



MIDWAY CITY SANITARY DISTRICT

Serving the Community of Westminster and Midway City since 1939

MIDWAY CITY SANITARY DISTRICT

REQUEST FOR PROPOSALS

SEWER LIFT STATION PREVENTATIVE AND ON-CALL PUMP MAINTENANCE AND ANNUAL WET-WELL CLEANING

September 23, 2024

Important Dates:

Proposal Due Date:	October 3, 2024, at 3:00 p.m.
Award of Agreement:	October 15, 2024
Projected Start Date:	October 21, 2024
Projected Completion Date:	October 21, 2026

Contact:

Milo Ebrahimi, P.E., District Engineer
Midway City Sanitary District
14451 Cedarwood Street
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(714) 893-3553

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I. INTRODUCTION.

The Midway City Sanitary District (“District” or “Owner”) is requesting Proposals from qualified firms (“Contractor” or “Proposer”) to perform scheduled quarterly preventive pump maintenance, yearly wet-well cleaning, and as-needed or emergency repair and maintenance services for the District’s four sewer lift stations ("Project").

A. Background.

The District is a California special district organized in 1939 under the Sanitary District Act of 1923 (Health & Safety Code §§ 6400 et seq.) to serve the citizens and businesses of the City of Westminster and unincorporated community of Midway City, in Orange County. The District's operations are conducted from offices located at 14451 Cedarwood Street, Westminster, CA 92683.

Situated in Orange County, the area of Westminster and Midway City is a large and diverse community. As a service district, the District supplies sanitary sewer services and maintains approximately 174 miles of gravity sewer lines that transport 13 million gallons a day to treatment facilities for 103,000 residents.

The District has four lift stations. All lift stations are located in the City Westminster. Each lift station has two submersible pumps, 8 pumps total. All pumps are Hidrostal. The following are the addresses of lift stations:

- 5121 Westminster Boulevard, Westminster
- 14240 Hammon Street, Westminster
- 14240 Willow Lane, Westminster
- 14900 (Block) Brookhurst Street, Westminster

B. Purpose of the Request.

The District desires to obtain the services of a Contractor to perform scheduled quarterly preventive pump maintenance, yearly wet-well cleaning, and as-needed or emergency repair and maintenance services for the District’s four sewer lift stations.

II. SCOPE OF SERVICES.

The attached Exhibit A contains a list of major work tasks that should be accomplished as part of the scope of work. Proposers are asked to define the approach and the specific scope of work and methodology to achieve the objectives presented in this RFP. Proposers should include a refined scope of work by developing a detailed description of all project tasks and any changes, additions or recommendations proposed. The description of each project task should include specification of the task itself, the methodology or analytical process, scheduling, personnel, and costs. If you have any questions, please contact:

Milo Ebrahimi, P.E., District Engineer
Midway City Sanitary District
14451 Cedarwood Street
Westminster, CA 92683
(714) 893-3553

III. PROPOSAL FORMAT.

All proposals shall include the following minimum information:

A. Approach.

A short discussion of the intended approach to the Project that demonstrates the proposer's understanding of the issues and tasks and the proposer's ability to address them.

B. Description of Firm, Management and Team Members.

A description of the proposer and its proposed team. The proposer's description should clearly identify who will be the project manager and the day-to-day contact person for the Project. The proposal must identify the legal name, address, telephone number, and primary contact for each business entity that will provide services for the Project. The proposal shall expressly indicate if it is a joint proposal by more than one business entity. If a proposer intends to subcontract any of the work for the Project, the proposal shall identify and describe the qualifications of each subcontractor proposed to be used. The proposer(s) shall demonstrate that each business entity proposed to provide work for the Project is authorized to do business in the State of California, the County of Orange, and the City of Westminster. For any business entity that is organized as a corporation, limited liability company, or other entity under the laws of another state, the proposal shall include evidence that such business entity is properly registered with the California Secretary of State.

C. Qualifications.

Provide an outline of the proposer's qualifications and relevant background experience and capabilities for this Project.

D. Scope of Work.

The proposal should contain a description of each work task with an explanation of how the proposer plans to approach the tasks and the steps that will be taken to complete the tasks. Proposers must demonstrate that they understand the magnitude and importance of each individual task.

E. Proposed Pricing.

The proposal must include a separate Price Proposal that outlines proposed pricing for each of the required work tasks. The Price Proposal shall include the following:

- A fixed “not-to-exceed” price for quarterly preventative pump maintenance and annual wet-well cleaning for each year of the Agreement. For annual wet-well cleaning, a Vactor truck and operator will be provided by the District, and these costs should not be included in the proposed pricing. Overhead, mileage, and other reimbursable expenses shall be included in the fixed no-to-exceed price, except as otherwise expressly provided in the proposal. The Price Proposal shall expressly list all services, equipment, materials, and other items that are not included within the proposed fixed not-to-exceed price.
- Hourly rates for all personnel or classes of laborers that may be utilized to provide on-call, emergency, or additional maintenance and repair services. If separate hourly rates are proposed for overtime and/or work performed on an emergency basis or on holidays, the Price Proposal shall separately list the regular rate, overtime rate, and emergency/holiday rate for each personnel and/or laborer category.
- Hourly rates for the use of any equipment to be provided by the proposer to perform the services, if the proposer proposes to charge separately for the use of equipment.
- The proposed percentage markup on any necessary materials and equipment not included within the fixed not-to-exceed prices and hourly rates.

F. References, Related Experience and Examples of Work.

Include a minimum of 3 client references with phone numbers for relevant work within the past 5 years. Specify the client, location, type of work, implementation results or status, examples of work, and other relevant information as needed.

G. Sample Report.

Include a minimum of 3 different clients reports for preventive maintenance or similar work within the past 5 years.

IV. APPLICABLE LAWS AND PREVAILING WAGES.

A. Laws To Be Observed.

The Contractor shall keep itself fully informed of all existing and future federal, state and local laws 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 Project.

