



Humboldt County Resource Conservation District  
**White Slough Wetland Enhancement Project – 2018 Soil Transport Services**  
Contract Documents

Issue for Bid

June 2018

Prepared for: Humboldt County RCD  
5630 South Broadway  
Eureka, California

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## ADVERTISEMENT FOR BIDS

Humboldt County Resource Conservation District invites Bids for **WHITE SLOUGH WETLAND ENHANCEMENT PROJECT - 2018 SOIL TRANSPORT SERVICES.**

The work shall include furnishing a minimum of five (5) and up to six (6) 10-wheel dump trucks with drivers to support soil transport at the White Slough Wetland Enhancement Project on the Humboldt Bay National Wildlife Refuge's White Slough Unit for 8 hours/day, Monday-Friday, from July 9, 2018 through August 17, 2018. The work generally includes transporting soil on County/State Highway routes from a designated loading site to a designated unloading site both located on the Humboldt Bay National Wildlife Refuge. The soil will be loaded at the designated loading site by Humboldt Bay National Wildlife Refuge staff, hauled and dumped by the awarded contractor at the unload site where it will be spread by Humboldt Bay National Wildlife Refuge staff. The Humboldt County Resource Conservation District intends to enter into a single contract to complete the work.

**This is a federally-assisted project and Davis-Bacon (DBRA) requirements will be strictly enforced. Federal Labor Standards will apply. Contractors, including all subcontractors and apprentices, must be eligible to participate.**

**Bids will be received by FedEx or hand delivered at the office of Humboldt Bay National Wildlife Refuge Visitors Center, 1020 Ranch Road, Loleta, CA, 95551 until 3:00 PM, Pacific Daylight Time on Monday, July 2, 2018. The USPS does not deliver to the physical address.**

The Contract Documents are available online at the Humboldt County Resource Conservation District (Contract Manager) website: <http://humboldtrcd.org/> and the Humboldt Builders Exchange website: <http://humbx.com/>.

Each proposal must be submitted on the prescribed form and accompanied by a certified check or Bid Bond in an amount of not less than 10 percent of the amount bid. Successful bidders will be required to furnish both a Payment Bond and Performance Bond in the full amount of the Contract Price.

In accordance with Public Contract Code Section 10263 and with concurrence of the project funding agencies, the Contractor may be allowed to substitute securities for monies normally withheld by the Contract Manager to insure performance under this contract.

This is a Public Works Project funded with CA State and Federal Funds. Therefore CA State and Federal prevailing wage rates will be required on this project.

In accordance with the provisions of section 1720 et seq. of the Labor Code, the Division of Labor Standards and Research has determined the general prevailing rates or wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in section 1773.8. These wages are set forth in the General Prevailing Wage Rates for this project, and are available from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov/DLSR/PWD>.

It shall be mandatory upon the Contractor herein and upon any Subcontractor to pay not less than the said specified rates to all laborers, workers and mechanics employed by them in the execution of the Agreement pursuant to CA Labor Code 1774.

Attention is directed to the provisions in section 1777.5 and sections 1777.6 of the Labor Code concerning the requirement to employ apprentices by the Contractor or any Subcontractor under it.

The Contractor shall comply with and shall cause his Subcontractors to comply with all laws and regulations governing the Contractor's and Subcontractor's performance on this project including, but not limited to: anti-discrimination laws, workers' compensation laws, and prevailing wage laws as set forth in CA Labor Code, Sections 1720-1861 et seq. and licensing laws, as well as Federal Labor Standards set forth in the Davis-Bacon Act (40 USC 276(a-a5), the Copeland "Anti-Kickback" Act (40 USC 276©; and the Contract Work Hours and Safety Standards Act (CWHSSA) (40 USC 327-333). The Contractor is required to include the prevailing wage language in all subcontracts pursuant to CA Labor Code 1775(E)(b)(1). The Contractor shall post, at appropriate conspicuous points on the site of the Project, a schedule showing all the determined general prevailing wage rates.

The Contractor agrees to comply with Labor Code Section 1775 (Payment of the Prevailing Wage Rates) and Labor Code 1776 (keeping accurate records) and Labor Code 1777.5, placing responsibility for compliance with the statutory requirements for all apprenticeable occupations on the prime Contractor.

The Contractor shall comply with the requirements imposed by the California Labor Code Sections 1720 through 1861 regarding public works projects and prevailing wage laws and sections 16000-16800 of the CA Code of Regulations.

Each worker needed to execute the work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.

Holiday and overtime work when permitted by law shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified.

Contractor and any Subcontractors shall be assessed penalties for violating the following labor codes; CA Labor Code 1813 for overtime, 1775 for underpayment of the prevailing wage, and 1776 for inaccurate or incomplete payroll records.

The Contractor shall be responsible for submitting certified payroll records in accordance with Labor Code 1776 and submit copies to Contract Manager's Labor Compliance Officer.

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

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

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

Copies of the Prevailing Wage Determinations are available online at <http://www.dir.ca.gov/DLSR>.

Copies of the Davis Bacon Act Wage Decisions are available online at <https://www.wdol.gov/dba.aspx>

If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the Contractor and subcontractors shall pay not less than the higher wage rate. The Department will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determination otherwise available for use by the Contractor and subcontractors, the Contractor and subcontractor shall pay not less than the Federal minimum wage rate, which most closely approximates the duties of the employees in question.

Trucking for the White Slough Wetlands Enhancement Project is classified by the Department of Industrial Relations as Determination: C-DT-830-261-7-2009-1 On/Off Hauling To/From Construction Site. Employers are responsible for paying the straight time prevailing wage rate and to make training fee contributions.

Owner/Operator Trucks are exempt from prevailing wage requirements. Certification Form CEM 2510 is required to be submitted to awarding agency, prime contract, and trucking broker.

<http://www.dot.ca.gov/hq/construc/forms/cem2510.pdf> (CalTrans Contract Number N/A)

Trucks may be subject to documentation requirements including but not limited to; copies of Motor Carrier Permit, Current Registration, Drug Program enrollment, insurance, and air quality compliance.

Prime Contractor and Truck Operators are responsible to comply with all local road and State Highway laws including but not limited to State Truck Tarping Laws and Vehicle Weight Limitations.

By: Jill Demers, Executive Director Dated: June 15, 2018

**PART 1 BIDDING REQUIREMENTS**

## INFORMATION FOR BIDDERS

Bids will be received by the Humboldt County Resource Conservation District (Contract Manager) (herein called the "Contract Manager"), at the office of Humboldt Bay National Wildlife Visitors Center, 1020 Ranch Road, Loleta, CA, 95551, until the time listed in the Advertisement for Bids; and then at said office publicly opened and read aloud.

Each bid must be submitted in a sealed envelope, addressed to Humboldt Bay National Wildlife Refuge Visitors Center, 1020 Ranch Road, Loleta, CA, 95551. Each sealed envelope containing a bid must be plainly marked on the outside as BID FOR WHITE SLOUGH WETLAND ENHANCEMENT PROJECT - 2018 Soil Transport Services, and the envelope should bear on the outside the name of the bidder, his address, his license number if applicable, and the name of the Schedule for which the bid is submitted. If forwarded by FedEx, the sealed envelope containing the bid must be enclosed in another envelope addressed to Humboldt Bay National Wildlife Refuge Visitors Center, 1020 Ranch Road, Loleta, CA, 95551. The USPS does not deliver to the physical address.

Bids received after the time specified opening will not be considered. The bidder is solely responsible for timely delivery of his bid.

All bids must be made on the required bid form. All blank spaces for bid prices must be filled in, in ink or typewritten, and the bid form must be fully completed and executed when submitted. Only one copy of the bid form is required.

Awards will be made to the lowest, responsive, responsible BIDDER in accordance to the requirements on the bid form.

The Contract Manager may waive any informalities or minor defects or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered.

**Questions regarding the contract documents shall be submitted via email by 5PM Thursday June 28, 2018 to Jill Demers, Humboldt County RCD, telephone (707) 832-5594, [jillhcrd@gmail.com](mailto:jillhcrd@gmail.com).**

No bidder may withdraw a bid within 60 days after the actual date of the opening thereof. Should there be reasons why the contract cannot be awarded within the specified period; the time may be extended by mutual agreement between the Contract Manager and the bidder.

Bid Protest. Any bid protest must be in writing and received by the Contract Manager at 5630 South Broadway, Eureka, California 95503 before 4:00 p.m. no later than two (2) working days following bid opening (the "Bid Protest Deadline") and must comply with the following requirements below.

Only a bidder who has actually submitted a Bid Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest.

The bid protest must contain a complete statement of the basis for the protest and all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is

based. The protest must include the name, address and telephone number of the person representing the protesting bidder if different from the protesting bidder.

A copy of the protest and all supporting documents must also be transmitted by fax or by e-mail, by or before the Bid Protest Deadline, to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest

The protested bidder may submit a written response to the protest, provided the response is received by the Contract Manager at 5630 South Broadway, Eureka, California 95503 before 4:00 p.m., within two (2) working days after the Bid Protest Deadline or after receipt of the bid protest, whichever is sooner (the "Response Deadline"). The response must include all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address and telephone number of the person representing the protested bidder if different from the protested bidder.

A copy of the response and all supporting documents must also be transmitted by fax or by e-mail, by or before the Bid Protest Deadline, to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

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

Bidders must satisfy themselves of the accuracy of the estimated quantities in the bid schedule by examination of the site and a review of the Plans and Specifications including addenda. After bids have been submitted, the bidder shall not assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done.

Each bid must be accompanied by a bid bond payable to the Contract Manager, for ten percent of the total amount of the bid. As soon as the bid prices have been compared, the Contract Manager will return the bonds of all except the three lowest responsible bidders. When the Agreement is executed, the bonds of the two remaining unsuccessful bidders will be returned. The bid bond of the successful bidder(s) will be retained until the payment bond and performance bond have been executed and approved, after which it will be returned. A certified check may be used in lieu of a bid bond.

A performance bond and a payment bond, each in the amount of 100 percent of the contract price, with a corporate surety approved by the Contract Manager and in favor of the Contract Manager, State Coastal Conservancy (SCC) and United States Fish & Wildlife Service (USFWS) will be required for the faithful performance of the contract.

Attorneys-in-fact who sign bid bonds or payment bonds and performance bonds must file with each bond a certified and effective dated copy of their power of attorney.

The party to whom the contract is awarded will be required to execute the Agreement and obtain the performance bond and payment bond within fourteen (14) calendar days from the date when Notice of Award is delivered to the bidder. The Notice of Award shall be accompanied by the necessary Agreement and bond forms. In case of failure of the bidder to execute the Agreement, the Contract

Manager may at his option consider the bidder in default, in which case the bid bond accompanying the proposal shall become the property of the Contract Manager.

The Contract Manager, within thirty (30) calendar days of receipt of an acceptable performance bond, payment bond and Agreement signed by the party to whom the Agreement was awarded shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the Contract Manager not execute the Agreement within such period, the bidder may submit a written notice to withdraw his signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the Contract Manager.

The Notice to Proceed shall be issued within thirty (30) days of the execution of the Agreement by the Contract Manager. Should there be reasons why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement between the Contract Manager and Contractor.

In essence, the Contract Manager will strive to expedite all review processes that it is responsible for, as set forth above in an attempt to issue the Notice to Proceed by July 6, 2018 or as soon thereafter as reasonable.

If the Notice to Proceed has not been issued within the thirty (30) day period or within the period mutually agreed upon, the Contractor may terminate the Agreement without further liability on the part of either party.

The Contract Manager may make such investigations as deemed necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Contract Manager all such information and data for this purpose as the Contract Manager may request. The Contract Manager reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Contract Manager that such bidder is properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein.

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over the trucking activities of the project shall apply to the contract throughout.

Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates in the county, or counties, in which the work is to be done have been determined by the Director of the Department of Industrial Relations, State of California. These wages are set forth in the General Prevailing Wage Rates for this project, and are available for review at the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov/DLSR/PWD>.

The U.S. Department of Transportation (DOT) provides a toll-free "hotline" service to report bid rigging activities. Bid rigging activities can be reported Mondays through Fridays, between 8:00 a.m. and 5:00 p.m., Eastern Time, Telephone No. 1-800-424-9071. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report these activities. The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

The Contract Documents under which it is proposed to execute the work consist of all material bound herewith. These Contract Documents are intended to be mutually cooperative and to provide all details reasonably required for the execution of the proposed work. Any person contemplating the submission

of a proposal shall have thoroughly examined all of the various parts of these Documents, and should there be any doubt as to the meaning or intent of said Contract Documents, the Bidder should request of the Contract Manager, in writing at least six working days prior to the bid opening, an interpretation thereof. Any interpretation or change in said Contract Documents will be made only in writing, in the form of addenda to the Documents and will be furnished to all Bidders receiving a set of the Documents, who shall submit, or indicate receipt of all addenda with their proposals. The Contract Manager will not be responsible for any other explanation or interpretations of said Documents.

The Contract Documents are assembled, arranged, and titled generally in conformance with format suggested by the Construction Specifications Institute (CSI). Minor variations to the CSI format may be used herein to suit Contract Manager requirements or to better adapt the Documents to particular types of projects.

Portions of these Contract Documents may contain standard preprinted material. The Bidder's attention is called to the Conditions of the contract which may modify and add to the preprinted material contained herein.

Sentences in the Contract Documents which are phrased in mandatory language, but which include no explicit reference to the party who has responsibility for performing the mandated duty, shall be interpreted as imposing responsibility for performance of the duty described on the Contractor. For example, a directive that "the site shall be kept clean" would impose the duty of keeping the site clean on the Contractor.

Where the Proposal for the work is to be submitted on a unit price basis, unit prices will be accepted on all items of work set forth in the Proposal, except those designated to be paid for as a lump sum. The estimate of quantities of work to be done is tabulated in the Proposal and, although stated with as much accuracy as possible, is approximate only and is assumed solely for the basis of calculation upon which the award of Contract shall be made. Payment to the Contractor will be made on the measurement of the work actually performed by the Contractor as specified on the Contract Documents. The Contract Manager reserves the right to increase or diminish the amount of any class of work as may be deemed necessary.

When the Proposal for the work is to be submitted on a lump sum basis, a single lump sum price shall be submitted in the appropriate place. The total amount to be paid the Contractor shall be the amount of the lump sum in the Proposal, as adjusted for additions or deletions resulting from changes in construction.

All blank spaces in the Proposal form must be filled in, in ink, in both words and figures where required. No changes shall be made in the phraseology of the forms. Written amounts shall govern in cases of discrepancy between the amounts stated in writing and the amounts stated in figures. In case of discrepancy between unit prices and totals, unit prices will prevail.

Any Proposal shall be deemed informal which contains omissions, erasures, alterations, or additions of any kind, or prices uncalled for, or in which any of the prices are obviously unbalanced, or which in any manner shall fail to conform to the conditions of the published Advertisement for Bid.

The Bidder shall sign his Proposal in the blank space provided therefore. If Bidder is a corporation, the legal name of the corporation shall be set forth above, together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If Bidder is a co-partnership, the true

name of the firm shall be set forth above, together with the signature of the partner or partners authorized to sign contracts in behalf of the co-partnership. If signature is by an agent, other than an officer of a corporation or a member of a partnership, a Power of Attorney must be on file with the Contract Manager prior to opening of Proposals or submitted with the Proposal, otherwise the Proposal will be regarded as not properly authorized.

State and local sales and use taxes, as required by the laws and statutes of the State and its political subdivisions, shall be paid by the Contractor. Prices quoted in the Proposal shall include sales tax unless provision is made in the Proposal form to separately itemize the tax.

Any Bidder may modify his bid by electronic or written communication at any time prior to the scheduled closing time for receipt of bids, provided such communication is received by the Contract Manager prior to the closing time. The Bidder is responsible for verifying prior to the bid opening that such modification was received by the Contract Manager. The electronic or written communication should not reveal the bid price but should state the addition or subtraction or other modification so that the final prices or terms will not be known by the Contract Manager until the sealed bid is opened.

Each Bidder must inform himself of the conditions relating to the execution of the work, and it is assumed that he will inspect the site, subsurface conditions, weather, variations of soil moisture and workability with rainfall, and make himself thoroughly familiar with all the Contract Documents. Failure to do so will not relieve the successful Bidder of his obligation to enter into a contract and complete the contemplated work in strict accordance with the Contract Documents. The Bidder's attention is called to the General Conditions and Supplementary Conditions of the Contract Documents in regards to the Bidder's obligation to verify for himself and to his complete satisfaction all information concerning site and subsurface conditions, and Notice requirements.

Each Bidder shall inform himself of, and the Bidder awarded a contract shall comply with, State and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, applicable regulations concerning employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and non-burning requirements, permits, fees, and similar subjects.

DIR Registration. No Contractor or Subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) or be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Each bidder shall take all necessary affirmative steps to assure minority firms, women's business enterprises, and labor surplus area firms are used when possible. If subcontractors are to be let, affirmative action steps shall include the following:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses and women's business enterprises are solicited whenever there are potential sources;

3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises; and
5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

This project is funded through the following sources:

1. State Coastal Conservancy (Prop 1E)
2. National Coastal Wetlands Conservation Grant (USFWS)
3. U.S. Fish and Wildlife Service (USFWS) CFDA Program 15.652

The Contractor shall comply with all requirements associated with these funding programs.

### BIDDERS' CHECKLIST

This checklist has been prepared and furnished to aid bidders in including all necessary supporting information with their bid. Bidders' submittals should include, but are not limited to the following:

<u>ITEM</u>	<u>PAGE</u>	<u>CHECKED</u>
1. Bid/Bid Schedule	B-9/10	
2. Authority to Sign Bid Proposal (if applicable)	(Attach to Bid Bond)	
3. List of Subcontractors (Subcontractor Details)	B-11	
4. Bid Bond	B-12/13	
5. Equal Employment Opportunity Certification	B-14	
6. Non Collusion Affidavit	B-15	
7. Drug-Free Workplace	B-16	
8. Power of Attorney	(Attach to Bid Bond)	

**BID**

Proposal of \_\_\_\_\_  
\_\_\_\_\_

(hereinafter called "Bidder"), organized and existing under the laws of the State of \_\_\_\_\_, doing business as \_\_\_\_\_.

