

SANTA MARGARITA Groundwater Agency

2 Civic Center Drive
Scotts Valley, CA 95066

GROUNDWATER MONITORING WELLS PROJECT

Contract Documents

VOLUME I

NOTICE INVITING BIDS INSTRUCTIONS TO BIDDERS GENERAL AND SPECIAL CONDITIONS

VOLUME I:

Notice Inviting Bids
Instructions to Bidders
General and Special Conditions
Form of Construction Contract
Form of Payment Bond
Form of Performance Bond

VOLUME II:

Technical Specifications – Monitoring Well Installation

VOLUME III:

Form of Bid Proposal
 Table 1 Bid Schedule for Base Bid
 Table 2 Bid Schedule for Alternate
Acknowledgement of Addenda
Bidder's Bond (sample form)
Name and Titles Form
Noncollusion Affidavit
Bidder Certifications
Designation of Subcontractors

PROPOSALS DUE: Tuesday February 21, at 2:30 P.M.
MANDATORY PRE-BID CONFERENCE: Friday,
February 3, at 10:00 A.M. (Virtual-TEAMS Meeting)

**NOTICE INVITING BIDS
GROUNDWATER MONITORING WELLS PROJECT
SANTA MARGARITA GROUNDWATER AGENCY**

The Santa Margarita Groundwater Agency is soliciting bids for installation of seven (7) shallow groundwater monitoring wells (Base Bid) and one (1) deep groundwater monitoring well (Alternate 1) to address data gaps in the Santa Margarita Basin Groundwater Sustainability Plan groundwater monitoring network. The wells will be installed in Santa Cruz County at a range of depths from approximately 80 to 300 feet below ground surface (bgs) for the shallow wells and up to 800 bgs for the deep well.

This project is for licensed contractors with a Type "A" General Engineering license and/or C57 license.

Sealed proposals shall be delivered to the Santa Margarita Groundwater Agency ("Agency" or "Owner"), 2 Civic Center Drive, Scotts Valley, CA 95066, no later than **2:30 P.M. on Tuesday, February 21, 2023**. Bids will be opened and will be publicly read thereafter.

Virtual Mandatory Pre-Bid Conference: Owner will conduct a Virtual Mandatory Pre-Bid Conference on **Friday, February 3, 2023, at 10:00 A.M.** Pacific Standard Time via Microsoft Teams. Registered bidders will be sent a separate invitation.

Prevailing Wage Laws: The successful Bidder must comply with all Labor Code requirements and prevailing wage laws applicable to the Project, and related requirements contained in the Contract Documents.

Electronic copies of all Contract Documents are available per request. All prospective bidders shall register with the Agency by calling 831-600-1902 or emailing the Owner's Representative, David McNair, at dmcnair@svwd.org. The Contract Documents are also available on the Agency's website www.smgwa.org.

INSTRUCTIONS TO BIDDERS

1. Contract Documents

The Contract Documents are as follows:

VOLUME I:

- Notice Inviting Bids
- Instructions to Bidders
- General and Special Conditions
- Form of Public Works of Improvement Contract
- Form of Payment Bond
- Form of Performance Bond

VOLUME II:

- Technical Specifications – Monitoring Well Installation

VOLUME III:

- Form of Bid Proposal
- Bid Schedule
 - Table 1. Bid Schedule for Base Bid
 - Table 2. Bid Schedule for Alternate
- Acknowledgement of Addenda
- Bidder's Bond (sample form)
- Name and Titles Form
- Noncollusion Affidavit
- Bidder Certifications
- Designation of Subcontractors

Electronic copies of the Contract Documents are available per request. All prospective bidders shall register with the Agency by calling 831-600-1902 or emailing the Owner's Representative, David McNair, at dmcnair@svwd.org. The Contract Documents are also available on the Agency's website www.smgwa.org. If you have any questions about the bid documents or the bid process, contact the Owner's Representative, David McNair, at dmcnair@svwd.org.

2. Mandatory Pre-Bid Conference. Prior to bidding, interested contractors are REQUIRED to attend a pre-bid conference. This meeting will be conducted via remote access and invitations will be issued to "All Registered Prospective Bidders". The remote access meeting will be held on Friday, February 3, 2023, at 10:00 AM. Bidders must satisfy themselves, through their own investigation, as to conditions to be encountered.

3. Minimum Qualifications. Each Bidder must meet the following requirements:

a) Contractor or its principal(s) shall have possessed a valid, active and in good standing, State of California Department of Consumer Affairs, Contractors State License Board license, appropriate for the trade being bid, for a minimum of two (2) continuous years prior to the date of bid opening.

b) Contractor shall not have any pending disciplinary proceedings or investigations by the Contractor's State License Board.

c) Contractor shall not currently (as of the date of bid opening) or within the past year, have any suspensions, disbarments, or similar proceedings (including stipulated agreements), restricting, limiting or prohibiting Bidder from bidding or performing other public works projects for any other public agency.

4. Required Bid Proposal. Each bidder must submit a bid proposal on the standard forms enclosed (See Volume III of these Contract Documents). All portions of the Bid Proposal (Volume III of the Contract Documents) must be completed before the bid is submitted. Attached to and submitted with the Bid Proposal, bidder must provide: (1) Bid Schedule; (2) Acknowledgement of Addenda Form; (3) the Bidder's Bond;

(4) Names and Titles Form; (5) Noncollusion Affidavit; (6) Bidder Certifications; and (7) Designation of Subcontractors. Failure to submit all required documents may result in the bid being rejected as nonresponsive.

Said proposal shall be accompanied by a cashier's check, a certified check or bidder's bond of ten percent (10%) of the amount of the bid submitted, to be made payable to the Santa Margarita Groundwater Agency. Bid bonds shall be issued by a corporate surety duly admitted and authorized to issue bonds and undertakings by the State of California.

Contractor's bid shall include all labor, materials, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

5. Basis of Award

a) The Base Bid is for the construction of seven (7) shallow groundwater monitoring wells (SMGWA #2 through #8) as described in the technical specifications (see Volume II of the Contract Documents). The total for the Base Bid (all seven (7) groundwater monitoring wells and related work) will be the basis of award. A responsible bidder who submits the lowest bid as determined by this section shall be awarded the contract, if it is awarded.

b) Alternate 1 is for the construction of a deep groundwater monitoring well (SMGWA #1) as described in the technical specifications (see Volume II of the Contract Documents). If Alternate 1 is awarded, such work may be performed in the summer of 2023.

6. Contract Time

a) The Contractor shall complete all or any designated portions of the work called for in the Base Bid within 90 calendar days after the issuance of the Notice to Proceed.

b) The Contractor shall complete all or any designated portions of the work called for in Alternate 1 (if awarded) within 90 calendar days after issuance of the Notice to Proceed.

c) The Contractor shall include in their bid all labor, tools, and materials for a complete and working project for each trade component in conformance with the intent shown on the plans and specifications and specified herein.

7. Requirements

a) Prospective bidders must be fully qualified, licensed, certified, and insured to perform the work requested. All work performed must meet all current applicable laws and regulations.

b) No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)).

c) No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

d) Pursuant to Labor Code Section 1700, and following, of the California Labor Code, the Contractor shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Copies of such prevailing rate of per diem wages are available at the following web site: <http://www.dir.ca.gov/dlse/dlsePublicWorks.html>.

e) Pursuant to Labor Code Section 1775, the contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than **two hundred dollars (\$200)** for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as otherwise provided by law.

f) This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

8. Bid Protests. Bid protests shall be filed before 5:00 p.m. in writing with the Owner, by certified or registered mail, not later than five (5) working days after the bid opening. The protest shall specify the reasons and facts upon which the protest is based. However, Bid processes and procedures shall not be proper grounds for protest. Concerns related to those issues must be raised and addressed, prior to the bid or proposal opening date to allow adjustments before evaluation of bids.

a) The initial protest document must contain a complete statement of the basis for the protest.

b) The protest must refer to the specific portion of the document that forms the basis for the protest.

c) The protest must include the name, address, and telephone number of the person representing the protesting party.

d) Only Bidders who the Owner otherwise determines are responsive and responsible are eligible to protest a Bid; protests from any other Bidder will not be considered. In order to determine whether a protesting Bidder is responsive and responsible, Owner may evaluate all information contained in any protesting Bidder's Bid, and conduct the same investigation and evaluation as Owner is entitled to take regarding an Apparent Low Bidder.

e) The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.

f) The procedure and time limits set forth in this paragraph are mandatory and are the Bidder's sole and exclusive remedy in the event of bid protest and failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code claim or any legal proceedings.

PROJECT DIRECTORY

Santa Margarita Groundwater Agency
Groundwater Monitoring Wells Project

Owner	Santa Margarita Groundwater Agency 2 Civic Center Drive Scotts Valley, CA 95066
Owner's Representative	David McNair dmcnair@svwd.org
Engineer	Montgomery and Associates, Oakland, CA 1970 Broadway #225, Oakland, CA 94612 Pete Dennehy pdennehy@elmontgomery.com (916) 661-8389 x1504
Construction Manager	Montgomery and Associates, Oakland, CA 1970 Broadway #225, Oakland, CA 94612 Bill DeBoer bdeboer@elmontgomery.com (510) 903-0458

GENERAL CONDITIONS

1) BASIC DEFINITIONS:

The term "Change Order" shall refer to a written agreement in the form included in these Contract Documents, signed by the Owner and Contractor, modifying the Contract.

The term "Contract" means the Contract Documents.

The term "Contract Sum" means the total compensation specified in the Contract. The Contract Sum may be adjusted by Change Order.

The term "Contract Time" means the number of days set forth in the Contract Documents within which the full completion of the Contractor's work must be achieved. The Contract Time may be adjusted by Change Order.

The term "Contractor" means the person or firm identified as such in the Contract, or its authorized representative.

The term "day" means a calendar day unless otherwise specifically noted.

The term "Indemnified Parties" means the Owner, the State of California, the County of Santa Cruz, the Land Trust of Santa Cruz County, the San Lorenzo Valley Water District, and the Scotts Valley Unified School District; their respective directors, officers, employees, agents, inspectors, construction managers, project managers, consultants, subconsultants, their employees, and the Owner's Representative.

The term "Owner" means Santa Margarita Groundwater Agency.

The term "Owner's Representative" means David McNair. The Owner may, at any time, without prior notice to or approval by Contractor, replace Owner's Representative with a new Owner's Representative. Upon Contractor's receipt of notice from the Owner of such replacement, Contractor shall recognize such person or firm as Owner's Representative for all purposes under the Contract Documents.

The term "Project" means the total of the work and obligations agreed to be performed by Contractor under the Contract Documents.

2) CONTRACT DOCUMENTS: The Contract Documents include:

a) **Volume I**, including the Notice Inviting Bids; Instructions to Bidders; General Conditions, Special Conditions, Construction Contract, payment and performance bonds;

b) **Volume II**, including technical plans and specifications, and

c) **Volume III**, the Bid Proposal Documents, including the Bid Proposal, Bid Schedule; Acknowledgement of Addenda Form; Bidder's Bond; Names and Titles Form; Noncollusion Affidavit; Bidder Certifications; and Designation of Subcontractors.

d) The Contract Documents represent the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. Contract Documents do not include: soils, geotechnical, or other reports, surveys, or analyses, which may be printed, bound or assembled within the Contract Documents or otherwise made available to the Contractor for review or information under this Contract, unless specifically enumerated and directly incorporated herein. Such information is available to the Contractor for information purposes only. Contractor shall be solely responsible for the interpretation of all such information, and Owner makes no representation or warranty as to the reliability or accuracy of any such information.

3) **EXAMINATION OF CONTRACT DOCUMENTS AND SITE OF WORK:** Each bidder shall examine carefully the site of the work and the Contract Documents, and shall satisfy itself as to the character, quality, and quantity of the surface and subsurface materials or obstacles to be encountered. The submission of a bid proposal shall be conclusive evidence that the Contractor has satisfied itself through Contractor's own investigation as to the conditions to be encountered; the character, quality, and scope of work to be performed; the materials and equipment to be furnished; and all requirements of the Contract Documents. Location information for each site is in Volume II, Table 1, which includes latitude and longitude coordinates that can be used to obtain directions to the sites using web-based mapping tools. The Contractor shall promptly, and before the following conditions are disturbed, notify the Owner and Owner's Representative, 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, including but not limited to PCB's, lead or asbestos.

b) Subsurface or latent physical conditions at the site differing from those indicated.

c) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

d) The Owner shall promptly cause an investigation of the conditions, and if it finds that the conditions do materially so 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, shall issue a Change Order or Construction Change Directive. 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 required by the Contract but shall proceed with all work to be performed under the Contract.

e) Nothing contained within this Section, or the Contract Documents relieves the Contractor of its obligations set forth in the first two paragraphs of this Section.

4) PERMITS: See Volume II, Technical Specifications.

5) ADDENDA: If discrepancies or apparent errors are found in the Contract Documents prior to the date of bid opening, bidders shall submit a written request for clarification, which response to said request will be given in the form of addenda to all bidders, if time permits. The correction of any discrepancies in, or omissions from the drawings, specifications, or other Contract Documents, or any interpretation thereof, during the bidding period will be made only by an addendum issued by the Owner's Representative. Each such addendum issued by the Owner's Representative shall be made a part of the Contract. Any other interpretation or explanation of such documents will not be considered binding. Contractor shall acknowledge all addenda issued on its bid proposal.

6) PROPOSAL: The Contractor's proposal shall be made on the form provided, with all items filled out, and properly signed. The proposal shall be signed by the Contractor if an individual, by a member of the partnership, or by an officer of a corporation authorized to sign contracts on its behalf. If made by a corporation, the proposal shall show the name of the State under the laws of which the corporation is chartered or organized.

Bidders are warned against making erasures or alterations of any kind on their proposal. Proposals which contain omissions, erasures, alterations, conditions, or additions not called for may be rejected.