B. Prevailing Wages.

The District has determined that the Project requires work of labor categories which are subject to Prevailing Wage Laws identified in the State of California Labor Code. The selected Contractor shall be aware of the requirements of California Labor Code sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" projects. Specific requirements of the Prevailing Wage laws that Contractor will be expected to comply with are listed in the proposed Agreement at Exhibit B.

C. Licensing.

Before submitting proposals, proposers shall be licensed in accordance with the provisions of Chapter 9, Division 3, of the Business and Professional Code of the State of California.

V. SELECTION PROCESS.

A. Evaluation.

All proposals received by the due date will be evaluated by the District's General Manager and assigned staff and/or consultants, and the General Manager will make a recommendation to the District's Board of Directors based on this evaluation. Only information which is received in response to the RFP or via any subsequent interview will be evaluated. The District will evaluate the responses of each proposer in several critical areas. Selected proposers may be invited to an oral interview.

B. Selection Criteria.

The District will select the most qualified proposal based on the following factors. Responses to the RFP should address the qualities and indicators that are listed below:

1. Pricing and Cost.
2. Ability of the proposer to design an approach and work plan to meet the Project requirements, which will include an assessment of the overall quality of the proposal. Qualities and indicators that will receive consideration include:
 - The proposer's performance in converting the Scope of Services into a work plan;
 - The detail and clarity of the discussion as to the proposer's approach to undertaking the Project;
 - The proposer's performance in identifying any special problems or concerns which may be associated with the Project and preliminary ideas about how these obstacles should be addressed;

- The inclusion of any unique approaches which are designed to save time and money or increase the benefits or effectiveness of the proposed work; and
 - The demonstrated ability to work with governmental bodies and a full understanding of applicable laws or regulations that relate to the Project.
3. Ability of the Proposer to carry out and manage the Project, which includes an assessment of the past experience of the proposer in general.
 4. Capabilities of the proposer and/or its proposed team, which includes an assessment of the capabilities of the proposer and individuals that will be engaged in the Project.
 5. Proximity of the proposer to the Project site. The application of this criteria will include an assessment of the following:
 - The proposer's geographic proximity to the Project site;
 - The location of the office from which the Project will be administered;
 - The perceived response time and general availability of the proposer's management to be on site;
 - The perceived effect that Project management location will have on price and the ability of the Project to be expedited on a timely basis; and
 - The availability of special travel or communication plans which would effectively mitigate difficulties associated with location.
 6. Willingness to comply with the proposed Agreement terms. A sample Agreement is attached in Exhibit B. Proposals will be rated based on the exceptions taken to the proposed Agreement.

C. Proposed Selection and Project Schedule.

Proposal Due Date: October 3, 2024, at 3:00 p.m.
 Award of Agreement: October 15, 2024
 Projected Start Date: October 21, 2024
 Projected Completion Date: October 21, 2026

D. Award of Contract.

It is anticipated that any award of an agreement for services will be made by the District Board at its October 15, 2024 regular meeting. The District Board may direct the General Manager to negotiate with one or more proposers.

VI. TERM OF AGREEMENT

The District anticipates entering into an agreement with the selected Contractor for an initial two-year term, with three optional one-year extension, exercisable by the District in its sole discretion.

VII. PROPOSAL DUE DATE AND DELIVERY

Proposals shall be prepared according to the instructions contained in this RFP, including any addenda hereto published by the District. Proposals must be delivered by email to the District at mebrahimi@midwaycitysanitaryca.gov by 3:00 p.m., prevailing time, on or before October 3. Proposals will not be accepted after this time.

VIII. GENERAL CONDITIONS OF THE RFP.

A. General Conditions.

The District reserves the right to cancel or reject all or a portion or portions of the RFP without notice. Further, the District makes no representations that it will enter into an Agreement with any proposer submitting a proposal. The District reserves the right to reject any and all proposals submitted in response to this request or any addenda thereto, including without limitation the right to reject any or all nonconforming, nonresponsive, unbalanced, or conditional proposals and to reject the proposal of any proposer that the District believes would not be in the best interest to hire. The District also reserves the right to reject any subcontractor or individual working on a proposed team and to replace them with a mutually acceptable replacement.

Upon receipt by the District, proposals are considered a public record and subject to disclosure under the Public Records Act, including within such information, without limitation, personal identification information such as social security numbers, bank account numbers, and drivers' license numbers. Further, after the award of the Contract by the District, whether or not a proposer is the successful Contractor, all material in proposals received by the District shall be subject to the right of the public to inspect and to obtain copies. The District shall retain all proposals submitted in response to this RFP for as long as the District is required to do so under the law.

In submitting a proposal, each proposer agrees that the District may reveal any trade secret materials contained in such response to all District staff and District officials involved in the selection process, and to any outside consultant or other third parties who are hired or appointed by the District to assist in the evaluation process.

Each proposer may designate specified information as a trade secret and confidential and agrees to indemnify and hold harmless the District and each of its officers, employees, and agents from all liability, damages and expenses, including reasonable attorneys' fees, incurred by any of them in connection with the District's refusal to disclose any material that the proposer has so designated. Any Consultant that designates its entire proposal as a trade secret will be disqualified.

Any changes to the proposal requirements will be made by written addendum.

The District reserves the right to waive any and all defects or informalities in any proposal.

It shall be the responsibility of each proposer before submitting a proposal:

- To examine thoroughly the requirements of this RFP;
- To visit the District to become familiar with and satisfy the proposer as to the general, local, and site conditions, and has obtained any additional or supplementary examinations, investigations, explorations, tests, or other studies concerning conditions at the District;
- To study and carefully correlate proposer's knowledge with this RFP and such other related data; and
- To promptly notify the District of all conflicts, errors, ambiguities or discrepancies that proposer has discovered in this RFP.