To the Humboldt County Resource Conservation District a political subdivision of the State of California (hereinafter called "Contract Manager").

In compliance with your Advertisement for Bids, Bidder hereby proposes to perform all work for the construction of the

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in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below.

In the event of a difference between a price quoted in words and a price quoted in figures for the same quotation, the words shall be the amount bid. In the event that the product of a unit price and an estimated quantity does not equal the extended amount quoted, the unit price shall govern and the corrected product of the unit price and the estimated quantity shall be deemed to be the amount bid. If the sum of two or more items in a bidding schedule does not equal the total amounts quoted, the individual items amounts shall govern and the corrected total shall be deemed to be the amount bid.

By submission of this bid, each bidder certifies, and in the case of a joint bid, each party certifies as to his own organization, that his bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this bid with any other bidder or with any competitor.

Bidder hereby agrees to commence work under this Contract on or before a date to be specified in the Notice to Proceed and to fully complete the project and pay the liquidated damages as provided in Articles III and IV of the General Conditions.

Bidder agrees to perform all the work described in the Contract Documents for the following unit prices or lump sum.

NOTE: Bids shall include sales tax and all other applicable taxes and fees.

**BID SCHEDULE**

BID Item Description	Hourly Rate
HOURLY RATE to provide continuous soil transport services (trucking) for a minimum of five (5) and up to maximum six (6) highway legal 10-wheel dump trucks with licensed drivers, 8 hours/day (straight time), 8am-4pm (Monday-Friday) from July 9, 2018 through August 17, 2018 and in accordance to the contract documents. The hourly rate covers all direct and indirect costs associated with the contract including but not limited to prevailing wage, licenses, bonding, insurance, contracting, administrative costs, certified payroll, maintaining operable trucks, repairs of damaged property and all other work incidental to providing continuous soil transport services.	\$_____ /HOUR Per Truck and Driver

Award will be made to the lowest, responsive, responsible; BIDDER based on the HOURLY RATE.

Work may be added or deducted as a change order during the project and the bid amounts shown here shall be the agreed upon contract amount for the work or as. The Contractor shall be paid based on actual quantities of work performed.

It is further understood and agreed that the Contract Manager reserves the right to eliminate any section of this proposal from the Contract without claim of the Contractor for profits lost.

Submitted By (Company) \_\_\_\_\_

Date \_\_\_\_\_

Name (Written) \_\_\_\_\_

Signature \_\_\_\_\_

Receipt of the following Addenda is acknowledged:

\_\_\_\_\_  
 \_\_\_\_\_

The representations made herein are made under penalty of perjury.

Respectfully submitted:

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 License Number / DIR Number

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 License Expiration Date

(SEAL - If Bid is by Corporation)



**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

\_\_\_\_\_ as Principal, and

\_\_\_\_\_, as Surety, are hereby held and firmly bound unto Humboldt County Resource Conservation District as Contract Manager, in the penal sum of \_\_\_\_\_ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

The Condition of the above obligation is such that whereas the Principal has submitted to Humboldt County Resource Conservation District a certain bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for the:

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NOW, THEREFORE,

- a. If said bid shall be rejected, or
- b. If said bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid), and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said bid,

then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Contract Manager may accept such bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

SEAL:

\_\_\_\_\_  
Principal

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Surety

By: \_\_\_\_\_

Title: \_\_\_\_\_

IMPORTANT - Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

NOTE: Bidder shall provide current "Power of Attorney" for Attorney-in-fact who signs Bid Bond.

*(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS PROPOSAL SHALL ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS WHICH ARE A PART OF THIS PROPOSAL)*

**EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION**

The bidder \_\_\_\_\_, proposed

Subcontractor \_\_\_\_\_, hereby certifies that he

has \_\_\_\_\_,

has not \_\_\_\_\_,

participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed Subcontractors only in connection with contracts and subcontracts, which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime Contractors and Subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such Contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

**NON-COLLUSION AFFIDAVIT**

(to be executed by bidder and submitted with bid)

The undersigned declares:

I am the \_\_\_\_\_ (title) of \_\_\_\_\_ (company), 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).

Dated: \_\_\_\_\_ by: \_\_\_\_\_

Title: \_\_\_\_\_

## DRUG FREE WORKPLACE

By submitting a bid, the Bidder asserts that they are in compliance with California's Drug Free Workplace Act of 1990 and that they will provide a drug-free workplace by doing all of the following:

- Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition.

Establishing a drug-free awareness program to inform employees about all of the following: The dangers of drug abuse in the workplace.

- The person's or organization's policy of maintaining a drug-free workplace.
- Any available drug counseling, rehabilitation and employee assistance programs.
- The penalties that may be imposed upon employees for drug abuse violations.
- Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) of the act and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

**PART 2 CONTRACT FORMS**

## CONTRACT AGREEMENT

THIS AGREEMENT, MADE THIS \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Contract Manager, hereinafter called "Contract Manager," and \_\_\_\_\_, doing business as (an individual), or (a partnership), or (a corporation), hereinafter called "Contractor."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The Contractor will commence and complete the construction of project as defined in the Contract Documents.
2. The Contractor will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the project described herein.
3. The Contractor will commence the work required by the Contract Documents to execute the contract within 5 calendar days after the date of the Notice to Proceed and will complete the same within the time provided in Section B-35 of the General Conditions, unless the period for completion is extended otherwise by the Contract Documents.
4. The Contractor agrees to perform all of the work described in the Contract Documents and comply with terms therein for the sum shown in the Bid Schedule and as amended by approved change order.
5. The Contract Documents consist of the Bidding Requirements, Contract Forms, Conditions of the Contract, the Specifications, and the Plans, including all modifications thereof incorporated into the documents before their execution, and including all other requirements incorporated by specific reference thereto. These form the Contract.
6. The Contract Manager will pay to the Contractor in the manner and at such times as set forth in the General Conditions such amounts as required by the Contract Documents.
7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
8. The general prevailing rates of per diem wages shall be paid by the Contractor.
9. DIR Registration. No Contractor or Subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) or be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

10. In response to Labor Code section 1773.3, the PWC-100 form has been completed by the awarding agency and provided to the Department of Industrial Relations on June 19, 2015, (required within five days of the award). This form allows Contractors and Subcontractors to upload electronic certified payroll records to the Labor Commissioner (required for all projects awarded on or after April 1, 2015).

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in quadruplicate, each of which shall be deemed an original on the date first above written.

Humboldt County Resource Conservation District  
Contract Manager

ATTEST:

(seal)

By: \_\_\_\_\_  
Jill Demers, Executive Director

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Contractor (Seal)

By: \_\_\_\_\_

License No: \_\_\_\_\_

Expiration: \_\_\_\_\_

DIR No.: \_\_\_\_\_

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: That

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called Principal, and  
(Corporation, Partnership, or Individual)

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

Humboldt Count Resource Conservation District  
(Name of Contract Manager)

5630 South Broadway, Eureka, CA, 95503 \_\_\_\_\_  
(Address of Contract Manager)

hereinafter called Contract Manager, in the penal sum of

\_\_\_\_\_ Dollars, in lawful money  
of the United States, for the payment of which sum well and truly to be made, we bind ourselves,  
successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract  
with the Contract Manager, dated \_\_\_\_\_ day of \_\_\_\_\_ 2018, a copy of  
which is hereto attached and made a part hereof for the installation of:

**White Slough Wetland Enhancement Project - 2018 Soil Transport Services**

NOW, THEREFORE, If the Principal shall well, truly and faithfully perform its duties, all the undertaking,  
covenants, terms, conditions, and agreements of said contract during the original term thereof, and any  
extensions thereof which may be granted by the Contract Manager, with or without notice to the Surety  
and during one year (minimum) guaranty period, and if he shall satisfy all claims and demands incurred  
under such contract, and shall fully indemnify and save harmless the Contract Manager from all costs  
and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the  
Contract Manager all outlay and expense which the Contract Manager may incur in making good any  
default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no  
change, extension of time, alteration or addition to the terms of the Contract or to the work to be

performed thereunder of the Specifications accompanying the same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the Specifications.

PROVIDED, FURTHER, that no final settlement between the Contract Manager and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in 4 counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

ATTEST:

\_\_\_\_\_  
Principal

\_\_\_\_\_  
(Principal) Secretary

(SEAL)

By: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_  
(Address)

ATTEST:

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Witness as to Surety

By: \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
(Address)

Address: \_\_\_\_\_  
\_\_\_\_\_

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.

**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS: That

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called Principal, and  
(Corporation, Partnership, or Individual)

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

Humboldt Count Resource Conservation District  
(Name of Contract Manager)

5630 South Broadway, Eureka, CA, 95503 \_\_\_\_\_  
(Address of Contract Manager)

hereinafter called Contract Manager, in the penal sum of

\_\_\_\_\_ Dollars, in lawful money  
of the United States, for the payment of which sum well and truly to be made, we bind ourselves,  
successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract  
with the Contract Manager, dated \_\_\_\_\_ day of \_\_\_\_\_ 2018, a copy of  
which is hereto attached and made a part hereof for the installation of:

**White Slough Wetland Enhancement Project - 2018 Soil Transport Services**

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, Subcontractors,  
and corporations furnishing materials for or performing labor in the prosecution of the work provided  
for in such contract, and any authorized extension or modification thereof, including all amounts due for  
materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed  
or used in connection with the construction of such work, and all insurance premiums of said work, and  
for all wages and fringe benefits of labor, performed in such work, whether by Subcontractor or  
otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulated and agrees that no  
change, extension of time, alteration or addition to the terms of the contract or to the work to be  
performed thereunder or the specifications accompanying the same shall in any way affect its obligation

on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in 4 counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

ATTEST:

\_\_\_\_\_  
Principal

\_\_\_\_\_  
(Principal) Secretary

(SEAL)

By: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_  
(Address)

ATTEST:

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Witness as to Surety

By: \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
(Address)

Address: \_\_\_\_\_  
\_\_\_\_\_

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is Partnership, all partners should execute Bond.

IMPORTANT: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.

**NOTICE OF AWARD**

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Description:

**White Slough Wetland Enhancement Project - 2018 Soil Transport Services**

The Contract Manager has considered the Bid submitted by you for the above described Work in response to its Advertisement for Bids dated \_\_\_\_\_ and Information for Bidders.

You are hereby notified that your BID for the Bid Schedule has been accepted for items in the amount of \$ \_\_\_\_\_.

You are required by the Information for BIDDERS to execute the Agreement and furnish the required Contractor's certificates of insurance within fourteen (14) calendar days from the date this Notice is received by you.

If you fail to execute said Agreement and to furnish said INSURANCE within fourteen (14) calendar days from the date of receipt of this Notice, said Contract Manager will be entitled to consider all your rights arising out of the Contract Manager's acceptance of your Bid as abandoned and as a forfeiture of your Bid Bond. The Contract Manager will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the Contract Manager within two (2) calendar days.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

By: \_\_\_\_\_  
Jill Demers, Executive Director  
Humboldt County Resources Conservation District

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged by:

\_\_\_\_\_  
Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

By: \_\_\_\_\_ Title: \_\_\_\_\_

**NOTICE TO PROCEED**

To: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Project: White Slough Wetland Enhancement  
2018 Soil Transport Services

You are hereby notified to commence work in accordance with the Agreement dated on or before \_\_\_\_\_, and you are to complete the work within \_\_\_\_\_ consecutive working days thereafter. The date of completion of all work is therefore \_\_\_\_\_.

By: \_\_\_\_\_  
Contract Manager  
Jill Demers, Executive Director  
Humboldt County Resource Conservation District

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF PROCEED is hereby acknowledged by:

\_\_\_\_\_  
Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

By: \_\_\_\_\_ Title: \_\_\_\_\_

### CONTRACTOR'S CERTIFICATE REGARDING WORKMEN'S COMPENSATION

Labor Code Section 3700,

"Every employer except the State and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.

By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees."

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions before commencing the performance of the work of this contract.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

(In accordance with Article 5 (commencing at Section 1860, Chapter 1, Part 7, Division 2, of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract).

## **PART 3: CONDITIONS OF THE CONTRACT**

## SECTION A: DEFINITIONS AND TERMS

### A-1 General

Wherever the following abbreviations and terms, or pronouns in place of them, are used in these Conditions and other Contract Documents of which these Conditions are a part, the intent and meaning shall be interpreted as provided below.

### A-2 Abbreviations

The following abbreviations may be used in the Contract Documents:

AA	Aluminum Association
AASHO	American Association of State Highway Officials
ABMA	American Boiler Manufacturer's Association
ACI	The American Concrete Institute
AGA	American Gas Association
AGC	Associated General Contractors
AGMA	American Gear Manufacturer's Association
AI	The Asphalt Institute
AIA	American Institute of Engineer s
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ALSC	American Lumber Standards Committee
ANSI	American National Standards Institute, Inc.
API	American Petroleum Institute
APWA	American Public Works Association
AREA	American Railway Engineering Association
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWPA	American Wood Preservers' Association
AWS	American Welding Society
AWWA	American Water Works Association
BHMA	Builders Hardware Manufacturers Association
CCMTC	California Concrete Masonry Technical Committee
CRSI	Concrete Reinforcement Steel Institute
DFPA	Douglas Fir Plywood Association
ETL	Electrical Testing Laboratory
FS	Federal Specification
ICBO	International Conference of Building Officials
IEEE	The Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IPCEA	Insulated Power Cable Engineers Association
MBMA	Metal Building Manufacturer's Association
MSS	Manufacturers Standardization Society of the Valve and Fitting Industry Standards

NBFU	National Board of Fire Underwriters
NBS	National Buildings Standards
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NFPA	National Fire Protection Association
OSHA	Occupational Safety and Health Act of 1970
PCA	Portland Cement Association
SMACNA	Sheet Metal and Air Conditioning Contractor's National Association
SSPC	Steel Structures Painting Council
SSPWC	Standard Specifications for Public Works Construction
UBC	Uniform Building Code
USPHS	United States Public Health Service
UL	Underwriter's Laboratory
UMC	Uniform Mechanical Code
UPC	Uniform Plumbing Code
USAS	The United States of America Standard Institute
USBR	United States Bureau of Reclamation
WCLIB	West Coast Lumber Inspection Bureau
WIC	Woodwork Institute of California

### A-3 Definitions

- a) Acceptance - The formal written acceptance by Contract Manager of the entire Contract which has been completed in all respects in accordance with the Specifications and any approved modifications.
- b) Addenda - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, Drawings and Specifications by additions, deletions, clarifications or corrections.
- c) As Approved - The words "as approved" unless otherwise qualified, shall be understood to be followed by the words "by Contract Manager."
- d) Bid - The offer of the bidder for the work when made out and submitted on the prescribed bid form, properly signed and guaranteed. A Bid is also known as a Proposal.
- e) Bid Bond - The cash, cashier's check, certified check, or bidder's bond accompanying the bid submitted by the bidder, as a guarantee that the bidder will enter into a Contract with Contract Manager for the performance of work herein described.
- f) Bidder - Any individual, firm, partnership or corporation submitting a bid for the work contemplated, and acting directly or through a duly authorized representative.
- g) Change Orders - A written order from Contract Manager to the Contractor authorizing an addition, deletion, or revision in the work within the general scope of the Contract Documents or authorizing adjustment in the Contract price or Contract Time Limit.
- h) Claim - A separate demand by the Contractor for

- i. a Time Limit extension,
  - ii. payment of money or damages arising from work done by or on behalf of the Contractor pursuant to the Contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or
  - iii. an amount the payment of which is disputed by Contract Manager.
- i) Contract - The written agreement covering the performance of the work and the furnishing of labor, materials, tools and equipment in the construction of the work. The Contract shall include all Contract Documents and supplemental agreements amending or extending the work contemplated which may be required to complete the work in a substantial and acceptable manner. Supplemental agreements are written agreements covering alterations, amendments or extensions to the Contract and include Addenda and Contract Change Orders.
- j) Contract Documents – Those items so designated in the Agreement, and which together comprise the Contract.
- k) Contract Price - Total monies payable to the Contractor under the terms and conditions of the Contract Documents.
- l) Contract Time - The Time Limit stated in the Contract Documents for the completion of work.
- m) Contractor - The person or persons, firm, partnership or corporation or other entity that has entered into the Contract with Contract Manager to perform the work.
- n) Contract Drawings - "Contract Drawings" or "drawings" means and includes:
  - i. All drawings which have been prepared on behalf of Contract Manager and which are included in the Contract Documents and all modifying drawings issued by addenda thereto;
  - ii. All drawings submitted pursuant to the terms of the Contract by the Contractor with his proposal and by the Contractor to Contract Manager during the progress of the work when accepted by Contract Manager.
  - iii. Except where a specific type of drawing is indicated, the terms "Drawings" and "Plans" are used interchangeably throughout the Contract Documents and the Plans are Drawings as defined above.
- o) County - County of Humboldt, California.
- p) Date of Execution of the Contract - The date on which the Contract is signed by Contract Manager.
- q) Datum - The figures given in the Specifications or upon the drawings after the word "Elevation" or an abbreviation of it shall mean with respect to the Control Points shown on the Plans.
- r) Days - Unless otherwise designated, days as used in the Contract Documents shall mean calendar days.

- s) Field Order - A written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of Contract Time, issued by Contract Manager to the Contractor during construction.
- t) His - "His" shall include "her" and "its".
- u) Install - "Install" wherever and in whatever manner used shall mean the installation, complete in place of an item.
- v) Notice of Award - The written notice of the acceptance of the Bid from Contract Manager to the successful Bidder.
- w) Notice to Proceed - Written communication issued by Contract Manager to the Contractor authorizing him to proceed with the work and establishing the date of commencement of the work.
- x) Or Equal - The terms "or equal" or "approved equal" shall be understood to indicate that the "equal" product be the same or better than the product named in function, performance, reliability, quality and general configuration. Determination of equality in reference to the project design requirement will be made in writing by Contract Manager.
- y) Plans or Specification Drawings - The term "Plans, Drawings, or Specification Drawings" refers to the official Plans, profiles, cross sections, elevations, details, and other working drawings and supplementary drawings, or reproductions thereof, signed by the Engineer, which show the location, character, dimensions, and details of the work to be performed. Plans may either be bound in the same book as the balance of the Contract Documents or bound in separate sets, and are a part of the Contract Documents, regardless of the method of binding.
- z) Prevailing Wage Laws - The successful Bidder must comply with all prevailing wage laws applicable to the Project, and related requirements contained in this Project Manual.
- aa) Project - The undertaking performed as provided by the Contract Documents.
- bb) Project Engineer - Wherever in these documents the word "Project Engineer" appears, it shall be understood to mean U.S. Fish and Wildlife Service's design engineer, Conor Shea, P.E.
- cc) Project Inspector - Authorized representative of Contract Manager or who is assigned to the Project or any part thereof.
- dd) Project Manager – The term Project Manager shall be understood to indicate the Humboldt Bay National Wildlife Refuge Manager Eric Nelson or Deputy Refuge Manager Kurt Roblek.
- ee) Project Manager's Representative – The term Project Manager's Representative shall be understood to indicate the authorized representative of the Project Manager.

