Sealed bids for the above project will be received at Office of Clerk of the Board of Supervisors/County of Monterey/168 W. Alisal St. 1st Floor/Salinas, CA 93901 (Mailing Address: P.O. Box 1728 Salinas, CA 93902-1728) until the submission deadline: 2:00 p.m. on Thursday, October 26, 2017, at which time they will be publicly opened and read in the Board of Supervisors’ Conference Room.

Each bid shall be in accordance with the drawings, plans, specifications, addenda, and subject to all Special Provisions/Conditions, General Conditions, and other contract documents prepared by the Monterey County Water Resources Agency (Agency), and shall be submitted on the bid form prescribed by Agency. The Agency reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding or to re-bid the work. No bidder may withdraw his bid for a period of sixty (60) days after the opening of bids without the written consent of the Agency.

The bidder shall possess a valid Class A, California Contractor’s License at the time of bid opening. Bidders must provide documentation of experience in the past five (5) years with work similar in nature to this project.

Base Bid consists of grading the Salinas River Diversion Facility Access Road and Drainage Channel. The project site is located approximately three miles north from the City of Marina, in Monterey County, California. Determination of lowest bidder will be determined by Base Bid. Work is scheduled to begin in November 2017.

Specifications, drawings, and other contract documents may be examined at the Agency’s office, 1441 Schilling Place, North Building, Salinas, California 93901. Electronic Contract Documents are available to download free at the Agency’s website page: http://www.mcwra.co.monterey.ca.us. Alternatively, contact Manuel Saavedra either via email at saavedram@co.monterey.ca.us, or by phone at (831) 755-4860 to obtain a copy of the Contract Documents. Each party may obtain one set at no charge. Additional copies may be purchased for a nonrefundable fee of $15.00. Checks or money orders made payable to Monterey County Water Resources Agency will be accepted.

All questions during bidding period must be submitted, in writing, as follows: Manuel Saavedra, E-mail: saavedram@co.monterey.ca.us or by fax at (831) 424-7935. Deadline for receipt of written questions is 5 p.m., October 19, 2017. No questions will be accepted after the deadline. Inquiries and their written responses will be returned to all registered bidders via E-mail or fax. Answers to all questions and project addenda will be posted to the project page listed above.

Security in an amount equal to at least ten percent (10%) of the total amount of the bid in the form of cash, cashier’s check, or certified check payable to the Monterey County Water Resources
Agency, or a bidder’s bond in the form attached to the proposal executed by an admitted corporate
surety company, must accompany the bid. For the selected contractor, a payment bond and a
performance bond, each in the amount of 100% of the Contract, are required.

Pursuant to California Public Contract Code Section 22300, the Contractor may substitute
securities for any monies withheld by the Agency to ensure performance under the contract.

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to
the requirements of California Public Contract Code Section 4104, or engaged in the performance
of any contract for public work, as defined in Chapter 1 of Part 7 of Division 2 of the California
Labor Code, unless currently registered and qualified to perform public work pursuant to
California Labor Code 1725.5. It is not a violation of Labor Code Section 1771.1(a) for an
unregistered contractor to submit a bid that is authorized by California Business and Professions
Code Section 7029.1 or by Public Contract Code Section 10164 or Public Contract Code Section
20103.5, provided the contractor is registered to perform public work pursuant to Labor Code
Section 1725.5 at the time the contract is awarded.

Bidders must comply with the provisions of Monterey County Code (MCC) Section 5.08.120,
requiring a good-faith effort to employ qualified individuals who are residents of the Monterey
Bay Area as defined in MCC Section 5.08.120.H.3. “Resident of Monterey Bay Area”.

General prevailing wage rates in the County in which the work is to be done have been determined
by the Director of California Department of Industrial Relations (DIR) and are on file and
available at 1441 Schilling Place, North Building, Salinas, CA 93901 and DIR Internet website:
http://www.dir.ca.gov/DLSR/PWD. It shall be mandatory upon the Contractor to whom the
contract is awarded, and upon any subcontractor under him/her/it, to pay not less than said
specified rates to all workers employed by them in the execution of the contract. Project is subject
to compliance monitoring and enforcement by the DIR.

Date: September 28, 2017

DAVID E. CHARDAVOYNE
GENERAL MANAGER
REQUEST FOR BIDS

For

Salinas River Diversion Facility Access Road and Drainage Channel Maintenance Project

Monterey County Water Resources Agency
1441 Schilling Place, North Building
Salinas, CA 93901
(831) 755-4860

September 2017
MONTEREY COUNTY WATER RESOURCES AGENCY

PAYMENT BOND
(Civil Code Section 9550)

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, the County of Monterey Water Resources Agency has awarded CONTRACTOR, a contract for the following project:

SALINAS RIVER DIVERSION FACILITY ACCESS ROAD
AND DRAINAGE CHANNEL MAINTENANCE PROJECT
MONTEREY COUNTY,
CALIFORNIA

AND WHEREAS, CONTRACTOR is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, material-men, and other persons furnishing labor and materials on the project as provided by law;

NOW, THEREFORE, we_________________________________________as CONTRACTOR, and __________________________________________________________________________
____________________________________________________________________________

as Surety, are held and firmly bound unto the County of Monterey Water Resources Agency (hereinafter called "AGENCY"), and to the persons named in California Civil Code section 3181 in the penal sum of __________________________________________________________________________ for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION IS SUCH THAT:

If the CONTRACTOR or any of CONTRACTOR's heirs, executors, administrators, successors, assigns, or subcontractors, (1) fails to pay in full all of the persons named in Civil Code Section 9100 with respect to any labor or materials furnished by said persons on the project described above, or (2) fails to pay in full all amounts due under California Unemployment Insurance Code with respect to work or labor performed on the project described above, or (3) fails to pay for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the CONTRACTOR and Subcontractors pursuant to Unemployment Insurance Code Section 13020 with respect to such work and labor, then the Surety shall pay for the same.

Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract on the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive
notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

If suit is brought upon this bond by the AGENCY and judgment is recovered, the Surety shall pay all litigation expenses incurred by the AGENCY in such suit, including attorneys' fees, court costs, expert witness fees, and investigation expenses.

This bond inures to the benefit of any of the persons named in Civil Code Section 9100, and such persons or their assigns shall have a right of action in any suit brought upon this bond, subject to any limitations set forth in Civil Code Sections 3247 et seq. (Civil Code, Division 3, Part 4, Title 15, Chapter 7: Payment Bond for Public Works).

IN WITNESS WHEREOF the above-bounden parties have executed this instrument under several 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 authority of its governing body.

(Corporate Seal) CONTRACTOR ________________________________

By ________________________________

Title ________________________________

(Corporate Seal) Surety ________________________________

By ________________________________

Title ________________________________

Attach: 1) A Copy of authorization for signature for Principal, and 2) An original or certified copy of unrevoked appointment, Power of Attorney, Attorney-in-Fact Certificate bylaws or other instrument entitling or authorizing person executing bond on behalf of Surety to do so.
PERFORMANCE BOND
(Public Contract Code Section 20129)

THIS CONSTRUCTION PERFORMANCE BOND ("Bond") is dated ________, 2017 is in the amount of _______________ ("Penal Sum"), which is 100% of the Contract Sum and is entered into by and between the parties listed below to ensure the faithful performance of the Contract identified below. This Bond consists of this page and the Bond Terms and Conditions, Paragraphs 1 through 13 attached to this page. Any singular reference to ____________________ ("Contractor"), ____________________ ("Surety"), MONTEREY COUNTY WATER RESOURCES AGENCY ("Owner" or "Agency"), or other party shall be considered plural where applicable.

CONTRACTOR: SURETY:

Address: Principal Place of Business:

City/State/Zip: City/State/Zip:

CONTRACTOR:

Agreement for the Monterey County Water Resources Agency SALINAS RIVER DIVERSION FACILITY ACCESS ROAD AND DRAINAGE CHANNEL MAINTENANCE PROJECT, MONTEREY COUNTY, CALIFORNIA located at Salinas, California, dated ________, 2017, in the amount of _______________.

CONTRACTOR AS PRINCIPAL SURETY

Company: (Corp. Seal) Company: (Corp. Seal)

Signature: __________________________ Signature: __________________________

Name: __________________________ Name: __________________________

Title: __________________________ Title: __________________________
BOND TERMS AND CONDITIONS

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

2. If Contractor completely and properly performs all of its obligations under the Construction Contract, Surety and Contractor shall have no obligation under this Bond.

3. If there is no Owner Default, Surety’s obligation under this Bond shall arise after:

   3.1. Owner provides Surety with written notice that Owner has declared a Contractor Default under the Construction Contract pursuant to the terms of the Construction Contract; and

   3.2. Owner has agreed to pay the Balance of the Contract Sum:

       3.2.1. To Surety in accordance with the terms of this Bond and the Construction Contract; or

       3.2.2. To a Contractor selected to perform the Construction Contract in accordance with the terms of this Bond and the Construction Contract.

4. When Owner has satisfied the conditions of Paragraph 3 above, Surety shall promptly (within 40 days) and at Surety’s expense elect to take one of the following actions:

   4.1. Arrange for Contractor, with consent of Owner, to perform and complete the Construction Contract (but Owner may withhold consent, in which case the Surety must elect an option described in Paragraphs 4.2, 4.3 or 4.4 below); or

   4.2. Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; provided, that Surety may not select Contractor as its agent or independent contractor or Contractor without Owner’s consent; or

   4.3. Undertake to perform and complete the Construction Contract by obtaining bids from qualified contractors acceptable to Owner for a contract for performance and completion of the Construction Contract and, upon determination by Owner of the lowest responsive and responsible Bidder, arrange for a contract to be prepared for execution by Owner and the contractor or Contractor selected with Owner’s concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract; and, if Surety’s obligations defined in Paragraph 7 below, exceed the Balance of the Contract Sum, then Surety shall pay to Owner the amount of such excess; or

   4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor or Contractor, and with reasonable promptness under the circumstances and, after investigation and consultation with Owner, determine in good faith its monetary obligation to Owner under Paragraph 7 below, for the performance and completion of the Construction Contract and, as soon as practicable after the amount is determined, tender payment therefor to Owner with full explanation of the payment’s calculation. If Owner accepts Surety’s tender under this Paragraph 4.4, Owner may still hold Surety liable for future damages then unknown or unliquidated resulting from the Contractor Default, as agreed by Owner and Surety at the time of tender. If Owner disputes the amount of Surety’s tender under this Paragraph 4.4, Owner may exercise all remedies available to it at law to enforce Surety’s liability under Paragraph 7 below.
5. If Surety does not proceed as provided in Paragraph 4 above then Surety shall be deemed to be in default on this Bond ten days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond. Such Surety default shall be independent from the Contractor Default. To the extent Surety’s independent default causes Owner to suffer damages, including, but not limited to, delay damages, which are different from, or in addition to (but not duplicative of) damages which Owner is entitled to receive under the Construction Contract, Surety shall also be liable for such damages.

6. At all times Owner shall be entitled to enforce any remedy available to Owner at law or under the Construction Contract including, without limitation, and by way of example only, rights to perform work, protect Work, mitigate damages, advance critical Work to mitigate schedule delay, and coordinate Work with other consultants or contractors.

7. If Surety timely elects to act under Paragraphs 4.1, 4.2 or 4.3 above and complies with its obligations under this Bond, Surety’s obligations under this Bond are commensurate with the obligations of Contractor under the Construction Contract. Surety’s obligations shall include, but are not limited to:

7.1. The responsibilities of Contractor under the Construction Contract for completion of the Construction Contract and correction of Defective Work;

7.2. The responsibilities of Contractor under the Construction Contract to pay liquidated damages;

and,

7.3. Additional legal, professional and delay costs resulting from Contractor Default or resulting from the actions or failure to act of the Surety under Paragraph 4 above (but excluding attorney’s fees incurred to enforce this Bond).

8. If Surety timely elects to act under Paragraphs 4.1, 4.3 or 4.4 above and complies with its obligations under this Bond, Surety’s monetary obligation under this Bond is limited by the amount of this Bond identified herein as the Penal Sum.