B. Liability of Costs and Responsibility.

The District assumes no liability for any cost incurred by proposers responding to this RFP or in responding to any further requests for interviews, or additional information, prior to the issuance of the Contract. All costs shall be borne by the person or firm responding to the request. Proposers responding to the request shall hold the District harmless from any and all liability, claim or expense whatsoever incurred by or on behalf of that person or firm. All submitted material becomes the property of the District.

The selected Contractor will be required to assume responsibility for all services offered in the proposal whether or not they possess them within their firm. The Contractor will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Contract.

C. Validity.

Proposers agree to be bound by their proposals for a period of ninety (90) days commencing on August 21, 2024, during which time the District may request clarification or correction of the proposal for the purpose of evaluation. Amendments or clarifications shall not affect the remainder of the proposal, but only that portion so amended or clarified.

D. Standard Agreement Terms.

The selected Contractor will be required to enter into the District's standard Agreement, a copy of which has been provided in Exhibit B. Each proposer shall assume that the execution of this Agreement, without changes, will be a required condition unless proposed modifications are requested at the time of submittal of the proposal and then accepted by the District. If a proposer wishes to take exception to any of the terms and conditions contained in the Agreement, these should be identified specifically; otherwise it will be assumed that the proposer is willing to enter

into the Agreement as it is written. Failure to identify contractual issues of dispute can later be the basis for the District disqualifying a proposer. Any exceptions to terms, conditions, or other requirements must be clearly stated. Otherwise, the District will consider that all items offered are in strict compliance with the RFP, and the successful proposer will be responsible for compliance. The District will consider such exceptions as part of the evaluation process which may constitute grounds for rejection of the proposal. The Agreement will not be executed by the District without first being signed by the proposer.

E. Permits.

The Contractor and all of its subcontractors, at its and/or their sole expense, shall obtain and maintain during the term of the Agreement, all appropriate permits required in connection with the performance of the Project.

The required permits include:

1. Business license from the City of Westminster is required for this Project.
2. The Contractor shall provide the necessary water for this task.
3. Confined Space Permit is required from the District for entering into wet-wells or any District's manholes. Confined space procedures will be provided with the permit.
4. Any other permit which is required by the local agency and the local jurisdiction.

F. Licenses and Certificates.

The Contractor and all of its subcontractors, at its and/or their sole expense, shall obtain and maintain during the term of the Contract, all appropriate licenses and certificates required in connection with the performance of the Project.

The required Licenses and Certificates include:

1. General contractor license A, C36, or C61/D21.
2. Any other Licenses and Certificates which is required by the local agency and the local jurisdiction.

G. Oral and Written Explanations.

The District will not be bound by oral explanations or instructions given at any time during the review process or after the award. Oral explanations given during the review process and after award become binding when confirmed in writing by an authorized District official.

Written responses to question(s) asked by one proposer will be provided to all proposers who received the Request for Proposals.

H. Proposer's Representative.

The person signing the proposal must be a legal representative of the firm authorized to bind the proposer to an agreement in the event of the award.

I. Insurance.

General Liability, Automobile, and Worker's compensation insurance are required in the amount set forth in the attached sample Agreement.

J. Spill Prevention and Clean Up.

Spill prevention and clean up shall be performed based on instructions and guidelines by Orange County Public Works Standards that can be found at:

<https://ocerws.ocpublicworks.com/sites/ocpwocerws/files/import/data/files/10193.pdf>

In case of observation of Sewer System Overflow (SSO), please call District's emergency numbers: 714-310-9004 or 714-310-8654.

K. Confined Space.

The Contractor shall comply with all applicable Cal OSHA regulations and industry best practices regarding confined space entry. Prior to entering any confined space, a comprehensive hazard assessment must be conducted, and a confined Space Permit is required from the District for entering into wet-wells or any District's manholes. Confined space procedures will be provided with the permit. All personnel involved in confined space operations must receive proper training and certification as required by Cal OSHA. Appropriate personal protective equipment (PPE) must be worn, and a designated, trained safety attendant must be present at all times during entry and work within the confined space. The Contractor is responsible for ensuring that all confined space work is performed safely and in strict accordance with the regulatory requirements to prevent accidents and ensure worker safety.

L. Reporting and Documentation.

- Maintain detailed records of maintenance activities, including inspections, repairs, and replacements.
- Document test results, equipment condition assessments, and any deviations from standard performance metrics.
- Provide a comprehensive report outlining maintenance activities and recommendations for continuous improvement.

IX. Exhibits.

- A. Scope of Work
- B. Sample Agreement

EXHIBIT A - SCOPE OF WORK

The objectives of the work will be as follows:

- Ensure continuous and reliable operation of lift station pumps.
- Minimize the risk of unexpected breakdowns and associated costs.
- Extend the lifespan of pumps and related equipment.
- Maintain compliance with regulatory standards for wastewater management.

The scope of work will be as follows:

- The preventive maintenance plan will cover the following areas at four lift stations:
 - Inspections: Inspections to check pump performance, motor conditions, and operational parameters.
 - Lubrication: Ensure proper lubrication of bearings and moving parts as per manufacturer recommendations.
 - Electrical Systems: Inspect electrical connections, wiring, and controls for any signs of wear or corrosion.
 - Mechanical Components: Check alignment, couplings, and seals; perform adjustments and replacements as necessary; switch the active force main.
 - Pump Performance Testing: Conduct periodic tests to assess pump efficiency and flow rates.
 - Cleaning: Remove debris and sediment from pumps and check valves to prevent clogging and damage.
 - Safety Checks: Verify safety features such as alarms, emergency shut-offs, and ventilation systems.
 - Reports: Quarterly Pumps Preventive Maintenance report shall be provided with the invoice with the requested information that is provided below.
- Yearly Wet-well Cleaning:
 - Cleaning: Cleaning to remove FOG, debris, and sediment from the wet-well to prevent clogging and damage.
- Emergency Response:
 - The ability to respond when called out for an emergency is a condition of the contract, and once the contract award is made, the inability or failure to respond as needed will be considered as noncompliance with the contract. Emergency response is typically non-scheduled activity after normal business hours, or when District crews cannot respond with the full level of effort/equipment needed. The Contractor shall be able to respond at the District's request for emergency services 24 hours a day, 7 days per week. The Contractor shall respond to emergency repairs within 24 hours and within 72 hours for non-emergency repairs. The Contractor shall provide an emergency contact person and telephone number.

