



OLYMPIC VALLEY PUBLIC SERVICE DISTRICT BOARD REPORT



SUBJECT: 305 Olympic Valley Rd. Boiler and Control
System Replacement Project – Construction Services Agreement

EXHIBIT: F-6, 40 Pages

AUTHOR: Dave Hunt, District Engineer

MEETING DATE: November 16, 2025

RECOMMENDED ACTION: Authorize the General Manager to execute a Construction Services Agreement with Stephens Construction, Inc. in an amount not to exceed \$1,744,000, including an additional project contingency amount not to exceed \$175,000 to cover costs which may be incurred due to unforeseen circumstances during construction.

DISCUSSION: The District requested bids from three (3) mechanical contractors to construct the boiler and control system replacement project at the District's Fire Station & Administration Center. Bids were opened on October 14, 2025, and the District received bids from two (2) contractors. The bid results are as follows:

	Base Bid	Bid Alternate	Total Project Bid
Stephens Construction. Inc.	\$ 1,682,000	\$ 62,000	\$ 1,744,000
ACCO Engineered Systems, Inc	\$ 2,485,091	\$ 70,445	\$ 2,555,536

Staff has reviewed the proposals, interviewed project references, and has determined that Stephens Construction, Inc., meets the requirements in the contract documents and is well qualified to perform the work for the District.

A Notice of Award will be issued following Board approval. The project will be completed in two (2) phases. Phase 1 includes purchase of all equipment required for the project, and installation of all ductwork and air side improvements (VAV boxes and controls) and will be substantially completed by April 30, 2026. Phase 2 includes installation of the new boilers and control system and will be substantially completed by October 16, 2026. A Notice to Proceed for Phase 1 will be issued after the signed Construction Services Agreement, bonds, and insurance are submitted to the District. A Notice to Proceed for Phase 2 will be issued after completion of Phase 1 and bonds are submitted to the District.

FISCAL/RESOURCE IMPACTS: The project is budgeted as a capital replacement project funded equally through the Fire Department and Utility Department capital reserves. The total project budget is \$2,200,000, including \$2,000,000 for construction and \$200,000 in consulting services for design, permitting, construction management, and 3rd party commissioning.

ATTACHMENTS:

- Bid Proposal – Stephens Construction, Inc, October 14, 2025
- Construction Services Agreement

DATE PREPARED: November 7, 2025

OLYMPIC VALLEY PUBLIC SERVICE DISTRICT

PLACER COUNTY, CALIFORNIA

PROPOSAL

FOR

**Olympic Valley Public Service District - Fire Station &
Administration Center Boiler and Controls Replacement Project**

Olympic Valley Public Service District
305 Olympic Valley Road
Olympic Valley, CA 96146

Mailing Address:
P. O. Box 2026
Olympic Valley, CA 96146

Ladies and Gentlemen:

The undersigned as bidder declares that he has carefully examined the location of the proposed work and the contract documents, and he proposes and agrees that, if this proposal is accepted, he will contract with Olympic Valley Public Service District (District) to provide all necessary machinery, tools, apparatus, and other means of construction, and to do all the work and furnish all the materials specified in the contract, in the manner and time therein set forth required to construct the project, complete and in a satisfactory condition.

Construction shall be in strict conformity with the contract documents and specifications prepared therefore and adopted by the District, which contract documents and specifications are hereby made a part hereof.

The bidder acknowledges that Addenda Number 1, 2, _____, _____, have been delivered to him and have been examined as part of the contract documents.

The bidder proposes and agrees to contract with the said District to furnish and perform all of the above-described work, including subsidiary obligations defined in said contract documents and specifications, for the following prices, to wit:

BID SCHEDULE

ORIGINAL CONTRACT WORK

Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Amount
1.	General Conditions	1	LS	\$ 64,000	\$ 64,000
2.	Submittals	1	LS	\$ 46,000	\$ 46,000
3.	Performance and Payment Bond	1	LS	\$ 40,000	\$ 40,000
4.	Mobilization	1	LS	\$ 150,000	\$ 150,000
5.	Demolition	1	LS	\$ 52,000	\$ 52,000
6.	NOT USED				
7.	Mechanical Equipment – Boilers	1	LS	\$ 150,000	\$ 150,000
8.	Mechanical Equipment - Pumps	1	LS	\$ 25,000	\$ 25,000
9.	Mechanical Equipment – Heat Exchangers	1	LS	\$ 90,000	\$ 90,000
10.	Mechanical Equipment – Terminal Units	1	LS	\$ 50,000	\$ 50,000
11.	Mechanical Piping and Fittings	1	LS	\$ 270,000	\$ 270,000
12.	Temperature Controls - QCS	1	LS	\$ 400,000	\$ 400,000
13.	Mechanical Ductwork and Accessories	1	LS	\$ 170,000	\$ 170,000
14.	Concrete	1	LS	\$ 5,000	\$ 5,000
15.	Electrical	1	LS	\$ 91,000	\$ 91,000
16.	Insulation	1	LS	\$ 30,000	\$ 30,000
17.	Test and Balance	1	LS	\$ 34,000	\$ 34,000
18.	Crane/Rigging	1	LS	\$ 0	\$ 0
19.	Start-up and Commissioning	1	LS	\$ 5,000	\$ 5,000
20.	Cleaning, Closeout, Demobilization	1	LS	\$ 10,000	\$ 10,000

TOTAL BASE BID (Items 1-20) PRICE - \$ 1,682,000 (without alternates)

\$ ONE MILLION SIX HUNDRED EIGHTY TWO THOUSAND
In Words

BID ALTERNATE WORK

Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Amount
BID ALTERNATE-1					
1.	Submittals	1	LS	\$ 5,000	\$
4.	Demolition	1	LS	\$ 15,000	\$
2.	Mechanical Equipment – Terminal Units	1	LS	\$ 2,500	\$
3.	Mechanical Ductwork and Accessories	1	LS	\$ 13,000	\$
4.	Temperature Controls - QCS	1	LS	\$ 16,000	\$
5.	Insulation	1	LS	\$ 5,000	\$
6.	Test and Balance	1	LS	\$ 1,000	\$
7.	Electrical	1	LS	\$ 4,500	\$

TOTAL BID ALTERNATE-1 BID (Items 1-7) PRICE - \$ 62,000

\$ SIXTY TWO THOUSAND
In Words

NOTES:

It is understood and agreed as follows:

That the District reserves the right to reject any and all bids, to waive any informality in any bid, and to make awards in the interest of the District.

That the determination of the lowest responsive, responsible bidder will be made on the basis of the BASE BID TOTAL.

That the undersigned has checked carefully all the above figures and understands that the District will not be responsible for any errors or omissions on the part of the undersigned in preparing this bid.

That the undersigned shall complete the work of the contract within the time provided for in the Contract Documents.

The undersigned affirms that in making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Enclosed find bidder's bond, certified check, or cashier's check for ten percent of the total base bid.

State whether your business entity is a corporation, a co-partnership, private individual, or individuals doing business under a firm name:

STEPHENS CONSTRUCTION INC.

