



MEMORANDUM

TO: SLDMWA Board of Directors, Alternates
SLDMWA Finance & Administration Committee Members, Alternates

FROM: Pablo Arroyave, Chief Operating Officer
Jaime McNeil, Engineering Manager

DATE: September 8, 2025

RE: Authorization for Increase in Approved Contract Amount to \$466,440, which is an additional expenditure of up to \$66,440, for Previously Authorized Agreement for Services for DCI Unit 1 & 2 Motor Control Centers Replacement and Commissioning from the FY26 EO&M Budget

BACKGROUND

As the result of two arc flash events that occurred in the summer of 2024 at the Delta-Mendota Canal California Aqueduct Pumping Plant (DCI), Units 1 and 2 have been inoperable. The arc flash events caused severe damage to the Eaton manufactured motor control cabinets, and require full replacement.

On June 5, 2025, the Finance and Administration Committee recommended, and the Board of Directors adopted, a resolution authorizing execution of agreement for services for DCI Unit 1 & 2 Motor control Centers Replacement and Commissioning (Project), adoption of single source procurement justification, and related expenditure of up to \$400,000 from the FY26 EO&M budget. At the time, site work for the agreement was scheduled to occur in September 2025 and final agreement negotiations were required prior to executing the agreement.

Authority staff subsequently engaged in extended negotiations with the single source vendor, made more complicated because of the vendor's single source status. In addition, due to updated pumping forecasts and concerns over the potential for lost water, the Project was rescheduled from September to November.

ISSUE FOR DECISION

Whether the Finance & Administration Committee should recommend, and the Board of Directors should authorize an increase in the approved contract amount to \$466,440, which is an additional expenditure of up to \$66,440, for the previously authorized agreement for services for DCI Unit 1 & 2 Motor Control Centers Replacement and Commissioning from the FY26 EO&M Budget.

RECOMMENDATION

Staff recommends authorizing the proposed increase in contract amount.

ANALYSIS

Per the Water Authority's Consolidated Procurement Policy, Board authorization is required to execute contracts in excess of the delegation of authority, or \$200,000. In June 2025, the Finance & Administration Committee recommended and the Board of Directors authorized the

expenditure up to \$400,000 for the Project. Initially the repairs were scheduled to be completed in September 2025 during a full DCI outage. However, due to updated pumping forecasts and concerns over the potential for lost water, the Project was rescheduled for November. The delay led to a renegotiation of certain contract terms with Rexel, which resulted in a cost increase attributed to scheduling delays and changes in union labor rates and jurisdictions. Because the cost increase is above the previously authorized amount, Board action is required.

BUDGET IMPLICATIONS

The additional proposed expenditure of up to \$66,440 will be funded utilizing budgeted project funds from the Fiscal Year 2026 EO&M budget.

ATTACHMENTS

1. June 2025 FAC/BOD Memo for Project
2. Draft Agreement



MEMORANDUM

TO: SLDMWA Board of Directors, Alternates
SLDMWA Finance & Administration Committee Members, Alternates

FROM: Pablo Arroyave, Chief Operating Officer
Jaime McNeil, Engineering Manager

DATE: June 2, 2025

RE: Recommendation / Adoption of Resolution Authorizing Execution of Agreement for Services for DCI Unit 1 & 2 Motor Control Centers Replacement and Commissioning, Adoption of Single Source Procurement Justification, and Related Expenditure up to \$400,000 from the FY26 EO&M Budget

BACKGROUND

As the result of two arc flash events that occurred in the summer of 2024 at the Delta-Mendota Canal California Aqueduct Pumping Plant (DCI), Units 1 and 2 have been inoperable. The arc flash events caused severe damage to the Eaton manufactured motor control cabinets, and require full replacement. Through communications with Eaton, staff were informed that Rexel, Eaton's authorized representative, is the only company authorized to install and commission the new Eaton motor control cabinets. Due to long lead times for the motor control cabinets, the Water Authority executed a materials only contract with Rexel in October 2024 in the amount of \$160,504.07. The materials will be delivered late August/early September 2025 and are required to be installed in September. This schedule for material installation is critical, as DCI needs to be fully operational during the first 20-day full outage planned for October/November for the OPP Transformer Rehabilitation Project.

ISSUE FOR DECISION

Whether to recommend and adopt the proposed resolution authorizing execution of Agreement for Services for DCI Unit 1 & 2 Motor Control Centers Replacement and Commissioning, adoption of Single Source Procurement Justification, and related expenditure of up to \$400,000 from the FY26 EO&M Budget.

RECOMMENDATION

Staff recommends adoption of the proposed resolution.

ANALYSIS

Per the Water Authority's Consolidated Procurement Policy, Board authorization is required to execute contracts in excess of the delegation of authority, or \$200,000. Additionally, competitive solicitation process is required unless a single-source procurement is authorized. Because the proposed contract is over the delegation of authority, and because authorization of a single-source procurement is being pursued, Board action is required.

DCI is a critical facility operated & maintained by the Water Authority. In collaboration with Reclamation, Water Authority staff have been working with Rexel to establish agreeable terms

and conditions to enter into an agreement to install and commission the two damaged motor control cabinets at DCI. The remaining four DCI units have, and will continue to be operational, making Eaton manufactured parts a requirement. Given Rexel is the only Eaton authorized representative that can install and commission Eaton parts, a single-source justification has been completed and attached.

Authorizing execution of this agreement is not a project pursuant to the California Environmental Quality Act (CEQA) because the proposed technical/design activities have no possibility to result in a physical change in the existing environment (CEQA Guidelines Section 15378(a).) In addition, because it can be seen with certainty that there is no possibility that the proposed actions in question may have a significant effect on the environment, the proposed action is not subject to CEQA (CEQA Guidelines Section 15061(b)(3)).

BUDGET IMPLICATIONS

The proposed expenditure of up to \$400,000 will be funded utilizing budgeted funds from the Fiscal Year 2026 EO&M budget.

ATTACHMENTS

1. Draft Resolution
2. Single Source Justification Form
3. Draft Agreement

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2025-XXX

**RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT FOR SERVICES FOR
DCI UNIT 1 & 2 MOTOR CONTROL CENTERS REPLACEMENT AND
COMMISSIONING, ADOPTION OF SINGLE SOURCE PROCUREMENT
JUSTIFICATION, AND RELATED EXPENDITURE UP TO \$400,000 FROM FY26
EO&M BUDGET**

WHEREAS, the San Luis & Delta-Mendota Water Authority (“**Water Authority**”) is a transferred works operator responsible for the operation, maintenance, and replacement (“**OM&R**”) of certain Central Valley Project (“**CVP**”) facilities, including the Delta-Mendota Canal/California Aqueduct Intertie Pumping Plant (“**DCI**”); and

WHEREAS, the DCI has been in operation since 2012 to allow the conveyance of water between the Delta-Mendota Canal and the California Aqueduct; and

WHEREAS, in June and July 2024, two arc flash events occurred that caused severe damage to the motor control cabinets of DCI units 1 and 2, rendering the units inoperable; and

WHEREAS, since the arc flash events occurred, Water Authority and Reclamation staff have worked with the original manufacturer of the motor control cabinets to purchase, install and commission new cabinets and were informed all contracts must be through their authorized representative, Rexel; and

WHEREAS, in October 2024, the Water Authority executed a \$160,504.07 Equipment Purchase Agreement for Purchase of Materials, Supplies and/or Equipment for DCI units 1 and 2 Restoration and Plant Electrical Upgrades – Materials Only with Rexel for new motor control cabinets; and

WHEREAS, the Water Authority staff, in collaboration with technical staff from Reclamation, has determined that because only Eaton manufactured parts can be installed, and Rexel is the only vendor authorized by Eaton to perform the services, Rexel is the only vendor qualified to perform the services; and

WHEREAS, Section 1.1 of the Water Authority’s Consolidated Procurement Policy, adopted by Resolution on April 10, 2020, requires the Board to specifically authorize contracts greater than \$200,000, and Section 2.3 requires the Water Authority to make specific findings prior to executing a single source contract; and

WHEREAS, the Water Authority is negotiating an Agreement for Services with Rexel up to \$400,000 for the replacement and commissioning of the Eaton manufactured Unit 1 and 2 motor control centers; and

WHEREAS, the contract will be funded utilizing available funds budgeted for this

project in the Fiscal Year 2026 EO&M budget; and

WHEREAS, authorizing execution of the proposed Agreement does not constitute a project under the California Environmental Quality Act (“**CEQA**”) because the proposed technical/design activities have no possibility to result in a physical change in the existing environment (CEQA Guidelines Section 15378(a)); further, because it can be seen with certainty that there is no possibility that the proposed actions in question may have a significant effect on the environment, the proposed action is not subject to CEQA (CEQA Guidelines section 15061(b)(3).

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS, THAT:

Section 1. The facts stated in the recitals above are true and correct, and the Board so finds and determines.

Section 2. The Board hereby authorizes the Executive Director or Chief Operating Officer to execute an Agreement for Services for DCI Unit 1 and 2 Motor Control Centers Replacement and Commissioning, adoption of single source procurement justification, and related expenditure up to \$400,000 from the FY26 EO&M Budget pending successful final negotiations with Rexel.

Section 3. The Executive Director and Chief Operating Officer, and such Water Authority employee or consultant as either of such officers may designate, are further authorized and directed to take such additional steps, and to execute such additional documents, as may be required or reasonably necessary to the completion of the activities authorized by this Resolution.

PASSED, APPROVED AND ADOPTED this 5th day of June, 2025, by the Board of Directors of the San Luis & Delta-Mendota Water Authority.

Cannon Michael, Chair
San Luis & Delta-Mendota Water Authority

Attest:

Federico Barajas, Secretary

I hereby certify that the foregoing Resolution No. 2025-____ was duly and regularly adopted by the Board of Directors of the San Luis & Delta-Mendota Water Authority at the meeting thereof held on the 5th day of June, 2025.

Federico Barajas, Secretary



NON-COMPETITIVE (SINGLE SOURCE) PROCUREMENT JUSTIFICATION FORM

Item/Service for single source procurement: _____

Selected vendor for the single source procurement: _____

Total Amount of Procurement including taxes: _____

Specification Number: _____

For any non-competitive (single source) procurement (except Professional services) over \$60,000, the Project Manager must complete this form and return it to the Procurement Department for review and procurement authorization. Attach additional pages of explanation if necessary. **A SINGLE SOURCE PROCUREMENT MAY NOT PROCEED UNTIL THE REQUIRED SIGNATORIES SIGN THIS FORM.** **NOTE:** For procurements below the Delegation of Authority threshold of \$200,000.00, Board approval is NOT required prior to award and can be approved by the Executive Director or COO. The Board must be notified promptly following award.

Section 1: Is this an emergency?

☐ Yes

☐ No (Skip to Section 2)

If yes, explain in detail below and no further Sections are required. If over the Delegation of Authority threshold of \$200k, a separate memo documenting the decision shall be prepared by the Project Manager for Board notification/approval.

Note: "Emergency" shall mean a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

Explanation:

Section 2: Identify Type of Procurement

☐ Goods, Supplies, Equipment (See section 3)

☐ Non-Professional Services (See section 4)

☐ Construction (See section 5)

Section 3: Goods, Supplies, Equipment (See Section 2.3 in Procurement Policy)

1. Identify the most applicable criteria below, and provide detailed support in explanation area below

- ☐ i. A specified product is necessary to match or interface with other products in use by the Authority
- ☐ ii. The Authority needs to purchase a specified product to field test or experiment to determine the products suitability for future use.
- ☐ iii. Only one product will meet the Authority's needs.

Explanation:

2. Is the product available from only one source? (To qualify for a single source, the product must be available from only one source)

- ☐ Yes ☐ No

Please explain how this determination was made. Note: Reasonable steps should be taken to confirm that the goods or supplies are purchased at a fair price. Include in explanation below.

Explanation:

Section 4: Non-Professional Services (See Section 3.1(b) in Procurement Policy)

Identify the most applicable criteria below and provide detailed support in explanation below.

- ☐ i. That only one firm or individual has the specialized expertise or experience necessary to perform the services, and other potential bidders cannot develop that experience or expertise prior to contract award.
- ☐ ii. The continuity of services is required to avoid risk of substantial loss or added expenditure to the Authority

Explanation:

Section 5: Construction (See Section 4.6 of the Procurement Policy)

Please identify ONE of the applicable justifications below by checking and providing explanation.

NOTE: If neither of the below circumstances exist, but the Executive Director or Chief Operation Officer recommends single-source construction contracting, then single source contracting may be used only following Board findings of circumstances indicating that competition does not exist and approval of single-source negotiations. CANNOT BE USED FOR PROJECTS UTILIZING FEDERAL FUNDS.

1. Where (i) a specified product is required, applying standards and (ii) only one contractor is authorized by the manufacturer or supplier to install the specified product, and (iii) the work for which only a single-source contractor is authorized and not work which reasonably would be expected to be subcontracted.
2. The Authority has conducted a competitive procurement for substantially similar construction services in the past five (5) years and only one actual or potential bidder for the services was identified.

Explanation:

3. If neither of the above apply, please provide an explanation to the Board as to why the Board should approve this Single-Source procurement.

Explanation:

Completed and Requested By:

Project Manager: _____

Date: _____

Reviewed By:

By: Jaime McNeil _____

Jaime McNeil, Engineering Manager

Date: _____

☐ Reviewed

By: _____

Pablo Arroyave, Chief Operating Officer

Date: _____

☐ Approved ☐ Denied

SERVICES AGREEMENT
for
Maintenance, Testing, Start-up and Commissioning

This Agreement ("Agreement") is made and entered into this _____ day of June, 2025, by and between the San Luis & Delta-Mendota Water Authority, a Joint Powers Authority, acting by and through its Governing Board ("SLDMWA") and Rexel, USA, Inc., a Delaware corporation ("Contractor"). SLDMWA and Contractor may be referenced herein individually as "Party" or collectively as the "Parties."

WITNESSETH, that for and in consideration of the mutual promises, covenants, agreements, and conditions herein contained, the Parties agree as follows:

1. **THE WORK:** The Services constitute maintenance work, as defined in Public Contract Code section 22002(d), on a publicly-owned water system as well as testing, start-up, and commissioning of equipment provided by the SLDMWA, as further detailed on **Exhibit A** hereto. Contractor shall provide and pay for all labor, materials, equipment (except as provided by SLDMWA), tools, water, light, heat, utilities, transportation, and other facilities and services necessary for the execution and completion of the Services in accordance with the Contract Documents and any applicable code or statute, whether or not specifically described herein, as long as same is reasonably inferable there from as being necessary to produce the intended results. Contractor agrees to perform and complete in a good and workmanlike manner the work of DCI UNIT 1 & 2 MOTOR CONTROL CENTERS REPLACEMENT AND COMMISSIONING ("Services"). The Services are subject to the approval of SLDMWA's Chief Operating Officer.

In no case shall SLDMWA have any responsibility for the means, methods, techniques, sequences or procedures utilized by the Contractor or its subcontractors at any level, or for safety precautions and programs in connection with the Services.

Contractor shall give all notices and shall observe and comply with all laws, ordinances, rules, regulations, permits, rights-of-way, or orders of any public authority bearing on the performance of the Services. All Services shall be performed in accordance with Title 24, Parts 1 through 5 and 9, of the California Code of Regulations, to the extent applicable to the Services. Contractor shall conduct the Services so that all laws and ordinances for the protection of the public and the workers shall be obeyed fully by Contractor and all subcontractors.

Contractor and all subcontractors shall comply with all applicable provisions of federal, state and local safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the Services is being performed. Contractor shall be responsible for initiating, maintaining and supervising all safety measures in connection with the Work, for maintaining all safety conditions on the Site, and for ensuring against and/or correcting any hazardous conditions on the Site. Contractor and all subcontractors shall, at all times, maintain adequate protection against injury to persons, including employees, or damage to property, on or near the project, or adjacent to the Site.

Existing signs, lights, traffic signals, control boxes, hydrants, meters, and other similar items occurring within the street or sidewalk areas shall be kept free of obstructions and accessible at all times.

Contractor shall take all necessary precautions to protect SLDMWA's structures, facilities, equipment, tools, materials, and any other property on or adjacent to the Site against damage,

loss, or theft resulting from the operations, equipment, or workers of the Contractor during the course of performing the Services, and shall provide adequate security measures. Contractor shall repair or replace any damage and remove any damaged or defaced material and/or equipment from the Site at no cost to SLDMWA. Contractor shall be strictly liable for failure to adequately protect any existing improvements and/or facilities.

Any change to the Services increasing or decreasing the Contract Price must be approved in writing by the Chief Operating Officer, and may need to be approved by SLDMWA's Board.

Contractor will remove all dirt, debris, and waste generated by or during its Services from the Site, and ensure upon completion that the grounds and any adjacent sidewalks and streets are left clear and in the condition the Contractor originally found them.

2. DIR REGISTRATION: By executing this Agreement, Contractor represents that it is registered with the California Department of Industrial Relations ("DIR"), Registration number 1001190704.
3. BONDS AND INSURANCE: Contractor shall provide to SLDMWA payment and performance bonds in an amount not less than 100 percent of the total amount payable by the terms of this Agreement before commencement of any contract Services.

Before beginning work, Contractor shall furnish to SLDMWA, certificates of insurance and policy endorsements satisfactory to SLDMWA, evidencing general liability coverage, of not less than \$1,000,000 per occurrence (\$2,000,000 general aggregate) for bodily injury, personal injury and property damage; auto liability of at least \$1,000,000 for bodily injury and property damage each accident limit; workers' compensation (statutory limits) and employer's liability of \$1,000,000 (if applicable); requiring 30 days (10 days for non-payment of premium) notice of cancellation to SLDMWA. Such insurance is to state or be endorsed to state that such insurance is primary and any insurance, self-insurance, or other coverage maintained by SLDMWA, its directors, officers, employees, and authorized volunteers shall not contribute to it. The general liability coverage shall give SLDMWA, its directors, officers, employees, and authorized volunteers additional insured status using ISO endorsement CG2010, CG2033, CG2037 or their equivalent. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A:VII, or equivalent, or as otherwise approved by SLDMWA.

The insurer(s) issuing the required policies shall, by separate endorsement, agree to waive all rights of subrogation against the "Additional Insureds" for losses arising in any manner from the products or work provided or performed by or on behalf of Contractor for SLDMWA, but this provision applies regardless of whether or not SLDMWA has received the waiver of subrogation.

Contractor shall require and confirm that all subcontractors performing work under this Agreement provide the minimum insurance requirements specified above. All such insurance shall be maintained in full force and effect throughout the duration of the Agreement.

4. LOCATION OF WORK: The Work is to be performed at the following location: SLDMWA, Delta Canal Intertie (DCI), 17601 West Grant Line Road, Tracy, CA 95391 ("Site").
5. TIME FOR COMPLETION: The Parties hereby agree that the Work shall commence on or about September 8, 2025 and shall be completed within 21 calendar days after that date ("Contract Time").

6. CONTRACT DOCUMENTS: The Contract Documents include this Agreement and all Exhibits hereto, payment and performance bonds, required insurance certificates, and any change orders/amendments ("Contract Documents"). In case of conflict, this Agreement and the General Conditions attached hereto as **Exhibit B** prevail over Contractor's quote/bid and terms and conditions associated with such quote/bid, and change orders shall govern over the original documents.
7. SUBCONTRACTORS: Contractor represents that it shall subcontract with Eaton Corporation ("Eaton") to perform certain Services hereunder, and that Eaton shall further subcontract with Contra Costa Electric, Inc. ("CCE") to perform some of those Services. The Services to be subcontracted are further detailed on Exhibit A hereto. Other than as expressly approved in this paragraph, Contractor shall not use any subcontractors to perform any Services hereunder. All subcontractors shall be registered with DIR and shall comply with Paragraphs 8 and 10 below. Contractor expressly agrees that both Eaton and CCE shall be subject to the protections of Public Contract Code sections 4100 *et seq.*, including without limitation protections against substitution without prior approval by SLDMWA, regardless of whether that statute would otherwise apply to these subcontractors.
8. PREVAILING WAGES AND RECORDS: Contractor and all subcontractors shall comply with and adhere to the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the DIR pursuant to Division 2, Part 7, Chapter 1, of the California Labor Code. Schedules of the prevailing rate of per diem wages are available for public inspection at the SLDMWA or can be found at <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm> and are incorporated herein by reference. Contractor shall obtain and post copies of the applicable prevailing wage rates in a prominent place at the job site, in accordance with the regulations of the DIR. Contractor shall comply with all requirements of Article 6 of the General Conditions attached hereto.
9. NONDISCRIMINATION: The Contractor shall comply with Section 1735 of the Labor Code, which provides as follows:

A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.
10. GUARANTEE: In addition to any guarantees required elsewhere by the Contract Documents, the Contractor shall guarantee the Services for a minimum of one (1) year from and after payment under this Agreement. The guarantee period for corrected defective work shall continue for a duration equivalent to the original guarantee period, beginning when the correction is complete.
11. COMPLIANCE WITH WORKERS' COMPENSATION LAW: By executing this Agreement, Contractor certifies that it is aware of the provisions of Sections 3700 and following of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the statutory requirements, and Contractor will comply with such provisions, and ensure that all subcontractors comply with such provisions, before commencing the performance of any Services hereunder.

12. CONTRACT PRICE AND PAYMENT: As full compensation for the Services, SLDMWA shall pay or cause to be paid to Contractor the sum of Three Hundred Eighty-Six Thousand Three Hundred Seven dollars and Forty-One cents (\$386,307.41), subject to additions and deductions as provided by change order ("Contract Price"). Payment will not be made until all Services are completed to the satisfaction of SLDMWA.

SLDMWA may withhold sums from payment for any of the following:

- A. Third party claims filed or reasonable evidence indicating probable filing of such claims;
- B. Defective work not remedied;
- C. Failure of the Contractor to make proper payments to any of its Subcontractors or suppliers, including without limitation in response to a stop payment notice;
- D. Failure of Contractor to comply with any lawful direction concerning the Services;
- E. Claims and/or penalties which state law assesses against the Contractor for violation of such law;
- F. Any claim or penalty asserted against SLDMWA by virtue of the Contractor's failure to comply with the provisions of all governing laws, ordinances, regulations, rules, and orders;
- G. Any liquidated damages which may accrue; or
- H. Any other breach of the Agreement that would legally entitle SLDMWA to a set-off.

For any disputed payment, SLDMWA shall provide written notice describing its dispute to the Contractor.

13. CONTRACT CLOSEOUT AND FINAL PAYMENT: When the Contractor determines that all of its Services are complete, the Contractor shall submit to SLDMWA a certificate of completion and an application for payment, accompanied by any submittals required in the Contract Documents including schematics and wiring diagrams and the Contractor's Guarantee Form. Upon receipt of the Contractor's payment application, SLDMWA shall review the submittals required and verify that all of the Services are complete. Upon such verification, SLDMWA will process the payment application. The payment of undisputed sums due, excluding any sums withheld for stop payment notices, shall be made within thirty-five (35) days of SLDMWA's approval of the payment application.
14. CLAIMS: The Parties hereby elect to make all Claims subject to the requirements of Public Contract Code sections 20104 *et seq.* and 9204. A summary of those provisions is set forth in in Section 9.07 of the General Conditions. To the extent that the summary therein is inconsistent with the statutes, the statutes control.
15. ANTITRUST ASSIGNMENT: Pursuant to Public Contract Code section 7103.5, Contractor offers and agrees to assign to SLDMWA all rights, title, and interest in and to all causes of action Contractor may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Agreement. This assignment shall be made and become effective at the time SLDMWA

tenders payment to Contractor, without further acknowledgment by the parties. Contractor agrees to require all subcontractors to similarly assign such rights to SLDMWA.

16. **TERMINATION:** SLDMWA may, at any time and for any reason, terminate, in whole or in part, this Agreement for SLDMWA's convenience. Termination shall be by written notice to Contractor. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue Contractor's work. Upon such termination, Contractor shall be entitled to payment of: a) Contractor's direct, actual cost of the Services completed in conformity with the Contract, not to exceed the Contract Price allocable to that portion of the Services; plus b) an allowance of ten percent (10%) of those costs for Contractor's overhead and profit.

SLDMWA also may terminate this contract for cause if a) Contractor is insolvent or has made a general assignment for the benefit of creditors or b) Contractor or any subcontractor materially breaches this Agreement. Termination shall be by written notice to Contractor, after five (5) days' written notice of and opportunity to cure any material breach. In the event of such termination, SLDMWA may, without liability, take possession of and utilize in completing the Services, Contractor's materials that are necessary for completion. In the event of a termination for cause, Contractor shall not be entitled to receive payment until the Services are finished. At that time, Contractor shall be entitled to payment of the Contract Price, less the cost to secure a replacement contractor and complete the Services, less any liquidated damages, which shall continue to accrue until the Services are complete, *except that* Contractor shall not be entitled to be paid more than it would be entitled to be paid under a termination for convenience.

If this Contract is terminated for cause and if it is later determined that SLDMWA was not entitled to terminate for cause, such termination automatically shall be converted to and treated as a termination for convenience.

17. **INDEMNITY:** Contractor shall defend with counsel acceptable to SLDMWA, indemnify, and save harmless SLDMWA and any of its officers, agents, employees, and other contractors from and against any and all losses, claims, demands, damages, costs, expenses, attorney's fees, or liability arising out of or in any way connected with Contractor's performance of the Services or with this Agreement, arising from any wrongful act, or any negligent act or omission to act, whether active or passive, including without limitation any allegation that the Contractor or any subcontractor was required to be licensed or registered by the Contractors State License Board or the DIR and was not appropriately licensed or registered, on the part of the Contractor or any of its agents, employees, subcontractors or suppliers. Without limiting the foregoing, the defense and indemnity applies to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by Contractor (or any of its agents, employees, subcontractors or suppliers) and SLDMWA (or any of its officers, agents, employees, and other contractors). Contractor has no obligation to indemnify SLDMWA in contravention of Section 2782 of the Civil Code for the active or sole negligence or willful misconduct of SLDMWA. The defense and indemnification requirements extend to claims occurring after this Agreement is terminated or the Services are completed.
18. **LIQUIDATED DAMAGES:** Should the Services not be completed within the Contract Time, as adjusted for any delays caused by conditions beyond the control and without the fault or negligence of Contractor, Contractor acknowledges that SLDMWA will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between Contractor and SLDMWA that Contractor shall pay to SLDMWA as fixed and liquidated damages, and not as a penalty, the sum of \$1,000 per calendar day delay until final completion of the Services and their delivery to SLDMWA, and that SLDMWA may deduct Liquidated Damages from any monies due or that may become due to Contractor.

19. EXECUTION OF CONTRACT: IN WITNESS WHEREOF, this agreement has been duly executed by the above named parties, on the day and year first above written.

CONTRACTOR:

(California Corporations: must be signed by company's CEO, President, or Vice President *as well as* the Secretary or CFO.)

Date

Tax I.D. Number

Signature

Signature

Print Name

Print Name

Title

Title

**SAN LUIS & DELTA-MENDOTA WATER
AUTHORITY, A Joint Powers Authority:**

Date

Pablo R. Arroyave
SLDMWA Chief Operating Officer

EXHIBIT A

Scope of Work to be performed by Contractor is provided in Proposal - SFK5-250409-01KJS-R1 and is included in the Agreement as Attachment 1. In no event shall the terms and conditions included in the Contractor's Proposal supersede over the Services Agreement and General Conditions.

DRAFT

ATTACHMENT 1

Response to Request for Proposal

REXEL SANTA CLARA SLDMWA TURNKEY REPLACEMENT MV AmpGard Replacement Phase #2 Pumps #1 and #2

Eaton Proposal Number **SFK5-250409-01-KJS-R1**



Presented By: Rexel USA and Eaton Corporation
Electrical Engineering Services & Systems
5735 W. Las Positas Blvd. Suite 100
Pleasanton, CA 94588

Contacts:

Eaton Corporation

Electrical Engineering Service & Systems

Service Sales Representative:

Kyle Starr (SFK5)

Phone: 210-952-7730

Email: kylestarr@eaton.com

Rexel USA

Account Manager

Steven Pedroza Phone:

669-236-7490 Email:

Steven.Pedroza@RexelUSA.com

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Project Summary

Eaton Services is proposing a Turnkey Replacement Proposal, comprised of two phases for the replacement of the (2) MV AmpGard Motor Starter for Pumps #1 and #2 per **GO# MSR0004724-006**, located [DMC and CA Intertie Plant at 17601 W. Grant Line Road, Tracy, CA.](#)

Scope of Work

Phase #2: Turnkey Removal and Replacement of (2) MV AmpGard Motor Starters for Pumps #1 and #2

Eaton Engineering Services will perform as the General Contractor, responsible for the overall "Turnkey Removal and Replacement Project" for the customer furnished/procured EATON MV AmpGard motor starter(s).

Eaton subcontractor, Contra Costa Electric will perform as the Electrical Contractor performing under the supervision of the Eaton Project Manager the following scopes of work:

- Furnish the crane and rigging equipment services necessary to perform the removal and disposal of the existing failed motor starters.
- Furnish the crane and rigging equipment services necessary to perform the lifting and landing of the new motor starter structure onto the existing concrete pad. EC to secure/fasten the motor structure to its pad/foundation.

The scope of work included in our proposal is as follows:

Per Drawings: Motor Starter Drwgs - MSR0004724

- a. 214-D-25204 DCI Discharge Butterfly Valve Unit 1 Control schematic diagram 2003-10-24
- b. 2412042 IOP top wiring 2023-06-08
- c. 2412043 IOP bottom wiring CONST 2023-12-26
- d. ASMV0TK9S01 DCI Bus B DU-1 control schematic 2012-10-16
- e. ASMV0TK9S01 DCI Bus B DU-1 control schematic 2012-10-16
- f. ASMV0TK9S03 DCI Bus B DU-2 control schematic 2012-10-16
- g. ASMV0TK9S04 DCI Bus B DU-2 control schematic 2012-10-16
- h. AWMV0TK9S02 DCI Bus B DU-1 control wiring 2022-04-26
- i. AWMV0TK9S05 DCI Bus B DU-2 control wiring 2022-04-26

Pump-2, 3B & 3D Gear

- j. Demo, removal, disposal of Pump-2 3B & 3D Gear
- k. Unloading, rigging, placement and install of Pump-2 3B & 3D Gear
- l. Disconnect/Reconnect of Pump 2 HV Motor Feeds, (No new wire accounted for)

- m. Disconnect/Reconnect of Pump 2 HV Capacitor Feed, (No new wire accounted for)
- n. Disconnect/Reconnect/Loop Check of Pump 2 RTD's (12 triads), (No new wire accounted for)
- o. Disconnect/Megger/Reconnect/ of Pump 2 CTB to DV1 (12 wires), (No new wire accounted for)
- p. Disconnect/Megger/Reconnect of Pump 2 CTB to TBD (10 wires), (No new wire accounted for)
- q. Disconnect/Megger/Reconnect of Pump 2 CTB to TBE (8 wires), (No new wire accounted for)
- r. Disconnect/Megger/Reconnect of Pump 2 CTB to ACP (2 Wires), (No new wire accounted for)
- s. Disconnect/Megger/Reconnect of Pump 2 CTB to Power (2 wires), (No new wire accounted for)
- t. Disconnect/Megger/Reconnect of Pump 2 CTB to Unknown (10 wires), (No new wire accounted for)

Pump-1, 4B & 4D Gear

- a. Procure and Install Pump 1 Temp Conduit Support for Scada Conduit/Wire.
- b. Demo, removal, disposal of Pump 1 4B & 4D Gear
- c. Unloading, rigging, placement and install of Pump 1 4B & 4D Gear
- d. Disconnect/Demo Pump Unit 1 HV Motor Feeds
- e. Disconnect/Demo Pump Unit 1 HV Capacitor Feed
- f. Disconnect/Demo Pump Unit 1 RTD's (12 triads)
- g. Disconnect/Demo Pump 1 CTB to DV1 (12 wires)
- h. Disconnect/Demo Pump 1 CTB to TBD (10 wires)
- i. Disconnect/Demo Pump 1 CTB to TBE (8 wires)
- j. Disconnect/Demo Pump 1 CTB to ACP (2 Wires)
- k. Disconnect/Demo Pump 1 CTB to Power (2 wires)
- l. Disconnect/Demo Pump 1 CTB to Unknown (10 wires)
- m. Procure/Install/Hi Pot Pump Unit 1 HV Motor Feeds
- n. Procure/Install/Hi Pot Pump Unit 1 HV Capacitor Feed
- o. Procure/Install/Loop Check Pump Unit 1 RTD's (12 triads)
- p. Procure/Install/Megger Pump 1 CTB to DV1 (12 wires)
- q. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to TBD (10 wires)
- r. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to TBE (8 wires)
- s. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to ACP (2 Wires)
- t. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to Power (2 wires)
- u. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to Unknown (10 wires)

Site Acceptance Testing – Start-Up and Commissioning of the MV Motor Starters

Field Labor Services (2) each FSR Personnel Onsite for (1) week to perform in accordance with Eaton Guidelines for Site Acceptance Testing - Start Up and Commissioning including wiring inter- connections of both MV Starters (Pump #1 and #2). Upon completion of the project, Eaton will furnish a comprehensive engineering report including findings, test data and recommendations.

5 Equipment Bill of Material

See attached Appendix A for Customer Furnished Materials.

6 Pricing

Pricing for the scope of work described above is as follows:

Item	Phase #2 Installation Removal - Replacement of (2) MV AmpGard Motor Starters for Pumps #1 - #2	Distributor (NET)
001	Installation and Commissioning of 1 Structure (2) Ampgard Medium Voltage Motor Control, 4160V, 60Hz, 1200Amps, per GO#MSR0004724-006	\$386,307.41
Total Distributor Net Price:		\$386,307.41

Price for the above scope of work is based on performing site work on a weekday-day turn. If the work cannot be performed during regular working hours (6am-5pm) or must be performed on weekends or holidays, you must contact us to adjust the price accordingly. Pricing is only valid for 30 days from the issue date of this proposal.

7 Delivery

Schedule: The scheduling of work is mutually agreed by the customer and Eaton to begin **September 8th, 2025**, upon receipt of finalized contract and Purchase Order by **June 5, 2025**.

8 Order Entry

Please email an electronic copy of the purchase order to kylestarr@eaton.com. To ensure proper order processing, please include the following information in the PO:

- Addressed to: Eaton Corporation
5735 W. Las Positas Blvd. Suite 100
Pleasanton, CA 94588

Reference in the PO, **Eaton proposal number SFK5-250409-01-KJS-R1**

- The ship-to address and site contact name, number and email
- The bill-to address and purchasing contact information

9 Payment

Payment terms are net 30-days and an initial payment upon receipt of purchase order may be requested. Progress payments will be required and will be based upon the following schedule:

10% payment with receipt of valid purchase order and signed contract
30% payment upon delivery of submittal drawings.
15% payment upon shipment of equipment
35% payment upon completion of installation of new equipment
10% upon completion of site acceptance tests and commissioning and approval by customer of final as built drawings submitted by Eaton.

10 Qualifications / Clarifications

- All work to be completed at straight time, Monday through Friday except for scheduled outages as defined in our proposal.
- Eaton has included 10 total hours of safety training for the first workday (10 people @ 1 hour each).
- 3rd party UL inspection not included. Requirements for UL listed components are the responsibility of the end user.
- No time/labor included for site specific training meetings/classes/videos. If required, additional charges will apply and will be estimated on a T&M basis, billed separately from this proposal.
- Any significant delays due to adverse weather will result in additional charges, on a T&M basis.
- If straight time work is required to be performed on an overtime basis, Customer will be billed the difference between the straight time and overtime rate.
- Stand-by power needs, if deemed necessary, are not included.
- Applicable fees for outage related costs, including stand-by and re-connect services, are not included and will be billed as accrued on a T&M basis.
- Method of procedure (MOP) development or meeting time not outlined in the scope of work will be treated as an extra.
- Delays beyond the control of Eaton, extras and authorized additional work will be charged in accordance with the Eaton's Electrical Engineering Services & Systems the Current Price List PL02700001E.
- Job cancellation/reschedules/delay charges:
 - If a job is cancelled, delayed, rescheduled, or postponed 5 days or less prior to scheduled service, Eaton reserves the right to assess a charge of 35% of the purchase order value or actual costs, plus a 15% handling charge (whichever is greater)
- Waste Management:
 - Proposal includes disposal of existing damaged switchgear lineup and debris that is brought onto the construction site by Eaton and sub-contractors only. Disposal of materials not created by Eaton or subcontractor onsite will be the responsibility of others.
- Excavated soils are assumed to be non-contaminated and will be left onsite and smoothed flat
 - It is the responsibility of Customer to hire a local environmental engineering firm to perform any site-specific hazardous material testing
 - Handling or remediation of contaminated or hazardous materials or associated soil/air monitoring is not included with Eaton's scope of work.

11 Testing Clarifications

- All testing will be performed by Eaton's Electrical Engineering Services & Systems (EESS) per Eaton's standard testing guidelines unless otherwise specified.
- NETA testing is specified and will be provided by Eaton. Eaton field personnel are certified to test per NETA standards by the National Institute for Certification in Engineering Technologies (NICET) Electrical Power Certification Program. This program provides an independent verification of the capabilities, knowledge and experience of our field personnel for electrical testing.
- Testing will be completed on the specific electrical equipment, whereas, if not clearly identified, circuit breakers below 200 amperes and transformers below 75kVA are not tested.
- All test results will be evaluated in accordance with manufacturer's published data.
- No "Optional" NETA tests are included.
- Customer to provide trip unit settings and/or relay logic configuration files for protective devices. Note: Eaton can provide an adder for the required power system studies and

input/output logic. Customer to furnish SEL-710-5 Motor Protection Relay to be installed by Eaton Service.

- The isolation of cables for testing will be completed by opening the line and load devices only. No unbolting of cables for isolation has been included.
- Testing of panelboards has not been included; they will have a thermographic inspection performed only.
- Unless noted, site acceptance testing services include breakers 200A and larger and transformers 75kVA and larger only.

12 Safety Training of Eaton Field Personnel:

- All Eaton field personnel received training to comply with OSHA CFR1910 Electrical Safety Standard, which sets minimum safety rules and practices for the design, operation, and maintenance of high-voltage systems (over 600 volts). Safety standards are in place to meet or exceed NFPA 70E requirements, and appropriate Personal Protective Equipment (PPE) have been issued.
- The customer is responsible to ensure that any supporting plant personnel have also be fully trained in electrical safety and provided with the appropriate personnel protective equipment.