9. No right of action shall accrue on this Bond to any person or entity other than Owner or its successors or assigns.

10. Surety hereby waives notice of any change, alteration or addition to the Construction Contract or to related subcontracts, agreements, purchase orders and other obligations, including changes of time, and of any Owner action in accordance with Paragraph 6 above. Surety consents to all terms of the Construction Contract, including provisions on changes to the Contract. No extension of time, change, alteration, modification, deletion, or addition to the Contract Documents, or of the Work (including services) required thereunder, or any Owner action in accordance with Paragraph 6 above shall release or exonerate Surety on this Bond or in any way affect the obligations of Surety on this Bond, unless such action is an Owner Default. Except in the event of an Owner Default, and to the extent Surety is damaged thereby, Surety hereby waives the provisions of California Civil Code Section 2809, and any other law which either prohibits, restricts, limits or modifies in any way any obligation of a surety which is larger in amount or in any other respect more burdensome than that of the principal.

11. Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction where a proceeding is pending between Owner and Contractor regarding the Construction Contract, or in the courts of the County of Monterey, or in a court of competent jurisdiction in the location in which the Work is located. Communications from Owner to Surety under Paragraph 3.1
above shall be deemed to include the necessary agreements under Paragraph 3.2 above unless expressly stated otherwise.

12. All notices to Surety or Contractor shall be mailed or delivered (at the address set forth on the signature page of this Bond), and all notices to Owner shall be mailed or delivered as provided in the Agreement for Salinas River Diversion Facility Access Road and Drainage Channel Maintenance Project, Monterey County, California (Agreement). Actual receipt of notice by Surety, Owner or Contractor, however accomplished, shall be sufficient compliance as of the date received at the foregoing addresses.

13. Any provision in this Bond conflicting with any statutory or regulatory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein.

Definitions:

**Balance of the Contract Sum**: The total amount payable by Owner to Contractor pursuant to the terms of the Construction Contract after all proper adjustments have been made under the Construction Contract, for example, deductions for progress payments made, and increases/decreases for approved Modifications to the Construction Contract.

**Construction Contract**: The agreement between Owner and Contractor identified on the signature page of this Bond, including all Contract Documents and changes thereto.

**Contractor Default**: Material failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract, limited to “default” or any other condition allowing a termination for cause as provided in the Construction Contract.

**Owner Default**: Material failure of Owner, which has neither been remedied nor waived, to pay Contractor progress payments due under the Construction Contract or to perform other material terms of the Construction Contract, if such failure is the cause of the asserted Contractor Default and is sufficient to justify Contractor termination of the Construction Contract.
WITHHELD CONTRACT FUNDS CERTIFICATION

PART 1 – GENERAL

1.01 Summary

A. Public Contract Code Section 22300 requires the inclusion in invitations for public agency bids and in public agency Contracts a provision which will, at the expense of the Contractor, permit the substitution of securities of equal value for any construction progress monies withheld to ensure performance under a Contract. Therefore, as the Contractor for the SALINAS RIVER DIVERSION FACILITY ACCESS ROAD AND DRAINAGE CHANNEL MAINTENANCE Project No. 17-002, Contractor hereby certifies the following:

[ ] I do not intend to substitute securities for monies withheld and thereby avail myself of the process and rights provided in Public Contract Code Section 22300.

[ ] I do intend to exercise my option as specified in Public Contract Code Section 22300 and hereby agree to the following:

1. I will establish an escrow Agreement satisfactory to the Agency, with a state or federally chartered bank, which shall contain at a minimum provisions governing inter alia:
   a. The amount of securities to be deposited;
   b. The type of securities to be deposited, (eligible securities for deposit are described in Government Code Section 16430);
   c. The providing of powers of attorney or other documents necessary for the transfer of the securities deposited;
   d. The terms and conditions of conversion to cash to provide funds to meet defaults by the Contractor including, but not limited to termination of the Contractor's control over the Work, stop notices filed pursuant to law, assessment of liquidated damages or other amounts to be kept or retained under the provisions of the Contract;
   e. The decrease in value of securities on deposit; and
   f. The termination of the escrow Agreement upon completion of the Contract and acceptance by the Agency.

2. I will obtain written consent of the Surety to any such escrow Agreement; and

3. I will attach to each progress payment submitted a notarized copy of escrow instructions executed by agents thereof and on bank letterhead as proof that such an account has been established. Such instructions will set forth that securities deposited shall not be withdrawn for any purpose. (With Contractor's complete and unreserved Agreement) without prior written approval by the Agency with respect to the Project herein above referenced.

__________________________________________
Signature of Contractor
THIS ESCROW AGREEMENT ("Escrow Agreement") is made and entered into this _____ day of ____________2017, by and between the MONTEREY COUNTY WATER RESOURCES AGENCY, (hereinafter “Owner”) whose address is, ________________________________________________ (“Contractor”), whose place of business is located at __________________________________________

Owner, as escrow agent OR [ ] (Name of Bank) ______________________________________ a state or federally chartered bank in the State of California, whose place of business is located at __________________________ (“Escrow Agent”).

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

1. Pursuant to California Public Contract Code Section 22300, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to Contract Number __________________ entered into between Owner and Contractor for Salinas River Diversion Facility Access Road and Drainage Channel Maintenance, Project No. 17-002, located in Monterey County, California in the amount of $________________dated_______________, 2017 (the “Contract”). Alternatively, on written request of Contractor, Owner shall make payments of the retention earnings directly to Escrow Agent. When Contractor deposits the securities as a substitute for Contract earnings, Escrow Agent shall notify Owner within ten days of the deposit. The market value of the securities at the time of substitution shall be at least equal to the cash amount then required to be withheld as retention under terms of Contract between Owner and Contractor. Securities shall be held in name of ____________________________, and shall designate Contractor as the beneficial owner.

2. Owner shall make progress payments to Contractor for those funds which otherwise would be withheld from progress payments pursuant to Contract provisions, provided that Escrow Agent holds securities in form and amount specified in Paragraph 1 of this Document.

3. When Owner makes payment(s) of retention earned directly to Escrow Agent, Escrow Agent shall hold said payment(s) for the benefit of Contractor until the time that the escrow created under this Escrow Agreement is terminated. Contractor may direct the investment of the payments into securities. All terms and conditions of this Escrow Agreement and the rights and responsibilities of the parties shall be equally applicable and binding when Owner pays Escrow Agent directly.

4. Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the escrow Account, and all expenses of Owner. Such expenses and payment terms shall be determined by Owner, Contractor, and Escrow Agent.

5. Interest earned on securities or money market accounts held in escrow and all interest earned on that interest shall be for sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to Owner.
6. Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from Owner to Escrow Agent that Owner consents to withdrawal of amount sought to be withdrawn by Contractor.

7. Owner shall have the right to draw upon the securities in event of default by Contractor. Upon seven Days written notice to Escrow Agent from Owner of the default, Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by Owner.

8. Upon receipt of written notification from Owner certifying that the Contract is final and complete, and that Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

9. Escrow Agent shall rely on written notifications from Owner and Contractor pursuant to Paragraphs 5 through 8, inclusive, of this Document and Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of securities and interest as set forth.

10. Names of persons who are authorized to give written notice or to receive written notice on behalf of Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as set forth below. Owner or Contractor may designate a different person authorized to give or receive written notice on their behalf with 48 hours written notice to the other parties listed below.

ON BEHALF OF OWNER: ON BEHALF OF CONTRACTOR:

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<td>City/State/Zip Code</td>
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</tbody>
</table>
IN WITNESS WHEREOF the parties have executed this Escrow Agreement by their proper officers on the date first set forth above.

OWNER:

MONTEREY COUNTY WATER RESOURCES AGENCY

Title

Name

Signature

CONTRACTOR:

Title

Name

Signature

ATTEST:

Name

Signature
At the time the Escrow Account is opened Owner and Contractor shall deliver to Escrow Agent a fully executed counterpart of this Document.
MONTEREY COUNTY WATER RESOURCES AGENCY

GUARANTY

TO: The MONTEREY COUNTY WATER RESOURCES AGENCY ("Owner"), for SALINAS RIVER DIVERSION FACILITY ACCESS ROAD AND DRAINAGE CHANNEL MAINTENANCE PROJECT.

The undersigned guarantees all construction performed on this Project and also guarantees all material and equipment incorporated therein.

Contractor hereby grants to Owner for a period of one (1) year following the date of Final Completion of the Work: completed, or such longer period specified in Contract Documents, its unconditional warranty of the quality and adequacy of all of the Work including, without limitation, all labor, materials and equipment provided by Contractor and, its Subcontractors of all tiers in connection with the Work. Final Completion shall be the date the Monterey County Water Resources Agency accepts all Work as complete.

Neither final payment nor use nor occupancy of the Work performed by the Contractor shall constitute an acceptance of Work not done in accordance with this Guaranty or relieve Contractor of liability in respect to any express warranties or responsibilities for faulty materials or workmanship. Contractor shall remedy any defects in the Work and pay for any damage resulting therefrom, which shall appear within one year, or longer if specified, from the date of Final Acceptance of the Work completed.

If within one (1) year after the date of Final Acceptance of the Work completed, or such longer period of time as may be prescribed by laws or regulations, or by the terms of Contract Documents, any Work is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions, correct such Defective Work. Contractor shall respond within 24 hours after being notified in writing by Owner of any Work not in accordance with the requirements of the Contract or any defects in the Work. Contractor shall commence and prosecute with due diligence all Work necessary to fulfill the terms of this Guaranty, and to complete the Work within a reasonable period of time. Contractor shall remove any Defective Work rejected by Owner and replace it with Work that is not defective, and satisfactorily correct or remove and replace any damage to other Work or the Work of others resulting therefrom. If Contractor fails to promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the Defective Work corrected or the rejected Work removed and replaced. Contractor shall pay for all claims, costs, losses and damages caused by or resulting from such removal and replacement. Where Contractor fails to correct Defective Work, or defects are discovered outside the correction period, Owner shall have all rights and remedies granted by law.

Inspection of the Work shall not relieve Contractor of any of its obligations under the Contract Documents. Even though equipment materials, or Work required to be provided under the Contract Documents have been inspected, accepted, and estimated for payment, Contractor shall, at its own expense, replace or repair any such equipment, material, or Work found to be defective or otherwise not to comply with the requirements of the Contract Documents up to the end of the guaranty period.

All abbreviations and definitions of terms used in this Agreement shall have the meanings set forth in the Contract Documents.
The foregoing Guaranty is in addition to any other warranties of Contractor contained in the Contract Documents, and not in lieu of, any and all other liability imposed on Contractor under the Contract Documents and at law with respect to Contractor's duties, obligations, and performance under the Contract Documents. In the event of any conflict or inconsistency between the terms of this Guaranty and any warranty or obligation of the Contractor under the Contract Documents or at law, such inconsistency or conflict shall be resolved in favor of the higher level of obligation of the Contractor.

Date____________________, 20___

____________________________________
Contractor’s Name

____________________________________
Signature

____________________________________
Print Name

____________________________________
Title

____________________________________
Street Address

____________________________________
City/State/Zip Code
BID

TO THE
MONTEREY COUNTY WATER RESOURCES AGENCY

SALINAS RIVER DIVERSION FACILITY ACCESS ROAD
AND DRAINAGE CHANNEL MAINTENANCE PROJECT
MONTEREY COUNTY, CALIFORNIA
PROJECT NO. 17-002 BID PACKAGE NO. 17-002

Office of Clerk of the Board of Supervisors/County of Monterey/168 W. Alisal St. 1st. Floor/Salinas, CA 93901 (Mailing Address: P.O. Box 1728 Salinas, CA 93902-1728)

NAME OF BIDDER: ___________________________________

BUSINESS ADDRESS: ___________________________________

PLACE OF RESIDENCE: ___________________________________

TELEPHONE NUMBER: ________________________________

DATE: _________________________________________

CONTRACTOR'S LICENSE CLASS A No: __________________

EXPIRATION DATE: ________________________________

This Bid consists of pages 14 through 29 of EXHIBIT A (Instructions to Bidders, Bid Form, Contractor’s Certification of Good Faith Effort to Employ Monterey Bay Area Residents, Interested Principals Form, Contractor’s Experience Qualifications, List of Subcontractors, Noncollusion Declaration, Worker’s Compensation Certificate, and Bid Bond).
INSTRUCTIONS TO BIDDERS:

A. Bid Submittal: Bidders are required to return pages 14 through 29 of EXHIBIT A with required information thereon in a sealed envelope to the Office of Clerk of the Board of Supervisors/County of Monterey/168 W. Alisal St. 1st Floor/Salinas, CA 93901 (Mailing Address: P.O. Box 1728 Salinas, CA 93902-1728), on or before 2 p.m., on Thursday, October 26, 2017, or as amended by bid addenda. At such time, bids for the Salinas River Diversion Facility Access Road and Drainage Channel Maintenance Project, Monterey County, California, will be publicly opened and read aloud. Bids are to be submitted for the entire WORK described and included in the Contract Documents.