If the Bidder is a Corporation, the bid must be executed in the name of the Corporation and must be signed by a duly authorized officer of the Corporation. If the Bidder is a Corporation, fill in the following sentence:

"This corporation is organized and existing under and by virtues of the laws of the State of
CALIFORNIA"

Olympic Valley
Boiler and Controls Replacement

If the Bidder is a partnership, the bid must be executed in the name of the partnership and one of the partners must subscribe his signature thereto as the authorized representative of the partnership.

The representations made herein are made under penalty or perjury.

NAME OF BIDDER: STEPHENS CONSTRUCTION INC.

SIGNATURE OF BIDDER: [Signature]

ADDRESS: 3367 PONDEROSA RD., #3639
ARNOLD, CA 95223

DATED THIS 14TH DAY OF OCTOBER, 2025.

Valid Contractor's License No. 522540 is held by the bidder and expires on 11/30/2025

Classifications Held: A, B, C4, C20, C36

Following are the names and locations of the mill, shop, or office of each subcontractor who will perform work or render services to the signed bidder:

Subcontractor	Place of Business	Work Done by Subcontractor	CSLB Contractor License No.	DIR Registration Number	% Work to be Performed by Subcontractor
RS ANALYSIS	EL DORADO HILLS, CA	TAB	748756	1001005117	100
QUALITY CONTROL SYSTEMS, INC.	RENO, NV	DDC CONTROLS	1093951	1000023047	100

Following are the names, phone numbers, and project value of three references for which the Contractor has previously performed similar work to this contract.

Project Name and Date	Client Name	Contact Person	Telephone Number
TCPUD ADMINISTRATION BLDG. HEATING SYSTEM UPGRADE	TAHOE CITY PUBLIC UTILITIES DISTRICT	ANNA KLOVSTAD	530-308-6394
SFUSD BOILER SECTION REPAIRS	SAN FRANCISCO UNIFIED SCHOOL DISTRICT	WILLIAM CHOW	415-828-7292
USP AT WATER COOLING TOWER	UNITED STATES BUREAU OF PRISONS	CELESTE WALKER	209-386-4644

CONSTRUCTION SERVICES AGREEMENT

(Olympic Valley Public Services District /Stephens Construction, Inc.)

1. IDENTIFICATION

This CONSTRUCTION SERVICES AGREEMENT (“Agreement”) is entered into by and between the Olympic Valley Public Services District, a California special district formed, operating, and existing under California Water Code sections 30000 et seq. (“District”), and **Stephens Construction, Inc., a CA Corporation**, (“Contractor”) (collectively, “parties”).

2. RECITALS

- 2.1. District has determined that it requires the following construction services from a contractor: The work generally involves the removal of two existing propane-fired boilers, including all associated pumps, piping, and accessories within the mechanical room. These will be replaced with two propane-fired condensing boilers, eight pumps of varying sizes, two plate and frame heat exchangers, and additional necessary piping and accessories. The project also includes upgrading the building-wide control system to an Automated Logic system by QCS. Additionally, all fire smoke dampers will be replaced, and thirty-two Variable Air Volume (VAV) boxes throughout the building will be replaced.
- 2.2. Contractor represents that it is fully qualified to perform such construction services by virtue of its experience and the training, education and expertise of its principals and employees. Contractor further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.
- 2.3. Contractor represents that it has no known relationships with third parties, members of the District’s Board of Directors, or employees of District which would (1) present a conflict of interest with the rendering of services under this Agreement under California Government Code section 1090, the Political Reform Act (Government Code section 81000 *et seq.*), or other applicable law, (2) prevent Contractor from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.
- 2.4. District has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor shall perform in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor’ work by District shall not operate as a waiver or release. Contractor represents and warrants to District that (a) it has all licenses, permits, qualifications, insurance and approvals of whatever nature which are legally required for Contractor to practice its profession, and (b) it shall, at its sole cost, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals

which are legally required for Contractor to practice its profession. Contractor shall indemnify and hold harmless District, its officers, agents, employees and volunteers from and against any and all claims or expenses caused or occasioned directly or indirectly by Contractor's failure to so perform.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, District and Contractor agree as follows:

3. DEFINITIONS

- 3.1.** "Scope of Services": Such construction services as are set forth in Contractor's Proposal to District dated October 14, 2025, subject to implementation pursuant Exhibit A Phasing, both of which are incorporated herein by this reference.
- 3.2.** "Contract Documents". The contract consists of the following documents, all of which are hereby made a part and incorporated by reference:
1. Notice to Contractors
 2. Proposal, including Bid Schedule
 3. Complete specifications, including Special Provisions, General Conditions, Standard Drawings, Reference Specifications
 4. Conformed Drawings entitled Olympic Valley Boiler and Controls Replacement, prepared by AA-ME dated November 11, 2025
 5. Addenda issued prior to execution and Amendments issued after execution
 6. This Agreement
 7. Payment and Performance Bonds.
- 3.3.** "District Reference Specifications": The District's set of Reference Specifications, including but not limited to Sewer Technical Specifications and Water Technical Specifications, in effect at the time of District approval of project plans & specifications, are incorporated herein by reference and are hereby accepted as Reference Specifications. These Reference Specifications shall provide the technical standards for work as applicable, in the opinion of the District Engineer. Copies are available online or at the District Office. If a discrepancy in contract parts exists, the governing ranking of contract parts in descending order is: special provisions; project plans; revised standard specifications; standard specifications; revised standard plans; standard plans; supplemental project information; written numbers and notes on a drawing govern over graphics; detail drawing governs over a general drawing; specific specification governs over a general specification; specification in section governs over a specification referenced by that section.
- 3.4.** "Agreement Administrator": The Agreement Administrator for this project is Dave Hunt, P.E., District Engineer. The Agreement Administrator shall be the principal point of contact at the District for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement

Administrator will establish the timetable for completion of services and any interim milestones. District reserves the right to change this designation upon written notice to Contractor.

- 3.5.** “Contract Price”. The price as stipulated in the Bid Schedule in the Contractor’s Proposal submitted on October 14, 2025 and incorporated herein by reference. The Contract price under this Agreement is Nine Hundred Fifty Five Thousand Five Hundred Thirty Three Dollars (\$955,533.00) for Phase 1 and Seven Hundred Eighty Eight Thousand Four Hundred Sixty Eight Dollars (\$788,468) for Phase 2. The District shall pay the Contractor the Contract Price as full consideration for faithful performance of Phase 1 and Phase 2, if commenced and completed in accordance with this Agreement, subject to additions and deductions as provided in the Contract Documents.
- 3.6.** “Commencement Date”: The date of execution of the Agreement by all Parties.
- 3.7.** “Termination Date”: Twelve (12) months after filing of a Notice of Completion with the County of Placer.

4. CAMPAIGN CONTRIBUTION

This Construction Services Agreement is subject to Government Code section 84308 and related regulations promulgated by the Fair Political Practices Commission (FPPC). Contractor shall disclose any contribution to an elected or appointed District official’s campaign or committee in an amount of more than five hundred dollars (\$500) made within 12 months preceding the Commencement Date, by Contractor, its, her, or his agent, or another party affiliated with Contractor. Contractor shall provide a signed copy of the attached Campaign Contribution Disclosure Form to District prior to, or concurrent with, Contractor’s execution of this Agreement and no later than the Commencement Date.

5. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 20 (Termination) below. Contractor may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by District in writing and incorporated in written amendments to this agreement.

6. TIME OF COMPLETION

The Contractor shall commence the work required by the Contract Documents within 10 calendar days after the date of the Notice to Proceed for Phase 1 and within 10 calendar days after the date of the Notice to Proceed for Phase 2, and will complete the same within the time period set forth in the Special Provisions of the Contract Documents, unless the period for completion is extended otherwise by the Contract Documents.

7. CONTRACTOR'S DUTIES

- 7.1. Services.** Contractor shall perform the services identified in the Scope of Services and the Contract Documents in accordance with both. District shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement or Change Order.
- 7.2. Coordination with District.** In performing services under this Agreement, Contractor shall coordinate all contact with District through its Agreement Administrator. All changes and/or extra work shall be performed and paid for in accordance with the following:
- 7.2.1.** Only the District General Manager or District Board of Directors may authorize extra and/or changed work. Contractor expressly recognizes that other District personnel are without authorization to either order extra and/or changed work or waive contract requirements. Failure of Contractor to secure the Board's or District General Manager's authorization for such extra and/or changed work shall constitute a waiver of any and all right to adjustment in contract price due to such unauthorized work and Contractor thereafter shall be entitled to no compensation whatsoever for performance of such work.
 - 7.2.2.** If Contractor is of the opinion that any work s/he has been directed to perform is beyond the scope of this Agreement and constitutes extra work, s/he shall promptly notify District of the fact. District shall make a determination as to whether or not such work is, in fact, beyond the scope of this Agreement and constitutes extra work. In the event that District determines that such work does constitute extra work, it shall provide extra compensation to Contractor on a fair and equitable basis. A Change Order providing for such compensation for extra work shall be negotiated between District and Contractor. Such Change Order shall be executed by Contractor and be approved by the District General Manager.
 - 7.2.3.** In the event District determines that such work does not constitute extra work, Contractor shall not be paid extra compensation above that provided herein and if such determination is made by District staff, said determination may be appealed to the District Board of Directors as long as a written appeal is submitted to the District General Manager within five (5) days after the staff's determination is received by the Contractor. Said written appeal shall include a description of each and every ground upon which Contractor challenges the staff's determination. The District General Manager's decision shall be final.

- 7.3. Budgetary Notification.** Contractor shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Contract Price. Contractor shall concurrently inform the Agreement Administrator, in writing, of Contractor's estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Contract Price.
- 7.4. Business License.** Contractor shall obtain and maintain in force proper business licensure for the duration of this Agreement.
- 7.5. Professional Standards.** Contractor shall perform all work to the highest standards of Contractor's profession and in a manner reasonably satisfactory to the District. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement, including but not limited to all Cal/OSHA requirements, the conflict-of-interest provisions of California Government Code section 1090 and the Political Reform Act (Government Code § 81000 et seq.).
- 7.6. Avoid Conflicts.** During the term of this Agreement, Contractor shall not perform any work for another person or entity for whom Contractor was not working at the Commencement Date if such work would present a conflict interfering with performance under this Agreement. However, District may consent in writing to Contractor's performance of such work.
- 7.7. Appropriate Personnel.** Contractor has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Contractor or under its supervision or by subcontractor(s) of Contractor, and all personnel engaged in the work shall be qualified to perform such services. Damien Stephens, President, shall be Contractor's project administrator and shall have direct responsibility for management of Contractor's performance under this Agreement. No change shall be made in Contractor's project administrator without District's prior written consent.
- 7.8. Prevailing Wages.** This Agreement is subject to the prevailing wage law as more fully set forth in Section 10 (Labor Code), for all work performed under this Agreement for which the payment of prevailing wages is required under the California Labor Code. In particular, Contractor acknowledges that prevailing wage determinations are available for work performed under this Agreement.
- 7.9. Unauthorized Delay.** In accordance with Government Code 53069.85, and all other applicable law, Contractor agrees to forfeit and pay District the amount of One Thousand Dollars (\$1,000) per day for each and every day of unauthorized delay beyond the Termination Date, which shall be deducted from any monies due to Contractor. This payment shall be considered liquidated damages. Contractor agrees that such liquidated damages are reasonable under the circumstances existing at the

time of execution of the contract, that such liquidated damages are to compensate District for losses that are difficult to measure, and that such damages are not a penalty.

- 7.10. Unforeseeable Delay.** Contractor shall not be deemed in breach of this Agreement and no forfeiture due to delay shall be made because of any delays in the completion of the Scope of Services due to unforeseeable causes beyond the control and without the fault or negligence of Contractor provided Contractor requests from the Agreement Administrator an extension of time in writing. Unforeseeable causes of delay beyond the control of Contractor shall include acts of God, acts of a public enemy, acts of the government, acts of District, or acts of another contractor in the performance of a contract with District, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather, or delays of subcontractors due to such causes, or delays caused by failure of the owner of a utility to provide for removal or relocation of existing utility facilities. Delays caused by actions or negligence of Contractor or its agents, servants, employees, officers, subcontractors, directors, or of any party contracting to perform part of all of the Scope of Services or to supply any equipment or materials shall not be unforeseeable delays. Unforeseeable delays (those beyond Contractor's control) shall not entitle Contractor to any additional compensation beyond the Contract Price. The sole recourse of Contractor shall be to seek an extension of time from the Agreement Administrator.
- 7.11. Defective Work.** All work which is defective in its construction or deficient in any of the requirements set by Contract Documents shall be remedied or replaced by Contractor in an acceptable manner at its own expense. Defective work shall not entitle Contractor to any additional compensation beyond the Contract Price.
- 7.12. Permits and Approvals.** Contractor shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Contractor's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.
- 7.13. Notification of Organizational Changes.** Contractor shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Contractor's firm or of any subcontractor. Change of ownership or control of Contractor's firm may require an amendment to this Agreement.
- 7.14. Inspection Services.** In the event Contractor will perform inspection services, District or authorized representatives of District shall have the right to inspect the work of such services whenever such representatives may deem such inspection to be desirable or necessary. Inspections by District do not in any way relieve or minimize the responsibility of Contractor to conduct the inspections Contractor has expressly agreed to perform pursuant to this agreement. Contractor shall be solely liable for said inspections performed by Contractor. Contractor shall certify in writing to District as to the completeness and acceptability of each inspection of improvement or construction which Contractor agrees to inspect hereunder.

- 7.15. Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to District under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Contractor under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of District. In addition, pursuant to California Government Code section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of District or as part of any audit of District, for a period of three (3) years after final payment under this Agreement.

