

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into by and between the Sonoma County Water Agency (“Agency”) and Leonida Builders, Inc., a California corporation (“Contractor”). Agency and Contractor may hereinafter be identified individually as “Party” or collectively as “Parties.”

### RECITALS

A. WHEREAS, Agency entered into a contract dated January 26, 2021, with Contractor (“Contract”) to construct the Mirabel Inflatable Dam Fabric Replacement Project (the “Project”).

B. WHEREAS, Agency contends that Contractor’s failure and refusal to submit adequate escrow bid documents breaches Specification Section 00 67 00 of the Contract, thus allowing Agency to annul the award of the Contract to Contractor, award to the next lowest bidder, and recover damages from Contractor’s forfeited bid security.

C. WHEREAS, Contractor contends that Agency wrongfully failed to provide sufficient time in the Contract to perform the work, and that the Agency approved the escrow bid documents submitted by Contractor.

D. WHEREAS, each Party denies any wrongdoing and does not admit any fault relating to the above issues (the “Dispute”).

E. WHEREAS, the Parties now desire to resolve the Dispute with this Agreement.

THEREFORE, the Parties agree as follows:

### AGREEMENT

1. Recitals. The recitals set forth above are true and are incorporated by reference into this Paragraph 1 as though fully set forth herein, and shall hereinafter be referred to as the “Recitals.”

2. Terms. Contractor agrees to allow Agency to (a) annul and revoke the award of the Contract to Contractor without any payment or compensation from Agency to Contractor related to the Contract, and (b) award another contract for the Project to the next lowest bidder. Contractor also agrees to not assert any claims or pursue damages related to the Contract, Project, or Dispute. Agency agrees to not make any claim against, or otherwise pursue, Contractor’s security for its bid on the Project (a bid bond), and agrees to not seek any other damages from Contractor related to the

Contract, Project, or Dispute. Contractor and Agency agree to these terms so that they may mutually “walk away” from the Contract without owing, or potentially owing, any payments or damages to the other party.

3. Mutual Release. In consideration of the covenants and mutual releases contained herein, the adequacy of which the Parties expressly acknowledge, except for the obligations of the Parties set forth herein, the Parties hereby release, acquit, and forever discharge the other Party and the other Party’s officers, directors, agents, assigns, successors in interest, attorneys, sureties, insurers, additional insurers, employees, managers, shareholders, owners, partners, principals, and any other person or persons, or entity(ies) affiliated with the other Party, from any and all claims, expenses, debts, demands, costs, claims for payment, and other actions or liabilities of every nature and kind, whether known or unknown, whether in law or in equity, which they have had or may claim to have as a result of or in connection with the Contract, Dispute, and/or Project. The Parties therefore agree that they shall have no right whatsoever to file any lawsuit, institute any other action or legal proceedings, or file any claim of any type with a surety or insurer, based upon, connected with, or in any manner arising out of the Contract, Dispute, and/or Project.

The Parties acknowledge their respective rights regarding general releases under California law, and hereby mutually, knowingly, voluntarily, and forever waive those rights against one another under California Civil Code section 1542, which provides:

**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.**

Therefore, each Party to this Agreement expressly acknowledges that it intends by this Agreement to release the other Party, the other Party’s officers, directors, agents, assigns, successors in interest, attorneys, sureties, insurers, additional insurers, employees, managers, shareholders, owners, partners, principals, and any other person or persons, or entity(ies) affiliated with the other Party, from all claims and causes of action that now exist, or that may exist but are now unknown, in connection with the Contract, Dispute, and/or Project.

4. No Waiver of Defense and Indemnification Obligations. Notwithstanding the terms and provisions of this Agreement, neither Party waives any of its rights under the Contract relating to defense and indemnification obligations for third party claims, including those by subcontractors to Contractor. Each Party represents and warrants that, as of the date of execution of this Agreement, it is unaware of any third party claims or threats of third party claims that it reasonably believes may trigger any defense and indemnification obligations of the other Party.

5. Failure to Perform. The Parties agree that any waiver or release contained within this Agreement does not limit or extinguish any Party’s rights in connection with the performance of this Agreement.

6. Ownership of Released Claims. The Parties represent and warrant that each Party is the sole and lawful owner of all right, title and interest in and to every claim which it purports to release and that each Party will not and has not committed or permitted or agreed to any sale, assignment, encumbrance, hypothecation, transfer, or subrogation, whether by operation of law or otherwise, of any claim, right, or cause of action to be released, discharged, assigned or which otherwise would have been affected pursuant to the provisions of this Agreement. In the event any claim is made against a Party that has been released in this Agreement, the Party who has breached the representations and warranties of this paragraph shall hold harmless and indemnify the other Party from any and all damages, claims, actions, causes of action, proceedings, lawsuits, and for all attorney fees and costs.

