

incomplete or not done in accordance with Contract provisions, an equitable reduction in the Contract Price (of at least 150% of the estimated reasonable value of the nonconforming Work) shall be made therefore. In such case, CONTRACTOR will be invoiced the cost to correct such deficiencies, including compensation for additional professional and internally generated services and expenses made necessary by such default, neglect, or failure. The invoice amount shall be deducted from the next payment due CONTRACTOR. If payments then or thereafter due CONTRACTOR are not sufficient to cover such amounts, CONTRACTOR shall pay the difference to DISTRICT.

Article 63. CORRECTION OF WORK

(a) CONTRACTOR shall promptly remove from premises all Work identified by DISTRICT as failing to conform to Contract, whether incorporated or not. CONTRACTOR shall promptly replace and re-execute its own Work to comply with Contract Documents without additional expense to DISTRICT or extension of time and shall bear the expense of making good all Work of other contractors destroyed or damaged by such removal or replacement.

(b) If CONTRACTOR does not remove such Work within a reasonable time, fixed by written notice, DISTRICT may remove it and may store the material at CONTRACTOR's expense. If CONTRACTOR does not pay expenses of such removal within ten (10) Days thereafter, DISTRICT may, upon ten (10) Days written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by CONTRACTOR.

(c) If, within three (3) years after the date of completion of the Work or a designated portion thereof, or after the date for commencement of warranties established under Article 61, or by the terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, CONTRACTOR shall correct it promptly after receipt of written notice from DISTRICT to do so unless DISTRICT has previously given CONTRACTOR a written acceptance of such condition. The period of three (3) years shall be extended with respect to portions of the Work first performed after Completion by the period of time between Completion and the actual performance of the Work. This obligation shall survive acceptance of the Work under the Contract and termination of the Contract. DISTRICT shall give such notice promptly after discovery of the condition.

Article 64. DELAYS AND EXTENSION OF TIME

(a) CONTRACTOR shall not be charged for liquidated damages, as set forth in the Agreement, because of any delays in completion of Work due to unforeseeable causes beyond the control and without the fault or negligence of CONTRACTOR, including but not restricted to: acts of God, or of public enemy, acts of Government, acts of DISTRICT or anyone employed by it or acts of another contractor in performance of a contract (other than the Contract) with DISTRICT, fires, floods, epidemics, quarantine restrictions, strikes, the results of viral pandemics such as shelter-in-place orders, quarantines, government shutdowns, substantial interruption to air travel, substantial interruptions in supply chains, equipment, materials and/or personnel shortages, and other economic by-products caused by the response to an epidemic or pandemic, and unusually severe weather or delays of Subcontractors due to such causes, provided that CONTRACTOR has taken reasonable precautions to prevent further delays owing to such causes. A ten (10) year average of the normal seasonal rainfall for the Azusa and Los Angeles County area, as determined

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity 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 to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2027, deletes or extends that date.

(c) **Public Contract Code Sections 20104 et seq.** Per Public Contract Code section 9204(d)(2)(B), if mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside Public Contract Code section 9204. Among these procedures are those set forth in Public Contract Code sections 20104 et seq.:

Public Contract Code Section 20104. Application of article; provisions included in plans and specifications.

(a) (1) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency.

(2) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with section 10240) of Chapter 1 of Part 2.

(b) (1) "Public work" means "public works contract" as defined in Section 1101 but does not include any work or improvement contracted for by the state or the Regents of the University of California.

(2) "Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency.

(c) The provisions of this article or a summary thereof shall be set forth in the plans or Specifications for any work which may give rise to a claim under this article.

(d) This article applies only to contracts entered into on or after January 1, 1991.

Section 20104.2. Claims; requirements; tort claims excluded.

For any claim subject to this article, the following requirements apply:

(a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(b) (1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

(c) (1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency'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 a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(e) Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant 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. 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 claimant submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

(f) This article does not apply to tort claims and nothing in this article 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.

Section 20104.4. Civil action procedures; mediation and arbitration; trial de novo; witnesses.

The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b) (1) If the matter remains in dispute, 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 proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators 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.

(3) 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 attorney's fees of the other party arising out of the trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

Section 20104.6. Payment on undisputed portion of claim; interest on arbitration awards or judgments.

(a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

(b) In any suit filed under section 20104.4, the local agency 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.