8. SUBCONTRACTING AND ASSIGNMENT

- 8.1. General Prohibition of Assignment.** This Agreement covers construction services of a specific and unique nature. Except as otherwise provided herein, Contractor shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 8.2. Contractor Responsible.** Contractor shall be responsible to District for all services to be performed under this Agreement.
- 8.3. Subcontracting.** Contractor shall not subcontract any portion of the performance contemplated and provided for herein unless (1) such subcontracting is specifically described in the Proposal attached hereto or (2) District provides prior written approval. In any event, Contractor shall supervise all work subcontracted by Contractor in performing the Services and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work shall not relieve Contractor from any of its obligations under this Agreement with respect to the Services. Contractor is obligated to ensure that any and all subcontractors performing any Services shall be fully insured in all respects and to the same extent as set forth under Section 15, to District's satisfaction. All subcontractors shall be specifically listed and their portion of work identified in the Proposal. Any changes thereto must be approved by the Agreement Administrator in writing as an amendment to this Agreement.
- 8.4. Compensation for Subcontractors.** Contractor shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. District shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

9. COMPENSATION

- 9.1. General.** District agrees to compensate Contractor for the services provided under this Agreement, and Contractor agrees to accept payment in accordance with the Contract

Price identified in the Proposal. Compensation shall not exceed the Contract Price. Contractor shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by District in advance.

- 9.2. Retention.** District may retain up to 5% of each payment until project completion. Contractor may at its own expense substitute securities equivalent to the amount withheld as retention (or the retained percentage) in accordance with Public Contract Code 22300. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with District, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to District. Upon satisfactory completion of this Agreement, the securities shall be returned to Contractor.
- 9.3. Progress Payments.** Contractor shall submit to District a Progress Payment request on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed pursuant to this Agreement. Progress Payments shall be submitted pursuant to Section G8.05 – Progress Payments of the General Conditions. Contractor shall include a copy of each subcontractor invoice, if any, for which reimbursement is sought in the invoice.
- 9.4. Taxes.** District shall not withhold applicable taxes or other payroll deductions from payments made to Contractor except as otherwise required by law. Contractor shall be solely responsible for calculating, withholding, and paying all taxes.
- 9.5. Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Contractor.
- 9.6. Additional Work.** Contractor shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given by District in a written change order by either lump sum, negotiated, or agreed unit price. Contractor shall not undertake any such work without prior written approval of the District. A written change order may be issued without amendment to this Agreement, so long as such written change order does not cause the Contract Price to be exceeded. Contractor shall only be compensated for such additional work at the rates and costs for labor and materials included in the bid or proposal.
- 9.7. District-Initiated Changes -** District may propose in writing changes to Contractor's work within the Scope of Services described. If Contractor is of the opinion that any proposed change causes an increase or decrease in the cost, or a change in the schedule for performance, of the services, Contractor shall notify District in writing of that fact within five (5) days after receipt of written proposal for changes.
- 9.8. Contractor-Initiated Changes –** Contractor may propose in writing changes to the Scope of Services, upon identifying a condition which may change the Scope of Services as agreed at the time of execution of this Agreement. Contractor must notify the District's Agreement Administrator of any changed conditions upon discovery and

before they are disturbed. The District General Manager shall investigate, and if the District General Manager determines that the conditions will materially affect costs, will issue a Change Order adjusting the compensation for such portion of the Scope of Services. If the District General Manager determines that conditions are changed conditions and they will materially affect performance time, the Contractor, upon submitting a written request, will be granted an extension of time. If the District General Manager determines that the conditions do not justify an adjustment in compensation or time, Contractor will be notified in writing. This notice will also advise Contractor of its obligation to notify the District General Manager in writing if Contractor disagrees.

When and if District and Contractor reach agreement on any such proposed change and its effect on the cost and time for performance, they shall confirm such agreement in writing as an amendment to this Agreement. Contractor may not cease work or delay progress on the original project pending negotiations over changes, and must continue to diligently complete the project.

Should Contractor disagree with the decision, it may submit a written notice of potential claim to the District General Manager before commencing the disputed work. In the event of such a dispute, Contractor shall not be excused from any scheduled completion date provided by the Contract and shall proceed with all work to be performed under the Contract. However, Contractor shall retain any and all rights provided by either Contract or law which pertain to the resolution of disputes and protests between the contracting parties.

The Contractor's failure to give notice of changed conditions promptly upon their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith.

10. LABOR CODE

- 10.1. Prevailing Wage Law.** This Agreement is subject to the requirements of the prevailing wage laws, including, but not limited to, California Labor Code section 1720 et seq., and California Labor Code section 1770 et seq., as well as Code of Regulations, Title 8, section 16000 et seq., which require payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Contractor shall defend, indemnify, and hold harmless District, and its officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure of Contractor to comply with such prevailing wage laws.
- 10.2. Payment of Prevailing Wages.** Contractor shall pay the prevailing wage rates for all work performed under this Agreement. When any craft or classification is omitted from the general prevailing wage determinations, Contractor shall pay the wage rate of the craft or classification most closely related to the omitted classification.

- 10.3. Forfeiture.** Contractor shall forfeit as a penalty to District Two Hundred Dollars (\$200), or any greater penalty provided in the Labor Code, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates for any work done under this Agreement employed in the performance of the Scope of Services by Contractor or by any subcontractor of Contractor in violation of the provisions of the Labor Code. In addition, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate shall be paid to each worker by Contractor.
- 10.4. Apprentices.** Contractor shall comply with the provisions of Labor Code 1777.5 concerning the employment of apprentices on public works projects. Contractor shall be responsible for ensuring compliance by its subcontractors with Labor Code 1777.5.
- 10.5. Payroll Records.** Pursuant to Labor Code 1776, Contractor and any subcontractor(s) shall keep accurate payroll records, showing the name, address, social security number, work classification, 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 Contractor in connection with this Agreement. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Labor Code 1811 and Labor Code 1815 for any work performed by his or her employees on the public works project. The payroll records shall be certified and shall be available for inspection at all reasonable hours as required by Labor Code 1776.
- 10.6. 8-Hour Workday.** This Agreement is subject to 8-hour workday and wage and hour penalty laws, including, but not limited to, Labor Code 1810 and Labor Code 1813. Contractor and any subcontractor(s) of Contractor shall strictly adhere to the provisions of the Labor Code regarding 8-hour workday and 40-hour work week requirements, and overtime, Saturday, Sunday, and holiday work. Pursuant to the Labor Code, eight hours' labor shall constitute a legal day's work. Work performed by Contractor's employees in excess of eight hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. Contractor shall forfeit as a penalty to District \$25.00, or any greater penalty set forth in the Labor Code, for each worker employed in the execution of the work by Contractor or by any subcontractor(s) of Contractor, for each calendar day during which such worker is required or permitted to the work more than eight hours in one calendar day or more than 40 hours in any one calendar week in violation of the Labor Code.
- 10.7. Registration with DIR.** Contractor and any subcontractor(s) of Contractor shall comply with the provisions of Labor Code 1771 and Labor Code 1725.5 requiring registration with the Department of Industrial Relations (DIR).