B. Inquiries: All inquiries regarding these Contract Documents should be emailed or faxed to: Manuel Saavedra, email: saavedram@co.monterey.ca.us or by fax at (831) 424-7935. Inquiries and their written responses will be returned to all plan holders via email or fax. Should any Bidder find discrepancies in the Contract Documents, or if there should be doubt as to the true meaning of any part thereof, the Bidder shall submit a written inquiry for clarification not later than the 5th day preceding the bid opening date. No bid addenda will be issued after the 4th day preceding the bid opening date. The AGENCY and ENGINEER will not be responsible for any changes to the Contract Documents given to Bidders during the bid period in any manner other than written Addendum.

C. Purpose and Location: The purpose of this project is to grade the Salinas River Diversion Facility Access Road and Drainage Channel Maintenance. The project site is located approximately three miles north from the City of Marina, in Monterey County, California.

D. General Description of Work: The CONTRACTOR shall furnish all materials, equipment, supplies, transportation, labor, and perform all operations, and the WORK, all in accordance with the requirements of the Contract Documents.

E. Contract Documents Available: A complete set of Contract Documents may be obtained from the Monterey County Water Resources Agency, 1441 Schilling Place, North Building, Salinas, California 93901. Each party may obtain one set at no charge. Additional sets may be purchased for $15.00 each. Checks or money orders made payable to the Monterey County Water Resources Agency will be accepted. No refunds will be made. A complete set of Contract Documents may be viewed at the Monterey County Water Resources Agency Office.

F. Contractor Licenses Required: Bids will be accepted only from contractors with a valid California Contractor’s Class A License.

G. Contractor Registration with the California Department of Industrial Relations: Attention is directed to the California Department of Industrial Relations Contractor’s registration for public works projects. Pursuant to Labor Code Section 1771.1(a), a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4101 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of Labor Code Section 1771.1(a) for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Labor Code Section 1725.5 at the time the contract is awarded.
This project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. For Contractor Registration, go to: http://www.dir.ca.gov/Public-Works/PublicWorks.html.

H. Examination by Bidders: At the Bidder’s own expense and prior to submitting a bid, the bidder shall examine the Contract Documents, including the prevailing wages and other cost factors; familiarize himself with Federal, State and local laws, ordinances, permits, regulations and codes affecting the performance of the WORK including the cost of permits and licenses required for the WORK; visit the site and determine the local conditions which in any way affect the performance of the WORK, make such surveys and investigations, including investigations of subsurface or latent physical conditions at the site where WORK is to be performed, determine the character, quality and quantities of the WORK to be performed and the materials and equipment to be provided, and correlate his observations, investigations and determinations with the requirements of the Contract Documents. The submission of a Bid shall be conclusive evidence that the Bidder has complied with all the requirements of this paragraph.

I. Bidder Experience: Bidders must provide documentation of experience in the past five (5) years with work similar in nature to this project. Documentation of experience shall be provided on the Contractor Experience Form.

J. Bid Security: Each bid shall be accompanied by a bid security in the form of a certified check, a bank cashier’s check, or a Surety Bid Bond for an amount of ten percent (10%) of the total bid amount. Checks or Bid Bonds shall be made payable to the Monterey County Water Resources Agency. The bid security shall be held by the OWNER as a guarantee that the bidder, if awarded the contract, will execute the contract Agreement in good faith and furnish the required payment and performance bonds and required proof of insurance within ten (10) days of the issuance of a letter conditionally awarding the Contract. The security shall be given as a guarantee that, if the contract is awarded to the bidder, the bidder will execute the contract, provide any required insurance certificates, and provide any payment and performance bonds required by the contract within ten (10) days after the bidder receives the Notice of Conditional Award letter. After ten (10) days, if the executed agreement, proper bonds and insurance documents are not submitted by the lowest responsive bidder, AGENCY has the right to determine that bid non-responsive and contact the second lowest responsive bidder. Each bidder hereby agrees that, in case of his refusal or failure to provide the required payment and performance bonds, proof of insurance, or to execute the contract, if awarded to him, in the time allotted herein, the bid security and money represented thereby shall remain the property of the OWNER as compensation for the damages the OWNER may suffer by reason of such failure or refusal, not to exceed the amount of the bid security. Any bid not accompanied by a bid security may be rejected. Bid Bonds shall be in the exact form as provided in the Proposal.

K. Prevailing Wage Job: The CONTRACTOR and all subcontractors performing work shall comply with California Labor Code (sections 1720, et seq.) governing public works, including payment of prevailing wages, payroll records and employment of apprentices. Failure to pay such prevailing wages shall subject the employer to the penalties set forth in Labor Code Section 1775. The Director of the California Department of Industrial Relations determines current prevailing wage rates or per diem wages and the general prevailing rates for holiday and overtime work in the locality in which the public work is to be performed for each craft, classification or type of work needed to execute the WORK, and are available on the internet at http://www.dir.ca.gov/dlrs/DPreWageDetermination.htm.
L. **Payment Retention**: Retention of five percent (5%) of each progress payment due the CONTRACTOR will be withheld by the AGENCY pursuant to the AGREEMENT Article 3, Paragraph 3.3.

M. The AGENCY reserves the right to reject any or all bids or to waive any irregularities or information in any bids or in the bidding or to re-bid the WORK.

N. **Procedures**: If the contract is awarded, AGENCY will give the successful bidder a Notice of Award within sixty (60) days of opening the bids. The successful bidder will provide AGENCY required payment and performance bonds and proof of insurance and execute the contract within ten (10) days. The successful bidder will enter into a contract with the AGENCY for the performance of the WORK. AGENCY will give the CONTRACTOR Notice-to-Proceed within ten (10) days after execution of the contract.

O. **Contract Time**: The Contract Time is specified in Article 2 of the AGREEMENT.

END
BID FORM

PROJECT: SALINAS RIVER DIVERSION FACILITY ACCESS ROAD AND DRAINAGE CHANNEL MAINTENANCE
MONTEREY COUNTY, CALIFORNIA
PROJECT NO. 17-002     BID PACKAGE NO. 17-002

TO THE MONTEREY COUNTY WATER RESOURCES AGENCY:

1. The undersigned, as bidder, declares that the only person or parties interested in this proposal as principals are those named herein; that this proposal is made without collusion with any other person, firm, or corporation; that he has carefully examined the location of the proposed work, and the Contract Documents herein referred to; that he has satisfied himself, by personal examination of those items in the Contract Documents purporting to show a true representation of existing conditions; that he has satisfied himself, by careful personal examination of the location of the proposed work and of the Contract Documents, that he fully understands the nature and character of the work to be done, and he proposes and agrees if this proposal is accepted, that he will contract with the Monterey County Water Resources Agency to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all the materials and services specified in the contract in the manner and time herein prescribed, and according to the requirements of the Contract Documents as therein set forth, and that he will take in full payment therefor the following prices to wit.

2. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with the Monterey County Water Resources Agency (“Agency”) in the form included in the Contract Documents, Agreement, to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Sum and within the Contract Time indicated in this Bid and in accordance with all other terms and conditions of the Contract Documents.

3. Bidder accepts all of the terms and conditions of the Contract Documents, Appendices, and Instructions to Bidders, including, without limitation, those dealing with the disposition of Bid Security. This Bid will remain subject to acceptance for sixty (60) days after the day of Bid opening.

4. Bidder has visited the Site and performed all tasks, research, investigation, reviews, examinations, and analysis and given notices, regarding the Project and the Site.

5. Bidder has given the Agency prompt written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in or among the Contract Documents, Appendices, and As-Built Drawings and actual conditions and the written resolution thereof through Addenda issued by the Agency is acceptable to Contractor.
## BASE BID:

<table>
<thead>
<tr>
<th>Task No.</th>
<th>Task Description</th>
<th>Unit of Measure</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Grade Salinas River Diversion Facility Access Road Drainage Channel</td>
<td>Lump Sum</td>
<td>$</td>
</tr>
<tr>
<td>2</td>
<td>Grade Salinas River Diversion Facility Access Road</td>
<td>Lump Sum</td>
<td>$</td>
</tr>
</tbody>
</table>

**TOTAL BASE BID:** $____________________

The following Bid Addenda have been received and are incorporated into this Base Bid: _____________________

Bidder: ____________________________
Signature: __________________________
Name Printed: _______________________
Date: ______________________________

## BID SECURITY

Accompanying this proposal is ____________________________ in an amount (Insert the words “cash,” “certified check,” or “Bidder’s Bond”) equal to at least ten percent (10%) of the total base bid amount.

## INTERESTED PRINCIPALS FORM

The names of the persons interested in the foregoing proposal as principals are as follows:

(IMPORTANT NOTICE: If bidder or other interested person is a corporation, state legal name of corporation, names of president, secretary, treasurer, and manager thereof; if a co-partnership state the true name of the firm, names of individuals composing the firm; if bidder or other interested persons is an individual, state first and last names in full.)

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________
LICENSE

The undersigned is licensed in accordance with provisions of the Business and Professions Code of California applicable to the registration of a Class A Contractor.

License Number: _______________.

1. **Determination of lowest responsible bidder** – In accordance with Public Contract Code Section 20103.8(a). Determination of lowest bidder will be based upon the Base Bid. The Contract will then be awarded to the Bidder submitting the lowest amount, if it is awarded. Unit pricing provided by the bidder, if any, shall be incorporated in the Agreement, and shall be the basis for calculating any costs involving changes to the work.

2. The undersigned has checked all above figures carefully and understands that Agency will not be responsible for any errors and omissions on the part of the undersigned in making this bid.

3. It is understood that Agency reserves the right to reject any and all bids or waive any informalities or irregularities in any bids or in the bidding.

4. This bid shall remain valid and will not be withdrawn by the undersigned bidder for a period of sixty (60) days from the date prescribed for opening of this bid without the written consent of Agency.

5. Attached hereto are the following:
   a) List of Subcontractors;
   b) Non-Collusion Declaration;
   c) Workers' Compensation Certificate;
   d) Bidder Certifications;
   e) Contractor’s Certification of Good Faith Effort to Employ Monterey Bay Area Residents;
   f) Written Plan to Recruit Monterey Bay Area residents, when applicable;
   g) Required bidder’s security in an amount not less than 10 percent of the base bid amount; and
   h) Acknowledgment of Addenda, if any.

6. If this bid is accepted by Agency, then the undersigned shall, within ten (10) days after receipt of the Notice of Award letter, execute and deliver to Agency (a) a Contract in the form set forth in the Contract Documents on which this bid is based, (b) a Payment Bond for Public Works, as required by the Contract Documents, (c) a Performance Bond, as similarly required, (d) an Insurance Certificate, as similarly required and (e) printout showing active registration of Contractor and all Subcontractors with the Public Works Contractor Registration (online registration https://efiling.dir.ca.gov/PWCR/Search). The undersigned will thereafter commence and complete the Work within the time required by the Contract Documents.

7. The undersigned Bidder agrees to commence Work under Contract Documents on the date established in the General Conditions and to complete all Work within the time specified in the Agreement. The undersigned Bidder acknowledges that the Agency has reserved the right to delay or modify the commencement date. The undersigned Bidder further acknowledges Agency has reserved the right to perform independent Work at the Site, the extent of such Work may not be determined until after the opening of the Bids, and that the undersigned Bidder will be required to cooperate with such other Work in accordance with the requirements of the Contract Documents.
8. The undersigned Bidder agrees that, liquidated damages for failure to complete all Work in the Contract within the time specified in the Agreement shall be as set forth in the Agreement and undersigned Bidder agrees that, liquidated damages for failure to complete all Work in the Contract within the time specified in the Agreement shall be as set forth in the Agreement and Instructions to Bidders.