The proposal shall be enclosed in a sealed envelope having the name of the Project, as it appears on the proposal, and the name and address of the bidder shown thereon.

7) LIST OF SUBCONTRACTORS: In accordance with California Public Contract Code, Chapter 4 (commencing with Section 4100), Part 1, Division 2 of the Public Contract Code of the State of California (Subletting and Subcontracting Fair Practices Act), each proposal shall have listed on the form provided with the proposal: (a) the name and location of the place of business and the California contractor license number of each subcontractor who will perform work or labor or render service to the prime contractor, in or about the construction of the work or improvement, or a subcontractor licensed by the State of California, who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent (0.5%) of the prime contractor's total bid, and (b) the portion of the work which will be done by each subcontractor. The Contractor shall list only one subcontractor for each such portion as defined by the Contractor in Contractor's bid.

An inadvertent error in listing the California contractor license number provided pursuant to the paragraph above shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected contractor's license number is submitted to the Owner by the prime contractor in writing within 24 hours after the bid opening and provided the corrected contractor's license number corresponds to the submitted name and location for that subcontractor.

In accordance with SB854, no contractor or subcontractor may be listed on a bid proposal or awarded a contract for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)).

If Contractor fails to specify a subcontractor for any portion of the work to be performed under this Contract in excess of one-half of one percent (0.5%) of the total bid, Contractor agrees to perform that portion itself.

8) **WITHDRAWAL OF PROPOSAL:** A proposal may be withdrawn at any time prior to the hour fixed in the Notice to Contractors for the opening of bids by a written request of the bidder, filed with the Owner. The withdrawal of a bid will not prejudice the right of a bidder to file a new proposal within the time prescribed.

9) **OPENING OF PROPOSALS:** Proposals will be opened and then read publicly at the time and place indicated in the Notice to Contractors, or as soon thereafter as is reasonable. Bidders or their representatives and others interested are invited to be present.

10) **BIDDER'S BOND/SECURITY:** The proposal must be accompanied by a bidder's bond, certified check, or cashier's check in an amount not less than ten percent (10%) of the amount bid. The bidder's bond must be signed in favor of the Owner, and the certified check or cashier's check must be made payable to the Owner. The Contractor shall pay to the Owner such sums from said bond, certified check, or cashier's check as necessary to reimburse the Owner for costs incurred for failure of the successful bidder to enter into the construction contract in accordance with the Contract Documents. The amount of said bond, certified check, or cashier's check shall not be deemed to constitute a penalty or liquidated damages. The Owner shall not be precluded by such bond, certified check, or cashier's check from recovering from the defaulting bidder damages in excess of the amount of said bond, certified check, or cashier's check incurred as a result of the failure of the successful bidder to enter into the construction contract in accordance with the Contract Documents.

11) **CONSIDERATION OF PROPOSALS:**

a) After the proposals have been opened and read, they will be checked for accuracy and compliance with these Contract Documents.

b) Bid prices shall include everything necessary for the completion of fulfillment of the Contract, including, but not limited to, furnishing all materials, equipment, tools, labor and services, except as may be provided otherwise in the Contract Documents. When a price is quoted in both words and figures, the words shall prevail in case of a discrepancy. Bid prices shall include all taxes, including, but not limited to, all Federal, State, and local taxes.

c) Owner reserves the right to reject any and all bids and to waive any minor irregularity in a bid.

12) **COMPETENCY OF BIDDER:** The bidder shall be licensed under the provisions of Chapter 9, Division 3, of the Business and Professions Code of the State of California to do the type of work contemplated in the Project and shall be skilled and regularly engaged in the general class or type of work called for under this contract.

13) **DISQUALIFICATION OF BIDDERS:** More than one proposal in the same project trade component from any individual, firm, partnership, corporation, or association, under the same or different names, will not be considered. Reasonable grounds for believing that any bidder is interested in more than one proposal for the work will cause the rejection of all proposals in which such bidder is interested. If there is reason to believe that collusion exists among the bidders, none of the participants in such collusion will be considered. Any proposal in which the prices obviously are unbalanced may be rejected.

14) **MISTAKE; RELIEF OF BIDDERS:** Attention is directed to the provisions of Public Contract Code section 5100, and following, concerning relief of bidders, and in particular to the requirement therein that if the bidder claims a mistake was made in Contractor's bid, the bidder shall give the Owner written notice within five (5) days after opening of the bids of the alleged mistake, specifying in the notice in detail how the mistake occurred.

15) **AWARD OF CONTRACT:**

a) **BASE BID:** SMGWA-2 through SMGWA-8 (seven (7) shallow wells) – Drill the boreholes; install the monitoring wells; develop wells; and complete wellheads. The total for the Base Bid (all seven (7) groundwater monitoring wells) will be the basis of award. The contract, if awarded, will be awarded to the lowest responsible bidder. The Owner reserves the right to reject all bids.

b) **ALTERNATE 1:** SMGWA-1 (deep well) – Drill the borehole; run downhole geophysical, caliper, and deviation surveys; install monitoring well; develop well; and complete wellhead. Due to access limitations, this work will be performed in the summer of 2023, and will not be part of the basis of award.

16) **RETURN OF BIDDER'S SECURITY:** When the award of the contract has been made, the bidder's security accompanying the three lowest bids shall be retained. All other guarantees for bids not to be further considered in making the award will be returned. The retained guarantees will be returned when the Contract has been fully signed.

17) **SIGNING OF CONTRACT AND DELIVERY OF BONDS AND INSURANCE:**

a) **INSURANCE.** A Contract shall be signed by the successful bidder on the form provided and returned to the Owner, within ten (10) days after delivery of the Contract forms.

b) **CONTRACT BONDS:** Within ten (10) days of Owner's delivery of the Notice of Award, the Contractor shall furnish corporate surety bonds to the benefit of the Owner, issued by a surety company acceptable to the Owner and authorized and admitted to do business in the State of California, as follows:

i) **Faithful Performance Bond --** In a sum not less than one hundred percent (100%) of the total contract price as set forth in the Contract to guarantee the Contractor's faithful performance of all covenants and stipulations of the Contract. The bond shall contain a provision that the surety thereon waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

ii) **Payment Bond --** In a sum not less than one hundred percent (100%) of the total contract price as set forth in the Contract to guarantee the payment of wage, and bills contracted for materials, supplies, or equipment used in the performance of the Contract. The bond shall be in accordance with the provisions of Sections 3225, 3226, and 3247 to 3252, inclusive, of the Civil Code of the State of California, and Section 13020 of the Unemployment Insurance Code of the State of California. Said bond shall also contain a provision that the surety thereon waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

iii) **Faithful Performance Bond and Payment Bond samples** are contained within these Contract Documents.

c) **NOTIFICATION OF SURETY COMPANIES:** The surety companies shall familiarize themselves with all provisions and conditions of the Contract. It is understood and agreed that the surety or sureties waive the right of special notification of any modifications or alterations, omissions or reductions, extra or additional work, extensions of time, or any other act or acts by the Owner or its authorized agents under the terms of the Contract; and failure to so notify the surety companies of such changes shall in no way relieve the surety or sureties of their obligations under this Contract. The surety expressly waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

18) **INSURANCE:** Within ten (10) days of Owner's delivery of the Notice of Award, the Contractor shall furnish a Certificate of Insurance substantiating the fact that Contractor has taken out the insurance as provided in Exhibit "A" of the Construction Contract.

19) **FAILURE TO COMPLY WITH REQUIREMENTS:** If the bidder to whom the award is made fails or refuses, within ten (10) calendar days from the delivery of the Notice of Award to enter into the Contract, provide the payment and performance bonds, and/or fails to provide insurance certificates in a form acceptable to the County, the Owner may then award the Contract to the next lowest responsible bidder.

20) **PRE-CONSTRUCTION CONFERENCE:** Prior to the start of construction, a conference will be called by the Owner's Representative for the purpose of reviewing the construction program with the Contractor. At this conference, the sequence of work, methods of access to the construction site and temporary facilities shall be reviewed by the Contractor and Owner. Coordination of utilities within the project limits, including relocations and maintenance of existing facilities and additions thereto, shall be confirmed in writing by utility representatives and the Contractor at this conference, or within five (5) working days thereafter.

21) **INTENT OF PLANS AND SPECIFICATIONS OR SCOPE OF WORK:**

a) It is the intent of these Contract Documents that the work performed under the Contract shall result in a complete operating system in satisfactory working condition with respect to the functional purposes of the installation of fully functional groundwater monitoring wells, and no extra compensation will be allowed for anything omitted but fairly implied. The prices paid for the various items in the proposal shall include full compensation for furnishing all labor, materials, tools, equipment, overhead, profit, incidentals, and doing all work necessary to complete the finished product as provided in the Contract Documents.

b) The specifications and drawings are intended to be explanatory of each other. Any work shown on the drawings, and not in the specifications, or vice versa, is to be treated as if indicated in both. In the case of conflict or inconsistency, the Supplementary Conditions (if any) shall control over the General Conditions, the General Conditions shall control over the Technical Specifications, and the Technical Specifications shall control over the drawings. Figured dimensions shall control over scaled measurements. Notwithstanding the foregoing, in all cases, the more costly or expensive interpretation is deemed to control and be the interpretation incorporated into the Contract Documents, except as otherwise approved by the County.

c) Organization of the specifications into various subdivisions and the arrangement of the drawings shall not control Contractor in dividing the work among subcontractors or in establishing the extent of work to be performed by any trade.

d) Unless otherwise stated in the Contract Documents, technical words and abbreviations contained in the Contract Documents are used in accordance with commonly understood construction industry meanings, and nontechnical words and abbreviations are used in accordance with their commonly understood meanings.

e) The Contract Documents may omit modifying words such as "all" and "any", and articles such as "the" and "an", but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. The use of the word "including," when following any general statement, shall not be construed to limit such statement to specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation," "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably be deemed to fall within the broadest possible scope of such general statement.

f) Whenever the context so requires, the use of the singular number shall be deemed to include the plural and vice versa. Each gender shall be deemed to include any other gender, and each shall include corporation, partnership, trust, or other legal entity whenever the context so requires. The captions and headings of the various subdivisions of the Contract Documents are intended only as a matter of reference and convenience, and in no way define, limit, or prescribe the scope or intent of the Contract Documents or any subdivision thereof.

g) Contractor shall assume responsibility for design of systems and fabrications needed to meet performance criterion described in the Contract Documents. Design shall be governed by descriptive criterion specified for each item.

h) Contractor shall assume responsibility for temporary structures used to implement construction such as shoring and scaffolding.

22) **CLARIFICATION OF CONTRACT DOCUMENTS:** Should it appear that the work to be done, or any of the matters relative thereto, are not sufficiently detailed or explained in the Contract Documents, or in the event of any doubt or question arising respecting the true meaning of the Contract Documents, the Contractor shall apply to the Owner's Representative for such further explanations as may be necessary. The Contractor shall thoroughly review all Requests for Information (RFI's) submitted by subcontractors prior to submission to the Owner's Representative to determine whether such RFI's is already answered in the Contract Documents. Contractor represents to Owner and Owner's Representative, that by submission of an RFI, Contractor has thoroughly reviewed the RFI and thoroughly reviewed the Contract Documents, and determined that the RFI is not answered or reasonably inferable in the Contract Documents, and that the RFI pertains to an unforeseen condition or circumstance that is not described in the Contract Documents, that there is a conflict or discrepancy in the Contract Documents, or there is an omission in the Contract Documents. In the event any RFI is answered or reasonably inferable from the Contract Documents, Contractor agrees to pay the Owner's Representative and Owner the reasonable cost for their time and expenses associated with reviewing and responding to RFI's which are already answered or reasonably inferable from the Contract Documents. In the event of a disagreement over such compensation, the judgment of the Owner's Representative shall control.

23) **PLANS AND SPECIFICATIONS TO BE FURNISHED:** The Contractor will be furnished, free of charge, copies of the contract documents. The Contractor shall retain an approved complete set of Contract Documents on the job at all times during the progress of the work.

24) **SUPPLEMENTAL DRAWINGS AND INSTRUCTIONS:** In addition to the drawings incorporated in the Contract at the time of signing, the engineer may furnish such working drawings and supplemental drawings from time to time as may be necessary to make clear, or to define in greater detail, the intent of the Contract drawings and specifications. In furnishing such additional drawings and/or instructions, the engineer shall have authority to make minor changes in the work, not involving extra cost, and not inconsistent with the nature of the work. These working drawings and supplemental drawings shall become a part of the Contract Documents, and the Contractor shall make its work conform to them.

25) **NONCONFORMANCE WITH REQUIREMENTS:** Contractor agrees that immediately upon signing of the Contract, Contractor will diligently review the Contract Documents and determine if any work described or inferred within the Contract Documents is not in conformance with these requirements. Should Contractor discover work within the Contract Documents not in conformance with these requirements, Contractor agrees to immediately notify Owner's Representative in writing of said nonconformance, and to not proceed with nonconforming work. When the work detailed in the Contract Documents differs from governing codes, it is understood and agreed that the Contract Sum is based upon the more stringent, costly or expensive standard.

26) PERSONAL ATTENTION AND SUPERINTENDENCE: The Contractor shall give Contractor's personal attention to and shall supervise the work to the end that it shall be faithfully prosecuted. Contractor shall keep on the work at all times throughout its progress, a competent superintendent who shall represent the Contractor in Contractor's absence and shall have complete authority to represent and act for the Contractor. The Contractor shall be liable for the faithful observation of any instructions delivered by Owner to Contractor or to Contractor's authorized representatives. Any order given by the Owner's Representative not otherwise required by the Contract Documents will, on request of the Contractor, be given or confirmed by the Owner's Representative in writing.