11. PUBLIC CONTRACT CODE.

- 11.1. Public Works Claims.** To the extent applicable, this Agreement is subject to the provisions of California Public Contract Code section 9204, which mandates certain procedures regarding the resolution of public works claims.
- 11.2. Ineligible Subcontractor(s).** This Agreement is further subject to the provisions of Public Contracts Code 6109 which prohibits Contractor from performing work on this project with a subcontractor who is ineligible to perform work on the project pursuant to Labor Code section 1777.1 or Labor Code section 1777.7.
- 11.3. Assignment of Actions.** Contractor and any and all subcontractors shall offer and agree to assign to District all rights, title, and interest in and to all causes of action it/they may have under section 4 of the Clayton Act (15 U.S.C. Sec. 4) or under the Cartwright Act (Chapter 2 [commencing with section 16700] of Part 2 of Division 7 of the California Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this Agreement. This assignment shall be made and become effective at the time District tenders final payment to Contractor, without further acknowledgment by the parties.

12. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material, and all electronic files, including but not limited to computer-aided design files, developed by Contractor in the performance of this Agreement (such written material and electronic files are collectively known as “written products”) shall be and remain the property of District without restriction or limitation upon its use or dissemination by District except as provided by law. Contractor may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Contractor.

13. RELATIONSHIP OF PARTIES

- 13.1. General.** Contractor is, and shall at all times remain as to District, a wholly independent contractor.
- 13.2. No Agent Authority.** Contractor shall have no power to incur any debt, obligation, or liability on behalf of District or otherwise to act on behalf of District as an agent. Contractor, officers, employees and agents shall not have any power to bind or commit District to any decision or course of action, and Contractor, its officers, employees and agents shall not represent to any person or party that it or they are acting as agents of District or that it or they have the power to bind or commit the District. Neither District nor any of its agents shall have control over the conduct of Contractor or any of Contractor’s employees, except as set forth in this Agreement. Contractor shall not represent that it is, or that any of its agents or employees are, in any manner employees of District.

- 13.3. Independent Contractor Status.** Under no circumstances shall Contractor or its employees look to District as an employer. Contractor shall not be entitled to any benefits. District makes no representation as to the effect of this independent contractor relationship on Contractor's previously earned California Public Employees Retirement System ("CalPERS") retirement benefits, if any, and Contractor specifically assumes the responsibility for making such a determination. Contractor shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation, and other applicable federal and state taxes.
- 13.4. Indemnification of CalPERS Determination.** In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the District, Contractor shall indemnify, defend, and hold harmless District for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of District.

14. INDEMNIFICATION

- 14.1. Definitions.** For purposes of this Section 14, "Contractor" shall include Contractor, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Contractor or its subcontractors, in the performance of this Agreement. "District" shall include District, its directors, officers, agents, employees and volunteers.
- 14.2. Contractor to Indemnify District.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, and defend District from and against any and all claims, losses, costs, liability or expenses for any personal injury or property damage where the same arise out of, are in connection with, are a consequence of, or are in any way attributable to, in whole or in part, (i) Contractor's alleged negligence, recklessness or willful misconduct, (ii) other wrongful acts, errors or omissions of Contractor, or (iii) Contractor's performance under this Agreement or failure to comply with any provision in this Agreement. The District's right to indemnity under this Agreement shall arise immediately upon the occurrence of the event giving rise to the indemnified liability. The District shall be entitled to a defense under this Agreement immediately upon the institution of a claim or action that is covered by this indemnity, even though liability for said claim or action has not yet been determined at the time the duty to defend the District hereunder has arisen.
- 14.3. Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person. Property damage shall include injury to any personal or real property. Contractor shall not be required to indemnify District for such loss or damage as is caused by the active negligence, sole negligence, or willful misconduct of District.

14.4. Attorneys Fees. Such costs and expenses shall include reasonable attorneys' fees for counsel of District's choice, expert fees and all other costs and fees of litigation. Contractor shall not be entitled to any refund of attorneys' fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.

14.4.1. Attorneys Fees in Enforcing Indemnity. Attorneys' fees and litigation expenses incurred in any action brought to enforce the indemnification provision set forth herein shall be recoverable by the prevailing party.

14.5. Defense Deposit. District may request a deposit for defense costs from Contractor with respect to a claim. If District requests a defense deposit, Contractor shall provide it within 15 days of the request. Counsel shall be satisfactory to the District.

14.6. Waiver of Statutory Immunity. The obligations of Contractor under this Section 14 are not limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to District.

14.7. Indemnification by Subcontractors. Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 14 from each and every subcontractor or any other person or entity involved in the performance of this Agreement on Contractor's behalf.

14.8. Insurance Not a Substitute. District does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Contractor's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

15. INSURANCE

15.1. Insurance Required. Contractor shall maintain insurance as described in this Section and shall require all of its subcontractors, Contractors, and other agents to do the same. Approval of the insurance by District shall not relieve or decrease any liability of Contractor. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

15.2. Documentation of Insurance. District will not execute this agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Contractor shall file with District:

- Certificate of Insurance, indicating companies acceptable to District, with a Best's Rating of no less than A:VII showing. The Certificate of Insurance must include the following reference: Olympic Valley Public Service District Fire Station & Administration Center Boiler and Controls Replacement Project.

- Documentation of Best's rating acceptable to the District.
- Original endorsements effecting coverage for all policies required by this Agreement.
- Complete, certified copies of all required insurance policies, including endorsements affecting the coverage.

15.3. Coverage Amounts. Insurance coverage shall be at least in the following minimum amounts:

- General Liability:
 - General Aggregate: \$4,000,000
 - Products Comp/Op Aggregate \$2,000,000
 - Personal & Advertising Injury \$1,000,000
 - Each Occurrence \$2,000,000
 - Fire Damage (any one fire) \$ 50,000
 - Medical Expense (any 1 person) \$ 5,000
- Workers' Compensation:
 - Workers' Compensation Statutory Limits
 - EL Each Accident \$1,000,000
 - EL Disease - Policy Limit \$1,000,000
 - EL Disease - Each Employee \$1,000,000
- Automobile Liability
 - Any vehicle, combined single limit \$1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

15.4. General Liability Insurance. Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.

15.5. Worker's Compensation Insurance. Contractor is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Contractor will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.

- 15.6. Automobile Liability Insurance.** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9). Covered vehicles shall include owned if any, non-owned, and hired automobiles and, trucks.
- 15.7. Claims-Made Policies.** If any of the required policies provide coverage on a claims-made basis the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Claims-Made Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Contractor must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
- 15.8. Additional Insured Endorsements.** The District, its Board of Directors, Commissions, officers, and employees must be endorsed as an additional insured for each policy required herein, for liability arising out of ongoing and completed operations by or on behalf of the Contractor. Contractor’s insurance policies shall be primary as respects any claims related to or as the result of the Contractor’s work. Any insurance, pooled coverage or self-insurance maintained by the District, its elected or appointed officials, directors, officers, agents, employees, volunteers, or Contractors shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Contractor’s insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.
- 15.9. Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and Contractor does not furnish a new certificate of insurance prior to cancellation, District has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due Contractor under this Agreement. Failure of Contractor to maintain the insurance required by this Agreement, or to comply with any of the requirements of this Section, shall constitute a material breach of this Agreement.
- 15.10. Notices.** Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Contractor shall provide no less than 30 days’ notice of any cancellation or material change to policies required by this Agreement. Contractor shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: Olympic Valley Public Services District, Attn: General Manager, P.O. Box 2026, Olympic Valley, CA 96146.