13 Safety Arc-Flash Provisional Statement:

The customer supplied Arc-Flash study along with their labeled equipment to meet NFPA requirements will be used to determine the Personal Protective Equipment (PPE) required to perform the work required for this proposal. When a current study and labeling is not available, the time required to determine the proper PPE will be at the current rate per hour, unless included within the Eaton scope of work. Eaton will not perform work activities in situations where the proper level of PPE is not practical. At no time will work be performed when the arc-flash exposure levels are above 40 cal/cm². [The site will be on generator only. In addition to the CFM, Arc Flash Study, an electrical hazard assessment will also be used.](#)

14 Division of Responsibility

a. Eaton Responsibilities:

1. Eaton will provide you with a minimum notice of 72 hours of intent to service any equipment.
2. Eaton shall furnish test engineers, field technicians, support personnel, tools, equipment, materials, supplies and transportation as required.
3. Eaton will provide and install test grounds(*SLDMWA is in charge of all safety locks and safety grounds, except for test grounds*), Eaton will request from SLDMWA additional safety locks and safety grounds, as necessary.
4. as required, and in accordance with the facility safety guidelines. Eaton will review and accept the Clearance limits, locks, and grounds
5. Eaton will perform voltage test and install necessary circuit / equipment safety grounds to assure safe working conditions
6. Upon completion of work:
7. Eaton will remove safety grounds installed by Eaton
8. Eaton will remove safety locks installed by Eaton.

b. Customer Will Be Responsible for the Following:

Providing free access to equipment within their facility.

1. Ensuring that all equipment is available upon arrival of Eaton personnel, including removal from service to permit continuous progression of work. Delay time in making equipment available will be treated as an extra.
2. Identifying site contact for this project.
3. Providing electricians to remove equipment covers and re-install the same when required.
4. Coordinating all outages and perform all switching to de-energize and isolate equipment to be serviced.
5. Ensuring that all circuits to be de-energized have been clearly identified and that all plant personnel and downstream operations are aware of the required outage date, time and duration. This includes maintaining power to vital or necessary plant equipment and processes during the performance of this scope of work.
6. Providing a copy of the past maintenance records to Eaton personnel.
7. Providing manufacturers maintenance manuals upon arrival of Field Engineer/s.
8. Supplying a complete set of electrical plans, including the plant single-line diagram, specifications, and any pertinent change orders to Eaton before commencement of work.
9. Supply a suitable and stable source of power for operation of test and motorized equipment at each test site when normal power is removed or authorize Eaton to obtain a source of auxiliary power, Eaton shall specify requirements. Any non-standard generators rentals will result in a price adder to this proposal.
10. Providing a place to receive and unload replacement equipment, test equipment or other supplies.
11. Providing special tools supplied by equipment manufacturers.

15 Proprietary and Confidential Information

This submittal contains Eaton proprietary and confidential information, which may only be used by SLDMWA to evaluate and respond to this submittal. By accepting this submittal from Eaton, SLDMWA agrees to not use this submittal, or any information contained herein, in any manner adverse to Eaton's interests; to keep in confidence the submittal and all information contained; and to not disclose to any third party or publish this submittal, any portion thereof, or any information contained herein without Eaton's prior written consent.

16 Terms and Conditions

Any order arising out of this offer will be governed by the conditions contained in Eaton Selling Policy 25-000 effective September 1, 2021 or other mutually agreed upon terms and conditions by both parties, in writing. Taxes, if applicable, are not included. This offer is valid for 30 days unless otherwise extended, modified or withdrawn, in writing, by Eaton. Payments are due and payable net within thirty (30) days from the date of each invoice. A 3% surcharge will be added to all credit card transactions except where prohibited. Third party billing will be subject to an additional 15% fee

Sincerely,

Kyle Starr

Lead Service Sales Engineer
EATON CORPORATION
Electrical Services and Systems Division
5735 Suite #100 W. Las Positas Blvd.
Pleasanton, CA. 94588
KyleStarr@eaton.com
Mobile: (210) 952-7730
after hours emergency [\(800\) 498-2678](tel:8004982678)



Powering Business Worldwide



Eaton's Electrical Engineering Services & Systems

List rates (rates are per hour, USD) AB

Service classifications	Straight	Overtime	Premium
In-shop technician	\$233	\$349	\$469
Field service technician	\$284	\$429	\$577
Field service specialist/engineer	\$360	\$544	\$732
Remote service specialist	\$360	\$544	\$732
Power automation specialist	\$474	\$716	\$964
Power systems engineer	\$474	\$716	\$964
Special consultant/forensic analysis	\$588	\$888	\$1,197
CAD technician	\$201	\$304	\$410
Project coordinator	\$258	\$399	\$526
Construction manager	\$398	\$601	\$810
Design engineer	\$398	\$601	\$810
Scheduler	\$471	\$601	\$810
Project manager	\$471	\$713	\$960
Project/principal engineer	\$471	\$713	\$960
Safety specialist	\$471	\$713	\$960
Quality specialist	\$471	\$713	\$960
Excitation specialist	\$571	\$863	\$1,162

A Cost savings can result from flexibility in scheduling of field personnel, scopes of work that can be completed simultaneously, or other site specific factors. Please contact your local EESS District Operating Center (DOC) for potential cost savings.

B Firm fixed pricing can be provided based on a specified scope of work and a site visit by EESS, if required.

Note: Additional expenses may apply.

Service rates, USA

Eaton's Electrical Engineering Services & Systems (EESS) division provides energy and power solutions to help our customers' power distribution and control equipment operate more efficiently, effectively, safely and sustainably. Field services include switchgear modernization, maintenance, emergency response, startup and commissioning, acceptance testing, troubleshooting and repair, regardless of manufacturer.

Minimum billing

Technicians and field service specialists are billed at a 4-hour minimum for travel and services performed in 1–4 hours. For travel and services performed in 5–8 hours, the minimum is 8 hours. All other service classes are an 8-hour minimum.

Firm fixed price

Options for pricing a contract on a firm fixed basis are available.

Service classifications

The following are examples of work performed by classification (including, but not limited to):

- **In-shop technician:** Routine work (e.g., breaker reconditioning) performed on Eaton premises
- **Field service technician:** Non-complex startup and commissioning, acceptance testing, maintenance and repair
- **Field service specialist/engineer:** Complex startup and commissioning, system troubleshooting, relay setting and testing, customer training, maintenance and repair work; typically requires a higher level of training and experience than technician work
- **Remote service specialist:** Complex system troubleshooting and issue remediation guidance completed remotely using advanced technology and technical information
- **Power automation specialist:** Automation design and system integration
- **Power systems engineer:** Electrical system design, power system studies, arc flash analysis, project management and energy management services
- **Special consultant/forensic analysis:** Large/complex system design and analysis, failure and accident investigations and excitation support
- **CAD technician:** Incorporates sketches and concepts into AutoCAD, supporting the design process for facility layouts and electrical one-line diagram
- **Project coordinator:** Provide product delivery, claims/returns and project information
- **Design engineer:** Engineering and technical support for power systems studies, design, installation, startup, maintenance, repair and training
- **Construction manager:** Manage field operations including material, equipment tracking and subcontractors
- **Scheduler:** Management of customer orders, order entry, change orders and tracking through delivery
- **Project manager:** Project management of engineering, procurement and construction of electrical power system
- **Project/principal engineer:** Project design, development and oversight
- **Safety specialist:** Safety program management
- **Quality specialist:** QA/QC management
- **Excitation specialist:** Excitation system design and integration

Time classifications

- **Straight time:** Monday through Friday, normal business hours up to 8 hours
- **Overtime:** Monday through Friday, 8–12 hours or outside of normal business hours, Saturday up to 8 hours
- **Premium:** Monday through Friday, more than 12 hours, Saturday more than 8 hours, Sundays and holidays

An emergency surcharge of 15% may apply to work not previously scheduled at least 3 working days before commencement.

Other rates

- **Materials:** Costs include a handling charge of 35%
- **Equipment:** Lease or rental rates will be billed as appropriate and necessary
- **Contract labor/authorized service provider:** Will be billed at current local rates, plus a handling charge
- **Technical coordinators:** Will be billed at \$202/hr.
- **Travel:** Travel and living expenses, plus a handling charge of 25%
- **Travel time:** Based on portal-to-portal time for each person, not to exceed 8 hours per day, plus a handling charge
- **Mileage:** For standard-type vehicles, mileage is billed at \$2.65/mile
- **Standby time:** When service personnel are on the job site but are unable to perform services requested due to circumstances beyond EESS control, the customer will be billed at applicable rates
- **Job cancellation/delay charges:** If a job is cancelled, delayed, or postponed 5 days or less prior to scheduled service, EESS reserves the right to assess a charge of 35% of the purchase order value or actual costs, plus a 15% handling charge (whichever is greater)
- **Environmental:** Regulatory compliance fees will be charged where applicable
- **Off-site services:** The off-site labor hours required to perform the requested services will be billed at applicable rates. These hours may include job preparation, project management, design services, report writing, preassembly and other services as appropriate
- **High Cost Areas (HCA):** For work performed in Hawaii, Alaska, Puerto Rico, US Virgin Islands and the metropolitan areas of Los Angeles, CA; San Diego, CA; San Francisco, CA; Detroit, MI; Boston, MA; Chicago, IL; New York, NY; Seattle, WA; Philadelphia, PA, add 15% to each applicable rate classification
- **Deposition and court time:** Billed at the current special consultant/forensic analysis premium rate

EESS reserves the right to partial invoice based on progressive work scope and material delivery.

For contractual information, please refer to Eaton's standard Selling Policy 25-000.

For services performed in Canada, please refer to our Canadian Price List—Publication No. PL02700002K. For other regions, contact your local service manager for a quotation, or refer to our International Price List—Publication No. PL02700001Z.

We are the only factory-authorized service provider for Westinghouse, T Cutler-HammerE series, Cooper PowerE series, Bussmann series, Crouse-HindsE series and Eaton power distribution and control equipment.

For 24-hour emergency service, call 800-498-2678.

For further information on Eaton's electrical service offerings and locations, please visit Eaton.com/service.

Eaton
1000 Eaton Boulevard
Cleveland, OH 44122
United States
Eaton.com

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Printed in USA
Publication No. PL02700001E / Z28200
November 2023



Powering Business Worldwide

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All other trademarks are property of their respective owners.

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APPENDIX - A

DRAFT

Detail Bill of Material

Project Name: SLD MVA MV STARTERS
2024
General Order No:

Negotiation No: SFK3-240910-01-EP
Alternate No: 0000

Item No.	Qty	Product	Description
	1	Medium Voltage Control	Ampgard Medium Voltage Motor Control, NEMA 1A (w/Gasketing), 4160V, 60 Hertz, 1200 Amps Main bus.

Qty List of Materials

- 2 Character Color/Nameplate Color - White on Black
- 1 Warning Labels in English Only
- 1 System BIL is 60kV
- 2 Control Wire Marker - Sleeve Type
- 2 Control Wire Designation: Wire number only
- 1 Equipment Rated to work at 40C, 3281FT (1000 M)
- 1 Manufacturing Complexity Code A
- 2 Customer Terminals: Ring Tongue
- 2 Replacement of structure 4 for 'MSR0004724-006'. Controls to match ref order
- 2 Custom LV door
- 2 LV controls in upper compartment. MV cell in lower compartment.
- 2 Standard Structure
- 2 NEMA 1A (w/Gasketing)
- 2 PT Bus
- 2 4160V 60Hz 1200A Sleeve Insulated Copper Main Bus, 50ka Bracing
- 2 SilverPlated Copper Bus, Complete Bus
- 2 400A FLA 1-187, FVNR, Bolted Contactor Connection
- 2 Local Start/Stop Push Buttons Control Circuit
- 2 2KVA CPT
- 2 Control Voltage 120VAC
- 2 Clipped Fuse Mountings for 400A Starter
- 2 Main Contactor Drop Out Time 130ms
- 2 Load Cable Entry Bottom
- 2 Starter Isolation Switch
- 2 Current Limiting Power Fuses
- 2 Current Transformers
- 2 Main Contactor Roll-In/Roll-Out
- 2 Low Voltage Control Compartment
- 2 Set of Control Circuit Terminal Blocks
- 2 Interposing Relay 3NO 1NC
- 2 6 Pole CT Shorting Terminal Block (has GFCT terminals)
- 8 Lug Set: Crimp Type 2 Hole (#4 AWG)
- 2 Other (2) Position Selector Switch
- 2 30mm (10250T) Red Run/Close Indicating Light, PTT LED
- 2 30mm (10250T) Green Off/Open Indicating Light, PTT LED
- 2 30mm (10250T) Blue Indicating Light, PTT LED
- 2 30mm (10250T) Red Indicating Light, PTT LED
- 2 30mm (10250T) Green Indicating Light, PTT LED
- 4 30mm (10250T) Amber Indicating Light, PTT LED
- 2 30mm (10250T) White Indicating Light. PTT LED
- 2 30mm (10250T) Blue Indicating Light, PTT LED
- 2 30mm (10250T) Start Pushbutton
- 2 30mm (10250T) Stop, Emergency Pushbutton
- 2 GFCT 50/5
- 2 Timing Relay, Electronic for Starter
- 10 AR 4 Pole Relay for Starter
- 2 2.5" Panel Mount Elapsed Timer Meter (hours), Non-resettable for Starter
- 2 30mm (10250T) Reset Pushbutton
- 2 Panel Mount Operations Counter, 6 Digit, Resettable for Starter
- 2 Lockout Relay (Device 86) Electroschwitch for Starter

Detail Bill of Material

Project Name: SLD MWA MV STARTERS
General Order No:

Negotiation No: SFK3-240910-01-EP
Alternate No: 0000

Qty	List of Materials
2	Mtr. Space heater Disc. Contactor Interlock
2	Blank Auxiliary Compartment
2	Special Nameplates
1	Total Freight Price

Eaton Selling Policy 25-000 applies.

All orders must be released for manufacture within 90 days of date of order entry. If approval drawings are required, drawings must be returned approved for release within 60 days of mailing. If drawings are not returned accordingly, and/or if shipment is delayed for any reason, the price of the order will increase by 1.0% per month or fraction thereof for the time the shipment is delayed.

Seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic, and Buyer shall not be entitled to any damages resulting thereof.

DRAFT

Ampgard Medium Voltage Motor Control General Information

Specification

Service Voltage:	4160	Enclosure Type:	NEMA 1A (w/Gasketing)
Labeling:	UL	Altitude:	-3280.8FT to 6561.7FT (-1000M to 2000M)
Fuse Mounting:	Clip-In 400A, Bolt-In 800A	Contactor Electrical Connection:	Bolt-In 400A, Stab-In 800A
Symmetrical kA Rating:	50		

Bus Specification

Main Horizontal Bus:	1200	Bus Density:	Standard
Plating:	Silver Plating, Complete Bus	Insulated:	Yes
Ground Bus 1/4" x 2", 600A:		Ground Bus Plating:	Unplated (Standard)
Left Side Coordination:	NG Ampgard	Left Connection Type:	Bolted
Right Side Coordination:	None	Right Connection Type:	
Breaker Alignment:	No Breaker In Line-up		

Global Specifications

Seismic Rated (6" Clearance):	No	Steel Bottom:	No
Channel Sills:	None	Mimic Bus:	No
Back to Back:	No	Aluminum Lead Plates:	No
Exterior Paint:	ANSI-61 Light Gray	Interior Paint:	
Window In All Starter Doors:		Window In All LBS Doors:	No

Miscellaneous Specifications

Nameplate Material:			
Nameplate Color:	White on Black		
Compartment Interior Markers:	Typed Vinyl Tape (White w/Black Letters)		
Back of Door Markers:	None		
Starter Lift Truck:	No	Breaker/Starter Lift Dolly:	No
Breaker Only Dolly:	No	Additional O&M Manuals:	
Witness Testing		Customer Inspection	

Wiring Options

Wire Markers:	Sleeve Type	Wire Terminals:	Ring Tongue
Control Wire Gauge:	#14	Controls Wire Color:	Red
CT Wire Gauge:	#12	CT Wire Color:	Color Coded
Ground Wire Color:	Green, Yellow stripe	Conduit:	
Spare Contacts Wired Out:			

Space Heater Bus

Cubicle Space Heater Bus:	None	Motor Space Heater Bus:	None
---------------------------	------	-------------------------	------

Two Wire Bus

DC Bus:	No	Communications Bus:	
UPS Bus:		Test Power Bus:	No
Control Power Bus:	No	Other Two Wire Bus:	

Other Buses

PT Bus:	Yes	Other Three Wire Bus:	
Other Four Wire Bus:			

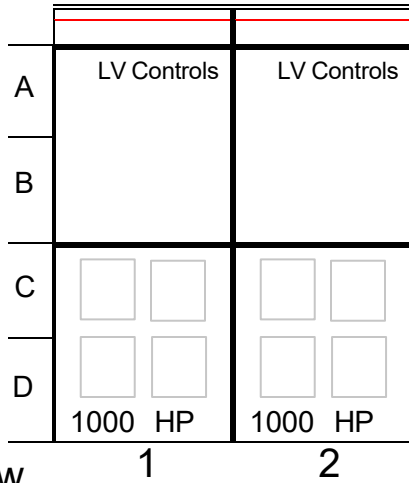
Lugs

Main Lugs Type:	None	Line-Up Ground Lugs:	No
Load Lugs Type:	Crimp Type 2 Hole		
Ground Lugs Type:	Crimp Type 2 Hole		

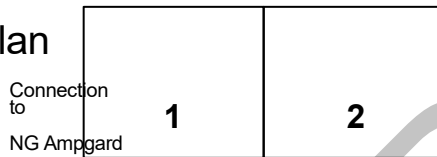
Lead-Time:

The information on this document is created by Eaton. It is disclosed in confidence and it is only to be used for the purpose in which it is supplied.

PREPARED BY DYLAN LAVALLEE	DATE 9/10/2024	Eaton	Asheville, NC
APPROVED BY	DATE	JOB NAME SLDMWA MV STARTERS	
VERSION 1.2.3.2	TYPE Ampgard MV Motor Control	DRAWING TYPE Customer Appr.	
REVISION 0	DWG SIZE A	G.O.	ITEM
NEG-ALT Number SFK3-240910-01-EP ALT: 0000			SHEET 1 of 5



Rear
Floor Plan



Structure	1	2				
Ship-Inches		72				
Ship-MM		1828				
Width-Inches	36.00	36.00				
Width-MM	914	914				
Depth-Inches	30	30				
Depth-MM	762	762				
Height-Inches	92	92				
Height-MM	2336	2336				
Weight-Lbs.	1300	1300				
Weight-Kg	589	589				

The information on this document is created by Eaton. It is disclosed in confidence and it is only to be used for the purpose in which it is supplied.

PREPARED BY DYLAN LAVALLEE	DATE 9/10/2024	Eaton Asheville, NC			
APPROVED BY	DATE	JOB NAME Quotes 2024			
VERSION 1.2.3.2		TYPE Ampgard MV Motor Control		DRAWING TYPE Customer Appr.	
NEG-ALT Number SFK3-240910-01-EP ALT: 0000	REVISION 0	DWG SIZE A	G.O.	ITEM	SHEET 2 of 5

Global Special Modifications

Custom LV door

Special Nameplates

1 Starter

No Composite Match

Catalog Number:

AC364CE

Catalog Number:

S210C4BE

Entered Power Value: 1000

Control Power Transformer: 2 KVA

Mechanical Latch: None

Space Heater Rating: None

Ride Through Circuit: 130ms

Incoming Line Direction:

Cable Size:

Incoming Load Direction:

Cable Size:

Number of Cables:

Number of Cables:

Ground Size:

Ground Size:

Number of Grounds:

Number of Grounds:

Starter Isolation Switch

Current Limiting Power Fuses

Current Transformers

Main Contactor Roll-In/Roll-Out

Low Voltage Control Compartment

Set of Control Circuit Terminal Blocks

Interposing Relay 3NO 1NC

6 Pole CT Shorting Terminal Block (has GFCT terminals)

Other (2) Position Selector Switch

30mm (10250T) Red Run/Close Indicating Light,
PTT LED

30mm (10250T) Green Off/Open Indicating Light,
PTT LED

30mm (10250T) Blue Indicating Light, PTT LED

30mm (10250T) Red Indicating Light, PTT LED

30mm (10250T) Green Indicating Light, PTT LED

30mm (10250T) Amber Indicating Light, PTT LED

30mm (10250T) White Indicating Light. PTT LED

The information on this document is created by Eaton. It is disclosed in confidence and it is only to be used for the purpose in which it is supplied.	PREPARED BY		DATE	Eaton Asheville, NC		
	DYLAN LAVALLEE		9/10/2024			
	APPROVED BY		DATE	JOB NAME Quotes 2024		
				DESIGNATION		
	VERSION 1.2.3.2		TYPE Ampgard MV Motor Control		DRAWING TYPE Customer Appr.	
NEG-ALT Number SFK3-240910-01-EP ALT: 0000	REVISION 0	DWG SIZE A	G.O.		ITEM	SHEET 3 of 5

30mm (10250T) Blue Indicating Light, PTT LED
30mm (10250T) Start Pushbutton
30mm (10250T) Stop, Emergency Pushbutton
GFCT 50/5
Timing Relay, Electronic for Starter
AR 4 Pole Relay for Starter
2.5" Panel Mount Elapsed Timer Meter (hours),
Non-resettable for Starter
30mm (10250T) Reset Pushbutton
Panel Mount Operations Counter,6 Digit,
Resettable for Starter
Lockout Relay (Device 86) Electroswitch for
Starter

2 Starter

Structure Composite Drawing: No Composite Match
Unit 2B Auxiliary Compartment-Blank Auxiliary
Compartment

Catalog Number: AC364CE
Unit 2D Starter-400A FLA 1-187, FVNR, Bolted Contactor
Connection

Catalog Number: S210C4BE
Power Units: HP
Entered Power Value: 1000
Control Power Transformer: 2 KVA
Mechanical Latch: None
Space Heater Rating: None

Ride Through Circuit: 130ms

Incoming Line Direction:
Cable Size:

Incoming Load Direction:
Cable Size:

Number of Cables:
Ground Size:

Number of Cables:
Ground Size:

Number of Grounds:
Starter Isolation Switch
Current Limiting Power Fuses
Current Transformers
Main Contactor Roll-In/Roll-Out
Low Voltage Control Compartment
Set of Control Circuit Terminal Blocks
Interposing Relay 3NO 1NC
6 Pole CT Shorting Terminal Block (has GFCT
terminals)
Other (2) Position Selector Switch
30mm (10250T) Red Run/Close Indicating Light,
PTT LED
30mm (10250T) Green Off/Open Indicating Light,

Number of Grounds:

Bottom
#4
AWG
2
#4
AWG
2

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	APPROVED BY	DATE	JOB NAME Quotes 2024	DESIGNATION	
	VERSION 1.2.3.2		TYPE Ampgard MV Motor Control	DRAWING TYPE Customer Appr.	
NEG-ALT Number SFK3-240910-01-EP ALT: 0000	REVISION 0	DWG SIZE A	G.O.	ITEM	SHEET 4 of 5

PTT LED
30mm (10250T) Blue Indicating Light, PTT LED
30mm (10250T) Red Indicating Light, PTT LED
30mm (10250T) Green Indicating Light, PTT LED
30mm (10250T) Amber Indicating Light, PTT LED
30mm (10250T) White Indicating Light. PTT LED
30mm (10250T) Blue Indicating Light, PTT LED
30mm (10250T) Start Pushbutton
30mm (10250T) Stop, Emergency Pushbutton
GFCT 50/5
Timing Relay, Electronic for Starter
AR 4 Pole Relay for Starter
2.5" Panel Mount Elapsed Timer Meter (hours),
Non-resettable for Starter
30mm (10250T) Reset Pushbutton
Panel Mount Operations Counter,6 Digit,
Resettable for Starter
Lockout Relay (Device 86) Electroswitch for
Starter

DRAFT

The information on this document is created by Eaton. It is disclosed in confidence and it is only to be used for the purpose in which it is supplied.	PREPARED BY DYLAN LAVALLEE		DATE 9/10/2024	Eaton Asheville, NC		
	APPROVED BY		DATE	JOB NAME Quotes 2024		
	VERSION 1.2.3.2		DESIGNATION TYPE Ampgard MV Motor Control		DRAWING TYPE Customer Appr.	
	NEG-ALT Number SFK3-240910-01-EP ALT: 0000		REVISION 0	DWG SIZE A	G.O.	ITEM

APPENDIX - B

DRAFT



Eaton Corporation
221 Heywood Road
Arden, NC 28704

Medium Voltage Starters

Witness Test Procedure.

The following Procedure provides Eaton's "Witness Test Standards" for performing factory witness test.

These guidelines do not cover all details, variations, or combinations of the equipment, its installation, checkout, and safe operation. Care will be exercised to comply with local, state, and national regulations, as well as safety practices for this class of equipment.

All switchgear will be operated and tested by qualified Eaton personnel as defined by OSHA 29CFR1910 subpart 5 and NFPA 70E.



**ALL OPERATIONS INVOLVING TEST EQUIPMENT OR EQUIPMENT
ENERGIZATION WILL BE CONDUCTED BY CUTLER-HAMMER ON SITE
PERSONNEL.**

For a complete list of Instruction Leaflets (IL's) and Instruction Bulletins (IB's), access the Eaton website at <http://www.eaton.com/>.



Supplied Materials

- ☐ PDF of drawings
- ☐ Agenda
- ☐ Teleconference Details

Prior to Testing

- 1) Review:
- ☐ Construction drawings associated with the equipment being tested
 - ☐ Site safety rules and emergency procedures

Inspection and Test Procedures

A FINAL REVIEW OF COMMENTS/DEFICIENCIES WILL BE CONDUCTED AT CONCLUSION OF TESTING.

1) Visual:

- ☐ The device nameplate information is identical with the switchgear drawings
- ☐ Check starters, fuses and capacitors to ensure they have the proper ampere, voltage and interrupting rating
- ☐ Verify all high voltage labels, UL labels and ANSI require labels are visible
- ☐ Auxiliary devices such as protective devices, meters, control switches are installed and wired
- ☐ Confirm all VT and CT ratios properly correspond to drawings
- ☐ Confirm primary and secondary fuse ratings match drawings
- ☐ Verify meter scaling and type match drawings
- ☐ Verify Cubicle Heaters and Thermostat installed (if applicable)
- ☐ Verify correct cable entry positions i.e. top entry/bottom entry
- ☐ Verify correct cable lugs (if required)

2) Mechanical:

Verify Interlocks

- ☐ Ensure Handle in a closed position prevents opening of medium voltage door
- ☐ Check proper operation of detent with medium voltage door open
- ☐ With contactor closed ensure isolation switch cannot be operated

Verify Contactor/Breaker

- ☐ Check primary disconnects, insulators and inter-phase barriers
- ☐ Check isolation switch linkage and shutters

Verify Mechanical Contactor/Breaker Operation

- ☐ Open and close each isolation switch and verify shutter operation is correct and complete
- ☐ Open and close each Potential Transformer door(s) check for interferences (if applicable) and confirm door interlock prevents opening of the door when the Handle is in the closed position

3) Electrical:

The protective relay, metering, and control settings must be supplied by the customers' engineer or from a Power System Study performed prior to commissioning.

Apply Control Power to the Starter

Verify Electrical Starter Operation

- ☐ Open and close each starter/breaker electrically
- ☐ Open and close each starter/breaker from remote terminals (if applicable)
- ☐ Close starter/breaker, trip starter utilizing protective relay (if applicable)

- ☐ Verify all indicating lights and push buttons operate properly

Verify Metering

- ☐ Functionally test metering devices by energizing circuits to rated values

4) Customer Comments

- ☐ Complete 'QA Form 113 Customer Witness Test' and submit to appropriate product line representative

5) Revisions

2. Updated and submitted for approval
 3. Updated grammar, added additional checks, and corrected spelling error
 4. Updated for virtual operation
-

DRAFT

Solid-State Reduced Voltage Starter Medium Voltage

Medium Voltage Solid-State Reduced Voltage Starters, covered by this guideline, are comprised of Eaton Corporation type MV4S medium voltage Solid-State Reduced Voltage Starters. Other manufacturers of similar type are covered by this guideline as well.

Eaton Corporation has identified that warranty-related costs may be associated with improper site testing by groups which are not factory trained. Eaton Corporation offers a Standard 2-Year Warranty on Eaton Corporation products, when all engineering studies and site acceptance testing is completed by Eaton's Electrical Engineering Services & Systems (EESS).

The following guideline provides EESS "Accepted Standards" for performing site testing services as recommended by the manufacturer. These guidelines do not cover all details, variations, or combinations of the equipment, its installation, checkout, and safe operation. Care must be exercised to comply with local, state, and national regulations, as well as safety practices for this class of equipment.

Consult specific instruction manuals and drawings for detailed installation and operating procedures. Medium Voltage Solid-State Reduced Voltage Starters should be installed, operated, and maintained by qualified personnel as defined by OSHA.

DO NOT ATTEMPT TO INSTALL OR WORK ON EQUIPMENT WHILE IT IS ENERGIZED



Always verify that no voltage is present before proceeding with testing. Assume all circuits are energized. Confirm primary sources of power are disconnected, tagged, and locked out. Always follow all local, state, and national regulations including OSHA requirements and generally accepted safety procedures.

For a complete list of Instruction Leaflets (IL's) and Instruction Bulletins (IB's), access the Eaton Corporation website at www.eaton.com/electrical.



Powering Business Worldwide

PART 1 SITE ACCEPTANCE TESTING

1.01 MECHANICAL AND VISUAL INSPECTION

- A. Examine the solid-state reduced voltage starter installation
 - 1. Shipped loose and shipped short components
 - 2. Shipping damage
 - 3. Loose or obviously damaged components
 - 4. Proper identification
 - 5. Physical damage from installation
- B. Inspect:
 - 1. Mounting of the assembly
 - 2. Inspect grounding connections
 - 3. Insulators for evidence of physical damage or contaminated surfaces.
 - 4. Wiring for damaged insulation, broken leads, proper crimping, and overall general condition
- C. Review the solid-state reduced voltage starter sizing with the motor sizing and application requirements.
- D. Review automation system to be used (as applicable) with solid-state reduced voltage starter
- E. Perform safety inspection of the solid-state reduced voltage starter installation and its associated equipment.
 - 1. Tag and lock out all power sources to the solid-state reduced voltage starter according to the end users and commissioners policies until the commissioner is prepared to energize the solid-state reduced voltage starter.
 - 2. Perform a walk around of the application and equipment to determine level of preparedness for operation.
 - 3. Test all safety interlock operation
 - 4. Survey the installation environment to ensure it is safe and is within Eaton solid-state reduced voltage starter ambient specifications (<40 Degrees C) for operation.
 - 5. Establish whether solid-state reduced voltage starter testing will be performed with or without its load attached.
 - 6. Have end user representative prepare equipment if necessary for integrated testing.
- F. Review solid-state reduced voltage starter installation and its connected load for proper installation.
 - 1. Record motor nameplate information.
 - 2. Verify correct enclosure type for environment
 - 3. Verify load cables are < 1000ft of total cable.
 - 4. Note any load side capacitance that may adversely interact with soft-start including the motor terminal box.
 - 5. Incoming power, outgoing motor, and control wiring are each in their own conduit.
 - 6. All wiring has been accomplished to manufacturer's specifications for the size of the solid-state reduced voltage starter and its connected load.
 - 7. The solid-state reduced voltage starter is clean and free of installation debris, equipment, or tools.

1.02 INITIAL ENERGIZATION

- A. Perform Pre-Power checks.
 - 1. Perform continuity tests on all power and control fuses.
 - 2. Check connection of all fiber optic connections from the CPU board to the MV4S truck. Physically tug on all cables to make sure they are firmly seated.
 - 3. Review cable and motor SAT test results.
- B. Perform initial power on safety checks.

Site Acceptance Testing & Start-up Guideline

Solid-State Reduced Voltage Starter – Medium Voltage

January 2015

1. With the isolation switch in the off position plug an extension cord into the test plug in the low voltage control compartment.
2. Verify power-up of the control circuit, especially the motor protective relay (MPR) and MV4S control in the lower compartment. Verify green LEDs lit on all MV4S poles.
3. Verify programming of the MPR including programming notes on the schematic. Relay should NOT be set for reduced voltage operation.
4. Verify programming of the MV4S. Protection settings on the MV4S are backup for the MPR settings only and can be turned off or set to guard band positions. Guard band is defined as 10% wider than MPR settings.
5. If PT bus is used, read the voltage on all applicable starter metering and verify it reads correct with actual bus voltage.
6. Remove extension cord and replace test plug.

C. Powered Checklist

1. Close isolation switch and verify power-up of the control circuit.
2. Verify operation of the starter by performing a low output test.
3. Bump for rotation by placing the MV4S in jog mode and raising the jog voltage gradually.
 - a. Have customer representative confirm that the motor is ready to rotate.
 - b. Bump the motor to check it's direction of rotation in the following order:
 1. Check rotation from the solid-state reduced voltage starter.
 2. After checking solid-state reduced voltage starter rotation if a bypass is used, check rotation from the bypass.
4. Initiate a momentary start-stop sufficient to cause motor rotation and determine optimal starting voltage.
5. Place the MV4S in voltage ramp mode unless the current limit mode is specifically desired.
6. On set point page 2, enter the optimum starting voltage from the step above as initial voltage. Set ramp time to appropriate value.
7. On set point page 8, enter the expected acceleration time plus five seconds.
8. Obtain the maximum allowable start time from motor data sheet or motor manufacturer's representative.
9. Initiate a start. If problems are encountered consult the MV4S Troubleshooting Guide.

Whenever the motor has been started and run, if even for a portion of start-up, allow 15 minutes for the snubber capacitors on the poles to discharge before touching the poles. A tic tracer will not register a DC voltage

10. Program any additional solid-state reduced voltage starter parameters as specified by the customer and in accordance manufacturer's model-specific instructions

D. Operation of the RVSS and Motor

1. It is preferred that the testing from this point on be done with the motor coupled to the normal operating load.
2. Testing of an unload application or just a motor is valid but should be noted in the commissioning documentation.
3. Perform operational checks in accordance with manufacturer's model-specific instructions

1.03 AFTER TESTING

A. Final Inspection:

1. Verify that the equipment is thoroughly clean. Notify the customer if the equipment is not clean.

B. Finish recording data on the EESS data form, completely filling in all the appropriate blocks

Site Acceptance Testing & Start-up Guideline

Solid-State Reduced Voltage Starter – Medium Voltage

January 2015

- C. Note corrective actions taken, deficiencies and recommendations, and any general comments
- D. Forward a copy of the Commissioning Report Form, marked prints of any circuit changes, and the settings files of the MV4S and MPR to the factory.
- E. Apply an EESS test sticker to the equipment
- F. Review and organize all test results and forms
- G. Contact a customer representative to report results and follow-up actions
- H. Write and submit a formal report

PART 2 ADDITIONAL SITE SERVICES

2.01 STARTUP AND ENERGIZING SERVICES (TIME AND MATERIAL SERVICES)

- A. Initial energization on-site support
- B. Voltage Phasing and/or Rotation tests
- C. Program motor protective device addresses for microprocessor-communication packages
- D. Perform typical operational checks including:
 - 1. Measure and record motor voltage and compare to solid-state reduced voltage starter display
 - 2. Measure and record motor current and compare to solid-state reduced voltage starter display
 - 3. Measure and record line voltage and line current
 - 4. Perform full power motor run
 - 5. Confirm control systems function

2.02 FUNCTIONAL PERFORMANCE TEST

- A. Perform system function tests. The system function tests must prove the correct interaction with external control processes.



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Printed in USA
Publication No. SATSU-15-1 Solid-State Reduced Voltage Starter – Medium Voltage
January 2015

Domestic U.S.A. General Terms and Conditions of Sale for Distribution and Control Products and Services

Terms and Conditions of Sale. The Terms and Conditions of Sale set forth herein, and any supplements which may be attached hereto, constitute the full and final expression of the contract for the sale of products or services ("Product(s)" or "Services") by Eaton Corporation ("Seller") to the Buyer, and supersedes all prior quotations, purchase orders, correspondence or communications, whether written or oral, between the Seller and the Buyer. Notwithstanding any contrary language in the Buyer's purchase order, correspondence or other form of acknowledgment, Buyer shall be bound by these Terms and Conditions of Sale when it sends a purchase order or otherwise indicates acceptance of this contract, or when it accepts delivery from Seller of the Products or Services. THE CONTRACT FOR SALE OF THE PRODUCTS OR SERVICES IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS OF SALE STATED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY BUYER ARE REJECTED UNLESS EXPRESSLY AGREED TO IN WRITING BY SELLER. No contract shall exist except as herein provided.

Complete Agreement. All Seller documents referenced in these Terms and Conditions of Sale are hereby incorporated by reference into the terms herein. No amendment or modification hereto nor any statement, representation or warranty not contained herein shall be binding on the Seller unless made in writing by an authorized representative of the Seller. Prior dealings, usage of the trade or a course of performance shall not be relevant to determine the meaning of this contract even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection.

Quotations. A written quotation is valid for 30 days from its date unless otherwise stated in the quotation or terminated sooner by notice. Verbal quotations, unless accepted, expire the same day they are made. A complete signed order must be received by Seller within 20 calendar days of notification of award, otherwise the price and shipment will be subject to re-negotiation.

TERMINATION AND CANCELLATION

Products. Any order may be terminated by the Buyer only by written notice and upon payment of reasonable termination charges, including all progress billings and all incurred direct manufacturing costs.

Services. Any order may be terminated by the Buyer only by written notice and upon payment of reasonable termination charges including all costs plus profit. Seller shall have the right to cancel any order at any time by written notice if Buyer breaches any of the terms hereof, becomes the subject of any proceeding under state or federal law for the relief of debtors, or otherwise becomes insolvent or bankrupt, generally does not pay its debts as they become due or makes an assignment for the benefit of creditors.

Prices. All prices are subject to change without notice. In the event of a price change, the effective date of the change will be the date of the new price or discount sheet, letter or telegram. All quotations made or orders accepted after the effective date will be on the new basis. For existing orders, the price of the unshipped portion of an order will be the price in effect at time of shipment.

Price Policy – Products and Services. When prices are quoted as firm for quoted shipment, they are firm provided the following conditions are met:

1. The order is released with complete engineering details.
2. Shipment of Products is made, and Services purchased are provided within the quoted lead time.
3. When drawings for approval are required for any Products, the drawings applicable to those Products must be returned within 30* calendar days from the date of the original mailing of the drawings by Seller. The return drawings must be released for manufacture and shipment and must be marked "APPROVED" or "APPROVED AS NOTED." Drawing re-submittals which are required for any other reason than to correct Seller errors will not extend the 30-day period.

If the Buyer initiates or in any way causes delays in shipment, provision of Services or return of approval drawings beyond the periods stated above, the price of the Products or Services will be increased 1% per month or fraction thereof up to a maximum of 18 months from the date of the Buyer's order. For delays resulting in shipment or provision of Services beyond 18 months from the date of the Buyer's order, the price must be renegotiated.

Price Policy – BLS. Refer to Price Policy 25-050.

Minimum Billing. Orders less than \$1,000 will be assessed a shipping and handling charge of 5% of the price of the order, with a minimum charge of \$25.00 unless noted differently on Product discount sheets.

Taxes. The price does not include any taxes. Buyer shall be responsible for the payment of all taxes applicable to, or arising from, the transaction, the Products, its sale, value or use, or any Services performed in connection therewith regardless of the person or entity actually taxed.

TERMS OF PAYMENT

Products. Acceptance of all orders is subject to the Buyer meeting Seller's credit requirements. Terms of payment are subject to change for failure to meet such requirements. Seller reserves the right at any time to demand full or partial payment before proceeding with a contract of sale as a result of changes in the financial condition of the Buyer. **Terms of Payment are either Net 30 days** from the date of invoice of each shipment or carry a cash discount based on Product type. Specific payment terms for Products are outlined in the applicable Product discount schedules.