For quarterly Pumps Preventive Maintenances report, provide the following information for each lift stations if apply:

1. Job site location
2. Date
3. Technician Name
4. Motor information for both pumps on fast and slow speeds (Brookhurst pumps run just on speed)
 - a. Serial number
 - b. Model number
 - c. Horsepower
 - d. Phase
 - e. Rated voltage
 - f. Running voltage to ground
 - g. Running voltage phase to phase
 - h. Rated amp
 - i. Running amp
 - j. Megger to ground
 - k. Megger between
 - l. ET Meter Resettable
 - m. RPM
 - n. Code
 - o. Pump Starts
 - p. Notes/Recommendations
5. Pumps (both)
 - a. Make
 - b. Model
 - c. Size
 - d. Serial no.
 - e. Impeller Diameter
 - f. Head
 - g. GPM
 - h. Notes/Recommendation
6. Allen Bradley interface – Panel View
 - a. Catalog number
 - b. Series
 - c. Revision
 - d. VAC
 - e. Amps
 - f. HZ
 - g. VA
 - h. Control set points (high and low) for Lag, Lead, and Stop

- i. Notes/Recommendations
- 7. Alarm Set Points
 - a. Wet well Level
 - b. Force Main Flow
 - c. Force Main Pressure
 - d. Generator Fuel
 - e. Motor Current
 - f. Notes/Recommendation
- 8. Siemens Hydro Ranger Panel Mount
 - a. Model number
 - b. Serial numbers
 - c. Volts
 - d. Notes/Recommendations
- 9. Power Supplies
 - a. Model numbers
 - b. VAC/VDC
 - c. Amps
 - d. Notes/Recommendations
- 10. Panel Fluid
 - a. Model
 - b. Phase
 - c. Volts
 - d. Amps
 - e. Job number
 - f. Wire Diagram
 - g. Notes/Recommendations
- 11. Flow Metter Mount
 - a. Model
 - b. Serial number
 - c. Supply
 - d. Amp
 - e. VA
 - f. Output
 - g. Ohms Max
 - h. Pulses
 - i. HZ
 - j. Notes/Recommendations
- 12. Transformer
 - a. Make
 - b. Catalog number

- c. Phase
 - d. Primary Volts
 - e. Secondary Volts
 - f. Notes/Recommendations
- 13. Starters
 - a. Serial Number
 - b. NEMA Size
 - c. Style number
 - d. Amps
 - e. Volts
 - f. Overload number
 - g. Style
 - h. Notes/Recommendations
- 14. Reader Interface
 - a. Model number
 - b. Looped Power Meter
 - c. Serial Number
 - d. Notes/Recommendations
- 15. Power Quality Meter
 - a. Model number
 - b. Control Power
 - c. Firmware
 - d. Serial number
 - e. Notes/Recommendations
- 16. UPS
 - a. Type
 - b. Input
 - c. Output
 - d. Output VA
 - e. Serial number
 - f. Notes/Recommendations
- 17. Transient Voltage Surge Suppressor
 - a. Module
 - b. Model number
 - c. Nominal Service Voltage
 - d. Tag number
 - e. Configure
 - f. Notes/Recommendations
- 18. Service Entrance
 - a. Manufacturer

- b. Catalog Number
 - c. Serial number
 - d. Rated Volage
 - e. Phase
 - f. Amp
 - g. Model
 - h. Notes/Recommendations
19. Generator
- a. Manufacturer
 - b. Model
 - c. Serial number
 - d. Fuel Volume
 - e. Fuel Remaining
 - f. Notes/Recommendations
20. Control Panel check boxes
- a. Tighten all terminal lugs
 - b. Test operation of all circuit breaker operator
 - c. Check power supply voltage
 - d. Test ground fault receptacles
 - e. Test heater block
 - f. Heater trip in normal position
 - g. Running time meters working
 - h. All indicator lights working
 - i. Proper connection of motor cables
 - j. Check voltage to motor
 - k. Check motor amp
 - l. Check Allen Bradley setting and adjust if necessary
 - m. Inspect relay and starter
 - n. Exhaust fan operating properly
 - o. Notes/Recommendations
21. Valve Vault check boxes
- a. Exercise discharge valves
 - b. Check valves and limit switch arms operating properly
 - c. Notes/Recommendations
22. Wet well check boxes
- a. Free of debris, sediment, and FOG
 - b. Ultrasonic transporter secure to the wall
 - c. Notes/Recommendations

In-service pumps information will be as follows:

MCSD #	Location	In Use Since	Status	Manufacturer	Typ	Unit	Q (GPM) Fast	Q (GPM) Slow	H (Ft)	M. S/N	Phase	Hz	V&Con	RPM (SLOW)	RPM (FAST)
Brookhurst 11	Brookhurst	2/15/2022	IN USE	Wemco Hidrostral	D4K-HS-DEYR6	1 OF 2	210		17.0	07DW06388-07	3	60	230		1200
Brookhurst 12	Brookhurst	9/19/2022	IN USE	Wemco Hidrostral	D4K-HS-DEYR6	2 OF 2	210		17.0	07DW06388-08	3	60	230		1200
Hammon 11	Hammon	5/21/2021	IN USE	Wemco Hidrostral	FE457-MYAK-XCC5-13	1 OF 2	1300	805	41.7	07DW06388-10	3	60	460	883	1149
Hammon 12	Hammon	-	IN USE	Wemco Hidrostral	FE457-MYAK-XCC5-13	2 OF 2	1300	805	41.7	07DW06388-11	3	60	460	883	1174
Hammon/Westminster 2	Westminster	8/20/2024	IN USE	Hidrostral	F6K-H4R+FE4A7-MYAK+XC1A6MM-10	1 OF 2	1300	805	42.0	266585	3	60	460Y	862	1160
Hammon/Westminster 1	Westminster	8/13/2024	IN USE	Hidrostral	F6K-H4R+FE4A7-MYAK+XC1A6MM-10	2 OF 2	1300	805	42.0	266582	3	60	460Y	862	1160
Willow 11	Willow	-	IN USE	Wemco Hidrostral	FE4A7-MYAK-XCC4-10	1 OF 2	770	475	35.8	07DW06388-04	3	60	460	860	1163
Willow 12	Willow	-	IN USE	Wemco Hidrostral	FE4A7-MYAK-XCC4-10	2 OF 2	770	475	35.8	07DW06388-04	3	60	460	888	1163