- 15.11. Contractor's Insurance Primary.** The insurance provided by Contractor, including all endorsements, shall be primary to any coverage available to District. Any insurance or self-insurance maintained by District and/or its directors, officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.
- 15.12. Waiver of Subrogation.** Contractor hereby waives all rights of subrogation against the District. Contractor shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.
- 15.13. Report of Claims to District.** Contractor shall report to the District, in addition to the Contractor's insurer, any and all insurance claims submitted to Contractor's insurer in connection with the services under this Agreement.
- 15.14. Premium Payments and Deductibles.** Contractor must disclose all deductibles and self-insured retention amounts to the District. District may require Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, District must approve all such amounts prior to execution of this Agreement.
- District has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Contractor shall be responsible for all premiums and deductibles in all of Contractor's insurance policies. The amount of deductibles for insurance coverage required herein are subject to District's approval.
- 15.15. Duty to Defend and Indemnify.** Contractor's duties to defend and indemnify District under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

16. PERFORMANCE AND PAYMENT BONDS

The Contractor shall, prior to the execution of Phase 1 of the Agreement, as defined under the Scope of Services, furnish two bonds on the forms bound herein approved by the District, one in the amount of One Hundred Percent (100%) of the Contract Price under Phase 1, to guarantee the faithful performance of the work, and one in the amount of One Hundred Percent (100%) of the Contract Price under Phase 1 to guarantee payment of all claims for labor and materials furnished. The Contractor shall not begin work on Phase 1 until such bonds are supplied to and approved by the District. Contractor shall provide District the Phase 1 contract bonds no later than 10 days after the date of the Notice of Award, and failure to timely provide bonds shall not result in any extensions to the contract time.

Furthermore, the Contractor shall, prior to the execution of Phase 2 of the Agreement, as defined under the Scope of Services, furnish two bonds on the forms bound herein approved by the District, one in the amount of One Hundred Percent (100%) of the Contract Price under Phase 2, to guarantee faithful performance of the work, and one in the amount of One Hundred Percent (100%) of the Contract Price under Phase 2 to guarantee payment of all claims for labor and materials

furnished. The Contractor shall not begin work on Phase 2 until such bonds are supplied to and approved by the District. Contractor shall provide District the Phase 2 contract bonds no later than 10 days after District provides notice to Contractor that Phase 1 of the Agreement has been completed, and failure to timely provide bonds shall not result in any extensions to the contract time.

17. MUTUAL COOPERATION

17.1. District Cooperation in Performance. District shall provide Contractor with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Contractor's services under this Agreement.

17.2. Contractor Cooperation in Defense of Claims. If any claim or action is brought against District relating to Contractor's performance in connection with this Agreement, Contractor shall render any reasonable assistance that District may require in the defense of that claim or action.

18. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Contractor's and District's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing) ; or (iii) the day of delivery if emailed to the email address listed below and simultaneously deposited in the U.S. mail, postage prepaid, to the address(es) listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to District:

Charley Miller Olympic Valley Public
Service District
P.O. Box 2026305 Olympic Valley Rd.
Olympic Valley, CA 96146
Telephone: (530) 583-4692
Email: cmiller@ovpsd.org

If to Contractor:

Damien Stephens
President
3367 Ponderosa Rd., #3639
Arnold, CA 95223
Telephone: 209-795-3154
Email: damien@stephens-const.com

With courtesy copy to:

Gary Bell, General Counsel
Colantuono, Highsmith & Whatley, PC
555 University Avenue, Suite 275
Sacramento, CA 95825
Phone (916) 400-0370
Email: gbell@chwlaw.us

19. SURVIVING COVENANTS

The parties agree that the covenants contained in Section 7.15 (Records), Section 13.4 (Indemnification of CalPERS Determination), Section 14 (Indemnification), Section 15.7 (Claims-Made Policies), Section 17.2 (Contractor Cooperation in Defense of Claims), and Section 22.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

20. TERMINATION

20.1. District Termination. District may, in its sole and unfettered discretion and without cause, terminate this Agreement at any time prior to completion by Contractor of the services required. Notice of Termination of this Agreement shall be given in writing to Contractor and shall be sufficient and complete when same is emailed to Contractor and simultaneously deposited in the United States mail postage prepaid and certified, addressed as set forth in Section 18 of this Agreement. The Agreement shall be terminated upon receipt of the Notice of Termination by Contractor. If District should terminate this Agreement, Contractor shall be compensated for all work satisfactorily performed prior to time of receipt of termination notice, and shall be compensated for materials ordered by Contractor or his/her employees, or services of others ordered by Contractor or his/her employees prior to receipt of Notice of Termination whether or not such materials or final instruments of services of others have actually been delivered, provided that Contractor or its employees are not able to cancel such orders for materials or services of others. Compensation for Contractor in the event of termination by District shall be determined by the District General Manager in accordance with the percentage of project completed. In the event that this Agreement is terminated pursuant to this Section 20.1, Contractor shall not be entitled to any additional compensation over that provided herein; nor shall Contractor be entitled to payment for any alleged damages or injuries (including lost opportunity damages) purportedly caused by the termination of this Agreement by District pursuant hereto.

20.2. Contractor Termination. Contractor may terminate this Agreement upon thirty (30) days written notice to District only for good cause. Contractor's written notice of termination shall contain a full explanation of the facts and circumstances constituting good cause. In the event of termination, all notes, sketches, computations, drawings and specifications, or other data, whether complete or not, produced through the time of the District's last payment shall be relinquished to the District. District may, at its own expense, make copies or extract information from any such notes, sketches, computations, drawings, and specifications, or other data whether complete or not.

20.3. Contractor Failure to Perform. Should Contractor fail to perform any of its obligations hereunder, within the time and in the manner provided or otherwise violate any of the terms of this Agreement, District may terminate this Agreement by giving written notice of such termination, stating the reasons for such termination in such

event. Contractor shall be compensated as above, provided, however, there shall be deducted from such amount the amount of damage if any, sustained by District by virtue of the Contractor's breach of this Agreement.

20.4. Compensation Following Termination. Upon termination, Contractor shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Contractor be entitled to receive more than the amount that would be paid to Contractor for the full performance of the services required by this Agreement. District shall have the benefit of such work as may have been completed up to the time of such termination.

20.5. Remedies. District retains any and all available legal and equitable remedies for Contractor's breach of this Agreement.

20.6. Liquidated Damages. In the event that Contractor fails to, for any reason whatsoever, secure bonding for Phase 2 of the Agreement, as defined by the Scope of Services, pursuant to Section 16 of this Agreement, or otherwise cannot complete performance under this Agreement, Contractor shall pay liquidated damages to the District for the delay in the amount of the Contract Price under Phase 2 (\$788,467). The Parties expressly agree and acknowledge that damages for Contractor's failure to complete performance under this Agreement are difficult to ascertain and that the Contract Price under Phase 2 is a reasonable approximation of those damages as it reflects the cost to the District to complete this project.

21. INTERPRETATION OF AGREEMENT

21.1. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.

21.2. Integration of Exhibits. All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, whether as an exhibit or otherwise, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between District and Contractor with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by District and Contractor.

