

## **ARTICLE 9 USER REQUIREMENTS**

### **PART B CONSTRUCTION STANDARDS**

**9B-1 GENERAL CONSTRUCTION STANDARDS:** All excavations and other work on Main Extensions, Taps, or other District facilities shall be performed in conformity with and are subject to the requirements and conditions set forth below. The term Contractor as used in this Part B applies also to the Property Owner.

9B-1-1 COMPLIANCE - Contractor shall comply with all District, local, State, and Federal Rules, Regulations, Standards and Specifications, and those imposed by Denver Water and/or MWRD, as applicable.

9B-1-2 SAFETY - It shall be Contractor's responsibility to determine, initiate, maintain and supervise all measures necessary to protect the public during construction.

9B-1-3 PERMITS - The Contractor shall be solely responsible for determining and obtaining any and all permits required for the work from other governmental entities or agencies having jurisdiction and shall perform the work in accordance with any and all applicable ordinances, regulations, laws and orders of, or permits issued by, such entities or agencies.

9B-1-4 SUBSURFACE STRUCTURES - The District shall make available to the Contractor record drawings showing the location of its facilities in the vicinity of the work, but the Contractor shall be finally and solely responsible for determining the existence and location of all subsurface structures in such area and shall indemnify and hold the District harmless against any and all claims for damages to any such structures.

9B-1-5 WARRANTY - All materials and workmanship furnished by the Contractor shall be warranted for a period of one year and shall conform to the provisions of Part C of this Article 9 and to all plans and designs approved by the District and shall be free from all defects due to faulty or non-conforming materials or workmanship.

9B-1-6 INSPECTIONS - No inspection or testing shall be performed by the District on weekends or holidays, or before 8:00 a.m. or after 5:00 p.m., without the express agreement of the District secured in advance. Whenever an inspection or testing is required by any specific provision of these Rules and Regulations or by the terms of any permit or plan approval, the Contractor shall give the District such notice as is required and shall not cover or otherwise obscure the work to be inspected until the inspection has been made. If required by the District, the Contractor shall uncover or otherwise make such work accessible for inspection when ordered to do so by the District. The inspections, testing and reviews performed by the District are for the sole and exclusive benefit of the District. No liability shall attach to the District by reason of any inspections, testing, or reviews required or authorized by these Rules and Regulations,

or by reason of the issuance of any approval or permit for any work subject to this Section.

9B-1-7 INDEPENDENT INVESTIGATION - Contractor shall thoroughly examine the work site to ascertain for himself all soil, geological, groundwater and other conditions to be encountered which might affect the work being undertaken. The Contractor shall enter into such work relying on his own investigation and information, and not on any statements or representations, if any, that have been made by the District.

9B-1-8 INDEMNIFICATION - By undertaking any work subject to this Section, Contractor agrees to indemnify and hold harmless the District from any and all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with any work subject to this Section if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault or Contractor, or which arise out of any Worker's Compensation claim of any employee of the Contractor. Contractor shall investigate, handle, respond to any and all claims, and to provide defense for the District at the sole expense of Contractor. The Contractor also shall bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

9B-1-9 INSURANCE - Contractor shall not commence work on District facilities until insurance as provided hereunder has been obtained and certificates evidencing the same have been issued by the respective insurance companies to the District. Such insurance companies must have a rating of A plus 2A or better in Best's Insurance Service. (Cross reference: 9A-13 CONSTRUCTION CONSULTANTS)

9B-1-9.1 Scope of Coverage - Contractor shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability claims, demands, and other obligations assumed by Contractor pursuant to 9B-1-8. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to 9B-1-8 by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

9B-1-9.2 Types of Coverage - Contractor shall procure and maintain and shall cause all subcontractors of the Contractor to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the District. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by Contractor pursuant to 9B-1-8. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

- (1) Performance Bond in a form approved by the District.
- (2) Worker's Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - each employee. All Contractors shall request their Worker's Compensation carrier to issue to the District a Certificate of Insurance indicating that it is for Worker's Compensation coverage and listing the District as the Certificate holder. If the Contractor fails to pay any premium when due that is required to keep the policy in full force and effect while Contractor is performing work for the District, the District shall be entitled, but not required, to pay costs necessary to keep the policy in effect or to substitute coverage if that policy is no longer available and recover the cost of such insurance from the Contractor. Said amount may be deducted from the contract price or any royalties or other money due, owing, or to become due to the Contractor or its subcontractors. Failure to keep Worker's Compensation coverage in full force and effect is grounds for immediate termination of the contract. Contractor shall indemnify and hold the District harmless from any claims made by any of its employees or subcontractors or subcontractor's employees. Contractor shall pay for all awards, costs, and expenses including attorneys' fees incurred by the District as a result of any claim made by any of the Contractor's employees or any subcontractors or subcontractor's employees.
- (3) General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.
- (4) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of Developer's/Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

(5) Professional Liability insurance with minimum limits of THREE HUNDRED THOUSAND (\$300,000) each claim and SIX HUNDRED THOUSAND DOLLARS (\$600,000) aggregate.

