



CASTAIC LAKE WATER AGENCY
STANDARD CONTRACT RISK TRANSFER PROVISIONS,
GENERAL CONDITIONS and REQUIRED INSURANCE
for

SMALL CONSTRUCTION CONTRACT

Typical CLWA services that would use Small Contracts with Construction Work: Welding, electrical, roofing, plumbing, fencing, concrete services

1. RISK TRANSFER PROVISIONS

1.1. **Workers' Compensation Insurance** - By Consultant's authorized signature on the Professional Services Agreement ("Agreement") to which these Risk Transfer Provisions are attached, Consultant certifies that he/she/it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she/it will comply with such provisions before commencing the performance of the work of this Agreement.

1.2. **Indemnification** – Notwithstanding the limits of any insurance, to the fullest extent permitted by law, Consultant shall indemnify and hold harmless and defend Castaic Lake Water Agency, its directors, officers, employees, or authorized volunteers and each of them from and against:

1.2.1. Any and all claims, demands, causes of action, damages, costs (including but not limited to the costs of Counsel acceptable to Castaic Lake Water Agency), expenses, losses or liabilities, in law or in equity, of every kind or nature whatsoever for, but not limited to, injury to or death of any person including Castaic Lake Water Agency and/or Consultant, or any directors, officers, employees, or authorized volunteers of Castaic Lake Water Agency or Consultant, and damages to or destruction of property of any person, including but not limited to, Castaic Lake Water Agency and/or Consultant or their directors, officers, employees, or authorized volunteers, arising out of or in any manner directly or indirectly connected with the work to be performed under this agreement, however caused, or any hazardous materials utilized in connection with such work, regardless of any negligence of Castaic Lake Water Agency or its directors, officers, employees, or authorized volunteers, except the sole negligence or willful misconduct or active negligence of Castaic Lake Water Agency or its directors, officers, employees, or authorized volunteers; As used here, "hazardous materials" includes but is not limited to:

1.2.1.1. Any hazardous or toxic substance, material or waste which is or becomes subject to regulations as such by any agency of the state, any municipality or political subdivision of the state of the United States; or any material or substance that is any of the following:

- a. A hazardous substance, as defined in Section 25316 of the California Health and Safety Code.
- b. Hazardous material, as defined in subdivisions (j) of Section 25501 of the California Safety Code.
- c. Acutely hazardous material, as defined in subdivision (a) of the California Section 25532 of the Health and Safety Code.
- d. Hazardous waste, as defined in Section 25117 of the California Health and Safety Code.
- e. Extremely hazardous waste, as defined in Section 25115 of the California Health and Safety Code.
- f. Petroleum.
- g. Asbestos.
- h. Designated as a hazardous substance for purposes of Section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1321).
- i. Hazardous waste, as defined by subsection (5) of Section 1004 of the federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6903).
- j. A hazardous substance, as defined by subsection (14) of Section 101 of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601).
- k. A regulated substance, as defined by subsection (2) of Section 9001 of the federal Solid Waste Disposal Act, as amended (42 U.S.C. Sec. 6991)

1.2.2. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Consultant.

1.2.3. Any and all losses, expenses, damages (including damages to the work itself), attorneys' fees, and other costs, including all costs of defense with Counsel acceptable to the Castaic Lake Water Agency, which any of them may incur with respect to the failure, neglect, or refusal of Consultant to faithfully perform the work and all of the Consultant's obligations under the Agreement. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by the indemnified parties in any lawsuit to which they are a party.

Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal, equitable or administrative proceedings of every kind that may be brought or instituted against Castaic Lake Water Agency or its directors, officers, employees, or authorized volunteers.

Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Castaic Lake Water Agency or its directors, officers, employees, or authorized volunteers, in any and all such aforesaid suits, actions, or other legal proceedings.

Consultant shall reimburse Castaic Lake Water Agency or its directors, officers, employees, or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Castaic Lake Water Agency or its directors, officers, employees, or authorized volunteers.