9. In the event the bidder to whom Notice of Conditional Award letter is given fails or refuses to post the required bonds and insurance and return the executed copies of the Agreement form within ten (10) days from the date of receiving the Notice of Award letter, Agency may declare the bidder's security forfeited as damages and Contract with the second lowest bidder.

10. Pursuant to Section 7103.5(b) of the Public Contract Code, in submitting a bid to the Agency, the bidder offers and agrees that if the bid is accepted, it will assign to Agency 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. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

EXECUTION BY BIDDER

Signature of Bidder(s): ________________________________
Title: ________________________________
Business Address: ________________________________
Date: ________________________________
CERTIFY THAT I am aware of the provision of Monterey County Code Section 5.08.120.

Monterey County Code Section 5.08.120 provides, in relevant part:

A. General Provisions. All County Contracts for Public Works of Improvement shall contain provisions pursuant to which the Contractor shall make a good faith effort to employ qualified individuals who are, and have been for at least one (1) year out of the past three (3) years prior to the opening of bids, residents of the Monterey Bay Area in sufficient numbers so that no less than fifty percent (50%) of the Contractors total construction work force, on that particular Contract, including any Subcontractor work force (with exception of specialty Subcontractor items identified in bid items) measured in labor work hours, is comprised of Monterey Bay Area residents.

B. Nonresponsive Bidder Declaration: Enforcement. If any Contractor submitting a bid for a Contract for Public Works of Improvement fails to abide by the good faith local employment provisions of this Section, Contractor may be declared by the Board to be a nonresponsive bidder for purposes of this Chapter. If a Contractor lists in his or her bid a Subcontractor who is currently disqualified under the terms of this Section, the Board may declare said Contractor to be a nonresponsive bidder for purposes of this Chapter. If the Board finds that a Contractor to whom a Contract for Public Works of Improvement has been awarded has failed to comply with the good faith employment provisions of this Section during the performance of the Contract, the Board may disqualify Contractor from bidding on any County Contract for Public Works of Improvement for a period of one (1) year from the date of the Board's disqualification. A subsequent violation of this Section by a Contractor may result in disqualification by the Board for a period of three (3) years from the date of the subsequent disqualification.

C. Binding on Subcontractors. Every Contractor entering into a Contract for Public Works of Improvement subject to the provisions of this Section shall include in each and every Subcontract for Work, laborers, or material supplier relating to the Project the requirement that the Subcontractor shall make a good faith effort to employ qualified individuals who are, and have been for at least one (1) year out of the past three (3) years prior to the opening of bids, residents of the Monterey Bay Area. If the Board finds that any Subcontractor has failed during the performance of the Subcontract to comply with this Section, the Board may disqualify said Subcontractor from submitting or being listed in any bid for any County Contract for Public Works of Improvement for a period of one (1) year from the date of the Board's disqualification. A subsequent violation by a Subcontractor may result in disqualification by the Board for a period of three (3) years from the date of the subsequent disqualification.”
I FURTHER CERTIFY AS FOLLOWS (check the box that applies):

[ ] I CERTIFY that at least fifty percent (50%) of the total construction work force on the Project, including any Subcontractor work force, measured in labor work hours, will be comprised of qualified individuals who to the best of my knowledge are, and have been for at least one (1) year out of the past three (3) years prior to the effective date of the opening of bids, residents of the Monterey Bay Area. Evidence that I will comply with this requirement is as follows (please use additional pages to provide supporting evidence and/or documentation, as necessary):

________________________________________________________________________________________

________________________________________________________________________________________

[ ] I CERTIFY that I shall make a good faith effort to employ qualified individuals who, to the best of my knowledge, are, and have been for at least one (1) year out of the past three (3) years prior to the effective date of the opening of bids, residents of the Monterey Bay Area insufficient numbers such that no less than fifty percent (50%) of the total construction work force on the Project, including any Subcontractor work force (with the exception of specialty Subcontractor items identified in the bid items) measured in labor work hours, will be comprised of Monterey Bay Area residents. Attached is my written plan to recruit Monterey Bay Area residents as part of the construction work force.

[ ] I CERTIFY that I do not comply with and am unable to make a good faith effort to comply with the good faith local employment provisions set forth in Monterey County Code Section 5.08.120. Explanation to why I am not able to comply is as follows (please use additional pages to provide supporting evidence and/or documentation, as necessary):

________________________________________________________________________________________

________________________________________________________________________________________

I declare under penalty of perjury under the laws of the State of California that the foregoing certification is true and correct. Executed on (date) ___________________________
at (city/state) ___________________________

Bidder’s Business Name: ___________________________________________
By: __________________________________________________________
Print Name: ____________________________________________________
Print Title: ____________________________________________________
CONTRACTOR’S EXPERIENCE QUALIFICATIONS

The bidder has been engaged in the contracting business, under the present business name for ____ years. Experience in work of a nature similar to that covered in the bid extends over a period of ____ years.

<table>
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<tr>
<th>Project Location Owner</th>
<th>Work Description</th>
<th>Contact Name</th>
<th>Telephone No.</th>
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Signature: _____________________

Title: _________________________

Date: _________________________
LIST OF SUBCONTRACTORS

Following is the name and location of the mill, shop, or office of each subcontractor who will perform labor, render service or provide equipment to the general contractor in or about the construction of the work or improvement in an amount in excess of one-half of one percent (0.50%) of the total bid presented herewith; and the portion of the work to be done by each subcontractor.

☐ Check this box if no subcontractors are required to be listed for work or labor to be performed or services to be rendered. Otherwise provide all requested information below. Assembly Bill No. 44 requires name/location of business/CA contractor’s license of all subcontractors:

<table>
<thead>
<tr>
<th>Portion (Type) of Work</th>
<th>Amount of Bid (Dollars)</th>
<th>Subcontractor Name/License Number &amp; Expiration Date</th>
<th>Subcontractor’s Location of Place of Business</th>
<th>DIR Registration Number</th>
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Bidder's Business Name: ______________________________________________________

By: ______________________________________________________

Print Name: ______________________________________________________

Print Title: ______________________________________________________

Date: ______________________________________________________
The undersigned declares:

I am the ______________________ of ______________________ the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on __________[date], at ______________________ ______ [city], ______________________[state].

Signature: ______________________________________

Print Name: _____________________________________
WORKER'S COMPENSATION CERTIFICATE

Pursuant to Section 1861 of the California Labor Code, I certify that I am aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code and on behalf of my firm, I will comply with such provisions before commencing the performance of the services of any contract entered into.

Bidder Name: _______________________________
Address: ____________________________________
Bidder Signature: ____________________________
Title: _______________________________________
Date: ________________________________
MONTEREY COUNTY WATER RESOURCES AGENCY

BID BOND

(Public Contract Code Sections: 20129, 20929)

WHEREAS the Principal has submitted the accompanying bid dated _____________________, to the Monterey County Water Resources Agency, for the following project: SALINAS RIVER DIVERSION FACILITY ACCESS ROAD AND DRAINAGE CHANNEL MAINTENANCE (PROJECT NO. 17-002, BID PACKAGE NO. 17-002) MONTEREY COUNTY, CALIFORNIA, and

WHEREAS, Principal, as bidder, is required to furnish a bond executed by an admitted surety in connection with said bid, to secure the timely execution of the contract and delivery of bonds and insurance certificates, in the event that the contract is awarded to the Principal.

NOW, THEREFORE, we ________________________________________________________ as Principal, and ______________________________________________________________
____________________________________________________________________________
____________________________________________________________________________ as Surety,

are held and firmly bound unto the Monterey County Water Resources Agency in the Penal Sum of _______________ Dollars ($________________), which sum is not less than ten percent (10%) of the base bid amount including all alternates of the Principal submitted to the Monterey County Water Resources Agency for the above-described project, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

If the Principal is awarded the contract and, within the time and manner required under the contract documents for the above-described project, after the prescribed forms are presented to him for signature, (1) enters into a written contract in the prescribed form, in accordance with the bid, (2) files such insurance certificates with the Monterey County Water Resources Agency as may be required by said contract documents, and (3) files a performance bond and a payment bond with the Monterey County Water Resources Agency, in conformity with said contract documents, then this obligation shall be null and void; otherwise, it shall remain in full force.

Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract on the call for bids, or to the work to be performed there under, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.
If the Monterey County Water Resources Agency brings suit upon this bond and judgment is recovered, the Surety shall pay all litigation expenses incurred by the Monterey County Water Resources Agency in such suit, including attorneys' fees, court costs, expert witness fees and investigation expenses.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this ________ day of _______________________________, 2017, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal) ___________________________________________________________________________
Principal
By: _______________________________________________________________________________
Title: ______________________________________________________________________________

(Corporate Seal) ___________________________________________________________________________
Surety
By: _______________________________________________________________________________
Title: ______________________________________________________________________________

Attach: 1) A Copy of authorization for signature for Principal, and 2) An original or certified copy of unrevoked appointment, Power of Attorney, Attorney-in-Fact Certificate bylaws or other instrument entitling or authorizing person executing bond on behalf of Surety to do so.
EXHIBIT B

Salinas River Diversion Facility Access Road and Drainage Channel Maintenance Project, Monterey County, California

Technical Specifications and Figures
# Table of Contents

## Technical Specifications

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<th>Page No.</th>
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<tbody>
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<tr>
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</tr>
<tr>
<td>13010</td>
<td>13010-1</td>
</tr>
</tbody>
</table>

## Figures

- Figure No. 1 – Vicinity Map.
- Figure No. 2 – Site Location Map.
- Figure No. 3 – Typical Road Section.
SECTION 01000 – GENERAL REQUIREMENTS

SECTION 01000 - PROJECT PURPOSE

The purpose of this project is to grade the Salinas River Diversion Facility (SRDF) Access Road and Drainage Channel. The project site location is adjacent to the SRDF on the eastern side of the Monterey Regional Waste Management District (MRWMD) landfill, located off Highway 1 approximately three miles north of the City of Marina, California, see Figure 1.

SECTION 01010 - DESCRIPTION OF WORK

The CONTRACTOR shall furnish all materials, equipment, supplies, transportation, labor, and perform all operations and WORK, all in accordance with the requirements of the Contract Documents.

SECTION 01020 - SHOP DRAWING, SAFETY PLAN AND SAMPLE SUBMITTAL SCHEDULE

A. All shop drawings, samples, and items listed under CONTRACTOR SUBMITTALS in the various Technical Specifications shall be submitted to the ENGINEER for review before the CONTRACTOR mobilizes to the work site. CONTRACTOR shall not commence WORK until the submittal associated with that WORK is approved by the ENGINEER.

B. The ENGINEER shall review and respond to each submittal, and re-submit within five (5) working days of receiving it. The ENGINEER’s response to each CONTRACTOR submittal will be one of the following:

- RECEIVED: This response applies only to the Safety Plan.
- NO EXCEPTIONS TAKEN: No further information is required.
- AMEND and RE-SUBMIT: Some portion(s) of the submittal does not meet requirements of the Contract Documents and needs to be amended and re-submitted for ENGINEER review. The ENGINEER shall sufficiently describe to the CONTRACTOR the changes required to meet Contract Document requirements.
- REJECTED and RE-SUBMIT: The submittal does not meet requirements of the Contract Documents and needs to be amended and re-submitted for ENGINEER review. The ENGINEER shall sufficiently describe to the CONTRACTOR the changes required to meet Contract Document requirements.

C. ENGINEER’s review of CONTRACTOR shop drawings, samples, items listed under CONTRACTOR SUBMITTALS in the Technical Specifications, Safety Plan and Construction Schedule shall not relieve the CONTRACTOR of the responsibility for the
correctness of details and dimensions. The CONTRACTOR shall assume responsibility for any misfits due to any errors in CONTRACTOR submittals.

SECTION 01030 - CONSTRUCTION SCHEDULE AND SAFETY PLAN

A. The CONTRACTOR shall submit to the ENGINEER for approval a construction schedule that contains the following information for each phase of the WORK:

1. Sequence of operations.
2. Estimated dates of each operation.
3. Dates subcontractor(s) are estimated to be on site including name of subcontractor(s).

B. The CONTRACTOR shall submit to the ENGINEER a Safety Plan pertaining to the WORK. The ENGINEER will receive the Safety Plan. The Safety Plan is the responsibility of the CONTRACTOR.