27) BEGINNING OF WORK: The Notice to Proceed shall constitute authority for the Contractor to enter upon the site of the work and to begin operations, upon condition that the Contractor has strictly complied with all requirements of these Contract Documents, including but not limited to, furnishing all required documentation and certificates of insurance. If Contractor has not provided Owner with all documents required by these Contract Documents as of the date of the Notice to Proceed, Contractor shall not be allowed on the site of the work or allowed to start work on the Project, notwithstanding the issuance of a Notice to Proceed.

a) When the Contractor has started work on the Project, the Contractor shall diligently prosecute the work to completion within the time limit provided in the Contract Documents.

b) The Contract Time shall begin on the date set forth in the Notice to Proceed, whether or not Contractor is allowed on the work site due to Contractor's failure to furnish Owner with all documentation required by these Contract Documents. In no event shall there be a period of time greater than thirty (30) days, from the time the Contract is dispatched by the Owner to the Contractor and the commencement of the Contract Time, regardless of the receipt or lack thereof by Owner of all documents required by these Contract Documents.

c) Liquidated damages are set forth in the Special Conditions.

28) SCHEDULE OF VALUES AND PAYMENTS:

a) Prior to the first application for payment, Contractor shall submit to Owner's Representative and Owner a cost breakdown of the Contract Sum. The Contractor's cost breakdown shall utilize a "Schedule of Values" format approved by Owner. All progress payments shall be submitted using this percent complete form. The cost breakdown shall itemize, as separate line items, the cost of each work activity and all other costs, including warranties, record documents, insurance, bonds, overhead expenses, and the total allowance for profit, the total of which shall equal the Contract Sum. The cost breakdown shall include a separate line-item cost for each activity listed on Contractor's initial (as-planned) schedule. The cost breakdown, when accepted by the Owner and Owner's Representative, shall become the basis for determining the cost of work performed for the Contractor's applications for payment.

b) On or before the first (1st) day of the month, Contractor shall submit to Owner's Representative an itemized application for payment for the cost of the work in permanent place, as approved by the Owner's Representative, which has been completed in accordance with the Contract Documents as of the twentieth (20th) day of the preceding month, less amounts previously paid. The application for payment shall be prepared in a form acceptable to Owner and Owner's Representative and shall contain itemized amounts in accordance with the cost breakdown. The applications for payment shall not include requests for payment on account of changes which have not been authorized by Change Orders, or for amounts Contractor does not intend to pay a subcontractor because of a dispute or other reason. By submission of an application for payment, Contractor represents to Owner that all work for which Contractor is seeking compensation, has been performed in strict compliance with these Contract Documents.

c) If requested by the Owner, an application for payment shall be accompanied by a summary showing payment that will be made to subcontractors covered by such application, and unconditional waivers and releases of claims and stop notices, from each subcontractor listed in the preceding application for payment covering sums disbursed pursuant to that preceding application for payment.

d) Contractor warrants that upon submittal of an application for payment, all work for which certificates of payment have been previously issued and payment has been received from Owner, shall be free and clear of all claims, stop notices, security interests, and encumbrances in favor of Contractor, subcontractors or other persons or firms entitled to make claims by reason of having provided labor, materials, or equipment related to the work.

e) Approval of all, or any part, of an application for payment may be withheld, a certificate of payment may be withheld, and all or part of a previous certificate for payment may be nullified and that amount withheld from a current certificate for payment, on account of any of the following:

- i) Defective work not remedied;
- ii) Third-party claims against Contractor or Owner arising from the acts or omissions of Contractor or subcontractors;
- iii) Stop notices;

- iv) Failure of Contractor to make timely payments due to subcontractors for material or labor;
- v) A reasonable doubt that the work can be completed for the balance of the Contract Sum then unpaid;
- vi) Damage to the Owner or others for which Contractor is responsible;
- vii) Reasonable evidence that the work cannot be completed within the Contract Time, and the unpaid balance of the Contract Sum would not be adequate to complete the work and cover Owner's damages for the anticipated delay;
- viii) Failure of Contractor to maintain, update, and submit record documents;
- ix) Failure of Contractor to submit schedules or their updates as required by the Contract Documents;
- x) Performance of the work by Contractor without properly processed shop drawings;
- xi) Liquidated damages assessed;
- xii) Any other failure of Contractor to perform its obligations under the Contract Documents.

f) Within thirty (30) days of receipt of an approved certificate for payment, properly executed by the Contractor, Owner's Representative, Owner's inspector of record for the Project (if any) and Owner's Director of General Services, Owner agrees to pay Contractor, subject to all of the terms and conditions of these Contract Documents, an amount equal to ninety percent (95%) of the sum of the following (less any amounts withheld as permitted by the Contract Documents):

- i) Cost of the work in permanent place as of the end of the preceding month as set forth and approved on the certificate for payment;
- ii) Less amounts previously paid;
- iii) Less amounts withheld by Owner as allowed in the Contract Documents.

g) Within forty (40) days of recordation of a Notice of Completion, Owner agrees to, subject to all of the terms and conditions of these Contract Documents, pay the remaining contract balance, after all offsets and subject to the withholding of amounts due from Contractor.

29) **PROGRESS SCHEDULE:** The Owner's receipt of a proposed progress schedule and monthly updated progress schedules, all in strict compliance with these Contract Documents shall be conditions precedent to the Owner's Representative's or Owner's approval of the Contractor's periodic pay requests and/or the Owner's obligation to request payment be issued to Contractor. The Contractor shall, to every reasonable extent, carry on the work of construction of the various elements of the project concurrently, and shall not defer construction of any portion of the work in favor of any other portion without the express written approval of the Owner's Representative.

30) **RESPONSIBILITY FOR ACCURACY:** The Contractor shall obtain all necessary measurements for and from the work, and shall check dimensions, elevations, and grades for all layout and construction work and shall supervise such work, the accuracy for all of which Contractor shall be responsible. Each subcontractor shall adjust, correct, and coordinate Contractor's work with the work of others so that no discrepancies will result in the whole work. Contractor shall be responsible for verifying that all information and data contained and set forth in all of Contractor's submittals that may be required by the Contract Documents, comply in all respects with the Contract Documents.

31) **EFFECT OF INSPECTION OR USE:** Neither the inspection by an inspector, Owner, Owner's Representative, Construction Manager, architect, engineer, or anyone acting in their behalf ("Owner Parties"), nor any measurement, approved modification, submittal, shop drawing, order, or certificate, nor acceptance of any part or whole of the work, or payment of money, nor any possession or use by the Owner or its agents, shall operate as a waiver of any provisions of the Contract or of any power or authority reserved therein, or of any right to damages thereunder; nor shall the waiver of any breach of this Contract be held to be a waiver of any subsequent or other breach.

32) **INSPECTION:**

a) All work done, and all materials and equipment furnished under this Contract shall be subject to the inspection and approval of the Owner Parties. They shall at all times have access to the work during its construction and shall be furnished with every reasonable facility and assistance for ascertaining that the materials and workmanship are in accordance with the requirements and intent of the Contract Documents.

b) Any work constructed without inspection as provided above, except with the specific written consent or approval of the Owner's Representative and Construction Manager or constructed contrary to the instructions or orders of the Owner's Representative, Construction Manager, or his or her authorized representative, must, if requested by the Owner's Representative or Owner, be uncovered for examination and properly restored at the Contractor's expense.

c) The inspection of the work by the Owner Parties does not relieve the Contractor of any of Contractor's obligation to fulfill the Contract as prescribed.

d) Any work, materials, or equipment not meeting the requirements and intent of the Contract Documents shall be rejected, and unsuitable work or materials shall be made good, notwithstanding the fact that such work or materials may have previously been inspected or approved and payment therefor may have been made.

e) If nonconforming work, materials, or equipment not meeting the requirements and intent of the Contract Documents is discovered, and the Contractor fails to remedy the nonconforming work, materials, or equipment, or the Owner agrees in writing to accept the nonconforming work, materials, or equipment, Contractor agrees to sign a Change Order or otherwise reimburse Owner in a sum equal to the cost to remedy the nonconforming work, materials, or equipment. It is expressly understood and agreed that the Owner will be entitled to recover from Contractor the full cost of remedying nonconforming work, materials, or equipment, and that diminution in value will not be considered as a method for valuing the Owner's damages for nonconforming work, materials, or equipment, and further that the doctrine of economic waste will not be a defense to the Owner's recovery from Contractor of the full and complete cost and expense of remedying nonconforming work, materials, or equipment.

f) Re-examination of any work may be ordered by the Owner, its Construction Manager and/or the Owner's Representative, and such work must be uncovered by the Contractor. The Contractor shall pay the entire cost of such uncovering, re-examination, and replacement if the work does not conform to the Contract Documents.

33) **REMOVAL OF REJECTED MATERIALS OR WORK:** The Contractor shall, upon request and without delay, remove from the site of the work, all rejected or condemned materials of any kind brought to, or incorporated in, the work. No such rejected or condemned materials shall again be offered for use in any work under the Contract. All work which has been rejected shall be remedied, or removed and replaced, by the Contractor in a manner acceptable to the Owner at Contractor's expense. Upon failure of the Contractor to comply within forty-eight (48) hours with any written order of the Owner or Owner's Representative made under this section, or to make satisfactory progress in so doing, the Owner may cause such rejected materials to be removed, or such rejected work to be remedied, or removed and replaced, and deduct and retain the costs from any sums due or to become due to the Contractor.

34) **USE OF COMPLETED PORTIONS:** The Owner shall have the right at any time during the progress of this work to take over and place in service any completed or partially completed portion of the work, notwithstanding the time for completion of the entire work or such portions which may not have expired; but such taking possession thereof shall not be deemed an acceptance of any of the work, nor work on those portions not completed in accordance with the Contract Documents.

35) **MEANS AND METHODS:** Neither Owner's Representative nor Owner will have control over, be in charge of, nor be responsible for construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs in connection with the work, since these are solely Contractor's responsibility, unless otherwise required by the Contract Documents.

36) **CONTRACT TIME AND DELAYS:**

a) The Contractor agrees to complete all of its work required in the Contract Documents, or any subsequent revisions or modifications thereto, within the time specified in the Bid Proposal, subject to Change Orders increasing or decreasing the time specified.

b) It is agreed by the parties to this Contract that time is of the essence to the performance of this Contract by Contractor, and that in case all work called for under the Contract is not completed in all respects and requirements within the time called for in the Contract Documents, plus any agreed upon extensions of time, damage will be sustained by the Owner.

c) The granting of an extension of time for the completion of the work on account of delays which, in the judgment of the Owner, are unavoidable delays, or granted for the performance of extra or additional work, shall in no way operate as a waiver on the part of the Owner of any of its rights under this Contract.

37) **CHANGES:** The Owner may request that Contractor provide Owner with estimated costs for proposed changes to the work. Contractor agrees to promptly provide Owner with detailed, itemized costs for proposed changes to the work and scheduling data demonstrating the impact, if any, of the proposed changes to the work on the Contract Time. Adjustments, if any, in the amount to be paid the Contractor by reason of any modifications of the work as set forth in a Contract Change Order, Construction Change Directive, or arising from Claims shall be determined by one or more of the following methods as elected by the Owner:

a) Lump Sum Price - By an acceptable lump proposal from the Contractor.

b) Unit Prices - By unit prices fixed by agreement between the Owner and the Contractor.

c) Force Account - By ordering the Contractor to proceed with the work and to keep and present in such form as the Owner's Representative or Owner may direct, a correct account of the cost of the change, together with all vouchers and associated documentation therefor. The Contractor will be paid for labor, materials, and equipment rental actually used on the Change Order work as follows:

i) When required by Owner, the Contractor shall submit in the form prescribed by Owner an itemized cost breakdown with supporting data of the quantities and prices used by in computing the value of any change that may be ordered. Under the methods described in subsection c) above, the Contractor shall maintain an accurate written daily direct cost record pertaining to such ordered Work in the form and detail acceptable to Owner. The Contractor shall certify each daily record to be true and correct, and shall furnish copies to Owner as the ordered Work progresses. The direct costs so recorded shall include only the labor cost for workmen and foremen (payroll taxes and assessments, fringe benefits, employer's contributions, workers' compensation coverage, withholdings required by law, and other verified direct labor costs included), the cost of materials and equipment delivered and installed in such Work as substantiated by appropriate documents, the cost of construction machinery and equipment based on fair rental values acceptable to Owner, and the cost of incidentals directly related to such Work. The direct costs shall not include any labor or office costs pertaining to the Contractor, his superintendents, his office staff and office facilities, or anyone not directly employed on such Work, nor the premium costs for bonds or insurance other than workers' compensation insurance, nor the cost or rental of small tools as all such indirect costs form a part of the Contractor's overhead expense. Under the method described in (d), the maximum percentage which will be allowed for the Contractor's combined overhead and profit will be: (1) for all such Work done by his own organization, the Contractor may add up to ten (10) percent of his actual net increase in cost, and two (2) percent for all such Work done by Subcontractors, each Subcontractor may add up to ten (10) percent of his actual net increase in costs for combined overhead and profit and the Contractor may add up to five (5) percent of the Subcontractor's total for his combined overhead and profit. The amount of credit to be allowed by the Contractor to Owner for any such change which results in a net decrease in cost will be the amount of the actual net decrease as determined by Owner taking into consideration adjustments for overhead and profit as determined herein, plus deductions for combined overhead and profit as computed in (1) and (2) above. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net difference.

ii) The allowances for overhead and profit as enumerated in the preceding subparagraphs shall include full compensation for any and all items of overhead including but not limited to, superintendence, field overhead, home office overhead (absorbed and unabsorbed), Contractor bonds, insurance, general conditions, clean-up, safety meetings, mandated programs and processing of Claim and Change Order documents.

iii) The amount of payment agreed upon or, in the absence of agreement, selected by the Owner shall be set forth in the Change Order or Construction Change Directive.

d) COST AND PRICING DATA: All cost and pricing data submitted by the Contractor to the Owner with respect to any work, change, prospective or completed, 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's Representative or his or her authorized representative may require a formal certification as to cost and pricing data submitted by the Contractor. Certification shall be in the form acceptable to Owner.

e) PROCEED WITH WORK: Notwithstanding the making of any Claim or the existence of any dispute regarding any Claim, Contractor shall not cause any delay, cessation, or termination in or of Contractor's performance of the work but shall diligently proceed with performance of the work in accordance with the Contract Documents.