2. GENERAL CONDITIONS

- 2.1. **Laws, Regulations and Permits** - The Consultant shall give all notices required by law and comply with all laws, ordinances, rules, and regulations pertaining to the conduct of the work. The Consultant shall be liable for all violations of the law in connection with work furnished by the Consultant. If the Consultant observes that the drawings or specifications are at variance with any law or ordinance, rule or regulation, he/she shall promptly notify the Castaic Lake Water Agency engineer in writing and any necessary changes shall be made by written instruction or change order. If the Consultant performs any work knowing it to be contrary to such laws, ordinances, rules or regulations and without giving notice to the Castaic Lake Water Agency engineer, the Consultant shall bear all costs arising therefrom.
- 2.2. **Safety** - The Consultant shall execute and maintain his/her work so as to avoid injury or damage to any person or property. The Consultant shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work.

In carrying out his/her work, the Consultant shall at all times exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed, and be in compliance with all applicable federal, state and local statutory and regulatory requirements including California Department of Industrial Relations (Cal/OSHA) regulations; and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act. Safety precautions, as applicable, shall include but shall not be limited to: adequate life protection and life saving equipment; adequate illumination; instructions in accident prevention for all employees, such as the use of machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection, and other safety devices; equipment and wearing apparel as are necessary or lawfully required to prevent accidents, injuries, or illnesses; and adequate facilities for the proper inspection and maintenance of all safety measures.

The Consultant shall be responsible for the safeguarding of all utilities. At least two working days before beginning work, the Consultant shall call the Underground Service Alert (USA) in order to determine the location of sub-structures. The Consultant shall immediately notify the Castaic Lake Water Agency and the utility owner if he/she disturbs, disconnects, or damages any utility.

In accordance with Section 6705 of the California Labor Code, the Consultant shall submit to the Castaic Lake Water Agency specific plans to show details of provisions for worker protection from caving ground during excavations of trenches of five feet or more in depth. The excavation/trench safety plan shall be submitted to and accepted by the Castaic Lake Water Agency prior to starting excavation. The trench safety plan shall have details showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground. If such a plan varies from the shoring system standards established by the Construction Safety Orders of the California Department of Industrial Relations (Cal/OSHA), the plan shall be prepared by

a California registered civil or structural engineer. As part of the plan, a note shall be included stating that the registered civil or structural engineer certifies that the plan complies with the Cal/OSHA Construction Safety Orders, or that the registered civil or structural engineer certifies that the plan is not less effective than the shoring, bracing, sloping or other provisions of the Safety Orders. In no event shall the Consultant use a shoring, sloping, or protective system less effective than that required by said Construction Safety Orders. Submission of this plan in no way relieves the Consultant of the requirement to maintain safety in all areas. If excavations or trench work requiring a Cal/OSHA permit are to be undertaken, the Consultant shall submit his/her permit with the excavation/trench work safety plan to the Castaic Lake Water Agency before work begins.

The names and telephone numbers of at least two medical doctors practicing in the vicinity and the telephone number of the local ambulance service shall be prominently displayed adjacent to telephones.

3. REQUIRED INSURANCE

3.1. Commercial General Liability and Automobile Liability Insurance - The Consultant shall provide and maintain at all times during the performance of the work under this Agreement, the following commercial general liability, automobile liability insurance and environmental impairment liability insurance:

3.2. Coverage - Coverage shall be at least as broad as the following:

3.2.1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001)

3.2.2. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (non-owned, and hired automobiles)

3.2.3. Coverage for Environmental Impairment Liability appropriate for the hazardous material/waste activity contemplated in the Agreement. The retroactive date (if any) is to be no later than the effective date of this Agreement.

3.3. Limits - The Consultant shall maintain limits no less than the following:

3.3.1. General Liability – Two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to the Castaic Lake Water Agency) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.

3.3.2. Automobile Liability – One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

3.3.3. Environmental Impairment Liability – One million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) annual aggregate.

3.4. Required Provisions - The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

3.4.1. The Castaic Lake Water Agency, its directors, officers, employees, and authorized volunteers are to be given insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; and automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Castaic Lake Water Agency, its directors, officers, employees, or authorized volunteers.