21.3. Headings. The headings and captions appearing at the commencement of the Sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the Section or Subsection thereof at the head of which it appears, the language of the Section or Subsection shall control and govern in the construction of this Agreement.

- 21.4. Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 21.5. Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 21.6. No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting.

22. GENERAL PROVISIONS

- 22.1. Confidentiality.** All data, documents, discussion, or other information developed or received by Contractor for performance of this Agreement are deemed confidential and Contractor shall not disclose it without prior written consent by District. District shall grant such consent if disclosure is legally required. All District data shall be returned to District upon the termination or expiration of this Agreement.
- 22.2. Conflicts of Interest.** Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the District's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, District shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 22.3. Multiple Phase Projects.** Pursuant to Government Code section 1097.6, Contractor's duties and services under this Agreement shall not include preparing or assisting the District with any portion of the District's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the District. The District shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this project. Contractor's participation in the planning, discussions, or drawing of project plans or specifications,

- if any, shall be limited to conceptual, preliminary, or initial plans or specifications. Contractor shall cooperate with the District to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by Contractor, if any, pursuant to this Agreement.
- 22.4. Non-assignment.** Contractor shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without District's prior written consent, and any attempt to do so shall be void and of no effect. District shall not be obligated or liable under this Agreement to any party other than Contractor.
- 22.5. Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.
- 22.6. No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 22.7. Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 22.8. Non-Discrimination.** Contractor shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.
- 22.9. Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by District or Contractor unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by District or Contractor of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 22.10. Excused Failure to Perform.** Contractor shall not be liable for any failure to perform if Contractor presents acceptable evidence, in District's sole judgment that such failure was due to causes beyond the control and without the fault or negligence of Contractor.
- 22.11. Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now

or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies.

- 22.12. Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, each party shall pay its own costs, including any accountants' and attorneys' fees expended in the action.
- 22.13. Venue.** The venue for any litigation shall be the Superior Court of California for the County of Placer and Contractor hereby consents to sole jurisdiction in that court for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.
- 22.14. Counterparts; Electronic Signatures.** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument. The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed or emailed versions of an original signature, electronically scanned and transmitted versions (e.g., via pdf) of an original signature, or a digital signature.

[Signatures on following page]

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“District”

Olympic Valley Public Service District

“Contractor”

Stephens Construction, Inc.

By:

Signature

By:

Signature

Printed:

Charley Miller

Printed:

Title:

General Manager

Title:

Date:

Date:

Attest:

By:

Jessica Asher, Board Secretary

Date:

CAMPAIGN CONTRIBUTION DISCLOSURE PROVISIONS

Cities are subject to the campaign disclosure provisions detailed in Government Code section 84308.

Please carefully read the following information to determine if the provisions apply to you. If you determine that the provisions are applicable, this Campaign Disclosure Form must be completed and returned to the District with your application.

1. No District Director shall accept, solicit, or direct a contribution of more than \$500 from any party¹ or party's agent² during the pendency of your application and for 12 months after the date a final decision is rendered by the District. This prohibition commences when your application has been filed or the proceeding is otherwise initiated.
2. A party to a District proceeding shall disclose on the record of the proceeding any contribution of more than \$500 made to any Director by the party or party's agent during the 12 months preceding the proceeding. No party or party's agent to a District proceeding shall make a contribution to a Director while the application is pending, during the proceeding, and for 12 months following the date a final decision is rendered by the District.
3. Prior to considering your application, any Director who received a contribution of more than \$500 within the 12 months preceding the commencement of the proceedings on your application from any party or party's agent, shall disclose that fact on the record of the proceeding and shall be disqualified from participating in the proceeding. However, if any Director receives a contribution that otherwise would require disqualification and returns the contribution within 30 days of knowing about the contribution and the relevant proceeding, that Director shall be permitted to participate in the proceeding.

To determine whether a campaign contribution of more than \$500 has been made by you or your agent to a Director within the preceding 12 months, all contributions made by you or your agent during that period must be aggregated.

Names of current District Directors are available on the District's website. If you have questions about Government Code section 84308, FPPC regulations, or the Campaign Disclosure Form, please contact the District Clerk.

¹ "Party" is defined as any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

² "Agent" is defined as a person who represents a party in connection with a proceeding. If an individual acting as an agent also is acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar entity or corporation, both the individual and the entity or corporation are agents. When a closed corporation is a party to a proceeding, the majority shareholder is subject to these provisions.

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

(a) Application for:

- ☐ License
- ☐ Permit
- ☐ Franchise
- ☐ Mills Act or Development Agreement
- ☐ Contract (Professional Services, Construction Services, Maintenance, Public Works, etc.)
- ☐ Lease
- ☐ Other Entitlement³

Name and address of any party or party's agent who has contributed more than \$500 to any Director or within the preceding 12 months. If none, write in "none:"

1. _____
2. _____
3. _____

(b) Date and amount of Contribution:

Date: _____ Amount: \$ _____

Date: _____ Amount: \$ _____

Date: _____ Amount: \$ _____

(c) Name of Director to whom contribution was made:

1. _____
2. _____
3. _____

(d) I certify that the above information is true and correct to the best of my knowledge.

Name: _____

Signature: _____

Date: _____ Phone: _____

To be completed by District:

Application No.: _____

³ "License, permit or other entitlement for use" means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts) and all franchises.

WORKER'S COMPENSATION INSURANCE ACKNOWLEDGEMENT

I am 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 I will comply with such provisions before commencing the performance of the work of this contract. If any class of employees engaged in work under this contract at the site of the Project is not protected under any Worker's Compensation law, Contractor shall provide and shall cause each subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Contractor shall indemnify and hold harmless District for any damage resulting from failure of either Contractor or any subcontractor to take out or maintain such insurance.

Date: _____

Signature

Printed Name

Title

STATEMENT REGARDING CONTRACTOR'S LICENSING LAWS

OLYMPIC VALLEY PUBLIC SERVICES DISTRICT, CALIFORNIA

[Business & Professions Code § 7028.15]

[Public Contract Code § 20103.5]

I, the undersigned, certify that I am aware of the following provisions of California law and that I, or the entity on whose behalf this certification is given, hold a currently valid California Contractor's license as set forth below:

Business & Professions Code § 7028.15:

a) It is a misdemeanor for any person to submit a bid to a public agency to engage in the business or act in the capacity of a CONTRACTOR within this state without having a license therefor, except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by section 10164 of the Public Contract Code or on any local agency project governed by section 20104 [now section 20103.5] of the Public Contract Code.

b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

c) This section shall not apply to a joint venture license, as required by section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his/her individual licenser.

d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed Contractors to render services within the scope of their respective practices.

e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a Contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the Contractor was properly licensed when the Contractor submitted the bid. Notwithstanding

any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a Contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to sections 7028.7 to 7028.13, inclusive. **Any contract awarded to, or any purchase order issued to, as Contractor who is not licensed pursuant to this chapter is void.**

f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.

g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of verifying the license status of any person or Contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

EXHIBIT A

PHASING

This project will be executed in two phases, Phase 1 and Phase 2. Contractor shall not commence any work on Phase 1 or Phase 2 until it has received a Notice to Proceed from the District, which will only be issued once all requirements in the Agreement are satisfied including, without limitation, bonds pursuant to Section 16 of the Agreement.