9B-1-9.3 Miscellaneous - The policy required by Paragraphs (3) and (4) above shall be endorsed to include the District and its officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the District shall be excess and not contributory insurance to that provided by Contractor. No additional insured endorsement to the policy required by Paragraph (2) above shall contain any exclusion for bodily injury or property damage arising from completed operations. Contractor shall be solely responsible for any deductible losses under any policy required above.

9B-1-9.4 Enforcement - Failure on the part of Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute cause for issuance of a Stop Work Order under 9B-3. In addition, without waiving any other available remedy, the District may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the District shall be charged to and paid by Contractor under Section 7-14.

9B-1-9.5 Governmental Immunity - The District relies on and does not waive or intend to waive the monetary limitations (presently \$350,000 per person and \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, 10 C.R.S., as now or hereafter constituted, or otherwise available to the District.

9B-1-10 Record Drawings - Upon completion of the work, Contractor shall submit to the District Record Drawings on electronic media compatible with the District records and certified compaction test results relating to such work.

**9B-2 REQUIRED SUBMITTALS:** No Contractor shall begin any excavation or any other work on any Main Extension, Tap, or other District facilities until he has obtained the prior approval of the District therefor, and has submitted, in addition to any other materials required elsewhere herein, the following, approved as to form by the District:

9B-2-1 WRITTEN AGREEMENT - A writing duly signed by Contractor (1) acknowledging Contractor's consent to be bound by the provisions of Section 9B-1; (2) warranting that the work shall conform to such provisions and shall be free from defects due to faulty or nonconforming materials and workmanship; (3) agreeing to indemnify the District as provided in Section 9B-1-8, and (4) agreeing to pay any and all applicable fees and charges provided by these Rules and Regulations in connection with the work.

9B-2-2 INSURANCE CERTIFICATES - Certificates prepared by Contractor's insurance agent in a form satisfactory to the District evidencing that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The

certificate shall identify the work being performed and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days' prior written notice has been given to the District. The District reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

9B-2-3 PLUMBING PERMIT - A true copy of a current plumbing permit issued by the Arapahoe County Building Department, containing a description of the work to be performed and authorization therefor, and drawings approved by Arapahoe County.

9B-2-4 FEES - The full amount of all fees payable in advance, or any required costs deposits, or both.

### **9B-3 STOP WORK ORDERS:**

9B-3-1 ORDER - The District may revoke any approval for work and issue a Stop Work Order upon a determination that the Contractor has violated or has failed to meet any condition of the approval, any provision of this Part B, or any other standard, specification, or rule imposed by the District. A Stop Work Order may be issued orally or in writing by the District Manager or the District Engineer, and shall take effect immediately upon the issuance thereof, and remain in full force and effect until rescinded in writing by the District

9B-3-2 EFFECT - It is unlawful for any person to do any work in violation of the terms of any Stop Work Order issued pursuant to this Section except such as may be permitted by the District in order to render the construction site safe and secure. (Cross reference: 3-7-14 Violation of Stop Work Order)

### **9B-4 CURE OF DEFECTS:**

9B-4-1 ORDER TO CURE - If the District determines that any part of the work was not performed in conformity with these Rules and Regulations or approved plans, or is defective, of poor or unworkmanlike quality, or otherwise not in conformity with any applicable warranty, it may give written notice thereof to the Contractor. Such notice shall specify the non-conformity, direct the Contractor at his cost and subject to this Part B to perform specified curative work, and specify the period of time determined by the District reasonably necessary for completion of the curative work.

9B-4-2 DISTRICT CURE - If the Contractor fails within the time stated following such notice to cure the nonconformity specified therein, the District, in addition to and without waiving any of its other remedies, may perform the work and charge the Contractor for its actual costs incurred in connection therewith, calculated in accordance with the rates set forth in the Appendix hereto. The provisions of Article 7 applicable to invoicing and collection of fees and charges shall apply to any charges assessed to Contractor under this Section. (Cross reference: 7-14 CURE CHARGES; 7-18 WITHHOLDING APPROVALS AND PERMITS)

**9B-5 FEES:** Contractor shall pay the District all fees imposed and assessed by the District for permits, reviews, inspections, tests, approvals, and any other undertakings performed by the District or its professional consultants in connection with the administration and enforcement of these Rules and Regulations, as provided by Article 7.

**9B-6 RELOCATION OF DISTRICT FACILITIES:** It is the policy of the District to work in cooperation with state and local governmental entities when needed public construction projects require the relocation, adjustment or rebuilding of District facilities. It is the purpose of this Section to set forth the terms and conditions applicable to such relocation, adjustment or rebuilding.

