



MARINA COAST WATER DISTRICT

MARINA, CA

IOP B SIDE IMPROVEMENTS PROJECT

CIP # WD-2401

VOLUME 1 OF 3

PROJECT MANUAL

October 4, 2024

CONTRACT DOCUMENTS FOR
IOP B SIDE IMPROVEMENTS PROJECT

CIP # WD-2401

Marina Coast Water District
920 Second Avenue, Suite A
Marina, California 93933

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Approved _____
Garrett Haertel, P.E. – District Engineer

INVITATION FOR BIDS

**Marina Coast Water District
Marina, California**

PROJECT WD-2401

TABLE OF CONTENTS

| | <u>PAGE</u> |
|--|-------------|
| I. NOTICE CALLING FOR BIDS | 10 |
| II. INSTRUCTION TO BIDDERS..... | 12 |
| 1. EXPLANATION TO BIDDER | 12 |
| 2. CONDITIONS AFFECTING THE WORK | 12 |
| 3. SUBMISSION OF BID | 12 |
| 4. LATE BIDS AND MODIFICATIONS | 13 |
| 5. WITHDRAWAL OF BID..... | 13 |
| 6. BID REQUIREMENTS..... | 13 |
| 7. INTENT OF INVITATION FOR BIDS..... | 14 |
| 8. BIDDERS QUALIFICATIONS | 14 |
| 9. AWARD CONTRACT | 15 |
| 10. BONDS, INSURANCE CERTIFICATES AND SAFETY REQUIREMENTS...15 | |
| 11. PREVAILING WAGE RATES | 16 |
| 12. SUBCONTRACTORS | 16 |
| 13. ESTIMATED QUANTITIES | 16 |
| 14. CONTRACT COMPLETION DATE..... | 17 |
| 15. FURTHER INFORMATION | 17 |
| III. BID DOCUMENTS..... | 18 |
| A. BID FORM | 18 |
| B. BIDDING SCHEDULE | 21 |
| C. LIST OF PROPOSED CONTRACTORS..... | 24 |
| D. BIDDER’S EXPERIENCE STATEMENT | 25 |
| E. NON-COLLUSION DECLARATION | 26 |
| F. BID BOND | 27 |
| G. IRAN CONTRACTING ACT CERTIFICATION..... | 29 |
| H. PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION | 30 |
| I. LOCAL HIRING FOR PUBLIC WORKS | 31 |
| J. PREVAILING WAGE | 33 |
| K. STOP NOTICE INFORMATION | 34 |
| IV. SPECIAL PROVISIONS | 36 |
| V. AGREEMENT | 37 |

| | | |
|------------|--|----|
| VI. | INSTRUCTIONS | 45 |
| | SECTION A, GENERAL CONDITIONS..... | 54 |
| 1.0 | GENERAL | 54 |
| 1.1 | Intent of Contract Documents..... | 54 |
| 1.2 | Discrepancies and Omissions | 54 |
| 1.3 | Headings | 55 |
| 1.4 | Penalty for Collusion | 55 |
| 1.5 | Successors and Assigns..... | 55 |
| 1.6 | Assignment to Owner | 55 |
| 1.7 | Rights and Remedies..... | 55 |
| 2.0 | ADMINISTRATION | 56 |
| 2.1 | Administration of the Contract | 56 |
| 2.2 | Owner’s Representative | 56 |
| 2.2.1 | General..... | 56 |
| 2.2.2 | Change Orders | 56 |
| 2.2.3 | Progress Payments | 56 |
| 2.2.4 | Contract Decisions..... | 56 |
| 2.2.5 | Acceptability of Work..... | 56 |
| 2.3 | Owner..... | 56 |
| 2.3.1 | General..... | 56 |
| 2.3.2 | Representative..... | 57 |
| 2.3.3 | Inspection of Construction..... | 57 |
| 2.3.4 | Acceptability of the Work..... | 57 |
| 2.3.5 | Change Orders | 57 |
| 2.3.6 | Construction Schedule | 57 |
| 2.3.7 | Progress Payments | 57 |
| 2.3.8 | Final Payment | 57 |
| 2.3.9 | Early Possession..... | 57 |
| 2.4 | Design Consultant..... | 58 |
| 2.4.1 | General..... | 58 |
| 2.4.2 | Interpretations | 58 |
| 2.4.3 | Acceptability of the Work..... | 58 |
| 2.4.4 | Site Observations | 58 |
| 2.4.5 | Submittal..... | 58 |
| 3.0 | OWNER | 58 |
| 3.1 | General..... | 58 |
| 3.2 | Attention to Work | 58 |
| 3.3 | Inspection..... | 59 |
| 3.4 | Owner’s Right to Carry Out the Work..... | 59 |
| 3.5 | Owner’s Right to Use or Occupy..... | 59 |
| 3.6 | Owner’s Right to Perform Work and to Award Separate Contracts..... | 60 |
| 4.0 | CONTRACTOR | 60 |
| 4.1 | Office | 60 |
| 4.2 | Contractor’s Representative..... | 60 |
| 4.3 | Construction Procedures..... | 61 |

| | | |
|------------|---|-----------|
| 4.4 | Contractor’s Employees..... | 61 |
| 4.5 | Subcontractors..... | 61 |
| 4.6 | Contractor’s Equipment and Facilities..... | 62 |
| 4.7 | Public Safety and Convenience | 62 |
| 4.8 | Owner-Contractor Coordination | 62 |
| 4.8.1 | Service of Notice..... | 62 |
| 4.8.2 | Suggestions to Contractor..... | 62 |
| 4.8.3 | Cooperation..... | 62 |
| 4.9 | Permits | 63 |
| 4.10 | Contractor’s Responsibility for the Work and Materials..... | 63 |
| 4.11 | Laws to be Observed..... | 63 |
| 4.11.1 | Prevailing Wage..... | 64 |
| 4.11.2 | Certified Payrolls | 64 |
| 4.11.3 | Overtime Requirements | 65 |
| 4.11.4 | Apprentice and Trainee..... | 65 |
| 4.11.5 | Worker’s Compensation Insurance..... | 65 |
| 4.12 | Safety | 65 |
| 4.12.1 | Contractor’s Safety Responsibility | 65 |
| 4.12.2 | Safety Program..... | 66 |
| 4.12.3 | Safety Supervisor | 67 |
| 4.12.4 | Safety Coordination Meetings | 68 |
| 4.12.5 | Safety and Protection | 68 |
| 4.12.6 | Excavation Safety | 68 |
| 4.12.7 | Safety Emergencies..... | 69 |
| 4.12.8 | Safety Violations..... | 69 |
| 4.12.9 | Equipment Safety Provisions..... | 69 |
| 5.0 | Control of Work and Materials | 69 |
| 5.1 | Means and Methods | 69 |
| 5.2 | Owner-Furnished Materials | 70 |
| 5.3 | Defective and Unauthorized Work | 70 |
| 5.4 | Unnoticed Defects..... | 71 |
| 5.5 | Right to Retain Imperfect Work | 71 |
| 6.0 | Progress of the Work | 71 |
| 6.1 | Beginning of Work | 71 |
| 6.2 | Time of Completion..... | 71 |
| 6.3 | Delays | 71 |
| 6.3.1 | Notice of Delays | 71 |
| 6.3.2 | Non-excusable Delays | 71 |
| 6.3.3 | Excusable Delays | 72 |
| 6.3.4 | Abnormal Delays | 72 |
| 6.3.5 | Weather Delays..... | 72 |
| 6.3.6 | Material Shortages | 72 |
| 6.3.7 | Compensable Delays..... | 72 |
| 6.3.8 | Concurrent Delays | 73 |
| 6.4 | Time Extensions..... | 73 |
| 6.4.1 | Non-excusable Delays | 73 |

| | | |
|-------------|---|-----------|
| 6.4.2 | Excusable or Compensable Delays..... | 73 |
| 6.4.3 | Indirect Overhead..... | 74 |
| 6.4.3.1 | Indirect Field Overhead | 74 |
| 6.4.3.2 | Indirect Home Office Overhead..... | 74 |
| 6.5 | Liquidated Damages | 74 |
| 6.6 | Temporary Suspension of Work..... | 75 |
| 6.7 | Termination of Contract..... | 75 |
| 7.0 | SCOPE OF WORK – CHANGES IN THE WORK..... | 76 |
| 7.1 | Change Orders | 76 |
| 7.2 | Differing Site Conditions..... | 77 |
| 7.3 | Resolution of Disputes..... | 77 |
| 7.3.1 | Contract Interpretation by the Owner | 77 |
| 7.3.2 | Claims | 77 |
| 7.3.2.1 | Notice..... | 77 |
| 7.3.2.2 | Records of Disputed Work..... | 78 |
| 7.3.2.3 | Submission of Claim Costs..... | 78 |
| 7.3.2.4 | Claim Meetings..... | 78 |
| 7.3.3 | Resolution of Claims..... | 78 |
| 8.0 | PAYMENT | 79 |
| 8.1 | Scope of Payment | 79 |
| 8.1.1 | General..... | 79 |
| 8.1.2 | Payment for Patents and Patent Infringement..... | 79 |
| 8.1.3 | Payment of Taxes..... | 79 |
| 8.1.4 | Payment for Labor Materials | 79 |
| 8.2 | Partial Payments..... | 80 |
| 8.3 | Partial Payments – Inclusion of Materials on Hand..... | 81 |
| 8.4 | Right to Withhold Amounts..... | 82 |
| 8.4.1 | Retention..... | 82 |
| 8.4.2 | Other Withholds..... | 87 |
| 8.5 | Substantial Completion..... | 88 |
| 8.6 | Final Inspection and Payment..... | 88 |
| 8.7 | Warranty of Title..... | 89 |
| 9.0 | EXISTING UTILITIES | 89 |
| 9.1 | General..... | 89 |
| 9.2 | Notification and Location | 89 |
| 9.3 | Damage and Protection..... | 89 |
| 9.4 | Utility Relocation and Rearrangement..... | 89 |
| | SECTION C, MODIFICATIONS TO GENERAL CONDITIONS..... | 91 |
| 10.0 | CONTRACT ADMINISTRATION | 91 |
| 10.1 | Name of Owner’s Representative | 91 |
| 10.2 | Name of Design Consultant..... | 91 |
| 11.0 | TIME ALLOWED FOR COMPLETION..... | 91 |
| 12.0 | DAMAGES FOR DELAYS | 91 |
| 13.0 | WEATHER DAYS..... | 91 |
| | SECTION D, LIABILITY AND INSURANCE REQUIREMENTS..... | 92 |

| | | |
|--|---|-----|
| 14.0 | INDEMNIFICATION | 92 |
| 15.0 | INSURANCE REQUIREMENTS | 92 |
| 15.1 | General..... | 92 |
| 15.2 | Commercial General Liability Policy | 92 |
| 15.3 | Commercial Business Auto Policy | 93 |
| 15.4 | Workers' Compensation Insurance..... | 93 |
| 15.5 | Builder's Risk Insurance..... | 93 |
| 15.5.1 | Standard Coverage | 93 |
| 15.5.2 | Earthquake | 94 |
| 15.5.3 | Subrogation..... | 94 |
| 15.6 | Endorsements..... | 94 |
| 15.7 | Change in Terms | 94 |
| 15.8 | Occupancy..... | 95 |
| DIVISION I – GENERAL REQUIREMENTS | | 96 |
| SECTION E, SUMMARY OF WORK | | 96 |
| 16.0 | WORK COVERED BY CONTRACT DOCUMENTS | 96 |
| 17.0 | WORK SEQUENCE AND CONSTRAINTS | 96 |
| 18.0 | OCCUPANCY REQUIREMENTS | 96 |
| 19.0 | OWNER FURNISHED MATERIALS | 96 |
| 20.0 | TRENCH EXCAVATIONS | 97 |
| 21.0 | CONTRACTOR'S WORK PERCENTAGE | 97 |
| 22.0 | UNDERGROUND FACILITIES | 97 |
| SECTION F, MEASUREMENT AND PAYMENT | | 99 |
| 23.0 | MEASUREMENT OF QUANTITIES | 99 |
| 23.1 | General..... | 99 |
| 23.2 | Units of Measurement..... | 99 |
| 23.3 | Certified Weights..... | 99 |
| 23.4 | Methods of Measurement | 99 |
| 24.0 | CONTRACTOR'S COST BREAKDOWN | 100 |
| 24.1 | Lump Sum Price Breakdown | 100 |
| SECTION G, MODIFICATION PROCEDURES | | 102 |
| 25.0 | CHANGES IN CONTRACT PRICE | 102 |
| 26.0 | NEGOTIATED CHANGE ORDERS | 103 |
| 27.0 | FORCE ACCOUNT PAYMENT | 103 |
| 28.0 | DIRECT COST CATEGORIES | 104 |
| 28.1 | Direct Labor..... | 104 |
| 28.2 | Materials | 104 |
| 28.3 | Construction Equipment | 104 |
| 29.0 | MARKUP ALLOWANCES | 105 |
| 30.0 | INCREASED OR DECREASED QUANTITIES | 106 |
| 30.1 | Increases of More Than 25 Percent | 106 |
| 30.2 | Decreases of More Than 25 Percent | 107 |
| 30.3 | Eliminated Items | 107 |
| 30.4 | Changes in Character of Work..... | 107 |

| | | |
|-------------|---|-----|
| 31.0 | COST PRICING DATA AND ACCESS TO RECORDS | 108 |
| 32.0 | TIME EXTENSIONS FOR CHANGE ORDERS | 108 |
| | SECTION H, FIELD ENGINEERING | 109 |
| 33.0 | DATUM | 109 |
| 34.0 | LINES AND GRADES | 109 |
| | SECTION I, REGULATORY REQUIREMENTS | 110 |
| 35.0 | APPLICABLE CODES | 110 |
| 36.0 | FEES AND PERMITS | 110 |
| 36.1 | Contractors Fees and Permits | 110 |
| | SECTION J, REFERENCES | 111 |
| 37.0 | CODES AND STANDARDS | 111 |
| 38.0 | DEFINITIONS OF WORDS AND TERMS | 111 |
| 39.0 | ABBREVIATIONS | 116 |
| | SECTION K, PROJECT MEETINGS | 119 |
| 40.0 | PRE-CONSTRUCTION CONFERENCE | 119 |
| 40.1 | Attendees | 119 |
| 40.2 | Agenda | 119 |
| 41.0 | PROGRESS MEETINGS | 119 |
| 41.1 | Attendees | 119 |
| 41.2 | Agenda | 119 |
| 42.0 | CONFERENCES | 119 |
| 43.0 | PREPATORY MEETING | 119 |
| | SECTION L, SUBMITTALS | 120 |
| 44.0 | SUBMITTALS | 120 |
| 45.0 | MATERIAL LIST | 121 |
| 46.0 | SEISMIC DESIGN AND ANCHORAGE OF EQUIPMENT AND OTHER APPURTENANT FACILITIES | 121 |
| | SECTION M, PROGRESS SCHEDULES | 122 |
| 48.0 | GENERAL | 122 |
| 48.1 | Procedures | 122 |
| 49.0 | CONSTRUCTION SCHEDULE (A) | 122 |
| 50.0 | CONSTRUCTION SCHEDULE (B) | 122 |
| 50.1 | General | 122 |
| 50.2 | Preliminary Progress Schedule | 123 |
| 50.3 | Base Schedule | 123 |
| 50.3.1 | Base Schedule Submittal | 123 |
| 50.3.2 | Schedule Type | 124 |
| 50.3.3 | Network Diagram | 124 |
| 50.3.4 | Mathematical Analysis | 124 |
| 50.3.5 | Durations | 125 |
| 50.3.6 | Network Activities | 125 |
| 51.0 | WEATHER CONDITIONS | 125 |

| | | |
|--|--|-----|
| 52.0 | UPDATES | 126 |
| 52.1 | Submittal Period..... | 126 |
| 52.1.1 | All Monthly Updates..... | 126 |
| 52.1.2 | On-Schedule Updates..... | 126 |
| 52.1.3 | Delayed Schedule Updates | 126 |
| 52.2 | Schedule Review..... | 126 |
| 52.3 | Schedule Revisions..... | 127 |
| 53.0 | TIME IMPACT ANALYSES | 127 |
| 53.1.1 | Construction Schedule (A) – Analysis..... | 127 |
| 54.0 | WEEKLY ACTIVITIES PLAN | 128 |
| SECTION N, SHOPDRAWINGS, PRODUCT DATA, AND SAMPLES..... | | 129 |
| 55.0 | CONTRACTOR’S RESPONSIBILITIES | 129 |
| 56.0 | TRANSMITTAL PROCEDURES | 129 |
| 56.1 | Transmittal Form | 129 |
| 56.2 | Deviations From the Contract..... | 130 |
| 56.3 | Submittal Completeness..... | 130 |
| 56.4 | Submittal Period..... | 130 |
| 57.0 | REVIEW PROCEDURE | 130 |
| 58.0 | EFFECT OF REVIEW OF CONTRACTOR’S SUBMITTALS | 131 |
| SECTION O, QUALITY CONTROL | | 132 |
| 59.0 | INSPECTION AND TESTING | 132 |
| 59.1 | General..... | 132 |
| 59.2 | Notice..... | 132 |
| 60.0 | QUALITY CONTROL | 133 |
| 61.0 | INSPECTION | 133 |
| 61.1 | Work Covered Prior to Inspection and/or Testing..... | 133 |
| 62.0 | SAMPLES AND TESTS | 134 |
| 62.1 | Sampling..... | 134 |
| 62.2 | Testing..... | 134 |
| 62.3 | Test Standards..... | 134 |
| SECTION P, CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS..... | | 136 |
| 63.0 | GENERAL | 136 |
| 64.0 | TEMPORARY UTILITIES | 136 |
| 64.1 | Electrical Service | 136 |
| 64.2 | Water..... | 136 |
| 64.3 | Heating and Ventilation | 136 |
| 64.4 | Sanitary Conveniences..... | 136 |
| 65.0 | CONSTRUCTION FACILITIES | 137 |
| 65.1 | Staging and Falsework..... | 137 |
| 65.2 | Temporary Enclosures | 137 |
| 65.3 | Warning Devices and Barricades..... | 137 |
| 66.0 | PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS | 137 |
| 67.0 | PROJECT SECURITY | 138 |

| | | |
|---|---|-----|
| 67.1 | Fire Extinguisher..... | 138 |
| 67.2 | Temporary Fences..... | 138 |
| 68.0 | ACCESS ROADS | 138 |
| 69.0 | SPECIAL CONTROLS | 138 |
| 69.1 | Dust Control..... | 138 |
| 69.2 | Noise Abatement..... | 139 |
| 69.3 | Working Hours..... | 139 |
| 69.4 | Drainage Control..... | 139 |
| 69.5 | Construction Cleaning | 139 |
| 69.6 | Disposal of Material..... | 140 |
| 69.7 | Parking and Storage Areas..... | 140 |
| 70.0 | TRAFFIC REGULATION | 140 |
| 70.1 | General..... | 140 |
| 70.2 | Haul Routes..... | 140 |
| 70.3 | Traffic Control | 140 |
| 71.0 | PROJECT OFFICE | 141 |
| SECTION Q, MATERIAL AND EQUIPMENT | | 142 |
| 72.0 | STORAGE MATERIALS | 142 |
| 73.0 | HAZARDOUS MATERIALS | 142 |
| 74.0 | MATERIAL AND EQUIPMENT SUBSTITUTIONS | 142 |
| 74.1 | General..... | 142 |
| 74.2 | Substitutions..... | 143 |
| 74.3 | Modifications and Costs | 143 |
| SECTION R, SYSTEM TESTING..... | | 144 |
| SECTION S, CONTRACT CLOSEOUT | | 145 |
| 75.0 | OPERATION AND MAINTENANCE | 145 |
| 76.0 | EQUIPMENT START-UP | 145 |
| 77.0 | FINAL CLEANING | 146 |
| 77.1 | Final Clean Up | 146 |
| 77.2 | Final Building Clean Up..... | 146 |
| 78.0 | RECORD DRAWINGS | 146 |
| 79.0 | WARRANTY | 147 |
| WARRANTY FORM..... | | 148 |

PART I

NOTICE CALLING FOR BIDS

Sealed bids in duplicate for the above construction will be received by Marina Coast Water District (hereinafter referred to as “District or MCWD”), until **November 4, 2024 2:00 PM, Pacific Standard Time (PST)**, at the Office of the Marina Coast Water District, 920 Second Avenue, Suite A, Marina, CA 93933.

If awarded, the contract will be awarded to the lowest responsive, responsible Bidder, cost and other factors being considered. The Marina Coast Water District reserves the right to reject any and all bids and to waive informality in any bid.

The Marina Coast Water District is a publicly owned California Special District which was founded in 1967. It is located in Marina, CA.

INVITATION FOR BIDS – This Invitation for Bids consists of this Notice Calling for Bids, Instructions to Bidder, Bid Documents, General Provisions, Special Provisions, and Detailed Specifications and drawings. The Invitation for Bids may be inspected at the above address. Sets of the Invitation for Bids may be obtained from the Marina Coast Water District website at www.mcwd.org. Hard copies of the Invitation for Bids are not available for purchase; the Bidding Documents are only available as a free download online.

BID FORMS – Bids must be submitted on the required Bid Form.

ADDENDUM – The right is reserved, as the interests of the Marina Coast Water District may require, to revise or amend the Invitation for Bids prior to the date set for opening bids. Such revisions or amendments will be announced to the prospective Bidders by Addenda to the bid documents. Addenda, if issued, must be either acknowledged on the Bid Form or be signed by the Bidder and submitted with its bid. Addenda may be delivered via e-mail, fax or courier.

DESCRIPTION OF WORK – The work is to provide all labor, materials, coordination and management necessary to construct and commission the completion of the B Suite office to accommodate the consolidation of District Staff locations and functions into one location detailed in the bid set of plans, specifications, addendums and/or other documents made available during the bidding process.

The work is located in the City of Marina, Monterey County, California. The office is located at 920 Second Avenue, CA 93933 which includes the unfinished suite with interior finishes and layout.

SUBMITTAL REQUIREMENTS – The bid must contain, but is not limited to, the following information:

1. Completed bid form submitted on PART III-A, BID FORM.

2. Completed list of pricing as indicated submitted on PART III-B, BIDDING SCHEDULE.
3. Completed list of proposed subcontractors submitted on PART III-C, LIST OF PROPOSED SUBCONTRACTORS.
4. A summary of the Bidders experience with projects similar to the types of work stated in this Invitation for Bid, submitted on PART III-D, BIDDERS EXPERIENCE STATEMENT.
5. A Non-Collusion Declaration, submitted on PART III-E, NON-COLLUSION DECLARATION.
6. Completed bid bond form submitted on Part III-F, BID BOND
7. Completed Iran Contracting Act Certification form submitted on Part III-G, IRAN CONTRACTING ACT CERTIFICATION
8. Submission of Part III-H, PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION
9. Submission of Part III-I, LOCAL HIRING FOR PUBLIC WORKS
10. Submission of Part III-J, PREVAILING WAGE
11. Submission of Part III-K, STOP NOTICE INFORMATION
12. Total bid cost of Bidders services in response to and in compliance with this Invitation for Bids. Bid costs shall be detailed and are to include all labor, material, travel, related expenses, equipment, supervision, etc. The Bidder shall also submit a rate sheet that may be used for any possible additional services not included in this Invitation for Bids.
13. Any additional information which the Bidder deems appropriate.

Any and all explanations desired by a Bidder regarding the meaning or interpretation of the Invitation for Bids, or any part thereof, must be requested in writing and directed to the person name in accordance with PART II “INSTRUCTIONS TO BIDDERS”, Section 1, “EXPLANATIONS TO BIDDERS”, and Section 15, “FURTHER INFORMATION”. Violation(s) may be cause for rejection of the bid.

A MANDATORY PRE-BID MEETING will be held on **October 14, 2024 at 10AM PST**, at the project site located at **920 Second Avenue, Suite A, Marina CA 93933**. The pre-bid meeting will be held only to familiarize Bidders with site conditions and to clarify any questions or concerns posed by Bidders regarding the site or these bid documents. Verbal statements made at the pre-bid meeting, or at any time before the closing bids, will be binding unless the statements are addressed in these bid documents or in any written addenda to this bid.

Dated: October 4, 2024
MARINA COAST WATER DISTRICT

PART II

INSTRUCTIONS TO BIDDERS GENERAL CONSTRUCTION CONTRACTS

1. EXPLANATIONS TO BIDDER

Any explanation desired by a Bidder regarding the meaning or interpretation of the Invitation for Bids, or any part thereof, must be requested in writing and with sufficient time allowed for a reply to reach Bidders before the submission of their bids. Any interpretation made will be in the form of an addendum to the Invitation for Bids and will be furnished to all prospective Bidders. Oral explanations or instructions given before bid opening will not be binding.

2. CONDITIONS AFFECTING THE WORK

- a. Before submitting a bid, each Bidder must (1) examine the bid documents thoroughly, (2) visit the site to familiarize themselves with local conditions that may, in any manner, affect cost, progress or performance of the work, (3) familiarize themselves with federal, state and local laws, ordinances, rules and regulations that may, in any manner, affect cost, progress or performance of the work; and (4) study and carefully correlate Bidder's observations with the bid documents. Failure to do so will not relieve Bidders from responsibility for estimating properly the difficulty or cost of successfully performing the work. The Marina Coast Water District will assume no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of the contract unless included in the bid documents or any written addenda.
- b. The submissions of a bid will constitute an incontrovertible representation by the Bidder that he has complied with every requirement of this section 2 and that the bid documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the work.

3. SUBMISSION OF BID

Bids must be sealed and addressed as directed below. Bids must be received by **2PM PST, on November 4, 2024**. Failure to do so may result in a premature opening of, or failure to open, such bids. Such premature or late opening, or failure to open, may result in disqualification of the bid. The outside of the envelope must bear the notation:

IOP B Side Improvements

The envelope must be addressed and delivered to: Marina Coast Water District, 920 Second Avenue, Suite A, Marina, CA 93933.

4. LATE BIDS AND MODIFICATIONS

Bids and modifications thereof received after the exact time of closing of bids which is **2 PM, on November 4, 2024**, will not be considered.

5. WITHDRAWAL OF BID

Unless otherwise specified, bids may be withdrawn by written request received from Bidders prior to the time set for closing of bids.

6. BID REQUIREMENTS

To receive consideration, the bid must comply with the following requirements:

- a. The bid and all other documents or material submitted by the Bidder will be deemed to constitute part of the bid.

In case of conflict between specific provisions and statements of a general nature made in the Invitation for Bids, the specific provisions will be deemed to govern. Conflicts which may occur in submittals made by the Bidder will be interpreted similarly.

- b. Bids shall be submitted on the forms furnished, or copies thereof, and must be manually signed. If erasures or other changes appear on the forms, each erasure or change must be initialed by the person signing the bid. Telegraphic bids will not be considered. All blank spaces must be filled.
- c. Bids must be valid for a period of at least sixty (60) calendar days from date of opening.
- d. Bidders are required to attend a mandatory pre-bid meeting and site visit at **10AM, October 14, 2024 at 920 Second Avenue, Suite A, Marina, CA 93933**.
- e. Bid Guarantee: Failure to furnish a bid guarantee in the proper form and amount by the time set for the opening of bids shall be cause for rejection of the bid.

The bid guarantee shall be in the form of a bid plans, certified check, or cashier's check, payable to the order of the Marina Coast Water District, in an amount not less than ten percent (10%) of the amount of the total for all bid items set forth in the Bidding Schedule. Any bid bond shall be executed by a corporate surety acceptable to the Marina Coast Water District and authorized to issue such surety bond in the State of California.

Bid guarantees, other than bid bonds, will be returned (a) to unsuccessful Bidders as soon as practicable after the opening of bids, and (b) to the successful Bidder upon execution and delivery of such further contractual documents, bonds, and certificates of insurance as may be required by the Invitation for Bids. However, the Marina Coast

Water District reserves the right to retain the bid guarantee of the next lowest Bidder until the lowest Bidder executes and delivers all required contractual documents, bonds, and certificates of insurance to the Marina Coast Water District or until 90 days after bid opening, whichever occurs first.

If the successful Bidder, upon acceptance of its bid by the Marina Coast Water District, fails to execute and deliver such further contractual documents, bonds, and certificate of insurance as may be required by the Invitation for Bids within ten (10) calendar days after receipt of the Marina Coast Water District's Notice to Proceed, the successful Bidder's bid guarantee shall be retained by the Marina Coast Water District as liquidated damages. Such failure on the Bidder's part to execute and deliver those documents will cause substantial damage to the Marina Coast Water District which damage is not easily reduced to monetary terms and, therefore, the full amount of the bid guarantee is properly considered to be liquidated damages.

7. INTENT OF INVITATION FOR BIDS

The objective of this Invitation for Bids is to provide sufficient information to enable qualified Bidders to submit written bids. This Invitation for Bids is not a contractual offer to commitment to purchase services.

Contents of this Invitation for Bids and Bidder's bid will be used for establishment of final contractual obligations. It is to be understood that this Invitation for Bids and the Bidder's bid may be attached or included by reference in an agreement between the Marina Coast Water District and the successful Bidder.

8. BIDDERS QUALIFICATIONS

- a. Each Bidder shall submit with its bid a Bidder's Experience Statement, substantially in the form included in Part III of the Invitation for Bids. Before a bid is considered for award, the Bidder may be requested by the Marina Coast Water District to submit additional information regarding its previous experience in performing comparable work and information regarding the Bidder's business and technical organization, financial resources, and plant and equipment to be used in performing the work, or lack of successful experience in performing comparable work is such that it is not in the Marina Coast Water District's best interest to accept the Bidder's bid.
- b. Each Bidder shall have a current Class A General Engineering or Class B General Building California State Contractor's license.
- c. Ineligible Contractors Prohibited from Performing Work on Public Agency Public Works Projects (Public Contract Code Section 6109). A Bidder who is ineligible to work on public works projects pursuant to Labor Code Section 1777.1 or 1777.7 is prohibited from performing work on a public works project for the Marina Coast Water District. An ineligible Bidder is ineligible to bid on, be awarded, or perform work as a contractor or subcontractor on any public works project.