Article 74. SOLID WASTE MANAGEMENT

CONTRACTOR shall comply with all provisions of applicable laws, including, without limitation, the requirements of the California Public Resources Code, rules and regulations of the California Integrated Waste Management Board and provisions of any site-specific Plans adopted by DISTRICT, that are applicable to the activities of contractors performing construction or related activities on the Project site.

Article 75. COMPLIANCE WITH STATE STORM WATER PERMIT

(a) Unless otherwise specified in the Contract Documents, CONTRACTOR shall be required to comply with all aspects of the State Water Resources Control Board ("State Water Board") Water Quality Order No. 2009-0009-DWQ, as amended by Order No. 2010-0014-DWQ, National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity ("Permit") for all projects that involve construction on or disturbance of one acre or more of land or which are part of a larger common area of development.

(b) CONTRACTOR shall be responsible for filing the Notice of Intent ("NOI") and for obtaining coverage under the Permit. This includes preparing and implementing a Storm Water Pollution Prevention Plan ("SWPPP") for the Project Site. Before any NOI, SWPPP, or other Permit-related document may be submitted to the State Water Board or implemented on the Project Site, it must first be reviewed and approved by DISTRICT. CONTRACTOR shall include all costs of compliance with specified requirements in the Contract Price.

(c) DISTRICT retains the right to procure coverage under the Permit for the Project Site if CONTRACTOR fails to draft a satisfactory NOI or SWPPP or proceed in a manner that is

satisfactory to DISTRICT. Any cost incurred by DISTRICT in procuring coverage under the Permit, or drafting an NOI or SWPPP shall be paid by CONTRACTOR.

(d) CONTRACTOR shall be responsible for maintaining compliance with all aspects of the Permit during the course of the Project. CONTRACTOR shall provide copies of all reports and monitoring information to DISTRICT Representative. If CONTRACTOR has failed or is unable to maintain compliance with the Permit, DISTRICT reserves the right to implement its own SWPPP at the Project Site, and hire additional contractors to maintain compliance. DISTRICT shall solely determine whether CONTRACTOR has adequately maintained compliance with the Permit. Any costs incurred by DISTRICT in drafting and implementing a SWPPP, or otherwise maintaining compliance with the Contraction General Permit shall be paid by CONTRACTOR.

(e) In bidding on this Contract, it shall be CONTRACTOR's responsibility to evaluate and include in the Contract Price the cost of procuring coverage under the Permit, preparing a SWPPP that is acceptable to DISTRICT, and complying with SWPPP and any revisions to the SWPPP that become necessary during the course of construction.

(f) In addition to compliance with the Permit, CONTRACTOR shall comply with the lawful requirements of any applicable municipality, DISTRICT, drainage district, and other local agencies regarding discharges of storm water to the storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

(g) Storm, surface, nuisance, or other waters may be encountered at various times during construction of the Work. CONTRACTOR, by submitting a bid, hereby acknowledges that it has investigated the risk arising from such waters, has prepared its bid accordingly, and assumes any and all risks and liabilities arising therefrom.

(h) Failure to comply with the Permit is a violation of federal and state law. CONTRACTOR hereby agrees to indemnify and hold harmless DISTRICT, its officials, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which DISTRICT, its officials, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the sole established negligence, willful misconduct or active negligence of DISTRICT, its officials, officers, agents, employees or authorized volunteers. DISTRICT may seek damages from CONTRACTOR for delay in completing the Contract in accordance with the Contract Documents, caused by CONTRACTOR's failure to comply with the Permit.

Article 76. INDEMNIFICATION

(a) To the fullest extent permitted by law, CONTRACTOR agrees to indemnify, defend at its own expense and hold harmless, DISTRICT, its Board, and each of their members, officers, employees, agents, insurers and volunteers ("Indemnitee(s)"), through legal counsel reasonably acceptable to DISTRICT, from any and all losses, whether real or alleged, regardless of whether caused in part by such Indemnitee, arising out of or relating to any of the following: (1) any act or omission of CONTRACTOR or a Subcontractor, (2) the activities of CONTRACTOR or a Subcontractor, on the Project site or on other properties related to performance of the Work or the preparation for performance of the Work; (3) the payment or nonpayment of any Subcontractor for the Work performed; (4) the existence or dispersal of any