- ff) Provide - "Provide" wherever and in whatever manner used shall be understood to mean furnish and install.
- gg) Service of Notice - Any notice from one party to the other under the Contract shall be in writing and shall be dated and signed by the party giving such notice or by a duly authorized representative thereof. Any such notice shall not be effective for any purpose whatsoever unless service in the following manner:
- i. If the notice is given to Contract Manager by personal delivery thereof, Contract Manager's Project Representative or by depositing the notice in the U.S. mail, enclosed in a sealed envelope addressed to Humboldt County Resource Conservation District, 5630 South Broadway, Eureka, California 95503, Attn: Jill Demers, postage prepaid, by certified mail return receipt requested.
  - ii. If the notice is given to the Contractor, by personal delivery to the Contractor or its duly authorized representative at the project site or by depositing in the U.S. mail, enclosed in a sealed envelope address to the Contractor on the Contract Form, postage prepaid, by certified mail, return receipt request.
  - iii. If the notice is given to the surety or any other person, by personal delivery to such surety or other person by personal delivery to such surety or other person by depositing in the U.S. mail, enclosed in a sealed envelope, addressed to the surety or other person at the address of such surety or other person last communicated to the party giving the notice, postage prepaid, by certified mail return receipt requested.
- hh) Shall or Will - "Shall," or "Will," whenever used to stipulate anything, means shall or will be done or be performed by either the Contractor or Contract Manager and means that the Contractor or Contract Manager has thereby entered into a covenant with the other party to do or perform the same.
- ii) Shop Drawing - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier or distributor, to illustrate some portion of the Work.
- jj) Shown - "Shown," "indicated," "detailed," and words of like import, wherever and in whatever manner used, with or without reference to the drawings, means shown, indicated or detailed on the drawings or plans.
- kk) Specifications - A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship, including the General Conditions and Supplemental General Conditions.
- ll) Specified - "Specified," "described," or "noted," wherever and in whatever manner used, means as specified, described or noted in the Contract Documents.
- mm) Subcontractors - The term "Subcontractor", as employed herein, includes only those having a direct contract with the Contractor and it includes one who furnishes material worked to a special design according to the plans or specifications of this work, but does not include one who merely furnishes material not so worked and would be considered a supplier only.

- nn) Substantial Completion - That date as certified by Contract Manager when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended.

Contract Manager may, at its sole discretion, issue a written notice of substantial completion for the purpose of establishing the starting date for specific equipment guarantees, and to establish the date that Contract Manager will assume the responsibility for the cost of operating such equipment. Said notice shall not be considered as final acceptance of any portion of the work or relieve the Contractor from completing the remaining work within the specified time and in full compliance with the Contract Documents.

- oo) Sufficient - "Sufficient," "necessary," or "proper," "acceptable," "satisfactory," "desirable," and words of like import, wherever and in whatever manner used, with or without reference to Contract Manager, means sufficient, necessary, proper, acceptable, satisfactory and desirable in the judgment of Contract Manager.
- pp) Supplementary Conditions - Modifications to General Conditions required by a Federal Agency for participation in the project and approved by the Agency in writing prior to inclusion in the Contract Documents, or such requirements that may be imposed by applicable State or local laws.

References to "Supplemental General Conditions" in the General Conditions and elsewhere in the Contract Documents shall be construed to read "Supplementary Conditions."

- qq) Supplier - Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.
- rr) Time Limit (time period) - Contract Time.
- ss) Work - All the work specified, indicated, shown or contemplated in the Contract to construct the improvements, including all alterations, amendments or extensions thereto made by Contract Change Order or other written orders of Contract Manager.
- tt) Written Notice - "Written Notice" shall be deemed to have been duly served when delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended or if delivered at or sent by registered mail to the last business address known to it who gives the notice.
- uu) Whenever in the Specifications or upon the drawings the words DIRECTED, REQUIRED, PERMITTED, ORDERED, DESIGNATED, PRESCRIBED, or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of Contract Manager is intended, and similarly the words APPROVED, ACCEPTABLE, SATISFACTORY, or words of like import, shall mean approved or acceptable to, or satisfactory to Contract Manager, unless otherwise expressly stated.

## SECTION B: GENERAL CONDITIONS

### ARTICLE I. SCOPE OF WORK

#### B-1 Intent of Contract Documents

The intent of the Contract Documents is to prescribe the details for the construction and completion of the work which the Contractor undertakes to perform in accordance with the terms of the Contract. Where the Specifications and Plans describe portions of the work in general terms, but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified, the Contractor shall furnish all labor, materials, tools, equipment and incidentals and do all the work involved in performing the Contract in a satisfactory and workmanlike manner, ready for use occupancy or operation.

The technical provisions are presented in sections for convenience. However, this presentation does not necessarily delineate trades or limits of responsibility. All sections of the Specifications and Plans are interdependent and applicable to the project as a whole.

The Contract Documents are complementary, and what is called for in any one shall be as binding as if called for in all.

Anything shown on the Drawings and not mentioned in the Specifications or mentioned in the Specifications and not shown on the Drawings shall have the same effect as if shown or mentioned respectively in both. Any work shown on one Drawing shall be construed to be shown in all Drawings and the Contractor will coordinate the Work and the Drawings. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: The Contract; the Bid; any Supplementary or Special Conditions; The condition of all permits; Instructions to Bidders; the General Conditions; the Specifications; the Drawings. Technical Specifications take priority over general Specifications and detail Drawings take precedence over general Drawings. As between schedules and information given on Drawings, the Schedules shall govern. As between figures given on Drawings and the scales measurements, the figures shall govern. As between large-scale Drawings and small-scale Drawings, the larger scale shall govern. Any conflict or inconsistency between or in the drawings shall be submitted to the Project Engineer through the Contract Manager, or through the Project Inspector in writing. Work done by the Contractor after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's own risk.

#### B-2 Contractor's Understanding

It is understood and agreed that the Contractor has, by careful examination, satisfied itself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work, all permit conditions and requirements, the general and local conditions, and all other matters which can in any way affect the work under this Contract. No verbal agreement or conversation with any officer, agent or employee of the Contract Manager or the Project Manager, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.

### **B-3 Changes in the Work**

The Contract Manager may, at any time, by written order make changes in the work including but not limited to: (a) changes in the specifications on drawings; (b) changes in the sequence, method or manner of performance of the work; (c) changes in the furnished facilities, equipment, materials, services or site; or (d) changes directing acceleration of the work. If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of the Contract an equitable adjustment will be made and the Contract modified in writing accordingly.

Such modification will be in the form of a Change Order which will set forth the work to be done or the method by which the change and cost adjustment, if any, will be determined, and the time of completion of the work.

The compensation to be paid for any extra work or change shall be determined in one or more of the following ways or at Contract Manager's sole election:

- (a) By unit prices previously approved (unit prices previously approved shall be used in all cases for similar units unless mutually agreed that for some reason they are not applicable);
- (b) By estimate and acceptance of an agreed upon lump sum; or
- (c) On a time and materials basis involving the actual necessary expenses and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon but not to exceed fifteen (15) percent of the actual necessary expense to cover other costs that are not covered under labor, equipment, materials, and Subcontractors. In the events that items (a) and (b) above are not applicable, then this latter method (c) shall be used. Markup by Subcontractors on their work shall not exceed fifteen percent. Contractor's markup on Subcontractor's work shall not exceed five (5) percent.

The Contractor shall keep full and complete records of the actual cost of such work in the form and manner prescribed by the Contract Manager and shall permit the Contract Manager to have access to such records as may be necessary to assist in the determination of the compensation payable for such work.

The Contract Manager also may at any time by issuing a Field Order make changes in the details of the Work. The Contractor shall proceed with the performance of any change in the work so ordered by the Contract Manager unless the Contractor believes that such Field Order entitles it to a change in the Contract Price or Time, or both in which event the Contractor shall give the Contract Manager written notice thereof within seven (7) days after the receipt of the ordered change. The Contractor shall not execute such changes pending the receipt of an executed change order or further instruction from the Contract Manager.

If the Contractor is delayed in completing by reason of any change made pursuant to this section, the time for completion of the work shall be extended by change order for a period agreed to, commensurate with such delay. The Contractor shall not be subjected to any claim for liquidated damages for this period of time, but the Contractor shall have no claim for any other compensation for any such delay.

#### **B-4 Procedures and Allowable Costs on Changes**

- (a) All changes which affect the cost or time of the construction of the project must be authorized by means of a Change Order. The Change Order will include extra work, work for which quantities have been altered from those shown in the bidding schedule, as well as decreases or increases in the quantities of installed units which are different than those shown in the bidding schedule because of final measurements. All changes should be recorded on a Change Order as they occur. Each Change Order must contain complete and detailed justification for all items addressed by the Change Order.
  
- (b) If the change in or addition to the work will result in an increase in the contract sum, the Contract Manager shall have the right to require the performance thereof in any of the following ways, at Contract Manager's sole election:
  - (i) By unit prices previously approved (unit prices previously approved shall be used in all cases for similar units unless mutually agreed that for some reason they are not applicable);
  
  - (ii) By estimate and acceptance of an agreed upon lump sum; or
  
  - (iii) On a time and materials basis involving the actual necessary expenses and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon but not to exceed fifteen (15) percent of the actual necessary expense to cover other costs that are not covered under labor, equipment, materials, and Subcontractors. In the events that items (a) and (b) above are not applicable, then this latter method (c) shall be used. Markup by Subcontractors on their work shall not exceed fifteen percent. Contractor's markup on Subcontractor's work shall not exceed five percent (5%).
  
- (c) If the Contract Manager elects to have the Change in the Work performed on a lump sum basis, such election shall be based on a lump sum proposal which shall be submitted by the Contractor within ten (10) days of the Contract Manager's request therefore. Request for a lump sum proposal shall not be deemed an election to have the work performed on a lump sum basis. The Contractor's proposal shall be itemized and segregated by labor and materials for the various components of the change (no aggregate labor total will be acceptable) and shall be accompanied by signed proposals of any Subcontractors which will perform any portion of the change, and of any persons who will furnish materials or equipment for incorporation therein. The proposal shall also include the Contractor's estimate of the time required to perform said changes or additional work.

The portion of the proposal relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors, may include reasonably anticipated gross wages of Job Site labor, including foremen, who will be directly involved in the Change in the Work (for such time as they will be so involved), plus payroll costs (including premium costs of overtime labor, if overtime is anticipated, social security, Federal or State unemployment insurance taxes and fringe benefits required by collective bargaining agreements entered into by the Contractor or any such Subcontractor in connection with such labor) and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs as overhead and profit for the Contractor or any such

Subcontractor, as applicable (such overhead and profit to include all supervision except foremen.)

The portion of the proposal relating to materials may include the reasonably anticipated direct costs to the Contractor or to any of its Subcontractors of materials to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales or use taxes and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs, as overhead and profit for the Contractor or any such Subcontractor, as applicable (such overhead and profit to include all supervision except foremen.)

The portion of the proposal relating to materials may include the reasonably anticipated direct costs to the Contractor or to any of its Subcontractors of materials to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales or use taxes and up to fifteen percent (15%) of said direct material costs as indirect costs for the Contractor or any such Subcontractor (such indirect costs shall include all small tools), and may further include the Contractor's and any of its Subcontractors' reasonably anticipated rental costs in connection with the Change in the Work (either actual rates or discounted local published rates), plus up to five percent (5%) commission for the Contractor or any such Subcontractors, as applicable. If any of the items included in the lump sum proposal are covered by unit prices contained in the contract document, the Contract Manager may, if it requires the Change in the Work to be performed on a lump sum basis, elect to use these unit prices in lieu of the similar items included in the lump sum proposal in which event an appropriate deduction will be made in lump sum amount. No overhead and profit shall be applied to any unit prices.

The lump sum proposal may include up to five percent (5%) of the amount which the Contractor will pay to any of its Subcontractors for the Change in the Work as a commission to the Contractor.

- (d) In the event that the Contractor fails to submit its proposal within the designated period, the Contract Manager may direct the Contractor to proceed with the Change or Addition to the Work and the Contractor shall so proceed. The Contract Manager shall determine the reasonable costs and time to perform the Work in question, which determination when approved by Contract Manager shall be final and binding upon the Contractor.
- (e) In the event that the parties are unable to agree as to the reasonable costs and time to perform the change in or addition to the work based upon the Contractor's proposal and the Contract Manager do not elect to have the change in the work performed on a time and material basis, the Contract Manager shall make a determination of the reasonable cost and time to perform the change in the work, based upon his own estimates, the Contractor's submission or combination thereof. A Change Order shall be issued for the amount of costs and time determined by the Contract Manager and shall become binding upon the Contractor unless the Contractor submits its protest in writing to the Contract Manager within thirty (30) days of the issuance of the Change Order. The Contract Manager has the right to direct the Contractor in writing to perform the Change in the Work which is the subject of the Change Order. Failure of the parties to reach agreement regarding the costs and time of the performing the Change in the Work and/or any pending protest shall not relieve the Contractor from performing the Change in the work promptly and expeditiously.

- (f) If the Contract Manager elects to have the Change in the Work performed on a time and material basis, the same shall be performed, whether by the Contractor's forces or the forces of any of its Subcontractors or Sub-Subcontractors, at actual costs to the entity or entities performing the Change in the Work (without any charge for administration, clerical expense, supervision or superintendence of any nature whatsoever, including foremen, or the costs, use or rental of tools or plant), plus fifteen percent (15%) to cover other costs that are not covered under labor, equipment, materials, and Subcontractors (except that this fifteen percent (15%) shall not be applied against any payroll costs, defined herein with respect to lump sum proposals). If the entity or entities actually performing the work are Subcontractors or Sub-Subcontractors, the Contractor shall be allowed five percent (5%) of the total charge of the performing entity or entities (including mark-up) as Contractor's commission. No mark-ups shall be allowed hereunder. The Contractor shall submit to the Contract Manager daily work and material tickets, to include the identification number assigned to the Change in the Work, the location and description of the Change in the Work, the classification of labor employed (and names and social security numbers), the material used, the equipment rented (not tools) and such other evidence of cost as the Contract Manager may require. The Contract Manager may require authentication of all time and material tickets and invoices by persons designated by the Contract Manager for such purpose. The failure of the Contractor to secure any required authentication shall, if the Contract Manager elects to treat it as such, constitute a waiver by the Contractor of any claim for the cost of that portion of the Change in the Work covered by a non-authenticated ticket or invoice; provided, however, that the authentication of any such ticket or invoice by the Contract Manager shall not constitute an acknowledgment by the Contract Manager that the items thereon were reasonably required for the Change in the Work.
- (g) No Additional percentage for actual necessary expense to cover other costs that are not covered under labor, equipment, materials, and Subcontractors will be paid by the Contract Manager on account of a Change in the Work except as specifically provided in this Section B-4. The additional percentage or commission as allowed under this paragraph, shall be deemed to include all costs and expenses which the Contractor or any of its Subcontractors may incur in the performance of the Change in the Work and which are not otherwise specifically recoverable by them pursuant to this paragraph.
- (h) The Contractor shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the proposal is based and to which the parties have agreed pursuant to the provisions of this section, and which the Contractor, its Subcontractors and Sub-Subcontractors or any other person may incur as a result of delays, interferences, suspensions, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the work performed pursuant to this section. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of its direct costs as compensable hereunder and an extension of the time of the Contract, but only in accordance with the provisions of the Contract Documents.

The Contractor agrees that it shall not be entitled to claim damages for anticipated profits on any portion of work that may be deleted. The amount of any adjustment for work deleted shall be estimated at the time deletion of work is ordered and the estimated adjustment will be deducted for the subsequent monthly pay estimates.

The Contract Manager reserves the right to contract with any person or firm other than the Contractor for any or all extra work.

**B-5 Unilateral Change in or Addition to the Work**

Notwithstanding the above, the Contract Manager, directly or through the Project Engineer, may direct the Contractor in writing to perform changes in or additions to the scope of the contract. The Contractor shall perform such work and the parties shall proceed pursuant to the provisions of Section B-4.

**B-6 Differing Site Conditions**

The Contractor shall promptly, and before the following conditions are disturbed, notify the Contract Manager in writing of any:

- (a) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25118 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; or
- (b) Subsurface or latent physical conditions at the site differing from those indicated in the Contract Documents; or
- (c) Unknown conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

The Project Engineer shall thereupon promptly investigate the conditions. If the Project Engineer finds that they do involve hazardous waste, or do materially differ and cause any decrease or increase in the Contractor's cost or time of performance, the Contract Manager will issue a change order as appropriate. Any increase or decrease in the cost of the work or the time for performance shall be adjusted in the manner provided herein for adjustments as to extra and/or additional work and changes. The procedures applicable to claims per extra costs shall then apply.

Contractor shall expect wet soil conditions and encountering deleterious materials that do not constitute a change.

**B-7 Claims for Extra Costs**

- (a) The plans for work show the conditions as they are supposed or believed by the Project Engineer to exist, but it is neither intended nor to be inferred that the conditions as shown thereon constitute a representation by the Contract Manager or its officers that such conditions are universally existent nor shall the Contract Manager or any of its officers or representatives be liable for any loss sustained by the Contractor as a result of any variance between conditions as shown on the Plans and alternate conditions revealed during the progress of the Work, or otherwise.
- (b) The Contract Manager assumes no responsibility for any representations made by any of its officers or agents during or prior to the execution of this Contract, unless (1) such

representations are expressly stated in the Contract and (2) the Contract expressly provides that the responsibility therefore is assumed by the Contract Manager.