7. No Admission of Liability. This Agreement is entered into by the Parties for the purpose of compromising and settling disputed claims in connection with the Contract and Project. Nothing contained in this Agreement, or any action pursuant to this Agreement shall be offered, admitted, or construed as an admission by any Party of any liability of any kind or of any amount of damages of any kind.

8. Waiver. The failure by either Party to enforce any term or provision of this Agreement shall not constitute a waiver of that term or provision, or any other term or provision. No waiver by either Party of any term or provision of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, nor shall any waiver constitute a continuing waiver unless otherwise expressly provided in writing.

9. Warranty of Authority to Sign. Each person signing this Agreement on behalf of any Party warrants that he or she has authority to obligate the Party, on whose behalf that person signs, to the terms and conditions of this Agreement, subject to Section 24 below.

10. Amendments. This Agreement cannot be changed, amended, or modified, except by a writing signed by all Parties hereto, and approved by the Agency's governing body.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, exclusive of its choice of law rules.

12. Binding Effect. This Agreement is for the benefit of and shall be binding on all Parties and their successors, assigns, heirs, executors, administrators, predecessors, partnerships, employees, attorneys, insurers, sureties, agents, representatives, directors, officers, receivers, trustees and/or stockholders.

13. Attorneys' Fees and Costs. Each Party shall bear its own attorneys' fees and costs related to this Agreement, the Dispute, and the Contract, including the preparation and execution of this Agreement.

14. Breach of Agreement. If any Party breaches this Agreement, the prevailing Party in any action to enforce this Agreement shall be entitled to all damages reasonably flowing from the breach, including reasonable attorneys' fees and costs.

15. Time of the Essence. The Parties agree that time is of the essence in the performance of all obligations undertaken in this Agreement. Any Party's failure to perform any obligation exactly as set forth in this Agreement shall constitute a material breach of this Agreement.

16. Venue; Enforcement of Agreement. Any action necessary to enforce this Agreement shall be filed in the Superior Court of California, County of Sonoma. This Agreement may be enforced by motion or through any lawful means, including through Code of Civil Procedure section 664.6.

17. Execution by Facsimile or in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, facsimile or an original, with all signatures appended together, shall be deemed a fully-executed and original Agreement.

18. Severability. If any provision of this Agreement is held to be void, voidable, or unenforceable, the remaining portions of the Agreement shall remain in full force and effect.

19. Representation by Legal Counsel. Each Party participated in the drafting of this Agreement with the advice of legal counsel.

20. Construction. Each Party has reviewed and revised or had an opportunity to review or revise this Agreement and all documents in conjunction with, pertaining to and concerning this Agreement; therefore, the normal rule of construction, to the effect that any ambiguities are to be resolved against the drafting Party, shall not be employed in the interpretation of the Agreement, or any other amendment hereto.

21. Confidentiality. To the extent permitted by law (including the Public Records Act), the Parties agree to maintain the confidentiality of this Agreement.

22. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties with regard to the subject matter herein. There are no oral understandings, terms, or conditions, and no Party has relied upon any representation, express or implied, not contained in this Agreement. All prior understandings, terms, or conditions are deemed merged into this Agreement and may not be contradicted by evidence of any prior agreement or of any contemporaneous oral agreements, nor explained or supplemented by evidence of consistent additional terms.

23. No External Promises, Representations or Warranties. Each of the Parties acknowledges no one has made any promise representation or warranty whatsoever, expressed or implied, written or oral, not contained herein to induce them to execute this Agreement, and that this Agreement is not executed in reliance upon any such promise, representation or warranty.

24. Board Approval/Ratification. The effectiveness of this Agreement is contingent upon approval or ratification by the Agency's governing body.

**SONOMA COUNTY WATER AGENCY**

By: \_\_\_\_\_ Date: March \_\_\_\_\_, 2021  
\_\_\_\_\_ [name]  
\_\_\_\_\_ [title]

**LEONIDA [REDACTED] LDERS, INC.**

By: \_\_\_\_\_ Date: March 17, 2021  
Paragiotis Leonida [name]  
President [chairman, president, or vice-president]

By: \_\_\_\_\_ Date: March 17, 2021  
Paragiotis Leonida [name]  
Secretary [secretary, assistant secretary, CFO, or assistant treasurer]