C. The CONTRACTOR shall not mobilize to the work site until the ENGINEER has returned the construction schedule and Safety Plan according to the review process described in Section 01020. The ENGINEER’s review of the construction schedule will consist of observing allowances for specified time constraints and overall time of completion.

SECTION 01040 - CONTRACTOR WORK AREA

The CONTRACTOR shall keep all work activities, materials and equipment within the CONTRACTOR work area staked in the field by the ENGINEER, unless otherwise approved by the ENGINEER. No work activities, material storage or equipment staging shall occur in crop areas, whether crop is currently planted or unplanted.

Overhead electrical power lines are located near the work site. CONTRACTOR shall maintain clearances in accordance with applicable laws and Utility company requirements.

SECTION 01050 - WORK BY OTHERS

The work site and CONTRACTOR work area is within actively farmed, privately owned vegetable fields, actively used private farm roads, privately owned and operated irrigation and electrical equipment and public utility facilities. The CONTRACTOR shall fully cooperate with farm personnel to allow access to private lands and facilities and utility personnel to allow access to public utilities within and adjacent the work site and staging area for their respective essential duties.

SECTION 01060 - PROTECTION OF EXISTING FACILITIES AND CROP

PG&E owned electrical equipment exist within the work site. The CONTRACTOR shall be responsible for protecting those facilities from damage caused by the WORK. CONTRACTOR
shall be responsible for repairing any damage to such facilities caused by CONTRACTORS personnel or equipment. Privately grown crops exist immediately adjacent the work area and the CONTRACTOR shall be responsible for reimbursing the grower for any damage to crops, soils or structures caused by CONTRACTOR’s personnel, equipment or performance of the work.

SECTION 01070 – PAYMENT

Payment for compliance with these General Requirements shall be included in the various items of work, and no additional payment shall be made therefor.

END OF SECTION
SECTION 13000 – SRDF ACCESS ROAD DRAINAGE CHANNEL

1. GENERAL:

1.1 GRADE SRDF ACCESS ROAD DRAINAGE CHANNEL

The CONTRACTOR shall grade the SRDF Access Road Drainage Channel with a uniform slope from the invert of Drainage Culvert No.1 (Elevation is 18.67 feet), to the invert of Drainage Culvert No. 2 (Elevation is 11.79 feet).

The CONTRACTOR shall provide any staking necessary to obtain a consistent grade.

Note:

1. The SRDF Access Road shall not be narrowed in the course of this work.
2. The SRDF Access Road Drainage Channel is indicated with a blue dashed line and the SRDF Access Road as a red dashed line in Figure 2.

2. PRODUCTS (Not Used)

3. EXECUTION:

3.1 PAYMENT

Payment for grading the SRDF Access Road Drainage Channel shall be on a lump sum basis and include payment for furnishing all materials, labor, equipment and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION
SECTION 13010 – GRADE SRDF ACCESS ROAD

1. GENERAL:

1.1 GRADE SRDF ACCESS ROAD

The CONTRACTOR shall grade the SRDF Access Road to improve surface conditions. The SRDF Access Road is an 18-inch thick layer of Class 2 Aggregate Base (aggregate) over a compacted sub-grade. A section of the SRDF Access Road has an approximate two percent (2%) slope draining towards the SRDF Access Road Drainage Channel. The SRDF Access Road length to be graded is shown in Figure 3. Placement of compacted aggregate fill is required over 415 lineal feet of road as shown in Figure 3.

The CONTRACTOR shall remove approximately twenty-five (25) cubic yards of soil from the road shoulder as shown in Figure 3.

2. PRODUCTS

2.1 AGGREGATE

Aggregate material shall be free from organic matter and other deleterious substances, and shall be of such nature that it can be compacted readily under water and rolling to form a firm, stable base. Aggregate shall conform to the grading and quality requirements shown below:

<table>
<thead>
<tr>
<th>Class 2 Aggregate Grading Requirements:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sieve size</td>
</tr>
<tr>
<td>1”</td>
</tr>
<tr>
<td>3/4”</td>
</tr>
<tr>
<td>No. 4</td>
</tr>
<tr>
<td>No. 30</td>
</tr>
<tr>
<td>No. 200</td>
</tr>
<tr>
<td>R Value =</td>
</tr>
<tr>
<td>Sand Equivalent =</td>
</tr>
</tbody>
</table>

Place aggregate base material in layers of no more than six (6) inches thickness. Compact each layer with self-propelled vibratory roller compactor with at least four (4) passes over 100 percent (100%) of the surface of each layer.

Compaction of the aggregate base material shall not be less than 95 percent (95%) of theoretical proctor density. Aggregate shall have moisture content sufficient to obtain
the required compaction. The surface of the finished aggregate base at any point shall not vary more than 0.05 feet above or below the established grade.

3. EXECUTION:

3.1 PAYMENT

Payment for grading the SRDF Access Road shall be on a lump sum basis and include payment for furnishing all materials, labor, equipment and incidentals required to complete the WORK in accordance with these specifications, and no additional payment shall be made therefor.

END OF SECTION
Figure 1. Vicinity Map.

Exit Hwy 101:
- Travel East on Hwy 156 towards Monterey
- Hwy 156 East merges with Hwy 1 South
- Exit on Del Monte Blvd / Lapis Rd
- Turn South, cross over freeway
to Del Monte Blvd towards Marina
- Turn Left on Charlie Banion Lane
  (entrance to Environmental Park)
- Travel to and around truck scale
- Travel around the Material Recycling Facility (MRF)
- Turn right on first paved road after circling MRF
- Follow paved road down hill and along Joe of landfill slope
- Turn left on dirt ramp and follow road to SRDF construction site.

S = stop sign
Figure 2. Site Location Map.
Figure 3. Typical Road Section.
AGREEMENT

Salinas River Diversion Facility Access Road and Drainage Channel Maintenance Project, Monterey County, California

THIS AGREEMENT (hereinafter, the “AGREEMENT”), is made and entered into by and between the MONTEREY COUNTY WATER RESOURCES AGENCY (hereinafter, the “AGENCY”), and ______________________________________, (hereinafter the "CONTRACTOR").

RECITALS:

1. The AGENCY solicited bid proposals for the Salinas River Diversion Facility Access Road and Drainage Channel Maintenance Project, Monterey County, California; and,

2. CONTRACTOR submitted the lowest responsive and responsible bid and proposal to complete the Salinas River Diversion Facility Access Road and Drainage Channel Maintenance Project, Monterey County, California.

ARTICLE 1: SCOPE OF WORK

1.1 The CONTRACTOR shall, within the time stipulated, perform the contract as herein defined and shall furnish all work, labor, equipment, transportation, material, and services to construct and complete in a good, expeditious, workmanlike, and substantial manner, the project: Salinas River Diversion Facility Access Road and Drainage Channel Maintenance Project, Monterey County, California (hereinafter the “Project”).

1.2 All work shall be completed in strict conformance with this AGREEMENT, the plans, specifications, and working details set forth in contract documents listed below, incorporated herein by this reference and attached hereto as Exhibits, and to the satisfaction of Agency:

   Exhibit B: Contract Documents Part 2 - Technical Specifications and Figures.
   Exhibit C: Completed CONTRACTOR’s Payment and Performance Bonds.
   Exhibit D: CONTRACTOR’s Certificate(s) of Insurance.
   Exhibit E: CONTRACTOR’s Additional Insured Insurance Policy Endorsements.

1.3 All of the above-referenced contract documents are intended to be complementary. Work required by one of the above referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order:

   Permits from other agencies as may be required by law govern over Change Orders, Change Orders govern over this AGREEMENT, AGREEMENT govern over Bid Addenda,
Bid Addenda govern over CONTRACTOR’s proposal,  
CONTRACTOR’s proposal govern over Bid Form,  
Bid Form govern over Technical Specifications,  
Technical Specifications govern over Drawings,  
Drawings govern over Referenced Standard Specifications.

With respect to the Drawings, the order of precedence is as follows:

- Figures govern over scaled dimensions,
- Detail drawings govern over general drawings,
- Addenda/change order drawings govern over Contract drawings,
- Contract drawings govern over standard drawings.

ARTICLE 2: TIME FOR START AND COMPLETION

2.1 This Agreement commences on the date mentioned on the Notice to Proceed.

2.2 Substantial Completion:

2.2.1 Substantial Completion Defined:

Substantial Completion is defined as completion of all work except demobilization and final clean-up, described in Specification Section 13000, Paragraph 1.2.

2.2.2 Substantial Completion Date:

CONTRACTOR shall commence the work on the starting date established in the Notice to Proceed and shall achieve Substantial Completion within sixty (60) calendar days after said starting date.

2.3 Final Completion:

2.3.1 Final Completion Defined:

Final Completion is defined as completion of all required work under this AGREEMENT.

2.3.2 Final Completion Date:

CONTRACTOR shall achieve Final Completion within fifteen (15) calendar days after the date of Substantial Completion.

2.4 Weekly Progress Meetings:

CONTRACTOR’s project representative shall meet weekly with AGENCY, or AGENCY’s designated representative, to report on progress of the work, schedule for upcoming work and coordinate activities between the parties as needed.
2.5 Notices of Completion:

CONTRACTOR shall give reasonable notice to AGENCY as to when Substantial Completion and Final Completion are anticipated and CONTRACTOR and AGENCY shall inspect the work.

AGENCY shall notify CONTRACTOR in writing of any incomplete or deficient work and CONTRACTOR shall complete such work or remedy such deficiencies. AGENCY shall not unreasonably withhold inspection of or certification of Substantial Completion or Final Completion. Upon final Completion, the AGENCY shall file a Notice of Completion with the Monterey County Recorder.

ARTICLE 3: CONTRACT PRICE

3.1 CONTRACTOR shall be compensated under this AGREEMENT on a lump sum basis per completed bid item in accordance with the terms contained in the Bid Form, attached hereto, up to a total amount of $_________________.

3.2 Compensation shall remain firm for term of this AGREEMENT, unless agreed otherwise by written Change Order as provided in Article 4 below.

3.3 Retention of five percent (5%) of each approved progress payment will be withheld by the AGENCY. At Substantial Completion the AGENCY, at its option, may release any portion of the retained amount to the CONTRACTOR.

3.4 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than thirty (30) days.

3.5 CONTRACTOR shall levy no additional fees or surcharges of any kind during the term of this AGREEMENT without first obtaining approval from AGENCY via written Change Order.

ARTICLE 4: CHANGE ORDERS

4.1 Change Order: “Change Order” means a written modification of the Contract between the AGENCY and the CONTRACTOR, signed by the AGENCY and the CONTRACTOR.


4.3 Change Order Request: “Change Order Request” (COR) means a document which informs the CONTRACTOR of a proposed change in the Work, and appropriately describes or otherwise documents such change.

4.4 Change Orders: The AGENCY, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions. The contract shall be adjusted accordingly. All such changes in the work shall be
authorized by change order, and shall be executed under the applicable conditions of the contract documents. The contract sum may be changed only by change order.

The amount to be paid to the CONTRACTOR pursuant to the Contract Documents shall, where applicable, be increased or decreased in the manner hereinafter set forth; provided however, that if the CONTRACTOR should proceed with a Change in the Work upon an oral order, by whomsoever given, it shall constitute a waiver by the CONTRACTOR of any claim for an increase in the Contract Sum on account thereof. Upon receipt of a written Change Order, the CONTRACTOR shall promptly proceed with the Change in the Work, even though the amount of any resultant increase or decrease in the contract sum has not yet been determined. All Changes in the Work shall be performed in accordance with the Contract Documents.

4.5 **Method to Calculate Adjustments in Contract Price:** Determination of the method to be used to calculate adjustments in the Contract Price shall be at the sole discretion of the AGENCY. The use by the CONTRACTOR of the Total Cost Method (calculating the total sum of expenses incurred on the project, less amounts paid, marked up by overhead and profit) of pricing changes and claims is expressly prohibited (provided however, the AGENCY may use a “make whole” analysis to determine the reasonableness of the CONTRACTOR’s claim). One of the following methods shall be used:

A. Unit Price Method;
B. Firm Fixed Price Method (also known as Lump Sum); or
C. Time and Materials Method.

4.5.1 **Unit Price Method:**

1. Whenever AGENCY or its representative authorizes CONTRACTOR to perform on a Unit Price basis, AGENCY’s authorization shall clearly state the:
   a. Scope of Work to be performed;
   b. Applicable Unit Price; and,
   c. Not to exceed amount of reimbursement as established by the AGENCY.

