arising out of, the use of any patent or patented article in the
construction and installation of the Facilities or the Project.

14. **Acceptance.** Upon completion of the Facilities in the manner herein required, the Facilities shall be donated to the District, and District agrees to accept, to thereafter be the sole owner thereof and to operate it as an integral part of its water and/or sewer system. After the District’s acceptance and filing of a Notice of Completion with the County Recorder, the Facilities shall be operated by District in accordance with the Rules and Regulations of District as they from time to time exist. The District shall have no obligation to accept the water facilities or file a Notice of Completion if the design and construction of the work is not in accord with the approved plans and specifications and satisfactory to the District, in the District’s sole discretion. No Notice of Completion will be filed without “as-built Mylar drawings.”

(a) **Liability for Work Prior to Formal Acceptance.** Until the General Manager has formally accepted all of the Facilities performed in accordance with this Agreement, Developer shall be solely responsible for all damage to the Facilities regardless of cause and for all damages or injuries to any person or property from any reason related to construction and installation of the Facilities.

15. **Guarantee/Warranty Period.** Developer guarantees the Facilities against leaks, breaks and malfunctions, and/or paving failures in the Right-of-Way due to defective or inadequate materials or workmanship for one year from the date the Notice of Completion is filed. The Developer agrees that all leaks, breaks and malfunctions occurring within said year are presumed to result from defective or inadequate materials or workmanship until the Developer establishes the contrary by clear and convincing evidence. The Developer shall promptly repair or replace, at no cost or expense to District, any of the work related to the Facilities and/or Project that may prove to be defective. If the Developer fails to comply with District's request for correction within one week after being notified in writing to do so, or fails to correct the defects immediately in the case of an emergency, the District is authorized to have the defects repaired and made good at the expense of Developer who agrees to pay the costs and charges therefor immediately upon demand of District. If the Developer fails to reimburse the District for District’s expense in repairing and making good any defects in the work related to the Facilities and/or Project, the District will reimburse itself with funds remaining in the Deposit or with/ through any remaining security pursuant to Section 7 of this Agreement and the District’s Rules & Regulations. In the event the Deposit is insufficient to reimburse the District for its costs and expenses the Developer and its surety shall be liable to the District for any excess costs or other damages incurred by the District in repairing and making good any defects in the work related to the Facilities and/or Project and/or the District shall draw from any remaining security.

16. **Laws, Venue, and Attorneys’ Fees.** This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any terms of this Agreement, the action shall be brought in state or federal court situated in the
County of San Diego, State of California. If either Party is required to take any action in order to interpret or enforce this Agreement, or incurs any expense attributable to a default hereunder, the prevailing Party shall be entitled to recover its expenses and costs, including reasonable attorneys' fees, resulting therefrom or connected therewith.

17. Notice. Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

DISTRIBUTION:
Padre Dam Municipal Water District
Attn:
P.O. Box 719003
Santee, CA 92072-9003

and shall be effective upon receipt thereof.

18. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the District and the Developer.

19. Cumulative Rights and Remedies. The rights and remedies granted to the District pursuant to this Agreement shall be in addition to any rights or remedies granted to the District as a result of other agreements with Developer. All such other agreements shall remain valid and enforceable as written. All such agreements shall be interpreted in a manner to be consistent with each other and in a way that provides the greatest rights and remedies to the District.

20. Entire Agreement. This Agreement, with its exhibits, represents the entire understanding of District and Developer as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both parties hereto. This is an integrated agreement.

21. Severability. The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

22. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Developer shall not assign or transfer by operation of law or otherwise
any or all of its rights, burdens, duties or obligations without the District’s prior written consent, which the District shall not unreasonably withhold consent. Any attempted assignment without such consent shall be invalid and void.

23. **Non-Waiver.** None of this Agreement’s provisions shall be considered waived by either Party, unless such waiver is specifically specified in writing.