Services. Terms of payment are net within 30 days from date of invoice for orders amounting to less than \$50,000.00. Terms of payment for orders exceeding \$50,000.00 shall be made according to the following:

1. Twenty percent (20%) of order value with the purchase order payable 30 days from date of invoice.

* 60 days for orders through contractors to allow time for their review and approval before and after transmitting them to their customers.

2. Eighty percent (80%) of order value in equal monthly payments over the performance period payable 30 days from date of invoice.

Except for work performed (i) under a firm fixed price basis or (ii) pursuant to terms of a previously priced existing contract between Seller and Buyer, invoices for work performed by Seller shall have added and noted on each invoice a charge of 3% (over and above the price of the work) which is related to Seller compliance with present and proposed environmental, health and safety regulations associated with prescribed requirements covering hazardous materials management and employee training, communications, personal protective equipment, documentation and record keeping associated therewith.

Adequate Assurances. If, in the judgment of Seller, the financial condition of the Buyer, at any time during the period of the contract, does not justify the terms of payment specified, Seller may require full or partial payment in advance.

Delayed Payment. If payments are not made in accordance with these terms, a service charge will, without prejudice to the right of Seller to immediate payment, be added in an amount equal to the lower of 1.5% per month or fraction thereof or the highest legal rate on the unpaid balance.

Freight. Freight policy will be listed on the Product discount sheets, or at option of Seller one of the following freight terms will be quoted.

F.O.B. – P/S – Frt./Ppd. and Invoiced. Products are sold F.O.B. point of shipment freight prepaid and invoiced to the Buyer.

F.O.B. – P/S – Frt./Ppd. and Allowed. Products sold are delivered F.O.B. point of shipment, freight prepaid and included in the price.

F.O.B. Destination – Frt./Ppd. and Allowed. At Buyer's option, Seller will deliver the Products F.O.B. destination freight prepaid and 2% will be added to the net price. The term "freight prepaid" means that freight charges will be prepaid to the accessible common carrier delivery point nearest the destination for shipments within the United States and Puerto Rico unless noted differently on the Product discount sheets. For any other destination, contact Seller's representative.

Shipment and Routing. Seller shall select the point of origin of shipment, the method of transportation, the type of carrier equipment and the routing of the shipment. If the Buyer specifies a special method of transportation, type of carrier equipment, routing or delivery requirement, Buyer shall pay all special freight and handling charges. When freight is included in the price, no allowance will be made in lieu of transportation if the Buyer accepts shipment at factory, warehouse or freight station or otherwise supplies its own transportation.

Risk of Loss. Risk of loss or damage to the Products shall pass to Buyer at the F.O.B. point.

Concealed Damage. Except in the event of F.O.B. destination shipments, Seller will not participate in any settlement of claims for concealed damage. When shipment has been made on an F.O.B. destination basis, the Buyer must unpack immediately and, if damage is discovered, must:

1. Not move the Products from the point of examination.
2. Retain shipping container and packing material.
3. Notify the carrier in writing of any apparent damage.
4. Notify Seller representative within 72 hours of delivery.
5. Send Seller a copy of the carrier's inspection report.

Witness Tests/Customer Inspection. Standard factory tests may be witnessed by the Buyer at Seller's factory for an additional charge calculated at the rate of \$2,500 per day (not to exceed eight (8) hours) per Product type. Buyer may final-inspect Products at the Seller's factory for \$500 per day per Product type.

Witness tests will add one (1) week to the scheduled shipping date. Seller will notify Buyer fourteen (14) calendar days prior to scheduled witness testing or inspection. In the event Buyer is unable to attend, the Parties shall mutually agree on a rescheduled date. However, Seller reserves the right to deem the witness tests waived with the right to ship and invoice Products.

Held Orders. For any order held, delayed or rescheduled at the request of the Buyer, Seller may, at its sole option, (1) require payment to be based on any reasonable basis, including but not limited to the contract price, and any additional expenses, or cost resulting from such a delay; (2) store Products at the sole cost and risk of loss of the Buyer; and/or (3) charge to the Buyer those prices under the applicable price policy. Payment for such price, expenses and costs, in any such event, shall be due by Buyer within thirty (30) days from date of Seller's invoice. Any order so held delayed or rescheduled beyond six (6) months will be treated as a Buyer termination.

Drawing Approval. Seller will design the Products in line with, in Seller's judgment, good commercial practice. If at drawing approval Buyer makes changes outside of the design as covered in their specifications, Seller will then be paid reasonable charges and allowed a commensurate delay in shipping date based on the changes made.

Drawing Re-Submittal. When Seller agrees to do so in its quotation, Seller shall provide Buyer with the first set of factory customer approval drawing(s) at Seller's expense. The customer approval drawing(s) will be delivered at the quoted delivery date. If Buyer requests drawing changes or additions after the initial factory customer approval drawing(s) have been submitted by Seller, the Seller, at its option, may assess Buyer drawing charges. Factory customer approval drawing changes required due to misinterpretation by Seller will be at Seller's expense. Approval drawings generated by Bid-Manager are excluded from this provision.

WARRANTY

Warranty for Products. Seller warrants that the Products manufactured by it will conform to Seller's applicable specifications and be free from fail ure due to defects in workmanship and material for one (1) year from the date of installation of the Product or eighteen (18) months from the date of shipment of the Product, whichever occurs first.

In the event any Product fails to comply with the foregoing warranty Seller will, at its option, either (a) repair or replace the defective Product, or defective

part or component thereof, F.O.B. Seller's facility freight prepaid, or (b) credit Buyer for the purchase price of the Product t. All warranty claims shall be made in writing.

Seller requires all non-conforming Products be returned at Seller's expense for evaluation unless specifically stated otherwise in writing by Seller. This warranty does not cover failure or damage due to storage, installation, operation or maintenance not in conformance with Seller's recommendations, including as set forth in these Terms and Conditions of Sale, and industry standard practice or due to accident, misuse, abuse, or negligence. This warranty does not cover breach of data or system security, including that of information technology infrastructure, computers, software, hardware, databases, electronic systems (including database management systems), and networks. This warranty does not cover reimbursement for labor, gaining access, removal, installation, temporary power or any other expenses, which may be incurred in connection with repair or replacement. This warranty does not apply to equipment not manufactured by Seller. Seller limits itself to extending the same warranty it receives from the third-party supplier to the extent such third party permits assignment of its warranty.

Extended Warranty for Products. If requested by the Buyer and specifically accepted in writing by Seller, the foregoing standard warranty for Products will be extended from the date of shipment for the period and price indicated below:

- 24 months – 2% of Contract Price
- 30 months – 3% of Contract Price
- 36 months – 4% of Contract Price

Special Warranty (In and Out) for Products. If requested by the Buyer and specifically accepted in writing by Seller, Seller will, during the warranty period for Products, at an additional cost of 2% of the contract price, be responsible for the direct cost of:

1. Removing the Product from the installed location.
2. Transportation to the repair facility and return to the site.
3. Reinstallation on site.

The total liability of Seller for this Special Warranty for Products is limited to 50% of the contract price of the particular Product being repaired and excludes expenses for removing adjacent apparatus, walls, piping, structures, temporary service, etc.

Warranty for Services. Seller warrants that the Services performed by it hereunder will be performed in accordance with generally accepted professional standards. The Services, which do not so conform, shall be corrected by Seller upon notification in writing by the Buyer within one (1) year after completion of the Services. Unless otherwise agreed to in writing by Seller, Seller assumes no responsibility with respect to the suitability of the Buyer's, or its customer's, equipment or with respect to any latent defects in equipment not supplied by Seller. This warranty does not cover damage to Buyer's, or its customer's, equipment, components or parts resulting in whole, or in part from improper maintenance or operation (including failure to comply with Seller's recommendations) or from their deteriorated condition. Buyer will, at its cost, provide Seller with unobstructed access to the defective Services, as well as adequate free working space in the immediate vicinity of the defective Services and such facilities and systems, including, without limitation, docks, cranes and utility disconnects and connects, as may be necessary in order that Seller may perform its warranty obligations. The conducting of any tests shall be mutually agreed upon and Seller shall be notified of, and may be present at, all tests that may be made.

Warranty for Power Systems Studies. Seller warrants that any power systems studies performed by it will conform to generally accepted professional standards. Any portion of the study, which does not so conform, shall be corrected by Seller upon notification in writing by the Buyer within six (6) months after completion of the study. All warranty work shall be performed in a single shift straight time basis Monday through Friday. In the event that the study requires correction of warranty items on an overtime schedule, the premium portion of such overtime shall be for the Buyer's account.

Limitation on Warranties for Products, Services and Power Systems Studies. THE FOREGOING WARRANTIES ARE EXCLUSIVE EXCEPT FOR WARRANTY OF TITLE. SELLER DISCLAIMS ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CORRECTION OF NON-CONFORMITIES IN THE MANNER AND FOR THE PERIOD OF TIME PROVIDED ABOVE SHALL CONSTITUTE SELLER'S SOLE LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR FAILURE OF SELLER TO MEET ITS WARRANTY OBLIGATIONS, WHETHER CLAIMS OF THE BUYER ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE.

Asbestos. Federal Law requires that building or facility owners identify the presence, location and quantity of asbestos containing material (hereinafter "ACM") at work sites. Seller is not licensed to abate ACM. Accordingly, for any contract which includes the provision of Services, prior to (i) commencement of work at any site under a specific Purchase Order, (ii) a change in the work scope of any Purchase Order, the Buyer will certify that the work area associated with the Seller's scope of work includes the handling of Class II ACM, including but not limited to generator wedges and high temperature gaskets which include asbestos materials. The Buyer shall, at its expense, conduct abatement should the removal, handling, modification or reinstallation, or some or all of them, of said Class II ACM be likely to generate airborne asbestos fibers; and should such abatement affect the cost of or time of performance of the work then Seller shall be entitled to an equitable adjustment in the schedule, price and other pertinent affected provisions of the contract.

Compliance with Nuclear Regulation. Seller's Products are sold as commercial grade Products not intended for application in facilities or activities licensed by the United States Nuclear Regulatory Commission for atomic purposes. Further certification will be required for use of the Products in any safety-related application in any nuclear facility licensed by the U.S. Nuclear Regulatory Commission.

Returning Products. Authorization and shipping instructions for the return of any Products must be obtained from Seller before returning the Products. When return is occasioned due to Seller error, full credit including all transportation charges will be allowed.

Product Notices. Buyer shall provide the users, including its employees, and in the case of permitted resale, any subsequent purchasers of the Products with all Seller supplied Product notices, warnings, instructions, recommendations and similar materials.

Cybersecurity. Seller is not responsible for a breach of data or electronic system security, including, but not limited to, a system intrusion or interference, virus or malicious code attack, loss of data, data theft, unauthorized access to confidential information and/or nonpublic personal information, hacking incident or any acts of data ransom, caused by any third-party equipment, modification made to a Product other than by Seller, or

failure by Buyer to comply with Eaton Assemblies Cybersecurity Hardening Guidelines at www.eaton.com/assemblies-security (the "Cybersecurity Guidelines"). Seller may revise the Cybersecurity Guidelines at any time without prior notice.

Buyer is responsible for obtaining (at Buyer's expense) assurances from third party suppliers with respect to cybersecurity for third party equipment. As a condition of use and/or resale, Buyer shall direct all users of the Products purchased to access the applicable accompanying Eaton End User License Agreement (EULA) and the Cybersecurity Guidelines, all of which are subject to change in terms and practices, at Seller's discretion, at any time.

Force Majeure. Seller shall not be liable for failure to perform or delay in performance due to fire, flood, strike or other labor difficulty, act of God, act of any governmental authority or of the Buyer, riot, embargo, fuel or energy shortage, car shortage, wrecks or delays in transportation, or due to any other cause beyond Seller's reasonable control. In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay. Seller cannot be held liable, and Buyer shall not be entitled to any damages and/or indemnifications, in case Seller is prevented, hindered or delayed from or in performing any of its obligations resulting from the impact of the outbreak of COVID-19 or any future pandemic or epidemic for reasons not attributable to Seller.

Liquidated Damages. Contracts which include liquidated damage clauses for failure to meet shipping or job completion promises are not acceptable or binding on Seller unless such clauses are specifically accepted in writing by an authorized representative of the Seller at its headquarters office.

Patent Infringement. Seller will defend or, at its option, settle any suit or proceeding brought against Buyer, or Buyer's customers, to the extent it is based upon a claim that any Product or part thereof, manufactured by Seller or its subsidiaries and furnished hereunder, infringes any United States patent, other than a claim of infringement based upon use of a Product or part thereof in a process, provided Seller is notified in reasonable time and given authority, information and assistance (at Seller's expense) for the defense of same. Seller shall pay all legal and court costs and expenses and court-assessed damages awarded therein against Buyer resulting from or incident to such suit or proceeding. In addition to the foregoing, if at any time Seller determines there is a substantial question of infringement of any United States patent, and the use of such Product is or may be enjoined, Seller may, at its option and expense: either (a) procure for Buyer the right to continue using and selling the Product; (b) replace the Product with non-infringing apparatus; (c) modify the Product so it becomes non-infringing; or (d) as a last resort, remove the Product and refund the purchase price, equitably adjusted for use and obsolescence.

In no case does Seller agree to pay any recovery based upon its Buyer's savings or profit through use of Seller's Products whether the use be special or ordinary. The foregoing states the entire liability of Seller for patent infringement.

The preceding paragraph does not apply to any claim of infringement based upon: (a) any modification made to a Product other than by Seller; (b) any design and/or specifications of Buyer to which a Product was manufactured; or (c) the use or combination of Product with other products where the Product does not itself infringe. As to the above-identified claim situations where the preceding paragraph does not apply, Buyer shall defend and hold Seller harmless in the same manner and to the extent as Seller's obligations described in the preceding paragraph. Buyer shall be responsible for obtaining (at Buyer's expense) all license rights required for Seller to be able to use software products in the possession of Buyer where such use is required in order to perform any Service for Buyer.

With respect to a Product or part thereof not manufactured by Seller or its subsidiaries, Seller will attempt to obtain for Buyer, from the supplier(s), the patent indemnification protection normally provided by the supplier(s) to customers.

Compliance with OSHA. Seller offers no warranty and makes no representation that its Products comply with the provisions or standards of the Occupational Safety and Health Act of 1970, or any regulation issued thereunder. In no event shall Seller be liable for any loss, damage, fines, penalty or expenses arising under said Act.

Limitation of Liability. THE REMEDIES OF THE BUYER SET FORTH IN THIS CONTRACT ARE EXCLUSIVE AND ARE ITS SOLE REMEDIES FOR ANY FAILURE OF SELLER TO COMPLY WITH ITS OBLIGATIONS HEREUNDER. NOTWITHSTANDING ANY PROVISION IN THIS CONTRACT TO THE CONTRARY, IN NO EVENT SHALL SELLER BE LIABLE IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR DAMAGE TO PROPERTY OR EQUIPMENT OTHER THAN PRODUCTS SOLD UNDER THIS AGREEMENT, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF PRODUCTS, LOST PRODUCTION, COST OF CAPITAL, LOSS OF, DAMAGE TO, OR UNAUTHORIZED ACCESS TO DATA, BREACH OF SYSTEM SECURITY, FAILURE TO TRANSMIT OR RECEIVE DATA, BUSINESS INTERRUPTION, CLAIMS OF CUSTOMERS OF THE BUYER OR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, REGARDLESS OF WHETHER SUCH POTENTIAL DAMAGES ARE FORESEEABLE OR IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL CUMULATIVE LIABILITY OF SELLER ARISING FROM OR RELATED TO THIS CONTRACT WHETHER THE CLAIMS ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, SHALL NOT EXCEED THE PRICE OF THE PRODUCT OR SERVICES ON WHICH SUCH LIABILITY IS BASED.

Distributors and Third-Party Agents. In order to ensure that distributors and third party agents acting on behalf of Seller share Seller's commitment to doing business right, all distributors and agents shall abide by Seller's [Anticorruption Policy](#).

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AGREEMENT EXHIBIT B

GENERAL CONDITIONS

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ARTICLE 1. DEFINITIONS

SECTION 1.01. Abbreviations.

The Contract Documents may use abbreviations that the SLDMWA believes to be commonly used and generally understood. If the Contractor does not understand any abbreviation, the Contractor shall seek clarification from the SLDMWA.

SECTION 1.02. Definitions.

Whenever the following terms, titles, or phrases are used in the Contract Documents, the intent and meaning thereof shall be as defined in this article.

Architect and/or Engineer.

The “Architect” and/or “Engineer” is either an SLDMWA employee or consultant retained by SLDMWA who is responsible for decisions about the Project design and technical aspects of the Project.

Change Order.

“Change Order” shall mean a written amendment to the Contract approved by the SLDMWA. A Change Order may include adjustments to the Contract Time and/or to the Contract Sum.

Completion.

“Completion” is the point in the Project at which the Work, including punch list items and final cleaning, and all required close-out reports and submissions are 100% performed.

Contract Documents.

The “Contract Documents” shall include the quote on which the Agreement was awarded, the Agreement, the Performance Bond, the Payment Bond, Guarantee Form, these General Conditions, Specifications, Exhibits, permits, the Notice to Proceed, Directives, interpretations by the Architect or Engineer, and any and all Change Orders.

Contract Completion Date.

The “Contract Completion Date” shall mean the date by which the Contract requires completion.

Contract Sum.

“Contract Sum” is the total price for the Work, as it may be changed by Change Orders.

Contract Time.

“Contract Time” shall mean the period specified for completion of the Work as set forth in the Contract and as it may be changed by Change Order.

Contractor.

“The Contractor” shall mean the person or entity that entered into the Contract for the Work, including its employees and legal representatives.

Day.

Unless otherwise indicated, “Day” shall mean every day of 24 hours shown on the calendar.

DIR.

“DIR” shall mean the California Department of Industrial Relations.

Directive.

“Directive” shall mean a written order to the Contractor, signed by the SLDMWA or the SLDMWA’s Representative directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both, and which shall be used in the absence of total agreement with the Contractor on the terms of a Change Order or when time does not permit processing of a Change Order prior to implementation of the change.

Inspector.

The “Inspector” or “Project Inspector” shall mean the person or persons authorized to act as agent(s) for the SLDMWA in the inspection of the Work.

Legal Holidays.

Legal Holidays shall include the following holidays designated by the SLDMWA: New Year’s Day, Martin Luther King Jr. Day, President’s Day, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Thanksgiving Day, the day after Thanksgiving, and Christmas Day.

Notice to Proceed.

“Notice to Proceed” is the written authorization by the SLDMWA to the Contractor specifying the date the Work may begin and any conditions regarding the beginning of the Work.

Project.

“Project” shall mean the Work.

Request for Information (RFI).

“Request for Information” (“RFI”) is a document issued by the Contractor seeking clarification and/or additional information regarding an aspect of the Work. The response to the RFI does not authorize or direct proceeding with any changed or additional work.

SLDMWA.

“SLDMWA” shall mean the San Luis & Delta-Mendota Water Authority.

SLDMWA Representative.

“SLDMWA Representative” shall mean the SLDMWA’s designated agent for purpose of the Work and will be the Contractor’s primary contact during construction of the Project.

Specifications.

“Specifications” include the Technical Specifications applicable to the Work.

Subcontractor.

“Subcontractor” shall mean each person or firm that will perform Project work under contract with the Contractor. “Subcontractor” does not include a material supplier, unless expressly stated.

Technical Specifications.

“Technical Specifications” are the provisions of the Specifications that describe the technical aspects of the Work.

Work.

The “Work” shall mean all obligations and/or actions which the Contractor is contractually required to perform to complete the Services specified in the Contract Documents.

Working Day.

“Working Day shall mean any day except Saturdays, Sundays, and Legal Holidays. Days on which the Contractor is prevented from proceeding with critical path Work for at least five (5) hours due to inclement weather are not Working Days.

ARTICLE 2. THE CONTRACT AND INTERPRETATION

SECTION 2.01. The Contract.

The Contract was awarded based on the Contractor's quote. In awarding the Contract, the SLDMWA relied on the following representations expressly or impliedly made by submitting the quote:

- (a) that the Contractor had inspected the Contract Documents available at the time of bidding, the nature and location of the Work (including local conditions and reasonably knowable subsurface conditions), the scope of work to be performed, and all other matters which may affect the Work or the cost, and that the Contractor was satisfied as to the character, quality, quantity, and scope of work to be performed and conditions to be encountered.
- (b) that the prices bid include everything necessary for the completion of the Work, including without limitation all taxes, fees, and costs not expressly paid for by the SLDMWA.
- (c) that the Contractor has the requisite experience, ability, and resources to perform the Work successfully and to complete the Work within the time stated in the Contract.

Any failure of the Contractor to have become acquainted with all of the available information is not grounds for a Change Order.

The Contract Documents include all applicable permits. The Contractor shall, at the Contractor's sole expense, obtain all necessary permits and licenses for the Work, give all necessary notices, and pay all fees required by law.

The Contract Documents represent the entire and integrated agreement between the SLDMWA and the Contractor and supersede all prior negotiations, representations, or agreements. The Contract may be amended or modified only by a Change Order. Extra work, *i.e.* work outside the scope of the Contract Documents, must be authorized in writing by the SLDMWA before the work is started. Contractor will not be paid for claimed extra work performed without such prior authorization.

The Contractor is an independent contractor and not an employee, agent, or other representative of the SLDMWA. Nothing in the Contract shall be construed to create any association between the SLDMWA and the Contractor other than that of owner and independent contractor. Nothing contained in the Contract Documents shall create any contractual relationship between the SLDMWA and any entity other than the Contractor.

SECTION 2.02. Order of Precedence.

In the event of conflict among Contract Documents, the following order of precedence shall apply: 1) permits, 2) Change Orders, 3) the Agreement for Construction, 4) Technical Specifications, 5) these General Conditions, and 8) the Contractor's quote.

SECTION 2.03. Subsurface Conditions.

Where investigations of subsurface conditions have been made by the SLDMWA and that information is provided prior to entering into the Contract, it represents only a statement by the SLDMWA as to the character of materials which have actually been encountered by the SLDMWA's investigation. Investigations of subsurface conditions are made for the purpose of design only. **The SLDMWA assumes no responsibility with respect to the sufficiency or accuracy of preliminary investigations or of the interpretation thereof.** There is no guaranty, either express or implied, that the conditions indicated are representative of those existing throughout the Work, or that unanticipated conditions may not occur. Contractor satisfied itself as to conditions to be encountered prior to quoting.

SECTION 2.04. Conformance with Laws and Standards.

The Contractor shall be familiar and comply with all applicable Federal, State, and local laws, ordinances, codes, and regulations which in any manner affect the Work. The Work shall comply with the latest adopted edition of all applicable codes, standards, and regulations.

Without limiting the generality of the foregoing, the Contractor must comply with all applicable provisions of the California Occupational Safety and Health Act (Labor Code sections 6300 *et seq.*), including, but not limited to, all applicable Title 8 Safety Orders issued by the State of California Occupational Safety and Health Administration (Cal/OSHA). Failure of the SLDMWA to suspend the work or notify the Contractor of the inadequacy of the safety precautions or non-compliance with existing laws and regulations shall not relieve the Contractor of this responsibility.

The mention herein of any specific duty or responsibility imposed upon the Contractor shall not be construed as a limitation or restriction of any other responsibility or duty imposed upon the Contractor by law.

SECTION 2.05. Not Used.

SECTION 2.06. Submittals.

The Contractor shall furnish electronically, unless otherwise required by the SLDMWA, all working drawings including as-built drawings, plans, specifications, descriptive data, certificates, samples, tests, methods, schedules, and manufacturer's instructions as required in the Contract, and any other information required to demonstrate that the materials and equipment to be furnished and the methods of work fully comply with the Contract Documents. If any submittal deviates in any way from the Contract Documents, the Contractor shall clearly identify the deviation and state the reasons. The SLDMWA has absolute discretion whether to accept a deviating submittal.

When requested by the SLDMWA, samples of the proposed materials shall be prepared at the expense of the Contractor and furnished by the Contractor in such quantities and sizes required for proper examination, and with complete information describing type, kind, or size of material, and its source.

All required information shall be provided even if some of the information is considered proprietary. All information the Contractor deems proprietary shall be marked "PROPRIETARY" by the Contractor. If the SLDMWA is requested to provide information so marked, then the SLDMWA will notify the Contractor of the request unless prohibited by law or regulation from doing so. The Contractor shall be responsible for taking any actions it deems necessary or appropriate to protect its information, and shall bear all expense associated with such actions, to protect from disclosure any information marked as proprietary. Contract deliverables SHALL NOT be marked as proprietary.

If the submittal is rejected or returned "REVISE AND RESUBMIT," the resubmittal shall address all comments from the SLDMWA. The Contractor is responsible for the SLDMWA's review costs for each resubmittal after the first resubmittal.

Approval of any submittal shall not relieve the Contractor of responsibility for complying with the Contract Documents, and no deviation is approved unless the SLDMWA has been advised in writing as required and has expressly approved such deviation or conflict in writing.

The Contractor shall make no changes to any approved submittal after it has been returned. Work performed before approval of a submittal shall be done entirely at the Contractor's risk.

SECTION 2.07. Operations and Maintenance (O&M) Submittals.

For use in subsequent operations and maintenance, the Contractor shall furnish, unless otherwise provided for in the Special Provisions, one (1) original and two (2) copies, all bound and indexed, and one bookmarked electronic copy in pdf format, of maintenance and operation information, including all the highest level of factory maintenance manuals (greatest level of detail) that are available to factory representatives. The submittal of maintenance and operation information is required for all mechanical, electrical, instrumentation, control, communications, sound, or special equipment and systems.

SECTION 2.08. Architect's Instruction Bulletins; Field Directives.

The Architect or Engineer may furnish supplemental drawings or instructions to make clear the intent of the Contract. The Architect or Engineer shall have the authority to make minor changes in the Work, not involving any extra cost, and not inconsistent with the overall design of the Project. If extra cost is known to be involved, these instructions will be accompanied by a request for proposal for the added cost associated with the instructions.

The SLDMWA may issue field Directives or other written Directives during the Work. If extra cost is known to be involved, Directives will be accompanied by a request for proposal for the added cost associated with the Directive.

Contractor shall immediately comply with the Architect's or Engineer's instructions and Directives of SLDMWA unless the Contractor believes that the instruction or Directive will require added cost or time to complete. In that event, the Contractor shall notify the SLDMWA in writing of its conclusion and the basis for the conclusion. Further, the Contractor shall, within seven (7) days after receipt of the interpretation, supplemental drawing, instruction or Directive, submit a proposed change order to the SLDMWA specifying in detail in what particulars the Contract requirements were exceeded and the change in cost or time resulting therefrom. When Contractor claims that a Directive or Architect/Engineer instruction is outside the scope of the Contract, Contractor shall not proceed with the disputed Work unless given written direction to do so.

SECTION 2.09. Requests for Information.

Contractor shall prepare a Request for Information (RFI) when additional information, clarification, or interpretation of the Contract Documents is required. Any work undertaken prior to receipt of a response to an RFI will be at the Contractor's risk.

Each RFI shall be numbered consecutively. Each RFI shall clearly describe what is being requested and shall cite relevant portions of the Contract. A recommendation or proposed solution may be included.

The SLDMWA will provide a written response to an RFI, and that response shall control.

Subsequent resubmittals of an RFI shall be identified with the same RFI number and a letter designation. Resubmittals shall clearly state the reason for the resubmittal.

SECTION 2.10. Assignment Of Antitrust Actions.

In accordance with Public Contract Code section 7103.5(b), by execution of the Contract Documents, or any subcontract awarded by the Contractor, the Contractor or any Subcontractor offers and agrees to assign and hereby does assign to the SLDMWA all rights, title, and interest in and to all causes of action the Contractor or Subcontractor may have under Section 4 of the Clayton Act (15 USC Section 15) or under the Cartwright Act (Chapter 2 of Part 2 of Division 7 of the Business and Professions Code, commencing with Section 16700), arising from purchases of goods, services, or materials pursuant to this public works contract or subcontract. This assignment shall be made and shall become effective at the time the SLDMWA tenders payment to the Contractor, without further acknowledgment by the parties.

SECTION 2.11. Unenforceability Of Any Clause.

If any clause or provision of the Contract Documents is held to be unenforceable or invalid, then that provision of the Contract shall be stricken and the remaining portion shall remain in full force and effect.

SECTION 2.12. Conflict Of Interest.

No official, officer, employee, architect, attorney, engineer, or inspector of or for the SLDMWA who is authorized on behalf of the SLDMWA to exercise any executive, supervisory, or other similar function in connection with the construction of the Project shall become directly or indirectly interested personally in this contract or any part thereof.

SECTION 2.13. No Waiver.

No inspection, order, measurement, approval, modification, payment, acceptance of work or material, time extension, or possession of the Work shall waive any of the terms and conditions of the Contract, the powers reserved by the SLDMWA, or any right of the SLDMWA to damages or to reject the Work. No waiver of any breach of this Contract or failure to enforce any Contract requirement shall be construed a waiver of any other or subsequent breach. All remedies provided in the Contract shall be cumulative and shall be in addition to all other rights and remedies that may exist at law or in equity.

SECTION 2.14. Access to Records.

Upon reasonable notice and during normal business hours, the SLDMWA shall have access to the Contractor's and Subcontractors' records. "Records" shall include, but not be limited to: original estimates, subcontract agreements, purchase orders, books, documents, accounting records, papers, project correspondence, and project files. Records shall include the original quote and all documents related to the quote. Such access shall include the right to examine and audit such records and make excerpts, transcriptions, and photocopies at the SLDMWA's cost.

SECTION 2.15. No Assignment.

The Contractor shall not assign any portion of the moneys due the Contractor without written SLDMWA approval. No person other than the party signing the Contract has any claim under the Contract, except as provided in the Contract.

ARTICLE 3. INSURANCE.

The Contractor shall keep in force at all times during the term of the Contract and any guarantee period (or during such longer period specified below), with insurance companies acceptable to the SLDMWA and at the Contractor's sole expense, the insurance specified below. These insurance requirements do not limit in any way Contractor's or any Subcontractor's potential liability for damages resulting from its or their operations under this Contract.

Where insurance is required to include an "additional insured" endorsement, "Additional Insured" shall mean the SLDMWA, the SLDMWA's Architect or Engineer, the SLDMWA Representative, and each of their officers, officials, directors, trustees, agents, employees, and volunteers.

SECTION 3.01. Commercial General Liability.

Contractor shall provide and require its Subcontractors to provide Commercial General Liability insurance including, but not limited to, protection for premises and operations; claims of bodily injury and broad form property damage liability; personal and advertising injury liability; contractual liability applicable to the Contractor's assumed liability under the Contract; coverage for explosion, collapse, subsidence, and underground hazards; and products and completed operations liability. Coverage shall be at least as broad as "Insurance Services Office Commercial General Liability Coverage Form CG 0001" (occurrence). The policy shall be maintained at all times during the Work and for at least three (3) years following SLDMWA's acceptance of the Work. The limits of liability shall be not less than:

Each Occurrence	One Million Dollars (\$1,000,000) combined single limits for Bodily Injury and Property Damage
Personal and Advertising Injury	One Million Dollars (\$1,000,000)
Products and Completed Operations Aggregate	Two Million Dollars (\$2,000,000) combined single Limits for Bodily Injury and Property Damage
General Aggregate	Two Million Dollars (\$2,000,000) combined single limits for Bodily Injury and Property Damage
Fire Damage	One Hundred Thousand Dollars (\$100,000)

The Contractor shall procure and maintain Products and Completed Operations Coverage with a carrier acceptable to the SLDMWA through the expiration of the patent deficiency in the statute of repose set forth in the Code of Civil Procedure section 337.1, if such period is greater than three (3) years.

"Modified occurrence" or "claims made" policies are not acceptable.

The policy or policies shall include the duty to defend **in addition to** (without reducing) the limits of the policy. The policy shall include coverage for all independent contractors, and shall include "action over" coverage.

SECTION 3.02. Automobile Liability.

Contractor shall provide and require its Subcontractors to provide Automobile Liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, leased, hired, and non-owned automobiles as well as trucks and trailers or semi-trailers, including any machinery or apparatus attached thereto. Coverage shall be at least as broad as “Insurance Services Office Business Auto Coverage Form CA 0001,” symbol 1 (any auto) and shall include, without limitation, contractual liability coverage. Additional Insured endorsements must be furnished naming each on a primary and noncontributing basis. The Additional Insured endorsement shall be at least as broad as ISO form CA 20 48 02 99. The limits of liability shall not be less than:

Bodily Injury and Property Damage Combined Single Limit	One Million Dollars (\$1,000,000)
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If Contractor transports any hazardous materials, substances, or waste, the automobile liability policy shall include endorsement forms MCS-90 and ISO CA 99 48 or equivalent endorsements providing coverage for environmental and pollution claims.

SECTION 3.03. Workers’ Compensation.

The Contractor and all Subcontractors shall provide Workers' Compensation insurance, with coverage as required by the State of California (unless the Contractor is a qualified self-insurer with the State of California), and Employers’ Liability coverage. The limits of Employers’ Liability shall not be less than:

Each Accident	One Million Dollars (\$1,000,000)
Disease Each Employee	One Million Dollars (\$1,000,000)
Disease Policy Limit	One Million Dollars (\$1,000,000)

The Workers’ Compensation policy required hereunder shall be endorsed to state that the Workers’ Compensation carrier waives its right of subrogation against the SLDMWA, its officers, officials, employees, agents, or volunteers.

If the Contractor is self-insured, the Contractor shall furnish a Certificate of Permission to Self-Insure by the DIR Administration of Self-Insurance, Sacramento. Contractor shall provide evidence of waiver of its right of subrogation against the SLDMWA, its offices, officials, employees, agents, or volunteers as a self-insurer.

SECTION 3.04. Other Provisions.

1. The Contractor's General Liability, Automobile Liability, and any other insurances required in the Special Provisions shall contain the following provisions:
 - a. Additional Insured endorsements as respects liability arising out of the activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, premises owned, occupied, or used by the Contractor, or automobiles owned, leased, hired, or borrowed by the Contractor. The policy shall contain no special limitations on the scope of coverage afforded to Additional Insureds. Additional Insured endorsements shall be provided to the SLDMWA.
 - b. The Contractor's insurance coverage shall be primary insurance as respects Additional Insureds and the endorsement shall state that any insurance or self-insurance maintained by Additional Insureds shall be excess and not be called upon to contribute to any loss.

Any failure to comply with reporting or other provisions of the policies on the part of the Contractor, including breaches of warranties, shall not affect coverage provided to the Additional Insureds.

2. The Contractor’s General Liability policy shall contain an endorsement stating that any aggregate limits shall apply separately to each project for which the Contractor provides services away from its premises.
3. Contractor’s and all subcontractors’ insurance policies shall provide that the insurer(s) waive all rights of recovery, by subrogation or otherwise, against the SLDMWA and any Additional Insureds.

4. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy shall not be suspended, voided, cancelled, reduced in scope of coverage or in limits, non-renewed, or materially changed unless the insurer(s) provide thirty (30) calendar days' written notice by certified or overnight mail to the SLDMWA prior to such change. Ten (10) Calendar Days prior written notice shall be given to the SLDMWA in the event of cancellation due to nonpayment of premium.
6. All of the Contractor's insurance coverage, except as noted below, shall be placed with insurance companies with a current A.M. Best rating of at least A-VII or equivalent and that are admitted to do business and in good standing in California, unless otherwise approved by the SLDMWA.

Exception: Workers' Compensation which is provided through a State Compensation Insurance Fund or a qualified self-insurer for Workers' Compensation under California law.

7. The Contractor shall sign and file with the SLDMWA the following certification prior to commencing performance of the work of the Contract:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

Said certification is included in the Contract, and signature and return of the Contract shall constitute signing and filing of the said certification.

8. If any Contractor or subcontractor insurance policy has limits higher than those required herein, the full policy limits shall be available to the SLDMWA.
9. If the Contractor fails to maintain required insurance, the SLDMWA, at its discretion, may procure any or all such insurance and deduct the premiums for such insurance from any sums otherwise due the Contractor. Failure of the SLDMWA to obtain such insurance shall in no way relieve the Contractor from any of the Contractor's responsibilities under the Contract.

The failure of the SLDMWA to enforce in a timely manner any of the provisions of this Section 3.04 and/or any of its subsections shall not act as a waiver to enforcement of any of these provisions at any time during the term of the Contract.

SECTION 3.05. Deductibles and Self-Insured Retention.

No deductible or self-insured retention that applies to General Liability or Automobile Liability shall exceed \$10,000.

SECTION 3.06. Subcontractors' Insurance.

The Contractor shall require all of its Subcontractors to maintain adequate insurance in accordance with the policy limits and other requirements specified above and to provide Contractor proof of such insurance before commencing any work. If requested by the SLDMWA, the Contractor shall deliver certificates of insurance or copies of the insurance policies and endorsements of all Subcontractors.

SECTION 3.07. Notification of Accident or Occurrence.

The Contractor shall report by telephone and email to the SLDMWA within twenty-four (24) hours and also report in writing to the SLDMWA within fifteen (15) Calendar Days after the Contractor or any Subcontractors or agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of ten thousand dollars (\$10,000) to the Work, property of the SLDMWA or others, arising out of any work done by or on behalf of the Contractor as part of the Contract. Such report shall contain:

1. The date and time of the occurrence,
2. The names and addresses of all persons involved, and
3. A description of the accident or occurrence and the nature and extent of injury or damage.

The report to be provided within 24 hours shall include as much information as is available at the time.

The Contractor shall furnish the SLDMWA with a copy of the Employer's Report of Injury immediately following any incident requiring the listing of said report on the OSHA Log during the prosecution of the Work under this Contract. The Contractor shall also furnish the SLDMWA with a copy of the Employer's Report of injury involving any Subcontractor on the Project.

SECTION 3.08. Notification of Claim.

Contractor shall promptly notify the SLDMWA of any claim for damages or lawsuit instituted against the Contractor that arises out of or is in any way connected with the Contractor's performance under this Contract. Prompt notice is no later than thirty (30) Calendar Days following the date of receipt of a claim or ten (10) Calendar Days following the date of service of process of a lawsuit.

ARTICLE 4. CONTROL AND PERFORMANCE OF WORK.

SECTION 4.01. Supervision.

The Contractor shall be solely responsible for supervising all work, including being responsible for all means, methods, techniques, and procedures and for coordinating all portions of the Work under the Contract.

The Contractor shall be responsible for protecting its Work, including any materials and equipment on the Site, and securing and protecting the Site until acceptance of the Work.

SECTION 4.02. Allowable Times and Hours of Work.

Unless otherwise approved by the SLDMWA in writing or in the event of an emergency, no work shall be done between 6 p.m. and 7 a.m., or on Saturdays, Sundays, or Legal Holidays ("Off Period Time"). A written request to work during Off Period Time must be submitted at least two (2) Working Days before the intended work. The SLDMWA may place conditions on any approval of work during Off Period Time and may revoke prior authorization to work during Off Period Time.

SECTION 4.03. Subcontractors.

The Contractor is obligated to use each Subcontractor listed in the Agreement for the portion of work for which the Subcontractor is listed and to comply with the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100 *et seq.* (the "Act") if substitution is requested.