Phase 1

- Administrative Scope
 1. The Contractor shall provide submittals covering the entire project (Phase 1 and 2)
 2. The Contractor shall be responsible for completing all bonding requirements associated with Phase 1.
 3. The Contractor shall mobilize onsite for Phase 1 portion of the work.
- Equipment Procurements
 1. The Contractor shall procure and pay for all Phase 1 and Phase 2 equipment.
 - a. Procurement of piping and valves associated with the Phase 2 mechanical room scope is excluded,
 - b. Contractor shall store all materials onsite or in a bonded warehouse (coordinate with District) prior to submitting Contractor pay applications
- Mechanical Work
 1. Floor 1 and 2 VAV installation
 - a. The Contractor shall perform all required demolition of existing ductwork, equipment, coil connections, and controls necessary for the installation of new VAV boxes.
 - b. The Contractor shall install all new ductwork, equipment, coil connection kits and controls necessary to provide fully functional VAV boxes sufficient for general building comfort (note formal test and balance shall happen in Phase 2).
 2. Floor 1 and 2 Fire Smoke Damper (FSD) Installation
 - a. The Contractor shall perform all required demolition for the removal of fire dampers in the branch ductwork on the first and second floors.
 - b. The Contractor shall install new fire smoke dampers in the branch ductwork and repair and affected walls and ceilings on the first and second floors.

- Controls Update
 1. The controls Contractor shall provide and install a new global controller to enable operation of all newly installed VAV boxes.

Phase 2

- Administrative Scope
 1. The Contractor shall be responsible for completing all bonding requirements associated with Phase 2.
 2. The Contractor shall mobilize onsite for Phase 2 portion of the work.
 3. The Contractor shall perform all closeout tasks at the completion of Phase 2.
- Equipment Procurements
 1. The Contractor shall procure all piping and valves required for the boiler room work.
- Mechanical Work
 1. Boiler room work
 - a. The Contractor shall remove all existing piping, equipment, housekeeping pads, and ductwork necessary for the installation of new equipment.
 - b. The Contractor shall remove the variable frequency drives (VFDs) for the air handler and exhaust fan and prepare the equipment for the controls upgrade.
 - c. The Contractor shall demolish all existing fire/smoke dampers in the boiler room in preparation for replacement.
 - d. The Contractor shall install all new piping, equipment, housekeeping pads, and ductwork for the new boiler room.
 - e. The Contractor shall install new VFDs for the air handler and exhaust fan. New sensors and controllers shall be installed on the existing air handler.
 - f. The Contractor shall install new fire smoke dampers in the boiler room ductwork.
 2. Apparatus Bay
 - a. The Contractor shall install new unit heaters and associated piping in the apparatus Bay.
 - b. The Contractor shall perform all controls and piping work associated with the radiant heating manifolds.
 3. Floor 1 and 2 Fire Smoke Damper (FSD) Installation
 - a. The Contractor shall perform all required demolition for the removal of fire smoke dampers in the duct mains on the first and second floors.
 - b. The Contractor shall install new fire smoke dampers in the duct mains and repair any affected walls and ceilings on the first and second floors.

- Controls Work
 1. The Contractor shall demolish the existing legacy global controller once all equipment has been upgraded to the new automated logic control system.
- Closeout Scope
 1. The Contractor shall assist with the startup of all equipment installed under phase one and phase two.
 2. All equipment installed under phase one and phase two shall be commissioned, tested, adjusted, and balanced to the listed design values, see specification section 23 08 10.

EXHIBIT A
BID SCHEDULE - PHASE 1 AND PHASE 2

ORIGINAL CONTRACT WORK						PHASE 1	PHASE 2
Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Amount	Total Amount	Total Amount
1.	General Conditions	1	LS	\$ 64,000	\$ 64,000	\$ 32,000	\$ 32,000
2.	Submittals	1	LS	\$ 46,000	\$ 46,000	\$ 46,000	
3.	Performance and Payment Bond	1	LS	\$ 40,000	\$ 40,000	\$ 20,000	\$ 20,000
4.	Mobilization	1	LS	\$ 150,000	\$ 150,000	\$ 75,000	\$ 75,000
5.	Demolition	1	LS	\$ 52,000	\$ 52,000	\$ 17,333.33	\$ 34,667.67
6.	NOT USED						
7.	Mechanical Equipment – Boilers	1	LS	\$ 150,000	\$ 150,000	\$ 150,000	
8.	Mechanical Equipment - Pumps	1	LS	\$ 25,000	\$ 25,000	\$ 25,000	
9.	Mechanical Equipment – Heat Exchangers	1	LS	\$ 90,000	\$ 90,000	\$ 90,000	
10.	Mechanical Equipment – Terminal Units	1	LS	\$ 50,000	\$ 50,000	\$ 50,000	
11.	Mechanical Piping and Fittings	1	LS	\$ 270,000	\$ 270,000		\$ 270,000
12.	Temperature Controls - QCS	1	LS	\$ 400,000	\$ 400,000	\$ 200,000	\$ 200,000
13.	Mechanical Ductwork and Accessories	1	LS	\$ 170,000	\$ 170,000	\$ 170,000	
14.	Concrete	1	LS	\$ 5,000	\$ 5,000		\$ 5,000
15.	Electrical	1	LS	\$ 91,000	\$ 91,000	\$ 18,200	\$ 72,800
16.	Insulation	1	LS	\$ 30,000	\$ 30,000		\$ 30,000
17.	Test and Balance	1	LS	\$ 34,000	\$ 34,000		\$ 34,000
18.	Crane/Rigging	1	LS	\$ -	\$ -		\$ -
19.	Start-up and Commissioning	1	LS	\$ 5,000	\$ 5,000		\$ 5,000
20.	Cleaning, Closeout, Demobilization	1	LS	\$ 10,000	\$ 10,000		\$ 10,000
TOTAL BASE BID (Items 1-20) PRICE (without alternates)-					\$ 1,682,000	\$ 893,533	\$ 788,468

BID ALTERNATE 1 WORK

						PHASE 1	PHASE 2
Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Amount	Total Amount	Total Amount
1.	Submittals	1	LS	\$ 5,000	\$ 5,000	\$ 5,000	
2.	Demolition	1	LS	\$ 15,000	\$ 15,000	\$ 15,000	
3.	Mechanical Equipment – Terminal Units	1	LS	\$ 2,500	\$ 2,500	\$ 2,500	
4.	Mechanical Ductwork and Accessories	1	LS	\$ 13,000	\$ 13,000	\$ 13,000	
5.	Temperature Controls - QCS	1	LS	\$ 16,000	\$ 16,000	\$ 16,000	
6.	Insulation	1	LS	\$ 5,000	\$ 5,000	\$ 5,000	
7.	Test and Balance	1	LS	\$ 1,000	\$ 1,000	\$ 1,000	
8.	Electrical	1	LS	\$ 4,500	\$ 4,500	\$ 4,500	
TOTAL BID ALTERNATE (Items 1-8) PRICE -					\$ 62,000	\$ 62,000	\$ -