24. **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

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

**PADRE DAM MUNICIPAL WATER DISTRICT**

<table>
<thead>
<tr>
<th>By:</th>
<th>By:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Name:</td>
</tr>
<tr>
<td>Title:</td>
<td>Title</td>
</tr>
<tr>
<td>CEO/General Manager</td>
<td></td>
</tr>
</tbody>
</table>
EXHIBIT “A”

Plans and Specifications
EXHIBIT “B”

Insurance Requirements

1. Insurance.

(a) Time for Compliance. Developer and/or the Developer’s contractor shall not commence Work under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this section. In addition, Developer and/or the Developer’s contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the District that the subcontractor has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the District to terminate this Agreement for cause.

(b) Minimum Requirements. Developer and/or the Developer’s contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by Developer and/or the Developer’s contractor, its agents, representatives, employees or subcontractors. Developer and/or the Developer’s contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(i) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01) OR Insurance Services Office Owners and Contractors Protective Liability Coverage Form (CG 00 09 11 88) (coverage for operations of designated contractor); (2) Automobile Liability: Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto); (3) Workers’ Compensation and Employer’s Liability: Workers’ Compensation insurance as required by the State of California and Employer’s Liability Insurance; (4) Builders’/All Risk: Builders’/All Risk insurance covering for all risks of loss, including explosion, collapse, underground excavation and removal of lateral support (and including earthquakes and floods if requested by the District [LIMITED TO 5 PERCENT OF AGREEMENT VALUE UNLESS ADDITIONAL INSURANCE IS REQUESTED AND OBTAINED BEFORE AGREEMENT EXECUTION]); and (5) Contractor’s Pollution: Contractor’s Pollution Legal Liability and/ or Asbestos Legal Liability and/ or Errors and Omissions covering losses caused by pollution conditions that arise from the operations of Developer and/or the Developer’s contractor [REQUIRED FOR WORK...
IN Volving Environmental Hazards. Policies shall not contain exclusions contrary to this Agreement.

(ii) Minimum Limits of Insurance. Developer and/or the Developer’s contractor shall maintain limits no less than: (1) General Liability: [INSERT AMOUNT - TYPICALLY $2,000,000 MINIMUM OR $1,000,000 MINIMUM FOR SOLE PROPRIETORS; HOWEVER, AMOUNT OF INSURANCE REQUIRED DEPENDS UPON NATURE OF AGREEMENT AND RISK TO DISTRICT. PLEASE CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT] per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Contract/location or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: [INSERT AMOUNT - TYPICALLY $1,000,000 MINIMUM; HOWEVER, AMOUNT OF INSURANCE REQUIRED DEPENDS UPON NATURE OF AGREEMENT AND RISK TO DISTRICT. PLEASE CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT] per accident for bodily injury and property damage; (3) Workers’ Compensation and Employer’s Liability: Workers’ compensation limits as required by the Labor Code of the State of California. Employer’s Liability limits of [***INSERT AMOUNT - TYPICALLY $1,000,000 MINIMUM; HOWEVER, AMOUNT OF INSURANCE REQUIRED DEPENDS UPON NATURE OF AGREEMENT AND RISK TO DISTRICT. PLEASE CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT***] each accident, policy limit bodily injury or disease, and each employee bodily injury or disease; (4) Builders'/All Risk: Completed value of the project with no coinsurance penalty provisions; and (5) Contractor’s Pollution: [FOR WORK INVOLVING ENVIRONMENTAL HAZARDS]: Not less than [INSERT AMOUNT - TYPICALLY $1,000,000 EACH OCCURRENCE AND $2,000,000 AGGREGATE; HOWEVER, AMOUNT OF INSURANCE REQUIRED DEPENDS UPON NATURE OF AGREEMENT AND RISK TO DISTRICT. PLEASE CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT]. Defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the parties required to be named as additional insureds pursuant to this Agreement.