2. The applicable unit price shall include reimbursement for all direct and indirect costs of the Work, including overhead and profit.

3. CONTRACTOR shall only be paid under this method for the actual quantity of materials incorporated in or removed from the Work and such quantities must be supported by field measurement statements verified by AGENCY.

4.5.2 **Firm Fixed Price Method:**

1. The CONTRACTOR and AGENCY may mutually agree on a fixed amount as the total compensation for the performance of changed work.

2. Any adjustments to the Contract Price using the Firm Fixed Price Method shall include, when appropriate, all reasonable costs for labor, equipment, material, overhead and profit. Such overhead and profit shall be calculated in accordance with provision 15.04(b) (4) F.
3. Whenever the AGENCY authorizes CONTRACTOR to perform changed work on a Firm Fixed Price Method, the AGENCY’s authorization shall clearly state:

   a. Scope of Work to be performed;
   b. Total Fixed Price payment for performing such work.

4.5.3 Time and Materials Method:

1. Whenever the AGENCY authorizes the CONTRACTOR to perform Work on a Time and Materials basis, AGENCY’s authorization shall clearly state:

   a. Scope of Work to be performed;
   b. Not to exceed amount of reimbursement as established by the AGENCY.

2. CONTRACTOR shall:

   a. Cooperate with AGENCY and assist in monitoring the Work being performed;
   b. The CONTRACTOR’s and subcontractors’ labor hours, materials, and equipment charged to work under the Time and Materials Method shall be substantiated by detailed time cards or logs completed on a daily basis before the close of business each working day. The CONTRACTOR shall initial each time card and/or log at the close of each working day. Records of the CONTRACTOR and subcontractors pertaining to work paid for on a Time and Material method shall be maintained and available for inspection as requested by the AGENCY or its representatives;
   c. Perform all work in accordance with this provision as efficiently as possible; and
   d. Not exceed any cost limit(s) without AGENCY’s prior written approval.

3. CONTRACTOR shall submit costs and any additional information requested by the AGENCY to support CONTRACTOR’s requested price adjustment.

4.6 Unallowable Costs: No change in the Contract Price shall be allowed to the extent (1) CONTRACTOR’s changed cost of performance is due to the fault, acts, or omissions of CONTRACTOR, or anyone for whose acts or omissions CONTRACTOR is responsible; (2) the change is concurrently caused by CONTRACTOR and AGENCY; or, (3) the change is caused by an act of Force Majeure.

The AGENCY shall not be responsible for, and the CONTRACTOR shall not be entitled to, unallowable costs. Unallowable costs include, but are not limited to, (1) interest or attorney’s fees of any type other than those mandated by California statutes, (2) claim preparation or filing costs, (3) the cost of preparing or reviewing Change Proposals or Requests for Change Orders, (4) lost profits, lost income or earnings, (5) rescheduling costs, (6) costs for idle equipment when such equipment is not at the Site, has not been employed in the Work and is not scheduled to be used at the Site, (7) lost earnings or interest on unpaid retention, (8) claims consulting costs, (9) the costs of corporate officers or staff visiting the Site or participating in meetings with the AGENCY, (10) any compensation due to the fluctuation of foreign currency conversions or exchange rates, (11) loss of other business, and (12) any other special, consequential, or incidental damages incurred by the CONTRACTOR or subcontractors.
4.7 **Signatures on Change Orders:** A change order shall be in writing and shall be signed by the AGENCY’s General Manager, or his designee. Except as otherwise provided herein, the change order shall also be signed by the CONTRACTOR in order to be effective, indicating the CONTRACTOR's consent to the changes made.

4.8 **Changes Requiring an Increase in Contract Sum:**

4.8.1 If the AGENCY elects to have the Change in the Work performed on a lump sum basis, its election shall be based on a lump sum proposal which shall be submitted by the CONTRACTOR to the AGENCY within five (5) workdays of the AGENCY’s request, but the AGENCY’s request for a lump sum proposal shall not be deemed an election by the AGENCY to have the Change in the Work performed on a lump sum basis.

4.8.2 If the AGENCY elects to have the Change in the work performed on a unit-cost basis, its election shall be based on a unit price proposal which shall be submitted by the CONTRACTOR to the AGENCY within five (5) workdays of the AGENCY’s request, but the AGENCY’s request for a unit price proposal shall not be deemed an election by the AGENCY to have the Change in the work performed on a unit price basis.

4.8.3 If the AGENCY elects to have the Change in the work performed on a time and material basis, the same shall be performed, its election shall be based on a time and materials price proposal which shall be submitted by the CONTRACTOR within five (5) workdays of the AGENCY’s request, but the AGENCY’s request for a time and materials price proposal shall not be deemed an election by the AGENCY to have the Change in the work performed on a time and materials basis.

4.8.4 Nothing herein contained shall preclude the AGENCY from requesting a lump sum proposal, a unit price proposal, and a time and materials price proposal, or any two of those, with respect to the same Change in the Work, in which event, the CONTRACTOR shall submit all proposals requested.

4.8.5 Until such time as the AGENCY makes it election under this paragraph, the CONTRACTOR shall submit daily time and material tickets to the AGENCY as required under subparagraph 4.8.3, which shall be subject to authentication as therein provided. At such time as the AGENCY makes its election under this paragraph, an appropriate Change Order will be issued; provided however, that until such time, the AGENCY shall pay to the CONTRACTOR up to the AGENCY’s reasonable estimated value of the Change in the Work.

4.9 **Changes Requiring a Decrease in Contract Sum:** If the Change in the Work will result in a decrease in the contract sum, the AGENCY may request a quotation by the CONTRACTOR of the amount of such decrease for use in preparing a Change Order. The CONTRACTOR’s quotation shall be forwarded to the AGENCY within five (5) days of the AGENCY’s request and, if acceptable to the AGENCY, shall be incorporated in the Change Order. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a lump sum properly itemized, on unit prices stated in the Contract Documents and/or on such other basis as the parties may mutually determine. If the parties are unable to so
agree, the amount of such decrease shall be the total of the estimated reduction in actual cost of
the work, as determined by the AGENCY in its reasonable judgment, plus ten percent (10%)
thereof as overhead and profit.

4.10 Disputes Regarding Changes: If any dispute should arise between the parties with respect to
an increase or decrease in the Contract Sum or an expansion or contraction in the contract time
as a result of a Change in the Work, the CONTRACTOR shall not suspend performance of a
Change in the Work or the Work itself unless otherwise so ordered by the AGENCY in writing.
The AGENCY shall, however, pay to the CONTRACTOR up to the AGENCY’s reasonable
estimate of the value of the Change in the Work, regardless of the dispute, if said Change in the
Work results in an increase in the Contract Sum; and the AGENCY shall have the right to
decrease the Contract Sum to the AGENCY’s reasonable estimated value of the Change in the
Work, regardless of the dispute, if said Change in the Work results in a decrease in the contract
sum.

4.11 Limitations: Except as expressly provided by this Section, there shall be no change whatsoever
in the plans and specifications and in the work. CONTRACTOR shall not vary the work, the
contract documents, or change, add to or omit any element, component part, or portion of the
work without the express written consent of AGENCY’s Project Manager contained in an
executed change order or field order as herein provided. AGENCY shall not be liable for the
cost for any extra work or any substitutions, changes, additions, omissions, or deviations from
the plans and specifications unless the same have been authorized by and the cost thereof
approved in writing by change order. No extension of time for performance of the work shall be
allowed hereunder unless claim for such extension shall be made at the time changes in the work
are ordered and such duly adjusted in writing by AGENCY. CONTRACTOR recognizes and
acknowledges that timely completion of the work is paramount and that its duty is to proceed
with the work in accordance with the contract documents, notwithstanding any request for
change in the work, to the extent that proceeding is reasonable and feasible under the
circumstances.

ARTICLE 5: WARRANTIES

5.1 CONTRACTOR shall warrant the work performed under this AGREEMENT against faulty or
defective materials, equipment, or workmanship for a period of one (1) year from the date of
Substantial Completion.

5.2 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR’s agents, employees, and
subcontractors performing services under this AGREEMENT are specially trained,
experienced, competent, and appropriately licensed to perform the work and deliver the
services required under this AGREEMENT and are not employees of the AGENCY, or
immediate family of an employee of the AGENCY.

5.3 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and
skillful manner and in compliance with all applicable laws and regulations. All work performed
under this AGREEMENT that is required by law to be performed or supervised by licensed
personnel shall be performed in accordance with such licensing requirements.
5.4 CONTRACTOR shall at all times enforce strict discipline and good order among his employees and shall not employ on the work any unfit person or anyone not skilled in the task assigned to him. Any person in the employ of the CONTRACTOR whom the County may deem incompetent or unfit shall be dismissed from the work and shall not again be employed on it except with the written consent of the AGENCY.

ARTICLE 6: INDEMNIFICATION

6.1 CONTRACTOR shall indemnify, defend, and hold harmless AGENCY, the County of Monterey, their officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys’ fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with CONTRACTOR’s performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of AGENCY. “CONTRACTOR’s performance” includes CONTRACTOR’s action or inaction and the action or inaction of CONTRACTOR’s officers, employees, agents and subcontractors.

ARTICLE 7: INVOICES AND PURCHASE ORDERS

7.1 Invoice amounts shall be billed directly to the AGENCY, and delivered to:

   ATTN: Manuel Saavedra
   Monterey County Water Resources Agency
   Street Address: 1441 Schilling Place, North Building, Salinas, CA 93901
   Mail Address: P.O. Box 930, Salinas, CA 93902

7.2 CONTRACTOR shall reference the Project Name and contract number on all invoices submitted to AGENCY. CONTRACTOR shall submit such invoices monthly or at the completion of services, but in any event, not later than thirty (30) days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed as called for in the Bid Form and such other information pertinent to the invoice. AGENCY shall certify the invoice, either in the requested amount or in such other amount as AGENCY approves in conformity with this AGREEMENT, and shall promptly submit such invoice to AGENCY Auditor-Controller for payment. AGENCY Auditor-Controller shall pay the amount certified within thirty (30) days of receiving the certified invoice.

7.3 Unauthorized Surcharges or Fees:

   Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by AGENCY. Surcharges and additional fees not included in the AGREEMENT must be approved by AGENCY in writing via Change Order.

ARTICLE 8: BOND REQUIREMENTS
The CONTRACTOR shall furnish Performance and Payment Bonds, each in the amount 100 percent (100%) of the contract total price as security for the faithful performance and payment of all CONTRACTOR’s obligations under the AGREEMENT. These Bonds shall remain in effect until the bonded obligations are satisfied in full, provided that if any lawsuit is filed to enforce such obligations the bonds shall remain in effect until said lawsuit is finally resolved and any judgment satisfied, except as otherwise provided by law or regulation.

ARTICLE 9: INSURANCE

9.1 Evidence of Coverage:

9.1.1 Prior to commencement of this AGREEMENT, CONTRACTOR shall provide a “Certificate of Insurance” certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition CONTRACTOR upon request shall provide a certified copy of the policy or policies.

9.1.2 This verification of coverage shall be sent to the AGENCY’s Contracts/Purchasing Department, unless otherwise directed. CONTRACTOR shall not receive a “Notice to Proceed” with the work under this AGREEMENT until it has obtained all insurance required and such, insurance has been approved by AGENCY. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.

9.1.3 Qualifying Insurers: All coverage’s, except surety, shall be issued by companies which hold a current policy holder’s alphabetic and financial size category rating of not less than A-VII, according to the current Best’s Key Rating Guide or a company of equal financial stability that is approved by AGENCY’s Purchasing Officer.

9.2 Insurance Coverage Requirements:

9.2.1 Without limiting CONTRACTOR’s duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:

9.2.2 Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent CONTRACTORS, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than $3,000,000 per occurrence and $5,000,000 aggregate.