EXHIBIT B – SAMPLE AGREEMENT

MAINTENANCE SERVICES AGREEMENT SEWER LIFT STATIONS

THIS MAINTENANCE SERVICES AGREEMENT (hereinafter “Agreement”) is made this ____ day of ____ 2024 (the “Effective Date”), by the MIDWAY CITY SANITARY DISTRICT, a public entity (hereinafter referred to as “DISTRICT”) and *[NAME OF CONTRACTOR]*, a *[TYPE OF ENTITY AND STATE OF ORGANIZATION]*, (hereinafter referred to as “CONTRACTOR”). DISTRICT and CONTRACTOR are sometimes hereinafter individually referred to as “Party” and are hereinafter collectively referred to as the “Parties.”

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Midway City Sanitary District Board authorization dated ____, 2024.
2. DISTRICT has determined there is a need to retain the professional services of a qualified company to perform scheduled quarterly preventive pump maintenance, yearly wet-well cleaning, and as-needed or emergency repair and maintenance services for the District’s four sewer lift stations (the “Project”) in accordance with the Request for Proposals for Sewer Lift Station Preventative and On-Call Pump Maintenance and Annual Wet Well Cleaning, dated August __, 2024 (hereinafter referred to as the “Request for Proposals”) prepared by DISTRICT.
3. In response to the Request for Proposals, CONTRACTOR has submitted to DISTRICT a proposal, dated *[DATE]*, to provide DISTRICT with the requested scheduled quarterly preventive pump maintenance, yearly wet-well cleaning, and as-needed or emergency repair and maintenance services for the District’s four sewer lift stations (the “Proposal”).
4. CONTRACTOR represents and maintains that it is uniquely qualified by virtue of its experience, training, education, reputation, and technical expertise to provide the professional maintenance services to DISTRICT for the Project and has agreed to provide such services as provided herein. DISTRICT does not have the personnel, training, certification, or specialized technical expertise necessary to perform the work and services contracted for herein.
5. DISTRICT desires to retain CONTRACTOR to provide such professional maintenance services for the Project.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Term and Termination. This Agreement shall be effective for a period of two (2) years, commencing on the Effective Date, with an option to extend the Agreement for up to three (3) additional one (1) year terms at the DISTRICT's option, unless earlier terminated by DISTRICT. The DISTRICT's General Manager is authorized to exercise said extension options on behalf of the DISTRICT. This Agreement may be terminated by DISTRICT without cause upon thirty (30) days written notice. In such event, the DISTRICT will compensate CONTRACTOR for work performed to date in accordance with Section 3.4 of this Agreement. CONTRACTOR is required to present evidence to support performed work completion. CONTRACTOR is required to present evidence to support performed work completion.

2. Services to be Provided.

2.1 Scope of Services and Standard of Performance. In compliance with all terms and conditions of this Agreement, CONTRACTOR agrees to provide all labor, material, and equipment (except as otherwise specified in the Scope of Work) to perform quarterly preventive pump maintenance, yearly wet-well cleaning, and as-needed or emergency repair and maintenance services for the District's four sewer lift stations for the Project as set forth in (a) the Proposal, which is attached hereto as Exhibit "A" and incorporated herein by reference, and (b) the Scope of Work included in the Request for Proposals, which is attached hereto as Exhibit "B" and incorporated herein by reference (hereinafter referred to as the "Scope of Services," the "Services" or "Work"). As a material inducement to DISTRICT entering into this Agreement, CONTRACTOR acknowledges and understands that the Services and Work contracted for under this Agreement require specialized skills and abilities and that, consistent with this understanding, CONTRACTOR's Services and Work shall be performed in a skillful and competent manner and shall be held to a standard of quality and workmanship prevalent in the industry for such Services and Work and with the standards recognized as being employed by professionals in the same discipline in the State of California. CONTRACTOR represents and warrants that it is skilled in the professional discipline necessary to perform the Services and Work and that it holds the necessary skills and abilities to satisfy the standard of work as set forth in this Agreement. CONTRACTOR represents and warrants that it and all of its employees, subconsultants and subcontractors providing any Work or Services under this Agreement shall have sufficient skill and experience to perform the Services and Work assigned to them. All Services and Work shall be completed to the reasonable satisfaction of DISTRICT. The Proposal, the Request for Proposals, and this Agreement do not guarantee any specific amount of work.

2.2 Contract Documents. The Agreement between the Parties shall consist of the following: (1) this Agreement; (2) the Scope of Work included in the Request for Proposals; (3) CONTRACTOR's Proposal submitted to DISTRICT, which shall collectively be referred to collectively hereinafter as the "Contract Documents." The CONTRACTOR's Proposal is attached hereto as Exhibit "A" and is hereby incorporated by reference and made a part of this Agreement. The Scope of Work included in the Request for Proposals is attached hereto as

Exhibit “B” and is hereby incorporated by reference and made a part of this Agreement. All provisions of the Contract Documents shall be binding on the Parties. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1st) the terms and conditions of this Agreement; (2nd) the provisions of the Consultant’s Proposal (Exhibit “A”); and (3rd) the provisions of the Scope of Work (Exhibit “B”).