38) ACCESS TO RECORDS:

a) The Owner's Representative and/or Owner, or their authorized representatives, shall have access, upon reasonable notice, during normal business hours, to Contractor and subcontractors' books, documents and accounting records, including but not limited to, bid worksheets, bids, subcontractor bids and proposals, estimates, cost accounting data, accounting records, payroll records, time sheets, cancelled checks, profit and loss statements, balance sheets, project correspondence including but not limited to all correspondence between Contractor and its sureties and subcontractors/vendors, project files, scheduling information, and other records of the Contractor and all subcontractors directly or indirectly pertinent to the work, original as well as change and claimed extra work, to verify and evaluate the accuracy of cost and pricing data submitted with any Change Order, prospective or completed, or any Claim for which additional compensation has been requested or notice of potential Claim has been tendered. Such access shall include the right to examine and audit such records, and make excerpts, transcriptions, and photocopies at Owner's cost.

b) The parties agree that in the event Contractor or any subcontractor fails to comply with this section, it would be difficult for the Owner to determine its actual damages; therefore, Contractor agrees to pay Owner, as liquidated damages, the sum set forth in the Special Conditions, which Contractor agrees is reasonable under the circumstances, for each and every calendar day which Contractor or a subcontractor fails or refuses to provide the Owner, Owner's Representative, and/or their authorized representatives, access to the materials specified in this section.

c) Contractor agrees to impose upon its subcontractors by appropriate subcontract provision, the obligations of this section of the General Conditions.

39) **DISMISSAL OF UNSATISFACTORY EMPLOYEES:** If any person employed by the Contractor, or any subcontractor, shall fail or refuse to carry out the directions of the Owner's Representative or Owner; or, in the opinion of the Owner's Representative or Owner, is incompetent, unfaithful, intemperate, or disorderly; uses threatening or abusive language to any person representing the Owner's Representative or Owner on the work; or is otherwise unsatisfactory, he or she shall be removed from the work immediately, and shall not again be employed on the work.

40) **TERMINATION OF UNSATISFACTORY SUBCONTRACTS:** When any portion of the work which has been subcontracted by the Contractor is not being prosecuted in a satisfactory manner, the subcontract for such work shall be terminated immediately by the Contractor upon written notice from the Owner's Representative or Owner, and the subcontractor shall not again be employed on the type of work in which his or her performance was unsatisfactory.

41) **TEMPORARY SUSPENSION OF WORK:** The Owner shall have the authority to suspend the work wholly or in part for such period as it may deem necessary, due to unsuitable weather, lack of adherence to safety regulations, or to any other conditions it considers unfavorable for the suitable prosecution of the work, or for such time as it may deem necessary, due to the failure on the part of the Contractor to carry out orders given or to perform any provisions of the Contract, or for any other reason. The Contractor shall immediately comply with such written order of the Owner to suspend the work wholly or in part. The suspended work shall be resumed only when conditions are favorable or methods are corrected, as ordered or approved in writing by the Owner. If a suspension of the work is ordered by the Owner due to the failure on the part of the Contractor to carry out orders or to perform any provisions of the Contract, the days on which the suspension order is in effect shall count against the Contract Time, and shall not in any way modify or invalidate any of the provisions of this Contract, and the Contractor shall not be entitled to any damages or compensation on account of such suspension or delay.

42) **TERMINATION:**

a) Whenever, in the opinion of the Owner, the Contractor has failed to supply an adequate force of labor, equipment, or materials of proper quality, or has failed in any other respect to prosecute the work with the diligence specified in the Contract; or if Contractor should refuse or fail to comply with laws, ordinances, or directions of the Owner's Representative; or if Contractor should fail to make prompt payments to subcontractors or for labor or materials; or otherwise be in breach of this Contract; the Owner may give written notice of at least five (5) calendar days to the Contractor and Contractor's sureties that if the defaults are not remedied within a time specified in such notice, the Contractor's control over the work will be terminated.

b) If the Contractor should be adjudged bankrupt or make an assignment for the benefit of Contractor's creditors, or if a receiver should be appointed on account of Contractor's insolvency, the Owner may declare the Contractor's control over the work terminated, and so notify the Contractor and Contractor's sureties.

c) Upon such termination, the Owner may take possession, and use all or any part, of the Contractor's materials, tools, equipment, and appliances upon the premises to complete the work; the Owner assuming responsibility for the final relinquishment of such equipment at the conclusion of the work, or sooner, at its option, in as good condition as when it was taken over, reasonable wear and tear excepted; and the Owner agrees to pay for such materials and the use of said equipment at a reasonable compensation.

d) Upon such termination or the Owner's declaration that the Contractor is in default, the Owner may direct the surety to complete, or cause to be completed, the Contract work, or the Owner may direct that all or any part of the work be completed by day labor, or by employment of other contractors on informal contracts, or both. If the Owner directs the surety to complete or cause to be completed, the Contract work, Contractor's performance bond surety agrees to immediately undertake to complete or cause to be completed, all Contract work.

e) If the Contractor's control over the work is terminated as provided above, the Contractor is not entitled to receive any portion of the amount to be paid under the Contract until it is fully completed. After completion, if the unpaid balance exceeds the sum of the amount expended by the Owner in finishing the work, plus all damages sustained, or to be sustained, by the Owner, plus any unpaid claims on account of labor, materials, tools, equipment, or supplies contracted for by the Contractor for the work herein contemplated, the excess not otherwise required by these Contract Documents to be retained shall be paid the Contractor. If the sum so expended exceeds the unpaid balance, the Contractor and Contractor's surety are liable to the Owner for the amount of such excess. If the surety completes the Contract work as provided above, such surety shall be subrogated to money due under the Contract, and to money which shall become due in the course of completion by the surety. However, Contractor and Surety agree that any subrogation rights of surety are subordinate to and inferior to rights of Owner.

f) The Owner reserves the right to terminate the work for its convenience upon written notice to Contractor. In such event, the Contractor shall be paid its reasonable costs for that portion of the work performed to the date of termination, reasonable costs associated with demobilization, plus fifteen percent (15%) of all such costs for overhead and profit.

43) FINAL INSPECTION, FIELD ACCEPTANCE, AND ACCEPTANCE: The Contractor shall notify the Owner's Representative in writing of the completion of the work, and the architect, engineer or Construction Manager/designated Owner Inspector of record shall inspect the work. The Contractor, or Contractor's representatives, may be present at the inspection. The Contractor will be notified in writing of any defects or deficiencies to be remedied prior to final acceptance. Within ten (10) calendar days of such notification, the Contractor shall proceed to correct such defects or deficiencies. When notified that this work has been completed, the architect or engineer will again inspect the work to satisfy itself that all work has been done in accordance with the Contract Documents, and will issue a final acceptance letter, and will recommend to the Owner that they formally accept the work. Final acceptance by the Owner shall cause the commencement of guarantee periods. Within ten (10) days of final acceptance of all work required by these Contract Documents, a Notice of Completion will be filed by the Owner.

44) CLEANING UP:

a) Throughout the construction period, the Contractor shall keep the site of the work in a presentable and safe condition, dispose of any surplus materials, clean out all drainage ditches and structures, and repair any fences or other property damaged during the progress of the work, to the satisfaction of the Owner's Representative and Owner.

b) Upon completion of the work, and prior to requesting final inspection, the Contractor shall thoroughly clean the site of the work of all rubbish, excess material, and equipment, and all portions of the work shall be left in a neat and orderly condition. The final inspection will not be made until this has been accomplished.

c) If Contractor fails or refuses to fulfill these obligations to the Owner's satisfaction, Owner may, at its option, undertake these obligations, and withhold the cost of performing these obligations, plus an additional fee of twenty-five percent (25%) for administrative costs, from payments to Contractor.

45) COMPLIANCE WITH LAWS AND REGULATIONS: The Contractor shall keep itself fully informed of, and shall observe and comply with, and shall cause any and all persons, firms, or corporations employed by Contractor or under him, to observe and comply with all applicable laws, codes, regulations, orders, and decrees which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work. Particular attention is called to the following the Labor Code and Prevailing Wage requirements set forth in the Contract between Owner and Contractor.

46) REPORTING REQUIREMENTS AND SANCTIONS:

a) Failure to deliver to Owner specific information, records, reports, certifications, or any other documents required for compliance with these Contract Documents shall be considered noncompliance.

b) If found by the Owner to be in noncompliance, Contractor shall correct specific deficiencies and make immediate corrections. Monetary deductions may be made for failure to effect corrections or delinquencies.

c) If the Contractor fails to correct a deficiency within fifteen (15) days after notification, a deduction may be made. In such cases, the deduction shall be ten percent (10%) of the estimated value of the work completed during the month, except that the deduction will not exceed ten thousand dollars (\$10,000.00), nor be less than one thousand dollars (\$1,000.00) and shall be deducted from the next progress payment.

d) Deductions for noncompliance will be in addition to all other deductions provided for in this Contract and will apply irrespective of the number of instances of noncompliance. Deductions may be made separately and additively for each estimate period in which a new deficiency appears. When all deficiencies for a period have been corrected, the deduction covering that period will be released on the next progress payment. Otherwise, the deduction will be retained.

47) RESPONSIBILITY OF THE CONTRACTOR:

a) The Contractor shall do all of the work and furnish all labor, materials, tools, equipment, and appliances, except as otherwise herein expressly stipulated, necessary, or proper for performing and completing the work herein required, including any Change Order work, disputed work or extra work directed by the Owner or Owner's Representative, within the time specified.

b) If the Contractor discovers any discrepancies during the course of the work between the Contract Documents and conditions in the field, or any errors or omissions in the Contract Documents and conditions in the field,

or any errors or omissions in the Contract drawings, specifications, or layout given by stakes, points, or instructions, it shall be the Contractor's duty to inform the Owner's Representative immediately, and the Owner's Representative shall promptly verify the same. Any work done after such discovery until authorized in writing by the Owner's Representative will be done at the Contractor's risk.

c) In no case shall the use of subcontractors in any way alter the position of the Contractor or Contractor's sureties with relation to this Contract. When a subcontractor is used, the responsibility for every portion of the work shall still remain with the Contractor.

d) The Contractor shall pay, when due, all valid claims of subcontractors, suppliers, and workmen with respect to the project.

e) The mention herein of any specific duty or responsibility imposed upon the Contractor shall not be construed as a limitation or restriction of any other responsibility or duty imposed upon the Contractor by the Contract, said reference being made herein merely for the purpose of explaining the specific duty or responsibility.

48) INDEMNIFICATION: Contractor shall indemnify, defend with counsel acceptable to Owner and hold harmless to the full extent permitted by law the Indemnified Parties as provided in paragraph 4 of the Construction Contract between Owner and Contractor.

49) PROTECTION AGAINST PATENT CLAIMS: The Contractor shall assume all costs arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the work.

50) PROTECTION OF WORKERS:

a) The Contractor shall conform to the rules and regulations pertaining to safety established by the California Division of Industrial Safety and any other governing body having jurisdiction over the work. The Contractor shall immediately replace or repair any unsafe ladder, scaffolding, shoring, or bracing, or correct any other dangerous or hazardous situation that may exist or that the Owner's Representative may indicate. Failure of the Owner's Representative to suspend the work or notify the Contractor of the inadequacy of the safety precautions or noncompliance with the law shall not relieve the Contractor of this responsibility.

b) In the event that this Contract requires the excavation of any trench or trenches in excess of five feet in depth, Contractor shall prepare a detailed design plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trenches. Said detailed design plan and subsequent excavating operations shall fully comply with all local, state and federal regulations including, but not limited to, the Construction Safety Orders, Section 1539, Permits and Section 1540 et seq., Excavation.

c) Safety Program. When requested by Owner, Contractor shall submit a proposed safety program which outlines the precautions to be taken by contractor to ensure the safety of Owner employees and the public

d) Material Safety Data Sheets.

i) Contractor shall provide the Owner with copies of current Material Safety Data Sheets (MSDS) on all products subject to the requirements of California Code Section 5144. The MSDS submittals will be required prior to the issue of a Notice to Proceed.

ii) Contractor shall conduct operations in such a way as to comply with manufacturers' recommendations contained in Material Safety Data Sheets.

e) PROTECTION OF MATERIALS AND EQUIPMENT: The Contractor shall protect the work, materials, and equipment from damage due to the nature of the work, the action of the elements, trespassers, or other causes. The Contractor shall properly store materials and equipment, and erect such temporary structures as are required to protect them from damage, including, but not limited to, construction fencing.

f) SANITARY PROVISIONS: The necessary sanitary conveniences for the use of the workers on the project, properly obscured from public observance, shall be provided and maintained by the Contractor.

g) EXISTING UTILITIES: It is recognized by the Contractor that the location of existing utility facilities as shown on Contract drawings and specifications are approximate; their exact location is unknown.

h) Recognition is given to the fact that there may be additional utilities existing on the property unknown to either party to the Contract. Location of utilities as shown on drawings and specifications represent the best

information obtainable from utility maps and other information furnished by the various agencies involved. The Owner warrants neither the accuracy nor the extent of actual installations as shown on the drawings and specifications.

i) The Contractor agrees and is required to coordinate and fully cooperate with the Owner and utility owners for the location, relocation, and protection of services and utilities. The Contractor's attention is directed to the existence of services and utilities, underground and overhead. The Contractor shall make arrangements with utility owners and Underground Service Alert (USA) for the location of all service or utility lines in advance of the actual construction and for the relocation of such facilities, if necessary, by the utility owner or the Contractor.

j) In accordance with Section 4215 of the Government Code of the State of California, the Owner shall make provisions to compensate the Contractor for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such main and trunk line utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work. Compensation will be subject to all of the requirements of "Claims" of the General Conditions. In the event the Contractor discovers utilities not identified in the Contract Documents, the Contractor shall immediately notify the Owner's Representative and the utility owner by the most expeditious means available and later confirm in writing.

k) It is understood and agreed that the failure of the Contractor or its subcontractor to comply fully with these provisions constitutes failure of the Contractor to exercise reasonable care and precludes Contractor's recovery from Owner for any related costs or damages.