- (c) It is hereby mutually agreed that the Contractor shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by the Project Engineer or the Contract Manager, or the happening of any event, thing or occurrence, unless the Contractor shall have given the Contract Manager due written notice of potential claims as hereinafter specified.
- (d) The written notice of potential claims shall set forth the reasons for which the Contractor believes additional compensation will or may be due, the nature of the costs involved, and, insofar as possible, the amount of the potential claim. Except as provided in Section B-6, the notice as above required shall be given to the Contract Manager at least 48 hours prior to the time that the Contractor commences performance of the work giving rise to the potential claim for additional compensation. If such notice is not given, the Contractor shall be barred from making any such claim for extra compensation.
- (e) The Contractor may submit a claim to the Contract Manager concerning any matter for which a protest under Section B-3 or a notice of potential claim is filed within sixty (60) days following the submission of said protest or notice, unless, due to the nature of the claim or the uncompleted state of the work, it is impracticable to determine the amount or the extent of the claim within such period, in which case a claim may be submitted at the earliest time thereafter that such determination can be made, but in no event later than the final release by the Contractor provided for in Section B-77. The claims shall set forth clearly and in detail, for each item of additional compensation claimed, the reasons for the claim, reference to applicable provisions of the Specifications, the nature and the amount of the cost involved, the computations used in determining such costs, and all pertinent factual data. The Contractor shall maintain complete and accurate records of the cost or any portion of the work for which additional compensation is claimed, and shall provide the Project Engineer with copies thereof, as required.
- (f) The Contract Manager will, within a reasonable time after submission of the Contractor's claim, make decisions in writing on all claims of the Contractor. All such decisions of the Contract Manager shall be final unless the Contractor shall within ten (10) days after receipt of the Contract Manager's decision, file with the Contract Manager a written protest, stating clearly and in detail the basis thereof. Such protest will be forwarded promptly by the Contract Manager to the Contract Manager, which will issue a decision upon each such protest, and the Contract Manager's decision will be final. Pending such decision, the Contractor shall proceed with its work in accordance with the determination or instructions of the Contract Manager. It is hereby agreed that the Contractor's failure to protest the Contract Manager's determination or instructions, within ten (10) days from and after the Contract Manager's determinations or instructions, shall constitute a waiver by the Contractor of all its rights to further protest, judicial or otherwise.
- (g) It is the intention of this Section that the differences between the parties, arising under and by virtue of the Contract, be brought to the attention of the Contract Manager at the earliest possible time in order that such matters may be settled, if possible or other appropriate action promptly taken. The Contractor hereby agrees that it shall have no right to additional

compensation for any claim that may be based on any act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was timely filed.

- (h) In the event of an emergency endangering life or property, the Contractor shall act as stated in Section B-67 herein, and after execution of the emergency work shall present an accounting of labor, materials and equipment in connection therewith. The procedure for any payment that may be due for emergency work will be as specified in Section B-3 herein.

#### **B-8 Disputes**

Except as otherwise specifically provided in the Contract Documents, the Contract Manager will initially decide all claims of the Contractor and all disputes arising under and by virtue of the Contract. Such claim or dispute will be processed and decided by the Contract Manager as soon as practicable after its submission and the submission or availability of any additional information necessary to its decision. If the Contractor is dissatisfied with the Contract Manager's decision, the Contractor may, within 15 days from the date of the Contract Manager's decision, follow the procedures set forth in Section B-61. If the Contractor fails to follow the procedures set forth in Section B-61 within the 15 day period, then the Project Engineer's decision shall be final, conclusive and binding on the Contractor.

#### **B-9 Guarantee**

- (a) In addition to warranties, representations and guarantees stated elsewhere in the Contract Documents, the Contractor unconditionally guarantees all materials and workmanship furnished hereunder, and agrees to replace at its sole cost and expense, and to the satisfaction of the Project Engineer and the Contract Manager, any and all materials which may be defective or improperly installed.
- (b) The Contractor shall repair or replace to the satisfaction of the Contract Manager any or all such work that may prove defective in workmanship or materials, ordinary wear and tear excepted, together with any other work which may be damaged or displaced in so doing.
- (c) In the event of failure to comply with the above stated conditions within a reasonable time, the Contract Manager is authorized to have the defect repaired and made good at the expense of the Contractor who will pay the costs and charges therefore immediately upon demand, including any reasonable management and administrative costs, and engineering, legal and other consultant fees incurred to enforce this section.
- (d) The signing of the Contract by the Contractor shall constitute execution of the above guarantees. Except as otherwise provided in this Contract, the guarantees and warranties shall remain in effect through the one-year maintenance warranty period specified in the Faithful Performance Bond.

## ARTICLE II. CONTROL OF THE WORK

### **B-10 Authority of the Project Engineer**

- (a) The Project Engineer is the representative of the Contract Manager and has full authority to interpret the Contract Documents, to conduct the construction review and inspection of the Contractor's performance, and to decide questions which arise during the course of the work and its decisions on these matters shall be final and conclusive. The Project Engineer has the authority to reject all work and materials which do not conform to the Contract Documents, and has the authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract.
- (b) If at any time the Contractor's work force, tools, plant or equipment appear to the Project Engineer to be insufficient or inappropriate to secure the required quality of work or the proper rate of progress, the Project Engineer may order the Contractor to increase their efficiency, improve their character, to augment their number or to substitute other personnel, new tools, plant or equipment, as the case may be, and the Contractor shall comply with such order.

Neither the failure of the Project Engineer to demand such increase of efficiency, number, or improvement, nor the compliance by the Contractor with the demand, shall relieve the Contractor of its obligation to provide quality work at the rate of progress necessary to complete the work within the specified time.

- (c) The Project Engineer shall have the authority to make minor changes in the work, not involving extra costs, and not inconsistent with the purposes of the work.
- (d) Any order given by the Project Engineer, not otherwise required by the Contract Documents to be in writing shall, on request of the Contractor, be given or confirmed by the Project Engineer in writing.
- (e) Whenever work, methods of procedure, or any other matters are made subject to direction or approval, such direction or approval will be given by the Project Engineer.
- (f) The Project Engineer shall not be responsible for the construction means, controls techniques, sequences procedures or construction safety.
- (g) It is expressly agreed and understood that the Project Engineer will have no liability whatsoever resulting from the obligations entered into under the Contract; that the Contract Manager must look solely to the Contractor for the furnishing of the work; that the Contractor must look solely to the Contract Manager for payment; and that the Contract Manager and the Contractor must look solely to each other for the enforcement of any claims or liabilities arising under or by reason of the Contract.

### **B-11 Drawings (Not Used)**

## **B-12 Permits and Regulations**

Permits, licenses, and easements of a temporary or permanent nature, necessary for the prosecution of the work shall be secured and paid for by the Contractor, except as noted in Section B-40, and herein.

The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as shown on the plans and described in the Specifications. It shall promptly notify the Contract Manager in writing of any specification at variance therewith and any necessary changes shall be adjusted as provided in the Contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations and without such notice to the Contract Manager, it shall bear all costs arising therefrom.

## **B-13 Conformity with Contract Documents and Allowable Deviations**

Work and materials shall conform to the lines, grades, cross sections, dimensions and material requirements, including tolerances, shown on Contract Documents. Although measurement, sampling, and testing may be considered evidence as to such conformity, the Project Engineer shall be the sole judge as to whether the work or materials deviate from the Specifications and plans, and its decision as to any allowable deviations therefrom shall be final and conclusive.

Whenever a material, article or piece of equipment is identified on the Drawings or Specifications by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalogue number, and if, in the opinion of the Project Engineer, such material, article, or piece of equipment is of equal substance and function to that specified, the Project Engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the Contract Price and the Contract Documents shall be appropriately modified by Change Order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the Project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time.

## **B-14 Coordination and Interpretation of Contract Documents**

- (a) The Contract Documents are complementary and a requirement occurring in one is as binding as though occurring in all.
- (b) In the event of conflict between the Plans and the Technical Specifications, the Project Engineer shall determine which governs.
- (c) Should it appear that the work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the Specifications and plans, the Contractor shall apply to the Project Engineer for such further explanations as may be necessary and shall conform to them as part of the Contract. In the event of any doubt or question arising respecting the true meaning of the Specifications and plans, reference shall be made to the Project Engineer, whose decision thereon shall be final and conclusive.

- (d) In the event of any discrepancy between any plans and the figures written thereon, the figures shall be taken as correct. Detailed drawings shall prevail over general drawings.
- (e) Any reference made in these Specifications or on the plans to any Specification, standard, method, or publication of any scientific or technical society or other organization shall, in the absence of a specific designation to the contrary, be understood to refer to the Specification, standard, method, or publication in effect as of the date that the work is advertised for Bids.

**B-15 Subcontracts**

- (a) The attention of the Contractor is directed to the provisions of Public Contract Code sections 4100-4113, regarding subcontracting and said provisions are by this reference incorporated herein and made a part hereof.
- (b) Each Subcontract shall contain a suitable provision for the suspension or termination thereof should the work be suspended or terminated or should the Subcontractor neglect or fail to conform to every provision of the Contract Documents insofar as such provisions are relevant. No Subcontractor or supplier will be recognized as such, and all persons engaged in work will be considered as employees of the Contractor, and the Contractor will be held responsible for their work, which shall be subject to the provisions of the Contract Documents. The Contractor shall be fully responsible to the Contract Manager for the acts or omissions of its Subcontractors and of the persons either directly or indirectly employed by him. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the Contract Manager. If a legal action, including arbitration and litigation, against the Contract Manager is initiated by a Subcontractor or Supplier, the Contractor shall reimburse the Contract Manager for the amount of legal, engineering and all other expenses incurred by the Contract Manager in defending itself in said action. A copy of each subcontract must be provided to Contract Manager.
- (c) The Contract Manager reserves the right to approve all Subcontractors. Such approval shall be a consideration to the awarding of the Contract and unless notification to the contrary is given to the Contractor prior to the signing of the Contract, the list of Subcontractors which is submitted with its proposal will be deemed to be acceptable.

**B-16 Cooperation of Contractors**

- (a) Should construction be under way by other forces or by other Contractors within or adjacent to the limits of the work specified or should work of any other nature be under way by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other Contractors or other forces to the end that any delay or hindrance to their work will be avoided. The right is reserved to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.
- (b) When two or more Contractors are employed on related or adjacent work, each shall conduct its operation in such a manner as not to cause any unnecessary delay or hindrance to the other. Each Contractor shall be responsible to the other for all damage to work, to persons or property caused to the other by its operations, and for loss caused the other due to its unnecessary delays or failure to finish the work within the time specified for completion.

**B-17 Superintendence**

- (a) The Contractor shall designate in writing before starting work an individual as authorized representative who shall have the authority to represent and act for the Contractor. This authorized representative shall be present at the site of the work at all times while work is actually in progress on the Contract. When work is not in progress and during periods when work is suspended, arrangements acceptable to the Contract manager shall be made for any emergency work which may be required.
- (b) The Contractor is solely responsible, at all times, for the superintendence of the work and for its safety and progress.
- (c) Whenever the Contractor or its authorized representative is not present on any particular part of the work where it may be desired to give direction, orders will be given by the Contract Manager, which shall be received and obeyed by the superintendent or foreman who may have charge of the particular work in reference to which the orders are given.
- (d) Any order given by the Contract Manager, not otherwise required by the Specifications to be in writing, will on request of the Contractor, be given or confirmed by the Contract Manager in writing.

**B-18 Inspection of Work**

- (a) Unless otherwise provided, all equipment, materials, and work shall be subject to inspection and testing by the Project Engineer. The Project Engineer will observe the progress and quality of the work and determine, in general, if the work is proceeding in accordance with the intent of the Contract Documents. It shall not be required to make comprehensive or continuous inspections to check the quality of the work, and it shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work. Visits and observations made by the Project Engineer shall not relieve the Contractor of its obligation to conduct comprehensive inspections of the work and to furnish proper materials, labor, equipment and tools, and perform acceptable work, and to provide adequate safety precautions, in conformance with the intent of the Contract.
- (b) Whenever the Contractor varies the period during which work is carried on each day, it shall give due notice to the Contract Manager so that proper inspection may be provided. Proper facilities for safe access for inspection to all parts of the work shall at all times be maintained for the necessary use of the Project Engineer and other agents of the Contract Manager, and agents of the Federal, State, or local governments at all reasonable hours for inspection by such agencies to ascertain compliance with laws and regulations.
- (c) One or more Project Inspectors may be assigned to observe the work and to act in matters of construction under this Contract. It is understood that inspectors shall have the power to issue instructions and make decisions within the limitations of the authority of the Contract Manager and Project Engineer. Such inspection shall not relieve the Contractor of its obligation to conduct comprehensive inspections of the work, to furnish proper materials, labor, equipment and tools, and perform acceptable work, and to provide adequate safety precautions in conformance with the intent of the Contract.

- (d) The Project manager and its representatives, the Project Engineer and its representatives, and the Contract Manager and its Representative shall at all times have access to the work wherever it is in preparation or progress, and the Contractor shall provide safe and convenient facilities for such access and for inspection. If the Specifications, the Project Engineer 's instructions, laws, ordinances, or any public authority require any material, equipment or work to be specifically tested or approved, the Contractor shall give the Project Engineer timely notice of its readiness for inspection, and if the inspection is by an authority other than the Contract Manager, of the time fixed for inspection. Inspections by the Project Engineer will be made promptly and, where practicable, at the source of supply.
- (e) Work performed without inspection may be required to be removed and replaced under proper inspection and the entire cost of removal and replacing, including the cost of Contract Manager-furnished materials used in the work, shall be borne by the Contractor, regardless of whether or not the work exposed is found to be defective. Examination of questioned work, other than that installed without inspection, may be ordered by the Project Engineer and, if so ordered, the work must be uncovered by Contractor. If such work is found to be in accordance with the Contract Documents, the Contract Manager will pay the cost of re-examination and replacement. If such work is found to be not in accordance with the Contract Documents, the Contractor shall pay such cost unless it can show that the defect in the work was caused by another Contractor, and in that event the Contract Manager will pay such costs.
- (f) The inspection of the work shall not relieve the Contractor of its obligation to fulfill the Contract as herein prescribed, or in any way alter the standard of performance provided by the Contractor, and defective work shall be made good and unusable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by the Project Engineer and accepted or estimated for payment. If the work or any part thereof shall be found defective, Contractor shall, within ten (10) calendar days, make good such defect in a manner satisfactory to the Contract Manager. If the Contractor shall fail or neglect to make ordered repairs of defective work or to remove the condemned materials from the work within ten (10) calendar days after direction by the Contract Manager in writing, the Contract Manager may make the ordered repairs, or remove the condemned materials, and deduct the cost thereof from any monies due the Contractor.
- (g) The Contractor shall furnish promptly without additional charge all facilities, labor and materials reasonably needed by the Project Engineer for performing all inspection and tests. Contractor shall be charged with any additional cost of inspection when material and workmanship are not ready at the time specified by the Contractor for its inspection.
- (h) Where any part of the work is being done under an encroachment permit or building permit, or is subject to Federal, State, County or Contract Manager codes, laws, ordinances, rules or regulations, representatives of the government agency shall have full access to the work and shall be allowed to make any inspection or tests in accordance with such permits, codes, laws, ordinances, rules, or regulations. If advance notice of the readiness of the work for inspection by the governing agency is required, the Contractor shall furnish such notice to the appropriate agency.
- (i) The Project Engineer may inspect the production of the material, or the manufacture of products at the source of supply. Plant inspection, however, will not be undertaken until the Project

Engineer is assured of the cooperation and assistance of both the Contractor and the material producer. The Project Engineer or its authorized representative shall have free entry at all times to such parts of the plant as concerns the manufacture or production of the materials. Adequate facilities shall be furnished free of charge to make the necessary inspection. The Contract Manager assumes no obligation to inspect materials at the source of supply.

- (j) Forty-eight hours prior to work being accomplished, the Contractor will notify the Contract Manager of the proposed working hours to accomplish the work for that day. Overtime and shift work may be established as a regular procedure by the Contract and with the written permission of the Contract Manager.

Such permission may be revoked at any time. No work other than overtime and shift work established as a regular procedure shall be done between the hours of 6 p.m. and 7 a.m., nor on Saturdays, Sundays, or legal holidays, except such work as is necessary for the proper care and protection of the work already performed or except in case of an emergency.

All costs for the overtime inspection, including those occurring as a result of overtime and shift work established as a regular procedure, shall be paid for by the Contractor. Overtime inspection shall include inspection required during holidays, Saturdays, Sundays, and any weekday between the hours of 6 p.m. and 7 a.m. Such costs will include, but will not necessarily be limited to, engineering, inspection, general supervision and other expenses which are directly chargeable to the overtime work. All such charges shall be deducted by the Contract Manager from payment due the Contractor.

- (k) A pre-final inspection of the Work will be made by the Contract Manager and the Project Engineer. This inspection shall be made as soon as practical after Contractor has notified the Contract Manager in writing that the Work is ready for this inspection. The pre-final inspection shall be made prior to acceptance of any portion of the work as being substantially complete and prior to filing the Notice of Completion.
- (l) A final inspection of all the work will be made by the Contract Manager, Project Engineer, and Contractor.

#### **B-19 Tests**

The Project Engineer shall witness all tests specified or required by the Technical Specifications. The responsibility for payment for these tests is also outlined in the Technical Specifications. The Project Engineer will require such tests as it deems necessary to determine the quality of work or compliance with Contract Documents. The Contractor shall furnish promptly without additional charge all facilities, labor, and material reasonably required for performing safe and convenient tests as may be required by the Project Engineer. All tests by the Project Engineer will be performed in such a manner as will not unnecessarily delay the work. The Contractor shall not be required to reimburse the Contract Manager for tests performed by the Contract Manager or Project Engineer. If samples of materials are submitted which fail to pass the specified tests, the Contractor shall pay for all subsequent tests.