**9B-6-1 GENERAL CONSTRUCTION PROVISIONS APPLICABLE** - All provisions of these Rules and Regulations applicable to Contractors and Property Owners also apply to the activities of any governmental entity in effecting any relocation, adjustment, rebuilding or other work on District facilities which lie in the public way. For purposes of this Section 9B-6 and its subsections, the term "Public Entity" is used to designate the governmental unit requesting relocation, adjustment or rebuilding of District facilities.

**9B-6-2 PUBLIC ENTITY TO BEAR COSTS** - The public entity shall bear all costs, direct and indirect, of the relocation, adjustment or rebuilding of District facilities.

**9B-6-3 NOTICE OF NEED FOR RELOCATION** - The public entity shall notify the District immediately when it has taken under consideration any construction project which shall or may require the relocation or adjustment of District facilities. Such notice shall be in writing and shall contain or include the following:

9B-6-3.1 A description of the proposed construction project;

9B-6-3.2 An explanation of the necessity of the project which will or may cause the need for relocation of District facilities;

9B-6-3.3 A listing of any and all alternatives that have been considered by the public entity that would avoid the need for relocation or adjustment of District facilities, and, for each such alternative that has been rejected, a statement of the reason for its being rejected;

9B-6-3.4 All reasons that have been considered by the public entity in reaching the determination that the District facilities need to be or may need to be relocated or adjusted;

9B-6-3.5 Drawing or drawings showing all design alternatives under consideration for the project and demonstrating the way in which each proposed design impacts District facilities, and a narrative description of such expected impact, including, but not necessarily limited to, vertical or horizontal distances that the District line or other facility would have to be moved and the nature of any other adjustment, relocation or rebuilding of District facilities that will or may be entailed.

9B-6-3.6 The date upon which the proposed construction is planned to commence;

9B-6-3.7 A recitation of pertinent financial information, including verification that funds have been properly budgeted and appropriated for the project, the projected costs, whether any other agency or source will participate in the funding, and anticipated disbursement procedures and schedules.

9B-6-4 MEETING WITH DISTRICT ENGINEER - As soon as practicable after the issuance of the notice, engineering representatives of the public entity shall meet with the District Engineer or his designee to discuss the project, coordinate the needs of the District and the public entity, and review any alternatives to make certain that all options have been fully considered.

9B-6-5 PRELIMINARY APPROVAL - The District Board of Directors will give preliminary approval to the requested relocation, adjustment, or rebuilding of District facilities as provided in this Section, if the Board of Directors, with the advice of the District Engineer and counsel, makes a determination or finding that the following conditions are met:

9B-6-5.1 All requirements of these Rules and Regulations, including but not limited to the provisions of this Section, have been complied with by the public entity;

9B-6-5.2 The Board finds that the construction project causing the request for such relocation, adjustment or rebuilding is necessary;

9B-6-5.3 The Board determines that the public entity has the authority to undertake the project;

9B-6-5.4 The Board finds that the manner in which the project has been planned and implemented has not been arbitrary, capricious, unreasonable or discriminatory against the District;

9B-6-5.5 The Board finds that suitable arrangements have been made to pay the costs of the relocation, adjustment or rebuilding of District facilities; and

9B-6-5.6 The Board finds that no justifiable reason exists in fact or in law for withholding approval.

9B-6-6 COORDINATED CONSTRUCTION SCHEDULE - Upon preliminary approval by the District Board, the District Engineer shall meet with the engineering representatives of the public entities to develop a coordinated construction schedule which shall thereafter be adhered to by all parties unless altered by mutual consent.

9B-6-7 CONSTRUCTION DRAWINGS REQUIRED - As soon as available, a set of construction plans for the proposed project showing the locations of the District facilities to be relocated, adjusted, or rebuilt shall be provided to the District.

9B-6-8 DISTRICT MAY ELECT WHETHER TO PERFORM RELOCATION - The District, in its sole discretion, may choose to perform the work itself. If so, the public entity shall

pay the cost of such work in accordance with a payment schedule or plan to be agreed upon between the District and the public entity. If the District does not make such election, any relocation, adjustment or rebuilding performed by the public entity shall be conducted in accordance with these Rules and Regulations in all particulars and be in accordance with plans approved by the District. Such work shall be accomplished without impairing or interrupting the District's ability to provide service to its constituents. The public entity shall warrant all work against any and all defects and workmanship or materials for a period of two (2) years.

9B-6-9 DISTRICT TO BE REIMBURSED FOR ALL DIRECT AND INDIRECT COSTS - Any and all costs incurred by the District as a reasonable consequence of the public entity's request for services to be provided by the District in connection with any relocation, adjustment or rebuilding of District facilities under this Section, whether deemed direct or indirect, shall be reimbursed to the public entity. All charges for plan reviews and inspections shall be paid in advance in accordance with the applicable provisions of these Rules and Regulations. (Cross reference: 7-3 PLAN REVIEW FEES; 7-4 INSPECTION FEES)