51) COOPERATION WITH OTHERS:

a) The Owner or adjacent property owner may perform other work adjacent to or within the project area, concurrent with the Contractor's operations. The Contractor shall cooperate fully with Owner in all operations which coincide with other work being performed, and provide Owner with such scheduling and other information as may be required by Owner to perform such other work. The Contractor shall conduct operations to minimize interference with the work of other forces or contractors performing such work. This work performed by a second contractor may include work which is incomplete or in dispute with the Contractor.

b) Any disputes or conflicts which may arise between the Contractor and any other forces or contractors retained by the Owner, causing delays or hindrance to each other, shall be referred to the Owner's Representative for resolution.

c) If the work of the Contractor is delayed because of any acts or omissions of any other forces or other contractor, the Contractor shall on that account have no claim against the Owner other than for an extension of time.

52) AIR POLLUTION CONTROL: The Contractor shall comply with all air pollution control rules, regulations, ordinances, and statutes which apply to any work performed pursuant to the Contract, including any air pollution control rules, regulations, ordinances, and statutes specified in Section 11017 of the Government Code. Unless otherwise provided in the Contract Documents, material to be disposed of shall not be burned.

53) WATER POLLUTION: The Contractor shall comply with all rules, regulations, ordinances, and statutes which apply to water pollution, including but not limited to, erosion control.

54) SOUND CONTROL REQUIREMENTS: The Contractor shall comply with all sound control and noise level rules, regulations, and ordinances which apply to any work performed pursuant to the Contract. Each internal combustion engine, used for any purpose on the job or related to the job, shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without said muffler.

55) UNFAVORABLE WEATHER AND OTHER CONDITIONS: During unfavorable weather and other conditions, the Contractor shall pursue only such portions of the work as will not be damaged thereby. No portions of the work the satisfactory quality or efficiency of which will be affected by any unfavorable conditions shall be constructed while these conditions remain, unless, by special means or precautions acceptable to the Owner's Representative, the Contractor shall be able to overcome these conditions.

56) WEEKEND, HOLIDAY, AND NIGHT WORK: No work shall be done between the hours of 6:00PM and 8:00AM, or on weekends or legal holidays, except with written permission of the Owner and Owner's Representative. Requests to work between 6:00PM and 8:00AM, or on weekends or legal holidays, must be submitted in writing at least two working days in advance of the intended work. In case of an emergency, the Contractor will be allowed to work at night or on weekends or legal holidays but must notify the Owner's Representative immediately. An emergency shall be considered an unforeseen event that poses a danger to the public or to the uncompleted work. It is understood, however, that two or three shift operations may be established as a regular procedure by the Contractor if Contractor first obtains written permission from the Owner and Owner's Representative. Such permission may be revoked by the Owner or Owner's Representative at any time, without cause, or if the Contractor fails to maintain adequate force and equipment for

reasonable prosecution and to justify inspection of the work or fails to provide sufficient artificial light to permit the work to be carried on properly and safely and to permit proper inspection.

57) **OVERLOADING:** The Contractor shall determine safe loading capacities and shall not overload any structure beyond its safe capacity during construction. In addition to assuming full responsibility for bodily injury resulting from any such overloading, the Contractor shall repair to the Owner's Representative's satisfaction or reimburse the Owner for the costs of repairing damage resulting therefrom.

58) **SUBCONTRACTING AND ASSIGNMENT:** The performance of the Contract may not be assigned except upon written consent of the Owner, and no assignment shall be permitted which would relieve the original Contractor or Contractor's surety of their responsibilities under the Contract.

59) **SUBCONTRACTORS:** The work of Subcontractors shall be subject to all the provisions of the Contract Documents. The Owner and its representatives will deal only with the Contractor, who shall be responsible for the proper performance of the entire work. Except as otherwise provided in the Contract Documents, or when direct communications have been specifically authorized, (a) communications between the Owner and Contractor shall be through the Owner's Representative or his/her designee; (b) Communications between the Contractor and the Owner's consultants and architect or engineer's consultants shall be through the Owner's Representative; and (c) Communications between the Owner's Representative and its subcontractors shall be through the Contractor.

60) **LANDS AND RIGHTS OF WAY:** The Owner shall provide the lands, rights of way, and easements upon which the work under this Contract is to be done, and such other lands as may be designated on the Contract drawings for the use of the Contractor, and the Contractor shall confine Contractor's operations to within these limits.

61) **LIABILITY OF OFFICIALS:** Neither the Owner, the Owner's Representative, nor any officers, employees, agents, or representatives of the Owner, nor any of them, shall be responsible for any liability arising under this Contract, except such obligations as are specifically set forth herein.

62) **CONTRACTOR NOT AN AGENT OF OWNER:** The right of general supervision shall not make the Contractor an agent of the Owner, and the liability of the Contractor for all damages to persons or to public or private property arising from the performance of the work shall not be lessened because of such general supervision.

63) **THIRD-PARTY CLAIMS:** The Contractor shall be responsible for all third-party claims, and for costs or injuries incurred by a third party which result from the operations of the Contractor, or its performance under the Contract.

64) **GUARANTEE:**

a) Should any failure of the work occur within a period of two (2) years after recordation of the notice of completion of the project or portions thereof or within any designated warranty period, which can be attributed to faulty materials, poor workmanship or defective equipment, the Contractor shall promptly make the needed repairs and corrections at Contractor's expense.

b) The Owner is hereby authorized to make such repairs if the Contractor fails to make or undertake with due diligence the aforesaid repairs within ten (10) days after Contractor is given written notice of such failure and without notice to the surety provided, however, that in case of emergency where, in the opinion of the Owner, delay would cause serious loss or damages, or a serious hazard to the public, the repairs may be made or lights, signs, and barricades erected, without prior notice to the Contractor or surety, and the Contractor shall pay the entire costs thereof.

65) **ASSIGNMENT OF ANTITRUST ACTIONS:** Pursuant to Section 4552 of the Government Code of the State of California, the following provisions shall be a part of this Contract: In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body 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 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 public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor without further acknowledgment by the parties.

66) **LEGAL ADDRESS OF THE CONTRACTOR:** Both the address given in the proposal and the Contractor's office in the vicinity of the work are hereby designated as places to either of which drawings, letters, notices, or other articles or communications to the Contractor may be mailed, transmitted electronically or delivered. The mailing, electronic transmission, or delivery to either of these places shall be deemed sufficient notice thereof upon the Contractor. Nothing herein contained shall be deemed to preclude the service of any drawing, letter, notice, article, or communication to, or upon, the Contractor or Contractor's representative personally. The address named in the proposal may be changed at any time by written notice from the Contractor to the Owner's Representative.

67) SURVEYS:

a) When set forth in the Contract Documents that the Contractor is to provide all staking and engineering services, the Contractor shall be responsible to do all necessary staking and engineering services to layout and control the work to the elevations, lines, and dimensions shown on the plans. Any deviations must receive prior written acceptance of the Owner's Representative. All staking and engineering services affecting the line or elevation of underground drainage, sewers, or utilities, and all other work within public rights of way or easements shall be performed by or under the direction and supervision of a Registered Civil Engineer or Licensed Land Surveyor, licensed by the state of California.

b) The Contractor shall keep the Owner's Representative informed, at least two working days in advance, of the times and places at which Contractor will need lines, elevations, and reference points. Unless authorized by the Owner's Representative, any work done without line and grade will be done at the Contractor's risk. The Contractor shall be responsible for the accuracy of Contractor's own layout work and shall be liable for the preservation of all established lines and grades. Stakes damaged or destroyed by the operations of the Contractor will be replaced at Contractor's expense.

68) MATERIALS OR EQUIPMENT SPECIFIED BY NAME: When any materials or equipment is indicated or specified by patent or proprietary name or by the name and catalogue number of the manufacturer, it shall be considered as used for convenience in describing the material or equipment desired. The use of an alternative material or equipment which is of equal quality and of the required characteristics for the purpose intended may be permitted. Request for such substitution shall be made in writing by the Contractor within seven (7) days after bid opening. Failure by the Contractor to request substitution within seven (7) days after bid opening constitutes an agreement by Contractor to furnish only the materials or equipment listed in the Contract Documents. Until and unless such substitutions are accepted by the Owner's Representative, no deviations from the specifications shall be allowed. The burden of proof as to the quality and suitability of the alternative shall be upon the Contractor. The Owner shall be the sole judge as to the quality and suitability of alternative materials or equipment, and its decision shall be final.

69) PROPERTY RIGHTS IN MATERIAL: Nothing in this Contract shall be construed as vesting in the Contractor any right of property in the materials used, after they have been installed, attached, or affixed to the work, but all such materials shall be the property of the Contractor and the Owner jointly as their interest may appear, and cannot be removed from the work without the consent of the Owner.

70) CONTRACTOR'S EQUIPMENT: The Contractor shall provide adequate and suitable equipment and means of construction to meet all the requirements of the work, including completion within the time allotted. Only equipment suitable to produce the quality of work required will be permitted to operate on the project, and specific types of equipment may be requested on component parts of the work. In any case where the use of a particular type or piece of equipment has been banned, or in cases where the Owner's Representative has condemned for use on the work, any piece or pieces of equipment, the Contractor shall promptly remove such equipment from the site of the work. Failure to do so within a reasonable time may be considered a breach of contract.

71) CLAIMS:

a) A Claim is any request by Contractor to adjust, alter, modify, or otherwise change the Contract Sum or the Contract Time, or both. A Claim must be stated with specificity, including identification of the event or occurrence giving rise to the Claim, the date of the event, and the asserted effect on the Contract Sum and the Contract Time, if any. The Claim shall include adequate supporting data. Adequate supporting data for a Claim for an adjustment of the Contract Time shall include scheduling data demonstrating the impact of the event on the critical path and completion of the Project. Adequate supporting data for a Claim for an adjustment in the Contract Sum shall include a detailed cost breakdown of items included within the Claim and documentation supporting each item of cost.

b) Contractor shall submit all Claims to the Owner before proceeding to perform the work, or portions of the work, giving rise to such Claim. Contractor hereby expressly waives any Claims of which Contractor was aware, whether or not the exact amounts of such Claims were ascertainable, and that are not submitted to the Owner prior to Contractor proceeding to perform the work, or portions of the work, giving rise to such Claims.

c) All Claims shall be submitted to the Owner's Representative for decision within fifteen (15) days after the event or occurrence giving rise to the Claim. Contractor hereby expressly waives all Claims not made within the aforesaid time limit.

d) Claims must be submitted to Owner before the date of final payment. Contractor hereby expressly waives all Claims not submitted, in complete and proper form, on or before the date of final payment.

e) Contractor expressly waives any Claims for delay or adjustment to the Contract Time if the Contractor fails to provide written notice to Owner within three (3) days of the event or occurrences giving rise to the delay. Said

written notice shall include the event or occurrence giving rise to the delay, the estimated duration of the delay, and the impact of the event or occurrence upon the critical path and completion of the Project. Contractor will not be entitled to adjustments to the Contract Time for delays attributable to weather, unless such delays are attributable to weather which is abnormal and delays the completion of the Project. Abnormal is to be based upon locally recognized annual weather patterns for the month in which the abnormal weather occurs.

f) As used herein, the following terms shall have the following meanings:

i) "Excusable Delay" means any delay of the completion of the Project beyond the expiration of the Contract Time caused by conditions beyond the control and without the fault or negligence of the Contractor such as strikes, embargoes, fire, unavoidable casualties, unusual delays in transportation, national emergency, and stormy and inclement weather conditions in which the work cannot continue. The financial inability of the Contractor or any subcontractor and default of any subcontractor, without limitation, shall not be deemed conditions beyond the Contractor's control. An Excusable Delay may entitle the Contractor to an adjustment in the Contract Time.

ii) "Compensable Delay" means any delay of the completion of the work beyond the expiration date of the Contract Time caused by the gross negligence or willful acts of the Owner or Owner's Representative, and which delay is unreasonable under the circumstances involved, and not within the contemplation of the parties. A Compensable Delay may entitle the Contractor to an extension of the Contract Time and/or Contract Sum. Except as provided herein, the Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.

iii) "Inexcusable Delay" means any delay of the completion of the Project beyond the expiration of the Contract Time resulting from causes other than those listed above. An Inexcusable Delay shall not entitle the Contractor to an extension of the Contract Time or an adjustment of the Contract Sum.

g) The Contractor may make a Claim for an extension of the Contract Time, for an Excusable Delay or a Compensable Delay, subject to the following:

i) If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last.

ii) If an Inexcusable Delay occurs concurrently with either an Excusable Delay or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, by which the Excusable Delay or the Compensable Delay exceeds the Inexcusable Delay.

iii) If an Inexcusable Delay occurs concurrently with both an Excusable Delay and a Compensable Delay, the maximum extension in the Contract Time shall be the number of days, if any, by which the number of days determined pursuant to Subparagraph (a) exceeds the number of days of the Inexcusable Delay.

iv) For a Compensable Delay, the Contractor shall only be entitled to an adjustment in the Contract Sum in an amount equal to the actual additional labor costs, material costs, and unavoidable equipment costs incurred by the Contractor as a result of the Compensable Delay, plus the actual additional wages or salaries and fringe benefits and payroll taxes of supervisory and administrative personnel necessary and directly employed at the Project site for the supervision of the work during the period of Compensable Delay. Except as provided herein, the Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption. There shall be no Compensable Delay unless the event or occurrence giving rise to the Compensable Delay extends the actual completion of the Project past the Contract Time.

v) The parties agree that the Owner's exercise of its rights to order changes in the work, regardless of the extent and number of changes, or to suspend the work, is within the contemplation of the parties and shall not be the basis for any Claim for Compensable Delay. The rights of the Contractor to adjustments of the Contract Time and the Contract Sum, based on changes ordered in the work or suspension of the work, shall be solely governed by this provision.