9.2.3 Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit for Bodily Injury and Property Damage of not less than $1,000,000 per occurrence.
9.2.4 Workers’ Compensation Insurance, if CONTRACTOR employs others in the performance of this AGREEMENT, in accordance with California Labor Code Section 3700 and with Employer’s Liability limits not less than $1,000,000 each person, $1,000,000 each accident and $1,000,000 each disease.

9.3 Other Insurance Requirements:

9.3.1 All insurance required by this AGREEMENT shall be with a company acceptable to AGENCY and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this AGREEMENT, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this AGREEMENT.

9.3.2 Each liability policy shall provide that AGENCY shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

9.3.3 Commercial general liability and automobile liability policies shall provide an endorsement naming the AGENCY of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR’S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the AGENCY and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR’S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

9.3.4 Prior to the execution of this AGREEMENT by AGENCY, CONTRACTOR shall file certificates of insurance with AGENCY’s contract administrator and AGENCY’s Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. CONTRACTOR shall file a new, or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.
9.3.5 CONTRACTOR shall at all times during the term of this AGREEMENT maintain in force the insurance coverage required under this AGREEMENT and shall send, without demand by AGENCY, annual certificates to AGENCY’s Contract Administrator and AGENCY’s Contracts/Purchasing Division. If the certificate is not received by the expiration date, AGENCY shall notify CONTRACTOR and CONTRACTOR shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this AGREEMENT, which entitles AGENCY, at its sole discretion, to terminate this AGREEMENT immediately.

ARTICLE 10: OVERRIDING CONTRACTOR PERFORMANCE REQUIREMENTS

10.1 Independent CONTRACTOR: CONTRACTOR shall be an independent CONTRACTOR and shall not be an employee of Monterey County, the AGENCY, nor immediate family of an employee of Monterey County or the AGENCY. CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers’ Compensation, unemployment, etc.,) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits. CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.

10.2 Minimum Work Performance Percentage: CONTRACTOR shall perform with his own organization contract work amounting to not less than 50 percent (50%) of the original total AGREEMENT amount, except that any designated 'Specialty Items' may be performed by subcontract and the amount of any such 'Specialty Items' so performed may be deducted from the original total AGREEMENT amount before computing the amount of work required to be performed by CONTRACTOR with his own organization or per a consortium.

ARTICLE 11: SAFETY

11.1 CONTRACTOR's Responsibility for Safety:

The CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. The CONTRACTOR shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to:

(a) All employees on the work and all other persons who may be affected thereby;

(b) All the work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody, or control of the CONTRACTOR or any subcontractor; and

(c) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.
11.2 **Compliance with Safety Requirements:** The CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. The CONTRACTOR shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities.

11.3 **Trench Safety:** For all trenches to be made in connection with the work, the CONTRACTOR shall submit a detailed 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. If such plan varies from the shoring system standards, a registered civil or structural engineer shall prepare the plan. The plan shall be reviewed, and must receive approval as adequate to protect worker safety, by the AGENCY or by a registered civil or structural engineer employed by the AGENCY, in advance of excavation. The shoring, sloping, or protective system must be at least as effective as that required by the Construction Safety Orders. See California Labor Code Section 6705.

11.4 **Hazardous Substances:** The term "hazardous substance" means any substance on the list of hazardous substances established by the Director of Industrial Relations pursuant to the California Labor Code Section 6382, which includes asbestos, lead, toxic chemicals, contaminants, any substance designated by the Environmental Protection Agency as a hazardous substance, and other pollutants and contaminants.

11.4.1 If CONTRACTOR encounters on the property any substance reasonably believed to be a Hazardous Substance that has not been rendered harmless, i.e., not potentially hazardous to human health, CONTRACTOR shall immediately stop work in the area affected and report the condition to the AGENCY’s Project Manager in writing.

11.4.2 Neither the CONTRACTOR nor any subcontractor shall cause or permit any Hazardous Substance to be brought upon the property or used in the work without the prior written consent of the AGENCY. CONTRACTOR and each subcontractor shall comply with all laws regarding the handling, treatment, presence, removal, storage, decontamination, cleanup, transportation, or disposal of Hazardous Substances brought onto the property by CONTRACTOR, its subcontractors, and/or their personnel.

11.4.3 Any handling, treatment, removal, decontamination, cleanup, transportation, disposal, or disturbance in any of Hazardous Substances shall only be performed by the CONTRACTOR or any subcontractor licensed and certified to perform the work. Any hazardous substance abatement or remediation work will be performed in such a way that is legally consistent with the recommendations of the certified County agent, appropriate governmental agencies, and all applicable laws.

11.4.4 If there is a Hazardous Substance on the property, CONTRACTOR shall protect adjoining property and shall provide barricades, temporary fences, and covered walkways required to protect the health and safety of passersby as required by this Agreement, prudent construction practices, and all applicable laws.
11.5 CONTRACTOR's Safety Monitoring: The CONTRACTOR shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the CONTRACTOR's superintendent unless otherwise designated in writing by the CONTRACTOR to the AGENCY.

11.6 Unsafe Loading: The CONTRACTOR shall not load or permit any part of the work to be loaded so as to endanger its safety.

11.7 Emergencies: In any emergency affecting the safety of persons or property, the CONTRACTOR shall act, at his discretion, to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by the CONTRACTOR on account of emergency work shall be determined as provided in Article 4 for changes in the work.

11.8 Accidents: CONTRACTOR shall promptly report in writing to the AGENCY all accidents whatsoever arising out of, or in connection with the performance of the work, whether on or off the site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, CONTRACTOR shall report the accident immediately to the Project Manager by telephone or messenger. CONTRACTOR shall thereafter promptly report the facts in writing to the AGENCY giving full details of the accident.

ARTICLE 12: SUBCONTRACTORS

12.1 No Contractual Relationship between AGENCY and Subcontractors: Nothing contained in the contract documents shall create any contractual relation between the AGENCY and any subcontractor.

12.2 Work Performed by Subcontractors; Substitutions: Subcontracted work shall be performed only by the subcontractors identified in CONTRACTOR's bid documents, as provided by Public Contract Code sections 4100, et seq. Substitution of subcontractors may be made only in conformity with the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100, et seq. Subcontractors are to be registered with the California Division of Industrial Relations.

12.3 Contracts with Subcontractors: All work performed for the CONTRACTOR by a subcontractor shall be pursuant to a written agreement between the CONTRACTOR and the subcontractor (and where appropriate, between subcontractors and sub-subcontractors). All such agreements shall require performance by the subcontractors in conformity with the terms of this contract, and shall include all the terms of this contract, which are applicable to subcontractors.

12.4 Payments to Subcontractors:

12.4.1 The CONTRACTOR shall pay each subcontractor, upon receipt of payment from the AGENCY, any amount equal to the percentage of completion allowed to the CONTRACTOR on account of such subcontractor's work, less the percentage retained from payments to the CONTRACTOR. The CONTRACTOR shall also require each subcontractor to make similar
payments to his subcontractors. The AGENCY shall have the right, but not the obligation, to issue payment by joint checks payable to the order of CONTRACTOR and any of its subcontractors.

12.4.2 If the AGENCY fails to issue a certificate for payment for any cause which is the fault of the CONTRACTOR and not the fault of a particular subcontractor, the CONTRACTOR shall pay the subcontractor on demand, made at any time after the certificate for payment should otherwise have been issued, for his work to the extent completed, less the retained percentage.

12.4.3 The AGENCY shall not have any obligation to pay or to see to the payment of any monies to any subcontractor except as may otherwise be required by law. All monies paid to CONTRACTOR hereunder shall immediately become and constitute a trust fund and shall be applied by CONTRACTOR for the benefit of all persons supplying labor, materials or equipment in connection with the work and shall not be diverted to any other purpose until the claims of such persons have been discharged.

12.5 Information Provided to Subcontractors: The AGENCY’S Project Manager may, on request and at his discretion, furnish to any subcontractor, if practicable, information regarding percentages of completion certified to the CONTRACTOR on account of work done by such subcontractors.

12.6 CONTRACTOR's Responsibility for Work of Subcontractors: CONTRACTOR shall be as fully responsible to AGENCY for the acts and omissions of any subcontractor and of persons either directly or indirectly employed by the subcontractors, as he is for acts and omissions of persons directly employed by him.

ARTICLE 13: NOTIFICATION OF THIRD-PARTY CLAIMS

AGENCY shall notify CONTRACTOR of the receipt of any third-party claim relating to the contract and is entitled to recover its reasonable costs incurred in providing the notification as provided in Public Contract Code Section 9201.

ARTICLE 14: LIQUIDATED DAMAGES

THE PARTIES AGREE THAT IN CASE ALL THE WORK CALLED FOR UNDER THE CONTRACT IN ALL PARTS AND REQUIREMENTS IS NOT COMPLETED WITHIN THE TIME SPECIFIED IN THE CONTRACT DOCUMENTS, DAMAGE WILL BE SUSTAINED BY THE AGENCY, AND THAT IT IS AND WILL BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO DETERMINE THE ACTUAL DAMAGE WHICH THE AGENCY WILL THEREBY SUSTAIN. THE PARTIES THEREFORE AGREE THAT THE CONTRACTOR WILL PAY TO THE AGENCY THE SUM OF TWO HUNDRED NINETY-FOUR DOLLARS ($294.00) PER DAY FOR EACH CALENDAR DAY OF DELAY UNTIL THE WORK IS COMPLETED AND ACCEPTED. CONTRACTOR AND HIS SURETY SHALL BE LIABLE FOR THE TOTAL AMOUNT THEREOF. THE CONTRACTOR AGREES TO PAY SAID LIQUIDATED DAMAGES ESTABLISHED HEREIN, AND FURTHER AGREES THAT THE AGENCY MAY DEDUCT THE AMOUNT THEREOF FROM ANY MONIES DUE OR THAT MAY BECOME DUE THE CONTRACTOR UNDER THE CONTRACT.
ARTICLE 15: RECORDS AND CONFIDENTIALITY

15.1 Confidentiality:

CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the AGENCY or prepared in connection with the performance of this AGREEMENT, unless AGENCY specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to AGENCY any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this AGREEMENT except for the sole purpose of carrying out CONTRACTOR’s obligations under this AGREEMENT.

15.2 AGENCY Records:

When this AGREEMENT expires or terminates, CONTRACTOR shall return to AGENCY any AGENCY records which CONTRACTOR used or received from AGENCY to perform services under this AGREEMENT.

15.3 Maintenance of Records:

CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and AGENCY rules and regulations related to services performed under this AGREEMENT.

15.4 Access to and Audit of Records:

AGENCY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its subcontractors related to services provided under this AGREEMENT. Pursuant to Government Code section 8546.7, if this AGREEMENT involves the expenditure of public funds in excess of $10,000, the parties to this AGREEMENT may be subject, at the request of AGENCY or as part of any audit of AGENCY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this AGREEMENT for a period of three years after final payment under the AGREEMENT.

ARTICLE 16: CONFLICT OF INTEREST PROHIBITION

CONTRACTOR covenants that CONTRACTOR, its responsible officers, and its employees having major responsibilities for the performance of work under the AGREEMENT, presently have no interest and during the term of this AGREEMENT will not acquire any interests, direct or indirect, which might conflict in any manner or degree with the performance of CONTRACTOR’S services under this AGREEMENT.

ARTICLE 17: COMPLIANCE WITH APPLICABLE LAWS AND PERMIT REQUIREMENTS
17.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of Services under this AGREEMENT.

17.2 CONTRACTOR shall report immediately to AGENCY’s Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.

17.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

ARTICLE 18: EMPLOYMENT PRACTICES

18.1 Non-Discrimination in Employment Practices:

CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

18.1.1. “Discrimination” Defined:

As used in this contract, the term "discrimination" includes but is not limited to the illegal denial of equal employment opportunity, harassment (including sexual harassment and violent harassment), disparate treatment, favoritism, subjection to unfair or unequal working conditions, and/or any other prohibited discriminatory practice. The term also includes any act or retaliation.