9. AWARD OF CONTRACT

- a. If awarded, the contract will be awarded to the lowest responsive, responsible Bidder, cost and other factors being considered.
- b. The Marina Coast Water District may, when in its interest, reject any or all bids or waive any informality in bids received.
- c. The Marina Coast Water District may accept any item or combination of items of a bid.
- d. If awarded, the purchase may be subject to the Marina Coast Water District Purchase Order Terms and Conditions.

10. BONDS, INSURANCE CERTIFICATES AND SAFETY REQUIREMENTS

- a. The Bidder to whom the contract is awarded shall furnish to the Marina Coast Water District a Payment Bond and such Performance Bond executed by a corporate surety acceptable to the Marina Coast Water District and authorized to issue such surety bonds in the State of California. The Payment Bond and Performance Bond shall be in an amount equal to one hundred percent (100%) of the contract price. The entire cost of the bonds shall be borne by the successful Bidder.
- b. The Bidder to whom the contract is awarded shall furnish a Warranty Bond if the contract price is \$100,000.00 or more executed by a corporate surety acceptable to the Marina Coast Water District and authorized to issue such surety bonds in the State of California. The Warranty Bond shall in an amount at least equal to ten percent (10%) of the contract price as security for the faithful performance of all Bidder's warranty obligations under the contract. The entire cost of the bond shall be borne by the successful Bidder.
- c. The successful Bidder shall also deliver to the Marina Coast Water District two (2) copies of certificate attesting to the fact that the required policies of insurance have been obtained by the Bidder.
- d. The required bonds and certificates of insurance shall be delivered to the Marina Coast Water District within (5) five calendar days after receipt by Bidder of the Marina Coast Water District's Conditional Notice of Award.
- e. The successful Bidder shall deliver to the Marina Coast Water District, in writing, the contact name and phone number of a Project Safety Officer or representative who shall be a responsible member of its organization for safety at the work site.
- f. The successful Bidder shall deliver to the Marina Coast Water District a written copy of their business's Injury and Illness Prevention Program (IIPP) per the California Code of Regulations Title 8, Section 3203 if the successful Bidder employs ten (10) or more employees.

- g. The Bidder shall comply with all applicable federal, state, county, and local laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury, or loss (“safety laws”). Where any of these are in conflict, the more stringent safety requirement or procedure shall be complied with. The Bidder’s failure to thoroughly familiarize itself with the above safety laws shall not relieve it from compliance with any duty, obligation or penalty provided therein.

11. PREVAILING WAGE RATES

Not less than the general prevailing rate of per diem wages for work of a similar character in locality in which this contract is to be performed, and not less than the general prevailing rate per diem wages for holidays and overtime work fixed as provided in Chapter 1 (commencing with Section 1720), Part 7, Division 2 of the Labor Code, shall be paid to all workers employed on this public work. Information on the prevailing rate of per diem wages is available by calling the State of California’s Labor Market Information (LMI) at 415-703-4780 or on the Internet at www.dir.ca.gov/DLSR.

12. SUBCONTRACTORS

- a. Each Bidder in its bid shall set forth the following:

- (1) The name and location of the place of business of each subcontractor whom it intends to use to perform work or labor, or render service to the Bidder in or about the construction of any work, in an amount in excess of one-half of one percent (0.5%) of the total for all bid items.
- (2) The portion of work which will be done by each such proposed subcontractor, if the Bidder is awarded the contract.

- b. Each Bidder shall furnish such information substantially in the form set forth in Part III-C of the Invitation for Bid. If no subcontracts are to be used, other than within the one-half of one percent (0.5%) limit referred to above, the Bidder shall state “None” on the form.

13. ESTIMATED QUANTITIES

Where the quantity of any bid item in the bidding schedule is indicated as an estimated quantity, the estimated quantity is being used as a basis for the comparison of bids and the Marina Coast Water District does not represent or warrant, either expressly or by implication, that the actual quantity will correspond with the estimated quantity.

14. CONTRACT COMPLETION DATE

- a. The successful Bidder shall be required to (a) sign a Marina Coast Water District contract agreement, (b) commence work under this contract within (10) calendar days after the date the successfully Bidder receives the Notice to Proceed, (c) prosecute the work diligently, and (d) complete the entire work by the completion date.
- b. The Marina Coast Water District will issue the Notice to Proceed to the Bidder within ten (10) calendar days of receipt by the Marina Coast Water District of properly executed Construction Contract, Performance Bond, Payment Bond, Warranty Bond, IIPP, Project Safety Officer or representative contact information and Certificates of Insurance satisfactory to the Marina Coast Water District.

15. FURTHER INFORMATION

Further information regarding this Invitation for Bid may be obtained from:

Marina Coast Water District
920 Second Avenue, Suite A
Marina, CA 93933
Attention: Jack Gao
Phone: (831) 883-5962
Fax: (831) 534-7158
E-mail: jgao@mcwd.org

All inquiries must be in writing.

PART III

BID DOCUMENTS

A - BID FORM

TO: Engineering Department
Marina Coast Water District
920 Second Avenue, Suite A
Marina, CA 93933

In response to the Invitation for Bids, the undersigned Bidder hereby proposes to furnish labor, materials, travel, technical and professional services, permits, plans, supervision, equipment and equipment rental, and all related expenses, and to perform all work necessary and required to complete the following project in strict accordance with the terms of this Invitation for Bids and the final contract and for the prices specified by the Bidder for:

IOP B Side Improvements

Bidder certifies that he has examined and is fully familiar with all the provisions of the Invitation for Bids and any addenda thereto, that he is submitting this bid in strict accordance with the Instructions to Bidders, that he has carefully checked all of the words and figures shown in its Bidding Schedule(s), and that he has carefully reviewed the accuracy of all attachments to this bid.

Bidder certifies that he has visited and examined the work site(s), satisfied themselves as to the nature and location of all work, the general and local conditions to be encountered in the performance of the work, the requirements of the contract and all other matters which can in any way affect the work or the cost thereof.

Bidder agrees that this Bid constitutes a firm offer to the Marina Coast Water District which cannot be withdrawn by the Bidder for sixty (60) calendar days from the date of actual opening bids. If awarded the contract, Bidder agrees to execute and deliver to the Marina Coast Water District within five (5) calendar days after receipt of Marina Coast Water District's Conditional Notice of Award, the applicable Contract form, Performance Bond, Payment Bond, Warranty Bond, Injury and Illness Prevention Program (IIPP) (if applicable), contact information (name and phone number) for the designated Project Safety Officer or representative and Certificates of Insurance.

Attached is the required Bid Guarantee in an amount not less than ten percent (10%) of the amount of the total for all bid items set forth in the Bidding Schedule and in the form of a cashier's check, certified check or bid bond in favor of the Marina Coast Water District. Bidder understands and agrees that the Bid Guarantee shall remain the property of the Marina Coast Water District in the event Bidder is awarded the contract but fails to execute and deliver the required contract, bonds (if required), and certificates of insurance to the Marina Coast Water District within the specified time. Bidder further understands that such failure on its part will cause substantial damage to the Marina Coast Water District which damage is not easily reduced to monetary terms and it is

therefore agreed that the full amount of the Bid Guarantees is proper to be considered as liquidated damages for such damage.

Attached are the following forms which have been completed by Bidder and made a part of this bid:

- III.A. Bid Form;
- III.B. Bidding Schedule;
- III.C. List of Proposed Subcontractors;
- III.D. Bidder’s Experience Statement;
- III.E. Non-Collusion Declaration;
- III.F. Bid Bond;
- III.G. Iran Contracting Act Certification;
- III.H. Public Works Contractor Registration Certification;
- III.I. Prevailing Wage;

Bidder also acknowledges receipt of the addenda listed below. The Addenda have been considered and all associated costs are included in the bid price. Addenda may have been delivered via e-mail, fax, or courier.

Addendum Number(s) _____

Bidder certifies that he is currently licensed as a contractor under the California State Contractors License Law to perform all work required under this contract.

Bidder’s California State Contractor’s License #: _____

License Expiration Date: _____

Type of Contractor’s License: _____

Bidder’s Federal Tax ID No.: _____

Bidder certifies that there will be apprentices employed to work on this project as defined in Labor Code Section 3077:

(Circle One) Yes No

Bidder certifies that he has ten (10) or more employees:

(Circle One) Yes No

If yes and awarded the contract, Bidder agrees to execute and deliver to the Marina Coast Water District a written copy of the business’s IIPP.

Submitted by,

BIDDER'S BUSINESS NAME (Type or Print)

By: _____
(Signature in Ink)

Date: _____

Name (Type or Print): _____

Title (Type or Print): _____

Bidder's Business Address:

Bidder's Business Phone #: _____

Bidder's Business Fax #: _____

Bidder's Business E-mail: _____

Note: If Bidder is a corporation, give state of incorporation; if a partnership or joint venture, give full names of all partners or joint venturers.

PART III

BID DOCUMENTS

B – BIDDING SCHEDULE

TO: Marina Coast Water District
 c/o Engineering Department
 Project Name: IOP B Side Improvements

1. CONTRACT TIME

If this bid is accepted, we will:

Complete the IOP B Side (exclusive of warranty activities) in the consecutive days listed below from date the Notice to Proceed is issued. Time for commencement, progression, and completion of the work in important and is to be the essence of the contract.

2. PRICE

The following is the list of unit and lump sum prices for each item of work, the product of the unit prices and estimate quantity for a total amount for each item and the sum of the total amounts and lump sum prices for a total price for the work of each schedule described in these documents (bid amounts of each of the bid items below must be filled in and typed or completed in ink).

ALW = Allowance, LF = Linear Feet, LS = Lump Sum, SY = Square Yards

| Item No. | Description | Unit | Estimated Quantity | Bid Unit Price | Bid Price |
|-----------------|--------------------|-------------|---------------------------|-----------------------|------------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| Item No. | Description | Unit | Estimated Quantity | Bid Unit Price | Bid Price |
|----------|-------------|------|--------------------|----------------|-----------|
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|--|
| <i>For additional items, please provide supplemental bid information if necessary.</i> |
| Total of All Unit Price Bid Items (in numbers): \$ |
| Total of All Unit Price Bid Items (in words): |

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor’s overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

3. BID FORM SIGNATURE

BIDDER’S BUSINESS NAME: _____

DATE: _____

BY: _____
 (Signature in Ink)

PART III

BID DOCUMENTS

D - BIDDER'S EXPERIENCE STATEMENT

The Bidder submits as part of its bid, the following information as to its experience and qualifications:

- a. The Bidder has been engaged in this business under its present business name for [] years.
- b. Experience in work of a nature similar in type and magnitude to that set forth in the Invitation for Bids extends over a period of _____ years.
- c. The Bidder, as Contractor, has satisfactorily completed all contracts awarded to it, except as follows: (Name any and all exceptions and reasons therefore. Bidder should attach additional pages if necessary.)

- d. The following contracts covering work similar in type and magnitude to that set forth in the Invitation for Bids have been satisfactorily completed within the last ten (10) years for the following owners (persons, firms, or public entities):

| Name & Address of Owner | Year Complete | Type of Work | Contract Amount |
|-------------------------|---------------|--------------|-----------------|
| | | | |
| | | | |
| | | | |

(Bidder should attach additional pages if necessary)

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

BIDDER'S BUSINESS NAME: _____

DATE: _____

BY: _____

(Signature in Ink)

PART III

BID DOCUMENTS

E – NON-COLLUSION DECLARATION

By signing below, the Bidder submitting this bid declares that the bid is not submitted in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation and that the bid is genuine and not collusive or sham.

The Bidders also declares that they have 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, agreed with any bidder, anyone who shall refrain from bidding, or anyone else, to put in a sham bid. 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 that of any other bidder, or to secure any advantage against the Marina Coast Water District or anyone interested in the contract.

The Bidder has not, directly or indirectly, submitted their 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.

If at any time it is found that the person, firm, or corporation to whom a contract has been awarded has, in submitting a bid, colluded with any other party of parties, said person, firm or corporation shall be liable to the Marina Coast Water District for all loss of damage which the Marina Coast Water District may incur as the result of the collusive activity, including, but not limited to, the cost of advertising and awarding of a new contract for the required work. In addition, the collusive Bidder will be disqualified from bidding on Marina Coast Water District future contracts for a period to be determined by the Marina Coast Water District.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

BIDDER’S BUSINESS NAME: _____

DATE: _____

BY: _____

(Signature in Ink)

PART III
BID DOCUMENTS
F - BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER *(Name and Address)*:

SURETY *(Name, and Address of Principal Place of Business)*:

OWNER *(Name and Address)*:
Marina Coast Water District
920 Second Avenue, Suite A
Marina, CA 93933

BID
Bid Due Date: November 4, 2024
Description: CIP # WD-2401, IOP B SIDE IMPROVEMENTS PROJECT
MARINA COAST WATER DISTRICT

BOND
Bond Number: _____
Date: _____
Penal sum _____ \$ _____
(10% (ten percent) of the Total Bid Value, in Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER _____ (Seal) **SURETY** _____ (Seal)
Bidder's Name and Corporate Seal Surety's Name and Corporate Seal

By: _____ By: _____
Signature Signature (Attach Power of Attorney)

Print Name Print Name

Title Title

Attest: _____ Attest: _____
Signature Signature

Title Title

*Note: Addresses are to be used for giving any required notice.
Provide execution by any additional parties, such as joint venturers, if necessary.*

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 calendar days from the Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

PART III

BID DOCUMENTS

**G - IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code Section 2200 *et seq.*)**

As required by California Public Contract Code Section 2204, the Contractor certifies subject to penalty for perjury that the option checked below relating to the Contractor’s status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

- The Contractor is not:
 - (i) identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
 - (ii) a financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.
- Agency has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, Agency will be unable to obtain the goods and/or services to be provided pursuant to the Contract.
- The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

Signed _____

Titled _____

Firm _____

Date _____

Note: In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or ineligibility to bid on contracts for three years.

PART III

BID DOCUMENTS

H - PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations.

See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.

Name of Bidder: _____

DIR Registration Number: _____

Bidder further acknowledges:

1. Bidder shall maintain a current DIR registration for the duration of the project.
2. Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.
3. Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Signature: _____

Name and Title: _____

Dated: _____

PART III

BID DOCUMENTS

I – LOCAL HIRING FOR PUBLIC WORKS

This contract is for a Marina Coast Water District public works project. All Contractors and Subcontractors are required to comply with all of the provisions of Ordinance 53 Local Hiring (Chapter 2.10 of the District Code). Failure to comply with the local hiring ordinance may subject the Contractor herein with disqualification from any future Marina Coast Water District public works contracts.

The Bidder hereby certifies that (initial as applicable):

_____ Bidder has read Ordinance 53, Local Hiring of District Public Works, and

_____ Bidder can meet the local hiring requirements of Ordinance 53, or

_____ Bidder has made a good faith effort to meet the requirements of Ordinance 53 as documented on the attached pages, and anticipates a total of _____ percent of the workforce will be residents of the Monterey Bay Area, or

_____ Bidder requires an exception because a suitable pool of persons does not exist locally for the specialized skills listed below. These workers will constitute _____ percent of the workforce.

| Specialized Skill | No. of Workers | County of Residence |
|-------------------|----------------|---------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Company Name _____

Contractor’s Signature _____

Date _____

Efforts to Hire Employees (submit only if needed)

| Classification | Agency Contacted | Date | Results |
|-----------------------|-------------------------|-------------|----------------|
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Efforts to Hire Subcontractors (submit only if needed)

| Work Item | Company Contact | Date | Results |
|------------------|------------------------|-------------|----------------|
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*Standard codes: DNR-did not respond, NA-not available for the job, NB-not bidding, USED- included in bid, HIGH-selected lower cost bid

PART III

BID DOCUMENTS

J – PREVAILING WAGE STATEMENT

If awarded the contract, we and our subcontractors shall pay all the workers we assign to the project not less than the prevailing wage as determined by the state of California, Director of Industrial Relations in compliance with the contract documents. We are aware that the contractor shall be penalized for non-compliance by either the contractor or his subcontractor(s).

In addition, we are informed of the following:

Copies of the prevailing wage rates are on file at:

Marina Coast Water District
920 Second Avenue, Suite A
Marina, CA 93933

or

State of California Department of Industrial Relations
Division of Labor Statistics and Research
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94104
(415) 703-4774

Online at <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

The successful bidder shall be required to post the prevailing wage determinations at each job site.

Each contractor and subcontractor 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 them wages paid to each journeyman, apprentice, worker or other employee employed by him or her in connection the public work.

Certified copies of such payroll records must be furnished to the State Department of Industrial Relations electronically. Certified copies of such payroll records must be furnished to the Marina Coast Water District upon request.

By signing below, the bidder certifies that he shall comply with the prevailing wage laws.

Company Name: _____

Bidder's Signature: _____

Date: _____

PART III

BID DOCUMENTS

K – STOP NOTICE INFORMATION

Project Name: CIP #WD-2401, IOP B SIDE IMPROVEMETS

Contractor’s Name and Address: _____

Reference: California Civil Code, Division 3, Part 4, Title 15, Chapter 4

The following is provided for the information of contractors, subcontractors, and suppliers of labor, materials, equipment, and services under MCWD contracts, and is not intended as legal advice. Advice from legal counsel should be obtained to ensure compliance with legal requirements relating to public works stop notices.

WHERE TO FILE: All original stop notices and preliminary-20-day notices (if required by California Civil Code 53098) must be filed with the Marina Coast Water District, 920 Second Avenue, Suite A, Marina, CA 93933.

STOP NOTICE CONTENTS: See California Civil Code 3103. written notice, signed and verified by the claimant and including information such as the kind of labor, equipment, materials, or service furnished or agreed to be furnished by the claimant; the name of the person/entity to or for whom the same was done or furnished; the amount in value of that already done or furnished and/or agreed to be done or furnished. Blank stop Notice forms are commercially available.

WHO MAY SERVE STOP NOTICE: See California Code 53181. All persons furnishing labor, materials, equipment, or services to the job (except the original contractor) and persons furnishing provisions, provender, or other supplies.

HOW THE STOP NOTICE IS SERVED: See California Code S3103. Served by personal service, registered mail, or certified mail.

TIME FOR SERVICE: See California Civil Code 3184. Stop notices must be served before the expiration of 30 days after the recording of a Notice of Completion (sometimes referred to as a Notice of Acceptance) or Notice of Cessation, if such notice is recorded or if no Notice of Completion or Notice of Cessation is recorded, 90 days after actual completion or cessation.

NOTICE OF PUBLIC ENTITY (OWNER): See California Civil Code 3185. Provided that a stop notice claimant has paid to the Clerk of the Board of Supervisors the sum of \$2.00 at the time of filing a stop notice, the Clerk shall provide each stop notice claimant with notice of filing of a Notice of Completion or after the cessation of labor has been deemed a completion of a public

work or after the acceptance of completion, whichever is later, to each stop notice claimant, by personal service or registered or certified mail.

RELEASE OF STOP NOTICE: See California Civil Code 3196 and following. A stop notice can be released if the original contractor files a corporate surety bond with the Clerk of the Board of Supervisors, in the amount of 125% of the stop notice claim. Alternatively, the original contractor may file an affidavit pursuant to California Civil Code S3198, stating objections to the validity of the stop notice. A counter affidavit may be filed by the claimant pursuant to 53200 and a summary legal proceeding may be held pursuant to 3201 and following, to determine the validity of the stop notice. If no counter affidavit is filed, the stop notice funds shall be released. Alternatively, the Stop Notice claimant may file a Release in a form which substantially complies with California Civil Code 3262.

STOP NOTICE LAWSUIT: See California Civil Code 53210 through 3214. These sections provide that a stop notice is perfected only by the filing of a lawsuit. A lawsuit must be filed no sooner than 10 days after service of a stop notice and no later than 90 days after the expiration of the time for filing stop notices. Notice of suit must be given to the Clerk of the Board within 5 days after commencement. The Court has the discretionary right to dismiss the lawsuit if it is not brought to trial within two years.

I HEREBY ACKNOWLEDGE THAT I RECEIVED AND READ THE ABOVE STOP NOTICE INFORMATION AND IF I AM AWARDED THIS CONTRACT, I AGREE TO INCLUDE A COPY OF THIS PAGE IN ALL SUBCONTRACTS AND CONTRACTS FOR LABOR, MATERIALS, EQUIPMENT, AND SERVICES THAT I ENTER INTO FOR THIS PROJECT:

Bidder's Signature: _____

Bidder's Name and Title (Print): _____

Date: _____

PART IV
SPECIAL PROVISIONS
(NOT USED)

**PART V
AGREEMENT**

AGREEMENT
BETWEEN MARINA COAST WATER DISTRICT
AND _____
FOR THE
IOP B SIDE IMPROVEMENTS PROJECT
CIP# WD-2401

THIS AGREEMENT is by and between _____ Marina Coast Water District (“Owner”) and _____ (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The Project consists of the build-out of a suite that was not fully completed with interior finishes and layout. This project will complete the suite with a new Board meeting room and offices.

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: CIP # WD-2401, IOP B SIDE IMPROVEMENTS PROJECT.

ARTICLE 3 – ENGINEER

3.01 The part of the Project that pertains to the Work has been designed by The Paul Davis Partnership, LLP, 286 Eldorado Street, Monterey, CA 93940.

3.02 The Owner has retained Paul W. Davis (“Architect”) to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

A. The Work will be substantially completed within 150 calendar days after the date when the Contract Times commence to run as provided in Section A, General Conditions, and

completed and ready for final payment in accordance with Paragraph 2.3.8 of the General Conditions within 180 calendar days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner \$1,000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$1,000 for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price (adjusted for any math errors in the submitted bid form) times the actual quantity of that item):

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13 of Part II Instruction to Bidders, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

5.02 Bid Alternatives

- A. Bidder offers to make, at the bid alternate prices following, the changes in the Work covered by the Unit Prices that are specified in the bid alternates priced below.
- B. It is understood that:
1. All bid alternate prices must be filled in.
 2. The acceptance or rejection of any or all of these bid alternates is at the option of the Owner.
 3. Acceptance or rejection of bid alternates will not necessarily be made on the basis of price alone.
 4. The acceptance or rejection of one or more bid alternates will not affect the Lump Sum Bid Price, nor other conditions of this Bid, nor the price of other accepted bid alternates.

5. The addition or deduction shown herein for each bid alternate is the net addition or net deduction that is to be applied to the Lump Sum Bid Price of the undersigned if the bid alternate is accepted by Owner.
6. The Contract Price shall be the net amount determined by applying the bid alternate prices of all accepted bid alternates to the Total Unit Price Bid.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Paragraph 2.3.7 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. 95 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 0 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 2.3.7 of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 2.3.8 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest at the legal rate unless otherwise specified according to California law.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Contract Documents, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the documents contract, especially with respect to Technical Data in such reports and drawings.
 - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor’s safety precautions and programs.
 - F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
 - G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
 - I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 - J. Contractor’s entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS9.01 *Contents*

- A. The Contract Documents listed below constitute the entire agreement of the parties. All prior or contemporaneous oral agreement between the parties are revoked by this Contract.
 - 1. This Agreement.

2. Performance bond.
 3. Payment bond.
 4. General Conditions.
 5. Modifications to General Conditions.
 6. Specifications as listed in the table of contents of the Project Manual.
 7. Drawings (not attached but incorporated by reference) consisting of 51 sheets with each sheet bearing the following general title: Marina Coast Water District Tenant Improvement.
 8. Typical Details listed or incorporated into the Project Manual.
 9. Addenda (numbers 1 to X, inclusive).
 10. Exhibits to this Agreement (enumerated as follows):
 - a. Designation of Subcontractors
 - b. Bidder's Experience Statement
 - c. Non-Collusion Declaration
 - d. Iran Contracting Act Certification
 - e. Public Works Contractor Registration Certification
 - f. Local Hiring for Public Works
 - g. Prevailing Wage
 - h. Stop Notice Information
 11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 12. The standard Plans and Specifications of the Marina Coast Water District, dated November 2007 (not attached but incorporated by reference).
- B. The documents listed in Paragraph 9.01.A are attached and incorporated by reference to this Agreement (except as expressly noted otherwise above), and will be interpreted in the following order of precedence:
- a. Notice to Proceed, Change Orders, and Field Orders, newest to oldest;
 - b. Invitation for Bid and all addenda thereto;
 - c. Contractor's Bidding Schedule;
 - d. General Provisions and Modifications thereto;
 - e. Specifications;
 - f. Drawings;
 - g. Performance and Payment Bonds

- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the modifications to General Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

- 10.06 In accordance with Section 1775, California Labor Code, Contractor shall forfeit to Owner, as a penalty, not more than \$50 for each calendar day, or portion thereof, for each worker paid, either by Contractor or any subcontractor, less than the prevailing rates as determined by the Director of California Department of Industrial Relations for the Work.
- 10.07 In the performance of the Work, a day's work shall be 8 hours of labor in any workday and 40 hours in any work week and any other work as required by Section 510, California Labor Code, and Contractor shall further conform to the requirements of Section 1813, California Labor Code, or forfeit to Owner, as a penalty, the sum of \$25 for each worker employed in the execution of the Work by Contractor or any subcontractor, for each day during which any worker is required or permitted to labor more than 8 hours in any workday or more than 40 hours in any 1 calendar week in violation of Section 510.
- 10.08 Contractor shall carry workers' compensation insurance and require subcontractors to carry workers' compensation insurance as required by Section 3700, California Labor Code.
- 10.09 Pursuant to California Labor Code Section 6705, excavation of any trench or trenches 5 feet or more in depth, involving estimated expenditures in excess of \$25,000 shall require, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection prepared by a registered civil or structural engineer.
- 10.10 *Contractor registration:*
- A. Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR).
- 10.11 Pursuant to Section 1770 et seq., California Labor Code, the successful Bidder shall pay not less than the prevailing rate of per diem wages as determined by the Director of California Department of Industrial Relations. A copy of such prevailing rate is on file at the offices of the Owner, which copy will be made available for examination during business hours to any party on request.
- 10.12 Contractor, by signing this Agreement, certifies the following: "I am aware of the provisions of Section 3700 of the 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."
- 10.13 Nothing in this Agreement shall prevent Contractor or any Subcontractor from employing properly registered apprentices in the execution of the Agreement. Contractor shall have responsibility for compliance with California Labor Code Section 1777.5 for all apprenticeable occupations.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

By: _____

By: _____

Title: General Manager

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

Marina Coast Water District

920 Second Avenue, Suite A

Marina, CA 93933

License No.: _____
(where applicable)

PART VI

INSTRUCTIONS

1. The full name and business address of the Contractor must be inserted in the space provided on Page 1 of this Construction Contract. The Contractor shall sign in the space provided above with his or her usual signature and typewrite or print his or her name under the signature.
2. An officer or a corporation, a member of a partnership, or agent signing for the Contractor shall place his or her signature, name and title after the word "by" under the name of the Contractor. A Construction Contract executed by an attorney-in-fact or agent on behalf of the Contractor shall be accompanied by two authenticated copies of his or her Power of Attorney or other evidence of his or her authority to act on behalf of the Contractor.

CONTRACT DOCUMENTS PERFORMANCE BOND

CONTRACTOR *(name and address)*:

SURETY *(name and address of principal place of business)*:

OWNER *(name and address)*:

Marina Coast Water District
920 Second Avenue, Suite A, Marina, CA 93933

CONSTRUCTION CONTRACT

Effective Date of the Agreement:
Amount:
Description *(name and location)*:

BOND

Bond Number:
Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:
Amount:
Modifications to this Bond Form: None See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract,

arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced

or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction

Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

CONTRACT DOCUMENTS PAYMENT BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

Marina Coast Water District
920 Second Avenue, Suite A
Marina, CA 93933

CONSTRUCTION CONTRACT

Effective Date of the Agreement:
Amount:
Description *(name and location):*

BOND

Bond Number:
Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*
Amount:
Modifications to this Bond Form: None See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

IOP B Side Improvements

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

IOP B Side Improvements

12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. **Definitions**
 - 16.1 **Claim:** A written statement by the Claimant including at a minimum:
 1. The name of the Claimant;
 2. The name of the person for whom the labor was done, or materials or equipment furnished;
 3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 4. A brief description of the labor, materials, or equipment furnished;
 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 7. The total amount of previous payments received by the Claimant; and
 - 16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
 - 16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
 - 16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
18. Modifications to this Bond are as follows:

**CONTRACT DOCUMENTS
WARRANTY BOND**

| | CONTRACTOR AS PRINCIPAL | SURETY | OWNER |
|---------------------|----------------------------|--------|--|
| Company: | | | <u>Marina Coast Water District</u> , a California water, recycled water and sewer services provider. |
| Legal Status: | | | |
| Address: | | | |
| City, State Zip: | | | 920 Second Avenue Suite A, Marina, CA 93933 |

CONSTRUCTION CONTRACT:

Date:

Construction Contract Amount:

Description (Name & Locations):

BOND:

Date (Not earlier than Construction Date): ____ / ____ / ____ (mm/dd/yyyy)

Percentage of Construction Contract Amount:

Bond Amount:

The Contractor as Principal, and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract as so executed, which is incorporated herein by reference.

WHEREAS, the Principal is required under the terms of the Construction Contract to furnish, for a period of one (1) year following completion and acceptance by Marina Coast Water District of the work to be performed under the Construction Contract, a warranty bond or other improvements security to insure Principal's full compliance with the warranty requirements of the Construction Contract and equaling in amount ____ percent (____%) of the total estimated costs of the works and improvements.

The condition of this obligation is such that if the above bounded Principal, its heirs, executors, administrators, successors, or assigns, shall in all things stand and abide by, and well and truly keep and perform the covenants, conditions, and provisions under the warranty provisions of the Construction Contract and any alteration thereof made as therein provided, on the Principal's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meanings, and shall indemnify and save harmless the Marina Coast Water District, its directors, officers, agents, and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney’s fees incurred by the Marina Coast Water District in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Construction Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Construction Contract or to the work or to the specifications. The Surety hereby waives the provisions of the California Code Section 2819.

IN WITNESS THEREOF, the above bound parties have executed this instrument under their several seals this _____ day of, _____, 2024, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its authorized representative.