Pursuant to Public Contract Code section 6109, a Contractor may not perform work with a Subcontractor who is ineligible to perform work on public works projects pursuant to Labor Code Section 1777.1.

The terms of the Contract Documents are required to be incorporated into every subcontract and purchase order. Copies of all subcontracts and purchase orders shall be available to the SLDMWA upon written request.

SECTION 4.04. Unsatisfactory Employees or Subcontractors.

The Contractor shall, when requested by the SLDMWA, immediately remove from the Work site any worker that the SLDMWA deems to be unsatisfactory and shall not again employ the removed worker on the Work.

SECTION 4.05. Daily Reports.

The Contractor shall maintain daily reports, which shall include, without limitation, Subcontractors on the site, number of workers on the site, type and amount of equipment on the site, materials delivered to the site, visitors to the site, work performed, weather conditions, and any problems encountered. The Contractor shall provide the daily reports to the SLDMWA weekly, *except that* daily reports documenting extra work shall be provided daily.

SECTION 4.06. Cooperation with Other Contractors.

The Contractor shall conduct operations to minimize interference with the work of SLDMWA employees or contractors engaged by the SLDMWA and/or adjacent property owners.

SECTION 4.07. Safety Requirements.

The Contractor shall conform to all applicable occupational safety and health standards, rules, regulations, and orders and shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work, for maintaining all safety and health conditions on the site, and for ensuring against and/or correcting any hazardous conditions on the site. The Contractor's superintendent, or other designated member of its organization at the site, shall be responsible for the prevention of accidents and overall jobsite safety. The Contractor shall submit to the SLDMWA a written safety program acceptable to the SLDMWA. The Contractor shall have on record with the SLDMWA twenty-four (24) hour emergency contact telephone numbers for 1) a representative with authority to make decisions in response to an emergency at the Project and 2) the Contractor's safety representative. If the Contractor's representative and the safety representative are the same person, then the Contractor shall designate a second, back-up emergency contact.

In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without previous instructions or authorizations from the SLDMWA, is authorized and shall act at its discretion and risk to prevent such threatened loss or injury. The Contractor shall immediately notify the SLDMWA, and thereafter shall comply with any instructions issued by the SLDMWA. The Contractor shall bear all costs of that action unless the emergency was entirely outside of the control of the Contractor or those for which the Contractor is responsible.

SECTION 4.08. Surveys.

The Contractor shall be responsible for performing all necessary surveys to lay out and control the Work to the locations, elevations, lines, and dimensions shown or specified in the Contract Documents. Any deviations must receive prior written approval of the SLDMWA.

SECTION 4.09. Not Used.

SECTION 4.10. Utilities.

Unless otherwise specified in the Contract, the Contractor shall maintain in service all drainage, water, gas, sewer lines, power, lighting, telephone conduits, and any other surface or subsurface utility structure that may be affected by the Work. However, the Contractor, at its cost, may arrange with the SLDMWA to temporarily disconnect service lines or other facilities along the line of the Work.

Under Government Code Section 4215, the SLDMWA will engage a licensed contractor to locate and repair damage that is not due to the failure of the Contractor to exercise reasonable care, removing, relocating, or protecting existing main or trunk line utility facilities not indicated in the Plans and Specifications with reasonable accuracy. The SLDMWA will compensate Contractor for equipment on the Work necessarily idled during such work. The SLDMWA will not be liable for any further or additional costs resulting directly or indirectly from any such occurrence. The Contractor shall notify the affected utility of any contact, scrape, dent, nick, or damage to their facility, whether or not indicated on the Plans and Specifications. Any operator or excavator who knowingly, willfully, or negligently violates Government Code Section 4215 is subject to a civil penalty.

The SLDMWA is not required to indicate the presence of existing utility services, laterals, or appurtenances whenever their presence can be inferred from other visible facilities such as buildings, meters, junction boxes, valves, service facilities, identification markings, and other indicators on or adjacent to the Work.

If the Contractor discovers utilities not identified in the Plans or Specifications, the Contractor shall immediately notify the SLDMWA and the utility owner by the most expeditious means available and later confirm in writing.

SECTION 4.11. Inspection and Testing.

All work and materials furnished pursuant to the Contract shall be subject to inspection and testing by the SLDMWA. Inspection of the Work does not excuse the Contractor from fulfilling all Contract requirements. When requested by the SLDMWA, test specimens shall be prepared at the expense of the Contractor and furnished by the Contractor in such quantities and sizes required for testing.

Any work, materials, or equipment not meeting the requirements and intent of the Contract Documents will be rejected and must be corrected at the Contractor's expense.

The Project Inspector shall have the authority to order the work designated for inspection stopped if a determination is made that work is proceeding in violation of the Contract Documents or any orders issued by the SLDMWA, its representatives, or the Architect or Engineer. The stopped work shall not resume until the Architect or Engineer determines whether it is compliant and/or directs corrective action. The failure of the Project Inspector to order the work stopped does not excuse the Contractor from complying with the Contract Documents for that work.

The Contractor may be required to uncover or take down completed portions of the Work to allow for re-inspection. The Contractor shall pay all costs incurred if defective work is discovered. If the uncovered work is found not to be defective, then the SLDMWA will pay the costs of uncovering and restoring the Work unless the Work initially was covered without inspection.

The Contractor shall notify the SLDMWA of the time and place of any tests, no less than five (5) Working Days' notice, and submit test procedures a reasonable time in advance of any tests that are required by the Contract.

No inspection or approval shall waive any of the terms and conditions of the Contract, the powers reserved by the SLDMWA, or any right of the SLDMWA to damages or to reject the Work in whole or part.

SECTION 4.12. Cleaning Up.

The Contractor shall keep the site of the Work in a presentable condition, dispose of any surplus materials, keep roadways reasonably clear of dirt and debris, and keep all sidewalk and other pedestrian areas clear of dirt, loose gravel, debris and any tripping hazards, to the satisfaction of the SLDMWA.

The Contractor shall also keep the work site cleaned of all rubbish, excess material, and equipment. All portions of the work shall be left in a neat and orderly condition prior to requesting final inspection.

SECTION 4.13. Right To Retain Imperfect Work.

If any portion of the work done or materials or equipment furnished under the Contract shall not be in accordance with the Contract Documents, then the SLDMWA shall have the right to retain the work, materials, or equipment instead of requiring it to be repaired or replaced, and the SLDMWA shall be entitled to a deductive change order to compensate for the reduction in value of the Work.

ARTICLE 5: NOT USED.

ARTICLE 6. LABOR PROVISIONS

SECTION 6.01. Nondiscrimination.

The Contractor shall comply with Section 1735 of the Labor Code, which provides as follows:

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

SECTION 6.02. Hours of Labor.

Eight (8) hours of labor shall constitute a legal day's work and the Contractor or any Subcontractor under the Contractor, in the execution of the Contract, shall not require more than eight (8) hours of labor in any Calendar Day, and forty (40) hours of labor in any calendar week, from any person employed by the Contractor in the performance

of the Work under the Contract, except as permitted under the provisions of California Labor Code Sections 1810 through 1815. The Contractor shall forfeit, as penalty to the SLDMWA, the amount specified in Labor Code section 1813 for each worker employed by the Contractor or any Subcontractor under the Contractor in the execution of the Contract for each Calendar Day during which any worker is required or permitted to labor more than eight (8) hours and for each calendar week during which any worker is required or permitted to labor more than forty (40) hours in violation of the provisions of Labor Code Sections 1810 to 1815.

Overtime shall be paid at the rate of not less than one and one half (1 1/2) times the basic rate of pay, or at such higher rate as may be required by the DIR, applicable statutes, or collective bargaining agreements.

The SLDMWA reserves the right to approve or disapprove the days scheduled for work, and the hours during which work is in progress. Overtime and shift work may be established by the Contractor with reasonable notice and the written permission of the SLDMWA. No work other than overtime and shift work shall be done between the hours of 6:00 p.m. and 7:00 a.m., except such work as is necessary for the proper care and protection of the work already performed, in case of an emergency, or as approved in writing by the SLDMWA. Failure of the Contractor to perform the work in accordance with this policy shall be deemed to be a failure on the Contractor's part to comply with the Contract and is cause for termination.

SECTION 6.03. Prevailing Wage.

Pursuant to Labor Code Section 1772, workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work as defined in Labor Code Sections 1720 through 1725. Therefore, the Contractor and all Subcontractors on the Project shall pay not less than the prevailing rate of per diem wages, including, but not limited to, overtime, Saturday, Sunday, and holiday work, travel and subsistence, as determined by the Director of the DIR pursuant to Labor Code Section 1773. Copies of such prevailing rate of per diem wages are available upon request at the office of the SLDMWA at 15990 Kelso Road, Byron, CA 94514 or on the Internet at <http://www.dir.ca.gov/OPRL/PWD>.

The Contractor shall obtain and post copies of these prevailing wage rates in a prominent place at the job site, in accordance with the regulations of the DIR.

The responsibility to check prevailing wage rates is the Contractor's. Pursuant to Labor Code Section 1773.4 the Contractor may file with the Director of DIR or the Chief of the Division of Labor Standards Enforcement ("DLSE") a petition to review a determination of any rate or rates made by the Director of DIR. The Contractor may also petition the Director of DIR to make a determination for a particular craft, classification, or type of work not covered by a general determination. Pending the review or determination, the wages may be assumed to be those in the applicable collective bargaining agreement, but no adjustment in the Contract Sum shall be made if such assumption is incorrect.

The wage rates determined by the Director of the California DIR refer to expiration dates. Prevailing wage determinations with a single asterisk (*) after the expiration date that are in effect on the date of Notice Inviting Bids remain in effect for the duration of the Project. Prevailing wage determinations with double asterisks (**) after the expiration date indicate that the basic hourly wage rate, overtime and holiday wage rates, and employer payments to be paid for work performed after this date have been determined. If work extends past this date, the new rate shall be paid and should be incorporated in contracts entered into for the Project. The Contractor should contact the DIR as indicated in the prevailing wage determinations to obtain predetermined wage changes. All determinations that do not have double asterisks (**) after the expiration date remain in effect for the duration of the Project.

The Contractor agrees that in the event of underpayment of wages to any employee on the Project, whether by the Contractor or any Subcontractor, the SLDMWA may retain from payments due to the Contractor an amount sufficient to pay such worker the difference between the wages required to be paid by the DIR and the wages actually paid such worker for the total number of hours worked. The SLDMWA may disburse such retention to such employees.

For each worker paid less than the applicable prevailing wages for any work done under this Contract by the Contractor or any Subcontractor, the Contractor shall forfeit to the SLDMWA as a penalty the sum determined by the Labor Commissioner in accordance with the considerations set forth in Labor Code Section 1775, over and above any

retention or withholds otherwise authorized by the Contract. If a worker employed by a Subcontractor is paid less than the prevailing wages by the Subcontractor, the Contractor is not subject to this penalty assessment if the Contractor can demonstrate that it did not have knowledge of that failure of the Subcontractor to pay the prevailing wages and that it strictly complied with the requirements of Labor Code Section 1775(b). In addition to applicable penalties, the Contractor or Subcontractor shall pay each worker the difference between the prevailing wage and the amount paid for every hour the worker was paid less than the prevailing wage.

SECTION 6.04. Payroll Records.

Contractor shall comply with Labor Code Section 1776. Regulations implementing Section 1776 are located in Section 16000 and Sections 16401 through 16403 of Title 8, California Code of Regulations. The Contractor shall be responsible for compliance by all Subcontractors on the Project.

The Contractor and Subcontractors shall keep accurate payroll records, showing the name, address, Social Security number, work classification, dates of payroll period, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journey person, apprentice, worker, or other employee employed by the Contractor and by each Subcontractor in connection with the Work. Such records shall be certified under penalty of perjury that the information contained in the payroll record is true and correct and that the employer has complied with the requirements of Labor Code sections 1771, 1811, and 1815 for any work performed by its employees, and shall be available for inspection at all reasonable hours at the principal offices of the Contractor and Subcontractors in a manner set forth in Labor Code Sections 1776 and 1812.

The Contractor and Subcontractors shall file a certified copy of the records enumerated above with the SLDMWA as a condition of receipt of payment of the Contract Sum. The Contractor shall be held responsible for all Subcontractors' compliance with this requirement.

Failure to submit timely, complete certified payrolls shall subject the Contractor and/or Subcontractor to the penalties specified in subdivision (h) of Labor Code section 1776, which penalties may be deducted from progress payments to the Contractor.

The Contractor shall not carry on its payrolls any person not actually employed by the Contractor, nor shall it carry on its payrolls employees of a Subcontractor. The Contractor shall show on its payrolls all persons actually employed by the Contractor on the Project, in any capacity. The Contractor shall supervise all Subcontractors to ensure that all Subcontractors comply with this Section.

In accordance with Government Code Section 8546.7, or any amendments thereto, all books, records, and files of the Contractor, or any Subcontractor connected with the performance of this Contract, shall be subject to examination and audit by the California State Auditor and/or by the United States Department of Labor. Contractor shall preserve and cause to be preserved such books, records and files for a period of three (3) years after final payment unless additional time is requested by the California State Auditor or the United States Department of Labor.

SECTION 6.05. Additional Requirements for Labor Compliance.

The Contractor shall comply with all applicable and current requirements of the DIR and the DLSE, including without limitation the following additional requirements, and shall cause all Subcontractors on the Project, whether under contract with the Contractor or under contract with any Subcontractor, to comply.

The records kept by the Contractor and all subcontractors of the hours and wages of all employees employed on Project also shall be open at all times for inspection by the DIR and DLSE, in accordance with Sections 1776 and 1812 of the Labor Code. Such records shall be furnished within 10 days of any separate request by the DIR or DLSE.

On a random basis and at such other times as it deems appropriate, the DIR also may confirm the accuracy of payroll reports, including by corroboration of information in payroll reports through independent sources, including without limitation worker interviews, examination of any time and pay records found within the definition of "Payroll Records" in section 16000 of Title 8 of the California Code of Regulations, direct verification of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations) through third-party recipients of those

payments, or any other legal and reasonable method of corroboration. As part of its confirmation process, the DIR may require the Contractor and any of its subcontractors to furnish for inspection itemized statements prepared in accordance with Labor Code Section 226. The DIR may conduct random confirmation based on a recognized statistical sampling of the records submitted.

The DIR may conduct in-person inspection(s) at the site or sites at which the Work of the Project is being performed (“On-Site Visits”). On-Site Visits may include visual inspection of required job site notices, including but not limited to (1) the determination(s) of the Director of DIR of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2; (2) the Notice of pay days and time and place of payment required by Labor Code Section 207; and (3) any other notices prescribed by law. On-Site Visits may also include inspections of records, inspections of the work site and observation of work activities, interviews of workers and others involved with the Project, and any other activities deemed necessary by the DIR to ensure compliance with prevailing wage requirements. In accordance with Labor Code Section 90, the Labor Commissioner and his deputies and agents shall have free access to any construction site or other place of labor and may obtain any information or statistics pertaining to the lawful duties of the Labor Commissioner, including but not limited to evidence of compliance with Labor Code Section 226 (itemized wage statements for employees) and any other laws enforced by the Labor Commissioner.

In accordance with Section 16463 of Title 8 of the California Code of Regulations (“8 CCR Section 16463”), the SLDMWA may, on its own or if required by the Labor Commissioner, withhold funds due to the Contractor when payroll records are delinquent or inadequate. The amount withheld shall be those payments due or estimated to be due to the Contractor or Subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Commissioner has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the Contractor or Subcontractor whose payroll records are delinquent or inadequate. The Contractor shall cease all payments to a Subcontractor whose payroll records are delinquent or inadequate until the Labor Commissioner provides notice that the Subcontractor has cured the delinquency or deficiency. When payments are withheld under 8 CCR Section 16463, the Labor Commissioner will provide the Contractor and Subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies what amounts the SLDMWA has been directed to withhold; and (3) informs the Contractor or Subcontractor of the right to request an expedited hearing to review the withholding of payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Commissioner has exceeded his or her authority under 8 CCR Section 16463. Where the violation is by a Subcontractor, the Contractor shall be notified of the nature of the violation and reference shall be made to Contractor’s rights to withhold or recover payments from the Subcontractor under Labor Code Section 1729. The withholdings under 8 CCR Section 16463 do not preclude assessment of penalties under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records, as set forth above.

SECTION 6.06. Apprentices.

Attention is directed to the provisions of Sections 1777.5, 1777.6, and 1777.7 of the Labor Code concerning the employment of apprentices by the Contractor or any Subcontractor. Violation of Sections 1777.5 or 1777.6 shall subject the Contractor and/or Subcontractor to the penalties set forth in Section 1777.7 of the Labor Code and/or otherwise provided by law or Contract.

Information relative to apprentice standards, wage schedules, and other requirements may be obtained from the Director of DIR, *ex officio* the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices and/or on the OPRL website at www.dir.ca.gov/OPRL/PWD. Apprentices employed on the Project must at all times work with or be under the direct supervision of one or more journeypersons.

SECTION 6.07. Not Used.

SECTION 6.08. Not Used.

SECTION 6.09. Not Used.

ARTICLE 7. DELAYS, TIME ADJUSTMENTS, AND COMPLETION.

SECTION 7.01. Notice of Delays.

The Contractor shall immediately notify the SLDMWA in writing delivered by personal delivery, overnight mail by recognized commercial carrier (e.g. FedEx), or email with confirmation of receipt, if the Contractor foresees or learns of any delay in the Work. The written notice shall be provided to the SLDMWA no later than three (3) Working Days after the event that causes the delay. The Contractor shall describe in this notice the nature and cause of the delay and shall state the probability of the delay occurring (if foreseen). Oral notification of delays is insufficient. **Contractor waives any and all claims for time extensions and/or monetary compensation based on delay if notice is not provided as described above.**

In the event of a continuing delay, the Contractor is required to give only one notice.

SECTION 7.02. Inexcusable Delays.

The Contractor shall not receive any time extensions or additional monetary compensation for inexcusable delays. Inexcusable delays include, but are not limited to, the following:

1. Delays that do not prevent the completion of the whole Work within the Contract Time.
2. A reasonable time for the SLDMWA to perform its Contract responsibilities.
3. Delays that could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or Subcontractors.

SECTION 7.03. Excusable Delays.

The Contractor may be granted an extension of Contract Time for excusable delays, which are those that are beyond the Contractor's control; could not be prevented by the exercise of care, prudence, foresight, and diligence; and when the Work cannot be completed within the Contract Time.

The Contractor shall not receive any additional monetary compensation due to excusable delays unless the SLDMWA determines that the excusable delay resulted from an SLDMWA act or unusual site conditions. The Contractor shall also not receive any additional monetary compensation due to excusable delays under the following circumstances:

1. The Contractor could have reasonably anticipated the delay and avoided the cost impacts of it.
2. When there are two (2) or more concurrent delays and at least one does not qualify for monetary compensation under Section 7.12.
3. The excusable delay does not delay overall completion of the Work.

With respect to weather delays, the Contractor will be allowed a time extension if the SLDMWA concludes that inclement or unsuitable weather or its effects prevents working on the current critical path task for at least five (5) hours during the shift.

Pursuant to Government Code Section 4215, delay in completing the Project caused by the failure of the SLDMWA or the owner of utility facilities located on the Project site to provide for removal or relocation of such facilities shall be an Excusable Delay.

SECTION 7.04. Compensable Delays.

The Contractor may receive both an extension of time and compensation for increased general conditions costs due to a "Compensable Delay," which is one that is beyond Contractor's control; unreasonable under the circumstances; that could not be prevented by the exercise of care, prudence, foresight, and diligence; when completion of the Work is delayed; and that is caused solely by the wrongful acts of the SLDMWA or its agents. Notwithstanding the foregoing, the Contractor shall not be entitled to any additional general conditions costs or time extension to the extent that a Compensable Delay is concurrent with an Inexcusable Delay. Except as provided herein, the Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.

SECTION 7.05. Extension of Time.

Subject to compliance with the required contractual provisions, the Contractor will be allowed a time extension to complete the Work equal to the delay the Contractor establishes less any time when an Inexcusable Delay was concurrent with the Excusable or Compensable Delay. If the time extension is compensable, the Contract Sum also will be adjusted.

SECTION 7.06. Liquidated Damages.

Should the Work not be completed within the Contract Time, as adjusted for any Excusable or Compensable Delays, Contractor acknowledges that SLDMWA will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between Contractor and SLDMWA that Contractor shall pay to SLDMWA as fixed and liquidated damages, and not as a penalty, the sum specified in the Agreement per calendar day delay until final completion of the Work, and that SLDMWA may deduct Liquidated Damages from any monies due or that may become due to Contractor.

If the Contract, the Contractor's control over the Work, or the Contractor's right to proceed is terminated for cause, then the Contractor shall be liable to the SLDMWA for liquidated damages for all periods of time from the scheduled Contract Completion Date at the time of such termination, as that date may be adjusted by any extensions of time to which the Contractor is entitled, until the Date of Completion.

SECTION 7.07. Not Used.

SECTION 7.08. Final Inspection and Acceptance.

When the Contractor considers the Work complete, including all required documentation having been submitted to the SLDMWA, the Contractor shall request inspection the Work. If, following inspection, the SLDMWA does not consider the Work complete, the SLDMWA will notify the Contractor in writing and provide a list of items to be completed or corrected ("deficiency list" or "punch list"). Immediately upon being provided a punch list, the Contractor shall proceed to correct or complete the items on the list.

The Contractor shall notify the SLDMWA in writing when it believes that it has corrected all items on the punch list. The SLDMWA will again inspect the Work and update the punch list if it deems the Work is not complete.

The SLDMWA will accept the Work if it finds the Work and all required corrections acceptable, including without limitation receipt of O&M manuals, the Guarantee Form, and any other close-out documents required by the Contract Documents. Acceptance by the SLDMWA begins warranty periods.

ARTICLE 8. NOT USED

ARTICLE 9. CHANGES AND CLAIMS

SECTION 9.01. Ordering of Changes.

The SLDMWA may order or direct a change in writing, including without limitation through a Directive, during the Work. If the Contractor contends that a Directive or other order by the SLDMWA will cause a change in the Contract Time or Contract Sum, then the Contractor shall so notify the SLDMWA in writing before performing the changed Work and no more than five (5) days after receipt of the order or Directive; performance of the changed Work without such prior notice waives the Contractor's right to recover any additional time or compensation for the change. The SLDMWA will direct the Contractor in writing whether to proceed with any Work the Contractor timely claims to have a time or cost impact. For any order or Directive that the Contractor does not claim involves a change in the Contract Sum or Contract Price, the Contractor shall immediately comply with the order or Directive.

If the SLDMWA and Contractor agree to any adjustment to the Contract Sum and/or the Contract Time, then the adjustment will be formalized in a Change Order. Failure of the SLDMWA and Contractor to agree to terms of a

Change Order based on an order or Directive shall not relieve the Contractor of its obligation to complete all work specified in the order or Directive.

SECTION 9.02. Unusual Site Conditions.

The Contractor shall promptly upon discovery, and before the following conditions are disturbed, notify the SLDMWA, in writing, of any:

1. Material that the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
2. Subsurface or latent physical conditions at the site differing from those indicated in the Contract.
3. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

Upon receipt of notice from the Contractor, the SLDMWA shall promptly investigate the conditions. If the conditions do materially so differ or do involve hazardous waste, and the conditions cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work, then the SLDMWA shall issue a Change Order or Directive addressing the change.

If the SLDMWA and the Contractor disagree as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall proceed with all work to be performed under the Contract Documents and may submit a claim as provided in the Contract Documents.

SECTION 9.03. Proposed Contract Changes; Agreement as to Change Order.

If requested by the SLDMWA, the Contractor shall provide a proposed change order with a cost and/or time proposal for a proposed change to the Work, supported by complete details of all Contractor, Subcontractor, vendor, or supplier costs and time impacts. The Contractor shall provide the proposed change order within the time requested, or within five (5) Working Days if no time is specified. The SLDMWA will either accept the proposed change and issue a Change Order or notify the Contractor of any dispute with the proposed change to the Contract Time or Contract Sum.

The SLDMWA may issue a Change Order if it concludes that a change to the Contract Sum or Contract Time is necessary. If the Contractor signs the Change Order, then the Contractor has agreed to the time and cost impacts stated in the Change Order. If the Contractor does not sign a Change Order issued by the SLDMWA, then the Contractor shall notify the SLDMWA of any dispute with the proposed change.

The Contractor shall not be entitled to any adjustments in either Contract Sum or Contract Time for changed Work performed before either (a) receipt of written direction from the SLDMWA to perform the Work after the Contractor has notified the SLDMWA that it believes that a Directive or other direction requires changes to the Work or Contract Time, or (b) a Change Order approved by the SLDMWA.

If the Contractor and the SLDMWA have not agreed as to whether a change impacts the Contract Time or Contract Sum or the amount of such change, then the Contractor must immediately begin keeping Force Account records of the Work.

SECTION 9.04. Payment For Changes.

If the Contractor and the SLDMWA do not agree to payment for a change on a lump sum or unit price basis, then the Contractor shall be entitled to payment for the changed Work on a Force Account basis, as follows.

The Contractor shall keep and present, in a form acceptable to the SLDMWA, a complete and correct accounting of all costs associated with the change, including all pay records, vouchers, invoices, etc. The Contractor will be paid for labor, materials, and equipment actually used during the performance of the changed Work, as discussed further below.

To facilitate agreement, the Contractor shall notify the SLDMWA not less than four (4) hours prior to starting Force Account work. The Contractor shall submit Daily Work Reports (DWRs) for signature not later than 9:00 a.m. the day following performance of any Force Account work. DWRs shall list names of all Contractor's staff, the staff person's craft or trade, all craft or trade labor hours, and all material and equipment used and claimed to be Force Account. If the DWRs include work related to more than one change, then the labor, material, and equipment shall clearly identify the change to which it relates. The Contractor shall use the DWRs in preparing billings for Force Account work.

SECTION 9.04A. Labor on Force Account.

The Contractor will be paid the cost of direct labor used in the actual and direct performance of the changed work. Except as otherwise provided, the Contractor will receive no additional compensation for overtime work without prior written authorization from the SLDMWA. The cost of labor will be the sum of the following:

- Actual Wages: Charges for labor will be the Contractor's actual payroll costs for labor of any classification, including employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes.
- Labor Surcharge: A twenty-six percent (26%) surcharge for taxes, insurance, and all other payments made to or on the behalf of the employee shall be added to the actual wages.
- Subsistence and Travel: The SLDMWA will pay the Contractor for actual subsistence and travel allowance costs associated with the changed work required by labor agreements or acceptable to the SLDMWA. Documentation must be provided to the SLDMWA.

SECTION 9.04B. Materials on Force Account.

Payment will be for the purchaser's actual cost of supplier or vendor furnished materials documented by invoices. The SLDMWA reserves the right to purchase materials for the changed Work.

SECTION 9.04C. Equipment on Force Account.

The prices paid for equipment directly and solely required for performance of the changed work will be either the actual, reasonable rental rate documented by invoices or those listed in the current edition of the Caltrans publication, "Labor Surcharge and Equipment Rental Rates." If the equipment is not shown in this publication, the Contractor shall be paid such hourly rental rates as are agreed upon by the Contractor and the SLDMWA prior to use of the equipment, plus thirty-three and one-third percent (33-1/3%) for the cost of fuel, oil, lubrication, and field repairs and maintenance. In no case shall the rental rates exceed those of established distributors or equipment rental agencies serving the area.

The rate paid for the use of equipment constitutes full compensation to the Contractor for all costs, including fuel, power, oil, lubrication, supplies, small tools, small equipment, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, labor (except for equipment operators) and any and all costs to the Contractor incidental to the use of such equipment for the changed work.

Payment will not be made for the equipment while it is inoperative due to breakdowns or for time in which no changed work was performed. Payment for rentals will include time required to move equipment to the changed work from the rental source and to return it to the source. However, no moving, loading, or transportation costs will be paid if the equipment is used for any other portion of the Work.

Individual tools and pieces of equipment having replacement value of five hundred dollars (\$500) or less shall be considered tools or small equipment and no payment will be made for those pieces of equipment.

SECTION 9.04D. Subcontracts on Force Account.

Subcontract costs shall be the actual cost to the Contractor for work performed by a Subcontractor and supported by invoices. Notwithstanding the foregoing, the SLDMWA reserves the right to reject any Subcontractor cost which materially differs from the above Force Account provisions unless the SLDMWA approved the deviating cost in writing prior to the Subcontractor cost being incurred.

SECTION 9.04E. Markups on Force Account.

Only the direct costs directly attributable to the performance of the changed work shall be allowed. All other costs shall be included in the allowed markups, including, but not limited to, profit, home office and field overhead, jobsite indirect costs, extended overhead, jobsite office personnel, general field superintendence, general engineering, supervision of labor, bond and insurance premiums, and general field expense, and shall constitute full compensation for all costs not included as actual labor, materials, equipment, or Subcontractor costs. Markups for changed work shall not exceed the following:

Labor	15%
Materials	10%
Equipment Rental	10%
Bonds and Insurance	2%

The Contractor or Subcontractor, whomever actually performs the changed work, may add the markups to the total of allowable costs. When a Subcontractor performs work, the Contractor and any higher tiered Subcontractor may add as mark-up to the total of allowable costs an amount not to exceed five percent (5%), which markup shall not be applied to any markups charged by the Subcontractor.

When the SLDMWA is entitled to credit for deleted work, a ten percent (10%) credit for deleted overhead of the Contractor or Subcontractor, as applicable, will be added to such credit.

SECTION 9.05. Limitations on Payments for Changed Work.

The SLDMWA will not pay the Contractor costs in excess of prevailing market values, unless the Contractor can establish, to the satisfaction of the SLDMWA, that the Contractor has investigated all possible means of providing the work and that the excess costs could not be avoided.

SECTION 9.06. Effect on Sureties of Changes to the Work.

No alterations, time extensions, extra or additional work, or other changes shall affect the sureties' obligations.

SECTION 9.07. Disputes.

If the Contractor and SLDMWA fail to agree whether a Directive or other order is within the scope of the Contract, the amount of any agreed change, or otherwise dispute matters arising under the Contract Documents, these disputes provisions shall apply. The Contractor shall not stop performing the Work pending resolution of a dispute, unless so ordered in writing by the SLDMWA.

SECTION 9.07A. Notice of Potential Claim.

The Contractor shall not be entitled to payment of any additional compensation (whether money or time) for any cause unless the Contractor has given the SLDMWA timely written notice of potential claim ("NOPC") setting forth the reasons for which the Contractor believes additional monetary compensation and/or time is due, the nature of costs and/or time involved, and, insofar as possible, the amount of the potential claim.

The Contractor shall provide a written NOPC to the SLDMWA upon discovery of any disagreement, situation, or occurrence that may result in a claim, including but not limited to changes in work and delays. The NOPC shall be submitted no more than five (5) Working Days after the discovery or occurrence of any event that may be the basis for a claim for additional compensation or additional time. **Failure to timely submit the NOPC waives any Claim that Contractor may otherwise have had the right to submit based on the underlying occurrence or event.**

SECTION 9.07B. Claims.

Claims shall be subject to the requirements of Public Contract Code sections 20104 *et seq.* and 9204. A summary of those provisions is set forth below. To the extent that the summary below is inconsistent with any requirement of those

statutes, the statutes shall control. The terms below are intended to be consistent with the governing statutes, and any modifications shall be understood as lawful modifications or additions to the statutory requirements if possible.

SECTION 9.07B1. Definitions.

“Claim” means a separate demand by the Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) payment by the public entity of money or damages arising from work done by, or on behalf of, Contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) payment of an amount that is disputed by the SLDMWA.

“Mediation” means any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation.

“Public works contract” or “public works project” means any project meeting the definition of Labor Code section 1720(a), including subsection (a)(2), whether or not the project involves the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

“Subcontractor” means any type of contractor who either is in direct contract with the Contractor or is a lower tier subcontractor.

SECTION 9.07B2. Claims Procedure.

All Claims under this Contract shall be resolved using the following procedure.

1. The Claim shall be in writing and include the documents necessary to substantiate the Claim as set forth in Section 9.17C. Unless a different time is stated in the Contract Documents, Claims must be filed not later than thirty (30) Calendar Days after the proposed final payment request is returned to the Contractor by the SLDMWA. Any Claim shall be certified under penalty of perjury and in compliance with the California False Claims Act, as set forth in Section 9.17C below. Failure to include these required certifications will constitute grounds for immediate rejection of the Claim and shall be deemed a waiver and absolute bar of the Claim, including any right to pursue the Claim further.
2. If a Subcontractor, including a lower tier Subcontractor, lacks legal standing to assert a Claim against the SLDMWA because privity of contract does not exist, then the Contractor may present a Claim on behalf of such a Subcontractor. A first-tier Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier Subcontractor, that the Contractor present a Claim on behalf of the Subcontractor for work that was performed by the Subcontractor. The Subcontractor requesting that the Claim be presented shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, the Contractor shall notify the Subcontractor in writing as to whether the Contractor presented the Claim and, if the Contractor did not present the Claim, provide the Subcontractor with a statement of the reasons for not having done so.
3. Upon receipt of a Claim, the SLDMWA shall conduct a reasonable review of the Claim. Within 30 days of receipt of the Claim, the SLDMWA may request, in writing, any additional documentation supporting the Claim or relating to defenses to the Claim that the SLDMWA may have against the claimant. Where additional information is requested by the SLDMWA, the time in which the SLDMWA must respond to a Claim shall be tolled until all requested information is provided. If additional information is thereafter required, then it shall be requested and provided upon mutual agreement of the SLDMWA and the Contractor.

4. Within 45 days of receipt of the Claim, as that time may be tolled as provided in Section 9.17B.3 above, the SLDMWA shall provide the Contractor with a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the SLDMWA and the Contractor may, by mutual agreement, extend the time period for a response. Failure by the SLDMWA to respond to a Claim within the time periods described herein shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by failure of the SLDMWA to respond shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the claimant.
5. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the SLDMWA issues its written statement. The SLDMWA shall not fail to pay money as to any portion of a Claim which is undisputed except as otherwise provided in the Contract Documents.
6. If the claimant disputes the SLDMWA's written response, or the SLDMWA fails to respond within the time prescribed, the Contractor may so notify the SLDMWA, in writing, either within 15 days of receipt of the SLDMWA's response or within 15 days of the SLDMWA's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, sent by registered mail or certified mail, return receipt requested, the SLDMWA shall schedule a meet and confer conference within 30 days for settlement of the dispute.
7. Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, then the SLDMWA shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Failure by the SLDMWA to provide the written statement within the time periods described herein shall result in the remaining Claim issues being deemed rejected in their entirety. Denial by failure of the SLDMWA to respond shall not constitute an adverse finding with regard to the merits of the remaining Claim issues or the responsibility or qualifications of the claimant. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement.
8. Any remaining disputed portion of the Claim following the meet and confer conference shall be submitted to nonbinding mediation, with the SLDMWA and the Contractor sharing the associated costs equally. The SLDMWA and the Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. Unless otherwise agreed to by the SLDMWA and the Contractor in writing, the mediation conducted pursuant to this Section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced. This Section does not preclude arbitration if mediation under this Section does not resolve the parties' dispute.
9. If mediation is unsuccessful, then the Contractor may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code with respect to the parts of the Claim remaining in dispute. For purposes of those provisions, the running of the period of time within which a Claim must be filed shall be tolled from the time the Contractor submits his or her written Claim pursuant to Section 9-18.02.01 until the time that mediation of disputed portions of that Claim is completed. This Section does not apply to tort claims, and nothing in this Section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.
10. Amounts not paid in a timely manner as required by this Section shall bear interest at 7% per year.
11. Claims of \$375,000 or less are subject to the following procedures for civil actions to resolve the claims:
 - a. The case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section

1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any such proceeding, consistent with the rules pertaining to judicial arbitration.

- b. The parties stipulate that the arbitrator shall be experienced in construction law and shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.
- c. In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who, after receiving an arbitration award, requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorneys' fees of the other party arising out of trial de novo.
- d. The court may, upon request by any party, order any witnesses to participate in arbitration process.

In any suit filed under Public Contract Code Section 20104.4, the SLDMWA shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

SECTION 9.07B3. Certification.

Every claim must include the following certification. Failure to include the certification results in the claim being incomplete, and the SLDMWA shall have no obligation to review the claim unless or until such certification is provided.

Claim Declaration

I, [name of declarant], declare the following:

[Contractor company name] has contracted with the San Luis and Delta Mendota Water Authority for the [name of project] project. I am authorized by my employer ([contractor company name]) to prepare the attached claim for compensation (in other words, for money and/or time extensions) to the San Luis and Delta Mendota Water Authority regarding this project (dated _____, 20__, and requesting \$ _____ and/or ____ additional working days), and I did prepare said attached claim. I am the most knowledgeable person at [contractor company name] regarding this claim.

I am aware of all law that relates to this claim, including but not limited to California Penal Code section 72, Government Code sections 12650 et seq. (False Claims Act), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other claims that violate law or the contract, may lead to fines, imprisonment, and/or other severe legal consequences for myself and/or [contractor company name].

The attached claim is prepared and submitted in good faith, does not breach the contract between [contractor company name] and the San Luis and Delta Mendota Water Authority for this project, does not violate any law, satisfies all provisions of the contract, only contains truthful and accurate supporting data, and only requests an amount that accurately reflects the adjustments to money and time for which I honestly and in good faith believe that the San Luis and Delta Mendota Water Authority is responsible under its contract with [contractor company name].

So that I could declare that the statements in this declaration and the attached claim were true and correct, while preparing this declaration and claim, I consulted with others (for example, attorneys, consultants, or others who work for [contractor company name]) when necessary to assure myself that said statements were true and correct.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed _____, 20__, at _____, California.

[name of declarant]

For claims submitted by the Contractor on behalf of a Subcontractor, both the Contractor and the Subcontractor shall submit the above declaration.

SECTION 9.07C. Documentation of Claims by Contractor.

For each Claim, the Contractor shall furnish the following claim documentation in the following format:

1. Introduction and background
2. Issues
 - a. Index of issues
 - b. For each issue:
 - Background
 - Chronology
 - Contractor's position (reason for SLDMWA's potential liability)
 - Supporting documentation of merit
 - Supporting documentation of damages
3. Delay analysis (if applicable)
4. Productivity and damages exhibits (if applicable)
5. Summary of issues and damages

Supporting documentation of merit and damages for each issue shall be cited by reference, photocopies, or explained. Supporting documentation may include, but not be limited to, Contract Documents, correspondence, inspection reports, delivery schedules, test reports, daily reports, subcontracts, photographs, RFIs and responses, Directives, purchase orders, invoices, releases, quantity records, other accounting records, and other Project records.