**B-20 Removal of Rejected and Unauthorized Work and Materials**

- (a) All work or materials which have been rejected shall be remedied, or removed and replaced by the Contractor in an acceptable manner and no compensation will be allowed it for such removal, replacement, or remedial work.
- (b) Any work done beyond the lines and grades shown on the plans or established by the Project Engineer or any extra work done without written authority will be considered as unauthorized work and will not be paid for. Upon order of the Contract Manager, unauthorized work shall be remedied, removed, or replaced at the Contractor's expense.
- (c) Upon failure of the Contractor to comply with any order of the Contract Manager made under this Section, the Contract Manager may cause rejected or unauthorized work to be remedied, removed or replaced, and may deduct the costs therefore from any monies due or to become due the Contractor.
- (d) If following the installation of any equipment furnished hereunder, defects requiring correction by the Contractor are found, the Contract Manager shall have the right to operate such unsatisfactory equipment and make reasonable use thereof until the equipment can be shut down for correction of defects without injury to the Contract Manager.

**B-21 Deductions for Uncorrected Work**

If the Contract Manager deems it inexpedient to correct work damaged or not done in accordance with the Contract, an equitable deduction from the Contract price shall be made therefore, and such sum may be withheld by Contract Manager from Contractor's payment.

**B-22 Equipment and Plants**

- (a) Only equipment and plants suitable to produce the quality of work and materials required will be permitted to operate on the project.
- (b) Plants will be designed and constructed in accordance with general practice for such equipment and shall be of sufficient capacity to insure the production of sufficient material to carry the work to completion within the time limit.
- (c) The Contractor shall provide adequate and suitable equipment and plants to meet the above requirements, and when ordered by the Project Engineer, shall remove unsuitable equipment from the work and discontinue the operation of unsatisfactory plants.
- (d) The Contractor shall identify each piece of its equipment, other than hand tools, by means of an identifying number plainly stenciled or stamped on the equipment at a conspicuous location, and shall furnish to the Project Engineer a list giving the description of each piece of equipment and its identifying number. In addition, the make, model number and empty gross weight of each unit of compacting equipment shall be plainly stamped or stenciled in a conspicuous place on the unit. The gross weight shall be either the manufacturer's rated weight or the scale weight.
- (e) In the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by the Contract Manager, shall promptly remove any part or all of

its equipment and supplies from the Project Sites. If the Contractor fails to do so, the Contract Manager shall have the right to remove such equipment and supplies at the expense of the Contractor.

**B-23 Character of Worker**

The Contractor shall employ only competent Subcontractors or skillful workers to do the work. If any Subcontractor, or person employed by the Contractor or any Subcontractor shall fail or refuse to carry out the directions of the Contract Manager or its agents or shall appear to the Contract Manager or its agents to be incompetent or to act in a disorderly or improper manner, it shall be removed from the project work immediately on the requisition of the Contract Manager or its agents, and such person shall not again be employed on the work. Such discharge shall not be the basis for any claim for compensation or damages against the Contract Manager, or any of its officers or agents.

**B-24 Separate Contracts**

The Contract Manager reserves the right to let other contracts in connection with this work. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with the other Contractor's work.

If any part of the Contractor's work depends for proper execution or results upon the work of any other Contractor, the Contractor shall inspect and promptly report to the Project Engineer any defects in such work that render it unsuitable for such proper execution and results. The Contractor's failure to inspect and report shall constitute an acceptance of the other Contractor's work as fit and proper for the reception of its work, except as to defects which may develop in the other Contractor's work after the execution of its work.

To insure the proper execution of its subsequent work, the Contractor shall measure work already in place and shall at once report to the Contract Manager any discrepancy between the executed work and the drawings.

The Contract Manager or Project Manager may perform additional Work related to the Project by himself, or he may let other Contracts containing provisions similar to these. The Contractor will afford the other Contractors who are parties to such Contracts (or the Project Manager or his representatives, if he is performing the additional Work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of Work and shall properly connect and coordinate his Work with theirs.

If the performance of additional Work by other Contractors, the Project Manager, or the Contract Manager is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional Work. If the Contractor believes that the performance of such additional Work by the Contract Manager or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Part 3, Article 1, Section B- 7 of this Contract.

## **B-25 Materials, Services and Facilities**

- (a) Unless otherwise specifically stated in the Contract Documents, the Contractor shall furnish all materials, labor, tools, equipment, water, light, power, sanitary facilities, transportation, supervision, temporary construction of any nature on all of the facilities necessary for the execution and completion of the work. Unless otherwise specified, all materials shall be new and shall be manufactured, handled, and installed in a workmanlike manner to insure completion of the work in accordance with the Contract Documents. The Contractor shall, upon request of the Contract Manager, furnish satisfactory evidence as to the kind and quality of materials.
- (b) Where materials are to be furnished by the Contract Manager, the type, size, quantity and location at which they are available will be stated in the Contract Documents.
- (c) Manufacturers' warranties, guarantees, instruction sheets and parts listed, which are furnished with certain articles or materials incorporated in the work, shall be delivered to the Contract Manager before acceptance of the Contract.

Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

Materials, supplies and equipment shall be in accordance with samples submitted by the Contractor and approved by the Contract Manager.

Materials, supplies or equipment to be incorporated into the Work shall not be purchased by the Contractor or the Subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

The completed work shall include all necessary permanent safety devices, such as machinery guards and similar ordinary safety items required by the State and Federal (OSHA) industrial safety authorities and applicable local and national codes. Further, any features of the work subject to such safety regulations shall be fabricated, furnished, and installed in compliance with these requirements. Prior to performing Work specified herein, the Contractor shall request an inspection by a State Industrial Safety representative for the purpose of determining that the facilities provided are in compliance with the State and Federal safety requirements. Any facilities which are deemed necessary by official response following the above safety inspection shall be added or corrected as required as a part of the Contract work. However, no payment will be made to the Contractor for such changes or additions to equipment furnished under this Contract since it is a requirement of these Specifications that such equipment be manufactured or fabricated in such a manner as to be in conformance with all Federal, State, and local safety requirements. The Contractor shall notify all manufacturers, equipment suppliers, and Subcontractors of the provisions of this article.

In approving equipment for installation in the project, the Contract Manager and Project Engineer assume no responsibility for injury or claims resulting from failure of the equipment to comply with applicable National, State, and local safety codes or requirements, or the safety requirements of a recognized agency, or failure due to faulty design concepts, or defective workmanship and materials.

All materials incorporated into the job shall be new, especially purchased for the project unless otherwise specified or agreed in writing. Unless otherwise noted, any equipment offered shall be current modifications which have been in successful regular operation under comparable conditions for a period sufficient to determine the reliability of the product. This time requirement, however, does not apply to minor details nor to thoroughly demonstrated improvements in design or in materials of construction.

Whenever the Contractor shall furnish materials or manufactured articles or shall do work for which no detailed specifications are set forth, the materials or manufactured articles shall be of the best grade in quality and workmanship obtainable in the market from firms of established good reputation, or, if not ordinarily carried in stock, shall conform to the usual standards of first-class materials or articles of the kind required with due consideration of the use to which they are to be put. In general, the work performed shall be in full conformity and harmony with the intent to secure the best standard of construction and equipment of the work as a whole or in part.

#### **B-26 Storage of Materials**

Materials shall be so stored as to ensure the preservation of their quality and fitness for the Work.

When considered necessary, they shall be placed on wooden platforms or other hard, clean surfaces, and not on the ground, and they shall be placed under cover. Stored materials shall be located so as to facilitate prompt inspection. Private property shall not be used for storage purposes without the written permission of the owner or lessee.

Because of Permit constraints on use of areas directly adjacent to the constructing project, Contractor shall provide off-site areas for storing equipment and material if he deems such areas as being inadequate to execute the work.

Electrical equipment, devices, and motors shall be placed in dry and warm storage as approved by the Project Engineer.

All equipment and materials which are not to be painted (such as aluminum and stainless steel) and all factory finished or coated equipment and materials which are not to be painted, that are installed prior to completion of adjacent work, shall be completely covered and protected.

Articles or materials to be incorporated in the work shall be stored in such a manner as to insure the preservation of their quality and fitness for the work, and to facilitate inspection.

#### **B-27 Trade Names and Alternatives**

For convenience in designation in the Specifications and plans, certain articles or materials to be incorporated in the work may be designated under a trade name or the name of a manufacturer and its catalog information. The use of an alternative article or material which is of equal quality and of the required characteristics for the purpose intended will be permitted, subject to the following requirements:

- (a) The burden of proof as to the quality and suitability of alternatives shall be upon the Contractor and it shall furnish all information necessary as required by the Project Engineer. The Project

Engineer shall be the sole judge as to the quality and suitability of alternative articles or materials and its decision shall be final.

- (b) Whenever the Specifications and Plans permit the substitution of a similar or equivalent material or article, no tests or action relating to the approval of such substitute material or article will be made until the request for substitution is made in writing by the Contractor accompanied by complete data as to the equality of the material or article proposed. Such request by the Contractor must be made within thirty-five (35) days after award of Contract.

**B-28 Certificate of Compliance**

- (a) A Certificate of Compliance shall be furnished prior to the use of any materials on the project, unless otherwise noted in the technical specifications. In addition, when so authorized in the Specifications, the Project Engineer may permit the use of certain materials or assemblies prior to sampling and testing if accompanied by a Certificate of Compliance. The Certificate shall be signed by the manufacturer of the material or the manufacturer of assembled materials and shall state that the materials involved comply in all respects with the requirements of the Contract. A Certificate of Compliance shall be furnished with each lot of material delivered to the work and the lot so certified shall be clearly identified in the Certificate.
- (b) All materials used on the basis of a Certificate of Compliance may be sampled and tested at any time. The fact that material is used on the basis of a Certificate of Compliance shall not relieve the Contractor of responsibility for incorporating material in the work which conforms to the requirements of the Contract Documents and any such material not conforming to such requirements will be subject to rejection whether in place or not.
- (c) The Contract Manager reserves the right to refuse to permit the use of material on the basis of a Certificate of Compliance.
- (d) The form of the Certificate of Compliance and its disposition shall be as directed by the Project Engineer.

**B-29 Assignment**

The Contractor shall not assign the Contract or sublet it as a whole or in part without the prior written consent of the Contract Manager, nor shall the Contractor assign any monies due, or to become due to it hereafter, without the prior written consent of the Contract Manager.

**B-30 Use of Completed Portions, Right to Operate Unsatisfactory Equipment or Facilities**

- (a) The Contract Manager or Project Manager may, at any time, and from time to time, during the performance of the work, enter the work site for the purpose of installing any necessary work by the Contract Manager's Project Manager's labor or other contracts, and for any other purpose in connection with the installation of facilities. In doing so, the Contract Manager and Project Manager shall endeavor not to interfere with the Contractor and the Contractor shall not interfere with other work being done by or on behalf of the Contract Manager or Project Manager.

- (b) If, prior to completion and final acceptance of all the work, the Contract Manager takes possession of any structure or facility (whether completed or otherwise) comprising a portion of the work with the intent to retain possession thereof (as distinguished from temporary possession contemplating the return to the Contractor), then, while the Contract Manager is in possession of the same, the Contractor shall be relieved of liability for loss or damage to such structure other than that resulting from the Contractor's fault or negligence. Such taking of possession by the Contract Manager's shall not relieve the Contractor from any provisions of this Contract respecting such structure, other than to the extent specified in the preceding sentence, nor constitute a final acceptance of such structure or facility.
- (c) If, following installation of any equipment or facilities furnished by the Contractor, defects requiring correction by the Contractor are found, the Contract Manager shall have the right to operate such unsatisfactory equipment or facilities and make reasonable use thereof until the equipment or facilities can be shut down for correction of defects without injury to the Contract Manager.

**B-31 Lands for Work, Right-of-Way Construction Roads**

- (a) The Contract Manager or Owner will provide the lands, easements, rights-of-way, and/or encroachment permits necessary or other rights to enter and work on lands necessary for the performance of the work. Other permits and licenses are addressed by sections B-12 and B-54. Should the Contractor find it advantageous to use any additional land for any purpose whatsoever, the Contractor shall provide for the use of such land at their expense. The Contract Manager shall be furnished with a copy of written agreements or otherwise be notified in writing of additional working space which is acquired. Nothing herein contained and nothing marked on the plans shall be interpreted as giving the Contractor exclusive occupancy of the territory provided by the Contract Manager. When two or more contracts are being executed at one time on the same or adjacent land in such a manner that work on one contract may interfere with that on another, the Contract Manager shall decide which Contractor shall cease work, and which shall continue, or whether the work on both contracts shall progress at the same time and in what manner, and the decision of the Contract Manager shall be final and binding. When the territory of one contract is the necessary or convenient means of access for the performance of another contract, such privilege of access or any other reasonable privilege may be granted by the Contract Manager to the Contractor so desiring, to the extent, amount, in the manner, and at the time permitted. No such decision as to the method or time of conducting the work or the use of territory shall be the basis of any claim for delay or damage.
- (b) Lands, easements or rights-of-way to be furnished by the Contract Manager for construction operations will be specifically shown on the Plans.
- (c) The Contractor shall maintain all roads necessary to reach the various parts of the work and for the transportation thereto of construction material and personnel. The cost of maintaining such roads shall be borne by the Contractor.
- (d) Certain areas of access are limited by permits and require mats or matting for their use. Such mats may be of wood, metal or combination of appropriate geotechnical fabric with gravel overlay. However, at project conclusion all mats must be removed and the surface restored to its

original condition. The rock construction entrances shall remain in place unless noted otherwise on the plans.

**B-32 Contract Manager's Right to Audit and Preservation of Records**

- (a) The Contractor shall maintain books, records and accounts of all costs in accordance with generally accepted accounting principles and practices. The Contract Manager, the Bureau of State Audits, Federal Grantor Agency, Comptroller General of the United States, and their authorized representatives shall have the right to review and copy any records and supporting documentation pertaining to the performance of this agreement and to interview staff related to the performance of this agreement. Furthermore, the Contract Manager or its designated representatives shall have the right to audit the books, records and accounts of the Contractor under any of the following conditions:
- (i) The Contract is terminated for any reason in accordance with the provisions of the Contract Documents in order to arrive at equitable termination costs;
  - (ii) In the event of a disagreement between the Contractor and the Contract Manager over the amount due the Contractor under the terms of the Contract;
  - (iii) To check or substantiate any amounts invoiced or paid which are required to reflect the costs of the Contractor, or the Contractor's efficiency or effectiveness under this Contract or in connection with extras, changes, claims, additions, back-charges, or others, as may be provided for in this contract; and/or
  - (iv) If it becomes necessary to determine the Contract Manager's rights and the Contractor's obligations under the Contract or to ascertain facts relative to any claim against the Contractor which may result in a charge against the Contract Manager;
  - (v) To determine any difference in cost occasioned by a permissible substitution;
  - (vi) For any other reason in the Contract Manager's sole judgment.
- (b) If any of the conditions stated in paragraph B-32(a) are satisfied, Contractor shall provide the Contract Manager (or its representatives), unlimited, reasonable access during working hours to the Contractor's books and records under the conditions stated above. The Contract Manager's audit rights shall be liberally construed in the Contract Manager's favor.
- (c) The Contractor, from the effective date of final payment, termination hereunder and all other pending matters are closed, shall preserve and make available to the Contract Manager for a period of three (3) years thereafter, at all reasonable times at the office of the Contractor (but without any charge to the Contract Manager), all its books, records, documents, photographs, micro-photographs, and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the work hereunder.
- (d) The Contract Manager will make all payments required of it under this Contract subject to audit, under circumstances stated above, which audit may be performed at the Contract Manager's option, either during the Contract time period or during the record retention time period. Regardless of authorization, approval or acceptance, signatures or letters which are given by the

Contract Manager and are part of the Contract Manager's control systems or are requested by the Contractor, the payments made under this Contract shall not constitute a waiver or agreement by the Contract Manager that it accepts as correct the billings, invoices or other charges on which the payments are based. If the Contract Manager's audit produces a claim against the Contractor, the Contract Manager may pursue all its legal remedies even though it has made all or part of the payments required by this Contract.

- (e) If any audit by the Contract Manager or its representative discloses an underpayment by the Contract Manager pursuant to the terms of the Contract Documents, the Contract Manager shall have the duty to pay any amount found by the audit to be owed to the Contractor. If such audit discloses an overpayment, the Contractor shall have the obligation to reimburse the Contract Manager for the amount of the overpayment. The Contract Manager's right to claim reimbursement from the Contractor of any overpayment shall not be terminated or waived until three years after the completion of the Contract Manager's audit or upon the termination of audit rights under subparagraph B-32(f), whichever date is later. The obligation of the Contractor to make reimbursements hereunder shall not terminate except as provided by law.
- (f) The Contract Manager's right to audit and the preservation of records shall terminate at the end of three (3) years after the date final payment is made or termination of the Contract. The Contractor shall include this "Right to Audit and Preservation of Records" clause in all subcontracts issued by it shall require the same to be inserted by all lower tier Subcontractors in their subcontracts, for any portion of the work. Should Contractor fail to include this clause in any such contract or lower tier contract, or otherwise fail to insure the Contract Manager's rights hereunder, Contractor shall be liable to the Contract Manager for all costs, expenses and attorney's fees which the Contract Manager may have to incur obtaining or attempting to obtain an audit or inspection of or the restoration of records which otherwise have been available to the Contract Manager from said persons under this clause. Such audit may be conducted by the Contract Manager or its authorized representative.

### ARTICLE III. PROGRESS AND COMPLETION OF WORK

#### **B-33 Progress Schedule**

The contractor shall adhere to schedule defined in the contract.

#### **B-34 Commencement and Progress of the Work and Time of Completion**

Prior to the start of construction, the Contract Manager will conduct a preconstruction conference. At the conference, the Contract Manager will review the planned development with the Project Engineer, Project Manager, Contractor, and other interested parties. Items to be reviewed include materials, equipment, rights-of-way, schedules and all arrangements for prosecuting the Work in accordance with the various permits. Funding for this agreement carries with it the requirement for a Labor Compliance Program to assure that the prevailing wage provisions of the Labor Code are being met. The pre-construction conference will also include an overview of fair labor requirements and distribution of documents.

The Contractor shall begin work after receiving a Notice to Proceed and shall diligently prosecute the work to completion as described in the benchmark schedule.