(Seal)

(Principal)

By: _____

Title: _____

Phone #: _____

(Seal)

(Surety)

By: _____

Title: _____

Phone #: _____

NAIC #: _____

CA ID #: _____

License #: _____

Note: The signature of the Surety must be acknowledged before a Notary Public. An executed Power of Attorney indicating that the Surety’s representative is authorized to bind the Surety must accompany this Bond.

SECTION A
GENERAL CONDITIONS

1.0 **GENERAL**

1.1 **Intent Of Contract Documents**

The intent of the Plans and Specifications is to describe the details for the construction and completion of the Work that the Contractor undertakes to perform in accordance with the terms of the Contract. Plans and Specifications are divided into groups for the convenience of the Owner, Design Consultant, and Owner. These divisions are not for the purpose of apportioning work or responsibility for work among subcontractors, suppliers, and manufacturers.

Where the Plans or Specifications describe portions of the Work in general terms but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified, the Contractor shall furnish tools, equipment, and incidentals, and do all the work involved in executing the Contract in a satisfactory and workmanlike manner.

Unless specifically noted otherwise, all sections of the Specifications and the Plans shall be complementary and applicable to each other.

In the event the materials and/or equipment are to be furnished by the Owner, as designated in the General Requirements or as agreed on, this shall not relieve the Contractor of the above requirements to furnish all other labor, materials, and equipment to complete the Contract.

Words and abbreviations, which have well known technical or trade meaning, are used in the Contract Documents in accordance with such recognized meanings. For the definition of terms and abbreviations used in these Contract Documents see Section J, **REFERENCES**.

1.2 **Discrepancies and Omissions**

Any discrepancies or omissions found in the Contract Documents shall be reported to the Owner immediately. The Owner will clarify discrepancies or omissions, in writing, within a reasonable time.

In resolving inconsistencies among two or more sections of the Contract Documents, precedence shall be given in the following order:

1. Contract
 - a. Agreement
 - b. Permits
 - c. Change Orders
2. General Requirements
3. Supplementary Conditions
4. Instructions to Bidders

5. General Conditions
6. Technical Specifications
7. Project Plans
8. Reference Specifications
9. Reference Standard Plans

1.3 **Headings**

Headings to parts, divisions, sections, articles, paragraphs, subparagraphs, and forms are inserted for convenience of reference only and shall not affect the interpretation of the Contract Documents.

1.4 **Penalty for Collusion**

If, at any time, it is found that the person, firm, or corporation to whom the Contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties, then the Contract shall be null and void, and the Contractor and its sureties shall be liable for loss or damage which the Owner may suffer thereby, and the Owner may advertise for new bids for said Work.

1.5 **Successors and Assigns**

The Owner and the Contractor, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants, agreements, and obligation contained in the Contract Documents. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, and any attempt to assign the Contract by the Contractor shall be void unless approved in writing by the Owner.

1.6 **Assignment to Owner**

Pursuant to Public Contract Code 7103.5, in entering into the Contract and all subcontracts, to supply goods, services, or materials pursuant to the Contract, the Contractor and its subcontractors offer and agree to assign to the Owner all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract and subcontracts.

This assignment shall be made and become effective at the time the Owner tenders final payment to the Contractor, without further acknowledgment by the parties.

1.7 **Rights and Remedies**

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or available by law.

No action or failure to act by the Owner, the Design Consultant, or the Owner shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing by Owner.

2.0 **ADMINISTRATION**

2.1 **Administration of the Contract**

The Owner's Representatives, the Owner, and the Design Consultant will provide administration of the Contract as hereinafter discussed. The duties, responsibilities and limitations of authority of the Design Consultant and the Owner as the representatives of the Owner during the construction, as set forth in the Contract Documents, will not be modified or extended without written consent of the Owner.

In case of the termination of the employment of the Design Consultant or the Owner, the Owner shall appoint a Design Consultant or an Owner whose status under the Contract Documents shall be that of the former Design Consultant or Owner, respectively.

2.2 **Owner's Representative**

2.2.1 **General** - The Owner's Representative has the authority to act on behalf of the Owner on change orders, progress payments, Contract decisions, acceptability of the Contractor's work, and early possession.

2.2.2 **Change Orders** - The Owner's Representative has the authority to accept or reject change orders and cost proposals submitted by the Contractor or as recommended by the Owner.

2.2.3 **Progress Payments** - The Owner's Representative has the authority to accept or reject requests for progress payments which have been submitted by the Contractor and recommended by the Owner.

2.2.4 **Contract Decisions** - Should the Contractor disagree with the Owner's decision with respect to the Contract, the Contractor may appeal to the Owner's Representative in accordance with the provisions of the Contract.

2.2.5 **Acceptability of Work** - The Owner's Representative has the authority to make the final determination of the acceptability of the Work. The Owner's Representative also has the authority to accept or reject the Design Consultant's recommendations regarding retention of defective work as provided.

2.3 **Owner**

2.3.1 **General** - The Owner is a representative of the Owner employed to act as advisor and consultant to the Owner in construction matters related to the Contract.

All instructions to the Contractor and all communications from the Contractor to the Owner or the Design Consultant shall be forwarded through the Owner. The Owner will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents. The Owner has delegated its authority to the Owner to make initial decisions regarding questions which may arise as to the quality or acceptability of materials furnished and work performed, and as to the manner of performance and rate of progress of the work under the Contract. The Owner shall interpret the intent and meaning of the Contract and shall make initial decisions with respect to the Contractor's fulfillment of the Contract and the Contractor's entitlement to compensation. The Contractor shall look initially to the Owner in matters relating to the Contract.

The Owner's authority to act under Paragraph 2.1, **Administration of the Contract**, and any decision made by it in good faith either to exercise or not to exercise such authority shall not give rise to any duty or responsibility of the Owner or Owner to the Contractor, any subcontractor, any of their agents or employees, or any other person performing any of the Work.

2.3.2 Representative - The Owner will be represented at the Site by a resident Owner or resident engineer who will observe the progress, quality, and quantity of the Work to determine, in general, if the Work is proceeding in accordance with the intent of the Contract Documents. The Owner shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work.

In accordance with the provisions detailed elsewhere in these General Conditions, the Owner will make decisions relative to all matters of interpretation or execution of the Contract Documents.

2.3.3 Inspection of Construction - The Owner shall have the authority to reject work and materials which do not conform to the Contract Documents, and to require special inspection or testing.

In addition to the resident Owner or resident engineer, the Owner may employ one or more inspectors to observe the Work and to act in matters of construction under this Contract. An inspector is not authorized to revoke, alter, or waive any requirements of the Specifications. The inspector is authorized to call the attention of the Contractor to any failure of the Work, materials or workmanship to conform to the Contract Documents. The inspector shall have the authority to reject materials or, in any emergency, suspend the Work. The Contractor may appeal any such issue which it disagrees with to the Owner for decision.

2.3.4 Acceptability of the Work - The Owner has the authority to make a recommendation as to the acceptability of the Work.

2.3.5 Change Orders - The Owner has the authority to initiate change orders; to reject change orders proposed by the Contractor or Design Consultant; to negotiate and recommend acceptance of change orders; or to order minor changes in the Work at no cost to the Owner.

2.3.6 Construction Schedule - The Owner has the authority to review and recommend acceptance of the progress schedule submitted by the Contractor at the start of the Work and subsequent revisions for conformance to the specified sequence of work and logic.

2.3.7 Progress Payments - The Owner has the authority to recommend acceptance or rejection of requests for progress payments which have been submitted by the Contractor.

2.3.8 Final Payment - The Owner, with the assistance of the Design Consultant will conduct inspections to determine the dates of substantial completion of the Work and final completion of the Work, and will receive and forward to the Owner, for the Owner's review, written warranties, and related documents required by the Contract and assembled by the Contractor.

2.3.9 Early Possession - The Owner has the authority to recommend early possession.

2.4 **Design Consultant**

2.4.1 **General** - The Design Consultant will have the authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

2.4.2 **Interpretations** - The Design Consultant has the authority to be the initial interpreter of the technical requirements of the Contract Documents. Either party to the Contract may make written request to the Owner for interpretations necessary for the proper execution or progress of the Work. The Owner shall refer such written requests to the Design Consultant, who will render such interpretations. Where the Contractor has requested an interpretation from the Owner or been notified by the Owner's Representative that such interpretation has been requested by the Owner, any work done before receipt of such interpretations, if not in accordance with same, shall be removed and replaced or adjusted as directed by the Owner without additional compensation to Contractor.

2.4.3 **Acceptability of the Work** - The Design Consultant has the authority to make a recommendation as to the acceptability of the Work. The Design Consultant has the authority to recommend acceptance regarding the retention of defective work.

2.4.4 **Site Observations** - The Design Consultant may visit the Site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Design Consultant will not be required to make extensive or continuous on-site inspections to check the quality or quantity of the Work.

2.4.5 **Submittal**

The Contractor shall submit, through the Owner, all shop drawings, product data and samples for review in accordance with Section N, **SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**.

The Design Consultant has the authority to review and take other appropriate action upon the Contractor's submittals such as shop drawings, product data and samples, but only for conformance with the design concept of the Work and the information given in the Contract Documents.

3.0 **OWNER**

3.1 **General**

The Owner, acting through the Owner's Representative or the Owner, shall have the authority to act as the sole judge of the Work and materials with respect to both quantity and quality as set forth in the Contract.

3.2 **Attention to Work**

The Owner shall notify the Contractor in writing of the name of the individual designated as the Owner's Representative and the name of the individual designated by the Owner to act as resident Owner or resident engineer. The Owner's designated representative normally will be at the Site of

the Work. During the representative's absences, the Contractor may contact a previously designated representative of the Owner.

3.3 **Inspection**

In addition to the resident Owner or resident manager or resident engineer, the Owner may employ one or more inspectors to observe the Work and to act in matters of construction under this Contract. An inspector is not authorized to revoke, alter, or waive any requirements of the specifications. The inspector is authorized to call the attention of the Contractor to any failure of the Work or materials to conform to the Contract Documents. The inspector shall have the authority to reject material or, in any emergency, suspend the Work. The Contractor may appeal any such issue which it disagrees with to the Owner for its decision.

Separate and independent from the inspection above, the project may be inspected by Building Officials for code compliance. Such inspectors shall have the authority provided to them by local jurisdiction.

3.4 **Owner's Right to Carry Out the Work**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails within 48 hours after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, after 48 hours following receipt by the Contractor of an additional written notice and without prejudice to any other remedy make good such deficiencies.

The Owner also reserves the right to perform any portion of the work due to an emergency threatening the safety of the Work, public, Owner, and any property or equipment.

In either case an appropriate Change Order shall be issued unilaterally deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies and/or for performing such work, including compensation for the Design Consultant's, the Owner's, and Owner's additional services made necessary by such default, neglect, failure or emergency.

3.5 **Owner's Right to Use or Occupy**

The Owner reserves the right, prior to Substantial Completion, to occupy, or use, any completed part or parts of the Work, providing these areas have been approved for occupancy by the Owner. The exercise of this right shall in no way constitute an acceptance of such parts, or any part of the Work, nor shall it in any way affect the dates and times when progress payments shall become due from the Owner to the Contractor or in any way prejudice the Owner's rights in the Contract, or any bonds guaranteeing the same. The Contract shall be deemed completed only when all the Work contracted has been duly and properly performed and accepted by the Owner.

Prior to such occupancy or use, the Owner and Contractor shall agree in writing regarding the responsibilities assigned to each of them for payments, security, maintenance, heat, utilities, damage to the Work, insurance, the period for correction of the Work, and the commencement of warranties required by the Contract Documents.

In exercising the right to occupy or use completed parts of the Work prior to the Substantial Completion thereof, the Owner shall not make any use which will materially increase the cost to

the Contractor, without increasing the Contract Amount, nor materially delay the completion of the Contract, without extending the time for completion.

The part or parts of the Work, if any, which the Owner anticipates the use or occupancy of prior to Substantial Completion are noted in Paragraph 19.0, **OCCUPANCY REQUIREMENTS**. Failure to include a part of the Work in the above section, shall not limit the Owner's right to use or occupy parts of the Work not listed.

3.6 **Owner's Right to Perform Work and to Award Separate Contracts**

The Owner reserves the right to perform the work related to the Project with the Owner's own forces, and to award separate Contracts in connection with the Project or other work on the Site under these or similar Conditions of the Contract. If the Contractor claims that delay, damage, or additional cost is involved because of such action by the Owner, the Contractor shall make such claim as provided elsewhere in the Contract Documents.

When separate Contracts are awarded for different portions of the Project or other work on the Site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Agreement.

The Owner will provide for the coordination of the work of the Owner's own forces and of each separate Contractor with the Work of the Contractor, who shall cooperate therewith as provided in Paragraph 4.8.3, **Cooperation**.

4.0 **CONTRACTOR**

4.1 **Office**

The Contractor's office at the Project Site is hereby designated as the legal address of the Contractor for the receipt of documents, samples, notices, letters, and other articles of communication.

4.2 **Contractor's Representative**

The Contractor shall notify the Owner in writing of the name of the person who will act as the Contractor's representative and shall have the authority to act in matters relating to this Contract. The Contractor, acting through its representative, shall give personal attention to, and shall manage the Work, so that it shall be prosecuted faithfully. The Contractor's representative shall be an employee of the Contractor. Upon written request of the Contractor, this requirement may be waived by the Owner. The Owner's waiver, if granted, will be in writing. There is no obligation by the Owner to waive this provision regardless of the effect on the Contractor's operations.

At all times during the progress of the Work, the Contractor's representative shall be personally present at the Project site. The Contractor's representative shall have the authority to carry out the provisions of the Contract and to supply materials, equipment, tools, and labor without delay for the performance of the Work. If neither the Contractor's representative or a designated alternate is at the Project site, the Owner acting through the Owner shall have the authority as provided in Paragraph 6.6, **Temporary Suspension of Work**, to suspend the work until such a representative is at the Project site.

Before initial work is begun on the Contract, the Contractor shall file with the Owner, addresses and telephone numbers where the Contractor's and all subcontractors' representatives can be reached during all hours, including nights and weekends when work is not in progress.

4.3 **Construction Procedures**

The Contractor will supervise and direct the work. The Contractor has the authority to determine the means, methods, techniques, sequences, and procedures of construction, except in those instances where the Owner, to define the quality of an item of work, specifies in the Contract, a means, method, technique, sequence, or procedure for construction of that item of Work.

4.4 **Contractor's Employees**

The Contractor shall be responsible for the adequacy, efficiency, and sufficiency of its employees. Workers shall have sufficient knowledge, skill, and experience to perform properly the work assigned to them.

The Contractor shall employ only competent, skillful workers to perform the Work. If any subcontractor or person employed by the Contractor or its subcontractors, appear to the Owner to be incompetent or act in a disorderly or improper manner, such person or subcontractor shall be discharged from the site immediately by the Contractor upon written direction of the Owner, and such person shall not again be employed on the Project.

4.5 **Subcontractors**

Subcontractors will not be recognized as having a direct relationship with the Owner. The persons engaged in the Work, including employees of subcontractors and suppliers, will be considered employees of the Contractor. The Contractor will be responsible for their work and their work shall be subject to the provisions of the Contract. The Contractor is as fully responsible to the Owner for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them as the Contractor is for the acts and omissions of persons directly employed by the Contractor. Nothing contained in the Contract Documents shall create any contractual relation between any subcontractor and the Owner. References in the Contract Document to actions required of subcontractors, manufacturers, suppliers, or any party other than the Contractor, the Owner, the Owner, or the Design Consultant shall be interpreted as requiring that the Contractor shall require such subcontractor, manufacturer, supplier, utility company, or party to perform the specified action, unless the Contract Documents specifically state that the Work is not included in the Contract.

The Contractor shall not employ any subcontractors that are not properly licensed in accordance with State law. Prior to commencement of any work by a subcontractor, the Contractor shall submit verification to the Owner that each subcontractor is properly licensed for the work it will perform. Changes to Subcontractors listed in the Bid in accordance with Public Contract Code 4100 et. seq., shall be made only with the approval of the Owner.

4.6 **Contractor's Equipment and Facilities**

The Contractor shall furnish and maintain in good condition all equipment and facilities as required for the proper execution and inspection of the Work. Such equipment and facilities shall meet all requirements of applicable ordinances and laws.

4.7 **Public Safety and Convenience**

The Contractor shall conduct its work so as to insure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the Work and to insure the protection of persons and property at no extra cost to the Owner. The Contractor shall have under construction no greater length or amount of work than it can prosecute properly with due regard to the rights of the public.

4.8 **Owner-Contractor Coordination**

4.8.1 **Service of Notice** - Notice, order, direction, request, or other communication given by the Owner or Owner to the Contractor shall be deemed to be well and sufficiently given to the Contractor if delivered to the Contractor's Representative designated in Paragraph 4.2, **Contractor's Representative**, to the Contractor's office designated in Paragraph 4.1, **Office**, or to the Contractor's address provided in the Bid Proposal.

4.8.2 **Suggestions to Contractor** - Plans or methods of work suggested by the Owner, the Owner, or the Design Consultant to the Contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor. The Owner, and Owner, or the Design Consultant assume no responsibility therefor, and in no way will be held liable for any defects in the Work which may result from or be caused by use of such plan or method of work.

4.8.3 **Cooperation** - The Contractor shall afford the Owner, the Owner and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work and shall connect and coordinate the Work with theirs as required by the Contract Documents.

If any part of the Contractor's Work depends for proper execution or results upon the work of the Owner or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Owner any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor to so report shall constitute an acceptance of the Owner's or separate contractor's work as fit and proper to receive the Work, except as to latent defects which subsequently become apparent in such work by others.

If requested by the Contractor, the Owner shall arrange meetings with other contractors performing work on behalf of the Owner to plan coordination of construction activities. The Owner shall keep the Contractor informed of the planned activities of other contractors.

Differences and conflicts arising between the Contractor and other contractors employed by the Owner or between the Contractor and the workers of the Owner with regard to their work, shall be submitted to the Owner for its decision in the matter. If such separate contractor sues the Owner on account of any delay or damage alleged to have been caused by the Contractor, the Owner shall notify the

Contractor who shall, at the Owner's election, defend such proceedings at the Contractor's expense. If any judgement or award against the Owner arises from any such litigation whether defended by Owner or by Contractor, the Contractor shall pay or satisfy said judgement or award and shall reimburse the Owner for all attorney's fees and court costs which the Owner has incurred or for which it is liable.

4.9 **Permits**

Unless specifically stated to be provided by the Owner, Contractor shall apply for, obtain, and comply with all the terms, conditions and requirements attached to all permits, bonds and licenses required by local, state, or federal agencies to perform work, construct, erect, test and start-up of any equipment or facility for this Contract. Where operating permits are required, the Contractor shall apply for and obtain such operating permits in the name of the Owner and provide the permit in an appropriate frame or file folder when the Owner accepts substantial completion of the equipment or facility. The Contractor shall give all notices necessary or incidental to the due and lawful prosecution of the work.

Any permits, bonds, licenses and fees therefore required for the performance of work under this Contract and not specifically mentioned herein as having been obtained and paid by the Owner shall be included in the Contractor's bid price.

The Contractor shall apply for and obtain in its name the necessary building, plumbing and electrical permits and shall be responsible for satisfying all code requirements, calling for inspections, and obtaining final approvals. Code inspections will be coordinated by the contractor. The Contractor shall comply with all construction conditions stipulated in the permits. The Contractor shall include in its bid the fees for any permits required.

The Contractor shall apply for and obtain all safety permits for excavations, tunneling, trenches, construction (building structure, scaffolding, or falsework) and demolition required by CAL/OSHA including but not limited to, the permits required by Labor Code Section 6500.

4.10 **Contractor's Responsibility for the Work and Materials**

Until acceptance of the Work, the Contractor shall have the charge and care of the Work and of the materials to be used therein and shall bear the risk of injury, loss, or damage, to any part thereof (regardless of whether partial payments have been made on such damaged portions of the Work) by the action of the elements or from any other cause, whether or not arising from the non-execution of the Work. The Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the Work or the materials occasioned by any cause before its completion and acceptance and shall bear the expense thereof, except for such injuries, losses, or damages as are directly and proximately caused by acts of the Owner.

4.11 **Laws to be Observed**

The Contractor shall keep fully informed of all existing and future County, State, and National laws and regulations and all municipal ordinances and regulations of the Owner which in any manner affect those engaged or employed in the Work and of all such orders and decrees of bodies having any jurisdiction or authority over the same; and shall protect and indemnify the Owner and all of its officers, agents, and servants against any claim or liability arising from or based on the violation of any such laws, ordinances, regulations, orders, or decrees whether by the Contractor or its

employees. If any discrepancy or inconsistency is discovered in the plans, drawings, specifications or Contract for the Work in relation to any such law, ordinance, regulations, order or decree, the Contractor shall immediately report the same to the Owner in writing.

4.11.1 Prevailing Wage - In accordance with Section 1770 of the Labor Code, the Owner has ascertained and does hereby specify that the prevailing wage rates shall be those provided in **PART II INSTRUCTIONS TO BIDDERS, Section 11, Prevailing Wage Rates**. The said rates shall include all employer payments that are required by Section 1773.1 of the Labor Code. The Owner will furnish to the Contractor, upon request, a copy of such prevailing rates. It shall be the duty of the Contractor to post a copy of such prevailing wages at the job site.

For each worker paid less than the stipulated rate in the execution of the Contract by the Contractor, or any subcontractor under the Contractor, in violation of the provisions of the Labor Code, and in particular, Section 1770 to Section 1780, inclusive, the Contractor shall be subject to the provisions and penalties of Section 1775 of the Labor Code. In addition to said penalty, and pursuant to said Section 1775, the difference between such stipulated prevailing wage rates and the amounts paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the stipulated prevailing rate shall be paid to each worker by the Contractor.

The wage rates set forth are the minimum that may be paid by the Contractor. Nothing herein contained shall be construed as preventing the Contractor from paying more than the minimum set forth.

No extra compensation whatever shall be allowed by the Owner due to the inability of the Contractor to hire labor at the minimum rate nor for any necessity for payment by the Contractor for subsistence, travel time, overtime, or other added compensation, all of which possibilities are elements to be considered and ascertained to the Contractor's own satisfaction in preparing the bid.

If it becomes necessary to employ a craft other than those listed, the Contractor shall notify the Owner immediately and the Owner will obtain the additional prevailing rate from the Director of the Department of Industrial Relations and the rate thus determined shall be applicable as a minimum at the time of initial employment.

The Contractor shall pay travel and subsistence payments to workers needed to execute the work as such travel and subsistence payments are defined in the applicable collective bargaining agreement filed with the Department of Industrial Relations pursuant to Labor Code Section 1773.8.

4.11.2 Certified Payrolls - In accordance with Section 1776 of the Labor Code, each Contractor and subcontractor shall keep an accurate payroll record, 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 him or her in connection with the project.

The payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

b. A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of the Owner, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

c. A certified copy of all payroll records shall be made available upon request by the public in accordance with Section 1776 of the Labor Code.
The Contractor is responsible for its and its subcontractors compliance with the provisions of Section 1776 of the Labor Code.

4.11.3 Overtime Requirements - The Contractor shall forfeit, as a penalty to the Owner, the penalty as provided in Section 1813 of the Labor Code for each worker employed in the execution of the Contract by the Contractor, or any subcontractor under the Contractor, for each day during which such worker is required or permitted to work more than eight (8) hours in any one day and forty (40) hours in any one week, in violation of the provisions of the Labor Code, and in particular, Section 1810 to Section 1815 thereof, inclusive, except that work performed by employees of Contractors in excess of eight (8) hours a day and forty (40) hours during one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day, at not less than one and a half (12) times the basic rate of pay as provided for in Section 1815 of the Labor Code.

4.11.4 Apprentice and Trainee - Attention is directed to the provisions in Section 1777.5 of the Labor Code and in accordance with the regulations of the California Apprenticeship Council concerning the employment of apprentices by the Contractor or any subcontractor under the Contractor.

Section 1777.5 requires the Contractor or subcontractors employing tradespersons in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of the project which administers the apprenticeship program in that trade for a certificate of approval. The Contractor and subcontractors are required to submit contract award information to the applicable joint apprenticeship committee. As provided for in Section 1777.5 of the Labor Code, the Contractor is required to make contributions to funds established for the administration of apprenticeship programs.

It shall be the responsibility of the Contractor to abide by the provisions of Section 1777.5 of the Labor Code and to require all subcontractors employed by or contracting with the Contractor to abide by said provisions. The Contractor shall furnish the Owner any and all evidence of compliance with this code section when requested by the Owner.

For failure to comply with Section 1777.5 of the Labor Code, the Contractor shall be subject to the penalties in Section 1777.7 of the Labor Code.

4.11.5 Workers' Compensation Insurance - The Contractor is required to secure the payment of compensation to its employees in accordance with the provisions of Sections 1860 and 3700 of the Labor Code and Paragraph 16.4, **Workers' Compensation Insurance**.

4.12 **Safety**

4.12.1 Contractor's Safety Responsibility - The Contractor shall be solely and completely responsible for conditions of the jobsite, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal

working hours. Safety provisions shall conform to U.S. Department of Labor (OSHA), the California Occupational Safety and Health Act, and all other applicable Federal, State, County, and local laws, ordinances, codes, the requirements set forth below, and any regulations that may be detailed in other parts of these Contract Documents. Where any of these are in conflict, the more stringent requirement shall be followed.

No provision of the Contract Documents shall act to make the Owner, the Contractor or any other party than the Contractor responsible for safety. The Contractor shall not have authority for safety on the project. The Contractor shall indemnify, defend and hold harmless the Owner, Contractor, or other authorized representatives of the Owner, from and against any and all actions, damages, fines, suits, and losses arising from the Contractor's failure to meet all safety requirements and/or provide a safe work site.

If death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to both the Contractor and the Owner. In addition, the Contractor must promptly report in writing to the Owner all accidents whatsoever arising out of, or in connection with, the performance of the Work whether on, or adjacent to, the Site, giving full details and statements of witnesses. The Contractor shall make all reports as are, or may be, required by any authority having jurisdiction, and permit all safety inspections of the work being performed under this Contract.

If a claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Owner, giving full details of the claim.

4.12.2 Safety Program - The Contractor shall establish, implement, and maintain a written injury prevention program as required by Labor Code Section 6401.7. Before beginning the Work, the Contractor shall prepare and submit to the Owner a Contractor Safety Program that provides for the implementation of all of the Contractor's safety responsibilities in connection with the Work at the site and the coordination of that program and its associated procedures and precautions with safety programs, precautions and procedures of each of its subcontractors and other prime Contractors performing work at the site. The Contractor shall be solely responsible for initiating, maintaining, monitoring, coordinating, and supervising all safety program, precautions, and procedures in connection with the Work and for coordinating its programs, precautions, and procedures of the other prime contractors and subcontractors performing the Work at the site. The Safety Program should contain all the necessary elements for the Contractor to administer its program on site. At a minimum, this written Safety Program shall address the elements required by Labor Code Section 6401.7. The program shall also address the following:

- A. Compliance with Laws, Rules, and Regulations
- B. Infractions of Safety Rules
 - 1. Reported to Contractor's designated Safety Supervisor
 - 2. Time correction
 - 3. Contractor to enforce safety requirements on its subcontractors
 - 4. Noncomplying employees to be removed from the Project
- C. Housekeeping
 - 1. Continuous cleaning required.
 - 2. Final clean up required.

- D. Means of Implementing the Program
1. All new employees to receive training on the Contractor's Safety Program prior to starting work.
 2. Periodic tool box meetings with agenda recorded.
 3. Documented safety inspections by Safety Supervisor.
 4. Establish emergency procedures and telephone numbers including the procedure for the immediate removal to a hospital or a doctor's care of persons who may be injured on the jobsite. The Contractor shall maintain at its office or other well-known place at the Site safety equipment applicable to the Work as prescribed by the aforementioned authorities, and all items necessary for giving first aid to the injured.
 5. Project bulletin board with required policies.
 6. At least two employees on each shift should have First Aid training and maintain a current First Aid card issued by an agency such as the American Red Cross.
 7. Completion of a job hazard analysis for specific construction activities.
 8. Establish a hazard communication program for informing the Contractor's and subcontractor's personnel, Owner, Owner, and other affected parties of specific hazards on the project.
- E. Define the duties and responsibilities of Contractor management personnel for safety.
1. Project Manager
 2. General Superintendent
 3. Foreman
 4. Safety Supervisor
- F. Accident Investigation
1. Investigate all accidents and near misses.
 2. Develop steps to prevent a reoccurrence.
 3. Completion of all reporting paperwork.

The Contractor's compliance with requirements for safety and/or the Owner's review of the Contractor's Safety Program shall not relieve or decrease the liability of the Contractor for safety. The Owner's review of the Contractor's Safety Program is only to determine if the above listed elements are included in the program.

4.12.3 Safety Supervisor - The Contractor shall appoint an employee as safety supervisor who is qualified and authorized to supervise and enforce compliance with the Safety Program. The Contractor shall notify the Owner in writing prior to the commencement of work of the name of the person who will act as the Contractor's safety supervisor and furnish the safety supervisor's resume to the Owner.

The Contractor will, through and with his Safety Supervisor, ensure that all of its employees and its subcontractors of any tier, fully comply with the Project Safety Policies. The Safety Supervisor shall be a full-time employee of the Contractor whose responsibility shall be for supervising compliance with applicable safety requirements on the work site and for developing and implementing safety training classes for all job personnel. The Owner shall have the authority to require removal of the Contractor's Safety Supervisor if the representative is judged to be improperly or inadequately performing the duties; however, this authority shall not in any way

affect the Contractor's sole responsibility for performing this work safely, nor shall it impose any obligation upon the Owner to ensure the Contractor performs its work safely.

4.12.4 Safety Coordination Meetings - The Contractor and its affected subcontractors shall attend safety coordination meetings with the Owner and any other affected parties. The meeting shall be held at least monthly and prior to the start of new construction activities.

Construction activities will be reviewed prior to the start of work in the various areas to determine potential hazards. The Contractor will be responsible for preparing job hazard analyses to break down the activities to be performed in a step-by-step procedure and provide safety guidelines for each step and any special equipment necessary to protect workers. The Contractor will act as facilitator for the meeting. The Owner will participate in the Safety coordination meetings but will not direct the Contractor on how to perform its safety operations.

