

SETTLEMENT AND RELEASE AGREEMENT

This Settlement Agreement ("Agreement") is dated March 23, 2022 ("Effective Date") and is between Mehta Mechanical Company, a California Corporation ("Contractor"), Ohio Casualty Insurance Company, a New Hampshire Company ("Surety") and County Sanitation District No. 2 of Los Angeles County, a California county sanitation district organized and existing under the "County Sanitation District Act"; Health & Safety Code of California, Division 5, Part 3, Chapter 3, ("District"). The District, Contractor and Surety are collectively the "Parties" and individually each a "Party."

Whereas, in early 2018, Contractor submitted a bid ("Bid") in response to the District's request for bids for a contract to construct the Puente Hills Materials Recovery Facility Stormwater Capture Project ("Project") located within the City of Puente Hills, California. Contractor was certified as the lowest responsive and responsible bidder, and the District awarded Contract No. 5081 ("Contract") to Contractor in February 2018. Contractor and the District entered into the Contract on February 7, 2018. Developers Surety and Indemnity Company issued Performance Bond Number 379117P ("Performance Bond") to guarantee Contractor's performance of the Contract. Developers Surety and Indemnity Company subsequently assigned all rights and obligations of the Performance Bond to Surety.

Whereas, on January 6, 2021, District sent Contractor and Surety correspondence notifying them that the District had terminated Contractor's Contract for default as outlined in a December 11, 2020 correspondence to the Contractor and requested that the Surety complete the Project pursuant to the terms of the Performance Bond ("Performance Bond Claim").

Whereas, the Parties agreed to allow the Contractor to complete the Project, Contractor substantially completed the Project on October 8, 2021.;

Whereas, on February 2, 2022, Contractor brought claims for extra work and delay damages during the performance of the Contract ("Contractor's Claim");

Whereas, District notified the Contractor regarding imposing liquidated damages for Contractor's failure to complete the Project within the Contract time ("District's Claim").

Whereas, the Parties intend to settle all matters relating to the Contractor's Claim, District Claim and District's Performance Bond Claim.

The Parties therefore agree as follows:

1. **Payment:** District shall pay Contractor and deliver to Watt, Tieder, Hoffar & Fitzgerald LLP, Attn. Robert C. Niesley, Esq., 4 Park Plaza, Ste. 1000, Irvine, CA 92614 ("Counsel for Surety") payments totaling ONE MILLION THREE HUNDRED THOUSAND DOLLARS (\$1,300,000.00) after District's Board of Directors approval of this Agreement as outlined in Exhibit A. Payments shall be by check made payable to the "Watt, Tieder, Hoffar & Fitzgerald, LLP Client Trust Account".

2. **Contractor General Release.** The Contractor, Jagat S. Mahat, Mohan S. Mahat, all of MMC's affiliates, subsidiaries ("Releasing Parties") hereby irrevocably and unconditionally release, remise, acquit and forever discharge the District, as well as its officers, agents, affiliates, representatives, heirs, successors and assigns, their respective past, present and future directors, officers, partners, principals, managers, members, shareholders, employees, insurers and those in privity with them, from any and all claims, rights, remedies, demands, collections, controversies, actions, causes of action, injunctions, suits, complaints, indebtedness, liens, encumbrances, obligations, liabilities, contracts and agreements, promises,

damages, costs, fees and expenses (including but not limited to experts and attorneys' costs, fees and expenses), penalties, losses or relief of any nature, amount or kind, in law or in equity, past or present, known or unknown, suspected or unsuspected, matured or unmatured, in respect of any action, omission or event occurring from the beginning of time through the Effective Date, against the District which the Releasing Parties may have had, now have or may have in the future, against or with respect to the Contractor's Claim against District and all other claims regarding the performance of the Contract.