#### **B-35 Suspension of Work**

- (a) The Contract Manager may at any time, by notice in writing to the Contractor, suspend any part of the work for such period of time as may be necessary to prevent improper execution of the work on the project by the Contractor, its Subcontractors or agents, and the Contractor shall have no claim for damages or additional compensation on account of any such suspension.
- (b) The Contract Manager may at any time suspend any part or all of the work upon ten (10) days written notice to the Contractor, who shall thereupon discontinue all work suspended except for all operations to prevent loss or damage to work already executed as may be directed by the Contract Manager. In the event a part of the work is suspended, the Contractor, if the suspension is not through its fault or the fault of its Subcontractors or agents, shall be paid on the same basis as Extra Work for costs of work performed in accordance with such orders of the Contract Manager during such suspension, provided that this shall not include any cost pertaining to work not suspended by said notice. Work shall be resumed by the Contractor after such suspension on written notice from the Contract Manager. In the event of suspension of the entire work by the Contract Manager, the Contractor, if the suspension is not through fault of the Contractor or the fault of its Subcontractors or agents, shall be paid the sum of \$0 for each calendar day during which the entire work shall have been suspended. Said sum is hereby mutually agreed upon as fixed and liquidated damages in full settlement of all costs and expenses, losses and damages resulting to the Contractor from such suspension. Work shall be resumed by the Contractor after such suspension on written notice from the Contract Manager.
- (c) In the event of any suspension of the work in whole or in part under subsection (b) above, the Contractor shall be entitled to an extension of time wherein to complete the work to the extent of the delay caused the Contractor thereby, except where such extension of time would violate project permits.

- (d) In the event the entire work shall be suspended by order of the Contract Manager, as hereinabove provided, and shall remain so suspended for a period of sixty (60) consecutive days, through no fault of the Contractor, and notice to resume the work shall not have been served on the Contractor as hereinabove provided, Contractor may, at its option, by written notice to the Contract Manager, terminate the Contract in the same manner as if the termination had been initiated by the Contract Manager, and the Contract Manager shall have no claim for damages because of such termination of the Contract.
- (e) If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (90) days by the Contract Manager or under an order of Court or other public authority, or the Contract Manager fails to act on any request for payment within sixty (60) days after it is submitted, or the Contract Manager fails to pay the Contractor substantially the sum approved by the Contract Manager or any final award by arbitration or litigation within sixty (60) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a written notice to the Contract Manager and the Contract Manager, terminate the Contract and recover from the Contract Manager payment for all Work executed and all expenses sustained.

In addition and in lieu of terminating the Contract, if the Contract Manager has failed to act on a request for payment or if the Contract Manager has failed to make any payment as aforesaid, the Contractor may upon ten (10) days written notice to the Contract Manager stop the Work until he has been paid all amounts then due, in which event and upon resumption of the Work, Change Orders shall be issued for adjusting the Contract Price or extending the Contract Time or both to compensate for the costs and delays attributable to the stoppage of the Work.

If the performance of all or any portion of the Work is suspended, delayed, or interrupted as a result of a failure of the Contract Manager to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time, an adjustment in the Contract Price or an extension of the Contract Time, or both, shall be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Contract Manager.

If the Contractor intends to file a claim for additional compensation for a delay caused by the Contract Manager at a particular time, he shall file a Notice of Claim with the Contract Manager within 7 days of the beginning of the occurrence. The Notice of Claim shall be in duplicate, in writing, and shall state the circumstances and the reasons for the Claim, but need not state the amount. No Claim for additional compensation will be considered unless a Notice of Claim has been filed with the Contract Manager within the time and in the manner stated above. Contractor's failure to file a claim shall constitute a waiver.

#### **B-36 Termination For Default - Damages For Delay - Timely Extension**

- (a) The Contractor shall at all times employ such force, plant, materials, and tools as will be sufficient, in the opinion of the Contract Manager, to prosecute the work at not less than the rates fixed under the terms of the Contract and to complete the work or any part thereof within the time limits fixed therein. If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will ensure the completion within the time specified in the Contract, or any extension thereof, or fails to complete said work within such time, the Contract Manager may, after giving ten (10) days written notice to the Contractor,

terminate its right to proceed with the work or such part of the work as to which there has been delay.

- (b) The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:
  - (i) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to Acts of God, acts of the public enemy, acts of the Contract Manager, acts of another Contractor in the performance of a Contract with the Contract Manager, fires, floods, excluding site flooding due to groundwater, levee failure, epidemics, quarantine restrictions, unusually severe weather, as determined by the Project Engineer; and
  - (ii) The Contractor shall, within 48 hours of the start of the occurrence, give notice to the Contract Manager of the cause of the potential delay and an estimate of the possible time extension involved. The Contractor, within seven (7) days from the beginning of any such delay (unless the Project Engineer grants further period of time before the date of final payment under the Contract), notifies the Project Engineer in writing of the causes of delay and requests an extension of time.

The Contract Manager shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in its judgment, the findings of fact justify such an extension, and its findings of fact shall be final and conclusive on the parties.

- (c) A request for an extension of time, or the granting of an extension of time, shall not constitute a basis for any claim against the Contract Manager for additional compensation or damages unless caused by the Contract Manager or another Contractor employed by the Contract Manager.
- (d) If the Contractor should be adjudged bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for the Contractor on account of its insolvency and not be discharged within ten (10) days after its appointment, or if the Contractor should fail to make prompt payments to Subcontractors or suppliers, or should it persistently disregard laws, ordinances, or the instructions of the Contract Manager, or otherwise commit a substantial violation of any provisions of the Contract, the Contract Manager may, after giving ten (10) days written notice to the Contractor, terminate the Contract and the Contractor's right to proceed with the work.
- (e) No extension of time will be considered for time lost due to weather conditions normal to the area. Unusual weather conditions, if determined by the Contract Manager to be of a severity that could not be predicted, may be considered as cause for an extension of Contract completion time.
- (f) Delays in delivery of equipment or material purchased by the Contractor or his Subcontractors shall not be considered as a just cause for delay. The Contractor shall be fully responsible for the timely ordering, scheduling, expediting delivery, and installation of all equipment and materials.
- (g) The rights and remedies of the Contract Manager provided in this section are in addition to any of the rights and remedies provided by law or under this Contract.

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

**B-37 Rights of Contract Manager Upon Termination**

- (a) In the event the right of the Contractor to proceed with the work, or any portion thereof, has been terminated because of the fault of the Contractor and the Contractor has been given ten (10) days' notice to cure such fault and has not done so, the Contract Manager may take over the work and prosecute the same to completion by contract or any other method the Contract Manager deems expedient, and may take possession of and utilize in completing the work such materials, appliances, equipment and plant as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, it and its sureties shall be liable for all damages including costs of managerial and administrative services, engineering, legal and other consultant fees, sustained or incurred by the Contract Manager in enforcing the provisions of Section B-37 and in completing or causing to complete the Contract work.
- (b) Upon termination the Contractor shall not be entitled to receive any further payment until the work is finished. If upon completion of the work the total cost to the Contract Manager, including engineering, legal and other consultant fees, costs of managerial and administrative services, construction costs, and liquidated damages shall be less than the amount which would have been paid if the work had been completed by the Contractor in accordance with the terms of the Contract, then the difference shall be paid to the Contractor in the same manner as the final payment under the Contract. If the total cost incurred by the Contract Manager on account of termination of the Contract and subsequent completion of the work by the Contract Manager by whatever method the Contract Manager may deem expedient shall exceed said amount which the Contractor would otherwise have been paid, the Contractor and its sureties shall be liable to the Contract Manager for the full amount of such excess expense.
- (c) The rights and remedies of the Contract Manager provided in this section are in addition to any of the rights and remedies provided by the law or under this Contract.

**B-38 Failure to Complete the Work in the Time Agreed Upon - Liquidated Damages**

- (a) Liquidated Damages - It is agreed by the parties to the Contract that time is of the essence; and if the contractor is unable to complete the work as described in the contract, the cost to hire an additional contractor will be withheld by the Construction Manager.

- (b) In addition, the Contract Manager shall have the right to charge to the Contractor and to deduct from the final or progress payments for the work the actual cost to the Contract Manager of legal, engineering, inspection, superintendence, and other expenses, which are directly chargeable to the Contract and which accrue during the period of such delay, except that the cost of final inspection and preparation of the final estimate shall not be included in the charges.
- (c) Exclusions - Notwithstanding the provisions of subsection (a), the Contractor shall not be liable for liquidated damages or delays caused by the removal or relocation of utilities when such removal or relocation is the responsibility of the Contract Manager or the owner of the utility under Government Code Section 4215.

**B-39 Clean-up**

During the progress of the work, the Contractor shall maintain the site and related structures and equipment in a clean, orderly condition and free from unsightly accumulation of rubbish. Upon completion of work and before the final estimate is submitted, the Contractor shall at its own cost and expense remove from the vicinity of the work all plants, buildings, rubbish, unused work materials, concrete forms, and temporary bridging and other like materials, belonging to it or used under its direction during the construction, and in the event of its failure to do so, the same may be removed by the Contract Manager after ten (10) calendar days' notice to the Contractor, such removal to be at the expense of the Contractor. Where the construction has crossed yards or driveways, they shall be restored by the Contractor to the complete satisfaction of the Contract Manager, at the Contractor's expense.

## ARTICLE IV. LEGAL RELATIONS AND RESPONSIBILITY

### **B-40 Compliance with Laws - Permits, Regulations, Taxes**

Contractor is an independent Contractor and shall at its sole cost and expense comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the work, obtain all necessary permits and licenses therefore, pay all manufacturers' taxes, sales taxes, use taxes, processing taxes, and all Federal and state taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries or any remuneration paid to Contractor's employees, whether levied under existing or subsequently enacted laws, rules or regulations. Contractor shall also pay all property tax assessments on materials or equipment used until acceptance by the Contract Manager. If any discrepancy or inconsistency is discovered in the Plans or Specifications, or in this Contract in relation to any such law, rule, ordinance, regulation, order or decree, the Contractor shall forthwith report the same to the Contract Manager in writing. It shall also protect and indemnify the Contract Manager, the Project Manager, the Project Engineer, and all of the Contract Manager's officers, agents, and servants against any claim or liability arising from or based upon the violation of any such law, rule, ordinance, regulation, order or decree, whether by the Contractor itself or by its employees. Particular attention is called to the following:

- (a) Without limitation, materials furnished and performance by Contractor hereunder shall comply with Safety Orders of the Division of Industrial Safety, State of California, Federal Safety regulations of the Bureau of Labor, Department of Labor; and any other applicable Federal regulations.
- (b) The Contractor, upon request, shall furnish evidence satisfactory to the Contract Manager and Project Engineer that any or all of the foregoing obligations have been or are being fulfilled. The Contractor warrants to the Contract Manager that it is licensed by all applicable governmental bodies to perform this Contract and will remain so licensed throughout the progress of the work, and that it has, and will have, throughout the progress of the work, the necessary experience, skill and financial resources to enable it to perform this Contract.
- (c) Owner obtained permits will be provided to the awarded Contractor. The permit references have been included in the appendices of these specifications.

### **B-41 Prevailing Wage**

- (a) This is a Public Works Project funded with CA State and Federal funds. Therefore CA State and Federal prevailing wage rates will be required on this project.
- (b) In accordance with the provisions of section 1720 et seq. of the Labor Code, the Division of Labor Standards and Research has determined the general prevailing rates or wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in section 1773.8. Prior to each pay period, the Contractor shall review the General Prevailing Wage Rates applicable to this project and verify that the correct wage rates are being paid. The most current wage rates are available from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov/DLSR/PWD>.

- (c) It is mandatory upon the Contractor herein and upon any Subcontractor to pay not less than the said specified rates to all laborers, workers and mechanics employed by them in the execution of the Agreement pursuant to CA Labor Code 1774.
- (d) Attention is directed to the provisions in section 1777.5 and sections 1777.6 of the Labor Code concerning the requirement to employ apprentices by the Contractor or any Subcontractor under it.
- (e) The Contractor shall comply with and shall cause his Subcontractors to comply with all laws and regulations governing the Contractor's and Subcontractor's performance on this project including, but not limited to: anti-discrimination laws, workers' compensation laws, and prevailing wage laws as set forth in CA Labor Code, Sections 1720-1861 et seq. and licensing laws, as well as Federal Labor Standards set forth in the Davis-Bacon Act (40 USC 276(a-a5), the Copeland "Anti-Kickback" Act (40 USC 276(c); and the Contract Work Hours and Safety Standards Act (CWHSSA) (40 USC 327-333). The Contractor is required to include the prevailing wage language in all subcontracts pursuant to CA Labor Code 1775(E)(b)(1). The Contractor shall post, at appropriate conspicuous points on the site of the Project, a schedule showing all the determined general prevailing wage rates.
- (f) The Contractor agrees to comply with Labor Code Section 1775 (Payment of the Prevailing Wage Rates) and Labor Code 1776 (keeping accurate records) and Labor Code 1777.5, placing responsibility for compliance with the statutory requirements for all apprenticeable occupations on the prime Contractor. The Contractor shall comply with the requirements imposed by the California Labor Code Sections 1720 through 1861 regarding public works projects and prevailing wage laws and sections 16000-16800 of the CA Code of Regulations.
- (g) Each worker needed to execute the work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.
- (h) Holiday and overtime work when permitted by law shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified.
- (i) The Contractor shall forfeit as penalty to the Contract Manager the sum of fifty dollars (\$50) for each calendar day or portion thereof for each worker (whether employed by the Contractor or Subcontractor) for violating the following labor codes; CA Labor Code 1813 for overtime, 1775 for underpayment of the prevailing wage, and 1776 for inaccurate or incomplete payroll records. Contractor must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.
- (j) Per Labor Code Section 1776, the Contractor and Subcontractors shall maintain and furnish to the Humboldt County Resource Conservation District's Labor Compliance Officer at designated times, a certified copy of each weekly payroll containing a statement of compliance signed under the penalty of perjury. The Contract Manager will audit payroll records to verify compliance and will withhold contract payments when payroll records are delinquent or inadequate. Withheld contract payments shall be equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.

- (k) The Contractor shall at all times, keep posted at the jobsite applicable wage rates in effect for this Work in addition to other required employee notifications or postings.

#### **B-42 Labor Discrimination and Labor Compliance**

Attention is directed to Section 1735 of the Labor Code, which reads as follows:

No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons, except as provided in Section 12940 of the Government Code, and every Contractor for public works violating this section is subject to all the penalties imposed for a violation of this chapter.

- (a) Pursuant to Labor Code section 1771.4, the Contract for this Project, if awarded on or after January 15, 2015, is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.
- (b) On each job site that is subject to compliance monitoring and enforcement by the Department of Industrial Relations under this subchapter, the prime Contractor shall post a Notice containing the following language:
- (c) "This public works project is subject to monitoring and investigative activities by the Compliance Monitoring Unit (CMU) of the Division of Labor Standards Enforcement, Department of Industrial Relations, State of California. This Notice is intended to provide information to all workers employed in the execution of the contract for public work and to all Contractors and other persons having access to the job site to enable the CMU to ensure compliance with and enforcement of prevailing wage laws on public works projects.
- (d) "The prevailing wage laws require that all workers be paid at least the minimum hourly wage as determined by the Director of Industrial Relations for the specific classification (or type of work) performed by workers on the project. These rates are listed on a separate job site posting of minimum prevailing rates required to be maintained by the public entity which awarded the public works contract. Complaints concerning nonpayment of the required minimum wage rates to workers on this project may be filed with the CMU at any office of the Division of Labor Standards Enforcement (DLSE).
- (e) Local Office Telephone Number: 1-844-522-6734
- (f) "Complaints should be filed in writing immediately upon discovery of any violations of the prevailing wage laws due to the short period of time following the completion of the project that the CMU may take legal action against those responsible.
- (g) "Complaints should contain details about the violations alleged (for example, wrong rate paid, not all hours paid, overtime rate not paid for hours worked in excess of 8 per day or 40 per week, etc.) as well as the name of the employer, the public entity which awarded the public works contract, and the location and name of the project.
- (h) "For general information concerning the prevailing wage laws and how to file a complaint concerning any violation of these prevailing wage laws, you may contact any DLSE office.

Complaint forms are also available at the Department of Industrial Relations website found at [www.dir.ca.gov/dlse/PublicWorks.html](http://www.dir.ca.gov/dlse/PublicWorks.html).”

**B-43 Davis/Bacon Prevailing Wages**

The Davis-Bacon Act (40 USC, Chapter 3, Section 276a- 276a-5; and 29 CFR Parts 1, 3, 5, 6 and 7) is triggered for this project and requires that workers be paid prevailing wages.

**B-44 Minority/Women Business Enterprise Federal Regulatory Requirements (24 CFR 85.36(e))**

The Contractor shall take all necessary affirmative steps to assure minority firms, women’s business enterprises, and labor surplus area firms are used when possible. If subcontractors are to be let, affirmative action steps shall include the following:

- (a) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
- (b) Assuring that small and minority businesses and women’s business enterprises are solicited whenever there are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises;
- (d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women’s business enterprises; and
- (e) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

**B-45 The Copeland Anti-Kickback Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3)**

All workers shall be paid weekly, that deductions from workers’ pay be permissible, and that contractors maintain and submit weekly payrolls.

**B-46 The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326- 332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240)**

For contracts over \$100,000 and requires that workers receive overtime compensation (time and one-half pay) for hours they have worked in excess of 40 hours in one week. Violations under this Act carry a liquidated damages penalty (\$10 per day per violation).

**B-47 Compliance with Clean Air Act and Clean Water Act, Compliance with Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871) and Requirements/Regulations Pertaining to Data, Patent Rights and Copyrights**

- (a) Contractor shall comply with all applicable standards, orders and requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)).
- (b) Contractor shall comply with all applicable standards, orders and requirements issued under Section 508 of the Clean Water Act (33 U.S.C. 1368).
- (c) Contractor shall comply with Executive Order 11738 and Environmental Protection Agency regulations (40 CFR Part 15).
- (d) The Contractor shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163,89 Stat. 871).
- (e) All work created under this Contract shall be owned by the U.S Department of Fish and Wildlife and shall not be subject to copyright protection. The rights to any invention which is developed in the course of this Contract shall be the property of the U.S Department of Fish and Wildlife.