GUARANTEE FORM

{Print on Contractor/Subcontractor Letterhead And Submit at Close-Out}

_____ [Contractor's Name] hereby unconditionally guarantees to the San Luis & Delta-Mendota Water Authority ("SLDMWA") that the Services performed at DCI Unit 1 & 2 Motor Control Centers Replacement and Commissioning, located at Delta Canal Intertie (DCI) 17691 West Grant Line Road, Tracy, CA 95391, have been done in accordance with the requirements of the Agreement therefor and further guarantees the Services of the Agreement to be and remain free of defects in workmanship and materials for a period of one (1) year from and after SLDMWA acceptance of the Services unless a longer guarantee period is called for by the Contract Documents, in which case the terms of the longer guarantee shall govern. The Contractor hereby agrees to correct any and all Services, together with any adjacent facilities which may have been damaged or displaced in so doing, that may prove to be not in accordance with the requirements of the Agreement or that may be defective in its workmanship or materials within the guarantee period specified, without any expense whatsoever to the SLDMWA, ordinary wear and tear and unusual abuse and neglect only excepted. The Contractor has provided contract bonds, which will remain in full force and effect during the guarantee period.

The Contractor further agrees that within ten (10) calendar days after being notified in writing by SLDMWA of any Services not in accordance with the requirements of the Agreement or any defects in the Services, it will commence and prosecute with due diligence all Services necessary to fulfill the terms of this guarantee, and to complete the Services within a period of time stipulated in writing. In the event it fails to so comply, Contractor does hereby authorize SLDMWA to proceed to have such Services done at the Contractor's expense and it will pay the cost thereof upon demand. SLDMWA shall be entitled to all costs, including reasonable attorneys' fees, necessarily incurred upon the Contractor's refusal to pay the above costs.

The guarantee period for corrected defective work shall continue for a duration equivalent to the original guarantee period.

Notwithstanding the foregoing paragraph, in the event of an emergency constituting an immediate hazard to the health or safety of the employees of SLDMWA, or its property or licensees, SLDMWA may undertake at the Contractor's expense without prior notice, all Services necessary to correct such hazardous condition when it was caused by the Services of the Contractor not being in accordance with the requirements of the Agreement, or being defective, and to charge the same to the Contractor as specified in the preceding paragraph.

The guarantee set forth herein is not intended by the parties, nor shall it be construed, as in any way limiting or reducing SLDMWA's rights to enforce all terms of the Agreement referenced hereinabove or the time for enforcement thereof. This guarantee is provided in addition to, and not in lieu of, SLDMWA's rights on such Agreement.

CONTRACTOR'S SIGNATURE: _____

PRINT NAME: _____

DATE: _____

PERFORMANCE BOND
(To be Submitted with Construction Agreement)

BOND NO.: _____

PREMIUM: _____

San Luis & Delta-Mendota Water Authority

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the SAN LUIS & DELTA-MENDOTA WATER AUTHORITY (hereinafter referred to as "SLDMWA") has awarded to _____
_____ (hereinafter designated as the "Principal") a contract for _____
_____ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, the undersigned Principal and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the SLDMWA in the sum of _____ DOLLARS, (\$ _____), said sum being not less than one hundred percent (100%) of the total amount of the Agreement, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the SLDMWA, its officers and agents, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorneys' fees, incurred by SLDMWA in enforcing such obligation.

The obligations of Surety hereunder shall continue so long as any obligation of Principal remains. Nothing herein shall limit the SLDMWA's rights or Principal's or Surety's obligations under the Agreement, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Principal shall be, and is declared by the SLDMWA to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the SLDMWA's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a contract between such bidder, the Surety and the SLDMWA, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the SLDMWA under the Agreement and any modification thereto, less any amount previously paid by the SLDMWA to Principal and any other set offs pursuant to the Contract Documents.

(3) Permit the SLDMWA to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the SLDMWA under the Agreement and any modification thereto, less any amount previously paid by the SLDMWA to Principal and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the SLDMWA may reject any design-builder, contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by Principal. Surety shall not utilize Principal in completing the Project nor shall Surety accept a bid from Principal for completion of the Project if the SLDMWA, when declaring Principal in default, notifies Surety of the SLDMWA's objection to Principal's further participation in the completion of the Project.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed there under shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: _____

By: _____

Surety: _____

Address: _____

Telephone: _____

Attorney in Fact: _____

(Bond Continues on Next Page)

(Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal. This bond must be accompanied by a current Power of Attorney Appointing the Attorney-in-Fact)

NOTICE:

A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF PRINCIPAL AND SURETY.

DRAFT

PAYMENT BOND
(To be Submitted with Construction Agreement)

BOND NO.: _____

PREMIUM: _____

San Luis & Delta-Mendota Water Authority

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the SAN LUIS & DELTA-MENDOTA WATER AUTHORITY (hereinafter referred to as "SLDMWA") has awarded to _____
(hereinafter designated as "Principal") an agreement for _____
_____ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as the "Agreement"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said Agreement providing that if Principal or any of its subcontractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for or about the performance of the Services contracted to be done, or for any work or labor done thereon of any kind the Surety on this bond will pay the same together with a reasonable attorney's fee in case suit is brought on the bond.

NOW, THEREFORE, we, the undersigned Principal and

_____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the SLDMWA in the sum of _____ DOLLARS, (\$ _____), said sum being not less than one hundred percent (100%) of the total amount of the Agreement, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal, its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Services contracted to be done, or for work or labor thereon of any kind, or fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Principal and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein. In case legal action is required to enforce the provisions of this bond, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to court costs, necessary disbursements and other consequential damages. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations entitled to make claims under Section 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Agreement or to the work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby

waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or to the specifications.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: _____

By: _____

Surety: _____

Address: _____

Telephone: _____

Attorney in Fact: _____

(Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal. This bond must be accompanied by a current Power of Attorney Appointing the Attorney-in-Fact)

NOTICE:

A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF PRINCIPAL AND SURETY.

SERVICES AGREEMENT
for
Maintenance, Testing, Start-up and Commissioning

This Agreement ("Agreement") is made and entered into this _____ day of September, 2025, by and between the San Luis & Delta-Mendota Water Authority, a Joint Powers Authority, acting by and through its Governing Board ("SLDMWA") and Rexel, USA, Inc., a Delaware corporation ("Contractor"). SLDMWA and Contractor may be referenced herein individually as "Party" or collectively as the "Parties."

WITNESSETH, that for and in consideration of the mutual promises, covenants, agreements, and conditions herein contained, the Parties agree as follows:

1. **THE WORK:** The Services constitute maintenance work, as defined in Public Contract Code section 22002(d), on a publicly-owned water system as well as testing, start-up, and commissioning of equipment provided by the SLDMWA, as further detailed on **Exhibit A** attached hereto. Contractor shall provide and pay for all labor, materials, equipment (except as provided by SLDMWA), tools, water, light, heat, utilities, transportation, and other facilities and services necessary for the execution and completion of the Services in accordance with the Contract Documents and any applicable code or statute, whether or not specifically described herein, as long as same is reasonably inferable there from as being necessary to produce the intended results. Contractor agrees to perform and complete in a good and workmanlike manner the work of DCI UNIT 1 & 2 MOTOR CONTROL CENTERS REPLACEMENT AND COMMISSIONING ("Services"). The Services are subject to the approval of SLDMWA's Chief Operating Officer.

In no case shall SLDMWA have any responsibility for the means, methods, techniques, sequences or procedures utilized by the Contractor or its subcontractors at any level, or for safety precautions and programs in connection with the Services.

Contractor shall give all notices and shall observe and comply with all laws, ordinances, rules, regulations, permits, rights-of-way, or orders of any public authority bearing on the performance of the Services. All Services shall be performed in accordance with Title 24, Parts 1 through 5 and 9, of the California Code of Regulations, to the extent applicable to the Services. Contractor shall conduct the Services so that all laws and ordinances for the protection of the public and the workers shall be obeyed fully by Contractor and all subcontractors.

Contractor and all subcontractors shall comply with all applicable provisions of federal, state and local safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the Services is being performed. Contractor shall be responsible for initiating, maintaining and supervising all safety measures in connection with the Work, and to the extent applicable to the Work, for maintaining all safety conditions on the Site, and for ensuring against and/or correcting any hazardous conditions on the Site. Contractor and all subcontractors shall, at all times, maintain adequate protection against injury to persons, including employees, or damage to property, on or near the project, or adjacent to the Site.

Existing signs, lights, traffic signals, control boxes, hydrants, meters, and other similar items occurring within the street or sidewalk areas shall be kept free of obstructions and accessible at all times.

Contractor shall take all necessary precautions to protect SLDMWA's structures, facilities, equipment, tools, materials, and any other property on or adjacent to the Site against damage, loss, or theft resulting from the operations, equipment, or workers of the Contractor during the course of performing the Services, and shall provide adequate security measures. Contractor shall repair or replace any damage and remove any damaged or defaced material and/or equipment from the Site at no cost to SLDMWA. Contractor shall be strictly liable for failure to adequately protect any existing improvements and/or facilities.

Any change to the Services increasing or decreasing the Contract Price must be approved in writing by the Chief Operating Officer, and may need to be approved by SLDMWA's Board.

Contractor will remove all dirt, debris, and waste generated by or during its Services from the Site, and ensure upon completion that the grounds and any adjacent sidewalks and streets are left clear and in the condition the Contractor originally found them.

2. DIR REGISTRATION: By executing this Agreement, Contractor represents that it is registered with the California Department of Industrial Relations ("DIR"), Registration number 1001190704.

3. BONDS AND INSURANCE:

Contractor shall provide to SLDMWA payment and performance bonds in an amount not less than 100 percent of the total amount payable by the terms of this Agreement before commencement of any contract Services.

Insurance to be provided as required by General Conditions Article 3.

4. LOCATION OF WORK: The Work is to be performed at the following location: SLDMWA, Delta Canal Intertie (DCI), 17601 West Grant Line Road, Tracy, CA 95391 ("Site").
5. TIME FOR COMPLETION: The Parties hereby agree that the Work shall commence on or about November 17, 2025 and shall be completed within 21 calendar days after that date ("Contract Time"). Notwithstanding anything to the contrary herein or in the Contract Documents, Contractor shall utilize commercially reasonable efforts to ensure timely performance; however, in no event shall Contractor be liable for delays outside of its control.
6. CONTRACT DOCUMENTS: The Contract Documents include this Agreement and all Exhibits hereto, payment and performance bonds, required insurance certificates, and any change orders/amendments agreed by Contractor in a signed writing ("Contract Documents"). In case of conflict, this Agreement and the General Conditions attached hereto as **Exhibit B** prevail over Contractor's quote/bid and terms and conditions associated with such quote/bid, and change orders shall govern over the original documents. In the event of a conflict between this Agreement and the General Conditions, this Agreement shall prevail.
7. SUBCONTRACTORS: Contractor represents that it shall subcontract with Eaton Corporation ("Eaton") to perform certain Services hereunder, and that Eaton shall further subcontract with Contra Costa Electric, Inc. ("CCE") to perform some of those Services. The Services to be subcontracted are further detailed on Exhibit A hereto. Other than as expressly approved in this paragraph, Contractor shall not use any subcontractors to perform any Services hereunder. All subcontractors shall be registered with DIR and shall comply with Paragraphs 8 and 10 below. Contractor expressly agrees that both Eaton and CCE shall be subject to the protections of Public Contract Code sections 4100 *et seq.*, including without limitation protections against substitution

without prior approval by SLDMWA, regardless of whether that statute would otherwise apply to these subcontractors.

8. PREVAILING WAGES AND RECORDS: Contractor and all subcontractors shall comply with and adhere to the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the DIR pursuant to Division 2, Part 7, Chapter 1, of the California Labor Code. Schedules of the prevailing rate of per diem wages are available for public inspection at the SLDMWA or can be found at <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm> and are incorporated herein by reference. Contractor shall obtain and post copies of the applicable prevailing wage rates in a prominent place at the job site, in accordance with the regulations of the DIR. Contractor shall comply with all requirements of Article 6 of the General Conditions attached hereto.
9. NONDISCRIMINATION: The Contractor shall comply with Section 1735 of the Labor Code, which provides as follows:

A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.
10. WARRANTY: Notwithstanding anything to the contrary herein or in the Contract Documents, Contractor warrants that the materials and equipment sold hereunder are new and, upon payment of the applicable invoices, free of any liens or security interests. Contractor also warrants the Services will be performed in a good and workmanlike manner and in accordance with all laws and regulations governing the Services. Contractor shall assign to SLDMWA all manufacturers' and service providers' warranties as further detailed on Exhibit A attached hereto. In no event shall Contractor's warranty on materials and equipment or Services supplied exceed the warranty given by manufacturers of the materials and equipment or the providers of the Services, including for any indemnification for intellectual property infringement. If any materials, equipment or Services are defective and covered by the manufacturer's or service provider's warranty, Contractor shall repair or replace the materials or equipment or reperform the Services in accordance with the manufacturer's or service provider's instructions and at no cost to the SLDMWA. THE ABOVE IS THE SOLE AND EXCLUSIVE WARRANTY, EXPRESS OR IMPLIED, PROVIDED BY CONTRACTOR AND IS IN LIEU OF ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER, CONTRACTUAL, LEGAL, STATUTORY OR OTHER, AND WHETHER FOR MERCHANTABILITY, QUALITY, FITNESS OR OTHERWISE, ON THE MATERIALS, EQUIPMENT AND SERVICES SUPPLIED HEREUNDER.
11. COMPLIANCE WITH WORKERS' COMPENSATION LAW: By executing this Agreement, Contractor certifies that it is aware of the provisions of Sections 3700 and following of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the statutory requirements, and Contractor will comply with such provisions, and ensure that all subcontractors comply with such provisions, before commencing the performance of any Services hereunder.
12. CONTRACT PRICE AND PAYMENT: As full compensation for the Services, SLDMWA shall pay or cause to be paid to Contractor the sum of four hundred sixty-six thousand, four hundred

thirty-nine dollars and fifty-three cents (\$466,439.53), subject to additions and deductions as provided by change order ("Contract Price"). Payment will not be made until all Services are completed to the satisfaction of SLDMWA.

SLDMWA may withhold sums from payment for any of the following:

- A. Third party claims filed or reasonable evidence indicating probable filing of such claims;
 - B. Defective work not remedied;
 - C. Failure of the Contractor to make proper payments to any of its Subcontractors or suppliers, including without limitation in response to a stop payment notice;
 - D. Failure of Contractor to comply with any lawful direction concerning the Services;
 - E. Claims and/or penalties which state law assesses against the Contractor for violation of such law;
 - F. Any claim or penalty asserted against SLDMWA by virtue of the Contractor's failure to comply with the provisions of all governing laws, ordinances, regulations, rules, and orders;
- ; or
- G. Any other material breach of the Agreement that would legally entitle SLDMWA to a set-off.

For any disputed payment, SLDMWA shall provide written notice describing its dispute to the Contractor.

13. CONTRACT CLOSEOUT AND FINAL PAYMENT: When the Contractor determines that all of its Services are complete, the Contractor shall submit to SLDMWA a certificate of completion and an application for payment, accompanied by any submittals required in the Contract Documents including schematics and wiring diagrams. Upon receipt of the Contractor's payment application, SLDMWA shall review the submittals required and verify that all of the Services are complete. Upon such verification, SLDMWA will process the payment application. The payment of undisputed sums due, excluding any sums withheld for stop payment notices, shall be made within thirty (30) days of SLDMWA's receipt of the payment application.
14. CLAIMS: The Parties hereby elect to make all Claims subject to the requirements of Public Contract Code sections 20104 *et seq.* and 9204. A summary of those provisions is set forth in in Section 9.07 of the General Conditions. To the extent that the summary therein is inconsistent with the statutes, the statutes control.
15. Intentionally omitted.
16. TERMINATION: SLDMWA may, at any time and for any reason, terminate, in whole or in part, this Agreement for SLDMWA's convenience. Termination shall be by written notice to Contractor. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue Contractor's work. Upon such termination, Contractor shall be entitled to payment of: a) Contractor's direct, actual cost of the Services incurred prior to receipt of termination notice, not to exceed the Contract Price allocable to that portion of the Services; plus b) an allowance of ten percent (10%) of those costs for Contractor's overhead and profit.

SLDMWA also may terminate this contract for cause if a) Contractor is insolvent or has made a general assignment for the benefit of creditors or b) Contractor or any subcontractor materially breaches this Agreement. Termination shall be by written notice to Contractor, after ten (10) days' written notice of and opportunity to cure any material breach. In the event of such termination, SLDMWA may, without liability, take possession of and utilize in completing the Services, Contractor's materials that are necessary for completion. In the event of a termination for cause, Contractor shall not be entitled to receive payment until the Services are finished. At that time, Contractor shall be entitled to payment of the Contract Price, less the cost to secure a replacement contractor and complete the Services, *except that* Contractor shall not be entitled to be paid more than it would be entitled to be paid under a termination for convenience.

If this Contract is terminated for cause and if it is later determined that SLDMWA was not entitled to terminate for cause, such termination automatically shall be converted to and treated as a termination for convenience.

17. INDEMNITY: Contractor shall defend with counsel reasonably acceptable to SLDMWA, indemnify, and save harmless SLDMWA and any of its officers, agents, employees, and other contractors from and against any and all losses, claims, demands, damages, costs, expenses, reasonable attorney's fees, or liability arising out of or in any way connected with Contractor's performance of the Services or with this Agreement, arising from (i) personal injury or damage to tangible property to the extent caused the negligence or willful misconduct of Contractor or its subcontractor; or (ii) any allegation that the Contractor or any subcontractor was required to be licensed or registered by the Contractors State License Board or the DIR and was not appropriately licenses or registered, on the part of the Contractor or any of its agents, employees, or subcontractors. In the event of joint or concurrent negligence each party shall only be liable to the extent of its own negligence as determined by a court of competent jurisdiction. Contractor has no obligation to indemnify SLDMWA in contravention of Section 2782 of the Civil Code for the active or sole negligence or willful misconduct of SLDMWA. The defense and indemnification requirements extend to claims occurring after this Agreement is terminated or the Services are completed.
18. LIMITATION OF LIABILITY: NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN OR IN ANY CONTRACT DOCUMENTS, EXCEPT FOR CONTRACTOR'S INDEMNIFICATION OBLIGATIONS RELATING TO CLAIMS FOR BODILY INJURY OR DEATH OF ANY PERSON OR DAMAGE TO THIRD PARTY TANGIBLE PROPERTY, A PARTY'S LIABILITY SHALL NOT EXCEED THE VALUE OF THE SPECIFIC GOODS OR SERVICES WHICH GIVES RISE TO THE CLAIM. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, LIQUIDATED, PUNITIVE, OR CONSEQUENTIAL DAMAGES.

19. EXECUTION OF CONTRACT: IN WITNESS WHEREOF, this agreement has been duly executed by the above named parties, on the day and year first above written.

REXEL USA, INC.:

(California Corporations: must be signed by company's CEO, President, or Vice President *as well as* the Secretary or CFO.)

Date

Tax I.D. Number

Signature

Signature

Print Name

Print Name

Title

Title

**SAN LUIS & DELTA-MENDOTA WATER
AUTHORITY, A Joint Powers Authority:**

Date

Pablo R. Arroyave
SLDMWA Chief Operating Officer

PERFORMANCE BOND
(To be Submitted with Construction Agreement)

BOND NO.: _____

PREMIUM: _____

San Luis & Delta-Mendota Water Authority

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the SAN LUIS & DELTA-MENDOTA WATER AUTHORITY (hereinafter referred to as "SLDMWA") has awarded to _____
_____ (hereinafter designated as the "Principal") a contract for _____
_____ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, the undersigned Principal and

_____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the SLDMWA in the sum of _____ DOLLARS, (\$ _____), said sum being not less than one hundred percent (100%) of the total amount of the Agreement, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the SLDMWA, its officers and agents, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorneys' fees, incurred by SLDMWA in enforcing such obligation.

The obligations of Surety hereunder shall continue so long as any obligation of Principal remains. Nothing herein shall limit the SLDMWA's rights or Principal's or Surety's obligations under the Agreement, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Principal shall be, and is declared by the SLDMWA to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the SLDMWA's option:

(1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

(2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a contract between such bidder, the Surety and the SLDMWA, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the SLDMWA under the Agreement and any modification thereto, less any amount previously paid by the SLDMWA to Principal and any other set offs pursuant to the Contract Documents.

(3) Permit the SLDMWA to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Principal by the SLDMWA under the Agreement and any modification thereto, less any amount previously paid by the SLDMWA to Principal and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the SLDMWA may reject any design-builder, contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by Principal. Surety shall not utilize Principal in completing the Project nor shall Surety accept a bid from Principal for completion of the Project if the SLDMWA, when declaring Principal in default, notifies Surety of the SLDMWA's objection to Principal's further participation in the completion of the Project.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed there under shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: _____

By: _____

Surety: _____

Address: _____

Telephone: _____

Attorney in Fact: _____

(Bond Continues on Next Page)

(Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal. This bond must be accompanied by a current Power of Attorney Appointing the Attorney-in-Fact)

NOTICE:

A CERTIFICATE OF ACKNOWLEDGMENT IN ACCORDANCE WITH THE PROVISIONS OF CIVIL CODE SECTION 1189 MUST BE ATTACHED FOR EACH PERSON EXECUTING THIS AGREEMENT ON BEHALF OF PRINCIPAL AND SURETY.

PAYMENT BOND
(To be Submitted with Construction Agreement)

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San Luis & Delta-Mendota Water Authority

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THAT WHEREAS, the SAN LUIS & DELTA-MENDOTA WATER AUTHORITY (hereinafter referred to as "SLDMWA") has awarded to _____
(hereinafter designated as "Principal") an agreement for _____
_____ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by Principal is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as the "Agreement"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said Agreement providing that if Principal or any of its subcontractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for or about the performance of the Services contracted to be done, or for any work or labor done thereon of any kind the Surety on this bond will pay the same together with a reasonable attorney's fee in case suit is brought on the bond.

NOW, THEREFORE, we, the undersigned Principal and

_____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the SLDMWA in the sum of _____ DOLLARS, (\$ _____), said sum being not less than one hundred percent (100%) of the total amount of the Agreement, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal, its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Services contracted to be done, or for work or labor thereon of any kind, or fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Principal and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein. In case legal action is required to enforce the provisions of this bond, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to court costs, necessary disbursements and other consequential damages. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations entitled to make claims under Section 9100 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Agreement or to the work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby

waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or to the specifications.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__, then names and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

Principal: _____

By: _____

Surety: _____

Address: _____

Telephone: _____

Attorney in Fact: _____

(Attach Attorney-In-Fact Certificate, Corporate Seal and Surety Seal. This bond must be accompanied by a current Power of Attorney Appointing the Attorney-in-Fact)

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EXHIBIT A

Response to Request for Proposal

REXEL SANTA CLARA SLDMWA TURNKEY REPLACEMENT MV AmpGard Replacement Phase #2 Pumps #1 and #2

Eaton Proposal Number **SFK5-250409-01-KJS-R2 (Revised July 24, 2025)**



Presented By: Rexel USA and Eaton Corporation
Electrical Engineering Services & Systems

Contacts:

Eaton Corporation

Electrical Engineering Service & Systems

Service Sales Representative:

Kyle Starr (SFK5)

Phone: 210-952-7730

Email: kylestarr@eaton.com

Rexel USA

Account Manager

Steven Pedroza

Phone: 669-236-7490

Email:

Steven.Pedroza@RexelUSA.com

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Project Summary

Eaton Services is proposing a Turnkey Replacement Proposal, comprised of two phases for the replacement of the (2) MV AmpGard Motor Starter for Pumps #1 and #2 per **GO# MSR0004724-006**, located [DMC and CA Intertie Plant at 17601 W. Grant Line Road, Tracy, CA.](#)

Scope of Work

Phase #2: Turnkey Removal and Replacement of (2) MV AmpGard Motor Starters for Pumps #1 and #2

Eaton Engineering Services will perform as the General Contractor, responsible for the overall "Turnkey Removal and Replacement Project" for the customer furnished/procured EATON MV AmpGard motor starter(s).

Eaton subcontractor, Contra Costa Electric will perform as the Electrical Contractor performing under the supervision of the Eaton Project Manager the following scopes of work:

- Furnish the crane and rigging equipment services necessary to perform the removal and disposal of the existing failed motor starters.
- Furnish the crane and rigging equipment services necessary to perform the lifting and landing of the new motor starter structure onto the existing concrete pad. EC to secure/fasten the motor structure to its pad/foundation.

The scope of work included in our proposal is as follows:

Per Drawings: Motor Starter Drwgs - MSR0004724

- a. 214-D-25204 DCI Discharge Butterfly Valve Unit 1 Control schematic diagram 2003-10-24
- b. 2412042 IOP top wiring 2023-06-08
- c. 2412043 IOP bottom wiring CONST 2023-12-26
- d. ASMV0TK9S01 DCI Bus B DU-1 control schematic 2012-10-16
- e. ASMV0TK9S01 DCI Bus B DU-1 control schematic 2012-10-16
- f. ASMV0TK9S03 DCI Bus B DU-2 control schematic 2012-10-16
- g. ASMV0TK9S04 DCI Bus B DU-2 control schematic 2012-10-16
- h. AWMV0TK9S02 DCI Bus B DU-1 control wiring 2022-04-26
- i. AWMV0TK9S05 DCI Bus B DU-2 control wiring 2022-04-26

Pump-2, 3B & 3D Gear

- j. Demo, removal, disposal of Pump-2 3B & 3D Gear
- k. Unloading, rigging, placement and install of Pump-2 3B & 3D Gear
- l. Disconnect/Reconnect of Pump 2 HV Motor Feeds, (No new wire accounted for)

- m. Disconnect/Reconnect of Pump 2 HV Capacitor Feed, (No new wire accounted for)
- n. Disconnect/Reconnect/Loop Check of Pump 2 RTD's (12 triads), (No new wire accounted for)
- o. Disconnect/Megger/Reconnect/ of Pump 2 CTB to DV1 (12 wires), (No new wire accounted for)
- p. Disconnect/Megger/Reconnect of Pump 2 CTB to TBD (10 wires), (No new wire accounted for)
- q. Disconnect/Megger/Reconnect of Pump 2 CTB to TBE (8 wires), (No new wire accounted for)
- r. Disconnect/Megger/Reconnect of Pump 2 CTB to ACP (2 Wires), (No new wire accounted for)
- s. Disconnect/Megger/Reconnect of Pump 2 CTB to Power (2 wires), (No new wire accounted for)
- t. Disconnect/Megger/Reconnect of Pump 2 CTB to Unknown (10 wires), (No new wire accounted for)

Pump-1, 4B & 4D Gear

- a. Procure and Install Pump 1 Temp Conduit Support for Scada Conduit/Wire.
- b. Demo, removal, disposal of Pump 1 4B & 4D Gear
- c. Unloading, rigging, placement and install of Pump 1 4B & 4D Gear
- d. Disconnect/Demo Pump Unit 1 HV Motor Feeds
- e. Disconnect/Demo Pump Unit 1 HV Capacitor Feed
- f. Disconnect/Demo Pump Unit 1 RTD's (12 triads)
- g. Disconnect/Demo Pump 1 CTB to DV1 (12 wires)
- h. Disconnect/Demo Pump 1 CTB to TBD (10 wires)
- i. Disconnect/Demo Pump 1 CTB to TBE (8 wires)
- j. Disconnect/Demo Pump 1 CTB to ACP (2 Wires)
- k. Disconnect/Demo Pump 1 CTB to Power (2 wires)
- l. Disconnect/Demo Pump 1 CTB to Unknown (10 wires)
- m. Procure/Install/Hi Pot Pump Unit 1 HV Motor Feeds
- n. Procure/Install/Hi Pot Pump Unit 1 HV Capacitor Feed
- o. Procure/Install/Loop Check Pump Unit 1 RTD's (12 triads)
- p. Procure/Install/Megger Pump 1 CTB to DV1 (12 wires)
- q. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to TBD (10 wires)
- r. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to TBE (8 wires)
- s. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to ACP (2 Wires)
- t. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to Power (2 wires)
- u. Procure/Install/Megger Disconnect/Demo Pump 1 CTB to Unknown (10 wires)

Site Acceptance Testing – Start-Up and Commissioning of the MV Motor Starters

Field Labor Services (2) each FSR Personnel Onsite for (1) week to perform in accordance with Eaton Guidelines for Site Acceptance Testing - Start Up and Commissioning including wiring inter- connections of both MV Starters (Pump #1 and #2). Upon completion of the project, Eaton will furnish a comprehensive engineering report including findings, test data and recommendations.

5 Equipment Bill of Material

See attached Appendix A for Customer Furnished Materials.

6 Pricing

Pricing for the scope of work described above is as follows:

Item	Phase #2 Installation Removal - Replacement of (2) MV AmpGard Motor Starters for Pumps #1 - #2	Distributor (NET)
001	Installation and Commissioning of 1 Structure (2) Ampgard Medium Voltage Motor Control, 4160V, 60Hz, 1200Amps, per GO#MSR0004724-006	\$466,439.53
Total Net Price:		\$466,439.53

Price for the above scope of work is based on performing site work on a weekday-day turn. If the work cannot be performed during regular working hours (6am-5pm) or must be performed on weekends or holidays, you must contact us to adjust the price accordingly. Pricing is only valid for 30 days from the issue date of this proposal.

7 Delivery

Schedule: The scheduling of work is mutually agreed by the customer and Eaton to begin **November 17, 2025**, upon receipt of finalized contract and Purchase Order by **August 5, 2025**.

8 Order Entry

Please email an electronic copy of the purchase order to Steven.Pedroza@RexelUSA.com. To ensure proper order processing, please include the following information in the PO:

- Addressed to: Rexel USA, Inc.
540 Martin Avenue
Santa Clara, CA 95050

Reference in the PO, **Rexel/Eaton proposal number SFK5-250409-01-KJS-R2**

- The ship-to address and site contact name, number and email
- The bill-to address and purchasing contact information

9 Payment

Payment terms are net 30-days and an initial payment upon receipt of purchase order may be requested. Progress payments will be required and will be based upon the following schedule:

10% payment with receipt of valid purchase order and signed contract
30% payment upon delivery of submittal drawings.
15% payment upon shipment of equipment
35% payment upon completion of installation of new equipment
10% upon completion of site acceptance tests and commissioning and approval by customer of final as built drawings submitted by Eaton.

10 Qualifications / Clarifications

- All work to be completed at straight time, Monday through Friday except for scheduled outages as defined in our proposal.
- Eaton has included ZERO minutes of safety training for the first workday.
- 3rd party UL inspection not included. Requirements for UL listed components are the responsibility of the end user.
- No time/labor included for site specific training meetings/classes/videos. If required, additional charges will apply and will be estimated on a T&M basis, billed separately from this proposal.
- Any significant delays due to adverse weather will result in additional charges, on a T&M basis.
- If straight time work is required to be performed on an overtime basis, Customer will be billed the difference between the straight time and overtime rate.
- Stand-by power needs, if deemed necessary, are not included.
- Applicable fees for outage related costs, including stand-by and re-connect services, are not included and will be billed as accrued on a T&M basis.
- Method of procedure (MOP) development or meeting time not outlined in the scope of work will be treated as an extra.
- Delays beyond the control of Eaton, extras and authorized additional work will be charged in accordance with the Eaton's Electrical Engineering Services & Systems the Current Price List PL02700001E.
- Job cancellation/reschedules/delay charges:
 - If a job is cancelled, delayed, rescheduled, or postponed 5 days or less prior to scheduled service, Eaton reserves the right to assess a charge of 35% of the purchase order value or actual costs, plus a 15% handling charge (whichever is greater)
- Waste Management:
 - Proposal includes disposal of existing damaged switchgear lineup and debris that is brought onto the construction site by Eaton and sub-contractors only. Disposal of materials not created by Eaton or subcontractor onsite will be the responsibility of others.
- Excavated soils are assumed to be non-contaminated and will be left onsite and smoothed flat
 - It is the responsibility of Customer to hire a local environmental engineering firm to perform any site-specific hazardous material testing
 - Handling or remediation of contaminated or hazardous materials or associated soil/air monitoring is not included with Eaton's scope of work.

11 Testing Clarifications

- All testing will be performed by Eaton's Electrical Engineering Services & Systems (EESS) per Eaton's standard testing guidelines unless otherwise specified.
- NETA testing is specified and will be provided by Eaton. Eaton field personnel are certified to test per NETA standards by the National Institute for Certification in Engineering Technologies (NICET) Electrical Power Certification Program. This program provides an independent verification of the capabilities, knowledge and experience of our field personnel for electrical testing.
- Testing will be completed on the specific electrical equipment, whereas, if not clearly identified, circuit breakers below 200 amperes and transformers below 75kVA are not tested.
- All test results will be evaluated in accordance with manufacturer's published data.
- No "Optional" NETA tests are included.
- Customer to provide trip unit settings and/or relay logic configuration files for protective devices. Note: Eaton can provide an adder for the required power system studies and

input/output logic. Customer to furnish SEL-710-5 Motor Protection Relay to be installed by Eaton Service.

- The isolation of cables for testing will be completed by opening the line and load devices only. No unbolting of cables for isolation has been included.
- Testing of panelboards has not been included; they will have a thermographic inspection performed only.
- Unless noted, site acceptance testing services include breakers 200A and larger and transformers 75kVA and larger only.

12 Safety Training of Eaton Field Personnel:

- All Eaton field personnel received training to comply with OSHA CFR1910 Electrical Safety Standard, which sets minimum safety rules and practices for the design, operation, and maintenance of high-voltage systems (over 600 volts). Safety standards are in place to meet or exceed NFPA 70E requirements, and appropriate Personal Protective Equipment (PPE) have been issued.
- The customer is responsible to ensure that any supporting plant personnel have also be fully trained in electrical safety and provided with the appropriate personnel protective equipment.

13 Safety Arc-Flash Provisional Statement:

The customer supplied Arc-Flash study along with their labeled equipment to meet NFPA requirements will be used to determine the Personal Protective Equipment (PPE) required to perform the work required for this proposal. When a current study and labeling is not available, the time required to determine the proper PPE will be at the current rate per hour, unless included within the Eaton scope of work. Eaton will not perform work activities in situations where the proper level of PPE is not practical. At no time will work be performed when the arc-flash exposure levels are above 40 cal/cm². **The site will be on generator only. In addition to the CFM, Arc Flash Study, an electrical hazard assessment will also be used.**

14 Division of Responsibility

a. Eaton Responsibilities:

1. Eaton will provide you with a minimum notice of 72 hours of intent to service any equipment.
2. Eaton shall furnish test engineers, field technicians, support personnel, tools, equipment, materials, supplies and transportation as required.
3. Eaton will provide and install test grounds(*SLDMWA is in charge of all safety locks and safety grounds, except for test grounds*), Eaton will request from SLDMWA additional safety locks and safety grounds, as necessary.
4. as required, and in accordance with the facility safety guidelines. Eaton will review and accept the Clearance limits, locks, and grounds
5. Eaton will perform voltage test and install necessary circuit / equipment safety grounds to assure safe working conditions
6. Upon completion of work:
7. Eaton will remove safety grounds installed by Eaton
8. Eaton will remove safety locks installed by Eaton.

b. Customer Will Be Responsible for the Following:

Providing free access to equipment within their facility.

1. Ensuring that all equipment is available upon arrival of Eaton personnel, including removal from service to permit continuous progression of work. Delay time in making equipment available will be treated as an extra.
2. Identifying site contact for this project.
3. Providing electricians to remove equipment covers and re-install the same when required.
4. Coordinating all outages and perform all switching to de-energize and isolate equipment to be serviced.
5. Ensuring that all circuits to be de-energized have been clearly identified and that all plant personnel and downstream operations are aware of the required outage date, time and duration. This includes maintaining power to vital or necessary plant equipment and processes during the performance of this scope of work.
6. Providing a copy of the past maintenance records to Eaton personnel.
7. Providing manufacturers maintenance manuals upon arrival of Field Engineer/s.
8. Supplying a complete set of electrical plans, including the plant single-line diagram, specifications, and any pertinent change orders to Eaton before commencement of work.
9. Supply a suitable and stable source of power for operation of test and motorized equipment at each test site when normal power is removed or authorize Eaton to obtain a source of auxiliary power, Eaton shall specify requirements. Any non-standard generators rentals will result in a price adder to this proposal.
10. Providing a place to receive and unload replacement equipment, test equipment or other supplies.
11. Providing special tools supplied by equipment manufacturers.

15 Proprietary and Confidential Information

This submittal contains Eaton proprietary and confidential information, which may only be used by SLDMWA to evaluate and respond to this submittal. By accepting this submittal from Eaton, SLDMWA agrees to not use this submittal, or any information contained herein, in any manner adverse to Eaton's interests; to keep in confidence the submittal and all information contained; and to not disclose to any third party or publish this submittal, any portion thereof, or any information contained herein without Eaton's prior written consent.

16 Terms and Conditions

Any order arising out of this offer will be governed by the conditions contained in Eaton Selling Policy 25-000 effective September 1, 2021 or other mutually agreed upon terms and conditions by both parties, in writing. Taxes, if applicable, are not included. This offer is valid for 30 days unless otherwise extended, modified or withdrawn, in writing, by Eaton. Payments are due and payable net within thirty (30) days from the date of each invoice. A 3% surcharge will be added to all credit card transactions except where prohibited. Third party billing will be subject to an additional 15% fee

Sincerely,

Kyle Starr

Lead Service Sales Engineer
EATON CORPORATION
Electrical Services and Systems Division
5735 Suite #100 W. Las Positas Blvd.
Pleasanton, CA. 94588
KyleStarr@eaton.com
Mobile: (210) 952-7730
after hours emergency [\(800\) 498-2678](tel:8004982678)



Powering Business Worldwide



Eaton's Electrical Engineering Services & Systems

List rates (rates are per hour, USD) ^{AB}

Service classifications	Straight	Overtime	Premium
In-shop technician	\$250	\$365	\$480
Field service technician	\$310	\$440	\$580
Field service specialist/engineer	\$310	\$545	\$720
Remote service specialist	\$410	\$540	\$720
Power automation specialist	\$480	\$710	\$940
Power systems engineer	\$480	\$710	\$940
Special consultant/forensic analysis	\$590	\$870	\$1,160
CAD technician	\$220	\$320	\$420
Project coordinator	\$280	\$410	\$530
Construction manager	\$410	\$600	\$800
Design engineer	\$410	\$600	\$800
Scheduler	\$410	\$600	\$800
Project manager	\$480	\$705	\$940
Project/principal engineer	\$480	\$705	\$940
Safety specialist	\$480	\$705	\$940
Quality specialist	\$480	\$705	\$940
Excitation specialist	\$570	\$845	\$1,120

^A Cost savings can result from flexibility in scheduling of field personnel, scopes of work that can be completed simultaneously, or other site specific factors. Please contact your local EESS District Operating Center (DOC) for potential cost savings.

^B Firm fixed pricing can be provided based on a specified scope of work and a site visit by EESS, if required.

Note: Additional expenses may apply.

Service rates, USA

Eaton's Electrical Engineering Services & Systems (EESS) division provides energy and power solutions to help our customers' power distribution and control equipment operate more efficiently, effectively, safely and sustainably. Field services include switchgear modernization, maintenance, emergency response, startup and commissioning, acceptance testing, troubleshooting and repair, regardless of manufacturer.

Minimum billing

Technicians and field service specialists are billed at a 4-hour minimum for travel and services performed in 1–4 hours. For travel and services performed in 5–8 hours, the minimum is 8 hours. All other service classes are an 8-hour minimum.

Firm fixed price

Options for pricing a contract on a firm fixed basis are available.