2.3 Compliance with Law. CONTRACTOR shall comply at all times during the term of this Agreement with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government, including without limitation all applicable fair labor standards and Cal/OSHA requirements. CONTRACTOR shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of the Work and Services, including all Cal/OSHA requirements, and shall give all notices required by law. CONTRACTOR shall be liable for all violations of such laws and regulations in connection with performing the Work and Services. If CONTRACTOR performs any Work or Services in violation of such laws, rules, and regulations, CONTRACTOR shall be solely responsible for all penalties and costs arising therefrom. CONTRACTOR shall defend, indemnify, and hold DISTRICT, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules, or regulations.

2.4 Licenses, Permits, and Fees. Prior to performing any Services or Work hereunder CONTRACTOR shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. CONTRACTOR represents and warrants to DISTRICT that CONTRACTOR shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for CONTRACTOR to perform the Work and Services under this Agreement. CONTRACTOR shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the CONTRACTOR’s performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold DISTRICT, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

2.5 Familiarity with Work. By executing this Agreement, CONTRACTOR warrants that: (1) it has thoroughly investigated and considered the Scope of Work or Services to be performed; (2) it has carefully considered how the Services should be performed and has carefully examined the location or locations at or with respect to where such Services or Work is to be performed and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of attending performance of the Services under this Agreement. If the Services involve work upon any site, CONTRACTOR represents and maintains that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of any Services hereunder. Should

CONTRACTOR discover any latent or unknown conditions materially differing from those inherent in the Work or as represented by DISTRICT, it shall immediately inform DISTRICT of this and shall not proceed, except at CONTRACTOR's risk, until written instructions are received from DISTRICT.

2.6 Care of Work. CONTRACTOR shall adopt reasonable methods during the term of the Agreement to furnish continuous protection to the Work and the equipment, materials, papers, documents, plans, studies, and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Work by DISTRICT, except such losses or damages as may be caused by DISTRICT's own negligence.

2.7 Further Responsibilities of Parties. Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement.

3. Compensation.

3.1 Amount. For the Services and Work rendered pursuant to this Agreement, CONTRACTOR shall be compensated by DISTRICT for the services performed, including authorized reimbursements, in accordance with the fixed no-to-exceed prices and hourly rates set forth in the Price Proposal included within CONTRACTOR'S Proposal (Exhibit "A"). Total compensation for scheduled quarterly maintenance and annual wet-well cleaning for the first year of this Agreement shall not exceed the total maximum contract amount of _____ Dollars and 00/100 cents (\$ _____), as set forth in Exhibit "A". Total compensation for scheduled quarterly maintenance and annual wet-well cleaning for the second year of this Agreement shall not exceed the total maximum contract amount of _____ Dollars and 00/100 cents (\$ _____), as set forth in Exhibit "A". The not-to-exceed amounts for scheduled quarterly maintenance and annual wet-well cleaning shall include the attendance of CONTRACTOR at all Project meetings deemed reasonably necessary by the DISTRICT. CONTRACTOR shall not be entitled to any additional compensation for attending these meetings. For additional Services or Work requested by DISTRICT, including on-call and emergency maintenance and repairs, CONTRACTOR shall be compensated by DISTRICT on a time and materials basis at the hourly rates set forth in in Exhibit "A." For parts and equipment installed by CONTRACTOR in conjunction with the Services or Work for which CONTRACTOR is entitled to reimbursement pursuant to CONTRACTOR's Proposal, if any, DISTRICT shall reimburse CONTRACTOR for the actual cost of such parts or equipment, plus the percentage markup set forth in Exhibit "A," provided DISTRICT has approved the purchase and installation of such parts or equipment in advance. Compensation for necessary expenditures for reproduction costs, telephone expenses, and transportation expenses must be approved in advance by the DISTRICT and will only be approved if such expenses are also specified in the Proposal.

3.2 Optional CPI Adjustment. The fees, rates, and/or unit prices set forth in CONTRACTOR's Proposal (Exhibit "A") shall remain fixed and unchanged for the first two

years of the term of this Agreement (i.e., from _____, 2024 through _____, 2026). Thereafter, CONTRACTOR may submit a request to adjust its fees, rates, and/or unit prices once per year during the remainder of the term of the Agreement as provided for herein. However, approval of any request to adjust CONTRACTOR's fees, rates, and/or unit prices as set forth herein shall be made at the sole discretion of the DISTRICT's General Manager, in writing, and is subject to the DISTRICT's approved budget. Such fee, rate, and/or unit pricing adjustment(s), if any, shall not exceed the value of the change in the Consumer Price Index for the Los Angeles/Orange County area for the preceding one year as published for the month of April of any given year. In no event shall any adjustment of any fee, rate, and/or unit pricing as authorized by this section exceed five percent (5%) per year regardless of CPI or any other cost factors.

3.2 Payment. For Work or Services under this Agreement, payment shall be made in arrears per invoice for Work completed, subject to the payment provisions set forth in the Proposal (Exhibit "A").

3.3 Changes in Scope. In the event any change or changes in the Scope of Services is requested by DISTRICT and agreed to by CONTRACTOR, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional fees. An amendment may be entered into: (a) to provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product, or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in CONTRACTOR's profession.

3.4 Termination. DISTRICT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by DISTRICT, then the provisions of paragraph 3 would apply to that portion of the work completed.

3.5 Appropriations. This Agreement is subject to and contingent upon funds being appropriated therefore by the Midway City Sanitary District Board of Directors for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to DISTRICT.

4. Insurance requirements.

4.1 Commencement of Work. CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the DISTRICT. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the DISTRICT of any material change, cancellation, or termination at least thirty (30) days in advance.