72) FALSE CLAIMS:

a) California Penal Code Section 72, provides that any person who presents for payment with intent to defraud any Owner, board or officer, any false or fraudulent claim, bill, account, voucher, or writing, is punishable by fines not exceeding ten thousand dollars (\$10,000.00) and/or imprisonment in the state prison.

b) Government Code sections 12650, et seq., pertains to civil penalties that may be recovered from persons (including corporations, etc.) for presenting a false claim for payment or approval, presents a false record or statement to get a false claim paid or approved, or other acts, to any officer or employee of any political subdivision of the

State of California. Any person or corporation violating the provisions of Government Code sections 12650, et seq., shall be liable for three times the amount of the damages, plus a civil penalty, plus costs. All Claims by Contractor, shall include the following certification, properly completed and executed by Contractor or an officer of Contractor:

I, _____, BEING THE _____ (MUST BE AN OFFICER) OF _____ (CONTRACTOR), DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA, AND DO PERSONALLY CERTIFY AND ATTEST THAT: I HAVE THOROUGHLY REVIEWED THE ATTACHED CLAIM FOR ADDITIONAL COMPENSATION AND/OR EXTENSION OF TIME, AND KNOW ITS CONTENTS, AND SAID CLAIM IS TRUTHFUL AND ACCURATE; THAT THE AMOUNT REQUESTED ACCURATELY REFLECTS THE CONTRACT ADJUSTMENT FOR WHICH THE OWNER IS LIABLE; AND, FURTHER, THAT I AM FAMILIAR WITH CALIFORNIA PENAL CODE SECTION 72 AND CALIFORNIA GOVERNMENT CODE SECTION 12650, ET SEQ, PERTAINING TO FALSE CLAIMS, AND FURTHER KNOW AND UNDERSTAND THAT SUBMISSION OR CERTIFICATION OF A FALSE CLAIM MAY LEAD TO FINES, IMPRISONMENT AND/OR OTHER SEVERE LEGAL CONSEQUENCES.

c) Submission of a Claim, in conformance with all of these requirements of this Contract, and rejection of all or part of said Claim by Owner, is a condition precedent to any action by Contractor against Owner, including but not limited to, the filing of a lawsuit or making demand for arbitration, if arbitration is expressly provided for in this Contract.

73) PUBLIC CONTRACT CODE SECTION 9204: Public Contract Code section 9204 provides as follows:

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency....

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2027, deletes or extends that date.

74) MISCELLANEOUS PROVISIONS:

a) The Contractor is subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the contract being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code, §1090 and Public Contract Code, §10410 and §10411, for State conflict of interest requirements.

b) The Contractor, its contractors and subcontractors hereby certify, under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code §8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

i) Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code Section 8355.

ii) Establish a Drug-Free Awareness Program, as required by Government Code Section 8355 to inform employees, contractors, or subcontractors about all of the following:

(A) The dangers of drug abuse in the workplace,

(B) The Contractor's policy of maintaining a drug-free workplace,

(C) Any available counseling, rehabilitation, and employee assistance programs, and Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.

(D) Provide, as required by Government Code Section 8355, that every employee, contractor, and/or subcontractor who works under the Grant Agreement:

(1) Will receive a copy of the Contractor's drug-free policy statement, and

(2) Will agree to abide by terms of the Contractor's condition of employment, contract or subcontract.

c) The Contractor affirms that it is aware of the provisions of §3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and the Contractor affirms that it will comply with such provisions before commencing the performance of the work under the Grant Agreement and will make its contractors and subcontractors aware of this provision.

d) During the performance of the Contract, the Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), marital status, and denial of medial and family care leave or pregnancy disability leave. The Contractor and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and its subcontractors shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code, § 12990.) and the applicable regulations promulgated there under (Cal. Code Regs., tit. 2, § 11000 et seq.). The applicable regulations of the Fair Employment and Housing

Commission implementing the California Fair Employment and Housing Act are incorporated into this Agreement by reference. The Contractor and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

e) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Contract.

f) This Contract shall bind and inure to the heirs, devisees, assignees, and successors in interest of Contractor, and to the successors in interest of Owner, in the same manner as if such parties had been expressly named herein.

g) If any claim or dispute arises between the parties, the claim or dispute shall first be submitted to mediation utilizing the services of a neutral mediator. If the parties cannot agree upon the selection of a neutral mediator, the matter shall be submitted to Judicial Arbitration and Mediation Services for the selection of a neutral mediator. The parties shall share equally the costs associated with the mediation.

h) This Contract shall be governed by the laws of the State of California.

i) If any one or more of the provisions contained in the Contract should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

j) This Contract and the Contract Documents constitute the full and complete understanding of the parties, and supersedes any previous agreements or understandings, oral or written, with respect to the subject matter hereof. The Contract may only be modified by a written instrument signed by both parties.

k) Headings for Convenience. All headings, captions and titles are for convenience and reference only, and of no meaning in the interpretation or effect of this contract.

l) Contractor hereby agrees to assign to Owner all its first-tier subcontracts now or hereafter entered into by Contractor for performance of any part of the work. The assignment will be effective upon acceptance by Owner in writing, and only as to those subcontracts which Owner designates in writing. Such assignment is part of the consideration to Owner for entering into the Contract with Contractor and may not be withdrawn.

m) This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same agreement. Transmission by telecopy, electronic mail or other transmission method of an executed counterpart of this Agreement will constitute due and sufficient delivery of such counterpart.

Example of Owner Change Order Form

		CHANGE ORDER NO: _____ DATE: _____
NAME OF PROJECT: _____		
CONTRACTOR: _____		
The parties hereby agree and contractor is directed to make the described changes from the plans and specifications or do the following described work not previously included in the plans and specifications:		
_____ _____ _____		
Item No	Change (Describe or attach detail sheets)	\$ (Increase/Decrease)
1		
2		
3		
4		
Notes		
Total		\$0.00
Original Contract Sum:		\$0.00
Prior Adjustments:		\$0.00
Contract Sum prior to this Change Order:		\$0.00
Adjustments in this Change Order:		\$0.00
% Change Order Value:		#DIV/0!
Revised Contract Sum:		\$0.00
Contract duration Increase (Decrease): _____		Days
THIS MODIFICATION IS HEREBY MADE A PART OF THE CONTRACT, ALL OTHER PROVISIONS OF SAID CONTRACT SHALL REMAIN THE SAME.		

Accepted by the Contractor and approved by the Agency:							
Contractor							
					Date		Signature
Reviewed and Recommended for Agency Approval							
					Date		Signature
Agency Approval:							
					Date		Signature
Attachments:							

SPECIAL CONDITIONS

1) LIQUIDATED DAMAGES.

a) Time Limits. All time limits stated in the Contract Documents are of the essence of the Contract.

b) Time of Performance. The Contractor shall construct and complete the Work, including final clean up, final inspection, and final acceptance of the Work, within the Contract Time. It is expressly understood and agreed, by and between Owner and the Contractor, that the Contract Time for the completion of the Work is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the Work.

c) Extension of Contract Time. If the Work is not completed within the Contract Time and any previously authorized extensions thereof, Owner may extend the Contract Time at his discretion and, if so extended, the Contractor shall pay to Owner all or any part, as Owner may deem just and proper, of the actual costs incurred by Owner due to such extension and that are directly related to the Work including the cost of additional engineering, consultant or professional services, tests, inspections, painting inspections, supervision, administration, and other incidental and overhead expenses, and the Change Order authorizing such extension of the Contract Time will effect an appropriate reduction in the Contract Price.

d) Delays and Liquidated Damages. If the Work is not completed within the Contract Time, or within any period of authorized extension thereof, it shall be understood and agreed that Owner will suffer damage solely by reason of delay. Since it is impractical and infeasible to determine the amount of actual damage, it is agreed that the Contractor shall pay to Owner, as fixed and liquidated damages and not as a penalty, the amount stated in the Contract, unless otherwise provided or agreed by the parties. Payment shall be made for each calendar day of delay until the Work is completed and accepted; and the Contractor and his surety shall be liable for the amount thereof, except the Contractor will not be charged liquidated damages because of delays in the completion of the Work due to causes beyond their control and without the fault or negligence of the Contractor including, but not restricted to, acts of God or of the Public enemy, acts of the Government, acts of Owner including any preference, priority, or allocation order duly issued by Owner, acts of another contractor in the performance of a contract with Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather. The Contractor shall, within five (5) work days from the beginning of any such delay, notify Owner in writing of the cause of the delay, whereupon Owner will ascertain the facts and the extent of the delay and extend the time for completing the Work when in Owner's judgment the findings of fact justify such an extension, and Owner's findings of fact thereby shall be final and conclusive on the parties hereto. It is understood and agreed that such liquidated damage provision does not limit Owner with respect to any other damage capable of ascertainment. The Contractor hereby acknowledges and agrees that the Engineer and other

e) If adverse weather conditions are the basis for a Claim for additional time, such claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated and that weather conditions had an adverse effect on the critical path schedule. Claims due to adverse weather, when approved, shall be excusable but not compensable.

f) The Contractor shall pay to the Owner a sum of **\$200** per calendar day for each and every calendar day of delay in finishing the work in excess of the number of calendar days prescribed in the Time of Completion. Completion of the project includes correction of any punch list items identified by the Owner's Representative.

2) SAFETY REQUIREMENTS. All General or Prime Contractors will be responsible for their Employees, and subcontractors. It will be up to them to enforce all safety regulations set forth by the Owner and Cal-OSHA. This will include all safety ware and equipment necessary to provide a safe work environment for all workers and the public in and around the job site.

a) The use of safety wear and equipment, such as eye protection, ear protection, and other required safety equipment will be strictly enforced.

b) Work areas will be marked off and safe paths provided for Owner employees and the general public.

c) Noise and dust will need to be contained and kept to a minimum when working in occupied areas and may require after hours work.

d) When work above the floor or ground is required, proper use of ladders and safety harness or railing will be enforced.

e) All welding, cutting or brazing will require a fire-watch with a fire extinguisher.

f) All Contractors are responsible for their equipment and must ensure that it is safe and in good working order. All electrical equipment to be used on site will be checked by the Project Manager.

- g) All Contractors are required to clean up their work area daily. Materials not used will be stored neatly or removed from the site.
- h) Material Safety Data Sheets for any materials used on the project are required per OSHA standards. No storage or disposal of hazardous materials on site is allowed.
- i) For any work site/facility that is equipped with a security system, or that has doors that must remain locked, the entering of this site/facility or shutdown of the security system will need to be authorized by the Project Manager and/or the Building Maintenance Superintendent.
- j) The Project Manager will explain all policies and procedures regarding emergency alarms and exits and will also give a tour of the fire exits.
- k) Work attire will be neat and clean and will meet OSHA requirements.
- l) A visitor identification badge will be worn at all times if within Owner's facilities, as provided by the General Services Department.
- m) The Owner has all non-smoking facilities. Smoking is permitted only in designated areas outside of work site.

3) GRANT REQUIREMENTS.

- a) Contractor shall comply with all applicable grant requirements set forth below:
- b) Contractor shall comply with the applicable provisions of the Sustainable Groundwater Planning Grant Agreement (#4600012697) between the State of California (Department of Water Resources) and the Agency. The grant is funded by the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) and the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018 (Proposition 68).
- c) The Contractor agrees to be bound by all applicable provisions of the Labor Code regarding prevailing wages and shall monitor all contracts subject to reimbursement from this Contract to assure that the prevailing wage provisions of the Labor Code are being met.
- d) The Contractor shall maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices.
- e) Pursuant to Government Code §8546.7, the Contractor shall be subject to the examination and audit by the State for a period of three years after final payment under the Grant Agreement with respect to all matters connected with the Grant Agreement, including but not limited to, the cost of administering the Grant Agreement. All records of Contractor shall be preserved for this purpose for at least three (3) years after project completion or final billing, whichever comes later.
- f) The Contractor is subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the contract being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code, §1090 and Public Contract Code, §10410 and §10411, for State conflict of interest requirements.
- g) The Contractor, its contractors and subcontractors hereby certify, under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code §8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:
 - (i) Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code Section 8355.
 - (ii) Establish a Drug-Free Awareness Program, as required by Government Code Section 8355 to inform employees, contractors, or subcontractors about all of the following:
 - (A) The dangers of drug abuse in the workplace,
 - (B) The Contractor's policy of maintaining a drug-free workplace,

(C) Any available counseling, rehabilitation, and employee assistance programs, and Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.