Service classifications

The following are examples of work performed by classification (including, but not limited to):

- **In-shop technician:** Routine work (e.g., breaker reconditioning) performed on Eaton premises
- **Field service technician:** Non-complex startup and commissioning, acceptance testing, maintenance and repair
- **Field service specialist/engineer:** Complex startup and commissioning, system troubleshooting, relay setting and testing, customer training, maintenance and repair work; typically requires a higher level of training and experience than technician work
- **Remote service specialist:** Complex system troubleshooting and issue remediation guidance completed remotely using advanced technology and technical information
- **Power automation specialist:** Automation design and system integration
- **Power systems engineer:** Electrical system design, power system studies, arc flash analysis, project management and energy management services
- **Special consultant/forensic analysis:** Large/complex system design and analysis, failure and accident investigations and excitation support
- **CAD technician:** Incorporates sketches and concepts into AutoCAD, supporting the design process for facility layouts and electrical one-line diagram
- **Project coordinator:** Provide product delivery, claims/returns and project information
- **Design engineer:** Engineering and technical support for power systems studies, design, installation, startup, maintenance, repair and training
- **Construction manager:** Manage field operations including material, equipment tracking and subcontractors
- **Scheduler:** Management of customer orders, order entry, change orders and tracking through delivery
- **Project manager:** Project management of engineering, procurement and construction of electrical power system
- **Project/principal engineer:** Project design, development and oversight
- **Safety specialist:** Safety program management
- **Quality specialist:** QA/QC management
- **Excitation specialist:** Excitation system design and integration

Time classifications

- **Straight time:** Monday through Friday, normal business hours up to 8 hours
- **Overtime:** Monday through Friday, 8–12 hours or outside of normal business hours, Saturday up to 8 hours
- **Premium:** Monday through Friday, more than 12 hours, Saturday more than 8 hours, Sundays and holidays

An emergency surcharge of 15% may apply to work not previously scheduled at least 3 working days before commencement.

Other rates

- **Materials:** Costs include a handling charge of 35%
- **Equipment:** Lease or rental rates will be billed as appropriate and necessary
- **Contract labor/authorized service provider:** Will be billed at current local rates, plus a handling charge
- **Technical coordinators:** Will be billed at \$202/hr.
- **Travel:** Travel and living expenses, plus a handling charge of 25%
- **Travel time:** Based on portal-to-portal time for each person, not to exceed 8 hours per day, plus a handling charge
- **Mileage:** For standard-type vehicles, mileage is billed at \$2.65/mile
- **Standby time:** When service personnel are on the job site but are unable to perform services requested due to circumstances beyond EESS control, the customer will be billed at applicable rates
- **Job cancellation/delay charges:** If a job is cancelled, delayed, or postponed 5 days or less prior to scheduled service, EESS reserves the right to assess a charge of 35% of the purchase order value or actual costs, plus a 15% handling charge (whichever is greater)
- **Environmental:** Regulatory compliance fees will be charged where applicable
- **Off-site services:** The off-site labor hours required to perform the requested services will be billed at applicable rates. These hours may include job preparation, project management, design services, report writing, preassembly and other services as appropriate
- **High Cost Areas (HCA):** For work performed in Hawaii, Alaska, Puerto Rico, US Virgin Islands and the metropolitan areas of Los Angeles, CA; San Diego, CA; San Francisco, CA. Detroit, MI; Boston, MA; Chicago, IL; New York, NY; Seattle, WA; Philadelphia, PA, add 15% to each applicable rate classification
- **Deposition and court time:** Billed at the current special consultant/forensic analysis premium rate

EESS reserves the right to partial invoice based on progressive work scope and material delivery.

For contractual information, please refer to Eaton's standard Selling Policy 25-000.

For services performed in Canada, please refer to our Canadian Price List—Publication No. PL02700002K. For other regions, contact your local service manager for a quotation, or refer to our International Price List—Publication No. PL02700001Z.

We are the only factory-authorized service provider for Westinghouse, T Cutler-HammerE series, Cooper PowerE series, Bussmann series, Crouse-HindsE series and Eaton power distribution and control equipment.

For 24-hour emergency service, call 800-498-2678.

For further information on Eaton's electrical service offerings and locations, please visit Eaton.com/service.

Eaton
1000 Eaton Boulevard
Cleveland, OH 44122
United States
Eaton.com

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Printed in USA
Publication No. PL02700001E / Z28200
November 2023



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APPENDIX - A

Detail Bill of Material

Project Name: SLD MWA MV STARTERS
2024

Negotiation No: SFK3-240910-01-EP

General Order No:

Alternate No: 0000

Item No.	Qty	Product	Description
	1	Medium Voltage Control	Ampgard Medium Voltage Motor Control, NEMA 1A (w/Gasketing), 4160V, 60 Hertz, 1200 Amps Main bus.

Qty List of Materials

- 2 Character Color/Nameplate Color - White on Black
- 1 Warning Labels in English Only
- 1 System BIL is 60kV
- 2 Control Wire Marker - Sleeve Type
- 2 Control Wire Designation: Wire number only
- 1 Equipment Rated to work at 40C, 3281FT (1000 M)
- 1 Manufacturing Complexity Code A
- 2 Customer Terminals: Ring Tongue
- 2 Replacement of structure 4 for 'MSR0004724-006'. Controls to match ref order
- 2 Custom LV door
- 2 LV controls in upper compartment. MV cell in lower compartment.
- 2 Standard Structure
- 2 NEMA 1A (w/Gasketing)
- 2 PT Bus
- 2 4160V 60Hz 1200A Sleeve Insulated Copper Main Bus, 50ka Bracing
- 2 SilverPlated Copper Bus, Complete Bus
- 2 400A FLA 1-187, FVNR, Bolted Contactor Connection
- 2 Local Start/Stop Push Buttons Control Circuit
- 2 2KVA CPT
- 2 Control Voltage 120VAC
- 2 Clipped Fuse Mountings for 400A Starter
- 2 Main Contactor Drop Out Time 130ms
- 2 Load Cable Entry Bottom
- 2 Starter Isolation Switch
- 2 Current Limiting Power Fuses
- 2 Current Transformers
- 2 Main Contactor Roll-In/Roll-Out
- 2 Low Voltage Control Compartment
- 2 Set of Control Circuit Terminal Blocks
- 2 Interposing Relay 3NO 1NC
- 2 6 Pole CT Shorting Terminal Block (has GFCT terminals)
- 8 Lug Set: Crimp Type 2 Hole (#4 AWG)
- 2 Other (2) Position Selector Switch
- 2 30mm (10250T) Red Run/Close Indicating Light, PTT LED
- 2 30mm (10250T) Green Off/Open Indicating Light, PTT LED
- 2 30mm (10250T) Blue Indicating Light, PTT LED
- 2 30mm (10250T) Red Indicating Light, PTT LED
- 2 30mm (10250T) Green Indicating Light, PTT LED
- 4 30mm (10250T) Amber Indicating Light, PTT LED
- 2 30mm (10250T) White Indicating Light. PTT LED
- 2 30mm (10250T) Blue Indicating Light, PTT LED
- 2 30mm (10250T) Start Pushbutton
- 2 30mm (10250T) Stop, Emergency Pushbutton
- 2 GFCT 50/5
- 2 Timing Relay, Electronic for Starter
- 10 AR 4 Pole Relay for Starter
- 2 2.5" Panel Mount Elapsed Timer Meter (hours), Non-resettable for Starter
- 2 30mm (10250T) Reset Pushbutton
- 2 Panel Mount Operations Counter, 6 Digit, Resettable for Starter
- 2 Lockout Relay (Device 86) Electroschwitch for Starter

Detail Bill of Material

Project Name: SLDMWA MV STARTERS
General Order No:

Negotiation No: SFK3-240910-01-EP
Alternate No: 0000

Qty	List of Materials
2	Mtr. Space heater Disc. Contactor Interlock
2	Blank Auxiliary Compartment
2	Special Nameplates
1	Total Freight Price

Eaton Selling Policy 25-000 applies.

All orders must be released for manufacture within 90 days of date of order entry. If approval drawings are required, drawings must be returned approved for release within 60 days of mailing. If drawings are not returned accordingly, and/or if shipment is delayed for any reason, the price of the order will increase by 1.0% per month or fraction thereof for the time the shipment is delayed.

Seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic, and Buyer shall not be entitled to any damages resulting thereof.

Ampgard Medium Voltage Motor Control General Information

Specification

Service Voltage:	4160	Enclosure Type:	NEMA 1A (w/Gasketing)
Labeling:	UL	Altitude:	-3280.8FT to 6561.7FT (-1000M to 2000M)
Fuse Mounting:	Clip-In 400A, Bolt-In 800A	Contactor Electrical Connection:	Bolt-In 400A, Stab-In 800A
Symmetrical kA Rating:	50		

Bus Specification

Main Horizontal Bus:	1200	Bus Density:	Standard
Plating:	Silver Plating, Complete Bus	Insulated:	Yes
Ground Bus 1/4" x 2", 600A:		Ground Bus Plating:	Unplated (Standard)
Left Side Coordination:	NG Ampgard	Left Connection Type:	Bolted
Right Side Coordination:	None	Right Connection Type:	
Breaker Alignment:	No Breaker In Line-up		

Global Specifications

Seismic Rated (6" Clearance):	No	Steel Bottom:	No
Channel Sills:	None	Mimic Bus:	No
Back to Back:	No	Aluminum Lead Plates:	No
Exterior Paint:	ANSI-61 Light Gray	Interior Paint:	
Window In All Starter Doors:		Window In All LBS Doors:	No

Miscellaneous Specifications

Nameplate Material:			
Nameplate Color:	White on Black		
Compartment Interior Markers:	Typed Vinyl Tape (White w/Black Letters)		
Back of Door Markers:	None		
Starter Lift Truck:	No	Breaker/Starter Lift Dolly:	No
Breaker Only Dolly:	No	Additional O&M Manuals:	
Witness Testing		Customer Inspection	

Wiring Options

Wire Markers:	Sleeve Type	Wire Terminals:	Ring Tongue
Control Wire Gauge:	#14	Controls Wire Color:	Red
CT Wire Gauge:	#12	CT Wire Color:	Color Coded
Ground Wire Color:	Green, Yellow stripe	Conduit:	
Spare Contacts Wired Out:			

Space Heater Bus

Cubicle Space Heater Bus:	None	Motor Space Heater Bus:	None
---------------------------	------	-------------------------	------

Two Wire Bus

DC Bus:	No	Communications Bus:	
UPS Bus:		Test Power Bus:	No
Control Power Bus:	No	Other Two Wire Bus:	

Other Buses

PT Bus:	Yes	Other Three Wire Bus:	
Other Four Wire Bus:			

Lugs

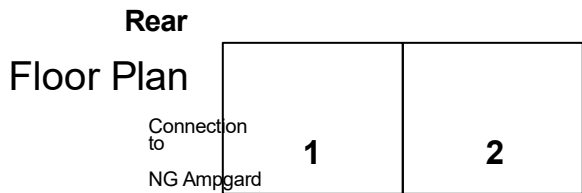
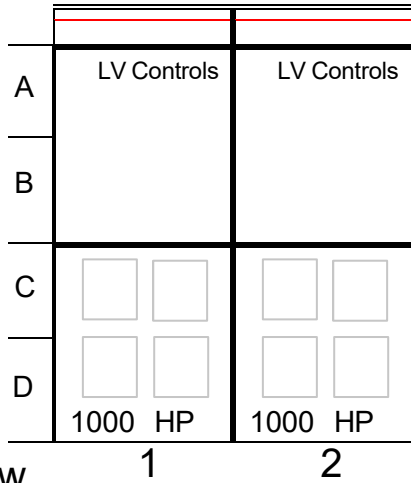
Main Lugs Type:	None	Line-Up Ground Lugs:	No
Load Lugs Type:	Crimp Type 2 Hole		
Ground Lugs Type:	Crimp Type 2 Hole		

Lead-Time:

The information on this document is created by Eaton. It is disclosed in confidence and it is only to be used for the purpose in which it is supplied.

PREPARED BY DYLAN LAVALLEE	DATE 9/10/2024	Eaton Asheville, NC			
APPROVED BY	DATE	JOB NAME SLDMWA MV STARTERS			
VERSION 1.2.3.2	TYPE Ampgard MV Motor Control	DRAWING TYPE Customer Appr.			
REVISION 0	DWG SIZE A	G.O.	ITEM	SHEET 1 of 5	

NEG-ALT Number
SFK3-240910-01-EP ALT: 0000



Structure	1	2				
Ship-Inches		72				
Ship-MM		1828				
Width-Inches	36.00	36.00				
Width-MM	914	914				
Depth-Inches	30	30				
Depth-MM	762	762				
Height-Inches	92	92				
Height-MM	2336	2336				
Weight-Lbs.	1300	1300				
Weight-Kg	589	589				

The information on this document is created by Eaton. It is disclosed in confidence and it is only to be used for the purpose in which it is supplied.	PREPARED BY DYLAN LAVALLEE		DATE 9/10/2024		Eaton Asheville, NC	
	APPROVED BY		DATE		JOB NAME Quotes 2024	
	VERSION 1.2.3.2		TYPE Ampgard MV Motor Control		DRAWING TYPE Customer Appr.	
	REVISION 0		DWG SIZE A		G.O.	SHEET 2 of 5
NEG-ALT Number SFK3-240910-01-EP ALT: 0000					ITEM	

Global Special Modifications

Custom LV door

Special Nameplates

1 Starter

No Composite Match

Catalog Number:

AC364CE

Catalog Number:

S210C4BE

Entered Power Value: 1000

Control Power Transformer: 2 KVA

Mechanical Latch: None

Space Heater Rating: None

Ride Through Circuit: 130ms

Incoming Line Direction:

Cable Size:

Incoming Load Direction:

Cable Size:

Number of Cables:

Number of Cables:

Ground Size:

Ground Size:

Number of Grounds:

Number of Grounds:

Starter Isolation Switch

Current Limiting Power Fuses

Current Transformers

Main Contactor Roll-In/Roll-Out

Low Voltage Control Compartment

Set of Control Circuit Terminal Blocks

Interposing Relay 3NO 1NC

6 Pole CT Shorting Terminal Block (has GFCT terminals)

Other (2) Position Selector Switch

30mm (10250T) Red Run/Close Indicating Light,
PTT LED

30mm (10250T) Green Off/Open Indicating Light,
PTT LED

30mm (10250T) Blue Indicating Light, PTT LED

30mm (10250T) Red Indicating Light, PTT LED

30mm (10250T) Green Indicating Light, PTT LED

30mm (10250T) Amber Indicating Light, PTT LED

30mm (10250T) White Indicating Light. PTT LED

<p>The information on this document is created by Eaton. It is disclosed in confidence and it is only to be used for the purpose in which it is supplied.</p>	PREPARED BY DYLAN LAVALLEE		DATE 9/10/2024		Eaton Asheville, NC	
	APPROVED BY		DATE		JOB NAME Quotes 2024	
	VERSION 1.2.3.2		TYPE Ampgard MV Motor Control		DRAWING TYPE Customer Appr.	
	NEG-ALT Number SFK3-240910-01-EP ALT: 0000		REVISION 0	DWG SIZE A	G.O.	ITEM SHEET 3 of 5

30mm (10250T) Blue Indicating Light, PTT LED
30mm (10250T) Start Pushbutton
30mm (10250T) Stop, Emergency Pushbutton
GFCT 50/5
Timing Relay, Electronic for Starter
AR 4 Pole Relay for Starter
2.5" Panel Mount Elapsed Timer Meter (hours),
Non-resettable for Starter
30mm (10250T) Reset Pushbutton
Panel Mount Operations Counter,6 Digit,
Resettable for Starter
Lockout Relay (Device 86) Electros witch for
Starter

2 Starter

Structure Composite Drawing: No Composite Match

Unit 2B Auxiliary Compartment-Blank Auxiliary
Compartment

Catalog Number: AC364CE

Unit 2D Starter-400A FLA 1-187, FVNR, Bolted Contactor
Connection

Catalog Number: S210C4BE

Power Units: HP

Entered Power Value: 1000

Control Power Transformer: 2 KVA

Mechanical Latch: None

Space Heater Rating: None

Ride Through Circuit: 130ms

Incoming Line Direction:

Cable Size:

Incoming Load Direction:

Cable Size:

Bott
om
#4
AW
G
2
#4
AW
G
2

Number of Cables:

Ground Size:

Number of Cables:

Ground Size:

Number of Grounds:

Number of Grounds:

Starter Isolation Switch

Current Limiting Power Fuses

Current Transformers

Main Contactor Roll-In/Roll-Out

Low Voltage Control Compartment

Set of Control Circuit Terminal Blocks

Interposing Relay 3NO 1NC

6 Pole CT Shorting Terminal Block (has GFCT
terminals)

Other (2) Position Selector Switch

30mm (10250T) Red Run/Close Indicating Light,
PTT LED

30mm (10250T) Green Off/Open Indicating Light,

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the purpose in which it is supplied.

PREPARED BY DATE
DYLAN LAVALLEE 9/10/2024

Eaton Asheville, NC

APPROVED BY DATE JOB NAME
DESIGNATION Quotes 2024

VERSION TYPE DRAWING TYPE
1.2.3.2 Ampgard MV Motor Control Customer Appr.

NEG-ALT Number REVISION DWG SIZE G.O. ITEM SHEET
SFK3-240910-01-EP ALT: 0000 0 A 4 of 5

PTT LED
30mm (10250T) Blue Indicating Light, PTT LED
30mm (10250T) Red Indicating Light, PTT LED
30mm (10250T) Green Indicating Light, PTT LED
30mm (10250T) Amber Indicating Light, PTT LED
30mm (10250T) White Indicating Light. PTT LED
30mm (10250T) Blue Indicating Light, PTT LED
30mm (10250T) Start Pushbutton
30mm (10250T) Stop, Emergency Pushbutton
GFCT 50/5
Timing Relay, Electronic for Starter
AR 4 Pole Relay for Starter
2.5" Panel Mount Elapsed Timer Meter (hours),
Non-resettable for Starter
30mm (10250T) Reset Pushbutton
Panel Mount Operations Counter,6 Digit,
Resettable for Starter
Lockout Relay (Device 86) Electros witch for
Starter

The information on this document is created by Eaton. It is disclosed in confidence and it is only to be used for the purpose in which it is supplied.	PREPARED BY DYLAN LAVALLEE		DATE 9/10/2024		Eaton Asheville, NC	
	APPROVED BY		DATE		JOB NAME Quotes 2024	
	VERSION 1.2.3.2		DESIGNATION		DRAWING TYPE Customer Appr.	
	TYPE Ampgard MV Motor Control		G.O.		SHEET 5 of 5	
NEG-ALT Number SFK3-240910-01-EP ALT: 0000	REVISION 0	DWG SIZE A		ITEM		

APPENDIX - B



Eaton Corporation
221 Heywood Road
Arden, NC 28704

Medium Voltage Starters

Witness Test Procedure.

The following Procedure provides Eaton's "Witness Test Standards" for performing factory witness test.

These guidelines do not cover all details, variations, or combinations of the equipment, its installation, checkout, and safe operation. Care will be exercised to comply with local, state, and national regulations, as well as safety practices for this class of equipment.

All switchgear will be operated and tested by qualified Eaton personnel as defined by OSHA 29CFR1910 subpart 5 and NFPA 70E.



**ALL OPERATIONS INVOLVING TEST EQUIPMENT OR EQUIPMENT
ENERGIZATION WILL BE CONDUCTED BY CUTLER-HAMMER ON SITE
PERSONNEL.**

For a complete list of Instruction Leaflets (IL's) and Instruction Bulletins (IB's), access the Eaton website at <http://www.eaton.com/>.



Supplied Materials

- ☐ PDF of drawings
- ☐ Agenda
- ☐ Teleconference Details

Prior to Testing

- 1) Review:
- ☐ Construction drawings associated with the equipment being tested
 - ☐ Site safety rules and emergency procedures

Inspection and Test Procedures

A FINAL REVIEW OF COMMENTS/DEFICIENCIES WILL BE CONDUCTED AT CONCLUSION OF TESTING.

1) Visual:

- ☐ The device nameplate information is identical with the switchgear drawings
- ☐ Check starters, fuses and capacitors to ensure they have the proper ampere, voltage and interrupting rating
- ☐ Verify all high voltage labels, UL labels and ANSI require labels are visible
- ☐ Auxiliary devices such as protective devices, meters, control switches are installed and wired
- ☐ Confirm all VT and CT ratios properly correspond to drawings
- ☐ Confirm primary and secondary fuse ratings match drawings
- ☐ Verify meter scaling and type match drawings
- ☐ Verify Cubicle Heaters and Thermostat installed (if applicable)
- ☐ Verify correct cable entry positions i.e. top entry/bottom entry
- ☐ Verify correct cable lugs (if required)

2) Mechanical:

Verify Interlocks

- ☐ Ensure Handle in a closed position prevents opening of medium voltage door
- ☐ Check proper operation of detent with medium voltage door open
- ☐ With contactor closed ensure isolation switch cannot be operated

Verify Contactor/Breaker

- ☐ Check primary disconnects, insulators and inter-phase barriers
- ☐ Check isolation switch linkage and shutters

Verify Mechanical Contactor/Breaker Operation

- ☐ Open and close each isolation switch and verify shutter operation is correct and complete
- ☐ Open and close each Potential Transformer door(s) check for interferences (if applicable) and confirm door interlock prevents opening of the door when the Handle is in the closed position

3) Electrical:

The protective relay, metering, and control settings must be supplied by the customers' engineer or from a Power System Study performed prior to commissioning.

Apply Control Power to the Starter

Verify Electrical Starter Operation

- ☐ Open and close each starter/breaker electrically
- ☐ Open and close each starter/breaker from remote terminals (if applicable)
- ☐ Close starter/breaker, trip starter utilizing protective relay (if applicable)

- ☐ Verify all indicating lights and push buttons operate properly

Verify Metering

- ☐ Functionally test metering devices by energizing circuits to rated values

4) Customer Comments

- ☐ Complete 'QA Form 113 Customer Witness Test' and submit to appropriate product line representative

5) Revisions

2. Updated and submitted for approval
 3. Updated grammar, added additional checks, and corrected spelling error
 4. Updated for virtual operation
-

Solid-State Reduced Voltage Starter Medium Voltage

Medium Voltage Solid-State Reduced Voltage Starters, covered by this guideline, are comprised of Eaton Corporation type MV4S medium voltage Solid-State Reduced Voltage Starters. Other manufacturers of similar type are covered by this guideline as well.

Eaton Corporation has identified that warranty-related costs may be associated with improper site testing by groups which are not factory trained. Eaton Corporation offers a Standard 2-Year Warranty on Eaton Corporation products, when all engineering studies and site acceptance testing is completed by Eaton's Electrical Engineering Services & Systems (EESS).

The following guideline provides EESS "Accepted Standards" for performing site testing services as recommended by the manufacturer. These guidelines do not cover all details, variations, or combinations of the equipment, its installation, checkout, and safe operation. Care must be exercised to comply with local, state, and national regulations, as well as safety practices for this class of equipment.

Consult specific instruction manuals and drawings for detailed installation and operating procedures. Medium Voltage Solid-State Reduced Voltage Starters should be installed, operated, and maintained by qualified personnel as defined by OSHA.

DO NOT ATTEMPT TO INSTALL OR WORK ON EQUIPMENT WHILE IT IS ENERGIZED



Always verify that no voltage is present before proceeding with testing. Assume all circuits are energized. Confirm primary sources of power are disconnected, tagged, and locked out. Always follow all local, state, and national regulations including OSHA requirements and generally accepted safety procedures.

For a complete list of Instruction Leaflets (IL's) and Instruction Bulletins (IB's), access the Eaton Corporation website at www.eaton.com/electrical.

PART 1 SITE ACCEPTANCE TESTING

1.01 MECHANICAL AND VISUAL INSPECTION

- A. Examine the solid-state reduced voltage starter installation
 - 1. Shipped loose and shipped short components
 - 2. Shipping damage
 - 3. Loose or obviously damaged components
 - 4. Proper identification
 - 5. Physical damage from installation
- B. Inspect:
 - 1. Mounting of the assembly
 - 2. Inspect grounding connections
 - 3. Insulators for evidence of physical damage or contaminated surfaces.
 - 4. Wiring for damaged insulation, broken leads, proper crimping, and overall general condition
- C. Review the solid-state reduced voltage starter sizing with the motor sizing and application requirements.
- D. Review automation system to be used (as applicable) with solid-state reduced voltage starter
- E. Perform safety inspection of the solid-state reduced voltage starter installation and its associated equipment.
 - 1. Tag and lock out all power sources to the solid-state reduced voltage starter according to the end users and commissioners policies until the commissioner is prepared to energize the solid-state reduced voltage starter.
 - 2. Perform a walk around of the application and equipment to determine level of preparedness for operation.
 - 3. Test all safety interlock operation
 - 4. Survey the installation environment to ensure it is safe and is within Eaton solid-state reduced voltage starter ambient specifications (<40 Degrees C) for operation.
 - 5. Establish whether solid-state reduced voltage starter testing will be performed with or without its load attached.
 - 6. Have end user representative prepare equipment if necessary for integrated testing.
- F. Review solid-state reduced voltage starter installation and its connected load for proper installation.
 - 1. Record motor nameplate information.
 - 2. Verify correct enclosure type for environment
 - 3. Verify load cables are < 1000ft of total cable.
 - 4. Note any load side capacitance that may adversely interact with soft-start including the motor terminal box.
 - 5. Incoming power, outgoing motor, and control wiring are each in their own conduit.
 - 6. All wiring has been accomplished to manufacturer's specifications for the size of the solid-state reduced voltage starter and its connected load.
 - 7. The solid-state reduced voltage starter is clean and free of installation debris, equipment, or tools.

1.02 INITIAL ENERGIZATION

- A. Perform Pre-Power checks.
 - 1. Perform continuity tests on all power and control fuses.
 - 2. Check connection of all fiber optic connections from the CPU board to the MV4S truck. Physically tug on all cables to make sure they are firmly seated.
 - 3. Review cable and motor SAT test results.
- B. Perform initial power on safety checks.

Site Acceptance Testing & Start-up Guideline

Solid-State Reduced Voltage Starter – Medium Voltage

January 2015

1. With the isolation switch in the off position plug an extension cord into the test plug in the low voltage control compartment.
2. Verify power-up of the control circuit, especially the motor protective relay (MPR) and MV4S control in the lower compartment. Verify green LEDs lit on all MV4S poles.
3. Verify programming of the MPR including programming notes on the schematic. Relay should NOT be set for reduced voltage operation.
4. Verify programming of the MV4S. Protection settings on the MV4S are backup for the MPR settings only and can be turned off or set to guard band positions. Guard band is defined as 10% wider than MPR settings.
5. If PT bus is used, read the voltage on all applicable starter metering and verify it reads correct with actual bus voltage.
6. Remove extension cord and replace test plug.

C. Powered Checklist

1. Close isolation switch and verify power-up of the control circuit.
2. Verify operation of the starter by performing a low output test.
3. Bump for rotation by placing the MV4S in jog mode and raising the jog voltage gradually.
 - a. Have customer representative confirm that the motor is ready to rotate.
 - b. Bump the motor to check it's direction of rotation in the following order:
 1. Check rotation from the solid-state reduced voltage starter.
 2. After checking solid-state reduced voltage starter rotation if a bypass is used, check rotation from the bypass.
4. Initiate a momentary start-stop sufficient to cause motor rotation and determine optimal starting voltage.
5. Place the MV4S in voltage ramp mode unless the current limit mode is specifically desired.
6. On set point page 2, enter the optimum starting voltage from the step above as initial voltage. Set ramp time to appropriate value.
7. On set point page 8, enter the expected acceleration time plus five seconds.
8. Obtain the maximum allowable start time from motor data sheet or motor manufacturer's representative.
9. Initiate a start. If problems are encountered consult the MV4S Troubleshooting Guide.

Whenever the motor has been started and run, if even for a portion of start-up, allow 15 minutes for the snubber capacitors on the poles to discharge before touching the poles. A tic tracer will not register a DC voltage

10. Program any additional solid-state reduced voltage starter parameters as specified by the customer and in accordance manufacturer's model-specific instructions

D. Operation of the RVSS and Motor

1. It is preferred that the testing from this point on be done with the motor coupled to the normal operating load.
2. Testing of an unload application or just a motor is valid but should be noted in the commissioning documentation.
3. Perform operational checks in accordance with manufacturer's model-specific instructions

1.03 AFTER TESTING

A. Final Inspection:

1. Verify that the equipment is thoroughly clean. Notify the customer if the equipment is not clean.

B. Finish recording data on the EESS data form, completely filling in all the appropriate blocks

Site Acceptance Testing & Start-up Guideline

Solid-State Reduced Voltage Starter – Medium Voltage

January 2015

- C. Note corrective actions taken, deficiencies and recommendations, and any general comments
- D. Forward a copy of the Commissioning Report Form, marked prints of any circuit changes, and the settings files of the MV4S and MPR to the factory.
- E. Apply an EESS test sticker to the equipment
- F. Review and organize all test results and forms
- G. Contact a customer representative to report results and follow-up actions
- H. Write and submit a formal report

PART 2 ADDITIONAL SITE SERVICES

2.01 STARTUP AND ENERGIZING SERVICES (TIME AND MATERIAL SERVICES)

- A. Initial energization on-site support
- B. Voltage Phasing and/or Rotation tests
- C. Program motor protective device addresses for microprocessor-communication packages
- D. Perform typical operational checks including:
 - 1. Measure and record motor voltage and compare to solid-state reduced voltage starter display
 - 2. Measure and record motor current and compare to solid-state reduced voltage starter display
 - 3. Measure and record line voltage and line current
 - 4. Perform full power motor run
 - 5. Confirm control systems function

2.02 FUNCTIONAL PERFORMANCE TEST

- A. Perform system function tests. The system function tests must prove the correct interaction with external control processes.



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Printed in USA
Publication No. SATSU-15-1 Solid-State Reduced Voltage Starter – Medium Voltage
January 2015



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3. **PAYMENT AND SET OFF:** Payment terms are 30 days net from the invoice date or upon such other terms approved by Seller in writing. Retainage shall not apply, and Buyer shall not hold back any retainage from Seller, even if retainage is part of any contract between Buyer and any other party. Payment is not contingent on Buyer's ability to collect or obtain funds from any other party. Credit card sales are billed at the time of purchase. Buyer expressly represents it is solvent at the time it places any order with Seller. Seller, in its sole discretion, may determine that Buyer's financial condition requires full or partial payment prior to manufacture or shipment. Seller may obtain and use your credit history for credit evaluation purposes. Seller may apply payments to any outstanding invoices unless Buyer provides specific payment direction. Seller may at all times set off any amount that Buyer, or any affiliate of Buyer, owes to Seller against any amount that Seller, or any Seller affiliate, owes to Buyer.

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5. **TITLE AND RISK OF LOSS OR DAMAGE:** As to Goods delivered by Seller's truck, title passes upon delivery at the place Buyer receives possession; and, thereafter, all risk of loss or damage shall be on Buyer. All other sales are F.O.B., point of shipment, and Buyer takes title and assumes responsibility for risk of loss or damage at the point of shipment for such sales. Claims for Goods damaged in transit are Buyer's sole responsibility when not delivered by Seller's truck.

6. **QUOTATIONS:** All quotations expire thirty (30) days from the date of the quotation unless otherwise noted on the quotation. This time limit applies even if Buyer uses the quotation to submit a job or project bid to any other party.

7. **ASSIGNMENT:** An order shall not be assigned by Buyer without the express written consent of Seller. Consent will not be required, however, for internal transfers and assignments as between either party and its affiliates, and nothing herein shall limit either party's right to factor or sell receivables.

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9. **TERMINATION:** Either party may terminate the whole or any part of the other party's performance under any order if (a) there is a material breach of these Terms & Conditions of Sale and the breaching party does not cure such failure within ten (10) days of written notice by the non-breaching party; provided, that the non-breaching party may require the breaching party to continue its performance to the extent not terminated; (b) the other party ceases to conduct operations in the normal course of business, (c) any proceeding under any bankruptcy or insolvency laws is brought by or against the other party, (d) a receiver is appointed or applied for by the other party, or (e) an assignment for the benefit of creditors is made by the other party.

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11. **INTERPRETATION RESPONSIBILITY; PRODUCT USE AND SAFETY:** Seller does not guarantee that the Goods it sells conform to any plans and specifications or intended use. When plans and specifications are involved, Buyer is solely responsible for verifying Seller's interpretations of such plans and specifications, and it is Buyer's sole responsibility to assure that Seller's Goods will be accepted on any specific job. When Seller offers substitute Goods on any proposal, Buyer is solely responsible for confirming their acceptability. BEFORE BUYER USES OR INSTALLS ELECTRICAL PRODUCTS, IT IS BUYER'S RESPONSIBILITY TO CONSULT THE NATIONAL ELECTRIC CODE AND ANY PERTINENT LOCAL, STATE OR NATIONAL CODES, RULES OR REGULATIONS FOR APPROVED INSTALLATION PROCEDURES AND PRECAUTIONS. NOTHING SELLER SELLS IS FOR USE IN CONNECTION WITH "SAFETY-RELATED" APPLICATIONS OF A NUCLEAR FACILITY OR ANY HAZARDOUS ACTIVITY WHERE FAILURE OF A SINGLE COMPONENT COULD CAUSE SUBSTANTIAL HARM TO PERSONS OR PROPERTY.

12. **DELIVERY:** Seller is a distributor and not a manufacturer and factory shipping dates given in advance of actual shipment are approximate and not guaranteed.

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14. CLAIMS: Claims for any nonconforming Goods must be made by Buyer, in writing, within ten (10) days of Buyer's receipt of such Goods and must state with particularity all material facts concerning the claim then known to Buyer. Failure by Buyer to give notice within such ten (10) day period shall constitute an unqualified acceptance of such Goods by Buyer, and a waiver of any right to reject or revoke acceptance of such Goods.

15. WARRANTIES: (a) SELLER'S WARRANTIES: Seller warrants that all Goods sold are new unless otherwise designated and, upon payment in full by Buyer of the Goods, free and clear of any security interests or liens. Buyer's exclusive remedy for breach of such warranties shall be replacement with a new product (if applicable) or termination of any security interests or liens. Seller is a distributor and not a manufacturer and makes no independent warranties other than those set forth herein. (b) VENDOR'S WARRANTIES: Seller shall also assign to Buyer any Vendor warranties and/or remedies provided to Seller by its Vendor. (c) INTELLECTUAL PROPERTY INFRINGEMENT: SELLER DISCLAIMS ANY AND ALL WARRANTIES AND/OR INDEMNIFICATIONS AGAINST INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF ANY NATURE. SELLER SHALL, IF GIVEN PROMPT NOTICE BY BUYER OF ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT WITH RESPECT TO ANY GOODS SOLD HEREUNDER, REQUEST THE MANUFACTURER TO GRANT FOR THE BUYER SUCH WARRANTY OR INDEMNITY RIGHTS AS THE MANUFACTURER MAY CUSTOMARILY GIVE WITH RESPECT TO SUCH GOODS. (d) LIMITATIONS: THERE ARE NO OTHER WARRANTIES WRITTEN OR ORAL, EXPRESS, IMPLIED OR BY STATUTE. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES. NO REPAIR OF GOODS OR OTHER COSTS ARE ASSUMED BY SELLER UNLESS AGREED TO, IN ADVANCE, IN WRITING. UNLESS AGREED TO IN ADVANCE IN WRITING, WARRANTIES ARE ONLY VALID IN THE UNITED STATES OF AMERICA AND ITS TERRITORIES. REPAIR OR REPLACEMENT SHALL BE AT THE ORIGINAL PLACE OF DELIVERY.

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Domestic U.S.A. General Terms and Conditions of Sale for Distribution and Control Products and Services

Terms and Conditions of Sale. The Terms and Conditions of Sale set forth herein, and any supplements which may be attached hereto, constitute the full and final expression of the contract for the sale of products or services ("Product(s)" or "Services") by Eaton Corporation ("Seller") to the Buyer, and supersedes all prior quotations, purchase orders, correspondence or communications, whether written or oral, between the Seller and the Buyer. Notwithstanding any contrary language in the Buyer's purchase order, correspondence or other form of acknowledgment, Buyer shall be bound by these Terms and Conditions of Sale when it sends a purchase order or otherwise indicates acceptance of this contract, or when it accepts delivery from Seller of the Products or Services. THE CONTRACT FOR SALE OF THE PRODUCTS OR SERVICES IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS OF SALE STATED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY BUYER ARE REJECTED UNLESS EXPRESSLY AGREED TO IN WRITING BY SELLER. No contract shall exist except as herein provided.

Complete Agreement. All Seller documents referenced in these Terms and Conditions of Sale are hereby incorporated by reference into the terms herein. No amendment or modification hereto nor any statement, representation or warranty not contained herein shall be binding on the Seller unless made in writing by an authorized representative of the Seller. Prior dealings, usage of the trade or a course of performance shall not be relevant to determine the meaning of this contract even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection.

Quotations. A written quotation is valid for 30 days from its date unless otherwise stated in the quotation or terminated sooner by notice. Verbal quotations, unless accepted, expire the same day they are made. A complete signed order must be received by Seller within 20 calendar days of notification of award, otherwise the price and shipment will be subject to re-negotiation.

TERMINATION AND CANCELLATION

Products. Any order may be terminated by the Buyer only by written notice and upon payment of reasonable termination charges, including all progress billings and all incurred direct manufacturing costs.

Services. Any order may be terminated by the Buyer only by written notice and upon payment of reasonable termination charges including all costs plus profit. Seller shall have the right to cancel any order at any time by written notice if Buyer breaches any of the terms hereof, becomes the subject of any proceeding under state or federal law for the relief of debtors, or otherwise becomes insolvent or bankrupt, generally does not pay its debts as they become due or makes an assignment for the benefit of creditors.

Prices. All prices are subject to change without notice. In the event of a price change, the effective date of the change will be the date of the new price or discount sheet, letter or telegram. All quotations made or orders accepted after the effective date will be on the new basis. For existing orders, the price of the unshipped portion of an order will be the price in effect at time of shipment.

Price Policy – Products and Services. When prices are quoted as firm for quoted shipment, they are firm provided the following conditions are met:

1. The order is released with complete engineering details.
2. Shipment of Products is made, and Services purchased are provided within the quoted lead time.
3. When drawings for approval are required for any Products, the drawings applicable to those Products must be returned within 30* calendar days from the date of the original mailing of the drawings by Seller. The return drawings must be released for manufacture and shipment and must be marked "APPROVED" or "APPROVED AS NOTED." Drawing re-submittals which are required for any other reason than to correct Seller errors will not extend the 30-day period.

If the Buyer initiates or in any way causes delays in shipment, provision of Services or return of approval drawings beyond the periods stated above, the price of the Products or Services will be increased 1% per month or fraction thereof up to a maximum of 18 months from the date of the Buyer's order. For delays resulting in shipment or provision of Services beyond 18 months from the date of the Buyer's order, the price must be renegotiated.

Price Policy – BLS. Refer to Price Policy 25-050.

Minimum Billing. Orders less than \$1,000 will be assessed a shipping and handling charge of 5% of the price of the order, with a minimum charge of \$25.00 unless noted differently on Product discount sheets.