4.2 Workers Compensation Insurance. During the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.

4.3 Insurance Amounts. CONTRACTOR and all subcontractors shall procure and maintain insurance acceptable to DISTRICT. Unless otherwise agreed or waived in writing by DISTRICT's General Manager, CONTRACTOR and all subcontractors shall maintain the following insurance for the duration of this Agreement:

(a) Commercial general liability in an amount of \$2,000,000.00 per occurrence: **claims made and modified occurrence policies are not acceptable**; Insurance companies must be acceptable to DISTRICT and have a Best's Guide Rating of A- Class VII or better, as approved by the DISTRICT.

(b) Automobile liability in an amount of \$1,000,000.00 combined single limit: **claims made and modified occurrence policies are not acceptable**; Insurance companies must be acceptable to DISTRICT and have a Best's Guide Rating of A- Class VII or better, as approved by the DISTRICT.

An **On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate DISTRICT, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to DISTRICT proof of insurance and endorsement forms that conform to DISTRICT's requirements, as approved by the DISTRICT.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate DISTRICT, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to DISTRICT proof of insurance and endorsement forms that conform to DISTRICT's requirements, as approved by the DISTRICT.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respect to DISTRICT, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the DISTRICT, its officers, officials, employees, agents, and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

If CONTRACTOR maintains higher insurance limits than the minimums shown above, CONTRACTOR shall provide coverage for the higher insurance limits otherwise maintained by the CONTRACTOR.

5. Non-Liability of Officials and Employees of the District. No official or employee of DISTRICT shall be personally liable to CONTRACTOR in the event of any default or breach by DISTRICT, or for any amount which may become due to CONTRACTOR.

6. Conflict of Interest. No officer or employee of the DISTRICT shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his or her financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of any state statute or regulation. CONTRACTOR represents and warrants that it has not paid or given and will not pay or give any third party any money or other consideration in exchange for obtaining this Agreement.

7. Covenant Against Discrimination. In connection with its performance under this Agreement, CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, disability, medical condition, religion, color, sex, sexual orientation, age, marital status, ancestry, or national origin. CONTRACTOR shall ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, disability, medical condition, religion, color, sex, sexual orientation, age, marital status, ancestry, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

8. Independent Contractor.

(a) The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make CONTRACTOR a DISTRICT employee. During the performance of this Agreement, CONTRACTOR and its officers, employees, and agents shall act in an independent capacity and shall not act as DISTRICT officers or employees. CONTRACTOR will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of CONTRACTOR shall at all times be under CONTRACTOR's exclusive direction and control. Neither DISTRICT nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of CONTRACTOR or any of its officers, employees, or agents, except as set forth in this Agreement. CONTRACTOR, its officers, employees or agents, shall not maintain a permanent office or fixed business location at DISTRICT's offices. DISTRICT shall have no voice in the selection, discharge, supervision, or control of CONTRACTOR's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. CONTRACTOR shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. DISTRICT shall not in any way or for any purpose be deemed to be a partner of CONTRACTOR in its business or otherwise a joint venturer or a member of any joint enterprise with CONTRACTOR.

(b) CONTRACTOR shall not incur or have the power to incur any debt, obligation, or liability against DISTRICT, or bind DISTRICT in any manner.

(c) No DISTRICT benefits shall be available to CONTRACTOR, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to CONTRACTOR as provided for in this Agreement, DISTRICT shall not pay salaries, wages, or other compensation to CONTRACTOR for the performance of any Work or Services under this Agreement. DISTRICT shall not be liable for compensation or indemnification to CONTRACTOR, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the DISTRICT has financial obligations, other than pursuant to Section 3 herein, of any nature relating to salary, taxes, or benefits of CONTRACTOR's officers, employees, representatives, agents, or subconsultants or subcontractors, CONTRACTOR shall defend, indemnify, and hold harmless DISTRICT from and against all such financial obligations.

9. Notices. All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; or (ii) five (5) business days after the date of posting by the United States Post Office if by mail. These addresses shall be used for delivery of service of process.

(CONTRACTOR)

(DISTRICT)

Midway City Sanitary District
Attention: District Engineer
14451 Cedarwood Street
Westminster, CA 92863

(WITH COPY TO)

Midway City Sanitary District
Attention: General Counsel
14451 Cedarwood Street
Westminster, CA 92863

10. Time of Essence. Time is of the essence in the performance of this Agreement.

11. Limitations Upon Subcontracting and Assignment. The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for DISTRICT to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the DISTRICT. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of DISTRICT. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to DISTRICT for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and DISTRICT. All persons

engaged in the work will be considered employees of CONTRACTOR. DISTRICT will deal directly with and will make all payments to CONTRACTOR.

12. Indemnification. CONTRACTOR agrees to protect, defend, and hold harmless DISTRICT and its elective or appointive boards, officers, agents, and employees from any and all third party claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for bodily injury or death of any person, or damage to property, or interference with use of property, to the extent caused by negligent acts, errors or omissions or willful misconduct by CONTRACTOR, CONTRACTOR's agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR. The exception to CONTRACTOR's responsibility to protect, defend, and hold harmless DISTRICT, is due to the active negligence of DISTRICT, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

13. Bonds. Reserved

14. Reports.

(a) Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by CONTRACTOR pursuant to or in connection with this Agreement, shall be the exclusive property of DISTRICT. CONTRACTOR shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to District the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of DISTRICT, and all publication rights are reserved to DISTRICT.

(b) All Reports prepared by CONTRACTOR may be used by DISTRICT in execution or implementation of:

- (1) The original Project for which CONTRACTOR was hired;
- (2) Completion of the original Project by others;
- (3) Subsequent additions to the original Project; and/or
- (4) Other DISTRICT projects as appropriate.

(c) No Report, information or other data given to or prepared or assembled by CONTRACTOR pursuant to this Agreement shall be made available to any individual or firm by CONTRACTOR without prior approval by District.