**B-48 Compliance with Executive Order 11246, "Equal Employment Opportunity"**

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

- (a) The Contractor with comply with Executive Order 11246 of September 24, 1965 entitled Equal Employment Opportunity as amended by Executive Order 11375 of October 1967 as supplemented in Department of Labor regulations (41 CFR chapter 60).
- (b) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City Setting forth the provisions of this nondiscrimination clause.
- (c) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.
- (d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting

agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No.11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No.11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (g) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24,1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
- (h) The Contractor shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.
- (i) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.
- (j) Whenever the Contractor or subcontractor has a collective bargaining agreement or other Contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.
- (k) The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor

deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

- (l) The Contractor will cause the foregoing provisions to be inserted in all subcontracts for work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

#### **B-49 Eight-Hour Day Limitation**

- (a) In accordance with the provisions of the Labor Code, and in particular, Sections 1810 to 1815 thereof, inclusive, eight hours labor shall constitute a day's work, and no worker, in the employ of said Contractor, or any Subcontractor, doing or contracting to do any part of the work contemplated by this Contract, shall be 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 those provisions; provided that subject to Labor Code Section 1815, a worker may perform work in excess of either eight (8) hours per day or forty (40) hours during any one week upon compensation for all hours worked in excess of eight (8) hours per day or forty (40) hours during any one week at not less than the rate of compensation required by Labor Code Section 1815.
- (b) The Contractor and each Subcontractor shall also keep an accurate record showing the names, addresses, social security numbers, work classifications, 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 the Contractor and by the Subcontractor in connection with the work specified herein, which record shall be open at all reasonable hours to the inspection of the Contract Manager, State and Federal officers and agents; and it is hereby further agreed that, except as provided in (a) above, the Contractor shall forfeit as a penalty to the Contract Manager the sum of fifty dollars (\$50) for each worker employed in the performance of this Contract by it or by any Subcontractor under it for each calendar day during which such worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of Sections 1810 through 1815.

#### **B-50 Compliance with State Requirements for Employment of Apprentices**

The Contractor's attention is directed to Section 1777.5 through 1777.2 of the Labor Code; provisions of those Sections pertaining to employment of registered apprentices are hereby incorporated by reference into these Specifications. As applicable, the Contractor or any Subcontractor employed by it in the performance of the Contract work shall take such actions as necessary to comply with the provisions of Section 1777.5.

### **B-51 Underground Utilities**

In accordance with Government Code Section 4215, the Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating existing main or trunkline utility facilities not indicated in the Contract Plans and Specifications with reasonable accuracy, and for the equipment on the project necessarily idled during such work; provided that the Contractor shall first notify the Project Engineer before commencing work on locating, repairing damage to, removing or relocating such utilities.

### **B-52 Water Pollution**

The Contractor shall exercise every reasonable precaution to protect streams, lakes, reservoirs, and canals from pollution with fuels, oils, bitumens, calcium chloride, and other harmful materials and shall conduct and schedule its operations so as to avoid or minimize muddying and silting of said streams, lakes, reservoirs, and canals. Care shall be exercised to preserve vegetation beyond the limits of construction disturbance. The Contractor shall comply with Section 5650 of the California Fish and Wildlife Code and all other applicable statutes and regulations relating to the prevention and abatement of water pollution.

### **B-53 Payment of Taxes**

The Contract prices paid for the work shall include full compensation for all taxes which the Contractor is required to pay, whether imposed by Federal, State, or local governments.

### **B-54 Permits and Licenses**

Except as otherwise provided in this Contract, the Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the lawful prosecution of the work.

### **B-55 Patents**

The Contractor shall pay all applicable royalties and license fees and assume all costs arising from the use of patented materials, equipment and devices. The Contractor shall defend all suits or claims for infringement of any patent rights and save the Contract Manager, Project Manager, and Project Engineer and their duly authorized representatives harmless from loss on account thereof, except that the Contract Manager shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified; however if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Contract Manager.

### **B-56 Public Convenience**

- (a) This section defines the Contractor's responsibility with regard to convenience of the public and public traffic in connection with its operations.
- (b) The Contractor shall so conduct its operations as to offer the least possible obstruction and inconvenience to the public and it shall have under construction no greater length or amount of work than it can prosecute properly with due regard to the rights of the public.

- (c) Unless otherwise provided in the Contract Documents, all public traffic shall be permitted to pass through the work with as little inconvenience and delay as possible.
- (d) Spillage resulting from hauling operations along or across any publicly traveled way shall be removed immediately by the Contractor at its expense.
- (e) Construction operations shall be conducted in such a manner as to cause as little inconvenience as possible to abutting property owners.
- (f) Convenient access to driveways, houses and buildings along the line of the work shall be maintained and temporary approaches to crossings or intersecting highways shall be provided and kept in good condition. When the abutting property owner's access across the right-of-way line is to be eliminated, or to be replaced under the Contract by other access facilities, the existing access shall not be closed until the replacement access facilities are usable.
- (g) Water will be supplied by the Refuge Staff for the alleviation or prevention of dust nuisance and the Contractor's operations shall accommodate.

**B-57 Safety**

- (a) General - The Contractor shall be solely and completely responsible for the conditions of their work, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to all applicable Federal, State, and local laws, ordinances, and codes, and to the rules and regulations established by the California Division of Industrial Safety, and to other rules of law applicable to the work.
- (b) The services of the Project Engineer in conducting construction review of the Contractor's performance is not intended to include review of the adequacy of the Contractor's work methods, equipment, bracing or scaffolding or safety measures, in, on, or near the construction site, and shall not be construed as supervision of the actual construction nor make the Project Engineer or the Contract Manager responsible for providing a safe place for the performance of work by the Contractor, Subcontractors, or suppliers; or for access, visits, use work, travel or occupancy by any person.
- (c) The Contractor shall carefully instruct all personnel working in potentially hazardous work areas as to the potential dangers and shall provide such necessary safety equipment and instruction as is necessary to prevent injury and damage to property. The Contractor shall appoint for the duration of this Contract, a qualified supervisor employee to develop and/or supervise the Contractor's job safety program that will effectively implement the safety provisions of the above agencies.
- (d) The Contractor, as a part of his safety program, shall maintain at its office or other well-known place at the job site, safety equipment applicable to the Work as prescribed by the aforementioned authorities, all articles necessary for giving first aid to the injured, and shall establish the procedure for the immediate removal to a hospital or a doctor's care of persons (including employees) who may be injured on the job site.

- (e) If death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Contract Manager and to all authorities the Contractor is required to report to. In addition, the Contractor must promptly report in writing to the Contract Manager all accidents whatsoever arising out of, or in connection with, the performance of the Work whether on, or adjacent to, the site, giving full details and statements of witnesses.
- (f) If any claim is made by anyone against the Contractor or any Subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Contract Manager, giving full details of the claim.
- (g) All work and materials shall be in strict accordance with all applicable State, Federal and local laws, rules, regulations, and codes.
- (h) Nothing in this Contract is to be construed to permit work not conforming to governing law. When Contract Documents differ from governing law, the Contractor shall furnish and install the higher standards called for without extra charge. All equipment furnished shall be grounded and provided with guards and protection as required by safety codes. Where vapor-tight or explosion-proof electrical installation is required by law, this shall be provided.
- (i) Shoring and Trench Safety Plan - Attention is directed to Section 832 of the Civil Code of the State of California relating to lateral and subjacent support, and the Contractor shall comply with this law. This is a requirement of the Contractor and by submitting to the Contract Manager or their representative, does not relieve the Contractor of their responsibility for all aspects of site safety.
- (j) Trenching and Worker Protection - In accordance with Section 6705 of the State Labor Code, the Contractor shall submit to the Contract Manager specific plans to show details of provisions for worker protection from caving ground.
- (k) Hazardous Wastes and Unforeseen Conditions - In accordance with Section 7104 of the State Public Contract Code, if the work contemplated hereunder involves digging trenches or other excavations that extend deeper than four feet below the surface, the Contractor shall promptly, and before the following conditions are disturbed, notify the Contract Manager, in writing, of any: (i) material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (ii) Subsurface or latent physical conditions at the site differing from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. The Contract Manager shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work shall issue a change order under the procedures described herein. In the event that a dispute arises between the Contract Manager and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from any scheduled completion date provided for herein, but shall proceed with all Work to be performed hereunder. The Contractor shall retain any and all rights provided either by contract or by law

which pertain to the resolution of disputes and protests between the Contract Manager and Contractor.

- (l) The Contractor shall perform all Work in a fire-safe manner. He shall supply and maintain onsite adequate firefighting equipment capable of extinguishing incipient fires. The Contractor shall comply with applicable federal, state, and local fire prevention regulations and where the regulations do not cover, with applicable parts of the National Fire Prevention Standard for "Safeguarding Building Construction Operations," (NFPA No. 241).

**B-58 Protection of Person and Property**

- (a) The Contractor shall take whatever precautions are necessary to prevent damage to all existing improvements, including above ground and underground utilities, trees, shrubbery that is not specifically shown to be removed, fences, signs, mailboxes, survey markers and monuments, buildings, structures, the Contract Manager's property, adjacent property, and any other improvements or facilities within or adjacent to the work. If such improvements or property are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored, at the Contractor's expense, to a condition at least as good as the condition they were in prior to the start of the Contractor's operations.
- (b) The Contractor shall adopt all practical means to minimize interference to traffic and public inconvenience, discomfort or damage. The Contractor shall protect against injury any pipes, conduits or other structures, crossing the trenching or encountered in the work and shall be responsible for any injury done to such pipes or structures, or damage to property resulting therefrom. The Contractor shall support or replace any such structures without delay and without any additional compensation to the entire satisfaction of the Contract Manager. All obstructions to traffic shall be guarded by barriers illuminated at night. The Contractor shall be responsible for all damage to persons and property directly or indirectly caused by its operations and, under all circumstances, the Contractor must comply with the laws and regulations of the County and the State of California relative to safety of persons and property and the interruption of traffic and the convenience of the public within the respective jurisdictions.
- (c) The Contractor is cautioned that it must replace all improvements in rights-of-way and within the public streets to a condition equal to what existed prior to the Contractor's entry onto the job.
- (d) Type and time of construction required at any road subject to interference by Contract work will be determined by those authorities responsible for maintenance of said road. It shall be the responsibility of the Contractor to determine the nature and extent of all such requirements, including provision of temporary detours as required; however, the construction right-of-way obtained by the Contract Manager at affected roadways will be adequate for provision of all required detours. As required at any road crossing, the Contractor shall provide all necessary flagpersons, guardrails, barricades, signals, warning signs and lighting to provide for the safety of existing roads and detours. Immediately after the need for temporary detours ceases, or when directed, the Contractor shall remove such detours and perform all necessary cleanup work, including replacement of fences, and removal of pavement. Included shall be all necessary replacement of existing roadway appurtenances, grading work, soil stabilization and dust control measures, as required and directed. The cost of all work specified under this Section shall be borne by the Contractor.

- (e) The Contractor shall examine all bridges, culverts, and other structures over which it will move its materials and equipment, and before using them, it shall properly strengthen such structures where necessary. The Contractor shall be responsible for any and all injury or damage to such structures caused by reason of its operations.

**B-59 Responsibility for Repair of Facilities**

All public or private facilities, including but not limited structures, telephone cables, roadways, parking lots, private drives, levees and embankments disturbed during construction of the work shall be repaired and/or replaced by the Contractor to match facilities existing prior to construction. In addition, the Contractor shall be responsible for any settlement damage to such facilities or adjoining areas for a period of one year after acceptance of such required facilities.

**B-60 Resolution of Construction Claims**

- (a) For any claim arising under this contract, the following procedures will apply:
  - (i) The claim must be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the day of final payment. Nothing in this subsection is intended to extend the time limit or supersede notice requirements for the filing of claims as set forth elsewhere in this contract.
  - (ii) The Contractor shall proceed with the work in accordance with the plans and specifications and determinations and instructions of the Contract Manager during the resolution of any claims disputes.

**B-61 Contract Manager's Repair**

In the event the Contractor refuses or neglects to make good any loss or damage for which the Contractor is responsible under this Contract, the Contract Manager may itself, or by the employment of others, make good any such loss or damage, and the cost and expense of doing so, including any reasonable engineering, legal and other consultant fees, and any costs of administrative and managerial services, shall be charged to the Contractor. Such costs and expenses may be deducted by the Contract Manager from claims for payment made by the Contractor for work completed or remaining to be completed.

**B-62 Antitrust Claim Assignment**

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to this contract, the Contractor and all Subcontractors shall offer and agree to assign to the Contract Manager all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or subcontract. This assignment shall be made and become effective at the time the Contract Manager tenders final payment to the Contractor, without further acknowledgement by the parties.

**B-63 Waiver of Right to Rescind For Material Breach**

The Contractor agrees that it can be adequately compensated by money damages for any breach of this Contract which may be committed by the Contract Manager and hereby agrees that no default, act, or omission of the Contract Manager or the Project Engineer, except for failure to make progress payments as a required by Section B-72, shall constitute a material breach of the Contract entitling the Contractor to cancel or rescind the provisions of this Contract or (unless the Contract Manager shall so consent or direct in writing) to suspend or abandon performance of all or any part of the work. The Contractor hereby waives any and all rights and remedies to which it might otherwise be or become entitled, save only its right to money damages.

**B-64 Contractor's License Notice**

Contractors are required by law to be licensed and regulated by the Contractors' state license board which has jurisdiction to investigate complaints against Contractors of a complaint if filed within three (3) years of the date of the alleged violation. Any questions concerning a Contractor may be referred to the registrar, Contractors' state license board, 9835 Goethe road, Sacramento, California. Mailing address: P.O. Box 26000, Sacramento, California 95826.

## ARTICLE V. INSURANCE AND LIABILITY

### B-65 Insurance

- (a) Neither the Contractor nor any Subcontractors shall commence any work until all required insurance has been obtained at their own expense. Such insurance must have the approval of the Contract Manager as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A:VII.
- (b) Any insurance bearing on adequacy of performance shall be maintained after completion of the project for the full guarantee period.
- (c) Prior to execution of the Contract, the Contractor shall furnish the Contract Manager with original endorsements effecting coverage for all policies required by the Contract. The Contractor shall not permit any Subcontractor identified in the Designation of Subcontractors form to commence work on this project until such Subcontractor has furnished the Contract Manager with original endorsements effecting coverage for all insurance policies required by the Contract. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the Contract Manager. As an alternative to the Contract Manager's forms, the Contractor's insurer may, subject to the approval of the Contract Manager, provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this paragraph. The Contractor agrees to furnish one copy of each policy to the Contract Manager, and additional copies as requested in writing, certified by an authorized representative of the insurer.
- (d) All of the Contractor's policies shall contain an endorsement providing that written notice shall be given, return receipt requested to Contract Manager and State Coastal Conservancy at least sixty (30) calendar days prior to termination, cancellation, or reduction of coverage in the policy.
- (e) Any policy or policies of insurance that the Contractor elects to carry as insurance against loss or damage to its construction equipment and tools shall include a provision therein providing a waiver of the insurer's right to subrogation against the Contract Manager, Project Manager, and the Project Engineer.
- (f) The requirements as to the types, limits, and the Contract Manager's approval of insurance coverage to be maintained by the Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under the Contract.
- (g) In addition to any other remedy the Contract Manager may have, if the Contractor or any of the Subcontractors fails to maintain the insurance coverage as required in this Section, the Contract Manager may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as required herein, and the Contract Manager may deduct the cost of such insurance from any amounts due or which may become due the Contractor under this Contract.
- (h) The Contractor and all Subcontractors shall, at their expense, maintain in effect at all times during the performance or work under the Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy

satisfactory to the Contract Manager. The maintenance by the Contractor and all Subcontractors of the following coverage and limits of insurance is a material element of this Contract. The failure of the Contractor or any Subcontractor to maintain or renew coverage or to provide evidence of renewal may be treated by the Contract Manager as a material breach of this contract.

- (i) Worker's Compensation and Employer's Liability Insurance: Worker's Compensation Insurance to protect the Contractor or Subcontractor from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable State and Federal statutes and regulations. The Contractor shall execute a certificate in compliance with Labor Code Section 1861.
- (ii) Claims Against Contract Manager - If an injury occurs to any employee of the Contractor or any of the Subcontractors for which the employee or its dependents, in the event of its death, may be entitled to compensation from the Contract Manager under the provisions of the said Acts, or for which compensation is claimed from the Contract Manager, there will be retained out of the sums due the Contractor under this Contract, an amount sufficient to cover such compensation as fixed by said Acts, until such compensation is paid or it is determined that no compensation is due. If the Contract Manager is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due the Contractor.
- (iii) Comprehensive General and Automobile Liability Insurance - The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, operations or equipment of the insured, or by its employees, agents, consultants, or by anyone directly or indirectly employed by the insured. Insurance shall be written with a limit of liability not less than \$2,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$2,000,000 aggregate for any damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$500,000 for all property damage sustained by one person in any one accident; and a limit of liability not less than \$500,000 aggregate for any such property damage sustained by two or more persons in any one accident. Any deductibles must be declared to and approved by the Contract Manager. At the option of the Contract Manager, either: the insurer shall reduce or eliminate such deductibles as respects the entity, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

The comprehensive general and automobile liability insurance coverage shall also include the following:

1. Provision or endorsement naming the Humboldt County Resource Conservation District, State Coastal Conservancy of California, GHD, USFWS, Humboldt Bay National Wildlife Refuge, and their consultants, and each of their officers, employees, and agents, each as additional insured in regards to liability arising out

of the performance of any work under the Contract including activities related to automobiles leased, hired, borrowed or owned and for work or operations including materials, parts or equipment, and providing that such insurance is primary insurance as respects the interest of the Contract Manager and Project Engineer and that any other insurance maintained by the Contract Manager and Project Engineer is excess and not contributing insurance with the insurance required hereunder.