Taxes. The price does not include any taxes. Buyer shall be responsible for the payment of all taxes applicable to, or arising from, the transaction, the Products, its sale, value or use, or any Services performed in connection therewith regardless of the person or entity actually taxed.

TERMS OF PAYMENT

Products. Acceptance of all orders is subject to the Buyer meeting Seller's credit requirements. Terms of payment are subject to change for failure to meet such requirements. Seller reserves the right at any time to demand full or partial payment before proceeding with a contract of sale as a result of changes in the financial condition of the Buyer. **Terms of Payment are either Net 30 days** from the date of invoice of each shipment or carry a cash discount based on Product type. Specific payment terms for Products are outlined in the applicable Product discount schedules.

Services. Terms of payment are net within 30 days from date of invoice for orders amounting to less than \$50,000.00. Terms of payment for orders exceeding \$50,000.00 shall be made according to the following:

1. Twenty percent (20%) of order value with the purchase order payable 30 days from date of invoice.

* 60 days for orders through contractors to allow time for their review and approval before and after transmitting them to their customers.

2. Eighty percent (80%) of order value in equal monthly payments over the performance period payable 30 days from date of invoice.

Except for work performed (i) under a firm fixed price basis or (ii) pursuant to terms of a previously priced existing contract between Seller and Buyer, invoices for work performed by Seller shall have added and noted on each invoice a charge of 3% (over and above the price of the work) which is related to Seller compliance with present and proposed environmental, health and safety regulations associated with prescribed requirements covering hazardous materials management and employee training, communications, personal protective equipment, documentation and record keeping associated therewith.

Adequate Assurances. If, in the judgment of Seller, the financial condition of the Buyer, at any time during the period of the contract, does not justify the terms of payment specified, Seller may require full or partial payment in advance.

Delayed Payment. If payments are not made in accordance with these terms, a service charge will, without prejudice to the right of Seller to immediate payment, be added in an amount equal to the lower of 1.5% per month or fraction thereof or the highest legal rate on the unpaid balance.

Freight. Freight policy will be listed on the Product discount sheets, or at option of Seller one of the following freight terms will be quoted.

F.O.B. – P/S – Frt./Ppd. and Invoiced. Products are sold F.O.B. point of shipment freight prepaid and invoiced to the Buyer.

F.O.B. – P/S – Frt./Ppd. and Allowed. Products sold are delivered F.O.B. point of shipment, freight prepaid and included in the price.

F.O.B. Destination – Frt./Ppd. and Allowed. At Buyer's option, Seller will deliver the Products F.O.B. destination freight prepaid and 2% will be added to the net price. The term "freight prepaid" means that freight charges will be prepaid to the accessible common carrier delivery point nearest the destination for shipments within the United States and Puerto Rico unless noted differently on the Product discount sheets. For any other destination, contact Seller's representative.

Shipment and Routing. Seller shall select the point of origin of shipment, the method of transportation, the type of carrier equipment and the routing of the shipment. If the Buyer specifies a special method of transportation, type of carrier equipment, routing or delivery requirement, Buyer shall pay all special freight and handling charges. When freight is included in the price, no allowance will be made in lieu of transportation if the Buyer accepts shipment at factory, warehouse or freight station or otherwise supplies its own transportation.

Risk of Loss. Risk of loss or damage to the Products shall pass to Buyer at the F.O.B. point.

Concealed Damage. Except in the event of F.O.B. destination shipments, Seller will not participate in any settlement of claims for concealed damage. When shipment has been made on an F.O.B. destination basis, the Buyer must unpack immediately and, if damage is discovered, must:

1. Not move the Products from the point of examination.
2. Retain shipping container and packing material.
3. Notify the carrier in writing of any apparent damage.
4. Notify Seller representative within 72 hours of delivery.
5. Send Seller a copy of the carrier's inspection report.

Witness Tests/Customer Inspection. Standard factory tests may be witnessed by the Buyer at Seller's factory for an additional charge calculated at the rate of \$2,500 per day (not to exceed eight (8) hours) per Product type. Buyer may final-inspect Products at the Seller's factory for \$500 per day per Product type.

Witness tests will add one (1) week to the scheduled shipping date. Seller will notify Buyer fourteen (14) calendar days prior to scheduled witness testing or inspection. In the event Buyer is unable to attend, the Parties shall mutually agree on a rescheduled date. However, Seller reserves the right to deem the witness tests waived with the right to ship and invoice Products.

Held Orders. For any order held, delayed or rescheduled at the request of the Buyer, Seller may, at its sole option, (1) require payment to be based on any reasonable basis, including but not limited to the contract price, and any additional expenses, or cost resulting from such a delay; (2) store Products at the sole cost and risk of loss of the Buyer; and/or (3) charge to the Buyer those prices under the applicable price policy. Payment for such price, expenses and costs, in any such event, shall be due by Buyer within thirty (30) days from date of Seller's invoice. Any order so held delayed or rescheduled beyond six (6) months will be treated as a Buyer termination.

Drawing Approval. Seller will design the Products in line with, in Seller's judgment, good commercial practice. If at drawing approval Buyer makes changes outside of the design as covered in their specifications, Seller will then be paid reasonable charges and allowed a commensurate delay in shipping date based on the changes made.

Drawing Re-Submittal. When Seller agrees to do so in its quotation, Seller shall provide Buyer with the first set of factory customer approval drawing(s) at Seller's expense. The customer approval drawing(s) will be delivered at the quoted delivery date. If Buyer requests drawing changes or additions after the initial factory customer approval drawing(s) have been submitted by Seller, the Seller, at its option, may assess Buyer drawing charges. Factory customer approval drawing changes required due to misinterpretation by Seller will be at Seller's expense. Approval drawings generated by Bid- Manager are excluded from this provision.

WARRANTY

Warranty for Products. Seller warrants that the Products manufactured by it will conform to Seller's applicable specifications and be free from fail ure due to defects in workmanship and material for one (1) year from the date of installation of the Product or eighteen (18) months from the date of shipment of the Product, whichever occurs first.

In the event any Product fails to comply with the foregoing warranty Seller will, at its option, either (a) repair or replace the defective Product, or defective

part or component thereof, F.O.B. Seller's facility freight prepaid, or (b) credit Buyer for the purchase price of the Product t. All warranty claims shall be made in writing.

Seller requires all non-conforming Products be returned at Seller's expense for evaluation unless specifically stated otherwise in writing by Seller. This warranty does not cover failure or damage due to storage, installation, operation or maintenance not in conformance with Seller's recommendations, including as set forth in these Terms and Conditions of Sale, and industry standard practice or due to accident, misuse, abuse, or negligence. This warranty does not cover breach of data or system security, including that of information technology infrastructure, computers, software, hardware, databases, electronic systems (including database management systems), and networks. This warranty does not cover reimbursement for labor, gaining access, removal, installation, temporary power or any other expenses, which may be incurred in connection with repair or replacement. This warranty does not apply to equipment not manufactured by Seller. Seller limits itself to extending the same warranty it receives from the third-party supplier to the extent such third party permits assignment of its warranty.

Extended Warranty for Products. If requested by the Buyer and specifically accepted in writing by Seller, the foregoing standard warranty for Products will be extended from the date of shipment for the period and price indicated below:

- 24 months – 2% of Contract Price
- 30 months – 3% of Contract Price
- 36 months – 4% of Contract Price

Special Warranty (In and Out) for Products. If requested by the Buyer and specifically accepted in writing by Seller, Seller will, during the warranty period for Products, at an additional cost of 2% of the contract price, be responsible for the direct cost of:

1. Removing the Product from the installed location.
2. Transportation to the repair facility and return to the site.
3. Reinstallation on site.

The total liability of Seller for this Special Warranty for Products is limited to 50% of the contract price of the particular Product being repaired and excludes expenses for removing adjacent apparatus, walls, piping, structures, temporary service, etc.

Warranty for Services. Seller warrants that the Services performed by it hereunder will be performed in accordance with generally accepted professional standards. The Services, which do not so conform, shall be corrected by Seller upon notification in writing by the Buyer within one (1) year after completion of the Services. Unless otherwise agreed to in writing by Seller, Seller assumes no responsibility with respect to the suitability of the Buyer's, or its customer's, equipment or with respect to any latent defects in equipment not supplied by Seller. This warranty does not cover damage to Buyer's, or its customer's, equipment, components or parts resulting in whole, or in part from improper maintenance or operation (including failure to comply with Seller's recommendations) or from their deteriorated condition. Buyer will, at its cost, provide Seller with unobstructed access to the defective Services, as well as adequate free working space in the immediate vicinity of the defective Services and such facilities and systems, including, without limitation, docks, cranes and utility disconnects and connects, as may be necessary in order that Seller may perform its warranty obligations. The conducting of any tests shall be mutually agreed upon and Seller shall be notified of, and may be present at, all tests that may be made.

Warranty for Power Systems Studies. Seller warrants that any power systems studies performed by it will conform to generally accepted professional standards. Any portion of the study, which does not so conform, shall be corrected by Seller upon notification in writing by the Buyer within six (6) months after completion of the study. All warranty work shall be performed in a single shift straight time basis Monday through Friday. In the event that the study requires correction of warranty items on an overtime schedule, the premium portion of such overtime shall be for the Buyer's account.

Limitation on Warranties for Products, Services and Power Systems Studies. THE FOREGOING WARRANTIES ARE EXCLUSIVE EXCEPT FOR WARRANTY OF TITLE. SELLER DISCLAIMS ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CORRECTION OF NON-CONFORMITIES IN THE MANNER AND FOR THE PERIOD OF TIME PROVIDED ABOVE SHALL CONSTITUTE SELLER'S SOLE LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR FAILURE OF SELLER TO MEET ITS WARRANTY OBLIGATIONS, WHETHER CLAIMS OF THE BUYER ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE.

Asbestos. Federal Law requires that building or facility owners identify the presence, location and quantity of asbestos containing material (hereinafter "ACM") at work sites. Seller is not licensed to abate ACM. Accordingly, for any contract which includes the provision of Services, prior to (i) commencement of work at any site under a specific Purchase Order, (ii) a change in the work scope of any Purchase Order, the Buyer will certify that the work area associated with the Seller's scope of work includes the handling of Class II ACM, including but not limited to generator wedges and high temperature gaskets which include asbestos materials. The Buyer shall, at its expense, conduct abatement should the removal, handling, modification or reinstallation, or some or all of them, of said Class II ACM be likely to generate airborne asbestos fibers; and should such abatement affect the cost of or time of performance of the work then Seller shall be entitled to an equitable adjustment in the schedule, price and other pertinent affected provisions of the contract.

Compliance with Nuclear Regulation. Seller's Products are sold as commercial grade Products not intended for application in facilities or activities licensed by the United States Nuclear Regulatory Commission for atomic purposes. Further certification will be required for use of the Products in any safety-related application in any nuclear facility licensed by the U.S. Nuclear Regulatory Commission.

Returning Products. Authorization and shipping instructions for the return of any Products must be obtained from Seller before returning the Products. When return is occasioned due to Seller error, full credit including all transportation charges will be allowed.

Product Notices. Buyer shall provide the users, including its employees, and in the case of permitted resale, any subsequent purchasers of the Products with all Seller supplied Product notices, warnings, instructions, recommendations and similar materials.

Cybersecurity. Seller is not responsible for a breach of data or electronic system security, including, but not limited to, a system intrusion or interference, virus or malicious code attack, loss of data, data theft, unauthorized access to confidential information and/or nonpublic personal information, hacking incident or any acts of data ransom, caused by any third-party equipment, modification made to a Product other than by Seller, or

failure by Buyer to comply with Eaton Assemblies Cybersecurity Hardening Guidelines at www.eaton.com/assemblies-security (the "Cybersecurity Guidelines"). Seller may revise the Cybersecurity Guidelines at any time without prior notice.

Buyer is responsible for obtaining (at Buyer's expense) assurances from third party suppliers with respect to cybersecurity for third party equipment. As a condition of use and/or resale, Buyer shall direct all users of the Products purchased to access the applicable accompanying Eaton End User License Agreement (EULA) and the Cybersecurity Guidelines, all of which are subject to change in terms and practices, at Seller's discretion, at any time.

Force Majeure. Seller shall not be liable for failure to perform or delay in performance due to fire, flood, strike or other labor difficulty, act of God, act of any governmental authority or of the Buyer, riot, embargo, fuel or energy shortage, car shortage, wrecks or delays in transportation, or due to any other cause beyond Seller's reasonable control. In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay. Seller cannot be held liable, and Buyer shall not be entitled to any damages and/or indemnifications, in case Seller is prevented, hindered or delayed from or in performing any of its obligations resulting from the impact of the outbreak of COVID-19 or any future pandemic or epidemic for reasons not attributable to Seller.

Liquidated Damages. Contracts which include liquidated damage clauses for failure to meet shipping or job completion promises are not acceptable or binding on Seller unless such clauses are specifically accepted in writing by an authorized representative of the Seller at its headquarters office.

Patent Infringement. Seller will defend or, at its option, settle any suit or proceeding brought against Buyer, or Buyer's customers, to the extent it is based upon a claim that any Product or part thereof, manufactured by Seller or its subsidiaries and furnished hereunder, infringes any United States patent, other than a claim of infringement based upon use of a Product or part thereof in a process, provided Seller is notified in reasonable time and given authority, information and assistance (at Seller's expense) for the defense of same. Seller shall pay all legal and court costs and expenses and court-assessed damages awarded therein against Buyer resulting from or incident to such suit or proceeding. In addition to the foregoing, if at any time Seller determines there is a substantial question of infringement of any United States patent, and the use of such Product is or may be enjoined, Seller may, at its option and expense: either (a) procure for Buyer the right to continue using and selling the Product; (b) replace the Product with non-infringing apparatus; (c) modify the Product so it becomes non-infringing; or (d) as a last resort, remove the Product and refund the purchase price, equitably adjusted for use and obsolescence.

In no case does Seller agree to pay any recovery based upon its Buyer's savings or profit through use of Seller's Products whether the use be special or ordinary. The foregoing states the entire liability of Seller for patent infringement.

The preceding paragraph does not apply to any claim of infringement based upon: (a) any modification made to a Product other than by Seller; (b) any design and/or specifications of Buyer to which a Product was manufactured; or (c) the use or combination of Product with other products where the Product does not itself infringe. As to the above-identified claim situations where the preceding paragraph does not apply, Buyer shall defend and hold Seller harmless in the same manner and to the extent as Seller's obligations described in the preceding paragraph. Buyer shall be responsible for obtaining (at Buyer's expense) all license rights required for Seller to be able to use software products in the possession of Buyer where such use is required in order to perform any Service for Buyer.

With respect to a Product or part thereof not manufactured by Seller or its subsidiaries, Seller will attempt to obtain for Buyer, from the supplier(s), the patent indemnification protection normally provided by the supplier(s) to customers.

Compliance with OSHA. Seller offers no warranty and makes no representation that its Products comply with the provisions or standards of the Occupational Safety and Health Act of 1970, or any regulation issued thereunder. In no event shall Seller be liable for any loss, damage, fines, penalty or expenses arising under said Act.

Limitation of Liability. THE REMEDIES OF THE BUYER SET FORTH IN THIS CONTRACT ARE EXCLUSIVE AND ARE ITS SOLE REMEDIES FOR ANY FAILURE OF SELLER TO COMPLY WITH ITS OBLIGATIONS HEREUNDER. NOTWITHSTANDING ANY PROVISION IN THIS CONTRACT TO THE CONTRARY, IN NO EVENT SHALL SELLER BE LIABLE IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR DAMAGE TO PROPERTY OR EQUIPMENT OTHER THAN PRODUCTS SOLD UNDER THIS AGREEMENT, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF PRODUCTS, LOST PRODUCTION, COST OF CAPITAL, LOSS OF, DAMAGE TO, OR UNAUTHORIZED ACCESS TO DATA, BREACH OF SYSTEM SECURITY, FAILURE TO TRANSMIT OR RECEIVE DATA, BUSINESS INTERRUPTION, CLAIMS OF CUSTOMERS OF THE BUYER OR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, REGARDLESS OF WHETHER SUCH POTENTIAL DAMAGES ARE FORESEEABLE OR IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL CUMULATIVE LIABILITY OF SELLER ARISING FROM OR RELATED TO THIS CONTRACT WHETHER THE CLAIMS ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, SHALL NOT EXCEED THE PRICE OF THE PRODUCT OR SERVICES ON WHICH SUCH LIABILITY IS BASED.

Distributors and Third-Party Agents. In order to ensure that distributors and third party agents acting on behalf of Seller share Seller's commitment to doing business right, all distributors and agents shall abide by Seller's [Anticorruption Policy](#).

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AGREEMENT EXHIBIT B

GENERAL CONDITIONS

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ARTICLE 1. DEFINITIONS

SECTION 1.01. Abbreviations.

The Contract Documents may use abbreviations that the SLDMWA believes to be commonly used and generally understood. If the Contractor does not understand any abbreviation, the Contractor shall seek clarification from the SLDMWA.

SECTION 1.02. Definitions.

Whenever the following terms, titles, or phrases are used in the Contract Documents, the intent and meaning thereof shall be as defined in this article.

Architect and/or Engineer.

The “Architect” and/or “Engineer” is either an SLDMWA employee or consultant retained by SLDMWA who is responsible for decisions about the Project design and technical aspects of the Project.

Change Order.

“Change Order” shall mean a written amendment to the Contract approved by the SLDMWA and signed by Contractor. A Change Order may include adjustments to the Contract Time and/or to the Contract Sum.

Completion.

“Completion” is the point in the Project at which the Work, including punch list items and final cleaning, and all required close-out reports and submissions are 100% performed.

Contract Documents.

The “Contract Documents” shall include the Contractor’s quote on which the Agreement was awarded, the Agreement, the Performance Bond, the Payment Bond, these General Conditions, Technical Specifications, Exhibits, and any and all Change Orders.

Contract Completion Date.

The “Contract Completion Date” shall mean the date by which the Contract requires completion.

Contract Sum.

“Contract Sum” is the total price for the Work, as it may be changed by Change Orders.

Contract Time.

“Contract Time” shall mean the period specified for completion of the Work as set forth in the Contract and as it may be changed by Change Order.

Contractor.

“The Contractor” shall mean the person or entity that entered into the Contract for the Work, including its employees and legal representatives.

Day.

Unless otherwise indicated, “Day” shall mean every day of 24 hours shown on the calendar.

DIR.

“DIR” shall mean the California Department of Industrial Relations.

Directive.

“Directive” shall mean a written order to the Contractor, signed by the SLDMWA or the SLDMWA’s Representative directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both, and which shall be used in the absence of total agreement with the Contractor on the terms of a Change Order or when time does not permit processing of a Change Order prior to implementation of the change to the extent such Directive is signed by the Contractor.

Inspector.

The “Inspector” or “Project Inspector” shall mean the person or persons authorized to act as agent(s) for the SLDMWA in the inspection of the Work.

Legal Holidays.

Legal Holidays shall include the following holidays designated by the SLDMWA: New Year’s Day, Martin Luther King Jr. Day, President’s Day, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Thanksgiving Day, the day after Thanksgiving, and Christmas Day.

Notice to Proceed.

“Notice to Proceed” is the written authorization by the SLDMWA to the Contractor specifying the date the Work may begin and any conditions regarding the beginning of the Work.

Project.

“Project” shall mean the Work.

Request for Information (RFI).

“Request for Information” (“RFI”) is a document issued by the Contractor seeking clarification and/or additional information regarding an aspect of the Work. The response to the RFI does not authorize or direct proceeding with any changed or additional work.

SLDMWA.

“SLDMWA” shall mean the San Luis & Delta-Mendota Water Authority.

SLDMWA Representative.

“SLDMWA Representative” shall mean the SLDMWA’s designated agent for purpose of the Work and will be the Contractor’s primary contact during construction of the Project.

Specifications.

“Specifications” include the Technical Specifications applicable to the Work.

Subcontractor.

“Subcontractor” shall mean each person or firm that will perform Project work under contract with the Contractor. “Subcontractor” does not include a material supplier, unless expressly stated.

Technical Specifications.

“Technical Specifications” are the provisions of the Specifications that describe the technical aspects of the Work, as detailed in Contractor’s quotation.

Work.

The “Work” shall mean all obligations and/or actions which the Contractor is contractually required to perform to complete the Services specified in the Contract Documents.

Working Day.

“Working Day shall mean any day except Saturdays, Sundays, and Legal Holidays. Days on which the Contractor is prevented from proceeding with critical path Work for at least five (5) hours due to inclement weather are not Working Days.

ARTICLE 2. THE CONTRACT AND INTERPRETATION

SECTION 2.01. The Contract.

The Contract was awarded based on the Contractor's quote. In awarding the Contract, the SLDMWA relied on the following representations expressly or impliedly made by submitting the quote:

- (a) that the Contractor had inspected the Contract Documents available at the time of bidding, the nature and location of the Work (including local conditions and reasonably knowable subsurface conditions), the scope of work to be performed, and all other matters which may affect the Work or the cost, and that the Contractor was satisfied as to the character, quality, quantity, and scope of work to be performed and conditions to be encountered.
- (b) that the prices bid include everything necessary for the completion of the Work, including without limitation all taxes, fees, and costs not expressly paid for by the SLDMWA.
- (c) that the Contractor has the requisite experience, ability, and resources to perform the Work successfully and to complete the Work within the time stated in the Contract.

Any failure of the Contractor to have become acquainted with all of the available information is not grounds for a Change Order.

The Contract Documents include all applicable permits. The Contractor shall, at the Contractor's sole expense, obtain all necessary permits and licenses for the Work, give all necessary notices, and pay all fees required by law.

The Contract Documents represent the entire and integrated agreement between the SLDMWA and the Contractor and supersede all prior negotiations, representations, or agreements. The Contract may be amended or modified only by a Change Order. Extra work, *i.e.* work outside the scope of the Contract Documents, must be authorized in writing by the SLDMWA before the work is started. Contractor will not be paid for claimed extra work performed without such prior authorization.

The Contractor is an independent contractor and not an employee, agent, or other representative of the SLDMWA. Nothing in the Contract shall be construed to create any association between the SLDMWA and the Contractor other than that of owner and independent contractor. Nothing contained in the Contract Documents shall create any contractual relationship between the SLDMWA and any entity other than the Contractor.

SECTION 2.02. Order of Precedence.

In the event of conflict among Contract Documents, the following order of precedence shall apply: 1) Change Orders, 2) the Services Agreement for Maintenance, Testing, Start-up and Commissioning, 3) Technical Specifications provided in the Contractor's Quote, and 4) these General Conditions.

SECTION 2.03. Subsurface Conditions.

Where investigations of subsurface conditions have been made by the SLDMWA and that information is provided prior to entering into the Contract, it represents only a statement by the SLDMWA as to the character of materials which have actually been encountered by the SLDMWA's investigation. Investigations of subsurface conditions are made for the purpose of design only. **The SLDMWA assumes no responsibility with respect to the sufficiency or accuracy of preliminary investigations or of the interpretation thereof.** There is no guaranty, either express or implied, that the conditions indicated are representative of those existing throughout the Work, or that unanticipated conditions may not occur. Contractor satisfied itself as to conditions to be encountered prior to quoting.

SECTION 2.04. Conformance with Laws and Standards.

The Contractor shall be familiar and comply with all applicable Federal, State, and local laws, ordinances, codes, and regulations which in any manner affect the Work. The Work shall comply with the latest adopted edition of all applicable codes, standards, and regulations.

Without limiting the generality of the foregoing, the Contractor must comply with all applicable provisions of the California Occupational Safety and Health Act (Labor Code sections 6300 *et seq.*), including, but not limited to, all applicable Title 8 Safety Orders issued by the State of California Occupational Safety and Health Administration (Cal/OSHA). Failure of the SLDMWA to suspend the work or notify the Contractor of the inadequacy of the safety precautions or non-compliance with existing laws and regulations shall not relieve the Contractor of this responsibility.

The mention herein of any specific duty or responsibility imposed upon the Contractor shall not be construed as a limitation or restriction of any other responsibility or duty imposed upon the Contractor by law.

SECTION 2.05. Not Used.

SECTION 2.06. Submittals.

The Contractor shall furnish electronically, unless otherwise required by the SLDMWA, all working drawings including as-built drawings, plans, specifications, descriptive data, certificates, samples, tests, methods, schedules, and manufacturer's instructions as required in the Contract, and any other information required to demonstrate that the materials and equipment to be furnished and the methods of work fully comply with the Contract Documents. If any submittal deviates in any way from the Contract Documents, the Contractor shall clearly identify the deviation and state the reasons. The SLDMWA has absolute discretion whether to accept a deviating submittal.

When requested by the SLDMWA, samples of the proposed materials shall be prepared at the expense of the Contractor and furnished by the Contractor in such quantities and sizes required for proper examination, and with complete information describing type, kind, or size of material, and its source.

All required information shall be provided even if some of the information is considered proprietary. All information the Contractor deems proprietary shall be marked "PROPRIETARY" by the Contractor. If the SLDMWA is requested to provide information so marked, then the SLDMWA will notify the Contractor of the request unless prohibited by law or regulation from doing so. The Contractor shall be responsible for taking any actions it deems necessary or appropriate to protect its information, and shall bear all expense associated with such actions, to protect from disclosure any information marked as proprietary. Contract deliverables SHALL NOT be marked as proprietary.

If the submittal is rejected or returned "REVISE AND RESUBMIT," the resubmittal shall address all comments from the SLDMWA. The Contractor is responsible for the SLDMWA's review costs for each resubmittal after the first resubmittal.

Approval of any submittal shall not relieve the Contractor of responsibility for complying with the Contract Documents, and no deviation is approved unless the SLDMWA has been advised in writing as required and has expressly approved such deviation or conflict in writing.

The Contractor shall make no changes to any approved submittal after it has been returned. Work performed before approval of a submittal shall be done entirely at the Contractor's risk.

SECTION 2.07. Operations and Maintenance (O&M) Submittals.

For use in subsequent operations and maintenance, the Contractor shall furnish, unless otherwise provided for in the Special Provisions, one (1) original and two (2) copies, all bound and indexed, and one bookmarked electronic copy in pdf format, of maintenance and operation information, including all the highest level of factory maintenance manuals (greatest level of detail) that are available to factory representatives. The submittal of maintenance and operation information is required for all mechanical, electrical, instrumentation, control, communications, sound, or special equipment and systems.

SECTION 2.08. Architect's Instruction Bulletins; Field Directives.

The Architect or Engineer may furnish supplemental drawings or instructions to make clear the intent of the Contract. The Architect or Engineer shall have the authority to make minor changes in the Work, not involving any extra cost, and not inconsistent with the overall design of the Project. If extra cost is known to be involved, these instructions will be accompanied by a request for proposal for the added cost associated with the instructions.

The SLDMWA may issue field Directives or other written Directives during the Work. If extra cost is known to be involved, Directives will be accompanied by a request for proposal for the added cost associated with the Directive.

Contractor shall immediately comply with the Architect's or Engineer's instructions and Directives of SLDMWA unless the Contractor believes that the instruction or Directive will require added cost or time to complete. In that event, the Contractor shall notify the SLDMWA in writing of its conclusion and the basis for the conclusion. Further, the Contractor shall, within seven (7) days after receipt of the interpretation, supplemental drawing, instruction or Directive, submit a proposed change order to the SLDMWA specifying in detail in what particulars the Contract requirements were exceeded and the change in cost or time resulting therefrom. When Contractor claims that a Directive or Architect/Engineer instruction is outside the scope of the Contract, Contractor shall not proceed with the disputed Work unless given written direction to do so.

SECTION 2.09. Requests for Information.

Contractor shall prepare a Request for Information (RFI) when additional information, clarification, or interpretation of the Contract Documents is required. Any work undertaken prior to receipt of a response to an RFI will be at the Contractor's risk.

Each RFI shall be numbered consecutively. Each RFI shall clearly describe what is being requested and shall cite relevant portions of the Contract. A recommendation or proposed solution may be included.

The SLDMWA will provide a written response to an RFI, and that response shall control.

Subsequent resubmittals of an RFI shall be identified with the same RFI number and a letter designation. Resubmittals shall clearly state the reason for the resubmittal.

SECTION 2.10. Assignment Of Antitrust Actions.

In accordance with Public Contract Code section 7103.5(b), by execution of the Contract Documents, or any subcontract awarded by the Contractor, the Contractor or any Subcontractor offers and agrees to assign and hereby does assign to the SLDMWA all rights, title, and interest in and to all causes of action the Contractor or Subcontractor may have under Section 4 of the Clayton Act (15 USC Section 15) or under the Cartwright Act (Chapter 2 of Part 2 of Division 7 of the Business and Professions Code, commencing with Section 16700), arising from purchases of goods, services, or materials pursuant to this public works contract or subcontract. This assignment shall be made and shall become effective at the time the SLDMWA tenders payment to the Contractor, without further acknowledgment by the parties. Nothing in this section shall be construed to assign or affect any rights, title, or interest in causes of action arising from purchases of goods, services, or materials not made pursuant to this contract or subcontract. SLDMWA agrees to provide Contractor/Subcontractor with written notice if it initiates any action based on the assigned causes of action.

SECTION 2.11. Unenforceability Of Any Clause.

If any clause or provision of the Contract Documents is held to be unenforceable or invalid, then that provision of the Contract shall be stricken and the remaining portion shall remain in full force and effect.

SECTION 2.12. Conflict Of Interest.

No official, officer, employee, architect, attorney, engineer, or inspector of or for the SLDMWA who is authorized on behalf of the SLDMWA to exercise any executive, supervisory, or other similar function in connection with the construction of the Project shall become directly or indirectly interested personally in this contract or any part thereof.

SECTION 2.13. No Waiver.

No inspection, order, measurement, approval, modification, payment, acceptance of work or material, time extension, or possession of the Work shall waive any of the terms and conditions of the Contract, the powers reserved by the SLDMWA, or any right of the SLDMWA to damages or to reject the Work. No waiver of any breach of this Contract or failure to enforce any Contract requirement shall be construed a waiver of any other or subsequent breach.

All remedies provided in the Contract shall be cumulative and shall be in addition to all other rights and remedies that may exist at law or in equity.

SECTION 2.14. Access to Records.

Upon reasonable notice and during normal business hours, for three (3) years after the termination or completion of the Work, the SLDMWA shall have access to the Contractor’s records. Any such audit shall be limited to: (i) all quotations and purchase orders issued between the Contractor and SLDMWA, (ii) warranty documents, (iii) correspondence between the parties, (iv) SLDMWA’s RFQs, (v) Contractor’s quotations and bids, (vi) Contractor’s invoices to SLDMWA, (vii) proof of delivery, (viii) evidence of payments received by Contractor from SLDMWA, and any other documents exchanged between the parties. Such access shall include the right to examine and audit such records and make excerpts, transcriptions, and photocopies at the SLDMWA’s cost.

SECTION 2.15 No Assignment.

No person other than the party signing the Contract has any claim under the Contract, except as provided in the Contract, except Contractor’s right to receive payment, which may be assigned.

ARTICLE 3. INSURANCE.

The Contractor shall keep in force at all times during the term of the Contract and any guarantee period (or during such longer period specified below), with insurance companies acceptable to the SLDMWA and at the Contractor’s sole expense, the insurance specified below. These insurance requirements do not limit in any way Contractor’s or any Subcontractor’s potential liability for damages resulting from its or their operations under this Contract.

Where insurance is required to include an “additional insured” endorsement, “Additional Insured” shall mean the SLDMWA, the SLDMWA’s Architect or Engineer, the SLDMWA Representative, and each of their officers, officials, directors, trustees, agents, employees, and volunteers.

SECTION 3.01. Commercial General Liability.

Contractor shall provide and require its Subcontractors to provide Commercial General Liability insurance including, but not limited to, protection for premises and operations; claims of bodily injury and broad form property damage liability; personal and advertising injury liability; contractual liability applicable to the Contractor’s assumed liability under the Contract; coverage for explosion, collapse, subsidence, and underground hazards; and products and completed operations liability. Coverage shall be at least as broad as “Insurance Services Office Commercial General Liability Coverage Form CG 0001” or equivalent (occurrence). The policy shall be maintained at all times during the Work and for at least three (3) years following SLDMWA’s acceptance of the Work. The limits of liability shall be not less than:

Each Occurrence	One Million Dollars (\$1,000,000) combined single limits for Bodily Injury and Property Damage
Personal and Advertising Injury	One Million Dollars (\$1,000,000)
Products and Completed Operations Annual Aggregate	Two Million Dollars (\$2,000,000) combined single Limits for Bodily Injury and Property Damage
General Annual Aggregate	Two Million Dollars (\$2,000,000) combined single limits for Bodily Injury and Property Damage
Fire Damage	One Hundred Thousand Dollars (\$100,000)

The Contractor shall procure and maintain Products and Completed Operations Coverage with a carrier acceptable to the SLDMWA through the expiration of the patent deficiency in the statute of repose set forth in the Code of Civil Procedure section 337.1, if such period is greater than three (3) years.

“Modified occurrence” or “claims made” policies are not acceptable.

The policy or policies shall include the duty to defend **in addition to** (without reducing) the limits of the policy. The policy shall include coverage for all independent contractors, and shall include “action over” coverage.

SECTION 3.02. Automobile Liability.

Contractor shall provide and require its Subcontractors to provide Automobile Liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, leased, hired, and non-owned automobiles as well as trucks and trailers or semi-trailers, including any machinery or apparatus attached thereto. Coverage shall be at least as broad as “Insurance Services Office Business Auto Coverage Form CA 0001,” symbol 1 (any auto) and shall include, without limitation, contractual liability coverage. Additional Insured endorsements must be furnished naming each on a primary and noncontributing basis. The Additional Insured endorsement shall be at least as broad as ISO form CA 20 48 02 99. The limits of liability shall not be less than:

Bodily Injury and Property Damage Combined Single Limit	One Million Dollars (\$1,000,000)
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If Contractor transports any hazardous materials, substances, or waste, the automobile liability policy shall include endorsement forms MCS-90 and ISO CA 99 48 or equivalent endorsements providing coverage for environmental and pollution claims.

SECTION 3.03. Workers’ Compensation.

The Contractor and all Subcontractors shall provide Workers' Compensation insurance, with coverage as required by the State of California (unless the Contractor is a qualified self-insurer with the State of California), and Employers’ Liability coverage. The limits of Employers’ Liability shall not be less than:

Each Accident	One Million Dollars (\$1,000,000)
Disease Each Employee	One Million Dollars (\$1,000,000)
Disease Policy Limit	One Million Dollars (\$1,000,000)

The Workers’ Compensation policy required hereunder shall be endorsed to state that the Workers’ Compensation carrier where allowed by law waives its right of subrogation against the SLDMWA, its officers, officials, employees, agents, or volunteers.

If the Contractor is self-insured, the Contractor shall furnish a Certificate of Permission to Self-Insure by the DIR Administration of Self-Insurance, Sacramento. Contractor shall provide evidence of waiver of its right of subrogation against the SLDMWA, its offices, officials, employees, agents, or volunteers as a self-insurer.

SECTION 3.04. Other Provisions.

1. The Contractor's General Liability, Automobile Liability, and any other insurances required in the Special Provisions shall contain the following provisions:
 - a. Where allowed by law Additional Insured endorsements as respects liability arising out of the activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, premises owned, occupied, or used by the Contractor, or automobiles owned, leased, hired, or borrowed by the Contractor. The policy shall contain no special limitations on the scope of coverage afforded to Additional Insureds. Additional Insured endorsements shall be provided to the SLDMWA.
 - b. The Contractor's insurance coverage shall be primary insurance as respects Additional Insureds and the endorsement shall state that any insurance or self-insurance maintained by Additional Insureds shall be excess and not be called upon to contribute to any loss.

Any failure to comply with reporting or other provisions of the policies on the part of the Contractor, including breaches of warranties, shall not affect coverage provided to the Additional Insureds.

2. The Contractor's General Liability policy shall contain an endorsement stating that any aggregate limits shall apply separately to each project for which the Contractor provides services away from its premises.
3. Contractor's and all subcontractors' insurance policies shall where allowed by law provide that the insurer(s) waive all rights of recovery, by subrogation or otherwise, against the SLDMWA and any Additional Insureds.
4. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy shall not be suspended, voided, cancelled, reduced in scope of coverage or in limits, non-renewed, or materially changed unless the insurer(s) provide thirty (30) calendar days' written notice by certified or overnight mail to the SLDMWA prior to such change. Ten (10) Calendar Days prior written notice shall be given to the SLDMWA in the event of cancellation due to nonpayment of premium.
6. All of the Contractor's insurance coverage, except as noted below, shall be placed with insurance companies with a current A.M. Best rating of at least A-:VII.or equivalent and that are admitted to do business and in good standing in California, unless otherwise approved by the SLDMWA.

Exception: Workers' Compensation which is provided through a State Compensation Insurance Fund or a qualified self-insurer for Workers' Compensation under California law.

7. The Contractor shall sign and file with the SLDMWA the following certification prior to commencing performance of the work of the Contract:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

Said certification is included in the Contract, and signature and return of the Contract shall constitute signing and filing of the said certification.

8. If any Contractor or subcontractor insurance policy has limits higher than those required herein, the full policy limits shall be available to the SLDMWA.
9. If the Contractor fails to maintain required insurance, the SLDMWA, at its discretion, may procure any or all such insurance and deduct the premiums for such insurance from any sums otherwise due the Contractor. Failure of the SLDMWA to obtain such insurance shall in no way relieve the Contractor from any of the Contractor's responsibilities under the Contract.

The failure of the SLDMWA to enforce in a timely manner any of the provisions of this Section 3.04 and/or any of its subsections shall not act as a waiver to enforcement of any of these provisions at any time during the term of the Contract.

SECTION 3.05. Deductibles and Self-Insured Retention.

Intentionally omitted.

SECTION 3.06. Subcontractors' Insurance.

The Contractor shall require all of its Subcontractors to maintain adequate insurance in accordance with the policy limits and other requirements specified above and to provide Contractor proof of such insurance before commencing any work. If requested by the SLDMWA, the Contractor shall deliver certificates of insurance or copies of the insurance policies and endorsements of all Subcontractors.

SECTION 3.07. Notification of Accident or Occurrence.

The Contractor shall report by telephone and email to the SLDMWA within twenty-four (24) hours and also report in writing to the SLDMWA within fifteen (15) Calendar Days after the Contractor or any Subcontractors or agents have

knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of ten thousand dollars (\$10,000) to the Work, property of the SLDMWA or others, arising out of any work done by or on behalf of the Contractor as part of the Contract. Such report shall contain:

1. The date and time of the occurrence,
2. The names and addresses of all persons involved, and
3. A description of the accident or occurrence and the nature and extent of injury or damage.

The report to be provided within 24 hours shall include as much information as is available at the time.

The Contractor shall furnish the SLDMWA with a copy of the Employer's Report of Injury immediately following any incident requiring the listing of said report on the OSHA Log during the prosecution of the Work under this Contract. The Contractor shall also furnish the SLDMWA with a copy of the Employer's Report of injury involving any Subcontractor on the Project.

SECTION 3.08. Notification of Claim.