3.4.2. For any claims related to this project, the Consultant's insurance shall be primary insurance as respects the Castaic Lake Water Agency, its directors, officers, employees, or authorized volunteers. Any insurance, self-insurance, or other coverage maintained by the Castaic Lake Water Agency, its directors, officers, employees, or authorized volunteers shall not contribute to it.

3.4.3. Any failure to comply with the reporting or other provisions of the policies including breaches and warranties shall not affect coverage provided to the Castaic Lake Water Agency, its directors, officers, employees, or authorized volunteers.

3.4.4. The Consultant'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.

Such liability insurance shall indemnify the Consultant and his/her sub-Contractors against loss from liability imposed by law upon, or assumed under contract by, the Consultant or his/her sub-Contractors for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, underground excavation and removal of lateral support. The policy shall be endorsed to delete pollution-related exclusions (including lead and asbestos).

The automobile liability policy shall cover all owned, non-owned, and hired automobiles.

Each insurance policy required by this Agreement shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or the Consultant, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. mail has been given to the Castaic Lake Water Agency.

All of the insurance shall be provided on policy forms and through companies satisfactory to the Castaic Lake Water Agency.

3.5. Workers' Compensation and Employer's Liability Insurance - The Consultant and all sub-Contractor's shall cover or insure under the applicable laws relating to workers'

compensation insurance, all of their employees working on or about the construction site, in accordance with the "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Consultant shall provide employer's liability insurance with limits of no less than \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee.

- 3.6. **Deductibles and Self-Insured Retentions** - Any deductible or self-insured retention must be declared to and approved by the Castaic Lake Water Agency. At the option of the Castaic Lake Water Agency, the insurer shall either reduce or eliminate such deductibles or self-insured retentions.
- 3.7. **Acceptability of Insurers** - Insurance is to be placed with insurers having a current A.M. Best rating of no less than A:VII or equivalent or as otherwise approved by the Castaic Lake Water Agency.
- 3.8. **Evidences of Insurance** - Prior to execution of the Agreement, the Consultant shall file with the Castaic Lake Water Agency a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include Required Provisions 4.4.1 through 4.4.4.

The Consultant shall, upon demand of the Castaic Lake Water Agency, deliver to the Castaic Lake Water Agency such policy or policies of insurance and the receipts for payment of premiums thereon.

- 3.9. **Continuation of Coverage** - If any of the required coverages expire during the term of this Agreement, the Consultant shall deliver the renewal certificate(s) including the general liability additional insured endorsement to the Castaic Lake Water Agency at least ten (10) days prior to the expiration date.
- 3.10. **Responsibility for Work** – Until the completion and final acceptance by the Castaic Lake Water Agency of all the work under and implied by this agreement, the work shall be under the Consultant's responsible care and charge. The Consultant shall rebuild, repair, restore and make good all injuries, damages, re-erectments, and repairs occasioned or rendered necessary by causes of any nature whatsoever.

The Consultant shall provide and maintain builder's risk insurance (or installation floater) covering all risks of direct physical loss, damage or destruction to the work in the amount specified in the General Conditions, to insure against such losses until final acceptance of the work by the Castaic Lake Water Agency. Such insurance shall insure at least against the perils of fire and extended coverage, theft, vandalism and malicious mischief, and collapse. The Castaic Lake Water Agency, its directors, officers, employees, and authorized volunteers shall be named insureds on any such policy. The making of progress payments to the Consultant shall not be construed as creating an insurable interest by or for the Castaic Lake Water Agency or be construed as relieving the Consultant or his/her subcontractors of responsibility for loss from any direct physical loss, damage or destruction occurring prior to final acceptance of the work by the Castaic Lake Water Agency.

The Consultant shall waive all rights of subrogation against the Castaic Lake Water Agency, its directors, officers, employees, or authorized volunteers.

- 3.11. **Sub-Contractors** - In the event that the Consultant employs other Consultants (sub-Contractors) as part of the services covered by this Agreement, it shall be the Consultant's responsibility to require and confirm that each sub-Contractor meets the minimum insurance requirements specified above.