4.12.5 Safety and Protection - The Contractor shall take all necessary protection to prevent damage, injury, and loss to:

- All employees on the Project, employees of all subcontractors, and other persons and organizations who may be affected thereby;
- All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
- Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in the course of construction.

The Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and of underground facilities and utility owners when prosecution of the Work may affect them and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any subcontractor, supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by the Contractor.

4.12.6 Excavation Safety - In accordance with the provisions of Section 6705 of the Labor Code, the Contractor shall submit, in advance of excavation five feet or more in depth, detailed plans showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from hazard of caving ground during such excavation. If such plans vary from the shoring system standards set forth in the Construction Safety Orders in Title 8, California Code of Regulations, the plans shall be prepared and signed by a registered civil or structural engineer. Shoring, bracing, sloping, or other protective system shall not be less effective than required by the California Construction Safety Orders. The Owner's review of the Contractor's excavation plan is only for general conformance to the California Construction Safety Orders.

Prior to commencing any excavation, the Contractor shall designate in writing to the Owner the "competent person(s)" with the authority and responsibilities designated in the Construction Safety Orders.

4.12.7 Safety Emergencies - In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Owner, is obligated to act to prevent threatened damage, injury or loss. The Contractor shall give the Owner prompt written notice if the Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby.

4.12.8 Safety Violations - Should the Contractor fail to correct an unsafe condition, the Owner shall immediately notify the Contractor of the Contractor's failure to correct the unsafe condition. The Contractor shall then notify the Owner that the unsafe condition must be corrected or the work in question will be stopped in accordance with Section 6.6.1, until the condition is corrected to the satisfaction of the Owner. No extension of time or additional compensation will be granted as a result of any stop order so issued. The notification and suspension of such work or the failure to provide such notification and suspension by the Contractor and Owner shall not relieve the Contractor of its sole responsibility and liability for safety.

The Owner shall have the authority to require the removal from the project of the foreman and/or superintendent in responsible charge of the work where safety violations occur.

4.12.9 Equipment Safety Provisions - The completed Work shall include all necessary permanent safety devices, such as machinery guards and similar ordinary safety items, required by the State and Federal (OSHA) industrial authorities and applicable local and national codes. Further, any features of the Work, including Owner-selected equipment, subject to such safety regulations shall be fabricated, furnished, and installed in compliance with these requirements. All equipment furnished shall be grounded and provided guards and protection as required by safety codes. Where vapor-tight or explosion-proof electrical installation is required by safety codes, this shall be provided.

Contractors and manufacturers of equipment shall be held responsible for compliance with the requirements included herein. The Contractor shall notify all equipment suppliers and subcontractors of the provisions of this paragraph.

5.0 CONTROL OF WORK AND MATERIALS

5.1 Means and Methods

It is expressly stipulated that the drawings, specifications and other Contract Documents set forth the requirements as to the nature of the completed Work and do not purport to control the method of performing work except in those instances where the nature of the completed Work is dependent on the method of performance.

Except as provided elsewhere in the Contract Documents, neither the Owner, Design Consultant nor the Contractor will be responsible for or have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work. Except as provided elsewhere in the Contract Documents, neither the Owner, Design Consultant nor the Contractor will be responsible for or have control or charge over the acts or omissions of the Contractor, or any of their subcontractors, agents or employees, or any other persons performing any of the Work. Any general control of the Work exercised by the Owner or its authorized representatives shall not make the Contractor an agent of the Owner, and the liability of the Contractor for all damages to persons and/or to public or private property arising from the Contractor's execution of the Work shall not be lessened because of such general control.

Neither the inspection by the Owner, Design Consultant, or Owner, nor any order, measurement, approved modification, or payment of monies, nor acceptance of any part or whole of the Work by the Owner, Design Consultants, Owner, or their agents shall operate as a waiver of any provision of the Contract.

Acceptance by the Owner, Owner and/or Design Consultant of any drawings, or any information regarding materials and equipment the Contractor proposes to furnish or method of work shall not be regarded as an assumption of risks or liability by the Owner, Design Consultant, or the Owner, or any officer or employee thereof, and the Contractor shall have no claim under the Contract on account of the failure or partial failure or inefficiency or insufficiency of any plan or method of work or material and equipment so accepted. Such acceptance shall be considered to mean merely that the Owner, Owner, and/or Design Consultant has no objection to the Contractor using, upon its own full responsibility, the plan or method of work proposed, or furnishing the materials and equipment proposed.

5.2 **Owner-Furnished Materials**

Materials, if furnished by the Owner, will be made available as designated in the General Requirements. The cost of loading, unloading, hauling and handling, and placing Owner-furnished materials shall be considered as included in the price bid for the Contract item involving such Owner-furnished material.

Contractor shall inspect and assure itself of the amount and soundness of such materials.

The Contractor will be held responsible for all materials furnished to it and shall pay all demurrage and storage charges. Owner-furnished materials lost or damaged from any cause whatsoever shall be replaced by the Contractor. The Contractor will be liable to the Owner for the cost of replacing Owner-furnished material and such costs may be deducted from any monies due or to become due the Contractor.

5.3 **Defective and Unauthorized Work**

Materials and workmanship not conforming to the requirements of the Contract Documents shall be considered defective and will be subject to rejection. Defective work or material, whether in place or not, shall be removed immediately from the Site by the Contractor, at its expense, when so directed by the Owner.

Any work done beyond the limits of work, lines, and grades shown on any approved plans or established by the Owner, or any extra work done without written authority, will be considered as unauthorized and will not be paid for.

Upon failure on the part of the Contractor to comply with any order of the Owner made under the provisions of this paragraph, the Owner shall have authority to cause defective work to be remedied, or removed and replaced, and unauthorized work to be removed, and to deduct the costs thereof from any monies due or to become due the Contractor. The time, cost and compliance requirements stipulated in Paragraph 3.4, **Owner's Right to Carry Out the Work**, shall apply for this paragraph also.

5.4 **Unnoticed Defects**

Any defective work or material that may be discovered by the Owner, Owner, or Design Consultant before the final acceptance of the Work, or before final payment has been made, or during the warranty period, shall be removed and replaced by work and materials which shall conform to the provisions of the Contract Documents. Failure on the part of the Owner, Owner, or Design Consultant to reject bad or inferior work or materials shall not be construed to imply acceptance of such work or materials.

5.5 **Right to Retain Imperfect Work**

If any part or portion of the work performed or material furnished under this Contract shall prove defective and not in accordance with the Drawings and Specifications, and if the imperfection in the same shall not be of sufficient magnitude or importance as to make the work dangerous or unsuitable, or if the removal of such work will create conditions which are dangerous or undesirable, the Owner shall have the right and authority to retain such work but shall make such deductions in the final payment therefor as may be just and reasonable.

6.0 **PROGRESS OF THE WORK**

6.1 **Beginning of Work**

The Contractor shall begin work within ten (10) days of the effective date of the Notice to Proceed and shall diligently prosecute the same to completion within the time limit.

Should the Contractor begin work in advance of receiving Notice to Proceed, any work performed in advance of the said date of approval shall be considered as having been done by the Contractor at its own risk and as a volunteer.

6.2 **Time of Completion**

Time shall be of the essence of the Contract. The Contractor shall prosecute the work so that the various portions of the project shall be complete and ready for use within the time specified in Paragraph 11.0, **TIME ALLOWED FOR COMPLETION**. It is expressly understood and agreed by and between the Contractor and the Owner that the Contract time for completion of the work described herein is a reasonable time taking into consideration the average climatic and economic conditions and other factors prevailing in the locality and the nature of the work.

6.3 **Delays**

6.3.1 **Notice of Delays** - When the Contractor foresees a delay in the prosecution of the Work and, in any event, immediately upon the occurrence of a delay, the Contractor shall notify the Owner in writing of the probability of the occurrence and the estimated extent of the delay, and its cause. The Contractor shall take immediate steps to prevent, if possible the occurrence or continuance of the delay. The Contractor agrees that no claim shall be made for delays which are not called to the attention of the Owner at the time of their occurrence.

6.3.2 **Non-excusable Delays** - Non-excusable delays in the prosecution of the Work shall include, but not limited to, delays which could have been avoided by the exercise of care, prudence,

foresight, and diligence on the part of the Contractor or its subcontractors, at any tier level, or suppliers.

6.3.3 Excusable Delays - Excusable delays in the prosecution or completion of the Work shall include delays which result from causes beyond the control of the Contractor and Owner and which could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its subcontractors, at any tier level, or suppliers.

6.3.4 Abnormal Delays - Delays caused by acts of god, fire, unusual storms, floods, tidal waves, earthquakes, strikes, labor disputes, freight embargoes, and shortages of materials shall be considered as excusable delays insofar as they prevent the Contractor from proceeding with at least seventy-five (75) percent of the normal labor and equipment force for at least five (5) hours per day toward completion of the current critical activity item(s) on the latest favorably reviewed progress schedule.

6.3.5 Weather Delays - Should inclement weather conditions or the conditions resulting from weather prevent the Contractor from proceeding with seventy-five (75) percent of the normal labor and equipment force engaged in the current critical activity item for a period of at least five (5) hours per day toward completion of such operation or operations, and the crew is dismissed as a result thereof, it shall be a weather delay day. The Contractor may be granted a time extension pursuant to Paragraph 6.4.2.c, **Weather Delays**.

6.3.6 Material Shortages - Upon the submission of satisfactory proof to the Construction Manager by the Contractor, shortages of material will be acceptable as grounds for granting a time extension. In order that such proof may be satisfactory and acceptable to the Owner, it must be demonstrated by the Contractor that the Contractor has made every effort to obtain such materials from all known sources within reasonable reach of the proposed Work. Only the physical shortage of material, caused by unusual circumstances, will be considered under these provisions as a cause T for extension of time, and no consideration will be given to any claim that material could not be obtained at a reasonable, practical, or economical cost or price, unless it is shown to the satisfaction of the Owner that such material could have been obtained only at exorbitant prices entirely out of line with current rates, taking into account the quantities involved and usual practices in obtaining such quantities. A time extension for shortage of material will not be considered for material ordered or delivered late or whose availability is affected by virtue of the mishandling of procurement. The above provisions apply equally to equipment to be installed in the work.

6.3.7 Compensable Delays - Compensable delays in the prosecution or completion of the Work shall include delays that occur through no fault of the Contractor and prevent the Contractor from proceeding with at least seventy-five (75) percent of the normal labor and equipment force for at least five (5) hours per day toward completion of the current critical activity item(s) on the latest favorably reviewed progress schedule due to the following cause(s):

- a. Delays due solely to the actions and/or inactions of the Owner.
- b. Delays due to differing site conditions as defined in Section Paragraph 7.2, **Differing Site Conditions**.
- c. Delays due to other Contractors employed by the Owner who interfere with the Contractor's prosecution of the Work as defined above.

6.3.8 **Concurrent Delays** - Concurrent delays are those delay periods when the prosecution of the Work is delayed during the same period of time due to causes from a combination of the delays defined in Paragraphs 6.3.2, **Non-Excusable Delays**, 6.3.3, **Excusable Delays**, or 6.3.7, **Compensable Delays**. During such concurrent delay periods, time extensions will be granted in accordance with Paragraph 6.4, **Time Extensions**; however, the Contractor shall not be compensated for its overhead costs as defined in Paragraph 6.4.3, **Indirect Overhead**, and the Owner shall not assess its actual costs as defined in Paragraph 6.4.1, **Non-excusable Delays**.

6.4 **Time Extensions**

6.4.1 **Non-excusable Delays** - The Owner may grant an extension of time for non-excusable delays if the Owner deems it is in its best interest. If the Owner grants an extension of time for non-excusable delays, the Contractor agrees to pay the Owner's actual costs, including charges for engineering, inspection and administration incurred during the extension.

6.4.2 **Excusable or Compensable Delays** - If the Contractor is delayed in the performance of its work as defined in Paragraphs 6.3.3, **Excusable Delays**, or Paragraph 6.3.7, **Compensable Delays**, then the Contract completion date may be extended by the Owner for such time that, in the Owner's and Owner's determination, the Contractor's completion date will be delayed, provided that the Contractor strictly fulfills the following:

- a. The Contractor shall provide notification, in accordance with Paragraph 6.3.1, **Notice of Delays**, and submit in writing a request for an extension of time to the Owner stating at a minimum the probable cause of the delay and the number of days being requested. The time extension request shall be submitted in accordance with the requirements of Paragraph 53.0, **TIME IMPACT ANALYSES**.
- b. If requested by the Owner, the Contractor shall promptly provide sufficient information to the Owner to assess the cause or effect of the alleged delay, or to determine if other concurrent delays affected the work.
- c. **Weather Delays** - The Contractor will be granted a non-compensable time extension for weather caused delays, pursuant to Paragraph 6.3.5, **Weather Delays**, over and above an allowance as provided for in Paragraph 6.4.2.c, **Weather Delays**. No time extensions for weather delays will be granted until the total number of weather days exceeds this allowance.

Should the Contractor fail to fulfill any of the foregoing, which are conditions precedent to the right to receive a time extension, the Contractor waives the right to receive a time extension.

During such extension of time, neither extra compensation for engineering, inspection and administration nor damages for delay will be charged to the Contractor. It is understood and agreed by the Contractor and Owner that time extensions due to excusable or compensable delays will be granted only if such delays involve controlling operations which would prevent completion of the whole Work within the specified Contract time.

Should the Contractor fail to complete the work within the time specified in the contract, as extended in accordance with this clause if appropriate, the Contractor shall pay to the Owner liquidated damages in accordance with Paragraph 6.5, **Liquidated Damages**.

6.4.3 **Indirect Overhead** - The Contractor shall be reimbursed for indirect overhead expenses for periods of time when the Work is delayed as defined in Paragraph 6.3.7, **Compensable Delays**. However, no reimbursement for indirect overhead shall be made for compensable delays which occur during a concurrent delay as defined in Paragraph 6.3.8, **Concurrent Delays**. No reimbursement for indirect overhead as covered in this section shall be made for any time extensions granted for Contract change orders as provided in Section G, **MODIFICATION PROCEDURES**. As a condition precedent to any reimbursement, the Contractor must fulfill all conditions as provided in Paragraph 6.4.2, **Excusable or Compensable Delays**. No additional markup for overhead or profit shall be provided for such indirect overhead expenses.

Payment to the Contractor for indirect overhead expenses will be made only if the extended Contract period granted for the compensable delay(s) is required to complete the work following the depletion of the original contract period and any time extensions granted other than compensable time extensions.

6.4.3.1 **Indirect Field Overhead** - For those allowable delay periods as defined in Paragraph 6.4.3, **Indirect Overhead**, the Contractor shall be reimbursed for its field overhead based on the following formula:

$$\frac{\text{Contract Bid Price (\$)}}{\text{Contract Period (Days)}} \times (0.02) = \text{Indirect Field Overhead (\$/Day)}$$

6.4.3.2 **Indirect Home Office Overhead** - For those allowable delay periods as defined in Paragraph 6.4.3, **Indirect Overhead**, the Contractor shall be reimbursed for its home office overhead based on the following formula:

$$\frac{\text{Contract Bid Price (\$)}}{\text{Contract Period (Days)}} \times (0.02) = \text{Daily Home Office Overhead (\$/Day)}$$

As it is impractical to determine the actual home office overhead, such reimbursement shall be mutually agreed between the Owner and Contractor to encompass full payment for any home office overhead expenses for such periods of time for the Contractor and all subcontractors. The Contractor agrees to indemnify, defend, and hold the Owner harmless for any indirect overhead claims from its subcontractors.

6.5 **Liquidated Damages**

It is agreed by the parties to the Contract that time is of the essence in the completion of this Work, and that in case all the Work called for under the Contract is not completed before or upon the expiration of the time limit as set forth in these Contract Documents, as modified by extensions of time granted by the Owner, damage will be sustained by the Owner. As it is impracticable to determine the actual delay damage; it is, therefore, agreed that the Contractor shall pay liquidated damages to the Owner in the amount set forth in Paragraph 12.0, **DAMAGES FOR DELAYS**, per day for each and every day's delay beyond the time prescribed to complete the Work. The Contractor agrees to pay such liquidated damages and in case the same are not paid, agrees that the Owner may deduct the amount thereof from any monies due or that may become due the Contractor under the Contract.

6.6 Temporary Suspension of Work

6.6.1 If the Contractor fails to correct defective work as required by Paragraph 5.3, **Defective and Unauthorized Work**, or fails to carry out the Work in accordance with the Contract Documents or any other applicable rules and regulations, the Owner, by a written order of the Owner's representative or signed personally by an agent specifically so empowered by the Owner, in writing, may order the Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. All delays in the Work occasioned by such stoppage shall not relieve the Contractor of any duty to perform the Work or serve to extend the time for its completion. Any and all necessary corrective work done in order to comply with the Contract Documents shall be performed at no cost to the Owner.

6.6.2 In the event that a suspension of Work is ordered, as provided in this paragraph, the Contractor, at its expense, shall perform all work necessary to provide a safe, smooth, and unobstructed passageway through construction for use by public, pedestrian, and vehicular traffic, during the period of such use by suspension. Should the Contractor fail to perform the Work as specified, the Owner may perform such work and the cost thereof may be deducted from monies due the Contractor under the Contract.

6.6.3 The Owner shall also have authority to suspend the Work wholly or in part, for such period as the Owner may deem necessary, due to unsuitable weather, or to such other conditions as are considered unfavorable for the suitable prosecution of the Work. Such temporary suspension of the Work will be considered justification for time extensions to the Contract in an amount equal to the period of such suspension if such suspended work includes the current critical activity on the latest favorably reviewed progress schedule. The Contractor as directed by the Owner shall provide the provisions as stipulated in Paragraph 6.6.2 above. Such additional work shall be compensated as provided for in Paragraph 7.0, **SCOPE OF WORK - CHANGES IN THE WORK**.

6.7 Termination of Contract

If at any time the Contractor is determined to be in material breach of the Contract, notice thereof in writing will be served upon the Contractor and its sureties, and should the Contractor neglect or refuse to provide means for a satisfactory compliance with the Contract, as directed by the Owner, within the time specified in such notice, the Owner or the Owner's Representative in such case shall have the authority to terminate the operation of the Contract.

Upon such termination, the Contractor shall discontinue the Work, or such parts of it as the Owner may designate. Upon such termination, the Contractor's control shall terminate and thereupon the Owner or its fully authorized representative may take possession of all or any part of the Contractor's materials, tools, equipment, and appliances upon the premises and use the same for the purposes of completing the Work and hire such force and buy or rent such additional machinery, tools, appliances, and equipment, and buy such additional materials and supplies at the Contractor's expense as may be necessary for the proper conduct of the Work and for the completion thereof; or the Owner may employ other parties to carry the Contract to completion, employ the necessary workers, substitute other machinery or materials and purchase the materials contracted for, in such manner as the Owner may deem proper; or the Owner may annul and cancel the Contract and relet the Work or any part thereof. Any cost arising therefrom over and above the Contract price will be charged against the Contractor and its sureties, who will be liable therefor.

In the event of such termination, all monies due the Contractor or retained under the terms of this Contract shall be held by the Owner; however, such holdings will not release the Contractor or its sureties from liability for failure to fulfill the Contract. Any cost over and above the Contract amount incurred by the Owner arising from the termination of the operations of the Contract and the completion of the Work by the Owner as above provided shall be paid for by any available funds held by the Owner. The Contractor will be so credited with any surplus remaining after all just claims for such completion have been paid.

In addition to the Owner's rights under this section, if at any time before completion of the work under the Contract, it shall be determined by the Owner that reasons beyond the control of the parties hereto render it impossible or against the interests of the Owner to complete the work, or if the work shall be stopped by an injunction of a court of competent jurisdiction or by order of any competent authority, the Owner may, upon ten (10) days written notice to the Contractor, discontinue the work and terminate the Contract. Upon service of such notice of termination, the Contractor shall discontinue the work in such manner, sequence, and at such times as the Owner may direct. The Contractor shall have no claim for damages for such discontinuance or termination, nor any claim for anticipated profits on the work thus dispensed with, nor any other claim except for the work actually performed up to the time of discontinuance, including any extra work ordered by the Owner to be done, nor for any claim for liquidated damages.

7.0 **SCOPE OF WORK - CHANGES IN THE WORK**

7.1 **Change Orders**

7.1.1 Without invalidating the Contract and without notice to sureties or insurers, the Owner through the Owner or Owner's Representative, may at any time or from time to time, order additions, deletions, or revisions in the Work; these will be authorized by Field Directive, Field Order, or Change Order. A Change Order will not be issued for a Field Directive unless the Owner concurs with an appeal by the Contractor that such Field Directive is a change in the scope of the Contract. The Contractor shall comply promptly with the requirements for all Change Orders, Field Orders, or Field Directives. The work involved in Change Orders shall be executed under the applicable conditions and requirements of the Contract Documents. If any Field Order causes an increase or decrease in the Contract Amount or an extension or shortening of the Contract Time, an equitable adjustment will be made by issuing a Change Order. If the Contractor accepts a Change Order that does not include a time extension, the Contractor waives any claim for additional time for the work covered by that Change Order. Additional or extra work performed by the Contractor without written authorization of a Field Order or Change Order will not entitle the Contractor to an increase in the Contract Amount or an extension of the Contract Time.

7.1.2 Extra work shall be that work not shown or detailed on the Contract Drawings and not specified. Such work shall be governed by all applicable provisions of the Contract Documents. In giving instructions, the Owner shall have authority to make minor changes in the work, not involving extra cost, and not inconsistent with the purposes of the work; but otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written order by the Owner through the Owner, and no claim for an addition to the total amount of the Contract shall be valid unless so ordered.

7.1.3 In case any change increases or decreases the work shown, the Contractor shall be paid for the work actually done at a mutually agreed upon adjustment to the Contract price, based upon the provisions of Section G, **MODIFICATION PROCEDURES**.

7.1.4 If the Contractor refuses to accept a Change Order, the Owner may issue it unilaterally. The Contractor shall comply with the requirements of the Change Order. The Owner shall provide for an equitable adjustment to the Contract and compensate the Contractor accordingly. If the Contractor does not agree that the adjustment is equitable, it may submit a claim in accordance with Paragraph 7.3.2, **Claims**.

7.2 **Differing Site Conditions**

Pursuant to Public Contract Code Section 7104, the Contractor shall promptly, and before such conditions are disturbed, notify the Owner in writing, of any:

- a. Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
- b. Subsurface or latent physical conditions at the site differing from those indicated.
- c. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

The Owner shall promptly, investigate the conditions, and if it finds that the conditions do materially differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work the Owner shall cause to be issued a change order under the procedures provided in Paragraph 7.1, **Change Orders**.

In the event that a dispute arises between the Owner and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract but shall proceed with all work to be performed under the Contract. The Contractor shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the contracting parties, Paragraph 7.3, **Resolution of Disputes**.

No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required.

7.3 **Resolution of Disputes**

7.3.1 **Contract Interpretation by the Owner** - Questions regarding the meaning and intent of the Contract Documents shall be referred in writing by the Contractor to the Owner. Where practical, the Owner shall respond to the Contractor in writing with a decision within ten (10) day of receipt of the request.

7.3.2 **Claims**

7.3.2.1 **Notice** - If the Contractor disagrees with the Owner's decision in Paragraph 7.3.1, **Contract Interpretation by the Owner**, or in any case where the Contractor deems additional compensation or a time extension to the Contract period is due the Contractor for work or materials not covered in

the Contract or which the Owner has not recognized as extra work, the Contractor shall notify the Owner, in writing, of its intention to make claim. Claims pertaining to decisions provided in Paragraph 7.3.1 or such other determinations by the Owner shall be filed in writing to the Owner within five (5) days of receipt of such decision. All other claims notices for extra work shall be filed in writing to the Owner prior to the commencement of such work. Written notice shall use the words "Notice of Potential Claim". Such Notice of Potential Claim shall state the circumstances and the reasons for the claim but need not state the amount.

Additionally, no claim for additional compensation or extension of time for a delay will be considered unless the provisions of Paragraphs 6.3, **Delays**, and 6.4, **Time Extensions**, are complied with. No claim filed after the date of final payment will be considered.

It is agreed that unless notice is properly given, the Contractor shall not recover costs incurred by it as a result of the alleged extra work, changed work or other situation which had proper notice been given would have given rise to a right for additional compensation. The Contractor should understand that timely notice of potential claim is of great importance to the Owner and is not merely a formality. Such notice allows the Owner to consider preventative action, to monitor the Contractor's increased costs resulting from the situation, to marshal facts, and to plan its affairs. Such notice by the Contractor, and the fact that the Owner has kept account of the cost as aforesaid, shall not in any way be construed as proving the validity of the claim.

7.3.2.2 Records of Disputed Work - In proceeding with a disputed portion of the Work, the Contractor shall keep accurate records of its costs and shall make available, to the Owner, a daily summary of the hours and classification of equipment and labor utilized on the disputed work, as well as a summary of any materials or any specialized services which are used. Such information shall be submitted to the Owner on a monthly basis, receipt of which shall not be construed as an authorization for or acceptance of the disputed work.

7.3.2.3 Submission of Claim Costs - Within 30 days after the last cost of work for which the Contractor contends it is due additional compensation is incurred, but if costs are incurred over a span of more than 30 days, then within 15 days after the thirtieth day and every month thereafter, the Contractor shall submit to the Owner as best the Contractor is able its costs incurred for the claimed matter. Claims shall be made in itemized detail and should the Owner be dissatisfied with format or detail of presentation, upon request for more or different information, the Contractor will promptly comply, to the satisfaction of the Owner. If the additional costs are in any respect not knowable with certainty, they shall be estimated as best can be done. In case the claim is found to be just, it shall be allowed and paid for as provided in Section G, **MODIFICATION PROCEDURES**.

7.3.2.4 Claim Meetings - From time to time the Owner may call a special meeting to discuss outstanding claims should it deem this of possible help. The Contractor shall cooperate and attend prepared to discuss its claims, making available the personnel necessary for resolution, and all documents which may reasonably be requested by the Owner.

7.3.3 Resolution of Claims - For all contracts awarded during the effective dates of Public Contract Code Section 20104, where claims cannot be resolved between the parties, claims for three hundred and seventy-five thousand dollars (\$375,000) or less shall be resolved pursuant to the provisions of that code section.

Unless this Contract provides otherwise, all claims, counterclaims, disputes, and other matters in question between the Owner and the Contractor that are not resolved between the Owner and the

Contractor and are not governed by Public Contract Code 20104 shall be decided by a court of competent jurisdiction. Arbitration shall not be used for resolution of these disputes.

Should either party to this Agreement bring legal action against the other, the case shall be handled in the California county where the work is being performed.

8.0 **PAYMENT**

8.1 **Scope of Payment**

8.1.1 **General** - The Contractor shall accept the compensation, as herein provided, as full payment for furnishing all labor, materials, tools, equipment, and incidentals necessary for completing the Work according to the Contract Documents, and no additional compensation will be allowed therefor. Neither the payment of any partial payment estimate nor of any retained percentage shall relieve the Contractor of any obligation to make good any defective work or material.

8.1.2 **Payment for Patents and Patent Infringement** - All fees or claims for any patented invention, article, or arrangement that may be used upon, or in, any manner connected with the performance of the work or any part thereof shall be included in the price bid for doing the work, and the Contractor and its sureties shall defend, protect, and hold the Owner, Owner's Representative, and Design Consultants, together with all their officers, agents, and employees harmless against liability of any nature or kind for any and all costs, legal expenses, and damages made for such fees or claims and against any and all suits and claims brought or made by the holder of any invention or patent, or on account of any patented or unpatented invention, process, article, or appliance manufactured for or used in the performance of the Contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract. Before final payment is made on the Contract, the Contractor shall furnish an affidavit to the Owner regarding patent rights for the project. The affidavit shall state that all fees and payments due as a result of the work incorporated into the project or methods utilized during construction have been paid in full. The Contractor shall certify in the affidavit that no other fees or claims exist for work in this project.

8.1.3 **Payment of Taxes** - The Contractor shall pay and shall assume exclusive liability for all taxes levied or assessed on or in connection with the Contractor's performance of this Contract, including, but not limited to, State and local sales and use taxes, Federal and State payroll taxes or assessments, and excise taxes, and no separate allowance will be made therefor, and all costs in connection therewith shall be included in the total amount of the Contract price.

8.1.4 **Payment for Labor and Materials** - The Contractor shall pay and require its subcontractors to pay any and all accounts for labor including worker's compensation premiums, state unemployment and federal social security payments and other wage and salary deductions required by law. The Contractor also shall pay and cause its subcontractors to pay any and all accounts for services, equipment, and materials used by the Contractor and its subcontractors during the performance of work under this Contract. Such accounts shall be paid as they become due and payable. If requested by the Owner, the Contractor shall furnish proof of payment of such accounts to the Owner.

8.2 Partial Payments

In consideration of the faithful performance of the work prosecuted in accordance with the provisions of these Specifications and the Contract, the Owner will pay the Contractor for all such work installed on the basis of percentage completion. Amounts earned will be based on accepted Cost Breakdown (Section F, **MEASUREMENT AND PAYMENT**).

Payments will be made by the Owner to the Contractor on estimates duly certified and approved by the Owner, based on the value of equipment installed and tested, labor and materials incorporated into said permanent work by the Contractor during the preceding month, and acceptable materials and equipment on hand (materials and equipment furnished and delivered to the site by the Contractor and not yet incorporated into the work accompanied by an approved invoice). Payments will not be made for temporary construction unless specifically provided for in the Contract Documents.

Partial payments will be made monthly based on work accomplished as of a day mutually agreed to by the Owner and the Contractor.