18.1.2. Application of Monterey County Code, Chapter 2.80:

The provisions of Monterey County Code, Title 2, Chapter 2.80, apply to activities conducted pursuant to this contract. CONTRACTOR and its officers and employees, in their actions under this contract, are agents of the Owner within the meaning of Chapter 2.80, and are responsible for ensuring that their workplace and the services that they provide are free from discrimination, as required by Chapter 2.80. Complaints of discrimination made by CONTRACTOR, subcontractor(s), or any of their employees or agents against the Owner may be investigated and resolved using the procedures established by Chapter 2.80. CONTRACTOR shall establish and follow its own written procedures for the prompt and fair resolution of discrimination complaints made against CONTRACTOR by its own employees, agents and third parties, and shall provide a copy of such procedures to the AGENCY upon demand by the AGENCY.

18.1.3 Compliance with Laws:
During the performance of this agreement, CONTRACTOR shall comply with all applicable federal, state, and local laws and regulations, which prohibit discrimination, including but not limited to the following:

(a) California Labor Code section 1735;

(b) California Fair Employment and Housing Act, Government Code sections 12900 et seq., and the administrative regulations issued thereunder, Title 2 California Code of Regulations, sections 7285.0 et seq. (Division 4 - Fair Employment and Housing Commission);

(c) California Government Code sections 11135 - 11139.5 (Title 2, Div. 3, Part 1, Chap.1, Art. 9.5) and any applicable administrative regulations issued thereunder;

(d) Federal Civil Rights Acts of 1964 and 1991 (see especially Title VII, 42 USC sections 2000d et seq.), as amended, and all administrative rules and regulations issued thereunder (see especially 45 CFR Part 84); and all guidelines and interpretations issued pursuant thereto;

(e) The Rehabilitation Act of 1973, sections 503 and 504 (29 USC sections 793 and 794), as amended; all requirements imposed by the applicable HHS regulations (45 CFR Part 84); and all guidelines and interpretations issued pursuant thereto;

(f) Americans With Disabilities Act of 1990 (P.L. 101- 336), as amended, 42 USC sections 12101 et seq., and 47 USC sections 225 and 611, and any federal regulations issued pursuant thereto (see 24 CFR Chapter 1; 28 CFR Parts 35 and 36; 29 CFR Parts 1602, 1627 and 1630; and 36 CFR Part 1191;

(g) Unruh Civil Rights Act, California Civil Code sections 51 et seq.; and

(h) Monterey County Code, Title 2, Chapter 2.80, as amended and procedures issued pursuant thereto.

18.1.4 Written Assurances:

Upon request by the AGENCY, CONTRACTOR will give any written assurances of compliance with the Civil Rights Acts of 1964 and 1991, as amended, the Rehabilitation Act of 1973, as amended, the Americans With Disabilities Act of 1990, as amended, and/or Executive Order 11246, as may be required by the federal government in connection with this contract, pursuant to 45 CFR Sec. 80.4 or 45 CFR Sec. 84.5 or other applicable state or federal regulations.

18.1.5 Written Non-Discrimination Policy:

CONTRACTOR shall maintain a written statement of its non-discrimination policies, which shall be consistent with the terms of this agreement. Such statement shall be available to CONTRACTOR's employees, the Owner, Owner's officers and employees, and members of the public, upon request.

18.1.6 Access to Records by Government Agencies:
CONTRACTOR shall permit access by Owner and by representatives of the California Department of Fair Employment and Housing and the U.S. Equal Employment Opportunity Commission, and any federal and/or state AGENCY providing funds for this contract upon reasonable notice at any time during normal business hours, but in no case on less than 24-hour notice, to such of its books, records, accounts, facilities, and other sources of information as the inspecting party may deem appropriate to ascertain compliance with these non-discrimination provisions.

18.1.7 Binding on Subcontractors:

The provisions of Article 18.1 above shall also apply to all of CONTRACTOR’s subcontractors. CONTRACTOR shall include the non-discrimination and compliance provisions of these paragraphs in all subcontracts to perform work or provide services under this agreement.

18.2 Eight-hour Day, 40-Hour Week:

No work shall be performed by employees of CONTRACTORs in excess of eight (8) hours per day or forty (40) hours during any one week, unless such employees are compensated for all such excess hours at not less than one-and-one-half times the basic rate of pay, as provided in Labor Code Sec. 1815. Holiday work when permitted by law shall also be compensated at not less than one-and-one-half times the basic rate of pay.

18.2.1 Penalties:

Pursuant to California Labor Code Section 1813, the CONTRACTOR shall forfeit, as a penalty to the AGENCY, $25 for each worker employed in the execution of the contract by the CONTRACTOR or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the California Labor Code Sections 1810-1815.

18.2.2 Approvals:

CONTRACTOR will not be entitled to additional compensation for work performed outside of regular working hours, except to the extent such compensation is approved in writing by AGENCY Project Manager in advance. If so approved, such compensation shall in such event cover only the direct cost of the premium portion of the time involved, when permitted, and be without any overhead or profit, unless agreed otherwise by AGENCY.

18.3 Prevailing Wages:

18.3.1 Prevailing Wage Rates Determined:

The Director of the California Department of Industrial Relations has determined the general prevailing rate of per diem wages in the locality in which said public work is to be performed for each craft, classification or type of worker needed to execute the contract in accordance with California Labor Code (sections 1720, et seq.). Copies of the prevailing rate of per diem wages are on file and shall be made available to any interested party on request in the Monterey County
18.3.2 Payment of Prevailing Wage Rates Required:

CONTRACTOR and all subcontractors performing work under this contract shall pay wages to their workers employed on such work at not less than the general prevailing rate of per diem wages for such work, as required by California Labor Code Section 1771.

18.3.3 Penalties:

Failure to pay such prevailing wages shall subject the employer to the penalties set forth in California Labor Code Section 1775.

18.4 Payroll Records:

18.4.1 Compliance with California Labor Code Section 1776:

CONTRACTOR and all subcontractors shall comply with California Labor Code Section 1776, the requirements of which are set forth in this article. The CONTRACTOR shall be responsible for compliance with these provisions by his subcontractors.

18.4.2 Accurate Payroll Records Required:

CONTRACTOR and each subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice worker, or other employee employed by him or her in connection with the public work.

18.4.3 Certification and Inspection of Payroll Records:

The payroll records enumerated under paragraph 26.02 shall be certified and shall be available for inspection at all reasonable hours at the principal office of the CONTRACTOR or subcontractor on the following basis:

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

(b) A certified copy of all payroll records enumerated in paragraph 26.02 shall be made available for inspection, or furnished upon request to a representative of the AGENCY, the Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards of the Department of Industrial Relations.

(c) A certified copy of all payroll records enumerated in paragraph 26.02 shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through the AGENCY, the Division of Apprenticeship
Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of the CONTRACTOR.

18.4.4 Filing of Records:

The CONTRACTOR and each subcontractor shall file a certified copy of the records enumerated in paragraph 18.4.2 with the entity that requested such records within ten (10) days after receipt of a written request.

18.4.5 Elimination of Personal Identification:

Any copy of records made available for inspection as copies and furnished upon request to the public or any public AGENCY by the AGENCY, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the CONTRACTOR or subcontractor awarded the contract or performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the Federal Labor Management Cooperation Act of 1978 (29USC 175a) shall be marked or obliterated only to prevent disclosure of an individual’s name and social security number.

18.4.6 Notice to AGENCY Concerning Location of Records:

The CONTRACTOR and each subcontractor shall inform the AGENCY as to the location of the records enumerated under paragraph 26.02, including the street address, city, and county, and shall, within five (5) workdays, provide a notice of any change of location and address.

18.4.7 Notice of Non-Compliance; Penalties:

In the event of non-compliance with the requirements of this section, the CONTRACTOR or subcontractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects such CONTRACTOR or subcontractor must comply with this section. Should non-compliance still be evident after such ten (10) day period, the CONTRACTOR or subcontractor shall, as a penalty to the AGENCY, forfeit $25 for each calendar day, or portion thereof, for each worker, until strict compliance is effected. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.

18.5 Local Hiring Per County of Monterey Code 5.08.120:

All provisions included in County of Monterey Code 5.08.120 are applicable to this AGREEMENT, including but not limited to:

County of Monterey Code Section 5.08.120 General Provisions; Unless such a provision would conflict with a State or Federal law or regulation applicable to a particular contract for public works of improvement, all County contracts for public works of improvement shall contain provisions pursuant to which the CONTRACTOR promises to make a good-faith effort to hire qualified individuals who are, and have been for at least one year prior to the opening of bids,
residents of the Monterey Bay Area in sufficient numbers so that no less than fifty percent (50%) of the CONTRACTOR's total construction work force, including any subcontractor work force, measured in labor work hours, is comprised of Monterey Bay Area residents. For the purpose of this Section, the following terms have the meanings indicated:

- "Board" shall mean the Monterey County Board of Supervisors.
- "Qualified individual" shall mean a person who is specially trained, skilled, and experienced in the work, trade, or craft specified in the portion of the public work of improvement to be performed or who is enrolled in a certified State or federally approved apprenticeship program in the applicable trade or who is a journey person in his or her applicable trade.
- "Resident of Monterey Bay Area" shall mean a person who resides within the boundaries of Monterey County, Santa Cruz County, or San Benito County.

ARTICLE 19: GENERAL TERMS AND CONDITIONS

19.1 Notice:

Notices required under this AGREEMENT shall be delivered personally or by electronic facsimile, or by first class or certified mail with postage prepaid. Notice shall be deemed effective upon personal delivery or facsimile transmission, or on the third day after deposit with the U.S. Postal Service. CONTRACTOR shall give AGENCY prompt notice of any change of address. Unless changed according to these notice provisions, notices shall be addressed to:

TO AGENCY:  TO CONTRACTOR:
Att: Manuel Saavedra  Attn:  
Monterey County Water Resources  
Agency  
P.O. Box 930  
Salinas, CA 93902  
Tel: (831) 755-4860  
Fax: (831) 424-7935  
Email: saavedram@co.monterey.ca.us  

19.2 Governing Law:

This Agreement is made under and will in all respects be interpreted, enforced and governed by the laws of the State of California, without regard to that state's conflict of laws principles.

19.3 Amendment:

This Agreement cannot be altered, amended or modified in any respect, except by a writing duly executed by the Parties.

19.4 Non-Waiver:
No course of dealing between or among the Parties shall be deemed to affect, modify, amend or discharge any provision or term of this Settlement Agreement. No delay in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise of any right or remedy shall operate as waiver hereof, and so single or partial exercise of any such right or remedy shall preclude other or future exercise thereof. This Settlement Agreement is the result of good faith negotiations and compromise. The agreements and releases contained in this Settlement Agreement effect the settlement of claims which are denied and contested, and nothing set forth herein shall be construed as an admission by any party hereto of any liability of any kind to the other, or to any other person, corporation or any other type of entity. This Settlement Agreement is executed solely as a compromise to avoid the expense of litigation.

19.5 Disputes:

19.5.1 Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.

19.5.2 CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.

19.5.3 The parties agree to waive their separate rights to a trial by jury. This waiver means that the trial will be before a judge.

19.6 Enforcement:

If there is litigation of any kind between the Parties arising out of or concerning the enforcement of this Settlement Agreement or if the releases set forth herein are interposed as a defense in any litigation between the Parties, the prevailing party shall be entitled to recover from the other party the reasonable attorney's fees and costs incurred in connection with such litigation.

19.7 Counterparts:

This Settlement Agreement may be executed in counterparts and has the same force and effect as if all the signatures were obtained in one document.
IN WITNESS WHEREOF, AGENCY and CONTRACTOR execute this AGREEMENT as follows:

<table>
<thead>
<tr>
<th>MONTEREY COUNTY WATER RESOURCES AGENCY</th>
<th>CONTRACTOR</th>
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<tbody>
<tr>
<td></td>
<td>NAME: ______________________</td>
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<tr>
<td>David Chardavoyne</td>
<td>Signed *</td>
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<tr>
<td>General Manager</td>
<td>Print Name</td>
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<td></td>
<td>Title</td>
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<td>Date</td>
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* If CONTRACTOR is a corporation (including limited liability and non-profit corporations), the full legal name of the corporation shall be set forth together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth together with the signature of a partner with authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of his or her business, if any, and shall personally sign the Agreement.
Approved as to form:

__________________________________________
Deputy County Counsel

__________________________________________
Date

__________________________________________
Risk Management

__________________________________________
Date

__________________________________________
Auditor-Controller’s Office

__________________________________________
Date

__________________________________________
County Administrative Office

__________________________________________
Date