Releasing Parties, having consulted with counsel, are aware of the contents of Section 1542 of the Civil Code of the State of California. Section 1542 reads as follows:

Section 1542. (General Release - Claims Extinguished.) A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Releasing Parties expressly waive and relinquish all rights and benefits under that section and any law or legal principle of similar effect in any jurisdiction, with respect to the claims released hereunder. Releasing Parties have executed this Agreement voluntarily, with full knowledge of its significance, and with the express intention of affecting the legal consequences provided by a waiver of California Civil Code Section 1542.

3. **District General Release.** The District, hereby irrevocably and unconditionally releases, remises, acquits and forever discharges the Contractor and Surety, as well as their respective officers, agents, affiliates, representatives, heirs, successors and assigns, their respective past, present and future directors, officers, partners, principals, managers, members, shareholders, employees, insurers and those in privity with them, from any and all claims, rights, remedies, demands, collections, controversies, actions, causes of action, injunctions, suits, complaints, indebtedness, liens, encumbrances, obligations, liabilities, contracts and agreements, promises, damages, costs, fees and expenses (including but not limited to experts and attorneys' costs, fees and expenses), penalties, losses or relief of any nature, amount or kind, in law or in equity, past or present, known or unknown, suspected or unsuspected, matured or unmatured, in respect of any action, omission or event occurring from the beginning of time through the Effective Date, against the Contractor and Surety which it may have had, now have or may have in the future, against or with respect to the Project, Contract, Performance Bond, District's Claim and the Performance Bond Claim. The Performance Bond is exonerated and released.

District, having consulted with counsel, is aware of the contents of Section 1542 of the Civil Code of the State of California. Section 1542 reads as follows:

Section 1542. (General Release - Claims Extinguished.) A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

District expressly waives and relinquishes all rights and benefits under that section and any law or legal principle of similar effect in any jurisdiction, with respect to the claims released hereunder. District has executed this Agreement voluntarily, with full knowledge of its significance, and with the express intention of affecting the legal consequences provided by a waiver of California Civil Code Section 1542.

4. **Surety General Release.** The Surety, hereby irrevocably and unconditionally releases, remises, acquits and forever discharges the District, as well as its officers, agents, affiliates, representatives, heirs, successors and assigns, their respective past, present and future directors, officers, partners, principals, managers, members, shareholders, employees, insurers and those in privity with them, from any and all claims, rights, remedies, demands, collections, controversies, actions, causes of action, injunctions, suits, complaints, indebtedness, liens, encumbrances, obligations, liabilities, contracts and agreements, promises, damages, costs, fees and expenses (including but not limited to experts and attorneys' costs, fees and expenses), penalties, losses or relief of any nature, amount or kind, in law or in equity, past or present, known or unknown, suspected or unsuspected, matured or unmatured, in respect of any action, omission or event occurring from the beginning of time through the date on which this Agreement shall become effective, against the District which it may have had, now have or may have in the future, against or with respect to the Contract, Project, Performance Bond, District's Claim and Performance Bond Claim.

Surety, having consulted with counsel, is aware of the contents of Section 1542 of the Civil Code of the State of California. Section 1542 reads as follows:

Section 1542. (General Release - Claims Extinguished.) A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Surety expressly waives and relinquishes all rights and benefits under that section and any law or legal principle of similar effect in any jurisdiction, with respect to the claims released hereunder. Surety has executed this Agreement voluntarily, with full knowledge of its significance, and with the express intention of affecting the legal consequences provided by a waiver of California Civil Code Section 1542.

5. **Indemnity Agreement of Contractor to Surety.** Notwithstanding any provision herein to the contrary, nothing in this Agreement is intended to waive, alter or release the legal and equitable rights and duties between Contractor and Surety including, but not limited to, rights and duties arising under any contracts of indemnification.

6. **Entire Action.** This Agreement contains the entire understanding and agreement between the Parties with respect to the matters referred to in this Agreement. No other representations, covenants, undertakings or other prior or contemporaneous agreements, oral or written, respecting such matters that are not specifically incorporated in this Agreement will be deemed in any way to exist or bind any of the Parties to this Agreement. This is an integrated Agreement.