The Contractor shall submit its estimate of the work completed during the prior month and the work completed to date in a format corresponding to the accepted cost breakdown. Additionally, the Contractor shall submit a detailed statement of the Contractor's request for payment of acceptable materials and equipment on hand in compliance with Paragraph 8.3, **Partial Payments - Inclusion of Materials on Hand**. Upon receipt of Contractor's requests for payment, the Owner shall act in accordance with the following:

- (a) The Owner shall review the submitted estimates, as soon as practical after receipt for the purpose of determining that the estimates are a proper request for payment, and shall prepare a certified estimate of the total amount of work done and acceptable materials and equipment on hand.
- (b) Any request for payment determined not to be a proper payment request suitable for payment shall be returned to the Contractor as soon as practicable, but not later than seven (7) days after receipt. A request for payment returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the request for payment is not proper.
- (c) The number of days available to the Owner to make a payment without incurring interest pursuant to this section shall be reduced by the number of days by which the Owner exceeds the seven (7) day return requirement set forth in subdivision (b) above.

If requested, the Contractor shall provide such additional data as may be reasonably required to support the partial payment request. The Owner will be available to meet to discuss the partial payment request prior to its resubmittal(s). When the Contractor's estimate of amount earned conforms with the Owner's evaluation, the Owner will calculate the amount due the Contractor, prepare the progress payment request for signature by the Contractor, and submit the recommended progress payment request for the Owner's approval and processing. Payment will be made by the Owner to the Contractor in accordance with Owner's normal accounts payable procedures; the Owner shall retain amounts in accordance with Paragraph 8.4, **Right to Withhold Amounts**.

No such estimate or payment shall be required to be made, when in the judgement of the Owner, the Work is not proceeding in accordance with the provisions of the Contract, or when in the Owner's judgement the total value of the Work done since the last estimate amounts to less than One Thousand Dollars (\$1,000.00).

Subject to the provisions of this section, the Owner shall pay the Contractor within thirty (30) days after receipt of undisputed and properly submitted requests for payment from the Contractor. In accordance with Public Contract Code Section 20104.50, if the Owner fails to pay an undisputed request for payment within the allotted thirty (30) days, the Owner shall pay interest to the Contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure.

8.3 **Partial Payments - Inclusion of Materials on Hand**

Materials, as used herein, shall be considered to be those items which are fabricated and manufactured goods and equipment. Only those materials for which the Contractor can transfer clear title to the Owner will be qualified for partial payment. The Contractor may request payment of seventy-five (75) percent of the actual net cost of these materials.

To receive partial payment for materials and equipment delivered to the Site, but not incorporated in the Work, it shall be necessary for the Contractor to submit to the Owner a list of such materials, at least seven (7) days prior to submitting the monthly estimate of amount earned for work completed. At the Owner's sole discretion, the Owner will approve items for which partial payment is to be made subject to the following:

- a. Only equipment or materials which have received favorable review of shop drawings will qualify.
- b. Eligible equipment or materials must be delivered and properly stored, protected, and maintained in a manner favorably reviewed by the Owner, at the job site or at a bonded warehouse.
- c. The Contractor's actual net cost for the materials must be supported by paid invoices of suppliers, or other documentation requested by the Owner.
- d. Materials or equipment delivered to the Site less than thirty (30) days prior to their scheduled incorporation in the Work shall not qualify.
- e. Final payment shall be made only for materials actually incorporated in the Work. Upon acceptance of the Work, all materials remaining for which advance payments had been made shall revert to the Contractor, unless otherwise agreed, and partial payments made for these items shall be deducted from the final payment for the Work.
- f. Partial payments for materials and equipment on hand shall not be deemed to be final payment for the material nor relieve the Contractor of its obligations under the Contract.
- g. Partial payments for materials and equipment on hand shall be subject to retention in accordance with Paragraph 8.4., **Right to Withhold Amounts**.

8.4 **Right to Withhold Amounts**

8.4.1 **Retention** - The Owner will deduct from each partial payment and retain as part security, ten (10) percent of the amount earned until the final payment.

Pursuant to Public Contract Code Section 22300, for monies earned by the Contractor and withheld by the Owner to ensure the performance of the Contract, the Contractor, may, at his or her option, choose to substitute securities meeting the requirements of said Section 22300. In the event the Contractor wishes to choose this option, the Contractor shall enter into an escrow agreement with the Owner, and the escrow agent, a qualified bank to be chosen by Owner, in the form of the agreement included in the project specifications. The costs of such escrow shall be paid by the Contractor. The securities to be deposited in said escrow account shall be equivalent, in fair market value, to the amount to be withheld as performance retention. The securities shall be held in accordance with the provisions of Public Contract Code Section 22300, and the implementing agreement.

Contractor shall have the obligation of ensuring that such securities deposited are sufficient so as to maintain, in total fair market value, an amount equal to the cash amount of the sums to be withheld under the Contract. If, upon written notice from the Owner, or from the appropriate escrow agent, indicating that the fair market value of the securities has dropped below the dollar amount of monies to be withheld by the Owner to ensure performance, Contractor shall, within five days of the date of such notice, post additional securities as necessary to ensure that the total fair market value of all such securities held by the Owner, or in escrow, is equivalent to the amount of money to be withheld by the Owner under the Contract.

Any Contractor wishing to exercise this option shall give notice in writing to Owner, and shall thereafter execute an escrow agreement in the following form:

**ESCROW AGREEMENT FOR
SECURITY DEPOSITS IN LIEU OF RETENTION**

This Escrow Agreement is made and entered into _____, 2024, by and
between; Marina Coast Water District

hereinafter called "Owner", and

whose address is 920 Second Avenue, Suite A, Marina, CA 93933, and

hereinafter called "Contractor", and

whose address is _____, and

hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

1. Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities which meet the requirements set forth in said Section 22300, with Escrow Agent, as a substitute for retention earnings required to be withheld by Owner pursuant to the Construction Contract entered into between Owner and Contractor for _____ in the amount of _____ dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the Contractor, the Owner shall make payments of the retention earnings directly to the Escrow Agent. When Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the Owner and Contractor. Securities shall be held in the name of Owner, and shall designate the Contractor as the beneficial owner.
2. Owner shall make progress payments to Contractor for such funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
3. When the Owner makes payment of retentions earned directly to the Escrow Agent the Escrow Agent shall hold them for the benefit of the Contractor until such time as the escrow created under this Contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.

4. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account, and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor, and Escrow Agent.
5. The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.
6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.
7. The Owner shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven days' written notice to the Escrow Agent from the Owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the Owner.
8. Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.
9. Escrow Agent shall rely on the written notifications from the Owner and the Contractor pursuant to Sections (4) to (6), inclusive, of this Agreement, and Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On Behalf of Owner:

On Behalf of Contractor:

Title

Title

Name

Name

Signature

Signature

Address

Address

On Behalf of Escrow Agent:

Title

Name

Signature

Address

At the time the Escrow Account is opened, Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

OWNER:

CONTRACTOR:

Title

Title

Name

Name

Signature

Signature

8.4.2 Other Withholds - In addition to the amount which the Owner may otherwise retain under the Contract, the Owner may withhold a sufficient amount or amounts of any payment or payments otherwise due the Contractor, as in its judgment may be necessary to cover:

- a. Payments which may be past due and payable for just claims against the Contractor or any subcontractor for labor or materials furnished for the performance of this Contract.
- b. Defective work not remedied.
- c. Failure of the Contractor to make proper payments to its subcontractors or suppliers.
- d. A reasonable doubt that the Contract can be completed for the balance then unpaid.
- e. Damage to another Contractor or third party, or to property.
- f. Failure of the Contractor to keep its work progressing in accordance with its progress schedule or maintaining current "As-Built" record drawings.
- g. The Owner's costs for the Contractor's failure to complete within the allowed time.
- h. Cost of insurance arranged by the Owner due to cancellation or reduction of the Contractor's insurance.
- i. Failure of the Contractor to make proper submissions, as herein specified.
- j. Failure to submit, revise, resubmit, or otherwise conform to the requirements herein for preparing and maintaining a construction schedule.
- k. Payments due to the Owner from the Contractor.
- l. Reduction of Contract Amount because of modifications.
- m. The Contractor's neglect or unsatisfactory prosecution of the work including failure to clean up.
- n. Provisions of law that enable or require the Owner to withhold such payments in whole or in part.

When the above reasons for withheld amounts are removed, payment may be made to the Contractor for amounts withheld.

The Owner in its discretion may apply any withheld amount or amounts to the payment of valid claims. In so doing, the Owner shall be deemed the agent of the Contractor, and any payment so made by the Owner shall be considered as a payment made under the Contract by the Owner to the Contractor, and the Owner shall not be liable to the Contractor for such payment made in good faith. Such payments may be made without prior judicial determination of the claim or claims. The Owner will render to the Contractor a proper accounting of such funds disbursed in behalf of the Contractor.

8.5 **Substantial Completion**

When the Contractor considers that the Work is substantially complete, the Contractor shall notify the Owner in writing. Upon receipt of the notification, the Owner, the Owner and/or their authorized representatives will make inspection, to determine if the Work is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. If items are found which prevent such use or occupancy, the Owner shall notify the Contractor in writing of such items.

Upon the completion of such corrective work, the Contractor shall so notify the Owner in writing. The Owner shall inspect the Work to determine its acceptability for Substantial Completion and for determination of other items which do not meet the terms of the Contract. Upon verification that the project is substantially complete the Owner shall prepare a Certificate of Substantial Completion. The Certificate shall establish the date of Substantial Completion and the responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, commencement of warranties required by the Contract Documents, and shall fix the time, not to exceed 60 days, within which the Contractor shall finish all items on the punch list accompanying the Certificate. When the preceding provisions have been approved by both the Owner and the Contractor, they shall sign the Certificate to acknowledge their written acceptance of the responsibilities assigned to them in such Certificate. By such acknowledgment, the Contractor agrees to pay the Owner's actual costs including, but not limited to, charges for engineering, inspection and administration incurred due to the failure to complete the punchlist within the time period provided in the Certificate of Substantial Completion.

8.6 **Final Inspection and Payment**

Upon completion of the Work, and upon completion of final cleaning, the Contractor shall so notify the Owner in writing. Upon receipt of the notification, the Owner, the Owner and/or their authorized representatives will make the final inspection, to determine the actual status of the Work in accordance with the terms of the Contract. If materials, equipment, or workmanship are found which do not meet the terms of the Contract, the Owner shall prepare a punch list of such items and submit it to the Contractor. Following completion of the corrective work by the Contractor, the Owner shall notify the Owner that the Work, has been completed in accordance with the Contract. Final determination of the acceptability of the Work shall be made by the Owner. After completion of the work, but prior to its acceptance by the Owner, the last partial payment will be made to the Contractor in accordance with Paragraph 8.2, **Partial Payments**.

After receipt of the last partial payment, but prior to acceptance of the Work by the Owner, the Contractor shall send a letter to the Owner. The letter, pursuant to California Public Contract Code Section 7100, shall state that acceptance of the final payment described below shall operate as and shall be, a release to the Owner, Owner's Representative, the Design Consultant, and their duly authorized agents, from all claim of and/or liability to the Contract arising by virtue of the Contract related to those amounts. Disputed Contract claims in stated amounts previously filed as provided in Paragraph 7.3.2, **Claims**, may be specifically excluded by the Contractor from the operation of the release.

Following receipt of all required submittals and the Owner's written statement that construction is complete and recommendation that the Owner accept the project, the Owner will take formal action on acceptance.

Within ten (10) days of the acceptance by the Owner of the completed work embraced in the Contract, the Owner will cause to be recorded in the office of the County Recorder a Notice of Completion.

Thirty-five (35) days after recording the Notice of Completion of the work involved in the Contract, the Owner will pay the Contractor in lawful money such sums of money as may be due the Contractor including all sums retained but excluding such sums as have previously been paid the Contractor. This payment will constitute the final payment to the Contractor under this Contract.

8.7 **Warranty of Title**

No material, supplies, or equipment for the work under this Contract shall be purchased subject to any chattel mortgage, security agreement, or under a conditional sale or other agreement by which an interest therein or any part thereof is retained by the seller or supplier. The Contractor warrants good title to all material, supplies, and equipment installed or incorporated in the work and agrees upon completion of all work to deliver the premises, together with all improvements and appurtenances constructed or placed thereon by the Contractor, to the Owner from any claim, liens, security interest, or charges, and further agrees that neither the Contractor nor any person, firm, or corporation furnishing any materials or labor for any work covered by this Contract shall have any right to a lien upon the premises or any improvement or appurtenances thereon.

9.0 **EXISTING UTILITIES**

9.1 **General**

Pursuant to Government Code Section 4216, et. seq., the Contractor shall notify the appropriate required notification center.

9.2 **Notification and Location**

At least two (2) working days before performing any excavation work, the Contractor shall request the utility owners to mark or otherwise indicate the location of their service.

It shall be the Contractor's responsibility to determine the exact location and depth of all utilities, including service connections, which have been marked by the respective owners and which the Contractor believes may affect or be affected by the Contractor's operations. If no pay item is provided in the Contract for this work, full compensation for such work shall be considered as included in the prices bid for other items of work.

9.3 **Damage and Protection**

The Contractor shall immediately notify the Owner and utility owner of any damage to a utility.

The Contractor is responsible for the cost of repairing and/or relocating damaged utility.

9.4 **Utility Relocation and Rearrangement**

The right is reserved to the Owner and the owners of utilities or their authorized agents to enter upon the Work area for the purpose of making such changes as are necessary for the rearrangement

of their facilities or for making necessary connections or repairs to their properties. The Contractor shall cooperate with forces engaged in such work and shall conduct its operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by such forces and shall allow the respective utilities time to relocate their facility.

The Contractor assumes responsibility for the removal, relocation, or protection of existing facilities wherein said facilities are identified by the Plans, field located by a utility company, or as provided for in the General Requirements. The Contractor shall coordinate with the owner of utility facilities for the rearrangement of said facilities.

In the event that underground utilities are found that are not shown in the Contract Documents or are found to exist in a different location than shown in the Contract Documents, the Contractor shall: (1) notify the Owner of the existence of said facilities immediately; and (2) take steps to ascertain the exact location of all underground facilities prior to doing work that may damage such facilities.

Requests for extensions of time arising out of utility rearrangement delays shall be determined by Owner. In accordance with Government Code Section 4215 the Contractor shall not be assessed liquidated damages for delay in completion of the project, when such delay is caused by the failure of the Owner or utility company to provide for the removal or relocation of facilities for which they are the responsible party as defined in Paragraph 9.3, **Damage and Protection**.

Where it is determined by the Owner that the rearrangement of an underground main, the existence of which is not shown on the Plans, Specifications, or in the General Requirements, is essential in order to accommodate the contemplated improvement, the Owner will provide for the rearrangement of such facility by other forces or by the Contractor in accordance with the provisions of Paragraph 7.1, **Change Orders**.

When the General Requirements, Specifications, or Plans indicate that a utility is to be relocated, altered or constructed by others, the Owner will conduct all negotiations with the utility company and the work will be done at no cost to the Contractor.

Temporary or permanent relocation or alteration of utilities desired by the Contractor for its own convenience shall be the Contractor's responsibility and it shall make arrangements and bear all costs.

*****END OF SECTION*****

SECTION C

MODIFICATIONS TO GENERAL CONDITIONS

10.0 CONTRACT ADMINISTRATION

The following are designated:

10.1 **Name of Owner's Representative:** Garrett Haertel, MCWD

10.2 **Name of Design Consultant:** The Paul Davis Partnership Architects & Planners

11.0 TIME ALLOWED FOR COMPLETION

In accordance with the provisions of Paragraph 6.2, **Time of Completion**, substantial completion of this project shall be completed within one hundred and fifty (150) calendar days from the effective date of the Notice to Proceed.

12.0 DAMAGES FOR DELAYS

In accordance with the provisions of Paragraph 6.5, **Liquidated Damages**, for the period of time that any portion of the work remains unfinished after the time fixed for completion in the Contract Documents, as modified by extensions of time granted by the Owner, it is understood and agreed by the Contractor and the Owner that the Contractor shall pay the Owner one thousand dollars (\$1,000.00) per day liquidated damages.

13.0 WEATHER DAYS

In accordance with the provisions of Paragraph 6.3.5, **Weather Delays**, no weather days are permitted unless directed otherwise by the Owners representative.

*****END OF SECTION*****

SECTION D

LIABILITY AND INSURANCE REQUIREMENTS

14.0 INDEMNIFICATION

To the fullest extent allowed by law, Contractor shall indemnify, defend, and hold harmless Owner, its elected officials, officers, agents, employees and representatives from and against any and all claims, demands, causes of action, losses, liabilities, penalties, fines and damages of every kind and nature whatsoever arising out of or in connection with Contractor's, its employees', or subcontractors' services, acts, and operations performed under this contract. This indemnification shall extend to claims occurring after this contract is terminated as well as while it is in force. The indemnity shall apply regardless of any active and/or passive negligent act or omission of Owner, its elected officials, officers, agents, employees and representatives, but Contractor shall not be obligated to indemnify any party for claims arising from the sole negligence or willful misconduct of Owner or its agents and/or employees. The indemnity set forth in this section shall not be limited by insurance requirements or any other provision of this contract.

Approval of any insurance contracts by Owner does not relieve the Contractor or subcontractor from liability under Paragraph 14.0, INDEMNIFICATION. Owner will not be liable for any accident, loss, or damage to the work prior to its completion and acceptance.

15.0 INSURANCE REQUIREMENTS

15.1 General

After award of Contract, the Contractor shall promptly obtain, at its own expense, all the insurance required in Paragraph 15.0, INSURANCE REQUIREMENTS, and shall submit coverage verification for review and approval by the Owner upon execution of the Contract.

The Notice to Proceed with the Work under this Contract will not be issued, and the Contractor shall not commence work, until such insurance has been approved by the Owner. The Contractor shall not allow any subcontractors to commence work on its subcontract until all similar insurance required of the subcontractor has been obtained and verified by Contractor. Such insurance shall remain in full force and effect at all times during the prosecution of the Work and until the final completion and acceptance thereof.

The Notice to Proceed does not relieve the Contractor of the duty to obtain such insurance as required by Paragraph 15.0, INSURANCE REQUIREMENTS.

15.2 Commercial General Liability Policy

The Contractor shall take out and maintain during the life of the Contract, a Commercial General Liability Policy, on an occurrence basis, with a minimum limit of not less than **One Million Dollars (\$1,000,000)** combined single limit for bodily injury and property damage for any one occurrence and a Two Million Dollar (\$2,000,000) annual project aggregate, for all of the following:

- a. Premises Operations, including Explosion, Collapse and Underground (X, C, and U) Coverage.
- b. Completed Operations/Products, including X, C, and U Coverage.
- c. Independent Contractors.
- d. Blanket Contractual.
- e. Deductible shall not exceed Ten Thousand Dollars (\$10,000).

15.3 **Commercial Business Auto Policy**

The Contractor shall take out and maintain during the life of this Contract a Commercial Business Auto Policy, on an occurrence basis, with a minimum amount of not less than **One Million Dollars (\$1,000,000)** combined single limit for bodily injury and property damage, providing at least all of the following coverages:

- a. Coverages shall be applicable to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this Contract.
- b. Any and all mobile equipment, including cranes, which are not covered under said Commercial Business Auto Policy shall have said coverage provided for under the Commercial General Liability Policy.
- c. Deductible shall not exceed Ten Thousand Dollars (\$10,000).

15.4 **Workers' Compensation Insurance**

The Contractor shall take out and maintain during the life of the Contract, Worker's Compensation and Employers' Liability insurance providing coverage for any and all employees of Contractor:

- a. The required policy shall provide coverage for Workers' Compensation (Coverage A).
- b. This policy shall provide coverage for One Million Dollars (\$1,000,000) Employers' Liability (Coverage B).

15.5 **Builder's Risk Insurance**

15.5.1 **Standard Coverage** - The Contractor shall cause to be taken out, and maintain in the name of the Owner and the Contractor until final completion and acceptance of the project, Special Form (Course of Construction) Builder's Risk Insurance including but not limited to coverage against loss of damage to the project by fire, lightning, wind, hail, aircraft, riot, vehicle damage, explosion, smoke, falling objects, vandalism, malicious mischief, collapse, and other such hazards as are normally covered by such coverage. Such insurance shall be in an amount equal to the replacement cost (without deduction for depreciation and subject to stipulated value in lieu of average clause) of all construction constituting any part of the work, excluding the cost of excavations, of grading and filling of the land, and except that such insurance may be subject to deductible clauses not to

exceed \$10,000 for any one loss. Such insurance will not cover loss or damage to the Contractor's equipment, scaffolding or other materials not to be consumed in the construction of the project.

15.5.2 Earthquake - In addition to and within the terms specified in Paragraph 15.5.1, **Standard Coverage**, except as modified herein, earthquake shall be provided. Earthquake coverage shall be for earthquakes equal to or less than a magnitude of 3.5. Endorsement may be subject to deductible clauses not to exceed five percent (5%) of such replacement cost for any one loss.

15.5.3. Subrogation - The Owner and Contractor hereby waive their rights of subrogation against each other. The Contractor shall obtain from the insurer a recognition that a waiver of subrogation endorsement for losses caused by fire or other perils to the extent covered by this insurance is provided. Contractor shall pay any extra premium required therefor.

15.6 Endorsements

All of the following endorsements are required to be made a part of the policies described in this Section hereof:

- a. "The Owner and Owner's employees, officers, design consultants, elected officials, Owner agents, and subconsultants are hereby added as additional insureds insofar as Work done under this Contract is concerned."
- b. "This policy shall be considered primary insurance as respects any other valid and collectible insurance, including self-insured retention, the Owner may possess, and any other insurance the Owner does possess shall be considered excess insurance only."
- c. "This insurance shall act for each insured, and additional insured, as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company."
- d. Thirty (30) days prior written notice of cancellation shall be given to the Owner. Such notice shall be sent to:

Garrett Haertel, District Engineer
Marina Coast Water District
920 Second Avenue, Suite A
Marina, California, 93933

15.7 Change in Terms

The Contractor shall provide immediate written notice to the Owner of any change in terms and conditions and/or reduction in the coverage of any nature to the insurance policies. The notice shall be sent to the location identified in Paragraph 15.6.d, **Endorsements**. The Contractor shall be obligated to pay any extra premium for maintaining the insurance requirements specified herein.

15.8 **Occupancy**

The Owner reserves the right to occupy existing facilities under construction or to use or occupy parts of the Work as provided for in Paragraph 3.5, **Owner's Right to Use or Occupy**. Insurance policies shall not restrict or limit such use.

*****END OF SECTION*****

DIVISION 1 - GENERAL REQUIREMENTS

SECTION E

SUMMARY OF WORK

16.0 WORK COVERED BY CONTRACT DOCUMENTS

The Work includes the construction of the B Suite office for the Marina Coast Water District to accommodate the consolidation of District Staff locations and functions into one location.

17.0 WORK SEQUENCE AND CONSTRAINTS

The project site has existing adjacent improvements. Any work damages caused by the construction operations will be repaired and replaced by the contractor at their expense.

18.0 OCCUPANCY REQUIREMENTS

A. Owner Occupancy of Completed Areas of Construction: Owner reserves the right to occupy and to place and install equipment in completed areas of building, before Substantial Completion, provided such occupancy does not interfere with completion of the Work. Such placement of equipment and partial occupancy shall not constitute acceptance of the total Work.

1. Architect will prepare a Certificate of Substantial Completion for each specific portion of the Work to be occupied before Owner occupancy.
2. Obtain a Certificate of Occupancy from authorities having jurisdiction before Owner occupancy.
3. Before partial Owner occupancy, mechanical and electrical systems shall be fully operational, and required tests and inspections shall be successfully completed. On occupancy, Owner will operate and maintain mechanical and electrical systems serving occupied portions of building.
4. On occupancy, Owner will assume responsibility for maintenance and custodial service for occupied portions of building.

19.0 OWNER FURNISHED MATERIALS

A. Owner will furnish products indicated. The Work includes providing support systems to receive Owner's equipment and making plumbing, mechanical, and electrical connections.

1. Owner will arrange and pay for delivery of Owner-furnished items according to Contractor's Construction Schedule.
2. After delivery, Owner will inspect delivered items for damage. Contractor shall be present for and assist in Owner's inspection.

3. If Owner-furnished items are damaged, defective, or missing, Owner will arrange for replacement.
4. Owner will furnish Contractor the earliest possible delivery date for Owner-furnished products. Using Owner-furnished earliest possible delivery dates, Contractor shall designate delivery dates of Owner-furnished items in Contractor's Construction Schedule.
5. Contractor is responsible for receiving, unloading, and handling Owner-furnished items at Project site.
6. Contractor is responsible for protecting Owner-furnished items from damage during storage and handling, including damage from exposure to the elements.
7. If Owner-furnished items are damaged as a result of Contractor's operations, Contractor shall repair or replace them.
8. Contractor shall install and otherwise incorporate Owner-furnished items into the Work.

B. Owner-Furnished Products:

1. Residential Appliances
2. Furniture and Furniture Systems

20.0 TRENCH EXCAVATION

The maximum length of trench excavation in advance of the pipe laying operation shall be 100 feet, and the maximum amount of trench remaining open without backfill shall be 100 feet. No trench in public areas shall be left open during periods when the Contractor is not at the site of work. Trenches in these areas shall either be back filled and temporarily paved, where applicable, or covered with steel trench plates as specified in the technical specifications.

21.0 CONTRACTOR'S WORK PERCENTAGE

The Contractor shall perform at least fifteen (15) percent of the Contract bid amount. This portion of work shall encompass the performance of work by the Contractor's forces and equipment and the procurement of materials and equipment by the Contractor.

Subcontractors shall not be responsible for the performance of any work or procurement of materials and equipment within the above Contractor's work percentage allotment.

22.0 UNDERGROUND FACILITIES

The Contractor is responsible for coordinating all project documentation, including but not necessarily limited to, the Contract Documents and existing record drawings for the determination of the location of all underground facilities.

The Contractor shall exercise care in all excavations to avoid damage to existing underground facilities. This shall include potholing or hand digging in those areas where underground facilities are known to exist until they have been sufficiently located to avoid damage to the facilities.

Prior to fabrication, the Contractor shall verify the location and elevations of existing underground facilities which the Contractor is connecting to.

No additional compensation shall be provided the Contractor for compliance with the provisions of this section or for the damage and repair of facilities due to the lack of such care.

*****END OF SECTION*****

SECTION F

MEASUREMENT AND PAYMENT

23.0 **MEASUREMENT OF QUANTITIES**

23.1. **General**

Measurements of the completed work shall be in accordance with, and by instruments and devices calibrated to United States Standard Measures and the units of measurement for payment, and the limits thereof, shall be made as shown on the Plans, Specifications, General Requirements, and Supplementary Conditions.

Payment for the various items of the Bid Schedule, as further described herein, shall include all compensation to be received by the Contractor for furnishing all tools, equipment, supplies and manufactured items and for all operations, and incidental appurtenances to the items of work being described, as necessary to complete the various items of work all in accordance with the requirements of the Contract Documents, including all appurtenances thereto. Payment for the various items of the Bid Schedule shall include all costs of permits, business licenses, and the cost of compliance with the regulations of public agencies having jurisdiction, including the Department of Health Services, Safety and Health Requirements of the California Division of Industrial Safety and the Occupational Safety and Health Administration of the U.S. Department of Labor (OSHA). No separate payment will be made for any item that is not specifically set forth in the Bid Schedule, and all costs therefore shall be included in the prices named in the Bid Schedule for various appurtenant items of work.

23.2 **Units of Measurement**

Measurements shall be in accordance with U.S. Standard Measures. A pound is an avoirdupois pound. A ton is 2,000 pounds avoirdupois. The unit of liquid measure is the U.S. gallon.

23.3 **Certified Weights**

When payment is to be made on the basis of weight, the weighing shall be done on certified platform scales, or when approved by the Owner, on a completely automated weighing and recording system. The Contractor shall furnish the Owner with duplicate licensed weighmaster's certificates showing the actual net weights. The Owner will accept the certificates as evidence of the weights delivered.

23.4 **Methods of Measurement**

Materials and items of work which are to be paid for on the basis of measurement shall be measured in accordance with the method stipulated in the particular sections involved. In determining quantities, all measurements shall be made in a horizontal plane unless otherwise specified.

Material not used from a transporting vehicle shall be determined by the Owner and deducted from the certified tag.

When material is to be measured and paid for on a volume basis and it would be impractical to determine the volume, or when requested by the Contractor in writing and approved by the Owner in writing, the material will be weighed and converted to volume measurement for payment

purposes. Factors for conversion from weight measurement to volume measurement will be determined by the Owner and shall be agreed to by the Contractor before such method of measurement of pay quantities will be adopted.

Full compensation for all expense involved in conforming to the above requirements for measuring and weighing materials shall be considered as included in the unit prices paid for the materials being measured or weighed and no additional allowances will be made therefor.

Quantities of material wasted or disposed of in a manner not called for under the Contract; or rejected loads of material, including material rejected after it has been placed by reason of failure of the Contractor to conform to the provisions of the Contract; or material not unloaded from the transporting vehicle; or material placed outside the lines indicated on the plans or given by the Owner; or material remaining on hand after completion of the Contract, will not be paid for and such quantities will be deducted from the final total quantities. No compensation will be allowed for hauling rejected material.

The total amount bid includes the summation of Bid Items represents the total price bid to provide the work as shown on the drawings and as specified in the Contract Documents.

24.0 CONTRACTOR'S COST BREAKDOWN

24.1. Lump Sum Price Breakdown

For work to be performed for a lump sum price, the Contractor shall submit a Schedule of Values, including all Additive and Deductive Bid Items to the Owner prior to the first payment and within ten (10) days after receipt of its Notice to Proceed. The price breakdown, as agreed upon by the Contractor and the Owner, shall be used for preparing future estimates for partial payments to the Contractor, and shall list the major items of work with a price fairly apportioned to each item. Mobilization, overhead, bond, insurance, other general costs and profit shall be prorated to each item so that the total of the prices for all items equal the lump sum price. At the discretion of the Owner, mobilization, bond and insurance costs may be provided for separately if accompanied by invoices to verify actual expenses.