(D) Provide, as required by Government Code Section 8355, that every employee, contractor, and/or subcontractor who works under the Grant Agreement:

(1) Will receive a copy of the Contractor's drug-free policy statement, and

(2) Will agree to abide by terms of the Contractor's condition of employment, contract or subcontract.

h) The Contractor affirms that it is aware of the provisions of §3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and the Contractor affirms that it will comply with such provisions before commencing the performance of the work under the Grant Agreement and will make its contractors and subcontractors aware of this provision.

i) The Contractor agrees to expeditiously provide throughout the term of the Grant Agreement, such reports, data, information, and certifications relating to the Contractor's scope of work as may be reasonably required by State.

j) The Contractor shall name the State, its officers, agents and employees as additional insureds by separate endorsement on their liability insurance for activities undertaken pursuant to this Agreement.

k) During the performance of the Grant Agreement, the Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), marital status, and denial of medial and family care leave or pregnancy disability leave. The Contractor and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Contractor and its subcontractors shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code, § 12990.) and the applicable regulations promulgated there under (Cal. Code Regs., tit. 2, § 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing the California Fair Employment and Housing Act are incorporated into this Agreement by reference. The Contractor and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

l) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Grant Agreement.

m) Contractor shall provide to the Owner, not less than 30 calendar days prior to submission of the final invoice, an itemized inventory of equipment purchased with funds provided under this Contract. The inventory shall include all items with a current estimated fair market value of more than \$5,000.00 per item. Within 60 calendar days of receipt of such inventory the Owner shall provide the Contractor with a list of the items on the inventory that the State will take title to. All other items shall become the property of the Contractor. The Owner shall arrange for delivery from the Contractor of items that it takes title to. Cost of transportation, if any, shall be borne by the Owner.

This document will be issued to the apparent Lowest Responsible Bidder

Bidder to complete and submit to Owner within 10 Days after "Notice of Intent to Award"

**SANTA MARGARITA GROUNDWATER AGENCY
GROUNDWATER MONITORING WELLS
CONSTRUCTION CONTRACT**

THIS CONTRACT, made and entered into this _____ day of _____, 2023, between the Santa Margarita Groundwater Agency hereinafter referred to as "Owner" and _____, hereinafter referred to as "Contractor";

RECITALS

A. Owner did cause to be noticed for the time and in the manner required by law a Notice inviting sealed bids for the performance of said work; and,

B. Contractor, in response to such Notice, submitted to the Owner within the time specified in said Notice, and in the manner provided for therein, a sealed bid for the performance of the work specified in said plans and specifications, which said bid and proposal, and the other bids and proposals submitted in response to said Notice, the Governing Board of Owner publicly opened in the manner provided by law; and,

C. Contractor was the lowest responsible bidder for the performance of said work, and said Board of Directors of Owner, did determine and declare Contractor to be the lowest responsible bidder for the work and award to it a contract therefor.

NOW, THEREFORE, in consideration of the above, it is mutually agreed between the parties hereto as follows:

1. SCOPE OF WORK

Contractor will furnish all labor, tools, equipment and materials for the Santa Margarita Groundwater Agency Groundwater Monitoring Wells Project which as described in the Contract Documents. Contractor's bid is the basis for this contract. The bid included all labor, tools and materials needed for a project to be completed in conformance with the plans, specifications, and addendum (if any) that were issued prior to the date of the bid. Contractor's bid, the plans, specifications and addenda (if any) are all hereby incorporated by this reference and made a part of this contract.

The Contract Documents include:

Volume I, including the Notice Inviting Bids; Instructions to Bidders; General Conditions, Special Conditions, Construction Contract, payment and performance bonds;

Volume II, including technical plans and specifications and scope of work, and

Volume III, the Bid Proposal Documents, including the Bid Proposal, Bid Schedule; Acknowledgement of Addenda Form; Bidder's Bond; Names and Titles Form; Noncollusion Affidavit; Bidder Certifications; and Designation of Subcontractors.

The Contract Documents are incorporated herein by this reference.

2. TERMS AND CONDITIONS

The terms and conditions set forth in the General and Special Conditions for this Project at Section 2 ("General Conditions") are hereby incorporated by reference as set forth in full. Said terms and conditions are a part of this Contract, and Contractor and Owner agree to comply with and fulfill all obligations, promises, covenants and conditions imposed upon each of them as set forth therein. All of said work done under this Contract shall be performed to the satisfaction of the Board of Directors of Owner, or its representative, who shall have the right to reject any and all materials and supplies furnished by Contractor which do not strictly comply with said plans and specifications, together with the right to require Contractor to replace any and all work furnished by Contractor which shall not either in workmanship or material be in strict accordance with said plans and specifications.

Upon condition the Contractor faithfully performs its obligations herein, Owner agrees to make payment to Contractor (subject to the terms and conditions of the Contract Documents) the sum of _____ (\$ _____) for groundwater monitoring wells #2-8. [ADD ALTERNATE 1 IF AWARDED].

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

3. INSURANCE:

Within ten (10) days of Owner's dispatch of Notice of Award, the Contractor shall furnish a Certificate of Insurance substantiating the fact that Contractor has taken out the insurance hereinafter set forth for the period covered by the Contract with an insurance carrier acceptable to the Owner and under terms satisfactory to the Owner. Insurance industry's standard Accord Certificate of Insurance or binder forms shall bear an endorsement precluding the cancellation or reduction of coverage of any policy covered by such Certificate or binder before the expiration of thirty (30) days after the Owner shall have received notification of such cancellation, suspension, reduction, or voided coverage. Contractor shall immediately furnish copies of its insurance policies required under this Contract to the Owner upon request. In the event Contractor does not have a Certificate of Insurance or binder evidencing the proper insurance coverages, the Contractor shall not be allowed on the work site.

All insurance policies shall by separate endorsement include the Owner, the State of California County of Santa Cruz, Land Trust of Santa Cruz County, and San Lorenzo Valley Water District, and the Scotts Valley Unified School District, their respective Board of Directors, officers, employees, agents, inspectors, construction managers, project managers, consultants, subconsultants, their employees, the Owner's Representative, and each of them, as additional insureds to protect, as well as to provide the defense of, from all suits, actions, damages, liability, or claims of every type and description to which they may be subjected or put by reason of, or resulting from, the Contractor's performance of the Contract. Contractor's insurance shall apply as primary insurance, and any other insurance carried by the additional insureds identified above shall apply as excess and will not contribute with this insurance.

Each insurance policy shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) It acts as primary insurance, and that no insurance held or owned by the Owner shall be called upon to cover, either in full or in part, any loss covered under the policy acquired by Contractor; and (3) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments "are not included as part of the insurance policies limits of liability." If any of the policies indicate that defense costs are included in the general aggregate limit, then the required general aggregate limits shall be a minimum of \$2,000,000 or more at the Owner's discretion.

If the Contractor fails to maintain such insurance, the Owner may take out insurance to cover damages of the below-mentioned classes for which the Owner might be held liable on account of the Contractor failing to pay such damages and deduct and retain the amount of the premium for such insurance from any sums due the Contractor under the Contract. Failure of the Owner to obtain such insurance shall in no way relieve the Contractor from any of its responsibilities under the Contract.

If any insurance policy of Contractor required by these Contract Documents includes language conditioning the insurer's legal obligation to defend, indemnify or hold harmless the Indemnified Parties on the performance of any act(s) by the named insured, then said insurance policy, by endorsement, shall also name the Indemnified Parties as named insureds. Notwithstanding the forgoing, both the Contractor and its insurers agree that by naming the Indemnified Parties as named insureds, the Owner may at its sole discretion, but is not obligated to, perform any act required by the named insured under said policies.

Contractor shall do all things required to be performed by it pursuant to its insurance policies including but not limited to paying within five (5) workdays, all deductibles and self-insured retentions (SIR) required to be paid under any insurance policy that may provide defense or indemnity coverage to Owner or any additional insured.

If Contractor utilizes one or more subcontractors in the performance of this Contract, Contractor shall obtain and maintain Independent Contractor's Insurance as to each subcontractor or otherwise provide evidence of insurance coverage from each subcontractor equivalent to that required of Contractor in this Contract.

The minimum insurance coverages to be obtained by the Contractor as hereinabove referred to are as follows:

A. Commercial/Comprehensive General Liability Insurance (Insurance Services Organization, Inc. form GL-00-02, Ed. 01-73); Bodily Injury and Property Damage Liability Insurance for Premises and Operations; Personal Injury for Premises and Operations; Independent Contractors; Incidental Contracts; Contractual Liability; Broad Form Comprehensive General Liability Endorsement (Insurance Services Organization, Inc. form GL-04-04, Ed. 5-81); and Products and Completed Operations which shall be in the amount of not less than a combined single limit of \$1,000,000 per

occurrence for one or more persons injured and property damaged on an occurrence form insurance policy. The aggregate limit of liability for products and completed operations may be \$1,000,000.

B. Business Automobile Liability Policy Insurance: Protection against loss as a result of liability to others caused by an accident and resulting in bodily injury and/or property damage, arising out of the ownership or use of any automobile. The limits of liability shall not be less than \$500,000 combined single limit each accident for bodily injury and property damage combined.

C. Workers' Compensation and Employers' Liability Insurance: The Contractor shall be a qualified self-insurer or shall carry full Workers' Compensation and Employers' Liability insurance coverage, either through the State Compensation Insurance Fund or a standard approved policy obtained from a licensed insurance carrier for all persons employed, either directly or through subcontractors, in carrying out the work under this Contract in accordance with the "Workers' Compensation and Insurance Act," Division IV thereof. Employers' limits of liability shall be the prevailing statutory limits of liability.

Any exceptions to the provisions of this section must be delineated in the Contract Documents. In addition, it is understood and agreed that an excess insurance policy or an umbrella policy (following form) may be utilized to meet the above-required limits of liability for Commercial/Comprehensive General Liability, Business Automobile Liability policy, and the Workers' Compensation Employers' Liability.

4. INDEMNIFICATION: Contractor shall indemnify, defend with counsel acceptable to Owner and hold harmless to the full extent permitted by law, Owner, the State of California, the County of Santa Cruz, the Land Trust of Santa Cruz County, the San Lorenzo Valley Water District, and the Scotts Valley Unified School District; their respective directors, officers, employees, agents, inspectors, construction managers, project managers, consultants, subconsultants, their employees, and the Owner's Representative, and each of them, (collectively "the Indemnified Parties"), from and against any and all liability, loss, damage, claims, liens, stop notices, expenses and costs (including, without limitation, attorney fees and costs and fees of litigation), which arise out of or are connected in any way with the work performed, materials furnished, or services provided under this Contract, or from any violation of any federal, state, or local law or ordinance, by Contractor or Contractor's officers, agents, employees, volunteers or subcontractors. Contractor shall not be obligated to indemnify or defend the Indemnified Parties for claims finally determined by a court of law or arbitrator to arise from the active negligence or willful misconduct of the Owner. To the extent California Civil Code sections 2782, et seq., limits the defense or indemnity obligations of Contractor to Owner, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by Contractor under the law. To the fullest extent allowed by law, such indemnification by the Contractor shall include, but not be limited to, the following:

- a) Liability or claims resulting directly or indirectly from the negligence or carelessness of the Contractor, its subcontractors, employees, or agents in the performance of the Work, or in guarding or maintaining the same, or from any improper materials, implements, or appliances used in its construction, or by or on account of any act or omission of the Contractor, its employees, or agents.
- b) Liability or claims arising directly or indirectly from bodily injury, occupational sickness or disease, or death of the Contractor's, or Supplier's own employees, or agents engaged in the Work resulting in actions brought against the Indemnified Parties;
- c) Liability or claims arising directly or indirectly from or based on the violation of any Laws or Regulations, whether by the Contractor, its subcontractors, employees, or agents.
- d) Liability or claims arising directly or indirectly from the use or manufacture by the Contractor, its subcontractors, employees, or agents in the performance of this Contract of any copyrighted or non-copyrighted composition, secret process, patented or unpatented invention, article, or appliance, unless otherwise specified stipulated in this Contract.
- e) Liability or claims arising directly or indirectly from the breach of any warranties, whether express or implied, made to the Owner or any other parties by the Contractor, its subcontractors, employees, or agents;
- f) Liability or claims arising directly or indirectly from the negligence or willful misconduct of the Contractor, its subcontractors, employees, or agents.
- g) Liability or claims arising directly or indirectly from any breach of the obligations assumed in this Contract by the Contractor.
- h) Liability or claims arising directly or indirectly from, relating to, or resulting from a hazardous condition created by the Contractor, Subcontractors, Suppliers, or any of their employees or agents, and;

i) Liability or claims arising directly, or indirectly, or consequentially out of any action, legal or equitable, brought against the Indemnified Parties, their consultants, sub-consultants, and the officers, directors, employees, agents and volunteers of each or any of them, to the extent caused by the Contractor's use of any premises acquired by permits, rights of way, or easements, the Site, or any land or area contiguous hereto or its performance of the Work thereon.

j) Liability arising directly or indirectly from exposure to hazards in violation of the California Labor Code that may be asserted by any person or entity, including, but not limited to, the Contractor, arising out of or in connection with the negligent activities of the Contractor, its agents, employees or privities pursuant to this Contract, whether or not there is concurrent negligence on the part of the Indemnified Parties.

The Contractor shall reimburse the Indemnified Parties for all costs and expenses, (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals and court costs of appeal) incurred by said Indemnified Parties in enforcing the provisions of this Paragraph.

The indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of insurance carried by Contractor or by the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor or other person or organization under workers' compensation acts, disability benefit acts, or other employee benefit acts.

Pursuant to California Public Contract Code Section 9201, Owner shall timely notify Contractor of receipt of any third-party claim relating to this Contract.

The Contractor's obligations pursuant to this provision will survive the expiration or earlier termination of this Contract.

The Contractor's duty to indemnify and save harmless shall include the duty to defend as set forth in California Civil Code Section 2778; provided, that nothing herein contained shall be construed to require Contractor to indemnify the Indemnified Party against any responsibility or liability in contravention of California Civil Code Section 2782. The duty to defend and indemnify hereunder is not limited by the insurance coverage required under the Contract Documents and is separate and apart from such coverage.

The Contractor shall furnish the Owner with a copy of the Employer's Report of Injury immediately following any incident requiring the listing of said report on the OSHA Log during the prosecution of the work under this Contract. The Contractor shall also furnish the Construction Manager with a copy of the Employer's Report of injury involving any subcontractor on this project.