7. **Warrant of Authority.** Each party executing this Agreement in a representative capacity represents and warrants that he or she is authorized to execute this Agreement on behalf of and to bind the entity or persons on whose behalf he or she executes the Agreement.

8. **Binding on Successors.** This Agreement will apply to, be binding upon, and inure to the benefit of the administrators, executors, legal representatives, assignees, successors, agents, and assigns of the Parties.

9. **Construction.** Each party has participated in negotiating and drafting this Agreement, so if an ambiguity or a question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a party because it was responsible for drafting one or more provisions of this Agreement. If any provision of this Agreement is deemed to be unenforceable for any reason, that does not affect the remainder of the Agreement which remains in full force and effect.

10. **Modification.** This Agreement will not be modified by the Parties by oral representation made before or after the execution of this Agreement. All modifications must be in writing and signed by the Parties.


11. **Advice of Counsel.** The Parties acknowledge that they either are or have had an opportunity to be represented by counsel of their own choice in the negotiations leading up to the execution of this Agreement and that they have read this Agreement.

12. **Attorneys' Fees.** In the event any action is instituted by a Party to interpret or enforce this Agreement, the prevailing Party in such action (as determined by the court, agency or other authority before which such suit or proceeding is commenced) shall be entitled to such reasonable attorneys' fees, costs and expenses as may be fixed by the decision maker.

13. **Governing Law.** This Agreement is entered into and will be construed and interpreted in accordance with the laws of the State of California

14. **Free and Voluntary Agreement of Parties.** Each party acknowledges and warrants that such party's execution of this Agreement is free and voluntary.

**MEHTA MECHANICAL COMPANY AND
RELEASING PARTIES**

By: 
President

OHIO CASUALTY INSURANCE COMPANY

By: _____

10. **Modification.** This Agreement will not be modified by the Parties by oral representation made before or after the execution of this Agreement. All modifications must be in writing and signed by the Parties.

11. **Advice of Counsel.** The Parties acknowledge that they either are or have had an opportunity to be represented by counsel of their own choice in the negotiations leading up to the execution of this Agreement and that they have read this Agreement.

12. **Attorneys' Fees.** In the event any action is instituted by a Party to interpret or enforce this Agreement, the prevailing Party in such action (as determined by the court, agency or other authority before which such suit or proceeding is commenced) shall be entitled to such reasonable attorneys' fees, costs and expenses as may be fixed by the decision maker.

13. **Governing Law.** This Agreement is entered into and will be construed and interpreted in accordance with the laws of the State of California

14. **Free and Voluntary Agreement of Parties.** Each party acknowledges and warrants that such party's execution of this Agreement is free and voluntary.

**MEHTA MECHANICAL COMPANY AND
RELEASING PARTIES**

By: _____

President

OHIO CASUALTY INSURANCE COMPANY

By:  March 14, 2022

Laurie Svitenko
Its Authorized Representative

**COUNTY SANITATION DISTRICT
NO. 2 OF LOS ANGELES
COUNTY**

By: _____
Chairperson

Attest:

Secretary

Approved as to Form:

Lewis Brisbois Bisgaard & Smith LLP

By: _____
Districts' Counsel

EXHIBIT A
FINAL CONTRACT PAYMENT

- a. Change Order Number 1 for \$360.82 (previously executed by MMC & District but not yet paid)
- b. Change Order Number 2 for \$11,740.28 (previously executed by MMC & District but not yet paid)
- c. Change Order Number 3 for \$920,776.67 plus time extension of 261 Work Days.
- d. Pending unpaid completed work via original contract bid items for \$155,272.
- e. Final contract retention amount which is currently \$211,850.10.

Please note payments a-d above will also have 5% retention withheld pursuant to the contract specifications. All retention monies will be paid to the Contractor after the District Board's final contract acceptance.

12915637.1 103735.00104