15. Prevailing wages. DISTRICT has determined that the Work and Services under this Agreement requires work of labor categories which are subject to Prevailing Wage Laws identified in the State of California Labor Code. CONTRACTOR is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. CONTRACTOR agrees to fully comply with all applicable federal and state labor laws (including, without limitation, the Prevailing Wage Laws). It is agreed by the Parties that, in connection with the Work or Services provided pursuant to this Agreement, CONTRACTOR shall bear all risks of payment or non-payment of prevailing wages under California law, and Consultant hereby agrees to defend, indemnify, and hold DISTRICT, its elected officials, officers, employees, and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement. CONTRACTOR understands and agrees to comply with the following California Labor Code compliance conditions [Labor Code Sections 1720 et seq., 1813, 1860, 1861, 3700]:

15.1 This Agreement is subject to the provisions of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works and the awarding public agency (“DISTRICT”) and CONTRACTOR agree to be bound by all the provisions thereof as though set forth in full herein.

15.2 CONTRACTOR shall be registered with the Department of Industrial Relations (“DIR”) in accordance with California Labor Code Section 1725.5 and has provided proof of registration to DISTRICT prior to the Effective Date of this Agreement.

15.3 CONTRACTOR agrees to comply with the provisions of California Labor Code Sections 1771, 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The applicable prevailing wage determination(s) may be obtained at <https://www.dir.ca.gov/oprl/dprevwagedetermination.htm>, are on file with DISTRICT, and are available to any interested party upon request. A copy of said rates shall be posted at each job site during the Term of this Agreement.

15.4 Pursuant to California Labor Code Section 1771.4, CONTRACTOR’s services are subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONTRACTOR shall post job site notices as prescribed by DIR regulations and furnish the records specified in California Labor Code Section 1776 directly to the Labor Commissioner in the manner prescribed by California Labor Code Section 1771.4(a)(3) and (c)(2).

15.5 CONTRACTOR shall comply with the provisions of California Labor Code Section 1776 which, among other things, require Contractor and each subcontractor to (1) keep accurate payroll records, (2) certify and make such payroll records available for inspection as provided by Section 1776, and (3) inform the DISTRICT of the location of the records. CONTRACTOR is responsible for compliance with Section 1776 by itself and all of its subcontractors.

15.6 CONTRACTOR shall comply with the provisions of California Labor Code Section 1777.5 concerning the employment of apprentices on public works projects, and further agrees that CONTRACTOR is responsible for compliance with Section 1777.5 by itself and all of its subcontractors.

15.7 Eight (8) hours of labor shall constitute a legal day's work for all workmen employed in the execution of this Agreement, and CONTRACTOR and any subcontractor shall comply with and be governed by the laws of the State of California having to do with working hours set forth in Division 2, Part 7, Chapter 1, Article 3 of the California Labor Code. CONTRACTOR shall comply with the provisions of California Labor Code Section 1813 concerning penalties for workers who work excess hours. CONTRACTOR shall, as a penalty to DISTRICT, forfeit twenty-five dollars (\$25) for each worker employed in the execution of this Agreement by the CONTRACTOR or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the California Labor Code. (See, e.g., Cal. Labor Code §1815.)

15.8 Pursuant to California Labor Code Sections 1860 and 3700, CONTRACTOR will be required to secure the payment of compensation to its employees. By signing this Agreement, CONTRACTOR hereby certifies as follows:

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

15.9 Pursuant to California Labor Code Section 1771.1, CONTRACTOR and any subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the California Public Contract Code, or engage in the performance of any contract for public work on a public works project unless registered with the DIR and qualified to perform public work pursuant to California Labor Code Section 1725.2. It is not a violation of California Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by California Business and Professions Code Section 7029.1 or by California Public Contract Code Section 10164 or 20103.5, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. CONTRACTOR shall not perform any work under this Agreement with any subcontractor who is ineligible to perform work on the public works project pursuant to Section 1777.1 or 1777.7 of the California Labor Code. By submitting a bid or proposal to DISTRICT, CONTRACTOR is certifying that it has verified that all subcontractors used on this public work project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and CONTRACTOR shall provide proof of registration for themselves and all listed subcontractors to DISTRICT upon request.

15.10 CONTRACTOR shall provide the list of subcontractors, along with their DIR registration numbers, utilized on this Agreement prior to any Work being performed; and the

CONTRACTOR shall provide a complete list of all subcontractors with each invoice. Additionally, CONTRACTOR shall provide DISTRICT with a complete list of all subcontractors utilized on this Agreement within ten working days of the completion of the Work, along with their DIR registration numbers.

16. Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions hereof.

17. Rights and Remedies Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

18. Legal Action. In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

19. California Law; Venue. This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Orange County Superior Court.

20. Interpretation. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. The terms of this Agreement are contractual and the result of negotiation between the Parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or paragraphs.

21. Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual written agreement executed by DISTRICT and CONTRACTOR.

22. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be determined to be invalid by a final judgment or decree of a court of

competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the reminder of that provision, or the remaining provisions of this Agreement unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

23. Corporate Authority. Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

24. Counterparts; Facsimile Signatures. This Agreement may be executed in counterparts, all of which shall constitute the same Agreement, notwithstanding that all parties to this Agreement are not signatory to the same counterpart. Signature and acknowledgement pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one (1) original document. These counterparts may be transmitted by facsimile or Portable Document Format (PDF), with the originals to be thereafter provided by the Parties. Such facsimiles or electronic copies shall be deemed original signatures.

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

“DISTRICT”
MIDWAY CITY SANITARY DISTRICT,
a public entity

“CONTRACTOR”
_____,
a _____

By: _____
Robert Housley
General Manager

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

General Counsel
Midway City Sanitary District

By: _____
Name: _____
Title: _____

Tax ID No. _____

If CONTRACTOR is a corporation, a

Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to District.

**EXHIBIT “A” TO AGREEMENT
CONTRACTOR’S PROPOSAL**

EXHIBIT “B” TO AGREEMENT
SCOPE OF WORK