The price breakdown shall be generally in the same format as the Contract specifications divisions and subdivisions, with major items of work listed individually. The price breakdown shall be by structure, civil, landscaping, or other logical division of work. The price breakdown for architectural, structural, mechanical, process, and electrical work shall include separate items for identifiable portions of the structures. The price breakdown shall include separate allowances for any testing and startup work required. Measurable approximate quantities of work performed by the Contractor or its subcontractors shall be provided. For quantities that are the sum total of several individual quantities, backup summaries shall be provided which list the individual descriptions and quantities. These summaries then will be used to determine the quantities of work in place in subsequent progress payment requests.

The above is a statement of the intent of the Contract Documents to provide a moderate level of detail, acceptable to the Owner, to allow a fair and reasonable estimate to be made of the value of work installed. The detail of the price breakdown must be sufficient to provide timely processing of the monthly progress payment request.

The price breakdown will be subject to the approval of the Owner, and upon request, the Contractor shall substantiate the price for any or all items and provide additional level of detail, including quantities of work. The price breakdown shall be sufficiently detailed to permit its use by the Owner as one of the bases for evaluating requests for payments. The Owner shall be the sole judge of the adequacy of the price breakdown.

The Schedule of Values shall be solely used to determine progress payments. The Schedule of Values shall not be considered in determining payment or credit for additional or deleted work.

****** END OF SECTION ******

SECTION G

MODIFICATION PROCEDURES

25.0 CHANGES IN CONTRACT PRICE

This section provides supplementary procedures for the administration of changes to the contract as specified in Paragraph 7.0, SCOPE OF WORK-CHANGES IN THE WORK.

Whenever corrections, alterations, or modifications of the work under this Contract are ordered by the Owner and approved by the Owner and increase the amount of work to be done, such added work shall be known as extra work. Whenever such corrections, alterations, or modifications decrease the amount of work to be done, such subtracted work shall be known as work omitted.

The difference in cost of the work affected by such change will be added to or deducted from the amount of said Contract price. The difference in the cost of the added or omitted work shall be determined, by a fair and reasonable valuation. Valuation shall be determined in one or more of the following ways as directed by the Owner:

- a. By unit prices accepted by the Owner and stated in the Contract Documents;
- b. By unit prices subsequently fixed by agreement between the parties;
- c. By an acceptable lump sum proposal from the Contractor; or
- d. By Force Account (as described in Paragraph 27.0, FORCE ACCOUNT PAYMENT), when directed in writing and administered by the Owner through its agents or representatives.

When required by the Owner, and requested in writing, the Contractor shall submit, in the form prescribed by the Owner, an itemized breakdown with supporting data of the quantities and prices used in computing the value of any change that may be ordered.

The Owner will review the Contractor's proposal for the change and negotiate an equitable adjustment with the Contractor. After agreement between the Owner and the Contractor, the Owner will prepare and process the Change Order and make a recommendation for action by the Owner. The Owner, in writing, must approve all Contract Change Orders, before work can be authorized and the Change Order work executed.

The prices agreed upon and any agreed upon adjustment in Contract Time shall be incorporated in the written order issued by the Owner, which shall be written so as to indicate an acceptance on the part of the Contractor as evidenced by its signature. By signature of the Change Order, the Contractor acknowledges that the adjustments to cost and time contained in the Change Order are in full satisfaction and accord. By signature of the Change Order, the Contractor waives any right to claim any further cost and time impacts at any time during and after completion of the Contract for the changes encompassed by the Change Order.

26.0 NEGOTIATED CHANGE ORDERS

Under the methods described in Paragraph 25.0 above, the Contractor shall submit substantiating documentation with an itemized breakdown of Contractor and subcontractor direct costs. These costs shall include labor, material, equipment rentals, and approved services, pertaining to such ordered work in the form and detail acceptable to the Owner. Direct costs shall include only costs as described in Paragraph 28.0, DIRECT COST CATAGORIES.

The Owner will review the Contractor's cost proposal for the change and negotiate an equitable adjustment with the Contractor. After there is an agreement, the Owner will prepare and process the Contract Change Order and make a recommendation for action by the Owner. The Owner, in writing, must approve all Contract Change Order, before work can be authorized and the Change Order work executed.

27.0 FORCE ACCOUNT PAYMENT

If either the amount of work or payment for a Change Order cannot be determined or agreed upon beforehand, the Owner may direct by written Change Order or Field Order that the work be done on a force account basis. The term "force account" shall be understood to mean that payment for the work will be done on a time and expense basis, that is, on an accounting of the Contractor's forces, materials, equipment, and other items of cost as required and used to do the work. For the work performed, payment will be made for the documented actual cost of the work as described in Paragraph 28.0, DIRECT COST CATAGORIES.

Prior to the commencement of force account work, the Contractor shall notify the Owner of its intent to begin work. Labor, equipment and materials furnished on force account work shall be recorded daily by the Contractor upon report sheets furnished by the Owner to the Contractor. The reports, if found to be correct, shall be signed by both the Contractor and Owner, or inspector, and a copy of which shall be furnished to the Owner no later than the working day following the performance of said work. The daily report sheet shall thereafter be considered the true record of force account work provided. If the Owner, or inspector, do not agree with the labor, equipment and/or materials listed on the Contractor's daily force account report, the Contractor and Construction Manager, or inspector, shall sign-off on the items on which they are in agreement. The Owner shall then review the items of disagreement and will advise the Contractor, in writing, of its determination. If the Contractor disagrees with this determination, it shall have the right to file a claim notice as provided in Paragraph 7.3.2.1, Notice.

The Contractor shall maintain its records in such a manner as to provide a clear distinction between the direct costs of work paid for on a force account basis and the costs of other operations.

To receive partial payments and final payment for force account work, the Contractor shall submit, in a manner approved by the Owner, detailed and complete documented verification of the Contractor's and its subcontractor's actual costs involved in the force account pursuant to the pertinent Change Order or Field Order. Such costs shall be submitted within thirty (30) days after said work has been performed. No payments will be made for work billed and submitted to the Owner after the thirty (30) day period has expired.

The force account invoice shall itemize the materials used and shall cover the direct costs of labor and the charges for equipment rental, whether furnished by the Contractor, subcontractor, or other forces.

The invoice shall be in a form acceptable to the Owner and shall provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and also the size, type, and identification number of equipment and hours operated. Material charges shall be substantiated by vendor's invoices acceptable to the Owner.

28.0 **DIRECT COST CATEGORIES**

The Categories described below are defined to be direct costs. No other type of costs will be allowable as direct costs. Direct costs shall not include any labor costs pertaining to the Contractor's and subcontractor's managers or superintendents, their office and engineering staffs, the cost of their offices, the cost to operate their office, facilities, vehicles, or anyone not directly employed on such work, nor small tools and miscellaneous supplies. All listed items are considered indirect costs that form a part of the Contractor's and subcontractors' overhead expenses.

The Owner reserves the right to furnish such labor, materials and equipment as it deems expedient and the Contractor shall have no claim for profit or added fees on the cost of such items.

28.1 **Direct Labor**

The Contractor will be paid the cost of direct craft labor for the workers and foreman (when authorized by the Owner) Used or proposed to be utilized in the actual and direct performance of the proposed work.

Direct labor cost will be the actual payroll cost, including wages, fringe benefits as established by negotiated labor agreements or state prevailing wages, workers' compensation and labor insurance, and labor taxes as established by law. No other labor burdens will be considered, unless approved in writing by the Owner and/or Owner.

Except as otherwise provided, the Contractor shall not receive any additional compensation for wage premiums resulting from overtime work performed under change conditions without the prior written authorization of the Owner.

28.2 **Materials**

The Contractor will be paid the cost of materials, including sales tax and delivery costs if paid. The Contractor must provide satisfactory invoices of materials used in the changed work. If the Contractor fails to provide satisfactory evidence of the cost of such materials, the cost shall be deemed to be the lowest current price for the materials, delivered to the project site, for the appropriate quantity of materials required for the work.

28.3 **Construction Equipment**

The cost of construction machinery and equipment for required changes shall be based upon the fair rental cost of owned equipment. Such costs will be allowed for only those days or hours which the equipment is in actual use. Payment shall be based on actual rental and transportation invoices but shall not exceed the rental rates for such equipment listed in the California Department of Transportation publication, "Labor Surcharge and Equipment Rental Rate," which is in effect on the date upon which the work is performed. Owner-operated equipment shall not exceed the rates in the Previously Mentioned Rental Rate publication plus the labor costs as provided in Paragraph 28.1, **Direct Labor**. The rental cost allowed for equipment will be understood, in all cases, to cover

all fuel, lubricants, supplies, consumables, repairs, ownership and incidental costs. No further allowances will be made for these items, unless a specific written agreement to that effect is made. Compensation for idle time of equipment, through delays, not the fault of the Contractor, will be made in accordance with Section 8-1.07, Delays, of the California Department of Transportation Standard Specifications.

29.0 MARKUP ALLOWANCES

The Contractor and subcontractors are entitled to fair compensation for indirect and overhead costs, bond and insurance costs, and profit for change order work. This compensation shall be in the form of markup percentages applied to the direct cost of the change order work, as further describe below. The maximum markup allowed for the Contractor's combined overhead and profit will be.

- A. For work by its own organization, the Contractor may add the following percentages:
 - 1. Direct Labor
 - a. Negotiated Change Orders 10 percent
 - b. Force Account 10 percent
 - 2. Materials 10 percent
 - 3. Equipment (owned or rented) 10 percent
- B. For all such work done by subcontractors, such subcontractor may add the same percentages as the Contractor as listed in (A) above to its actual net increase in costs for combined overhead and profit. The Contractor may add up to ten (10) percent of the subcontractor's total for its combined overhead and profit. No further compensation will be allowed for the Contractor's administration of the work performed by the subcontractor.
- C. For all such work done by sub-tier-subcontractors, such sub-subcontractors may add the same percentages as the Contractor as listed in (a) above to its actual net increase in costs for combined overhead and profit, and the subcontractor may add up to ten (10) percent of the sub-subcontractors total for its combined overhead and profit.
- D. For all such work performed by consultants, engineers, surveyors, etc. there shall be no mark-up or fees with the exception that added to their costs the combined total allowable markup for the Contractor and all subcontractors is five percent of the consultant's total fee.
- E. To the total of the actual costs and fees allowed hereunder, not more than two (2) percent shall be added for additional bond and insurance other than labor insurance.

When both additions and credits are involved in any one change, the markup allowances of this section shall be applied to the net extra cost of the work, if any. Extra costs shall be determined

after subtraction of the costs of the omitted work from the extra work. For change order work which results in a net decrease in cost a minimum of five percent markup shall be added to the sum of the cost of the omitted work. This deduction is for profit, indirect and overhead costs and reduction in bond and insurance of the omitted work. The Contractor shall not be entitled to nor claim for anticipated profits on work that may be omitted.

Combined overhead and profit shall be figured on the basis of the net increase, if any, for each area of work, i.e. direct labor, materials, equipment, and subcontractors. The amount of credit to be allowed by the Contractor to the Owner for any such change which results in a net decrease in cost will be the amount of the actual net decrease and a credit in accordance with the markups allowed under the use of the method described in Paragraph 27.0, **Force Account Payment**. The Contractor shall not claim for anticipated profits on work that may be omitted.

30.0 **INCREASED OR DECREASED QUANTITIES**

Increases or decreases in the quantity of a Contract unit price item of work will be determined by comparing the total pay quantity of such item of work with the Bid Schedule Quantity.

If the total pay quantity on any item of work required under the contract varies from the Bid Schedule quantity by twenty-five percent or less; payment will be made for the quantity of work at the Contract Unit Price. Payment shall be final unless the item is eligible for adjustment pursuant to Paragraph 30.4, **Changes in the Character of Work**.

If the total pay quantity on any item of work required under the contract varies from the Bid Schedule quantity by more than twenty-five percent, in the absence of an executed Contract Change Order specifying the compensation to be paid, the compensation payable to the Contractor will be determined in accordance with Sections G-Paragraphs 30.1, 30.2 or 30.3.

30.1 **Increases of More Than 25 Percent**

Should the total pay quantity of any item of work required under the Contract exceed the Bid Schedule quantity by more than 25 percent, the work in excess of 125 percent of the Bid Schedule quantity will be paid for by adjusting the Contract unit price, as hereinafter provided. At the option of the Contraction Manager, payment for the work involved in such excess will be made on the basis of force account as provided by Paragraph 27.0, **FORCE ACCOUNT PAYMENT**.

Such adjustment of the Contract unit price will be the difference between the Contract unit prices and the actual unit costs, which will be determined as hereinafter provided, of the total pay quantity of the item. If the costs applicable to such item of work include fixed costs, such fixed costs will be deemed to have been recovered by the Contractor by the payments made for 125 percent of the Bid Schedule quantity for such item, and in computing the actual unit cost, such fixed costs will be excluded. Subject to the above provisions, such actual unit cost will be determined by the Owner in the same manner as if the work were to be paid for on a force account basis as provided in Paragraph 27.0, **FORCE ACCOUNT PAYMENT** or such adjustment will be as agreed to by the Contractor and the Owner.

When the compensation payable for the number of units of an item of work performed in excess of 125 Percent of the Bid Schedule quantity is less than \$5,000 at the applicable Contract unit price, the Owner reserves the right to make no adjustment in said price if it so elects, except that an adjustment will be further considered if requested in writing by the Contractor.

30.2 Decreases of More Than 25 Percent

Should the total pay quantity of any item of work required under the Contract be less than 75 percent of the Bid Schedule quantity, an adjustment in compensation pursuant to this Section will not be made unless the Contractor so requests in writing. If the Contractor so requests, the revised quantity will be paid for by adjusting the Contract unit price as hereinafter provided. At the option of the Owner, payment for the quantity of the work of such item performed will be made on the basis of force account as provided in Paragraph 27.0, **FORCE ACCOUNT PAYMENT**. However, in no case shall the payment for such work be less than that which would be made at the Contract unit price.

Such adjustment of the Contract unit price will be the difference between the Contract unit price and the actual unit cost of the total pay quantity of the item, including fixed costs. Such actual unit cost will be determined by the Owner in the same manner as if the work were to be paid for on a force account basis as provided in Paragraph 27.0, **FORCE ACCOUNT PAYMENT**; or such adjustment will be as agreed to by the Contractor and the Owner.

The payment for the total pay quantity of such item of work will in no case exceed the payment which would have been made for the performance of 75 percent of the Bid Schedule of the quantity for such item at the original Contract unit price.

30.3 Eliminated Items

Should any Contract item of the Work be eliminated in its entirety, in the absence of an executed Contract change order covering such elimination, payment will be made to the Contractor for actual costs incurred in connection with such eliminated Contract item if incurred prior to the date of notification in writing by the Owner of such elimination.

If acceptable material is ordered by the Contractor for the eliminated item prior to the date of notification of such elimination by the Owner, and if orders for such material cannot be canceled, it will be paid for at the actual cost, including a five (5) percent mark-up, to the Contractor. In such case, the material paid for shall become the property of the District and the actual cost of any further handling will be paid for. If the material is returnable to the vendor and if the Owner so directs, the material shall be returned and the Contractor will be paid for the actual costs of charges made by the vendor for returning the material. The actual cost of handling returned material will be paid for by the District.

30.4 Changes in Character of Work

If an ordered change in the plans and specifications materially changes the character of work of a Contract unit price bid item from that on which the Contractor based its Bid price, and if the change increases or decreases the actual unit cost of such changed item as compared to the actual or estimated actual unit cost of performing the work of said item in accordance with the plans and specifications originally applicable thereto, in the absence of an executed Contract change order specifying the compensation payable, an adjustment in compensation therefor will be made in accordance with the following:

The basis of such adjustment in compensation will be the difference between the actual unit cost to perform the work of said item or portion thereof involved in the change as originally planned and the actual unit cost of performing the work of said item or portion thereof involved in the change, as changed. Actual unit costs will be determined by the Owner in the same manner as if the work were to be paid for on a force account basis as provided in Paragraph 27.0, **FORCE**

ACCOUNT PAYMENT; or such adjustment will be agreed to by the Contractor and the Owner. Any such adjustment will apply only to the portion of the work of said item actually changed in character, At the option of the Owner, the work of said item or portion of item which is changed in character will be paid for by force account as provided in Paragraph 27.0, **FORCE ACCOUNT PAYMENT**.

If the compensation for an item of work is adjusted under this Section, the costs recognized in determining such adjustment shall be excluded from consideration in making an adjustment for such item of work under the provisions in Paragraph 30.1, **Increases of More Than 25 Percent** and 30.2, **Decreases of More Than 25 Percent**.

31.0 **COST PRICING DATA AND ACCESS TO RECORDS**

All cost and pricing data submitted by the Contractor with respect to any change, prospective or executed, or any claim for extra compensation shall be a true, complete, accurate and current representation of actual cost and pricing of the work. The Owner may require a formal certification as to cost and pricing data submitted by the Contractor.

The Owner shall have access, upon reasonable notice during normal business hours, to any books, documents, accounting records, papers, project correspondence, project files, scheduling information and other relevant records of the Contractor and all subcontractors directly or indirectly pertinent to the work, original as well as changes and claimed extra work, and the Contract for the purpose of making audit, examination, excerpts and transcriptions and in order to verify or evaluate any change, prospective or executed, or any claim for which compensation has been requested or notice of potential claim has been tendered.

Such books, documents, and other records mentioned above shall include, but are not limited to all those reasonably necessary to determine the accurate amount of direct and indirect costs, job site, and delay and impact costs, however characterized, and shall include the original Bid and all documents related to the Bid and its preparation, as well as, the as-planned construction schedule and all related documents.

Such access shall include the right to examine and audit such records and make excerpts, transcriptions, and photocopies at the District's cost.

32.0 **TIME EXTENSIONS FOR CHANGE ORDERS**

If the Contractor requests a time extension for the extra work necessitated by a proposed Change Order, the request must comply with the applicable requirements of Paragraph 53.0, **TIME IMPACT ANALYSES**.

END OF SECTION

SECTION H**FIELD ENGINEERING****33.0 DATUM**

Vertical and horizontal datum are based on the coordinates and benchmarks shown on the Drawings. The Contractor shall establish other vertical and horizontal control from these Owner furnished reference points as required to properly layout and construct the Work. All connections shall be installed based on actual elevations of existing structures to which connections are made.

34.0 LINES AND GRADES

The Contractor shall lay out all work, including structures and pipelines, and shall be responsible for any errors resulting therefrom. In all questions arising as to proper location of lines and grades, the Owner's decision will be final.

As part of the bid price for the construction of the improvements the Contractor shall provide and be responsible for the layout of all work specified in the contract. The Contractor shall provide all necessary surveys, field staking, and positioning for the construction of all components at the proper alignment, elevations, grades, and positions, as indicated on the Drawings and as required for the proper operation and function. The Contractor shall stake the work limits.

The Contractor's layout shall be based upon existing structures and the vertical and horizontal data established by the Owner.

The Contractor shall supply such labor as required, at no extra charge, to aid and assist the Owner in checking location and grades of the work as set by the Contractor, if requested by the Owner. This shall include moving materials and equipment that interfere with a clear line of sight between horizontal control points and the construction work.

****** END OF SECTION ******

SECTION I

REGULATORY REQUIREMENTS

35.0 APPLICABLE CODES

California Building Code
California Energy Code
California Plumbing Code
California Mechanical Code
NFPA

Refer to Contract Drawings and Technical Specifications

36.0 FEES AND PERMITS

Building Permit with fees to be paid for by Marina Coast Water District.

36.1 Contractors Fees and Permits

Contractor required to obtain a hydrant meter from Marina Coast Water District. All fees associated with the use of water shall be paid for by the contractor.

***** END OF SECTION *****

SECTION J
REFERENCES

37.0 CODES AND STANDARDS

References to a code or standard, means the latest edition in effect the date the Contract Documents were approved and dated by the Owner. Where codes, standards and reference documents are referred to in the Contract Documents, the Contractor may submit a written request to the Owner for assistance in locating such documents. Within three working days of receipt of such request, the Owner or the Design Consultant will notify the Contractor as to where the document(s) can be reviewed.

No provision of any such standard, specifications, manual, code or instruction shall be effective to change the duties and responsibilities of the Owner, Contractor, Design Consultant or the Owner, or any of their consultants, representatives, agents, or employees from those set forth in the Contract Documents. Nor shall any of the aforementioned be effective to assign to the Owner, the Design Consultant, or the Owner, or any of their consultants, representatives, agents, or employees any duty or authority to supervise or direct the furnishing or performance of the Work or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

38.0 DEFINITIONS OF WORDS AND TERMS

Unless otherwise stated, the words directed, required, permitted, ordered, instructed, designated, applicable, appropriate, sufficient, proper, desirable, necessary, prescribed, approved, acceptable, satisfactory or words of like import, refer to actions, expressions, and prerogatives of the Owner, Design Consultant, or Owner.

Where used in the Contract Documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, and feminine of the words and terms.

Acceptance – Formal action of the Owner in determining the Contractor’s work is in accordance with the Contract and in notifying the Contractor in writing, of the acceptability of the work.

Act of God - “Acts of God” shall include only the following occurrences or conditions and effects: earthquakes more than a magnitude 3.5 on the seismograph and tidal waves.

Addenda - Supplemental written specifications and/or drawings issued prior to the receipt of bids which modify or interpret the Contract Documents, by additions, deletions, clarifications, or corrections.

Agreement - The written document covering the performance of the Work as more fully described in the Contract Documents.

Bid - Offer of a Bidder submitted on the prescribed form setting forth the prices for the work to be performed.

Bidder - A properly licensed individual, firm, partnership, corporation, including joint ventures, submitting a proposal for the work contemplated, acting directly or through a duly authorized representative.

Bond(s) - Bid, Performance, or Payment Bonds and other instruments of surety, furnished by the Contractor and Contractor's surety in accordance with the Contract Documents.

Clarification Letter – A Clarification Letter issued by the Owner to address the clarification of Contract issues raised by the Owner, Design Consultant, or the Owner.

Calendar Day - Any day including legal holidays, Saturdays and Sundays.

Completion – The word completion shall indicate substantial completion.

Owner - The person designated, in writing, by the Owner to act as its representative at the construction site and to perform construction inspection services and administrative functions relating to this Contract. Initial contact by the Contractor with the Owner shall be through the Owner.

Contract Change Order - A written order to the Contractor, covering changes in the plans or quantities, or both, and establishing the basis of payment and time adjustments for the work affected by the changes. Also referred to as a Change Order.

Contract Documents - The words "Contract Documents" shall mean any or all of, but not limited to, the following items, as applicable:

- Invitation to Bid
- Instructions to Bidders
- Bid Form and Bid Schedule
- Designation of Subcontractors
- Bid Guaranty Bond
- Agreement
- Performance Bond
- Payment Bond
- Insurance Endorsements
- Non-Collusion Affidavit
- General Conditions
- Supplementary Conditions
- General Requirements
- Technical Specifications
- Drawings
- Addenda, if any
- Executed Change Orders, if any
- Notice of Award
- Notice to Proceed

Each of these items is to be considered by reference as part of the Contract Documents, also referred to as Contract.

Contract Price - The amount payable to the Contractor under the terms and conditions of the Contract based on the price given on the bidding schedule, with adjustments made in accordance with the Contract. The base amount given in the bidding schedule shall be either a lump sum bid or the summation of the unit price bids multiplied by the estimated quantities set forth in the bid form. Also referred to as Contract Amount or Contract Sum.

Contract Time - Number of calendar days stated in the Contract for the completion of the Work.

Contract Completion Date - The date on which the Owner accepts the work as being complete.

Contractor - The individual, partnership, corporation, or combination thereof including joint ventures, who enter into the Contract with the Owner for the performance of the work. The term covers subcontractors, subtier subcontractors, consultants, equipment and material suppliers and their employees.

Contractor's Plant and Equipment - Equipment, material, supplies, and all other items, except labor, brought onto the site by the Contractor to carry out the Work, but not to be incorporated in the Work.

Corrective Work Item List – List of incomplete items of work, incomplete administrative requirements and items of work not in conformance with the Contract. The Owner prepares the list. The list is issued to the Contractor as an attachment to the response to the Contractor's notification of Substantial Completion.

Day(s) - Calendar Day(s).

Direct - Action of the Owner or by the Owner's Representative which the Contractor is ordered to perform or refrain from performing work under the Contract.

Drawings - Refers to the Contract drawings, profiles, cross sections, elevations, details, and other working drawings and supplementary drawings, or reproductions thereof, signed by the Design Consultant, approved by the Owner, and are referred to in the Contract Documents, which show the location, character, dimensions, and details of the work to be performed. The terms drawing, plan and plans have the same meaning as the term drawings unless otherwise stated or specified.

Design Consultant - The engineer or architect designated by the Owner's Representative to have design control over the Work or a specified portion of the Work, acting directly or through duly authorized representatives. Such representatives shall act within the scope of the particular duties delegated to them. The Design Consultant may also furnish inspection services, startup services and training services as provided by the Contract.

Field Directive - Written documentation of the actions of the Owner or Owner in directing the Contractor. Also referred to as a Directive.

Field Order - A written instruction given to the Contractor authorizing work that is a change to the scope of work carried out on a time and material basis.

Final Inspection List – List of materials, equipment, workmanship, or administrative requirements, which are not in conformance with the Contract. The Owner will prepare the list. The list will be

given to the Contractor following the Contractor's notice of completion of the Work, including all items on the Punch List.

Float - Float or "total float" shall be defined as provided in the Associated General Contractors of America "CPM in Construction, A Manual for General Contractors".

Furnish - To deliver to the job site or other specified location any item, equipment, or material.

General Conditions – Section A, **GENERAL CONDITIONS**, which form part of the Contract Documents representing the general clauses that establishes how the project is to be administered.

General Requirements –Division 1, **GENERAL REQUIREMENTS**, which forms part of the Contract Documents establishing special conditions or requirements peculiar to the work and supplementary to the General Conditions.

Herein - Refers to information presented in the Project Manual.

Holidays - Legal holidays designated by the Owner or specifically identified in the Contract.

Indicated – A word used to direct the Contractor to information contained in the Contract Documents.

Install - Placing, erecting, or constructing any item, equipment, or material.

Laboratory - The designated materials testing laboratory authorized by the Owner to test materials and work involved in the Contract.

Liquidated Damages - The amount prescribed in Paragraph 6.5, **Liquidated Damages**, and Paragraph 12.0, **DAMAGES FOR DELAYS**, to be paid to the Owner or to be deducted from any payments due or to become due the Contractor for each day's delay in completing the whole or any specified portion of the Work beyond the time allowed in the Contract Documents.

Notice of Award - A written notice to the Contractor that the Contract has been awarded to it.

Notice to Proceed - A written notice to the Contractor authorizing him to proceed with the Work and establishing the date of commencement of the Contract Time. Multiple Notices to Proceed may be given at the sole option of the Owner for various aspects of the Work.

Owner - A public or quasi-public agency or authority, corporation, association, partnership, or individual for whom the work is to be performed. The Owner is identified by name in the agreement.

Owner's Representative - The person designated in writing by the Owner to act as its agent on specified matters relating to this Contract. The Owner's Representative is not the Owner, but an employee of the Owner or other individual who has been designated to represent the Owner.

Paragraph - For references or citation purposes, refers to the paragraph(s), called out by paragraph number and alphanumeric designator.

Person - Includes firms, companies, corporations, partnerships, and joint ventures.

Plans – See “Drawings”.

Project - The undertaking to be performed under the provisions of the Contract.

Project Manual - The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the Table of Contents.

Provide - Furnish and install, complete in place.

Punch List - List of incomplete items of work, incomplete administrative requirements, and of items of work which are not in conformance with the Contract. See “**Corrective Work Item List**”.

Request for Information – A request forwarded by the Contractor to the Owner to request resolution of a question regarding the Contract Documents.

Shall - Refers to actions by either the Contractor or the Owner and means the Contractor or Owner has entered into a covenant with the other party to do or perform the action.

Shown - Refers to information presented on the Drawings, with or without reference to the Drawings.

Site - The property as described in the General Conditions or as shown on the Drawings.

Specifications - That part of the Contract Documents consisting of written descriptions of the technical features of materials, equipment, construction systems, standards and workmanship.

Specify - Refers to information described, shown, noted or presented in any manner in any part of the Contract.

State of California Specifications - The State of California Department of Transportation Standard Specifications in effect at the time of advertising the Work. Also referred to as “State Standard Specifications and Caltrans Standard Specifications”.

Subcontractor - A subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the Site. The term subcontractor means a subcontractor or subcontractor's authorized representative. The term subcontractor does not include any separate contractor or any separate contractor's subcontractors.

Submittals - The information which is specified for submission to the Owner in accordance with the Project Manual.

Substantial Completion – Sufficient completion of the Work or a portion thereof to permit utilization of the Work, or a portion of the Work by the Owner. Determination of substantial completion is solely the prerogative of the Owner. Substantial completion does not mean complete in accordance with the Contract nor shall substantial completion of all or any part of the project entitle the Contractor to acceptance under the Contract.

Substantial Completion Date – The date when the Owner puts into service the Work or a portion of the Work that has been determined to be substantially complete.

Sub-subcontractor - A sub-subcontractor is a person or entity who has a direct or indirect contract with a subcontractor to perform any of the Work at the Site. The term sub-subcontractor means a sub-subcontractor or an authorized representative thereof.

Supplier - Any person, firm, corporation, or organization who supplies materials or equipment for the Work, including that fabricated to a special design, and may also be a Subcontractor or a Sub-subcontractor.

Surety - The person, firm, corporation, or organization that joins with the Contractor in assuming the liability for the faithful performance of the Work and for the payment of all obligations pertaining to the Work in accordance with the Contract Documents by issuing the Bonds required by the Contract Documents or by law.

Will - Actions entered into by the Contractor or the Owner as a covenant with the other party to do or to perform the action.

Work - The labor, materials, equipment, supplies, and other items necessary for the execution, completion, and fulfillment of the Contract.

Working Day - Any day, other than a holiday, Saturday or Sunday, on which the Contractor may proceed with regular work on the current controlling operation as determined by the Owner toward the completion of the Contract. A working day is equivalent to 1.45 calendar days.

