

Staff Report

for the Board of Directors Meeting, January 13, 2016

TO: Board of Directors

FROM: Gary King, Engineering Manager

DATE: December 2, 2015

SUBJECT: **Abbreviated Agreement - Revisions**

ENGINEERING

RECOMMENDATION:

Approve revisions to the Agreement, as recommended by the Administrative Practices Committee (APC).

BACKGROUND:

As part of Staff's on-going basis to keep contracts current, minor modifications have been made to the abbreviated agreement. The version attached to this staff report was revised for two items; these two items are not considered significant but Staff believes it is best to align these changes with the Board. The two changes that have occurred in the agreement are providing more clarity in the agreement over changes in prevailing wages and changing the wording to align with the current procurement limits for Staff. The APC indicated that they wanted to further review the procurement limits of Staff with the General Manager and these procurement limits are not part of this approval.

It is the recommendation of Staff to approve the revisions to the Agreement. The changes are underlined in the contract.

BUDGETARY IMPACT:

No budgetary impact.

Attachment:

- Abbreviated Agreement

ABBREVIATED AGREEMENT (Revised 11-4-15)

Project Title

[Note to Author: This agreement form is intended for consulting or construction contracts that are within the Purchasing Authority of Department Managers as established by the Districts Purchasing Policy. Agreements shall be short term - usually one single pay request and all work complete and in service before the pay request; no excavation deeper than 4 feet; a new contract must be signed for any changes in work (i.e. no change orders); if the total amount payable under the agreement exceeds \$25,000, then a payment bond may be required (see below).]

THIS AGREEMENT is entered into between **Nevada Irrigation District**, ("DISTRICT"), whose address is 1036 W. Main Street, Grass Valley CA 95945 and **CONTRACTOR's or CONSULTANT's NAME** ("CONTRACTOR"), whose address is **CONTRACTOR's address** for the **Job Name**.

The work to be performed by Contractor is described in Exhibit A, attached (Work).

DISTRICT agrees to pay the CONTRACTOR **price in words** (\$ **price in numbers**) for the Work described herein and in Exhibit A. No payments will be made prior to completion and written acceptance of CONTRACTOR's work.

All work shall be complete by CONTRACTOR within 30 days of this contract being issued by DISTRICT. In the event CONTRACTOR fails to complete the work within 30 days, the District may, in its discretion, terminate the contract and proceed with the completion of the Work.

CONTRACTOR shall provide and pay for all labor, materials, equipment (including tools, construction equipment and machinery), utilities, transportation, and all other incidental items and services necessary for the proper completion of the Work in accordance with Exhibit A and applicable industry standards. CONTRACTOR shall pay all taxes required by law in connection with the Work, including sales, use, and similar taxes and shall secure and pay for all licenses and permits necessary for proper completion of the Work.

CONTRACTOR represents and warrants to the DISTRICT that the Work and any and all equipment, materials, and supplies incorporated into the Work will be new unless otherwise specified in the contract, of good quality, free of defects, and in conformity with the contract requirements.

CONTRACTOR shall be solely responsible for all Work under this contract unless excluded in Exhibit "A", including the technique, sequences, procedures, and means, and for coordination of all Work. CONTRACTOR shall supervise and direct the Work and give all attention necessary for such proper supervision and direction. CONTRACTOR shall provide for and oversee all safety orders, precautions, and programs necessary for the Work. CONTRACTOR shall take reasonable precautions for the safety of all employees on the Work and all other persons that the Work might affect, all work and materials incorporated in the project, and all property improvements on or adjacent to the Work site, and comply with all applicable laws, ordinances, rules, regulations, and orders. No subcontractors will be used in the performance of the Work.

CONTRACTOR shall indemnify and hold harmless both the DISTRICT and all of its agents and employees from and against all claims, damages, losses, and expenses, including reasonable attorneys' fees, for bodily injury, illness or death or property damage, including loss of use and any other damages, caused in whole or in part by CONTRACTOR's negligence or willful misconduct, or that

of anyone employed by Contractor or for whose acts the CONTRACTOR is legally responsible (Claims). This duty to indemnify shall not extend to Claims to the extent caused by the willful misconduct or active negligence of DISTRICT. CONTRACTOR's duty to indemnify is excused only if, and to the extent that, DISTRICT's willful misconduct or active negligence contributed to the Claim. In such case, the obligation to indemnify shall be reduced proportionately by the percentage to which the District's willful misconduct or active negligence contributed to the cause of the Claims. This duty to indemnify shall extend to Claims by any employee of CONTRACTOR.