Contractor shall promptly notify the SLDMWA of any claim for damages or lawsuit instituted against the Contractor that arises out of or is in any way connected with the Contractor's performance under this Contract. Prompt notice is no later than thirty (30) Calendar Days following the date of receipt of a claim or ten (10) Calendar Days following the date of service of process of a lawsuit.

ARTICLE 4. CONTROL AND PERFORMANCE OF WORK.

SECTION 4.01. Supervision.

The Contractor shall be solely responsible for supervising all work, including being responsible for all means, methods, techniques, and procedures and for coordinating all portions of the Work under the Contract.

The Contractor shall be responsible for protecting its Work, including any materials and equipment on the Site, and securing and protecting the Site until acceptance of the Work.

SECTION 4.02. Allowable Times and Hours of Work.

Unless otherwise approved by the SLDMWA in writing or in the event of an emergency, no work shall be done between 6 p.m. and 7 a.m., or on Saturdays, Sundays, or Legal Holidays ("Off Period Time"). A written request to work during Off Period Time must be submitted at least two (2) Working Days before the intended work. The SLDMWA may place conditions on any approval of work during Off Period Time and may revoke prior authorization to work during Off Period Time.

SECTION 4.03. Subcontractors.

The Contractor is obligated to use each Subcontractor listed in the Agreement for the portion of work for which the Subcontractor is listed and to comply with the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100 *et seq.* (the "Act") if substitution is requested.

Pursuant to Public Contract Code section 6109, a Contractor may not perform work with a Subcontractor who is ineligible to perform work on public works projects pursuant to Labor Code Section 1777.1.

Copies of all unpriced purchase orders shall be available to the SLDMWA upon written request.

SECTION 4.04. Unsatisfactory Employees or Subcontractors.

The Contractor shall, when requested by the SLDMWA, immediately remove from the Work site any worker that the SLDMWA deems to be unsatisfactory and shall not again employ the removed worker on the Work.

SECTION 4.05. Daily Reports.

The Contractor shall maintain daily reports, which shall include, without limitation, Subcontractors on the site, number of workers on the site, type and amount of equipment on the site, materials delivered to the site, visitors to

the site, work performed, weather conditions, and any problems encountered. The Contractor shall provide the daily reports to the SLDMWA weekly, *except that* daily reports documenting extra work shall be provided daily.

SECTION 4.06. Cooperation with Other Contractors.

The Contractor shall conduct operations to minimize interference with the work of SLDMWA employees or contractors engaged by the SLDMWA and/or adjacent property owners.

SECTION 4.07. Safety Requirements.

The Contractor shall conform to all applicable occupational safety and health standards, rules, regulations, and orders and shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work, for maintaining all safety and health conditions related to the Services on the site, and for ensuring against and/or correcting any hazardous conditions on the site. The Contractor's superintendent, or other designated member of its organization at the site, shall be responsible for the prevention of accidents and overall jobsite safety. The Contractor shall submit to the SLDMWA a written safety program acceptable to the SLDMWA. The Contractor shall have on record with the SLDMWA twenty-four (24) hour emergency contact telephone numbers for 1) a representative with authority to make decisions in response to an emergency at the Project and 2) the Contractor's safety representative. If the Contractor's representative and the safety representative are the same person, then the Contractor shall designate a second, back-up emergency contact.

In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without previous instructions or authorizations from the SLDMWA, is authorized and shall act at its discretion and risk to prevent such threatened loss or injury. The Contractor shall immediately notify the SLDMWA, and thereafter shall comply with any instructions issued by the SLDMWA. The Contractor shall bear all costs of that action unless the emergency was entirely outside of the control of the Contractor or those for which the Contractor is responsible.

SECTION 4.08. Surveys.

The Contractor shall be responsible for performing all necessary surveys to lay out and control the Work to the locations, elevations, lines, and dimensions shown or specified in the Contract Documents. Any deviations must receive prior written approval of the SLDMWA.

SECTION 4.09. Not Used.

SECTION 4.10. Utilities.

Unless otherwise specified in the Contract, the Contractor shall maintain in service all drainage, water, gas, sewer lines, power, lighting, telephone conduits, and any other surface or subsurface utility structure that may be affected by the Work. However, the Contractor, at its cost, may arrange with the SLDMWA to temporarily disconnect service lines or other facilities along the line of the Work.

Under Government Code Section 4215, the SLDMWA will engage a licensed contractor to locate and repair damage that is not due to the failure of the Contractor to exercise reasonable care, removing, relocating, or protecting existing main or trunk line utility facilities not indicated in the Plans and Specifications with reasonable accuracy. The SLDMWA will compensate Contractor for equipment on the Work necessarily idled during such work. The SLDMWA will not be liable for any further or additional costs resulting directly or indirectly from any such occurrence. The Contractor shall notify the affected utility of any contact, scrape, dent, nick, or damage to their facility, whether or not indicated on the Plans and Specifications. Any operator or excavator who knowingly, willfully, or negligently violates Government Code Section 4215 is subject to a civil penalty.

The SLDMWA is not required to indicate the presence of existing utility services, laterals, or appurtenances whenever their presence can be inferred from other visible facilities such as buildings, meters, junction boxes, valves, service facilities, identification markings, and other indicators on or adjacent to the Work.

If the Contractor discovers utilities not identified in the Plans or Specifications, the Contractor shall immediately notify the SLDMWA and the utility owner by the most expeditious means available and later confirm in writing.

SECTION 4.11. Inspection and Testing.

All work and materials furnished pursuant to the Contract shall be subject to inspection and testing by the SLDMWA. Inspection of the Work does not excuse the Contractor from fulfilling all Contract requirements. When requested by the SLDMWA, test specimens shall be prepared at the expense of the Contractor and furnished by the Contractor in such quantities and sizes required for testing.

Any work, materials, or equipment not meeting the requirements and intent of the Contract Documents will be rejected and must be corrected at the Contractor's expense.

The Project Inspector shall have the authority to order the work designated for inspection stopped if a determination is made that work is proceeding in violation of the Contract Documents or any orders issued by the SLDMWA, its representatives, or the Architect or Engineer. The stopped work shall not resume until the Architect or Engineer determines whether it is compliant and/or directs corrective action. The failure of the Project Inspector to order the work stopped does not excuse the Contractor from complying with the Contract Documents for that work.

The Contractor may be required to uncover or take down completed portions of the Work to allow for re-inspection. The Contractor shall pay all costs incurred if defective work is discovered. If the uncovered work is found not to be defective, then the SLDMWA will pay the costs of uncovering and restoring the Work unless the Work initially was covered without inspection.

The Contractor shall notify the SLDMWA of the time and place of any tests, no less than five (5) Working Days' notice, and submit test procedures a reasonable time in advance of any tests that are required by the Contract.

No inspection or approval shall waive any of the terms and conditions of the Contract, the powers reserved by the SLDMWA, or any right of the SLDMWA to damages or to reject the Work in whole or part.

SECTION 4.12. Cleaning Up.

The Contractor shall keep the site of the Work in a presentable condition, dispose of any surplus materials, keep roadways reasonably clear of dirt and debris, and keep all sidewalk and other pedestrian areas clear of dirt, loose gravel, debris and any tripping hazards, to the satisfaction of the SLDMWA.

The Contractor shall also keep the work site cleaned of all rubbish, excess material, and equipment. All portions of the work shall be left in a neat and orderly condition prior to requesting final inspection.

SECTION 4.13. Right To Retain Imperfect Work.

If any portion of the work done or materials or equipment furnished under the Contract shall not be in accordance with the Contract Documents, then the SLDMWA shall have the right to retain the work, materials, or equipment instead of requiring it to be repaired or replaced, and the SLDMWA shall be entitled to a deductive change order to compensate for the reduction in value of the Work.

ARTICLE 5: NOT USED.

ARTICLE 6. LABOR PROVISIONS

SECTION 6.01. Nondiscrimination.

The Contractor shall comply with Section 1735 of the Labor Code, which provides as follows:

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

SECTION 6.02. Hours of Labor.

Eight (8) hours of labor shall constitute a legal day's work and the Contractor or any Subcontractor under the Contractor, in the execution of the Contract, shall not require more than eight (8) hours of labor in any Calendar Day, and forty (40) hours of labor in any calendar week, from any person employed by the Contractor in the performance of the Work under the Contract, except as permitted under the provisions of California Labor Code Sections 1810 through 1815. The Contractor shall forfeit, as penalty to the SLDMWA, the amount specified in Labor Code section 1813 for each worker employed by the Contractor or any Subcontractor under the Contractor in the execution of the Contract for each Calendar Day during which any worker is required or permitted to labor more than eight (8) hours and for each calendar week during which any worker is required or permitted to labor more than forty (40) hours in violation of the provisions of Labor Code Sections 1810 to 1815.

Overtime shall be paid at the rate of not less than one and one half (1 1/2) times the basic rate of pay, or at such higher rate as may be required by the DIR, applicable statutes, or collective bargaining agreements.

The SLDMWA reserves the right to approve or disapprove the days scheduled for work, and the hours during which work is in progress. Overtime and shift work may be established by the Contractor with reasonable notice and the written permission of the SLDMWA. No work other than overtime and shift work shall be done between the hours of 6:00 p.m. and 7:00 a.m., except such work as is necessary for the proper care and protection of the work already performed, in case of an emergency, or as approved in writing by the SLDMWA. Failure of the Contractor to perform the work in accordance with this policy shall be deemed to be a failure on the Contractor's part to comply with the Contract and is cause for termination.

SECTION 6.03. Prevailing Wage.

Pursuant to Labor Code Section 1772, workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work as defined in Labor Code Sections 1720 through 1725. Therefore, the Contractor and all Subcontractors on the Project shall pay not less than the prevailing rate of per diem wages, including, but not limited to, overtime, Saturday, Sunday, and holiday work, travel and subsistence, as determined by the Director of the DIR pursuant to Labor Code Section 1773. Copies of such prevailing rate of per diem wages are available upon request at the office of the SLDMWA at 15990 Kelso Road, Byron, CA 94514 or on the Internet at <http://www.dir.ca.gov/OPRL/PWD>.

The Contractor shall obtain and post copies of these prevailing wage rates in a prominent place at the job site, in accordance with the regulations of the DIR.

The responsibility to check prevailing wage rates is the Contractor's. Pursuant to Labor Code Section 1773.4 the Contractor may file with the Director of DIR or the Chief of the Division of Labor Standards Enforcement ("DLSE") a petition to review a determination of any rate or rates made by the Director of DIR. The Contractor may also petition the Director of DIR to make a determination for a particular craft, classification, or type of work not covered by a general determination. Pending the review or determination, the wages may be assumed to be those in the applicable collective bargaining agreement, but no adjustment in the Contract Sum shall be made if such assumption is incorrect.

The wage rates determined by the Director of the California DIR refer to expiration dates. Prevailing wage determinations with a single asterisk (*) after the expiration date that are in effect on the date of Notice Inviting Bids remain in effect for the duration of the Project. Prevailing wage determinations with double asterisks (**) after the expiration date indicate that the basic hourly wage rate, overtime and holiday wage rates, and employer payments to be paid for work performed after this date have been determined. If work extends past this date, the new rate shall be paid and should be incorporated in contracts entered into for the Project. The Contractor should contact the DIR as indicated in the prevailing wage determinations to obtain predetermined wage changes. All determinations that do not have double asterisks (**) after the expiration date remain in effect for the duration of the Project.

The Contractor agrees that in the event of underpayment of wages to any employee on the Project, whether by the Contractor or any Subcontractor, the SLDMWA may retain from payments due to the Contractor an amount sufficient to pay such worker the difference between the wages required to be paid by the DIR and the wages actually paid such worker for the total number of hours worked. The SLDMWA may disburse such retention to such employees.

For each worker paid less than the applicable prevailing wages for any work done under this Contract by the Contractor or any Subcontractor, the Contractor shall forfeit to the SLDMWA as a penalty the sum determined by the Labor Commissioner in accordance with the considerations set forth in Labor Code Section 1775, over and above any retention or withholds otherwise authorized by the Contract. If a worker employed by a Subcontractor is paid less than the prevailing wages by the Subcontractor, the Contractor is not subject to this penalty assessment if the Contractor can demonstrate that it did not have knowledge of that failure of the Subcontractor to pay the prevailing wages and that it strictly complied with the requirements of Labor Code Section 1775(b). In addition to applicable penalties, the Contractor or Subcontractor shall pay each worker the difference between the prevailing wage and the amount paid for every hour the worker was paid less than the prevailing wage.

SECTION 6.04. Payroll Records.

Contractor shall comply with Labor Code Section 1776. Regulations implementing Section 1776 are located in Section 16000 and Sections 16401 through 16403 of Title 8, California Code of Regulations. The Contractor shall be responsible for compliance by all Subcontractors on the Project.

The Contractor and Subcontractors shall keep accurate payroll records, showing the name, address, Social Security number, work classification, dates of payroll period, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor and by each Subcontractor in connection with the Work. Such records shall be certified under penalty of perjury that the information contained in the payroll record is true and correct and that the employer has complied with the requirements of Labor Code sections 1771, 1811, and 1815 for any work performed by its employees, and shall be available for inspection at all reasonable hours at the principal offices of the Contractor and Subcontractors in a manner set forth in Labor Code Sections 1776 and 1812.

The Contractor and Subcontractors shall file a certified copy of the records enumerated above with the SLDMWA as a condition of receipt of payment of the Contract Sum. The Contractor shall be held responsible for all Subcontractors' compliance with this requirement.

Failure to submit timely, complete certified payrolls shall subject the Contractor and/or Subcontractor to the penalties specified in subdivision (h) of Labor Code section 1776, which penalties may be deducted from progress payments to the Contractor.

The Contractor shall not carry on its payrolls any person not actually employed by the Contractor, nor shall it carry on its payrolls employees of a Subcontractor. The Contractor shall show on its payrolls all persons actually employed by the Contractor on the Project, in any capacity. The Contractor shall supervise all Subcontractors to ensure that all Subcontractors comply with this Section.

In accordance with Government Code Section 8546.7, or any amendments thereto, all books, records, and files of the Contractor, or any Subcontractor connected with the performance of this Contract, shall be subject to examination and audit by the California State Auditor and/or by the United States Department of Labor. Contractor shall preserve and cause to be preserved such books, records and files for a period of three (3) years after final payment unless additional time is requested by the California State Auditor or the United States Department of Labor.

SECTION 6.05. Additional Requirements for Labor Compliance.

The Contractor shall comply with all applicable and current requirements of the DIR and the DLSE, including without limitation the following additional requirements, and shall cause all Subcontractors on the Project, whether under contract with the Contractor or under contract with any Subcontractor, to comply.

The records kept by the Contactor and all subcontractors of the hours and wages of all employees employed on Project also shall be open at all times for inspection by the DIR and DLSE, in accordance with Sections 1776 and 1812 of the Labor Code. Such records shall be furnished within 10 days of any separate request by the DIR or DLSE.

On a random basis and at such other times as it deems appropriate, the DIR also may confirm the accuracy of payroll reports, including by corroboration of information in payroll reports through independent sources, including without limitation worker interviews, examination of any time and pay records found within the definition of “Payroll Records” in section 16000 of Title 8 of the California Code of Regulations, direct verification of “Employer Payments” (as defined at section 16000 of Title 8 of the California Code of Regulations) through third-party recipients of those payments, or any other legal and reasonable method of corroboration. As part of its confirmation process, the DIR may require the Contractor and any of its subcontractors to furnish for inspection itemized statements prepared in accordance with Labor Code Section 226. The DIR may conduct random confirmation based on a recognized statistical sampling of the records submitted.

The DIR may conduct in-person inspection(s) at the site or sites at which the Work of the Project is being performed (“On-Site Visits”). On-Site Visits may include visual inspection of required job site notices, including but not limited to (1) the determination(s) of the Director of DIR of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2; (2) the Notice of pay days and time and place of payment required by Labor Code Section 207; and (3) any other notices prescribed by law. On-Site Visits may also include inspections of records, inspections of the work site and observation of work activities, interviews of workers and others involved with the Project, and any other activities deemed necessary by the DIR to ensure compliance with prevailing wage requirements. In accordance with Labor Code Section 90, the Labor Commissioner and his deputies and agents shall have free access to any construction site or other place of labor and may obtain any information or statistics pertaining to the lawful duties of the Labor Commissioner, including but not limited to evidence of compliance with Labor Code Section 226 (itemized wage statements for employees) and any other laws enforced by the Labor Commissioner.

In accordance with Section 16463 of Title 8 of the California Code of Regulations (“8 CCR Section 16463”), the SLDMWA may, on its own or if required by the Labor Commissioner, withhold funds due to the Contractor when payroll records are delinquent or inadequate. The amount withheld shall be those payments due or estimated to be due to the Contractor or Subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Commissioner has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the Contractor or Subcontractor whose payroll records are delinquent or inadequate. The Contractor shall cease all payments to a Subcontractor whose payroll records are delinquent or inadequate until the Labor Commissioner provides notice that the Subcontractor has cured the delinquency or deficiency. When payments are withheld under 8 CCR Section 16463, the Labor Commissioner will provide the Contractor and Subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies what amounts the SLDMWA has been directed to withhold; and (3) informs the Contractor or Subcontractor of the right to request an expedited hearing to review the withholding of payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Commissioner has exceeded his or her authority under 8 CCR Section 16463. Where the violation is by a Subcontractor, the Contractor shall be notified of the nature of the violation and reference shall be made to Contractor’s rights to withhold or recover payments from the Subcontractor under Labor Code Section 1729. The withholdings under 8 CCR Section 16463 do not preclude assessment of penalties under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records, as set forth above.

SECTION 6.06. Apprentices.

Attention is directed to the provisions of Sections 1777.5, 1777.6, and 1777.7 of the Labor Code concerning the employment of apprentices by the Contractor or any Subcontractor. Violation of Sections 1777.5 or 1777.6 shall subject the Contractor and/or Subcontractor to the penalties set forth in Section 1777.7 of the Labor Code and/or otherwise provided by law or Contract.

Information relative to apprentice standards, wage schedules, and other requirements may be obtained from the Director of DIR, *ex officio* the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices and/or on the OPRL website at www.dir.ca.gov/OPRL/PWD. Apprentices employed on the Project must at all times work with or be under the direct supervision of one or more journeypersons.

SECTION 6.07. Not Used.

SECTION 6.08. Not Used.

SECTION 6.09. Not Used.

ARTICLE 7. DELAYS, TIME ADJUSTMENTS, AND COMPLETION.

SECTION 7.01. Notice of Delays.

The Contractor shall immediately notify the SLDMWA in writing delivered by personal delivery, overnight mail by recognized commercial carrier (e.g. FedEx), or email with confirmation of receipt, if the Contractor foresees or learns of any delay in the Work. The written notice shall be provided to the SLDMWA no later than three (3) Working Days after Contractor learns of the event that causes the delay. The Contractor shall describe in this notice the nature and cause of the delay and shall state the probability of the delay occurring (if foreseen). Oral notification of delays is insufficient. **Contractor waives any and all claims for time extensions and/or monetary compensation based on delay if notice is not provided as described above.**

In the event of a continuing delay, the Contractor is required to give only one notice.

SECTION 7.02. Inexcusable Delays.

The Contractor shall not receive any time extensions or additional monetary compensation for inexcusable delays. Inexcusable delays include, but are not limited to, the following:

1. Delays that do not prevent the completion of the whole Work within the Contract Time.
2. A reasonable time for the SLDMWA to perform its Contract responsibilities.
3. Delays that could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or Subcontractors.

SECTION 7.03. Excusable Delays.

The Contractor may be granted an extension of Contract Time for excusable delays, which are those that are beyond the Contractor's control; could not be prevented by the exercise of care, prudence, foresight, and diligence; and when the Work cannot be completed within the Contract Time.

The Contractor shall not receive any additional monetary compensation due to excusable delays unless the SLDMWA determines that the excusable delay resulted from an SLDMWA act or unusual site conditions. The Contractor shall also not receive any additional monetary compensation due to excusable delays under the following circumstances:

1. The Contractor could have reasonably anticipated the delay and avoided the cost impacts of it.
2. When there are two (2) or more concurrent delays and at least one does not qualify for monetary compensation under Section 7.12.
3. The excusable delay does not delay overall completion of the Work.

With respect to weather delays, the Contractor will be allowed a time extension if the SLDMWA concludes that inclement or unsuitable weather or its effects prevents working on the current critical path task for at least five (5) hours during the shift.

Pursuant to Government Code Section 4215, delay in completing the Project caused by the failure of the SLDMWA or the owner of utility facilities located on the Project site to provide for removal or relocation of such facilities shall be an Excusable Delay.

SECTION 7.04. Compensable Delays.

The Contractor may receive both an extension of time and compensation for increased general conditions costs due to a “Compensable Delay,” which is one that is beyond Contractor’s control; unreasonable under the circumstances; that could not be prevented by the exercise of care, prudence, foresight, and diligence; when completion of the Work is delayed; and that is caused solely by the wrongful acts of the SLDMWA or its agents. Notwithstanding the foregoing, the Contractor shall not be entitled to any additional general conditions costs or time extension to the extent that a Compensable Delay is concurrent with an Inexcusable Delay. Except as provided herein, the Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.

SECTION 7.05. Extension of Time.

Subject to compliance with the required contractual provisions, the Contractor will be allowed a time extension to complete the Work equal to the delay the Contractor establishes less any time when an Inexcusable Delay was concurrent with the Excusable or Compensable Delay. If the time extension is compensable, the Contract Sum also will be adjusted.

SECTION 7.06. Liquidated Damages.

Intentionally omitted.

SECTION 7.07. Not Used.

SECTION 7.08. Final Inspection and Acceptance.

When the Contractor considers the Work complete, including all required documentation having been submitted to the SLDMWA, the Contractor shall request inspection the Work. If, following inspection, the SLDMWA does not consider the Work complete, the SLDMWA will notify the Contractor in writing and provide a list of items to be completed or corrected (“deficiency list” or “punch list”). Immediately upon being provided a punch list, the Contractor shall proceed to correct or complete the items on the list.

The Contractor shall notify the SLDMWA in writing when it believes that it has corrected all items on the punch list. The SLDMWA will again inspect the Work and update the punch list if it deems the Work is not complete.

The SLDMWA will accept the Work if it finds the Work and all required corrections acceptable, including without limitation receipt of O&M manuals, the Guarantee Form, and any other close-out documents required by the Contract Documents. Acceptance by the SLDMWA begins warranty periods.

ARTICLE 8. NOT USED

ARTICLE 9. CHANGES AND CLAIMS

SECTION 9.01. Ordering of Changes.

The SLDMWA may order or direct a change in writing, including without limitation through a Directive, during the Work. If the Contractor contends that a Directive or other order by the SLDMWA will cause a change in the Contract Time or Contract Sum, then the Contractor shall so notify the SLDMWA in writing before performing the changed Work and no more than five (5) days after receipt of the order or Directive; performance of the changed Work without such prior notice waives the Contractor’s right to recover any additional time or compensation for the change. The SLDMWA will direct the Contractor in writing whether to proceed with any Work the Contractor timely claims to have a time or cost impact. For any order or Directive that the Contractor does not claim involves a change in the Contract Sum or Contract Price, the Contractor shall immediately comply with the order or Directive.

If the SLDMWA and Contractor agree to any adjustment to the Contract Sum and/or the Contract Time, then the adjustment will be formalized in a Change Order.

SECTION 9.02. Unusual Site Conditions.

The Contractor shall promptly upon discovery, and before the following conditions are disturbed, notify the SLDMWA, in writing, of any:

1. Material that the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
2. Subsurface or latent physical conditions at the site differing from those indicated in the Contract.
3. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

Upon receipt of notice from the Contractor, the SLDMWA shall promptly investigate the conditions. If the conditions do materially so differ or do involve hazardous waste, and the conditions cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work, then the SLDMWA shall issue a Change Order or Directive addressing the change.

If the SLDMWA and the Contractor disagree as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall proceed with all work to be performed under the Contract Documents and may submit a claim as provided in the Contract Documents.

SECTION 9.03. Proposed Contract Changes; Agreement as to Change Order.

If requested by the SLDMWA, the Contractor shall provide a proposed change order with a cost and/or time proposal for a proposed change to the Work, supported by complete details of all Contractor, Subcontractor, vendor, or supplier costs and time impacts. The Contractor shall provide the proposed change order within the time requested, or within five (5) Working Days if no time is specified. The SLDMWA will either accept the proposed change and issue a Change Order or notify the Contractor of any dispute with the proposed change to the Contract Time or Contract Sum.

The SLDMWA may issue a Change Order if it concludes that a change to the Contract Sum or Contract Time is necessary. If the Contractor signs the Change Order, then the Contractor has agreed to the time and cost impacts stated in the Change Order. If the Contractor does not sign a Change Order issued by the SLDMWA, then the Contractor shall notify the SLDMWA of any dispute with the proposed change.

The Contractor shall not be entitled to any adjustments in either Contract Sum or Contract Time for changed Work performed before either (a) receipt of written direction from the SLDMWA to perform the Work after the Contractor has notified the SLDMWA that it believes that a Directive or other direction requires changes to the Work or Contract Time, or (b) a Change Order approved by the SLDMWA.

If the Contractor and the SLDMWA have not agreed as to whether a change impacts the Contract Time or Contract Sum or the amount of such change, then the Contractor must immediately begin keeping Force Account records of the Work.

SECTION 9.04. Payment For Changes.

If the Contractor and the SLDMWA do not agree to payment for a change on a lump sum or unit price basis, then the Contractor shall be entitled to payment for the changed Work on a Force Account basis, as follows.

The Contractor shall keep and present, in a form acceptable to the SLDMWA, a complete and correct accounting of all costs associated with the change, including all pay records, vouchers, invoices, etc. The Contractor will be paid for labor, materials, and equipment actually used during the performance of the changed Work, as discussed further below.

To facilitate agreement, the Contractor shall notify the SLDMWA not less than four (4) hours prior to starting Force Account work. The Contractor shall submit Daily Work Reports (DWRs) for signature not later than 9:00 a.m. the day following performance of any Force Account work. DWRs shall list names of all Contractor's staff, the staff person's craft or trade, all craft or trade labor hours, and all material and equipment used and claimed to be Force Account. If

the DWRs include work related to more than one change, then the labor, material, and equipment shall clearly identify the change to which it relates. The Contractor shall use the DWRs in preparing billings for Force Account work.

SECTION 9.04A. Labor on Force Account.

The Contractor will be paid the cost of direct labor used in the actual and direct performance of the changed work. Except as otherwise provided, the Contractor will receive no additional compensation for overtime work without prior written authorization from the SLDMWA. The cost of labor will be the sum of the following:

- Actual Wages: Charges for labor will be the Contractor's actual payroll costs for labor of any classification, including employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes.
- Labor Surcharge: A twenty-six percent (26%) surcharge for taxes, insurance, and all other payments made to or on the behalf of the employee shall be added to the actual wages.
- Subsistence and Travel: The SLDMWA will pay the Contractor for actual subsistence and travel allowance costs associated with the changed work required by labor agreements or acceptable to the SLDMWA. Documentation must be provided to the SLDMWA.

SECTION 9.04B. Materials on Force Account.

Payment will be for the purchaser's actual cost of supplier or vendor furnished materials documented by invoices. The SLDMWA reserves the right to purchase materials for the changed Work.

SECTION 9.04C. Equipment on Force Account.

The prices paid for equipment directly and solely required for performance of the changed work will be either the actual, reasonable rental rate documented by invoices or those listed in the current edition of the Caltrans publication, "Labor Surcharge and Equipment Rental Rates." If the equipment is not shown in this publication, the Contractor shall be paid such hourly rental rates as are agreed upon by the Contractor and the SLDMWA prior to use of the equipment, plus thirty-three and one-third percent (33-1/3%) for the cost of fuel, oil, lubrication, and field repairs and maintenance. In no case shall the rental rates exceed those of established distributors or equipment rental agencies serving the area.

The rate paid for the use of equipment constitutes full compensation to the Contractor for all costs, including fuel, power, oil, lubrication, supplies, small tools, small equipment, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, labor (except for equipment operators) and any and all costs to the Contractor incidental to the use of such equipment for the changed work.

Payment will not be made for the equipment while it is inoperative due to breakdowns or for time in which no changed work was performed. Payment for rentals will include time required to move equipment to the changed work from the rental source and to return it to the source. However, no moving, loading, or transportation costs will be paid if the equipment is used for any other portion of the Work.

Individual tools and pieces of equipment having replacement value of five hundred dollars (\$500) or less shall be considered tools or small equipment and no payment will be made for those pieces of equipment.

SECTION 9.04D. Subcontracts on Force Account.

Subcontract costs shall be the actual cost to the Contractor for work performed by a Subcontractor and supported by invoices. Notwithstanding the foregoing, the SLDMWA reserves the right to reject any Subcontractor cost which materially differs from the above Force Account provisions unless the SLDMWA approved the deviating cost in writing prior to the Subcontractor cost being incurred.

SECTION 9.04E. Markups on Force Account.

Only the direct costs directly attributable to the performance of the changed work shall be allowed. All other costs shall be included in the allowed markups, including, but not limited to, profit, home office and field overhead, jobsite

indirect costs, extended overhead, jobsite office personnel, general field superintendence, general engineering, supervision of labor, bond and insurance premiums, and general field expense, and shall constitute full compensation for all costs not included as actual labor, materials, equipment, or Subcontractor costs. Markups for changed work shall not exceed the following:

Labor	15%
Materials	10%
Equipment Rental	10%
Bonds and Insurance	2%

The Contractor or Subcontractor, whomever actually performs the changed work, may add the markups to the total of allowable costs. When a Subcontractor performs work, the Contractor and any higher tiered Subcontractor may add as mark-up to the total of allowable costs an amount not to exceed five percent (5%), which markup shall not be applied to any markups charged by the Subcontractor.

When the SLDMWA is entitled to credit for deleted work, a ten percent (10%) credit for deleted overhead of the Contractor or Subcontractor, as applicable, will be added to such credit.

SECTION 9.05. Limitations on Payments for Changed Work.

The SLDMWA will not pay the Contractor costs in excess of prevailing market values, unless the Contractor can establish, to the satisfaction of the SLDMWA, that the Contractor has investigated all possible means of providing the work and that the excess costs could not be avoided.

SECTION 9.06. Effect on Sureties of Changes to the Work.

No alterations, time extensions, extra or additional work, or other changes shall affect the sureties' obligations.

SECTION 9.07. Disputes.

If the Contractor and SLDMWA fail to agree whether a Directive or other order is within the scope of the Contract, the amount of any agreed change, or otherwise dispute matters arising under the Contract Documents, these disputes provisions shall apply. The Contractor shall not stop performing the Work pending resolution of a dispute, unless so ordered in writing by the SLDMWA.

SECTION 9.07A. Notice of Potential Claim.

The Contractor shall not be entitled to payment of any additional compensation (whether money or time) for any cause unless the Contractor has given the SLDMWA timely written notice of potential claim ("NOPC") setting forth the reasons for which the Contractor believes additional monetary compensation and/or time is due, the nature of costs and/or time involved, and, insofar as possible, the amount of the potential claim.

The Contractor shall provide a written NOPC to the SLDMWA upon discovery of any disagreement, situation, or occurrence that may result in a claim, including but not limited to changes in work and delays. The NOPC shall be submitted no more than ten (10) Working Days after the discovery or occurrence of any event that may be the basis for a claim for additional compensation or additional time. **Failure to timely submit the NOPC waives any Claim that Contractor may otherwise have had the right to submit based on the underlying occurrence or event.**

SECTION 9.07B. Claims.

Claims shall be subject to the requirements of Public Contract Code sections 20104 *et seq.* and 9204. A summary of those provisions is set forth below. To the extent that the summary below is inconsistent with any requirement of those statutes, the statutes shall control. The terms below are intended to be consistent with the governing statutes, and any modifications shall be understood as lawful modifications or additions to the statutory requirements if possible.

SECTION 9.07B1. Definitions.

“Claim” means a separate demand by the Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) a time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) payment by the public entity of money or damages arising from work done by, or on behalf of, Contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) payment of an amount that is disputed by the SLDMWA.

“Mediation” means any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation.

“Public works contract” or “public works project” means any project meeting the definition of Labor Code section 1720(a), including subsection (a)(2), whether or not the project involves the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

“Subcontractor” means any type of contractor who either is in direct contract with the Contractor or is a lower tier subcontractor.

SECTION 9.07B2. Claims Procedure.

All Claims under this Contract shall be resolved using the following procedure.

1. The Claim shall be in writing and include the documents necessary to substantiate the Claim as set forth in Section 9.17C. Unless a different time is stated in the Contract Documents, Claims must be filed not later than thirty (30) Calendar Days after the proposed final payment request is returned to the Contractor by the SLDMWA. Any Claim shall be certified under penalty of perjury and in compliance with the California False Claims Act, as set forth in Section 9.17C below. Failure to include these required certifications will constitute grounds for immediate rejection of the Claim and shall be deemed a waiver and absolute bar of the Claim, including any right to pursue the Claim further.
2. If a Subcontractor, including a lower tier Subcontractor, lacks legal standing to assert a Claim against the SLDMWA because privity of contract does not exist, then the Contractor may present a Claim on behalf of such a Subcontractor. A first-tier Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier Subcontractor, that the Contractor present a Claim on behalf of the Subcontractor for work that was performed by the Subcontractor. The Subcontractor requesting that the Claim be presented shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, the Contractor shall notify the Subcontractor in writing as to whether the Contractor presented the Claim and, if the Contractor did not present the Claim, provide the Subcontractor with a statement of the reasons for not having done so.
3. Upon receipt of a Claim, the SLDMWA shall conduct a reasonable review of the Claim. Within 30 days of receipt of the Claim, the SLDMWA may request, in writing, any additional documentation supporting the Claim or relating to defenses to the Claim that the SLDMWA may have against the claimant. Where additional information is requested by the SLDMWA, the time in which the SLDMWA must respond to a Claim shall be tolled until all requested information is provided. If additional information is thereafter required, then it shall be requested and provided upon mutual agreement of the SLDMWA and the Contractor.
4. Within 45 days of receipt of the Claim, as that time may be tolled as provided in Section 9.17B.3 above, the SLDMWA shall provide the Contractor with a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the SLDMWA and the Contractor may, by mutual agreement, extend the time period for a response. Failure by the SLDMWA to respond to a Claim within the time periods described herein shall result in the Claim being deemed rejected in its

entirety. A Claim that is denied by failure of the SLDMWA to respond shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the claimant.

5. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the SLDMWA issues its written statement. The SLDMWA shall not fail to pay money as to any portion of a Claim which is undisputed except as otherwise provided in the Contract Documents.
6. If the claimant disputes the SLDMWA's written response, or the SLDMWA fails to respond within the time prescribed, the Contractor may so notify the SLDMWA, in writing, either within 15 days of receipt of the SLDMWA's response or within 15 days of the SLDMWA's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, sent by registered mail or certified mail, return receipt requested, the SLDMWA shall schedule a meet and confer conference within 30 days for settlement of the dispute.
7. Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, then the SLDMWA shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Failure by the SLDMWA to provide the written statement within the time periods described herein shall result in the remaining Claim issues being deemed rejected in their entirety. Denial by failure of the SLDMWA to respond shall not constitute an adverse finding with regard to the merits of the remaining Claim issues or the responsibility or qualifications of the claimant. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement.
8. Any remaining disputed portion of the Claim following the meet and confer conference shall be submitted to nonbinding mediation, with the SLDMWA and the Contractor sharing the associated costs equally. The SLDMWA and the Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. Unless otherwise agreed to by the SLDMWA and the Contractor in writing, the mediation conducted pursuant to this Section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced. This Section does not preclude arbitration if mediation under this Section does not resolve the parties' dispute.
9. If mediation is unsuccessful, then the Contractor may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code with respect to the parts of the Claim remaining in dispute. For purposes of those provisions, the running of the period of time within which a Claim must be filed shall be tolled from the time the Contractor submits his or her written Claim pursuant to Section 9-18.02.01 until the time that mediation of disputed portions of that Claim is completed. This Section does not apply to tort claims, and nothing in this Section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.
10. Amounts not paid in a timely manner as required by this Section shall bear interest at 7% per year.
11. Claims of \$375,000 or less are subject to the following procedures for civil actions to resolve the claims:
 - a. The case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any such proceeding, consistent with the rules pertaining to judicial arbitration.

- b. The parties stipulate that the arbitrator shall be experienced in construction law and shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.
- c. In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who, after receiving an arbitration award, requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorneys' fees of the other party arising out of trial de novo.
- d. The court may, upon request by any party, order any witnesses to participate in arbitration process.

In any suit filed under Public Contract Code Section 20104.4, the SLDMWA shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

SECTION 9.07B3. Certification.

Every claim must include the following certification. Failure to include the certification results in the claim being incomplete, and the SLDMWA shall have no obligation to review the claim unless or until such certification is provided.

Claim Declaration

I, [name of declarant], declare the following:

[Contractor company name] has contracted with the San Luis and Delta Mendota Water Authority for the [name of project] project. I am authorized by my employer ([contractor company name]) to prepare the attached claim for compensation (in other words, for money and/or time extensions) to the San Luis and Delta Mendota Water Authority regarding this project (dated _____, 20__, and requesting \$_____ and/or ____ additional working days), and I did prepare said attached claim. I am the most knowledgeable person at [contractor company name] regarding this claim.

I am aware of all law that relates to this claim, including but not limited to California Penal Code section 72, Government Code sections 12650 et seq. (False Claims Act), and Business and Professions Code sections 17200 et seq. (Unfair Business Practices Act). I am aware that submission or certification of false claims, or other claims that violate law or the contract, may lead to fines, imprisonment, and/or other severe legal consequences for myself and/or [contractor company name].

The attached claim is prepared and submitted in good faith, does not breach the contract between [contractor company name] and the San Luis and Delta Mendota Water Authority for this project, does not violate any law, satisfies all provisions of the contract, only contains truthful and accurate supporting data, and only requests an amount that accurately reflects the adjustments to money and time for which I honestly and in good faith believe that the San Luis and Delta Mendota Water Authority is responsible under its contract with [contractor company name].

So that I could declare that the statements in this declaration and the attached claim were true and correct, while preparing this declaration and claim, I consulted with others (for example, attorneys, consultants, or others who work for [contractor company name]) when necessary to assure myself that said statements were true and correct.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed _____, 20__, at _____, California.

[name of declarant]

For claims submitted by the Contractor on behalf of a Subcontractor, both the Contractor and the Subcontractor shall submit the above declaration.

SECTION 9.07C. Documentation of Claims by Contractor.

For each Claim, the Contractor shall furnish the following claim documentation in the following format:

1. Introduction and background
2. Issues
 - a. Index of issues
 - b. For each issue:
 - Background
 - Chronology
 - Contractor's position (reason for SLDMWA's potential liability)
 - Supporting documentation of merit
 - Supporting documentation of damages
3. Delay analysis (if applicable)
4. Productivity and damages exhibits (if applicable)
5. Summary of issues and damages

Supporting documentation of merit and damages for each issue shall be cited by reference, photocopies, or explained. Supporting documentation may include, but not be limited to, Contract Documents, correspondence, inspection reports, delivery schedules, test reports, daily reports, subcontracts, photographs, RFIs and responses, Directives, purchase orders, invoices, releases, quantity records, other accounting records, and other Project records.