(c) Insurance Endorsements. The insurance policies shall contain the following provisions, or Developer and/or the Developer’s contractor shall provide endorsements (amendments) on forms supplied or approved by the District to add the following provisions to the insurance policies:
(i) **General Liability.** (1) Such policy shall give Padre Dam Municipal Water District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers additional insured status using ISO endorsements CG20 10 10 01 plus CG20 37 10 01, or endorsements providing the exact same coverage, with respect to the Work or operations performed by or on behalf of Developer and/or the Developer’s contractor, including materials, parts or equipment furnished in connection with such work; (2) all policies shall waive or shall permit Developer and/or the Developer’s contractor to waive all rights of subrogation which may be obtained by the Developer and/or the Developer’s contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Agreement, and Developer and/or the Developer’s contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Developer and/or the Developer’s contractor’s scheduled underlying coverage. Any insurance or self-insurance maintained by the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers shall be excess of Developer and/or the Developer’s contractor’s insurance and shall not be called upon to contribute with it.

(ii) **Automobile Liability.** (1) Such policy shall give Padre Dam Municipal Water District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers additional insured status with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Developer and/or the Developer’s contractor or for which Developer and/or the Developer’s contractor is responsible; (2) all policies shall waive or shall permit Developer and/or the Developer’s contractor to waive all rights of subrogation which may be obtained by the Developer and/or the Developer’s contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Agreement, and Developer and/or the Developer’s contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Developer and/or the Developer’s contractor’s scheduled underlying coverage. Any insurance or self-insurance maintained by the District, the Board and each member of the Board, its
of Developer and/or the Developer’s contractor’s insurance and shall not be called upon to contribute with it in any way.

(iii) **Workers’ Compensation and Employer’s Liability Coverage.** The insurer shall agree to waive all rights of subrogation against the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers for losses paid under the terms of the insurance policy which arise from work performed by Developer and/or the Developer’s contractor.

(iv) **Contractor’s Pollution Liability Coverage.** The contractor’s pollution liability policy shall include or be endorsed (amended) to state that: (1) the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers shall be covered as additional insureds with respect to the Work or operations performed by or on behalf of Developer and/or the Developer’s contractor, including materials, parts or equipment furnished in connection with such work; (2) Consultant agrees to waive subrogation which any insurer of Developer and/or the Developer’s contractor may acquire from Developer and/or the Developer’s contractor by virtue of the payment of any loss; and (3) the insurance coverage shall be primary insurance as respects the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Developer and/or the Developer’s contractor’s scheduled underlying coverage. Any insurance or self-insurance maintained by the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers shall be excess of Developer and/or the Developer’s contractor’s insurance and shall not be called upon to contribute with it.

(v) **All Coverages.** Each insurance policy required by this Agreement shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers.
(d) **Builders’/All Risk Policy Requirements.** The builders’/all risk insurance shall provide that the District be named as loss payee. In addition, the insurer shall waive all rights of subrogation against the District.

(e) **Separation of Insureds; No Special Limitations.** All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers.

(f) **Deductibles and Self-Insurance Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the District. Developer and/or the Developer’s contractor shall guarantee that, at the option of the District, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers; or (2) the Developer and/or the Developer’s contractor shall procure a bond or other financial guarantee acceptable to the District guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

(g) **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best’s rating no less than A:VII, licensed to do business in California, and satisfactory to the District. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

(h) **Verification of Coverage.** Developer and/or the Developer’s contractor shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the District. All certificates and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.

(i) **Subcontractors.** All subcontractors shall meet the requirements of this Section before commencing Work. Developer and/or the Developer’s contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the District, the Board and each member of the Board, its officers, employees, agents and District designated volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the District in writing.
(j) Reporting of Claims. Developer and/or the Developer’s contractor shall report to the District, in addition to Developer and/or the Developer’s contractor’s insurer, any and all insurance claims submitted by Developer and/or the Developer’s contractor in connection with the Work under this Agreement.