The Contractor shall advise all insurance companies to familiarize themselves with all of the Conditions and provisions of this Contract, and they shall waive the right of special notification of any change or modification of this Contract or of extension of time, or of decreased or increased work, or of the cancellation of the Contract, or of any other act or acts by the Indemnified Parties, under the terms of this Contract, and failure to so notify the aforesaid insurance companies of changes shall in no way relieve the insurance companies of their obligation under this Contract.

For all work the Contractor or its subcontractors perform during the guarantee or warranty period, worker's compensation, and commercial general liability insurance and insurance in the amounts and format required herein, shall remain in force and be maintained for five (5) years after final completion.

5. LABOR CODE COMPLIANCE AND PREVAILING WAGES

a) **REGISTRATION.** In accordance with California Labor Code Section 1725.5, Contractors and Subcontractors (as defined by California Labor Code Section 1722.1, including Consultant, when applicable) bidding on or engaging in the performance of any Public Works contracts in California shall be registered with the Department of Industrial Relations. Labor Code Section 1725.5(f) states: "This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work." Although the unregistered contractor or subcontractor under Labor Code Section 1725.5(f) is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner, such unregistered contractor shall retain the records specified in Section 1776 for at least three years after completion of the work. (Labor Code Section 1771.4).

b) **WORKING HOURS** (Labor Code Section 1810-1815).

Eight hours labor constitutes a legal day's work in all cases where the same is performed under the authority of any law of this State, or under the direction, or control, or by the authority of any officer of this State acting in his official capacity, or under the direction, or control or by the authority of any municipal corporation, or of any officer thereof. (Labor Code Section 1810).

The time of service of any worker employed upon public work is limited and restricted to eight hours during any one calendar day, and 40 hours during any one calendar week, except as provided for under Labor Code Section 1815. (Labor Code Section 1811).

Every contractor and subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the public work. The record shall be kept open at all reasonable hours to the inspection of the awarding body and to the Division of Labor Standards Enforcement. (Labor Code Section 1812).

The contractor or subcontractor shall, as a penalty to the Owner, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement. (Labor Code Section 1813).

Notwithstanding the provisions of Labor Code Sections 1810 to 1814, inclusive, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1-1/2 times the basic rate of pay. (Labor Code Section 1815).

c) WORKERS' COMPENSATION (Labor Code Section 1860-1861). In accordance with the provisions of Labor Code Section 3700, every contractor will be required to secure the payment of compensation to his or her employees. (Labor Code Section 1860).

By submission of a bid, the Contractor hereby certifies as follows: "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." (Labor Code Section 1861).

d) DEBARRED CONTRACTORS AND SUBCONTRACTORS.

Debarred Contractors or Subcontractors. In accordance with the provisions of the California Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.17 of the California Labor Code. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid or may have been paid to a debarred subcontractor by a contractor on the Project shall be returned to the Agency. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

e) PREVAILING WAGES.

This Project is subject to applicable prevailing wage requirements, including prevailing wage compliance monitoring and enforcement by the Department of Industrial Relations. "Public Works" Includes Preconstruction, Construction, Post-Construction Work. Under Labor Code 1720(a), "public works" includes all of the following: Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. For purposes of this paragraph, "construction" includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.

This Project is subject to the requirements of Labor Code Section 1720 et seq., the terms of which are incorporated herein by this reference.

Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are on file at <http://www.dir.ca.gov/dlse/dlsePublicWorks.html> or in the offices of the Owner and are deemed included in the Bidding Documents. Upon request, Owner will make available copies to any interested party. The successful Bidder shall post the applicable prevailing wage rates at the Site.

Contractor shall pay to persons performing labor in and about Work provided for in the Contract Documents an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the Work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an

amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and Owner to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Contract. Contractor shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each Site.

Contractor shall forfeit, as a penalty to Owner, Two Hundred Dollars (\$200.00) for each worker employed in performing labor in and about the Work provided for in the Contract Documents for each Day, or portion thereof, that such worker is paid less than the said stipulated rates for any work done under the Contract Documents by him or her or by any Subcontractor under him or her, in violation of Articles 1 and 2 of Chapter 1 of Part 7 of Division II of the California Labor Code. The sums and amounts which shall be forfeited pursuant to this paragraph and the terms of the Labor Code shall be withheld and retained from payments due to Contractor under the Contract Documents, but no sum shall be so withheld, retained or forfeited except from the final payment without a full investigation by either the State Department of Industrial Relations or by Owner. The Labor Commissioner pursuant to Labor Code Section 1775 shall determine the final amount of forfeiture.

Contractor shall insert in every subcontract or other arrangement which Contractor may make for performance of work or labor on Work provided for in the Contract, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code.

Contractor stipulates that it shall comply with all applicable wage and hour laws, including without limitation Labor Code Section 1813. Failure to so comply, including without limitation Labor Code Section 1776, shall constitute a default under this Contract.

Contractor and all Subcontractors shall keep accurate payroll records in accordance with Labor Code Section 1776. If directed by the Labor Commissioner, Owner will withhold Contract payments when payroll records are delinquent or inadequate. Contractor shall post all jobsite notices if and when prescribed by regulation.

The payroll records enumerated above must be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor as required by Labor Code Section 1776.

Contractor shall inform Owner of the location of records enumerated above, including the street address, city and county, and shall, within five working Days, provide a notice of a change of location and address.

Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(i) At least monthly or more frequently if specified in the contract with the awarding body. For purposes of this clause, "monthly" means that a submission of records shall be made at least once every 30 days while work is being performed on the project and within 30 days after the final day of work performed on the project.

(ii) In an electronic format, in the manner prescribed by the Labor Commissioner, on the department's internet website.

A contractor or subcontractor who fails to furnish records relating to its employees, shall be subject to a penalty by the Labor Commissioner of one hundred dollars (\$100) per each day in which that party was in violation of subparagraph (A), not to exceed a total penalty of five thousand dollars (\$5,000) per project. Penalties received pursuant to this paragraph shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5 (work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work), the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

Contractor or Subcontractor has 10 Days in which to comply subsequent to receipt of a written notice requesting the records enumerated in Labor Code Section 1776(a). In the event that Contractor or Subcontractor fails to comply with the ten-Day period, he or she shall, as a penalty to Owner on whose behalf the contract is made or awarded, forfeit \$100.00 for each calendar Day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from

progress payments then due. Contractor is not subject to a penalty assessment pursuant to this paragraph due to the failure of a Subcontractor to comply with this paragraph.

Contractor shall notify Owner in writing in the event of any change, addition or substitution of a subcontractor.

Contractor will be fully responsible for reporting to and providing all documentation and other information required by the Department of Industrial Relations, and for paying all resulting penalties, fines, and other amounts due on account of any prevailing wage or other labor, wage or hour violation.

f) APPRENTICES ON PUBLIC WORKS PROJECTS.

Contractor and Contractor's subcontractor(s) shall be responsible for compliance with the provisions of law relating to employment of apprentices, including Labor Code Sections 1777.5, 1777.6, and 1777.7. Pursuant to Labor Code Section 1777.7, violations of Labor Code Section 1777.5 may result in forfeiture not to exceed One Hundred Dollars (\$100.00) for each full calendar day of non-compliance. Information regarding apprenticeship standards, wage schedules, and other requirements may be obtained from the DIR or from the Division of Apprenticeship Standards of the DIR.

The requirements of Labor Code §1777.5 do not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000). Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of the California Department of Industrial Relations, or from the Division of Apprenticeship Standards and its branch offices.

The statement of prevailing wages appearing in the General Prevailing Wage Rates, as established by the California Department of Industrial Relations, is hereby specifically referred to and by this reference is made a part of this contract.

This project is subject to the requirements of Section 1770 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractor and its subcontractors who perform work under this Contract are required to comply with these requirements. Prevailing wage information for this project is available at the Agency's main office or may be obtained via the internet at: www.dir.ca.gov.

7. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Contract, Contractor agrees as follows:

a) During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability, medical condition (cancer related), marital status, pregnancy, age (over 18), sex, sexual orientation, veteran's status or any other non-merit factor unrelated to job duties. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

b) The Contractor shall, in all solicitations or advertisements for employees by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, pregnancy, sex, sexual orientation, age (over 18), veteran status, or any other non-merit factor unrelated to job duties.

c) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Contract.

8. CERTIFICATION REGARDING ECONOMIC SANCTIONS PURSUANT TO CALIFORNIA STATE EXECUTIVE ORDER N-6-22

a) Contractor shall review their investments and contracts to ensure their compliance with economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law (collectively, economic sanctions), and to take actions to support the Ukrainian government and people, including by refraining from new investments in, and financial transactions with, Russian institutions or companies that are headquartered or have their principal place of business in Russia (Russian entities), not transferring technology to Russia or Russian entities, and by directly providing support to the government and people of Ukraine.

b) Owner shall terminate any contract with any individual or entity that is in violation of Executive Order N-6-22 or that is subject to economic sanctions therein, and shall not enter a contract with any such individual or entity while the Order is in effect.

IN WITNESS WHEREOF, Owner and Contractor have caused this Contract to be signed as of the day and year first above written.

Owner: Santa Margarita Groundwater Agency Name Title Address Phone	Contractor Name Title Address Phone
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*This document will be issued to the apparent Lowest Responsible Bidder
Bidder to complete and submit to Owner within 10 Days after "Notice of Intent to Award"*

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS, THAT WHEREAS the Santa Margarita Groundwater Agency, hereinafter designated as the "Obligee," has on _____, 2022 awarded to _____ hereinafter designated as "Principal," a contract for the construction of _____ (Contract No.) _____, and

WHEREAS, said Principal is required to furnish a bond in connection and with said contract, providing that if said Principal, or any of his or its subcontractors, shall fail to pay for any materials, provisions, or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, the Surety on this bond will pay the same to the extent hereinafter set forth:

NOW, THEREFORE, We, the Principal, and _____ as Surety, are held and firmly bound unto the Obligee in the penal sum of _____ lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, or any of his or its subcontractors, shall fail to pay any of the persons named in Section 3181 of the Civil Code of the State of California, or any amounts due under the Unemployment Insurance Code with respect to such work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department of the State of California, from the wages of employees of the Principal and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code of the State of California with respect to such work or labor, as required by the provisions of Section 3225 and following of the Civil Code of the State of California, then said Surety will pay the same in, or to an amount not exceeding the amount, hereinabove set forth, and also will pay, in case suit is brought upon this bond, reasonable attorneys' fees to such claimant and to the Obligee as shall be fixed by the Court.

This bond is issued pursuant to Civil Code § 9550 et seq., inclusive, of the State of California, and shall inure to the benefit of any and all persons, companies, and corporations named in Section 3181 of said Civil Code so as to give a right of action to them or their assigns in any suit brought upon this bond.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the 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 Contract, or to the work or to the specifications. Said Surety hereby waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

IN WITNESS WHEREOF, the above-bounden parties have signed this instrument under their seals this _____ day of _____, 20__, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representatives, pursuant to authority of its governing body.

(SEAL)

Principal

Signature for Principal

Title of Signatory

(SEAL)

Surety

Signature of Surety

Title of Signatory

(The signature of the Attorney-In-Fact for the Surety must be acknowledged by a Notary Public, and this bond must be accompanied by a current Power of Attorney appointing such Attorney-In-Fact. This bond must be submitted in sets of four, each bearing original signatures.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California §
County of _____ §

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

*This document will be issued to the apparent Lowest Responsible Bidder
Bidder to complete and submit to Owner within 10 Days after "Notice of Intent to Award"*

Bond Number:

Premium:

FAITHFUL PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS, that WHEREAS the Santa Margarita Groundwater Agency, hereinafter designated as the "Obligee," has on _____, 20____, awarded to _____ hereinafter designated as the "Principal," a contract for the construction of _____ (Contract No. _____), and

WHEREAS said Principal is required, under the terms of the Contract, to furnish a bond for the faithful performance of said Contract:

NOW, THEREFORE, We, the Principal, and _____ as Surety, are held and firmly bound unto the Obligee in the penal sum of _____ Dollars (\$ _____) lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, if the above bounden Principal, his or its heirs, executors, administrators, successors, or assigns shall in all things stand to and abide by, and well and truly keep and faithfully perform the covenants, conditions, and agreement in the said Contract, and any alterations made as therein provided, on his or their 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 meaning, and shall indemnify and save harmless the Obligee, its officers and agents as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue, and Principal and Surety, in the event suit is brought on this bond, will pay to the Obligee such reasonable attorneys' fees as may be fixed by the Court.

As a condition precedent to the satisfactory completion of the said Contract, the above obligation in said amount shall hold good for a period of one (1) year after the completion and acceptance of the said work, during which time if the above bounden Principal, his or its heirs, executors, administrators, successors, or assigns shall fail to make full, complete, and satisfactory repair and replacements or totally protect the said Obligee from loss or damage made evident during said period of one (1) year from the date of acceptance of the work, and resulting from or caused by defective materials or faulty workmanship in the prosecution of the work done, the above obligation in the said sum shall remain in full force and effect. However, anything in this paragraph to the contrary notwithstanding, the obligation of the Surety hereunder shall continue so long as any obligation of the Principal remains.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the 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 Contract, or to the work or to the specifications. Said Surety hereby waives the provisions of Section 2819 and 2845 of the Civil Code of the State of California.

IN WITNESS WHEREOF, the above bounden parties have signed this instrument under their seals this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed, and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

(SEAL)

Principal

Signature for Principal

Title of Signatory

(SEAL)

Surety

Signature of Surety

Title of Signatory

(The signature of the Attorney-In-Fact for the Surety must be acknowledged by a Notary Public, and this bond must be accompanied by a current Power of Attorney appointing such Attorney-In-Fact. This bond must be submitted in sets of four, each bearing original signatures.)

Dated: _____

Bidder

By: (Signature)

(Printed name of signer)

(Title of signer)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California §
County of _____ §

On _____ before me, _____, Notary Public, personally appeared

_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____