39.0 **ABBREVIATIONS**

Whenever the following terms are used, the intent and meaning shall be as follows:

Abbreviations Stands For:

| | |
|--------|--|
| AA | Aluminum Association |
| AABC | Associated Air Balance Council |
| AASHTO | American Association of State and Highway and Transportation Officials |
| AAMA | Architectural Aluminum Manufacturers Association |
| ABMA | American Boiler Manufacturers Association |
| ACI | American Concrete Institute |
| ADC | Air Diffusion Council |
| AGA | American Gas Association |
| AGC | Associated General Contractors |
| AGMA | American Gear Manufacturers Association |
| AI | Asphalt Institute |
| AIA | American Institute of Architects |
| AISC | American Institute of Steel Construction |
| AISI | American Iron and Steel Institute |
| AITC | American Institute of Timber Construction |
| AMCA | Air Moving and Conditioning Association |
| ANSI | American National Standard Institute (formerly United States of America Standards Institute) |

| | |
|----------|---|
| APA | American Plywood Association |
| API | American Petroleum Institute |
| AREA | American Railway Engineers Association |
| ASCE | American Society of Civil Engineers |
| ASHRAE | American Society of Heating, Refrigerating and Air Conditioning Owners |
| ASME | American Society of Mechanical Engineers |
| ASAP | American Sod Producers Association |
| ASTM | American Society of Testing and Materials |
| AWI | Architectural Woodwork Institute |
| AWPA | American Wood-Preserver's Association |
| AWS | American Welding Society |
| AWWA | American Water Works Association |
| CAGI | Compressed Air and Gas Institute CAL/OSHA State of California Department of Industrial Relations, Division of Industrial Safety |
| CALTRANS | California Department of Transportation |
| CBM | Certified Ballast Manufacturers |
| CBR | California Bearing Ratio |
| CI | Chlorine Institute |
| CISPI | Cast Iron Soil Pipe Institute |
| CLFMI | Chain Link Fence Manufacturers Institute |
| CMAA | Construction Management Association of America |
| CMAA | Crane Manufacturers Association of America |
| CPSC | Consumer Products Safety Commission |
| CRA | California Redwood Association |
| CRSI | Concrete Reinforcing Steel Institute |
| CTI | Cooling Tower Institute |
| DFPA | Douglas Fir Plywood Association |
| EIA | Electronic Industries Association |
| EJCDC | Engineers' Joint Contract Documents Committee |
| EJMA | Expansion Joint Manufacturers Association |
| EIA | Electronic Industries Association |
| EPA | U.S. Environmental Protection Agency |
| ETL | Electronic Testing Laboratory |
| FM | Factory Mutual Insurance Company |
| FPS | Fluid Power Society |
| FS | Federal Specifications |
| GO 95 | General Order No. 95, California Public Utilities Commission Rules for Overhead Electric Line Construction |
| HI | Hydraulic Institute |
| HMI | Hoist Manufacturers Institute |
| IAPMO | International Association of Plumbing and Mechanical Officials |
| IBR | Institute of Boiler and Radiator Manufacturers |
| ICBO | International Conference of Building Officials |
| IEEE | Institute of Electrical and Electronic Engineers |
| IES | Illuminating Engineering Society |
| IMIAC | International Masonry Industry All-Weather Council, International Masonry Institute |
| IPCE | International Power Cable Engineers Association |
| ISA | Instrument Society of America |
| MBMA | Metal Building Manufacture's Association |

| | |
|--------|---|
| MIL | Military Specifications |
| ML/SFA | Metal Lath / Steel Framing Association |
| MSS | Manufacturer's Standardization Society |
| NAAMM | National Association of Architectural Metal Manufacturers |
| NBS | National Bureau of Standards |
| NCMA | National Concrete Masonry Association |
| NEC | National Electric Code |
| NEMA | National Electrical Manufacturers Association |
| NFPA | National Fire Protection Association |
| NSF | National Sanitation Foundation |
| NWMA | National Woodwork Manufacturers Association |
| OSHA | Occupational Safety and Health Act |
| PCA | Portland Cement Association |
| PCI | Pre-stressed Concrete Institute |
| PCMAC | Prestressed Concrete Manufacturers Association of California |
| PS | Product Standard |
| RIS | Redwood Inspection Service |
| SDI | Steel Deck Institute |
| SDI | Steel Door Institute |
| SJI | Steel Joist Institute |
| SMACNA | Sheet Metal and Air Conditioning Contractors National Association |
| SSPC | Structural Steel Painting Council TCA Tile Council of America |
| UBC | Uniform Building Code |
| UFC | Uniform Fire Code |
| UPC | Uniform Plumbing Code |
| UL | Underwriters Laboratories |
| WCLIB | West Coast Lumber Inspection Bureau |
| WIC | Woodwork Institute of California |
| WIC | Women in Construction |
| WWPA | Western Wood Products Association |

*** END OF SECTION ***

SECTION K

PROJECT MEETINGS

40.0 **PRE-CONSTRUCTION CONFERENCE** - The Owner will schedule a pre-construction conference and organizational meeting at the project site or other convenient location upon award and/or execution of the Contract and before issuance of the Notice to Proceed. More than one conference may be required if the Owner and Contractor deem it is in their collective best interests to do so.

40.1 **Attendees** - The Owner, Owner's Representative, Design Consultant, Contractor and its superintendent, invited subcontractors, and other concerned parties shall each be represented at the conference by persons familiar with and authorized to conclude matters relating to the work.

40.2 **Agenda** - The Owner, in concert with the Owner's Representative, Design Consultant and Contractor, will prepare an agenda for discussion of significant items relative to contract requirements, procedures, coordination and construction. Items on the agenda will include the Contractor's field organization, submittals, progress payments, change order procedures, safety and permit requirements, inspection procedures, and other project related matters.

41.0 **PROGRESS MEETINGS** - The Owner will conduct progress meetings at the project site at weekly or other regularly scheduled intervals agreed to between the Contractor and the Owner. Frequency of meetings are to be determined by the Owner. Meeting minutes will be taken by the Owner and distributed accordingly.

41.1 **Attendees** - The Owner, Design Consultant, Owner's Representative, and Contractor shall each be represented at the meetings. Attendance by subcontractors, suppliers and other entities is subject to issues and/or items of the agenda which may, or may not, require attendance.

41.2 **Agenda** - Review, correct or approve minutes of the previous progress meeting. Review items of significance that could affect project progress. Review status of previous action items and determine what new action items are necessary to insure the project stays on schedule. Review Contractor's look ahead schedule. Add other action items that were not considered when the agenda was developed.

42.0 **CONFERENCES** - Any time during progress of the Work, the Owner and the Construction Manager shall have the authority to require the Contractor and any subcontractor, suppliers, or service providers to attend job-site conferences. Any notice of such conference shall be duly observed and complied with by the Contractor and subcontractors, suppliers, or service providers.

43.0 **PREPATORY MEETING** - The Owner and Contractor shall have a meeting with each subcontractor before their work activities begin on the project.

END OF SECTION

SECTION L

SUBMITTALS

44.0 SUBMITTALS

Where the Contractor is required by these Specifications to make submittals, they shall be forwarded to the Owner, with a letter of Transmittal, and in accordance with the requirements of this section and Section N, **SHOPDRAWINGS, PRODUCT DATA, AND SAMPLES**.

The Contractor shall submit the following items to the Owner. Eight (8) copies are to be submitted unless other provisions of the Contract Documents stipulate a different number of submittals. Three (3) copies of submittals which require review will be returned to the Contractor with comments, if any, for its records. Should the Contractor require more than three copies, it will be required to provide the additional copies at no additional cost to the Owner. It shall be the Contractor's responsibility to copy and/or conform reviewed submittals in sufficient numbers for its files, subcontractors and vendors.

Approved copies of the construction schedule and Operation and Maintenance Manuals are the property of the Owner and will not be returned to the Contractor.

The Contractor shall provide the following items:

- Designation of Contractor's Representative
- Contractor's Safety Program (IIPP)
- Designated Safety Supervisor
- Designated "Competent Person(s)"
- Cost Breakdown
- Construction Schedule
- Submittal and Materials List
- Substitutions List
- Shop Drawings
- Material Safety Data Sheets
- Operation and Maintenance Manuals
- Working Drawings
- Requests and Notices
- Manufacturer's Affidavits
- Warranty Data
- Others as Specified in the Technical Specifications
- Manufacturer's Instructions
- Manufacturer's Certifications

Where the Contractor is required by these Specifications to submit samples of products, the Contractor shall provide a sufficient number of physical samples to allow three (3) to be retained by the Owner of all structural and architectural products involving color, finish, texture, or the like.

45.0 **MATERIALS LIST**

Within thirty-five (30) days after the Notice to Proceed, the Contractor shall submit a List of Materials to the Owner for review. The List shall include all items of equipment and materials for mechanical, piping, architecture, electrical, heating and ventilating, equipment piping, and plumbing work; and the names of manufacturers with whom purchase orders have been or will be placed. The List shall be arranged in the same order as the Specifications, and shall contain sufficient data to identify all items of material and equipment the Contractor proposes to furnish. The List shall include Specification and/or Drawing references. After the submission is favorably reviewed and returned to the Contractor by the Owner, it shall become the basis for the submission of detailed manufacturer's drawings, catalog cuts, curves, diagrams, schematics, data, and information on each separate item for review as set forth in SECTION N, **SHOPDRAWINGS, PRODUCT DATA, AND SAMPLES**. The favorable review of shop drawings shall be obtained prior to the fabrication, delivery and construction of items requiring shop drawing submittal.

46.0 **SEISMIC DESIGN AND ANCHORAGE OF EQUIPMENT AND OTHER APPURTENANT FACILITIES**

All pieces of electrical, mechanical, and instrumentation equipment and appurtenant facilities which are separately mounted or anchored shall be so designed and installed as to be in conformance to all requirements of the Uniform Building Code - for the edition adopted by the governing jurisdiction, both for vertical and lateral loading. This requirement applies, but is not limited to, such items as light fixtures, electrical and instrumentation panels, tanks, pumps, piping, pipe supports and hangers, generators, motors, fans, ventilating ducts and equipment, and other similar equipment or facilities. The applicable seismic zone for this project shall be as defined by the Uniform Building Code. All equipment or facilities described in these Specifications or on the Drawings shall be designed and anchored to resist seismic forces appropriate for this seismic zone. Anchorage or restraints shall be so designed as to resist the code required forces acting in any direction. The design of the entire anchoring system, and the furnishing of any part of the anchoring system that must be integral with the equipment or facilities, shall be the responsibility of the manufacturer or supplier. The Contractor, working closely with the manufacturer or supplier, shall be responsible for furnishing or installing anchors or restraints, which are independent of the equipment or facilities. Examples, but not limited to those noted, are anchor bolts, restraining curbs, walls, or angles and similar items.

Shop drawings for seismic anchorage listed in these specifications shall be submitted. Shop drawing submittals shall include equipment weights, locations of proposed equipment centroids, calculations, details, and other amplifying data demonstrating conformance to the seismic requirements of this Section. Such calculations shall be prepared and signed by a registered Civil or Structural engineer in the State of California. Calculations shall also be submitted on all equipment or facilities so indicated in the technical specifications.

Although calculations will not be required, manufacturers shall assure that equipment has been designed and constructed to safely transfer seismic induced loads through the equipment and to the anchorage systems without failure of equipment components.

***** END OF SECTION *****

SECTION M**PROGRESS SCHEDULES****48.0 GENERAL**

The Contractor shall utilize the schedule method detailed in Paragraph 50.0, **Construction Schedule (B)**.

48.1 Procedures

The Contractor shall provide with its schedule a procedural outline of the system shutdowns and proposed tie-in procedures, which shall be subject to the favorable review of the Owner and the Owner's Representative.

49.0 CONSTRUCTION SCHEDULE (A)

Not used.

50.0 CONSTRUCTION SCHEDULE(B)**50.1 General**

The Progress Schedule for this Project will also be referred to as the CPM Schedule.

The Contractor shall designate, in writing, an authorized representative in its firm who will be responsible for the preparation, revising, and updating of the CPM Schedule. The authorized representative shall have direct project control and complete authority to act on behalf of the Contractor in fulfilling the construction scheduling requirements set forth herein, and such authority will not be interrupted throughout the duration of the Project. The requirements for the CPM Schedule are included to assure adequate planning and execution of the work and to assist the Owner in appraising the reasonableness of the proposed schedule and evaluating progress of the work.

Within seven (7) days from award of the Contract, the Contractor shall submit to the Owner demonstration of competence in the use of CPM Scheduling, including evidence of the use of CPM Scheduling on a project of similar value and complexity. In the event of the failure of the Contractor to satisfy the Owner of its CPM Scheduling competence, the Contractor will be required to employ a qualified CPM consultant who regularly performs these services and who in the opinion of the Owner possesses the qualifications required to perform CPM Scheduling for this Project.

Demonstration of competence in the use of CPM Scheduling shall be indicated by providing evidence to verify capability of using the critical path method (CPM) of construction by submitting: (1) Information regarding at least two construction projects, complete with description of the work, valued at least equal to the expected value of this Project, which were successfully controlled by the Contractor or its CPM consultant throughout their duration by means of CPM Scheduling and periodic systematic reviews of the CPM Schedules; (2) The Contractor's or its CPM Consultant's experience in the application of CPM Scheduling techniques for construction projects of similar size and complexity; (3) The Contractor's or its CPM consultant's library of computer programs for production

of CPM Schedules; and (4) Information regarding the Contractor's or its CPM consultant's computer facilities (either by possession or contractual access).

50.2 **Preliminary Progress Schedule**

50.2.1 Within ten (10) days after receipt of Notice to Proceed, the Contractor shall submit two (2) copies of a Preliminary Progress Schedule in the form of an arrow or precedence diagram covering the following project phases and activities:

- a. Procurement and Submittals, including shop drawings and fabrication and delivery of key and long lead time procurement activities.
 1. The Contractor's submittal information shall show intended submittal dates and shall be incorporated into the base project schedule.
 2. The delivery information shall include realistic delivery dates for the procurement activities.
 3. The activities planned for the first 90 days in the execution of the Work.
 4. The approach to scheduling the remaining activities or phases of the Work. The work for each phase or activity shall be represented by at least one summary activity and the sum of the summary activities shall equal the Contract Time.

50.2.2 Not used.

50.2.3 The Owner shall review the schedule and provide any comments, its favorable review of the schedule, or request a meeting to review the schedule with the Contractor within ten (10) days of receipt of the schedule. If requested, the Contractor shall participate in a review and evaluation of the schedule with the Owner within ten (10) days of such request. Any revisions necessary as a result of this review shall be resubmitted for review by the Owner within five (5) days.

50.3 **Base Schedule**

50.3.1 **Base Schedule Submittal** - The Contractor shall submit an acceptable Critical Path Method (CPM) Schedule to the Owner within thirty (30) days after the receipt of the Notice to Proceed. Subsequent revisions to said schedule shall be submitted as set forth hereinafter.

The Owner shall review the schedule and provide any comments, its favorable review of the schedule, or request a meeting to review the schedule with the Contractor within fifteen (15) days of receipt of the schedule. If requested, the Contractor shall participate in a review and evaluation of the proposed network diagrams and analysis by the Owner. This review shall occur within ten (10) days of the request. Any revisions necessary as a result of this review shall be resubmitted for review by the Owner within ten (10) days. When completed, the favorably reviewed schedule shall then be the schedule to be used by the Contractor for planning, organizing, and directing the work, and for reporting progress. If the Contractor thereafter desires to make significant changes in its method of operating and scheduling, the Contractor shall notify the Owner in writing stating the

reasons for the change. Only one progress payment will be made prior to submission and acceptance of the CPM Schedule. Neither the Contractor nor the Owner shall own the "float".

To the extent that the favorably reviewed initial Construction Schedule, or revisions thereto, indicate anything not jointly agreed upon, it shall be deemed to be not favorably reviewed by the Owner. Any omission of work from the detailed schedule, otherwise required for Contract compliance, will not excuse the Contractor from completing such work within any applicable completion date.

50.3.2 Schedule Type - The CPM Schedule submitted under this Specification shall utilize a critical path method (CPM) format using either the precedence or arrow diagramming method. The schedule shall show completion of the project at the Contract completion date.

The schedule shall be computer generated utilizing either Microsoft Project or a compatible scheduling program. The Contractor shall provide an electronic copy of the initial base schedule in MS Project or applicable scheduling format and PDF format and all monthly updates with the network diagram and mathematical analyses. The program shall be capable of accepting revised completion dates as modified by approved time adjustments and recomputations of all tabulation dates and float accordingly. The CPM schedule system shall consist of diagrams and accompanying mathematical analyses network diagram.

50.3.3 Network Diagram - The diagrams shall show elements of the project in detail and an entire project summary. Diagrams shall show the order and interdependence of activities and sequence in which the work is to be accomplished as planned by the Contractor. The basic concept of a network analysis diagram shall be followed to show how the start of a given activity is dependent on the completion of preceding activities and its completion restricts the start of following activities. Summary networks shall be time-scaled.

The graphic network diagram shall include for each activity, the description, activity number, the estimated duration in workdays, and all activity relationship lines. The network diagram shall be drawn for the early start of all activities.

50.3.4 Mathematical Analysis - The mathematical analysis of the network diagram shall include a tabulation of each activity. The following information shall be furnished as a minimum for each activity;

- a. Preceding and succeeding event numbers
- b. Activity (or I-J) description and number
- c. Estimated duration of activities
- d. Earliest start date (by calendar date)
- e. Earliest finish date (by calendar date)
- f. Actual start date (by calendar date)
- g. Actual finish date (by calendar date)
- h. Latest start date (by calendar date)
- i. Latest finish date (by calendar date)
- j. Slack or float
- k. Percentage of activity completed
- l. Activity constraints

If the precedence technique is utilized, the schedule report shall include a calendar in workdays, a network report sorted by early start, a network report sorted by total float, and a logic table report sorted by work item which indicates the complete preceding and succeeding logic ties. If the arrow technique is utilized, the schedule report shall include a calendar in workdays, a network report sorted by early start, a network report sorted by I-J numbers, and a network report sorted by float time and I-J numbers.

50.3.5 **Durations** - Durations shall be in working days and shall not exceed fifteen (15) workdays, except for submittal and delivery items. Where the duration of continuous work exceeds fifteen (15) workdays, work items in the Construction Schedule shall be subdivided by location, approximate stationing or other sub-element of the work.

50.3.6 **Network Activities** - Detailed network activities shall include:

- a. The submittal and approval of samples and equipment, fabrication of special material and equipment and their installation and testing.
- b. The critical path shall be shown on all reports and on the graphic network diagram. The activities which constitute the critical path shall be identified.
- c. System shutdown and tie-in dates must be identified and included on the schedule as milestones.
- d. The activity numbers shall be grouped by work area to provide logical summary activities.
- e. All activities of the Owner and the Owner's Representative that affect progress and required contract dates for completion of all parts of the work. The selection and number of activities shall be subject to favorable review by the Owner.

51.0 **WEATHER CONDITIONS**

Seasonal weather conditions shall be considered in the planning and scheduling of work influenced by high or low ambient temperatures or precipitation to ensure the completion of the Work within the Contract Time. No time extensions will be granted for the Contractor's failure to take into account such weather conditions for the location of the Work and for the period of time in which the Work is to be accomplished.

The expected loss of working days specified in the Supplementary Conditions, Paragraph 13.0, **WEATHER DAYS**, shall be included in a separate identifiable critical activity labeled "Weather Days Allowance" to be included at the end of the project schedule. When weather days are experienced, and are approved as such by the Owner, the Contractor shall either:

- a. Increase the duration of the current critical activity(ies) by the number of weather days experienced, or
- b. Add a critical activity to the schedule to reflect the occurrence of the weather day(s).

The duration of the weather day allowance activity shall be reduced as weather days are experienced and included in the schedule. Any remaining weather days in the weather day allowance activity at

the completion of the project shall be considered as float and shall not be for the exclusive use or benefit of either the Owner or Contractor.

52.0 **UPDATES**

52.1 **Submittal Period** - The Contractor shall submit at monthly intervals a report of the actual construction progress. Each monthly report shall cover a period of approximately thirty (30) days ending around the final day of each month. The monthly reports shall be submitted within ten (10) days of the end of the reporting period.

52.1.1 **All Monthly Updates** - All monthly updates shall include as a minimum:

- a. Tabulation reports for the following sorts:
 1. I-J [or Activity] Numbers
 2. Total Float
 3. Early Start
 4. Logic report of proceeding and succeeding activities with all restraints indicated (precedence schedules only)
- b. Narrative Report - The report shall show the activities or portions of activities completed during the reporting period. The report shall state the percentage of the work actually completed and scheduled, the remaining duration, and the progress along the critical path in terms of days ahead or behind the allowable dates as of the report date. Any changes made by the Contractor to the schedule, including I-J (or Activity) numbers and activity descriptions, shall be listed.

52.1.2 **On-Schedule Updates** - If the project is proceeding on schedule, the monthly update report may consist of a marked-up copy of the graphical network diagram. This submittal shall clearly indicate the status of any minor shifts in sequence or schedule and the estimated completion date or percent complete of all activities currently in progress. The Contract completion date shall also be indicated. The Contractor shall submit a narrative report relating to status of construction, the schedule, and factors which may affect the remainder of the schedule.

52.1.3 **Delayed Schedule Updates** - If, in the discretion of the Owner, the project is believed to be behind schedule, the monthly report shall include a revised network diagram and/or mathematical analysis showing the Contractor's proposed revised schedule. The schedule shall be revised under the conditions defined in Paragraph 52.3, **Schedule Revisions**. An analysis of the effect that the delay has on progress along other paths shall also be included in the report. The Contractor shall also submit a narrative report with each updated analysis which shall include but not be limited to a description of current and anticipated problem areas, delaying factors and their impact, and an explanation of corrective actions taken or proposed.

52.2 **Schedule Review** - Once each month, on a date mutually agreed upon, but no later than seven (7) working days after the submittal of the monthly update specified herein, a jobsite meeting will be held to review the Construction Schedule, job progress and the monthly update, or the Owner will provide written comments on the monthly update.

52.3 **Schedule Revisions**

The conditions under which the Owner may require revisions of the Construction Schedule include the following:

- a. When delay in completion of any work item or sequence of work items results in an estimated extension of project completion by either twenty (20) working days or by five percent (5%) of the remaining duration of time to complete the Contract, whichever is less.
- b. When delays in submittals or deliveries make replanning or rescheduling of the work necessary.
- c. When the schedule does not represent actual prosecution and progress of the work.
- d. When any change to the sequence of activities, the completion date for major portions of the work, or changes occur which affect the critical path.
- e. When Contract modification necessitates schedule revision.

53.0 **TIME IMPACT ANALYSES**

53.1 When change orders are initiated, delays are experienced, or the Contractor desires to revise the schedule logic, the Contractor shall submit to the Owner a written Time Impact Analysis illustrating the influence of each change, delay, or Contractor request on the current contract schedule completion date.

53.1.1 **Construction Schedule (A) – Analysis**

- a. Each Time Impact Analysis shall include an analysis demonstrating how the Contractor proposes to incorporate the change order, delay, or Contractor request into the Schedule.
- b. The analysis shall demonstrate the time impact based on the date of occurrence of the change, delay or revision; the status of construction at that point in time; and the impact of all affected activities.

53.2 Activity time delays will not automatically mean that an extension of Contract Time is warranted or due the Contractor.

- a. It is possible that a strike or contract modification will not affect existing critical activities or cause noncritical activities to become critical, i.e., a strike or modification may result in only absorbing a part of the available total float that may exist within an activity chain of the network, thereby not causing any effect on the Contract completion date or time.
- b. The Contractor acknowledges and agrees that mitigation for delays due to changes, differing site conditions, and other causes will require revision of preferential sequences of the Work before proposing an updated schedule which supports a delay

to the Project as a whole. When a delay to the Project as a whole can be avoided by revising preferential sequencing, and the Contractor chooses not to implement the revisions, the Contractor will be entitled to a time extension but is not entitled to compensation for indirect overhead.

- c. Float or slack shall not be for the exclusive use or benefit of the Owner or the Contractor. Extensions of time for performance will be granted only to the extent that the equitable time adjustments for the activity or activities affected exceed the total float along the activity chain involved at the time the change was ordered or the delay occurred.
- d. The definitions of "noncritical activities" and "total float" shall be as provided in the Associated General Contractors of America book "CPM in Construction, A Manual for General Contractors."

53.3 Time Impact Analyses shall be submitted in triplicate and within fifteen (15) days after a delay occurs or with the Contractor's cost proposal in response to a notice of change from the Owner. In cases where the Contractor does not submit a Time Impact Analysis for a specific change order, delay, or Contractor request within the specified period of time, then it is mutually agreed that the particular change order, delay, or Contractor request has no time impact on the Contract completion date and no time extension is required.

- a. Approval or rejection of Time Impact Analyses by the Owner and the Owner's Representative will be made within fifteen (15) days after receipt of the Time Impact Analysis unless subsequent meetings and negotiations are necessary.
- b. Upon approval, a copy of the Time Impact Analysis signed by the Owner and Owner's Representative will be returned to the Contractor.
- c. Upon mutual agreement by both parties, schedule revisions illustrating the influence of change orders, delays, and/or Contractor requests will be incorporated into the next schedule update.

54.0 **WEEKLY ACTIVITIES PLAN**

On the last working day of every week the Contractor shall submit to the Owner the Contractor's Plan of Activities for the following three weeks. The Plan of Activities shall describe the activity and location of the activity and include the activity's I-J or Activity number as provided in the Construction Schedule.

***** END OF SECTION *****

SECTION N

SHOPDRAWINGS, PRODUCT DATA, AND SAMPLES

55.0 CONTRACTOR'S RESPONSIBILITIES

The Contractor shall submit, at its own expense submittals and details of structural and reinforcing steel, equipment, material, electrical controls, architectural fabrications, pipe, pipe joints, special pipe sections, and other appurtenances as required in technical specifications.

All submittals and supporting data, catalogs, schedules, etc., shall be submitted as the instruments of the Contractor, who shall be responsible for their accuracy and completeness and coordination. Such responsibility shall not be delegated in whole or part to subcontractors or suppliers. These submittals may be prepared by the Contractor, subcontractors, or suppliers, but the Contractor shall ascertain that submittals meet all of the requirements of the Contract Documents, while conforming to structural, space, and access conditions at the point of installation. Designation of work "by others," if shown in submittals, shall mean that the work will be the responsibility of the Contractor rather than the subcontractor or supplier who prepared the submittals. The Contractor shall insure that there is no conflict with other submittals and notify the Owner in each case where its submittal may affect the work of another contractor or the Owner. The Contractor shall ensure coordination of submittals among the related crafts and subcontractors.

Submittals shall be prepared in such form that data can be identified with the applicable Specification paragraph. The data shall clearly demonstrate compliance with the Contract Plans and Specifications and shall relate to the specific equipment to be furnished. Where manufacturer's standard drawings are employed, they shall be marked clearly to show what portion of the data is applicable to this project.

56.0 TRANSMITTAL PROCEDURES

56.1 Transmittal Form

A separate transmittal form shall be used for each specific item, class of material, equipment, and items specified in separate, discrete sections, for which the submittal is required. Submittal documents common to more than one piece of equipment shall be identified with all the appropriate equipment numbers. Submittals for various items shall be made with a single form when the items taken together constitute a manufacturer's package or are so functionally related that expediency indicates checking or review of the group or package as a whole. The specification section to which the submittal is related shall be indicated on the transmittal form.

A unique number, sequentially assigned, shall be noted on the transmittal form accompanying each item submitted. Original submittal numbers shall have the following format: "XXX"; where "XXX" is the sequential number assigned by the Contractor. Resubmittals shall have the following format: "XXX-Y"; where "XXX" is the originally assigned submittal number and "Y" is a sequential letter assigned for resubmittals, i.e., A, B, or C being the 1st, 2nd, and 3rd resubmittals, respectively. Submittal 25B, for example, is the second resubmittal of submittal 25.

56.2 **Deviations From The Contract**

If the submittals show any deviations from the Contract requirements, the Contractor shall submit with the submittal submission a separate written description of such deviations and the reasons therefor. If the Owner accepts such deviation, the Owner shall issue an appropriate Contract Change Order, except that, if the deviation is minor, or does not involve a change in price or in time of performance, a Change Order need not be issued. If any deviations from the Contract requirements are not noted on the submittal, the review of the shop drawing shall not constitute acceptance of such deviations.

56.3 **Submittal Completeness**

The Contractor shall check all submittals before submitting them to the Owner and shall certify on the transmittal letter and on each shop drawing that they have been checked, are in compliance with the Plans and Specifications, and all deviations from the Contract requirements are noted.

If the Contractor submits an incomplete submittal, the submittal will be returned to the Contractor without review. A complete submittal shall contain sufficient data to demonstrate that the items comply with the Specifications, shall meet the minimum requirements for submissions cited in the technical specifications, shall include materials and equipment data and seismic anchorage certifications where required, and shall include any necessary revisions required for equipment other than first named.

It is considered reasonable that the Contractor shall make a complete and acceptable submittal to the Owner at least by the second submission of data. The Owner reserves the right to deduct monies from payments due the Contractor to cover additional costs of review beyond the second submission.

56.4 **Submittal Period**

All submittals shall be completed within ninety (90) days after Notice to Proceed by the Owner, unless the Owner accepts an alternate schedule for submission of submittals proposed by the Contractor.

57.0 **REVIEW PROCEDURE**

Submittals shall be submitted electronically whenever possible. Submittal shall be submitted to the Owner for review and returned within 5 working days after receipt when submitted electronically. Submittals that required hard copies shall be submitted to the Owner for review and returned within 8 working days after receipt. Review of submittals by the Design Consultant has as its primary objective the completion for the Owner of a project in full conformance with the Contract Plans and Specifications, unmarred by field corrections, and within the time provided. In addition to this primary objective, submittal review as a secondary objective will assist the Contractor in its procurement of equipment that will meet all requirements of the project Plans and Specifications, will fit the structures detailed on the Plans, will be completed with respect to piping, electrical, and control connections, will have the proper functional characteristics, and will become an integral part of a complete operating facility.

After review by the Design Consultant of each of the Contractor's submissions, the material will be returned to the Contractor with actions defined as follows:

A. NO EXCEPTIONS NOTED (RESUBMITTAL NOT REQUIRED) - Accepted subject to its compatibility with future submissions and additional partial submissions for portions of the work not covered in this submission. Does not constitute approval or deletion of specified or required items not shown in the partial submission.

