

of the District. The presence or absence of a District inspector shall not relieve Consultant from any requirements of this Agreement. The District's Project Manager may also issue a District Supplemental Instruction (DSI) form (Attachment C) to authorize minor adjustments to the Work that are consistent with the purpose of the Work. A DSI may not be used to change the Total Compensation, quantity, quality, or the Completion Date of the Work, or to change or modify the Agreement. The DSI shall indicate that both parties agree the adjustments to the Work do not affect the Total Compensation or the Completion Date. Both parties must sign the DSI. If Consultant believes that the proposed supplemental instructions will involve extra cost or extend the Completion Date and the District continues to direct that the DSI be implemented, Consultant shall implement said instructions and may submit a Change Order, subject to the dispute resolution procedure. In an emergency condition, the parties shall follow the procedure for "Emergency Changes in the Work."

(b) Change Orders

- (1) The District may alter, add to, or deduct from the Work by executing a Change Order without liability to Consultant, except for the reasonable cost of any additional Work. All such Work within Consultant's capacity to perform shall be performed pursuant to the Change Order. Any associated claim for extension of time will be adjusted when the Change Order is issued. The parties shall negotiate the cost of the Change Order on an equitable basis, which may be determined in one or more of the following ways: (a) estimate and acceptance of a lump sum, (b) unit prices named in the contract or subsequently agreed upon, (c) costs and percentage or by (d) cost and a fixed fee. If the parties cannot agree upon cost, Consultant shall implement the Change Order and shall maintain and present in such form as the District Project Manager may direct the correct amount of the net cost of labor and materials, together with vouchers. The Project Manager will certify the amount due Consultant, including reasonable allowances for overhead and profit. Pending a final determination of value, payments will be based upon the District Project Manager's certification. Final resolution of the amount due to Consultant shall be pursuant to the dispute resolution procedure.
- (2) For any Change Order requests submitted by Consultant, the District may determine that District instructions to correct deficient Work, to stop the Work due to deficiencies in the Work, or any other matters that impose additional costs upon Consultant, do not warrant an increase in the Total Compensation or extension of the Completion Date. If Consultant disputes this determination, final resolution shall be pursuant to the dispute resolution procedure.
- (c) **Emergency Changes in Work.** In the event an emergency endangering life or property requires immediate action, the District may give Consultant an oral instruction to proceed with an emergency change in the Work, which will be confirmed in writing within five days. Within 15 days after commencement of the emergency change in the Work, Consultant shall provide the District with a written estimate of any increased costs or delays as a result thereof. **Failure to so notify the District constitutes a waiver of any right to an extension of time or increase in compensation.** Within 15 days after receipt of Consultant's estimate, the parties shall negotiate a Change Order. If unable to reach agreement, disputed issues shall be resolved pursuant to the dispute resolution procedure. In no event shall Consultant decline to perform the emergency change in the Work.

14. TERMINATION AND SUSPENSION

- (a) **District Termination for Cause.** The Agreement may be terminated by the District for cause in the event of any breach hereof, including, but not limited to, Consultant's: (1) failing to carry forward and complete the Work as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work; (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subconsultants, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the District regarding the