2. "Cross Liability" or "Severability of Interest" clause.
3. Broad Form Property Damage, Personal Injury, Contractual Liability, Protective Liability Completed Operations coverages and elimination of any exclusion regarding loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to by insurers as the "XCU" hazards.
4. Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by the Contractor under the Contract, including, without limitation, that set forth in Section B-66, Indemnity and Litigation Costs.
5. Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Contract Manager, its officers, officials, employees, or volunteers.
6. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

#### **B-66 Indemnity and Litigation Cost**

- (a) Promptly upon execution of the Contract, the Contractor specifically obligates itself and hereby agrees to protect, hold free and harmless, defend and indemnify the Contract Manager, Project Manager, Project Engineer, USFWS/SCC officers, agents, employees, and consultants, and each of their officers, officials, employees and agents, from and against any and all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments, including without limitation attorneys' fees and other costs of litigation, which arise out of or are in any way connected with the Contractor's, or its Subcontractors' or suppliers', performance of work under this Contract or failure to comply with any of the obligations contained in the Contract. This indemnity shall include the duty to defend indemnitees as set forth in civil code section 2778 and/or under other legal basis. This indemnification shall imply no reciprocal right of the Contractor in any action on the contract pursuant to California Civil Code section 1717 or section 1717.5. To the extent legally permissible, this indemnity and hold harmless agreement by the Contractor shall apply to any acts or omissions, whether active or passive, on the part of the Contractor or its agents, employees, representatives, or Subcontractor's agents, employees and representatives, resulting in liability, irrespective of whether or not any acts or omissions of the parties to be indemnified hereunder may also have been a contributing factor to the liability, except such loss or damage which was caused by the active negligence, sole negligence or willful misconduct of the Contract Manager.

- (b) In any and all claims against the Contract Manager, Project Manager, or the Project Engineer and its consultants, and each of their officers, employees and agents by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Worker's Compensation statutes, disability benefit statutes or other employee benefit statutes.

**B-67 Protection of Work**

- (a) The Contractor shall be responsible for the care of all work until completion and final acceptance; and the Contractor shall, at its own expense replace damaged or lost material and repair damaged parts of the work or the same may be done at the Contractor's expense by the Contract Manager and the Contractor and its sureties shall be liable therefore. The Contractor shall make its own provisions for properly storing and protecting all material and equipment against theft, injury, or damage from any and all causes. Damaged material and equipment shall not be used in the work. The Contractor shall take all risks from floods and casualties except as provided by law, and shall make no charge for the restoration of such portions of the work as may be destroyed or damaged by flood or other casualties or because of danger from flood or other casualties or for delays from such causes. The Contractor may, however, be allowed a reasonable extension of time on account of such delays, subject to the conditions hereinbefore specified. The Contractor shall not be responsible for the cost, in excess of five percent (5%) of the contracted amount, of repairing or restoring damage to the work, if the damage was proximately caused by an earthquake in excess of a magnitude of 3.5 on the Richter Scale or by tidal waves; provided that the work damaged was built in accordance with accepted and applicable building standards, and the plans and specifications of the Contract Manager.
- (b) The Contractor shall be responsible for all damage to any property resulting from trespass by the Contractor or its employees in the course of their employment, whether such trespass was committed with or without the consent or knowledge of the Contractor.
- (c) The Contractor shall be responsible for any damage caused by drainage or water runoff from construction areas and from construction plant areas. In an emergency affecting the safety of life, or of the work, or of adjoining property, the Contractor, without special instruction or authorization from the Project Engineer, is hereby permitted to act at the Contractor's discretion to prevent such threatened loss or injury, and it shall so act without appeal if so instructed or authorized. Any compensation claimed by the Contractor on account of emergency work shall be determined as specified under Section B-3. Should the Project Engineer deem an emergency condition to exist, the Contractor shall immediately do those things and take those steps ordered by the Project Engineer. The decision of the Project Engineer in this respect shall be final and conclusive. Any claims for compensation made by the Contractor on account of emergency work shall be determined as specified under Section B-3.

**B-68 No Personal Liability**

Neither the Contract Manager, Project Manager, Project Engineer nor any of their other officers, agents, or employees nor any other public office shall be personally responsible for any liability arising under the Contract, except such obligations as are specifically set forth herein.

## ARTICLE VI. MEASUREMENT AND PAYMENT

### **B-69 Measurement of Quantities**

Where the Contract provides for payment on a lump sum price basis, the Contractor shall submit a price breakdown to the Contract Manager immediately after award of the Contract. The price breakdown as agreed upon between the Contractor and the Contract Manager shall be used for preparing future estimates for partial payments to the Contractor and shall list the major items of Work and a price for each item. Overhead and other general costs and profit shall be prorated to each item so that the total of all items equals the lump sum price. The price breakdown shall be subject to the approval of the Contract Manager and Contractor may be required to verify the prices for any or all items. Where the Contract provides for payment on a unit price basis, the quantities of work performed will be computed by the Project Engineer on the basis of measurements taken by the Project Engineer.

Whenever the estimated quantities of work to be done and materials to be furnished under this contract are shown in any of the documents including the Proposal, they are given for use in comparing bids and the right is especially reserved, except as herein or otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Contract Manager to complete the work contemplated by this contract and such increase or diminution shall in no way violate this Contract, nor shall any such increase or diminution give cause for claims, liability for damage or adjustment to the Contract time bid price.

### **B-70 Scope of Payment**

- a) The Contractor shall accept the compensation provided in the Contract as full payment for furnishing all labor, materials, tools, equipment, and incidentals necessary to the completed work and for performing all work contemplated and embraced under the Contract; also for loss or damage arising from the nature of the work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the work until the acceptance by the Contract Manager and for all risks of every description connected with the prosecution of the work, also for all expenses incurred in consequence of the suspension or discontinuance of the work as provided in the Contract; and for completing the work according to the specifications and plans. Neither the payment of any estimate nor of any retained percentage shall relieve the Contractor of any obligation to make good any defective work or material.
- b) No compensation will be made in any case for loss of anticipated profits. Increased or decreased work involving supplemental agreements will be paid for as provided in such agreements.

### **B-71 Progress Estimate**

At least ten (10) days before each progress payment falls due (but not more often than once a month), the Contractor will submit to the Contract Manager a partial payment estimate filled out and signed by the Contractor covering the work performed during the period covered by the partial pay estimate and supported by such data as the Contract Manager may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the Contract Manager, as will establish the Contract Manager's title to the material, and equipment and protect its interest therein, including, applicable insurance. The Project Engineer will

within seven (7) days after receipt of each partial payment estimate either recommend payment to the Contract Manager or return the estimate to the Contractor indicating in writing its reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial pay estimate.

Payroll certification forms provided by the Contractor and fully executed shall be filed with the Contract Manager at the time of submission of each partial payment estimate and also when the claim for final payment is submitted. Wage Report forms shall be completed and submitted as set forth in Parts 4 and 5.

#### **B-72 Progress Payments**

- (d) The Contractor is made aware that this contract is funded in whole or in part through an agreement with the State Coastal Conservancy (SCC). The SCC pays in arrears for work completed.
- (e) The Contract Manager, Refuge Staff and SCC will review all partial payments upon receipt of an undisputed, properly submitted progress estimate from the Contractor, recommended by the Contract Manager.
- (f) Any payment request determined not to be a proper payment request suitable for payment shall be returned to the Contractor as soon as practicable but not later than thirty (30) days after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.
- (g) The Contract Manager will pay the Contractor ninety-five percent (95%) of the amount of each progress estimate within thirty (30) days of receiving payment from the project funder. Contractor should allow for ninety (90) to one hundred and twenty days (120) days after the date of approval of the progress estimate by the funder, before receiving payment (depending on date submitted).
- (h) When, in the judgment of the Project Engineer, the work is not proceeding in accordance with the provisions of the Contract, or when in its judgment the total amount of the work done since the last estimate amounts to less than \$1,000, no pay estimate will be prepared and no progress payment will be made.
- (i) No progress estimate or payment shall be considered to be an approval or acceptance of any work, materials, or equipment. Estimated amounts and values of work done and materials and equipment furnished will be conformed with actual amounts and values as they become available in subsequent progress estimates, progress payments and the final estimate and payment. All estimates and payments will be subject to correction in subsequent progress estimates and payments and the final estimate and payment.
- (j) The Contract Manager requires that any payments due to Subcontractors for a portion of the work satisfactory completed shall be made by Contractor to Subcontractors within fifteen (15) days of Contract Manager's payment to Contractor. Failure to make such payments in a timely fashion may result in the Contract Manager issuing future progress payments by joint check to the Contractor and Subcontractors.

- (k) It is mutually agreed between the parties to the Contract that no payments made under the Contract, including progress payments and the final payment, shall be evidence of the performance of the Contract, either wholly or in part, and no payment shall be construed to be an acceptance of any defective or incomplete work or improper materials.

#### **B-73 Retention Proceeds; Withholdings; Disbursements**

Notwithstanding other requirements of these General Conditions, Section 7107 of the Contract Code shall govern as to retention proceeds; withholding and ultimate disbursement of funds.

#### **B-74 Liens and Stop Notices**

The Contractor agrees to keep the work, the site of the Work and all monies held by the Contract Manager free and clear of all liens and stop notices related to labor and materials furnished in connection with the Work, if permitted by law. Furthermore, the Contractor waives any right it may have to file any type of lien or stop notice in connection with the Work. Notwithstanding anything to the contrary contained in the Contract documents, if any such lien or stop notice is filed or there is evidence to believe that lien or stop notice may be filed at any time during the progress of the Work or within the duration of this Contract, the Contract Manager may refuse to make any payment otherwise due the Contractor or may withhold any payment due the Contractor a sum sufficient in the opinion of the Contract Manager to pay all obligations and expenses necessary to satisfy such lien or stop notice. The Contract Manager may withhold such payment unless or until the Contractor, within ten days after demand therefore by the Contract Manager, shall furnish satisfactory evidence that the indebtedness and any lien or stop notice in respect thereof has been satisfied, discharged and released of record, or that the Contractor has legally caused such lien or stop notice to be released of record pending the resolution of any dispute between the Contractor and any person or persons filing such lien or stop notice. If the Contractor shall fail to furnish such satisfactory evidence within ten days of the demand therefore, the Contract Manager may discharge such indebtedness and deduct the amount thereof, together with any and all losses, costs, damages and attorney's fees suffered or incurred by the Contract Manager from any sum payable to the Contractor under the Contract documents, including but not limited to final payment and retained percentage. This Section shall be specifically included in all Subcontracts and purchase orders entered into by the Contractor.

#### **B-75 Final Acceptance and Date of Completion**

Whenever the Contractor shall deem all work under this Contract to have been completed in accordance therewith, it shall so notify the Contract Manager in writing, and the Project Engineer shall promptly ascertain whether the work has been satisfactorily completed and, if not, shall advise the Contractor in detail and in writing of any additional work required. When all the provisions of the Contract have been fully complied with to the satisfaction of the Contract Manager, it shall proceed with all reasonable diligence to determine accurately the total value of all work performed by the Contractor at the prices set forth in the Contract or fixed by Change Orders, and the total value of all extra work, all in accordance with the Contract. The Contract Manager will then certify to said final estimate and to the completion of the work, and will file copies thereof with the Contract Manager and the Contractor. The date of completion shall be the date upon which the Contract Manager makes its formal written acceptance of the work.

**B-76 Final Payment**

Within ten (10) days after the date of completion, the Contract Manager will file in the Office of the County Recorder, a Notice of Completion of the work herein agreed to be done by the Contractor. On the expiration of thirty-five (35) days after the recordation of such Notice of Completion the difference between said final estimate and all payments theretofore made to the Contractor shall be due and payable to the Contractor upon receipt of funding by Contract Manager from funding agencies and subject to any requirements concerning the furnishings of a maintenance bond, and excepting only such sum or sums as may be withheld or deducted in accordance with the provisions of this Contract. All prior certifications, upon which partial payments may have been made, being merely estimates, shall be subject to correction in the final certificate.

**B-77 Final Release**

Final payment to the Contractor in accordance with the final estimate is contingent upon the Contractor furnishing the Contract Manager with a signed written release of all claims against the Contract Manager arising by virtue of the Contract. Disputed Contract claims in stated amounts may be specifically excluded by the Contractor from the operation of the release. The release shall be in substantially the following form:

**WAIVER AND RELEASE UPON FINAL PAYMENT**

The undersigned has been paid in full by the Contract Manager for all labor, services, equipment and material furnished to the Contract Manager on the \_\_\_\_\_. Improvements located at Loleta, California, and does hereby waive and release the Contract Manager, its officers, agents, and employees, from all claims and liability to the Contractor arising out of, or in any way connected with, the Contract, except for the disputed contract claims specified below:

Notice of disputed claim	Amount of Claim
	\$ _____
Dated: _____	(Name of Contractor)
	By: _____ (Title)

Any payment, however, final or otherwise shall not release the Contractor or its sureties from obligations under the Contract Documents or Performance and Payment Bonds.

**B-78 Right to Withhold Payments**

- (a) In addition to all other rights and remedies of the Contract Manager hereunder and by virtue of the law, the Contract Manager may withhold or nullify the whole or any part of any partial or final payment to such extent as may reasonably be necessary to protect the Contract Manager from loss on account of:
  - (i) Defective work not remedied, irrespective of when any such work be found to be defective;

- (ii) Claims or liens filed or reasonable evidence indicating probable filing of claims or liens including, but not limited to claims under Sections 1775, 1776, or 1777.7 of the Labor Code;
  - (iii) Failure of the Contractor to make payments properly for labor, materials, equipment, or other facilities, or to Subcontractors and/or suppliers;
  - (iv) A reasonable doubt that the work can be completed for the balance then unearned;
  - (v) A reasonable doubt that the Contractor will complete the work within the agreed time limits;
  - (vi) Costs to the Contract Manager resulting from failure of the Contractor to complete the work within the proper time; or
  - (vii) Damage to work or property.
  - (viii) Damage to another Contractor.
  - (ix) Performance of work in violation of the Terms of the Contract Documents.
  - (x) Where work on unit items is substantially complete, but lacks cleanup and/or other corrections ordered by the Project Engineer, amounts shall be deducted from the unit prices in partial payment estimates to amply cover such cleanup and correction.
  - (xi) Failure to file required Equal Opportunity and Affirmative Action forms.
- (b) Whenever the Contract Manager shall, in accordance herewith, withhold any monies otherwise due the Contractor, written notice of the amount withheld and the reasons therefore will be given the Contractor. After the Contractor has corrected the enumerated deficiencies, the Contract Manager will promptly pay to the Contractor the amount so withheld. When monies are withheld to protect the Contract Manager against claims or liens of mechanics, material men, Subcontractors, etc., the Contract Manager may at its discretion permit the Contractor to deliver a surety bond in terms and amount satisfactory to the Contract Manager, indemnifying the Contract Manager against any loss or expense, and upon acceptance thereof by the Contract Manager, the Contract Manager shall release to the Contractor monies so withheld.

#### **B-79 Waiver of Interest**

The Contract Manager shall have no obligation to pay and the Contractor hereby waives the right to recover interest with regard to monies which the Contract Manager is required to withhold by reason of judgment, order, statute or judicial process.

#### **B-80 Satisfaction of Claims and Liens**

Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Contract Manager, a complete release of all liens and claims arising out of this Contract, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as it has knowledge or information the releases and receipts include all the labor and material

for which a lien or claim could be filed; but the Contractor may, if any Subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Contract Manager, to indemnify the Contract Manager against any lien or claim. If any lien or claim remains unsatisfied after all payments are made, the Contractor shall refund to the Contract Manager all monies that the latter may be compelled to pay in discharging such a lien, or claim, including all costs and reasonable attorney's fees.

**B-81 Ownership of Documents and Other Work Products**

Documents and work products produced under this agreement shall be the property of the Coastal Conservancy per the requirements of the contract between the Coastal Conservancy and the Contract Manager.

## **PART 4: TECHNICAL SPECIFICATIONS**

**PART 4 TECHNICAL SPECIFICATIONS**

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## DIVISION 1

### SECTION 01 10 00 SUMMARY OF WORK

#### PART 1 GENERAL

##### 1. WORK COVERED BY CONTRACT DOCUMENTS

###### A. Description:

1. The Work consists of transporting soil from the loading to unloading sites which are located on the Humboldt Bay National Wildlife Refuge. The soil will be loaded by Refuge staff at the loading site, transported by the awarded contractor to the unloaded site where the soil will be dumped. Refuge staff will spread soil at the unload site.
2. The Contractor is encouraged to proceed in an orderly and expeditious manner. All work is to be constructed in strict accordance with this contract and subject to the terms and conditions of the Contract.

###### B. Contractor's duties:

1. Except as specifically noted, provide and pay for:
  - a. Highway legal 10-wheel dump trucks with licensed drivers
2. Pay legally required sales, consumer and use taxes.
3. Contractor shall obtain all other necessary licenses and comply with them and all other applicable Local, State, and Federal laws and regulations.
  - a. Secure and pay for, as necessary for proper execution and completion of the work, applicable licenses.
  - b. See Part VI of the bid package for all permits already acquired by the Project Manager.
4. Give required notices.
5. Comply with codes, ordinances, rules, regulations, orders and other legal requirements of public authorities which bear on performance of the work.
6. Promptly submit written notice to Contract Manager of observed variance of Contract Documents from legal requirements.
7. If any Subcontractor or person employed by the Contractor shall appear to the Contract Manager to be incompetent or to act in a disorderly or improper manner,

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the person shall be discharged immediately on the requisition of the Contract Manager, and such person shall not again be employed on the Project.

**C. Location of Work**

1. The loading and unloading sites are located on the Humboldt Bay National Wildlife Refuge as shown on Exhibit A along with associated haul route.



Exhibit A – Loading and unloading sites located on the Humboldt Bay National Wildlife Refuge and haul route between sites.

**2. CONTRACT DESCRIPTION**

- A. All Work is contained in this Contract. It will be the Contractor's responsibility to coordinate their hauling in close coordination with Refuge Staff (Project Manager).
- B. Work conducted includes, but is not limited to:

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1. Transport of soil from the loading to unloading site.
2. Coordination of hauling with Refuge Staff
3. PROJECT COMPLETION
  - A. Soil transport for this project will occur between July 9, 2018 and August 17, 2018.

**PART 2 PRODUCTS [NOT USED]**

**PART 3 EXECUTION [NOT USED]**

**END OF SECTION 01 11 00**