B. MAKE CORRECTIONS NOTED (RESUBMITTAL NOT REQUIRED) - Same as A, except that minor corrections as noted shall be made by the Contractor.

C. MAKE CORRECTIONS NOTED (RESUBMIT) - Rejected because of major inconsistencies or errors which shall be resolved or corrected by the Contractor prior to subsequent review by the Design Consultant.

D. NOT ACCEPTABLE (RESUBMIT)- Submitted material does not conform to Plans and Specifications in major respect., i.e.: wrong size, model, capacity, or material.

Items A and B above (no resubmittal required) are considered "favorable review." Items C and D above (correction and resubmittal required) are considered "unfavorable review."

It shall be the Contractor's responsibility to copy and/or conform reviewed submittals in sufficient numbers for its files, subcontractors, and vendors.

58.0 **EFFECT OF REVIEW OF CONTRACTOR'S SUBMITTALS**

The Design Consultant's favorable review of submittals shall be obtained prior to the fabrication, delivery and construction of items requiring submittal review.

Favorable review of submittals does not constitute a change order to the Contract requirements.

The favorable review of all submittals by the Design Consultant shall apply in general design only and shall in no way relieve the Contractor from responsibility for errors or omissions contained therein. Favorable review by the Design Consultant shall not relieve the Contractor of its obligation to meet safety requirements and all other requirements of laws, nor constitute a Contract Change Order. Favorable review by the Design Consultant will not constitute acceptance by the Design Consultant of any responsibility for the accuracy, coordination, and completeness of the submittals or the items of equipment represented on the submittals.

*****END OF SECTION*****

SECTION O

QUALITY CONTROL

59.0 INSPECTION AND TESTING

Additional requirements for tests are described in Section R, SYSTEM TESTING, and other Technical Sections of these Specifications.

59.1 General

Where the Contract Documents require work to be field tested or approved, it shall be tested in the presence of the Owner or its authorized representative. The Owner shall have the right to witness all on-site tests performed by the Contractor and any shop tests. The results of any tests performed by the Contractor shall be made available for the information of the Owner. Inspections, tests or favorable reviews by the Owner shall not relieve the Contractor of its obligation to perform the work in accordance with the requirements of the Contract Documents or for its sole responsibility to the quality of workmanship and materials.

Except as specifically required under the technical specifications for testing and inspection, all tests for materials furnished by the Contractor will be done in accordance with commonly recognized standards of national organizations. Where tests are to be performed by the Owner or an independent testing laboratory or agency, the Contractor will provide all samples of materials without charge. The Owner and not the Contractor will select the sample or samples of materials to be tested. No material for which the Contract Documents require the submittal and approval of tests, certificates of compliance or other documentation shall be incorporated in the work until submittal and approval of the submittal has been made.

The Contractor shall provide safe access for the Owner and its inspectors to inspect the quality of work and the works conformance with the Contract Documents. The Contractor shall furnish the Owner the necessary labor and facilities for such things as excavation in compacted fills to the depths required to take samples and/or density tests. The Contractor shall provide adequate lighting, ventilation, ladders and other equipment or protective facilities as may be necessary for the safe performance of inspections.

Upon completion of the Work, the Owner will conduct a final inspection as provided in Paragraph 8.6, Final Inspection and Payment. Records shall be available at all reasonable hours for inspection by other local and State agencies to ascertain compliance with laws and regulations.

59.2 Notice

The Contractor shall notify the Owner at least 24 hours before any field testing or special inspections are required to be performed by the Owner or the independent testing laboratory furnished by the Owner. The Contractor shall notify the Owner at least two hours before any inspection is required to be performed or to witness the Contractor's on-site field testing.

Whenever the Contractor varies the period during which work is carried out on each day, the Contractor shall give the Owner due notice so proper and timely inspection may be provided. Any work done in the absence of the Owner shall be subject to rejection by the Owner and/or the Owner's Representative.

60.0 **QUALITY CONTROL**

All materials and equipment shall be new and of the specified quality and equal to the samples found to be acceptable by the Design Consultant if samples have been submitted. It shall be the duty of the Contractor to call the Owner's attention to apparent errors or omissions and request instructions before proceeding with the Work. The Owner may, by appropriate instructions, correct errors and supply omissions not involving extra cost, which instructions shall be as binding upon the Contractor as though contained in the original Contract Documents.

At the option of the Owner, materials and equipment to be supplied under this Contract will be tested and inspected either at their place of origin or at the site of the Work. The Contractor shall give the Owner written notification at least 30 days prior to the shipment of materials and equipment to be tested and inspected at point of origin. Satisfactory tests and inspections at the point of origin shall not be construed as a final acceptance of the materials and equipment nor shall such tests and inspections preclude retesting or reinspection at the site of the Work.

Inspection of the Work by the Owner, Owner's Representative and/or Design Consultant shall not relieve the Contractor of its obligations to conduct comprehensive inspections of the Work and to furnish materials and perform acceptable Work, and to provide adequate safety precautions, in conformance with the intent of the Contract.

61.0 **INSPECTION**

All work and materials are subject to the inspection of the Owner. The Contractor shall notify the Owner before noon of the working day before inspection is required. If the Specifications, the Owner's instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, the Contractor shall give timely notice, in writing, of its readiness for inspection. Unless otherwise determined by the Owner, all inspections shall be done only in the presence of the Owner or its authorized representatives. The Owner, Owner's Representative, Design Consultant and authorized government agents and their representatives shall at all times be provided safe access to the Work wherever it is in preparation or progress and to all warehouses and storage yards wherein materials and equipment are stored, and the Contractor shall provide facilities for such access and for inspection, including maintenance of temporary and permanent access. Inspection of the Work shall not relieve the Contractor of the obligation to fulfill all conditions of the Contract, and improper work will be subject to rejection. Work and materials not meeting such requirements shall be made good, and unsuitable work or materials may be rejected; notwithstanding that such work or materials have been previously inspected by the Owner or that payment therefor has been included in a progress estimate.

61.1 **Work Covered Prior to Inspection and/or Testing**

No portion of any work or installed materials shall be covered or concealed in any manner whatsoever without first being inspected by the Owner. If any work should be covered up without the approval or consent of the Owner, the Owner shall have the authority to require that such work

be uncovered for examination; defective work, if any, corrected; and recovered at the Contractor's expense.

The owner will hire and pay for a firm to perform special inspections. If a special inspector has to come to the jobsite due to any failed test or retesting, or when a contractor is not ready after scheduling the testing, it will be the responsibility of the contractor to pay for the extra expenses incurred.

62.0 **SAMPLES AND TESTS**

At the option of the Owner, the source of supply of materials for the Work shall be subject to tests and inspection before the delivery is started and before such materials are used in the Work. Representative preliminary samples of the character and quality prescribed shall be submitted by the Contractor or producer of materials to be used in the Work in sufficient quantities or amounts for testing or examination.

All tests of materials furnished by the Contractor shall be made in accordance with the commonly recognized standards of national technical organizations, and such special methods and tests as are prescribed in the Contract Documents.

Certificates of compliance shall be provided by the Contractor as required in the Technical Specifications.

62.1 **Sampling**

The Contractor shall furnish such samples of materials as are requested by the Owner, without charge. No material shall be used until the Owner has had the opportunity to test or examine such materials. Samples will be secured and tested whenever necessary to determine the quality of the material. Samples and test specimens prepared at the jobsite, such as concrete test cylinders, shall be taken or prepared by the Owner or Testing Firm in the presence and with the assistance of the Contractor.

62.2 **Testing**

Unless otherwise provided, all initial testing for concrete and soils shall be at no expense to the Contractor and shall be performed in the Owner's laboratory or in a laboratory designated by the Owner. Any retesting required due to failed test or defective material or sample shall be at the Contractor's expense. When required by the Contract or the Owner, the Contractor shall furnish, at no extra charge, certificates of tests of materials and equipment made at the point of manufacture by a recognized testing laboratory.

The Contractor is responsible for all system and equipment testing as provided for in these Contract Documents.

62.3 **Test Standards**

All sampling, specimen preparation, and testing of materials shall be in accordance with the standards of nationally recognized technical organizations.

The physical characteristics of all materials not particularly specified shall conform to the latest standards published by the American Society for Testing Materials, where applicable.

*****END OF SECTION*****

SECTION P**CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS****63.0 GENERAL**

The Contractor shall provide all temporary facilities and utilities required for prosecution of the work, protection of employees and the public, protection of the work from damage by fire, weather or vandalism, and such other facilities as may be specified or required by any legally applicable law, ordinance, rule, or regulation.

64.0 TEMPORARY UTILITIES**64.1 Electrical Service**

The Contractor shall arrange, at its own cost, with the local utility to provide adequate temporary electrical service at a mutually agreeable location. The Contractor shall then provide adequate jobsite distribution facilities conforming to applicable codes and safety regulations. The Contractor shall provide, at its own cost, all electric power required for construction, testing, general and security lighting, and all other purposes whether supplied through temporary or permanent facilities.

64.2 Water

The Contractor shall pay for and shall construct all facilities necessary to furnish water for its use during construction. Water used for human consumption shall be kept free from contamination and shall conform to the requirements of the State and local authorities for potable water. The Contractor shall pay for all water used for the Contractor's operations prior to final acceptance.

64.3 Heating and Ventilation

The Contractor shall provide means for heating and ventilating all work areas as may be required to protect the Work from damage by freezing, high temperatures, weather, or to provide a safe environment for workers. Unvented direct fired heaters shall not be used in areas where freshly placed concrete will be exposed to the combustion gases until at least two hours after the concrete has attained its initial set.

64.4 Sanitary Conveniences

The Contractor shall provide suitable and adequate sanitary conveniences for the use of all persons at the site of the Work. Such conveniences shall include chemical toilets or water closets and shall be located at appropriate locations at the site of the Work. All sanitary conveniences shall conform to the regulations of the public authority having jurisdiction over such matters. At the completion of the Work, all such sanitary conveniences shall be removed and the site left in a sanitary condition.

65.0 **CONSTRUCTION FACILITIES**

Construction hoists, elevators, scaffolds, stages, shoring, and similar temporary facilities shall be of ample size and capacity to adequately support and move the loads to which they will be subjected. Railings, enclosures, safety devices, and controls required by law or for adequate protection of life and property shall be provided.

65.1 **Staging and Falsework**

Temporary supports shall be designed by a professional registered engineer with an adequate safety factor to assure adequate load bearing capability. If requested by the Owner's Representative, the Contractor shall submit design calculations for staging and shoring prior to application of loads.

Excavation support shall be in accordance with Paragraph 4.12, **Safety**.

65.2 **Temporary Enclosures**

When sandblasting, spray painting, spraying of insulation, or other activities inconveniencing or dangerous to property or the health of employees or the public are in progress, the area of activity shall be enclosed adequately to contain the dust, over-spray, or other hazard. In the event there are no permanent enclosures of the area, or such enclosures are incomplete or inadequate, the Contractor shall provide suitable temporary enclosures.

65.3 **Warning Devices and Barricades**

The Contractor shall adequately identify and guard all hazardous areas and conditions by visual warning devices and, where necessary, physical barriers. Such devices shall, as a minimum, conform to the requirements of Cal/OSHA.

66.0 **PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS**

The Contractor shall be responsible for the protection of public and private property at and adjacent to the Work and shall exercise due caution to avoid damage to such property.

The Contractor shall repair or replace all existing improvements which are not designated for removal (e.g., curbs, sidewalks, survey points, fences, walls, signs, utility installations, pavements, structures, etc.) and are damaged or removed as a result of its operations. Repairs and replacements shall be at least equal to existing improvements and shall match them in finish and dimension.

Trees, lawns, and shrubbery that are not to be removed shall be protected from damage or injury. If damaged or removed because of the Contractor's operations, they shall be restored or replaced in as nearly the original conditions and location as is reasonably possible. Lawns shall be re-seeded and covered with suitable mulch.

The Contractor shall give reasonable notice to occupants or owners of adjacent property to permit them to salvage or relocate plants, trees, fences, sprinklers, and other improvements within the right-of-way which are designated for removal or would be destroyed because of the Work.

67.0 **PROJECT SECURITY**

The Contractor shall make adequate provision for the protection of the Work area against fire, theft, and vandalism, and for the protection of the public against exposure to injury.

67.1 **Fire Extinguisher**

Sufficient number of fire extinguishers of the type and capacity required to protect the Work and ancillary facilities, shall be provided and maintained in readily accessible locations.

67.2 **Temporary Fences**

Except as otherwise provided, the Contractor shall enclose the site of the Work with a fence adequate to protect the Work and temporary facilities against acts of theft, violence, or vandalism.

In the event all or a part of the site is to be permanently fenced, this permanent fence or a portion thereof may be built to serve for protection of the Work site, provided however, that any portions damaged or defaced shall be replaced prior to final acceptance.

Temporary openings in existing fences shall be protected to prevent intrusion by unauthorized persons. During night hours, weekends, holidays, and other times when no work is performed at the site, the Contractor shall provide temporary closures or guard service to protect such openings. Temporary openings shall be fenced when no longer necessary.

68.0 **ACCESS ROADS**

Access roads shall be maintained to all storage areas and other areas to which frequent access is required. Similar roads shall be maintained to all existing facilities on the site of the Work to provide access for delivery of material and for maintenance and operation. Where such temporary roads cross buried utilities that might be injured by the loads likely to be imposed, such utilities shall be adequately protected by steel plates or wood planking, or bridges shall be provided so that no loads shall discharge on such buried utilities.

69.0 **SPECIAL CONTROLS**

The Contractor shall take all reasonable means to minimize inconvenience and injury to the public by dust, noise, diversion of stormwater, or other operations under its control.

69.1 **Dust Control**

The Contractor at its expense shall take whatever steps, procedures, or means as are required to prevent abnormal dust conditions being caused by its operations in connection with the execution of the Work; and on any unpaved road which the Contractor or any of its subcontractors are using, excavation or fill areas, demolition operations, or other activities. Control shall be by sprinkling, use of dust palliatives, modification of operations, or any other means acceptable to agencies having jurisdiction. Haul routes shall be kept visibly wet during excavation and hauling operations.

Unless the construction dictates otherwise, and unless otherwise approved by the Owner's Representative, the Contractor shall furnish and operate a self-loading motor sweeper with spray

nozzle at least once each working day to keep paved areas acceptably clean whenever construction, including restoration, is incomplete.

69.2 **Noise Abatement**

Operations at the Worksite shall be performed so as to minimize unnecessary noise. Special measures shall be taken to suppress noise during night hours. Noise levels due to construction activity shall not exceed the levels specified by local ordinances.

Internal combustion engines used on the Work shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated without said muffler.

69.3 **Working Hours**

Construction shall be allowed only between the hours of eight (8:00) a.m. and five (5:00) p.m. on weekdays unless otherwise approved in writing by the Owner.

The Contractor shall be responsible for any inspection and additional administration costs incurred by the Owner, or its agents and representatives, for work by the Contractor outside the hours defined above on weekdays, or any work on weekends or holidays recognized by the Owner. Such costs shall be withheld from the succeeding monthly progress payment. Any work in Section E, **SUMMARY OF WORK** specifically required to be performed outside the normal working hours is excluded from the provisions of this paragraph.

The Contractor shall notify the Owner's Representative at least one working day prior to any work outside the normal working hours defined above, on weekends or holidays.

69.4 **Drainage Control**

In all construction operations, care shall be taken not to disturb the existing drainage pattern whenever possible. Particular care shall be taken not to direct drainage water onto private property. Drainage water shall not be diverted to streets or drainage ways inadequate for the increased flow. Drainage means shall be provided to protect the Work and adjacent facilities from damage due to water from the site or due to altered drainage patterns from construction operations.

Temporary provisions shall be made by the Contractor to insure the proper functioning of gutters, storm drain inlets, drainage ditches, culverts, irrigation ditches, and natural water courses.

69.5 **Construction Cleaning**

The Contractor shall, at all times, keep property on which work is in progress and the adjacent property free from accumulations of waste material or rubbish caused by employees or by the Work. All surplus material shall be removed from the site immediately after completion of the work causing the surplus materials. Upon completion of the construction, the Contractor shall remove all temporary structures, rubbish, and waste materials resulting from its operations.

69.6 **Disposal of Material**

The Contractor shall make arrangements for disposing of materials outside the Site and the Contractor shall pay all costs involved. The Contractor shall first obtain permission from the property owner on whose property the disposal is to be made and absolve the Owner from any and all responsibility in connection with the disposal of material on said property. When material is disposed of as above provided, the Contractor shall conform to all required codes pertaining to grading, hauling, and filling of earth.

69.7 **Parking and Storage Areas**

All stockpiled materials and parked equipment at the job site shall be located to avoid interference with private property and to prevent hazards to the public. Locations of stockpiles, parking areas, and equipment storage must be approved by the Owner's Representative.

70.0 **TRAFFIC REGULATION**

70.1 **General**

The Contractor shall take all necessary steps to minimize inconvenience to the general public throughout all work under this Contract. No driveways or private roads shall be blocked without notifying the property owner and access must be restored during all nonworking hours. Safe access must be maintained for pedestrian traffic throughout the work area at all times.

At least one lane of traffic in each direction must be kept open at all times unless prior approval is provided by the Owner and any affected agency. No roads shall be blocked or made inaccessible, due to the Contractor's work, without prior written approval of the Owner and the affected agencies.

The Contractor shall not block or obstruct fire lanes at any time.

70.2 **Haul Routes**

Prior to the pre-construction conference, the Contractor shall submit for approval the proposed route(s) for all construction traffic on the project. This shall include any designated routes, if any, shown on the Contract Drawings. Upon approval, the Contractor shall strictly adhere to that route(s) only, unless written permission is obtained to change the route(s).

70.3 **Traffic Control**

Traffic control shall be in accordance with the California Department of Transportation Traffic Manual. The Contractor shall submit for approval, by the Owner and any other applicable agency, its traffic control plans prior to work on public streets.

Traffic control shall include signs, warning lights, reflectors, barriers, and other necessary safety devices and measures, including sufficient flaggers to direct vehicular traffic through the construction areas.

No material or equipment shall be stored/parked where it will interfere with the free and safe passage of public traffic, and at the end of each day's work, and at other times when construction operations are suspended for any reason, the Contractor shall remove all equipment and other obstructions from the public right-of-way.

Should the Contractor appear to be negligent in furnishing warning and protective measures, as above provided, the Owner's Representative may direct attention to the existence of a hazard, and the necessary warning and protective measures shall be furnished and installed by the Contractor at its expense.

71.0 PROJECT OFFICE

The Contractor shall maintain on the project site a suitable job site trailer or other protected area in which shall be kept project copies of the Contract Documents, project progress records, project schedule, shop drawings, and other relevant documents which shall be accessible to the Owner and Owner's Representative during normal working hours.

The Contractor shall designate an open space inside the job site trailer for the Owners representative to occupy when onsite. This area shall include a desk and chair for the owner's representative to review contract documents when onsite.

*****END OF SECTION*****

SECTION Q

MATERIAL AND EQUIPMENT

72.0 STORAGE OF MATERIALS

Materials shall be stored in such a manner as to ensure the preservation of their quality and fitness for the Work. When considered necessary by the Owner, materials shall be placed on platforms or other hard, clean surfaces, and covered when directed.

Materials shall be stored so as to facilitate inspection. Storage areas shall be suitably fenced, if necessary to protect the public or the material.

Unless otherwise designated in the General Requirements, locations and arrangements for storage sites for materials and equipment outside the limits of work, shall be selected and maintained by the Contractor at its expense. Full compensation for furnishing such storage sites as may be necessary or required by the Contractor shall be considered as included in the price bid and no additional compensation will be allowed therefor. The Owner shall be specifically exempted in any agreement from any liability incurred from the use of private property for construction purposes. Use of portions of the Owner's area at the site for materials and equipment storage shall be permitted only upon the approval of the Owner.

73.0 HAZARDOUS MATERIALS

The storage and handling of potential pollution causing and hazardous materials, including but not necessarily limited to, gasoline, oil and paint shall be in accordance with all local, state and federal requirements. All hazardous materials shall be stored and handled in strict accordance with the Material Safety Data Sheets for the products. Material Safety Data Sheets, shall be submitted to the Owner prior to the delivery of materials to the project.

74.0 MATERIAL AND EQUIPMENT SUBSTITUTIONS

74.1 General

In preparing these Specifications, the Design Consultant has named those products which to its knowledge meet the Specifications and are equivalent in construction, functional efficiency, and durability.

Wherever catalog numbers and specific brands or trade names preceded by "similar and equal" or followed by the designation "or equal" are used in conjunction with a designated material, product, thing, installation, or service mentioned in these Specifications, they are used to establish the standards of quality and utility required.

The first-named manufacturer is the basis for the project design and the use of alternative-named or unnamed manufacturer's products proposed by the Contractor may require modifications in the project design and construction. Where only one product has been named by brand, it is the only brand, trade name, or manufactured product known to the Design Consultant that meets these Specifications.

Wherever catalog numbers and specific brands or trade names not preceded by designation "similar and equal" nor followed by the designation "or equal", are used in conjunction with a designated material, product, thing, installation, or service mentioned in these Specifications, to ensure compatibility with existing facilities, no substitutions will be favorably reviewed.

74.2 **Substitutions**

Substitutions which are equal in quality and utility to those specified will be permitted, subject to the following provisions. For this purpose, the Contractor shall submit to the Owner in accordance with Public Contract Code Section 3400, no later than thirty five (35) days after the Notice of Award, a typewritten list containing a description of each proposed substitute item or material. Sufficient data, drawings, samples, literature, calculations, or other detailed information as will demonstrate to the Design Consultant that the proposed substitute is equal in quality and utility to the material specified shall be appended to this list. The Design Consultant will favorably review in writing such proposed substitutions as are, in its opinion, equal in quality to the items or materials specified. In the event that a substitute is favorably reviewed, fifty percent (50%) of all savings shall be credited to the Owner.

Failure of the Contractor to submit proposed substitutions for review in the manner described above and within the time prescribed shall be sufficient cause for rejection by the Owner of any substitutions otherwise proposed.

74.3 **Modifications and Costs**

If alternative named or substitutions are proposed by the Contractor and favorably reviewed by the Design Consultant, the Contractor is responsible for providing, at no additional cost to the Owner, any electrical, mechanical, structural, or other related changes or testing that may be required to accommodate or provide the particular material or equipment the Contractor desires to use. Any deviation from the Specifications or the Drawings resulting from the type of material or equipment to be used shall not be the basis for any "extra charges" above and in excess of the original bid price of the work.

In addition, the Contractor is responsible for all additional costs to the Owner, and its agents and representatives, for evaluation of data submitted by the Contractor for alternative named or substitutions and any redesign necessary. The Owner shall deduct said costs from the Contract monies due to the Contractor.

***** END OF SECTION *****

SECTION R

SYSTEM TESTING

The Contractor shall test the facilities as specified in the Technical Specifications. The Contractor shall provide all other necessary facilities for conducting the tests, including but not limited to, personnel, power, water equipment, and chemicals. The Contractor shall provide one working day notice to the Owner of its readiness and intent prior to each test.

***** END OF SECTION *****

SECTION S

CONTRACT CLOSEOUT

75.0 OPERATION AND MAINTENANCE

Prior to the delivery and installation of any item of machinery or equipment the Contractor shall submit the Operation and Maintenance Manual. The manual will be reviewed by the Owner for general content, and the Owner will advise the Contractor within five days of receipt if the manual is acceptable in general content for the delivery and installation of the equipment or machinery. No equipment or machinery shall be delivered or installed if the general content of the manual is found to be deficient. The final Operation and Maintenance Manuals must be submitted and favorably reviewed prior to final acceptance.

All manuals shall be bound and marked to indicate the specific equipment furnished for this project and shall include:

- a. Start-up instructions
- b. Assembly and disassembly instructions
- c. Trouble shooting instructions
- d. Lubrication instructions
- e. Maintenance and reinstallation instructions
- f. Parts identification
- g. List of spare parts recommended to have on hand
- h. Operator safety
- i. Installation drawings

In addition, all operation and maintenance manuals for electrical equipment shall include:

- j. Equipment ratings
- k. Calibration curves and rating tables if appropriate

Operation and maintenance manuals for complex equipment shall also include:

- l. Alternate specified operating modes
- m. Normal shutdown instructions
- n. Long term shutdown instructions

76.0 EQUIPMENT START-UP

After all acceptance tests have been completed by the Contractor and Owner but prior to final acceptance, the Contractor shall recheck all equipment for proper alignment and adjustment, check oil levels, relubricate all bearing and wearing points, and in general assure that all equipment is in proper condition for regular continuous operation.

77.0 **FINAL CLEANING**

77.1 **Final Clean Up**

Before final inspection of the Work, the Contractor shall clean the construction area, material sites, adjacent property and streets, and all ground occupied by the Contractor in connection with the Work of all rubbish, excess materials, form lumber, etc. All parts of the Work shall be left in a neat and presentable condition.

77.2 **Final Building Clean Up**

On all building projects and wherever else applicable, besides general broom cleaning, the following special cleaning shall be performed at completion of the Work:

- A. Putty stains and paint shall be removed from glass; glass shall be washed and polished, inside and outside. Care shall be exercised so as not to scratch glass.
- B. Marks, stains, fingerprints, and other soil and dirt shall be removed from painted, decorated, or stained work.
- C. Waxed woodwork shall be cleaned and polished.
- D. Hardware shall be cleaned and polished of all traces; this shall include removal of stains, dust, dirt, paints, and blemishes.
- E. Spots, soil, paint, plaster, and concrete shall be removed from tile; tile work shall be washed afterward.
- F. Fixtures and equipment shall be cleaned and stains, paint, dirt, and dust shall be removed.
- G. Temporary floor protections shall be removed; floors shall be cleaned, waxed, and buffed.
- H. Dust, cobwebs, and traces of insects and dirt shall be removed.

78.0 **RECORD DRAWINGS**

The Contractor shall keep at the Site a copy of the plans and specifications, including addenda and change orders, to which the Design Consultant, Owner, and Owner's Representative shall have access at all times.

The Contractor shall maintain one (1) set of specifications and full size prints and mark thereon any deviation from plan dimensions, elevations, or orientations, and all changes from addenda, change orders, and clarifications. The Contractor shall submit the record drawings in good condition to the Owner upon completion of the Work as a condition of acceptance of the Work. Marked prints shall be updated at least weekly and shall be available to the Owner and its representatives for review. The Owner may withhold partial payments if it does not find the record drawings to be satisfactory.

79.0 WARRANTY

The Contractor hereby agrees to make, at its own expense, all repairs or replacements necessitated by defects in materials or workmanship, supplied under terms of this Contract, and pay for any damage to other works resulting from such defects, which becomes evident within one (1) year after the date of acceptance of the project or the Substantial Completion date whichever is applicable or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents. The Contractor further assumes responsibility for a similar guarantee for all work and materials provided by subcontractors or manufacturers of packaged equipment components. The Contractor also agrees to indemnify, defend, and hold the Owner harmless from liability of any kind arising from damage due to said defects.

The Contractor shall execute and submit a completed Warranty Form in the format as appended to this section for the Work, and any portion of the Work possessed in accordance with Paragraph 3.5, **Owner's Right to Use or Occupy**. The Warranty Form shall be submitted prior to the Substantial Completion date or the final acceptance of the project or within five (5) days of the occupancy or use of a portion of the Work, whichever is applicable.

The Contractor shall, upon the receipt of notice in writing from the Owner, promptly make all repairs arising out of defective materials, workmanship, or equipment. The Owner is hereby authorized to make such repairs, and the Contractor and its Surety shall be liable for the cost thereof, if ten (10) days after giving of such notice to the Contractor, the Contractor has failed to make or undertake the repairs with due diligence. In case of emergency, where in the opinion of the Owner delay could cause serious loss or damage, repairs may be made without notice being sent to the Contractor, and the expense in connection therewith shall be charged to the Contractor, and its Surety shall be liable for the cost thereof.

Prior to the expiration of the Warranty period, the Owner reserves the right to hold a meeting and require the attendance of the Contractor. The purpose of the meeting is to review warranties, bonds and maintenance requirements and determine required repair or replacement of defective items.

For the purpose of this paragraph, acceptance of the Work or a portion of the Work by the Owner, shall not extinguish any covenant or agreement on the part of the Contractor to be performed or fulfilled under this Contract which has not, in fact, been performed or fulfilled at the time of such acceptance. All covenants and agreements shall continue to be binding on the Contractor until they have been fulfilled.

The Owner and the Contractor agree that warranty on the parts of the work possessed and used by the Owner in accordance with Paragraph 3.5, **Owner's Right to Use or Occupy** shall commence on the date that the Owner takes possession of such work and so notifies the Contractor in writing. The Owner and Contractor further agree that such possession, and use of the work shall not be deemed as Substantial Completion or acceptance of any other part of the Work.

WARRANTY FORM

Warranty For

IOP B Side Improvements WD-2401

920 Second Avenue, Suite A, Marina, CA 93933

We hereby guarantee the IOP B Side Improvements that we have constructed for a period of one (1) year from (Date) _____ the date of acceptance of the work/substantial completion by the Marina Coast Water District.

The following are excluded from the provisions of this warranty:

We agree that if any of the equipment should fail due to any reason other than improper maintenance or improper operation, if any pipe or appurtenances should develop leakage, or if any settlement of fill or backfill occurs, or should any portion of the work fail to fulfill any of the requirements of the Specifications, we will, within ten days after written notice of such defects, commence to repair or replace the same together with any other work which may be damaged or displaced in so doing.

In the event of our failure to comply with the above mentioned conditions within a reasonable time after being notified, or should exigent circumstances require repairs or replacements to be made before we can be notified or respond to notification, we do hereby authorize the Marina Coast Water District to proceed to have the defect repaired and made good at our expense, and we will pay the cost therefor upon demand.

The warranty provided herein shall not be in lieu of, but shall be in addition to any warranties or other obligations otherwise imposed by the Contract Documents and by law.

Contractor: _____

Signed: _____

Title: _____

Date: _____

***** END OF SECTION *****