CONTRACTOR agrees to keep the work premises and adjacent areas, including roads, free of waste material and rubbish caused by the Work.

CONTRACTOR will not unlawfully discriminate, with respect to employment, based on race, color, national origin, sex, age, handicap, marital status, medical condition, or upon any other basis prohibited by state and federal law.

CONTRACTOR shall secure the payment of compensation to its employees. By executing this contract, CONTRACTOR acknowledges 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 agrees that it will comply with such provisions before commencing the performance of the work of this contract.

CONTRACTOR shall immediately notify DISTRICT in writing of any materials found to exist on or near the job site which may be hazardous waste. DISTRICT shall promptly investigate any written notice of hazardous or potentially hazardous materials or waste.

CONTRACTOR has made an independent investigation of the Work site, including the soil conditions under the job site, underground utilities, and all other conditions that might affect the progress of the Work, and is satisfied as to those conditions. Any information that may have been furnished to CONTRACTOR by DISTRICT about underground conditions or other job conditions is for CONTRACTOR's convenience only, and DISTRICT does not guarantee that the conditions are actual. CONTRACTOR is satisfied as to all job conditions, including underground conditions and has not relied on information furnished by DISTRICT.

This is a public works project. CONTRACTOR shall perform the Work as "public work" pursuant to and in compliance with Labor Code §§ 1720-1861 and 8 C.C.R. §§ 16000-16464, including paying the prevailing rates of per diem wages as required by law, keeping and permitting inspection of accurate payroll records, employing the appropriate number of apprentices, and otherwise complying with all applicable legal requirements. The general prevailing wage rates for this project have been determined and are posted at <http://www.dir.ca.gov/>, and may be reviewed by appointment at the DISTRICT office. CONTRACTOR must post the job site notices required by Labor Code § 1771.4(a)(2). This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

CONTRACTOR MUST BE REGISTERED WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS PURSUANT TO LABOR CODE § 1725.5.

For construction related Work, Eight (8) hours of labor is a legal day's work. The time of service of any worker is restricted to eight (8) hours during any calendar day and forty (40) hours during any calendar week, unless overtime compensation is paid at not less than one and one-half (1½) times the basic rate of pay.

If the total amount payable under this Agreement exceeds \$25,000, CONTRACTOR shall give DISTRICT a payment bond and shall not commence any work under this Agreement until the payment bond has been received and approved by the DISTRICT. The payment bond shall be for not less than the total amount payable under this Agreement and shall comply with all legal requirements, specifically

including but not limited to California Civil Code sections 9550 through 9556, and, in particular, Civil Code section 9554. A payment bond is only required if the Work is the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind. No payment bond is required if the Agreement is for only architecture, engineering, and/or land surveying work.

CONTRACTOR shall maintain general liability and auto liability insurance, each with limits of not less one million dollars \$1,000,000. The DISTRICT shall be named by endorsement as an additional insured under the policies. Said insurance shall be primary. It shall not be canceled without 10-day advance written notice to DISTRICT. The insurers shall be admitted and authorized to do business in the State of California and shall maintain an A.M. Best ratings of not less than A- XII. Suitable evidence of insurance shall be provided to DISTRICT prior to commencement of work.

Any claim by CONTRACTOR against DISTRICT shall be presented in writing within 15 days of the underlying event or occurrence and shall be subject to Public Contract Code sections 20104 through 20104.4. As used herein the term "claim" means a separate demand by CONTRACTOR for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, CONTRACTOR pursuant to this contract and payment of which is not otherwise expressly provided for or the CONTRACTOR is not otherwise entitled to, or (C) an amount the payment of which is disputed by DISTRICT. CONTRACTOR's failure to comply with this provision shall be deemed a waiver of its claim.

CONTRACTOR shall comply with all laws and ordinances, and the rules, regulations or orders of all public authorities relating to the performance of the work.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD. . *[Note: Delete this paragraph for Consulting work.]*

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement, on the respective dates indicated below.

CONTRACTOR:

DISTRICT:

By _____
Representative, Title

By _____
Manager and Title

Date: _____

Date: _____

Attach Contractor's W-9 (if not provided separately)