Hazardous Substances or Mold on the Project site as a result of CONTRACTOR's or a Subcontractor's failure to comply with its obligations under the Contract Documents; (5) the violation by CONTRACTOR or a Subcontractor of any patent, copyright or trademark rights; (6) the violation by CONTRACTOR or a Subcontractor of applicable law, including, without limitation, the violation of any requirement of the Storm Water Permit or the Storm Water Management or Storm Water Pollution Prevention Plans or violation of local storm water requirements; (7) the violation by CONTRACTOR or a Subcontractor of any of the labor requirements pertaining to the Project; (8) liability for (i) death or bodily injury to persons, (ii) damage or injury to, loss (including theft), or loss of use of, any property, (iii) any failure or alleged failure to comply with any provisions of law or the Contract Documents; or (iv) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with the Work called for in the Contract Documents; (9) any dispute between CONTRACTOR and Subcontractors, suppliers, or sureties, including, but not limited to, any failure or alleged failure of CONTRACTOR (or any person hired or employed directly or indirectly by CONTRACTOR) to pay any Subcontractor or supplier or any person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims; provided, however, that nothing contained herein shall be construed as obligating CONTRACTOR to indemnify an Indemnitee for losses resulting from that Indemnitee's sole negligence, that Indemnitee's active negligence or willful misconduct of such Indemnitee or its agents, servants or independent contractors who are directly responsible to such Indemnitee, where such sole negligence, active negligence or willful misconduct has been determined by agreement of CONTRACTOR and that Indemnitee, or has been adjudged by the final and binding findings of a court or arbitrator of competent jurisdiction. In instances where the active negligence or willful misconduct of an Indemnitee or its agents, servants or independent contractors who are directly responsible to such Indemnitee accounts for only a percentage of the loss involved, the obligation of CONTRACTOR will be for that portion of the loss not due to the active negligence or willful misconduct of such Indemnitee or its agents, servants or independent contractors who are directly responsible to such Indemnitee.

(b) Pursuant to Public Contract Code section 9201, DISTRICT shall provide CONTRACTOR with timely notification of the receipt of any third-party claim relating to the Contract.

(c) In the event CONTRACTOR enters into any agreement with the owners of any adjacent property to enter upon such property for the purpose of performing the Work or other activities incidental to the Work, CONTRACTOR shall fully indemnify, defend and hold harmless any person or entity which owns or has any interest in such adjacent property.

(d) The indemnification, defense and hold harmless obligations of CONTRACTOR under this Article as well as any such obligations stated elsewhere in the Contract Documents: (1) shall not be limited by the amounts or types of insurance (or the deductibles or self-insured retention amounts of such insurance) which CONTRACTOR or any Subcontractor is required to carry under the terms of the Contract Documents; (2) are independent of and in addition to the Indemnitees' rights under the insurance to be provided by CONTRACTOR or any Subcontractor; and (3) shall not be limited, in the event of a claim against an Indemnitee by an employee of CONTRACTOR, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, by a limitation on amount or type of damages, compensation or benefits payable by or for CONTRACTOR or Subcontractor under any worker's compensation act, disability benefit act or other employee benefit program.

(e) CONTRACTOR agrees to obtain or cause to be obtained executed defense and indemnity agreements with provisions identical to those set forth in this Article from each and every Subcontractor. In the event CONTRACTOR fails to do so, CONTRACTOR agrees to be fully responsible to provide such defense and indemnification on Subcontractor's behalf according to the terms of this Article.

(f) Notwithstanding anything stated in this Article or elsewhere in the Contract Documents to the contrary, an Indemnitee's right to seek equitable indemnity and contribution from CONTRACTOR is in no way diminished or precluded by any agreement by CONTRACTOR to provide express contractual indemnity to such Indemnitee. CONTRACTOR's obligations under this Article shall be deemed to completely eliminate and preclude any right by CONTRACTOR to seek contractual or equitable indemnity or contribution from any Indemnitee for any loss covered by CONTRACTOR's express indemnification obligations under this Article.

(g) CONTRACTOR's obligation to defend under this Article includes, without limitation, the obligation to immediately reimburse an Indemnitee for any attorney's fees, court costs (statutory and non-statutory), arbitration and mediation expenses, professional, expert and consultant fees, investigative costs, postage costs, document copying costs, telecopy costs and any and all other costs and expenses associated with defense of such Indemnitee as and when incurred by any Indemnitee in defense of a claim by any third person or entity as a result of CONTRACTOR's failure or refusal to comply with its immediate defense obligation to such Indemnitee. Nothing stated in this Article or elsewhere in the Contract Documents shall be interpreted as providing or implying that the obligation of CONTRACTOR to defend an Indemnitee against an alleged loss that is within the scope of CONTRACTOR's indemnification obligation under this Article or under any other provision of the Contract Documents is to any extent released, excused, limited or relieved by a finding, determination, award or judgment by a court or arbitrator that the alleged loss was due to circumstances not within the scope of such indemnification obligation.

Article 77. MISCELLANEOUS PROVISIONS

(a) **Pre-Bid Conference.** Regardless of whether the Pre-Bid Conference(s) as described in the bidding documents or otherwise conducted are mandatory or optional, CONTRACTOR shall be deemed charged with knowledge of all facts, circumstances and other information that was available or provided to bidders at any Pre-Bid Conference, including, without limitation, any and all of the physical conditions of the land and existing improvements at the Project site that were visible and/or available for inspection or review by the bidders attending the Pre-Bid Conference.

(b) **Governing Law.** The interpretation and enforcement of the Contract Documents and the performance by the parties thereunder shall be governed by the laws of the State of California. The Superior Court of the County of Riverside shall have exclusive jurisdiction and venue over any legal proceedings arising out of or involving the interpretation or enforcement of, or other matters relating to, the Contract Documents or the performance of the parties thereunder.

(c) **Assignment.** Neither the performance of the Contract nor the Contract Documents, nor any monies due or to become due thereunder, nor any claim thereunder, may be assigned by CONTRACTOR without the prior written consent and approval of DISTRICT, which may be granted or withheld in DISTRICT's sole discretion. Any assignment by CONTRACTOR in violation of the section shall be null and void from its inception.

(d) **Written Notice.** Any notice from one party to the other or otherwise under the Contract Documents shall be in writing and shall be dated and signed by the party giving such notice or by a duly authorized representative of such party. Any such notice shall be deemed to have been duly served if served in the following manner:

(1) **Notice to DISTRICT.** If notice is given to DISTRICT, by personal delivery thereof to DISTRICT or by depositing same in United States mail, enclosed in a sealed envelope addressed to DISTRICT at its address shown in the bidding documents, and sent by registered or certified mail with postage prepaid.

(2) **Notice to CONTRACTOR.** If notice is given to CONTRACTOR, by personal delivery thereof to CONTRACTOR or to CONTRACTOR's project manager or superintendent at the Project site, or by depositing same in United States mail, enclosed in a sealed envelope addressed to CONTRACTOR at its last known address for its regular place of business and sent by registered or certified mail with postage prepaid.

(3) **Notice to Surety.** If notice is given to Surety, by personal delivery to the Surety or by depositing same in United States mail, enclosed in a sealed envelope, addressed to the Surety at the address of the Surety shown in the applicable Performance Bond or Payment Bond (or, if none is shown, the last known address for the Surety), and sent by registered or certified mail with postage prepaid.

(e) **Severability.** Should any part, term, portion or provision of the Contract Documents, or the application thereof to any party or circumstance, be held to be illegal, invalid or in conflict with any applicable laws, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to any other party or circumstance, shall be deemed severable and the same shall remain enforceable and valid to the fullest extent permitted by applicable laws.

(f) **Provisions Required by Applicable Laws.** Each and every provision of law and clause required by applicable laws to be inserted in the Contract Documents shall be deemed to be inserted and the Contract Documents shall be read and enforced as though it were included therein, and if through mistake or otherwise any such provision is not inserted or if inserted and requires correction, then upon request of either party the Contract Documents shall be amended by the parties to make such insertion or correction.

(g) **Survival.** All provisions of the Contract Documents that either expressly, or by their nature, require performance or assumption by CONTRACTOR of an obligation that extends beyond termination of the Contract or final completion of the Work, including, without limitation, CONTRACTOR's obligations of, or relating to, indemnification, insurance, confidentiality, ownership of documents, retention and audit of books and records, warranties and guaranties and resolution of claims shall be deemed to survive either termination of the Contract or final completion of the Work.

(h) **Waiver.** Provisions of the Contract Documents may be waived by DISTRICT only in writing, stating expressly that it is intended as a waiver of specified provisions of the Contract Documents. A waiver, by either DISTRICT or CONTRACTOR, of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character. DISTRICT's approval, acceptance, use or payment for any or part of

CONTRACTOR's performance of the Work shall not in any way alter CONTRACTOR's obligations, or waive any of DISTRICT's rights, under the Contract Documents. No certification for payment, payment, nor partial or entire use or occupancy of the Project or Work by DISTRICT shall constitute acceptance of Work not in accordance with the Contract Documents.