AGREEMENT

This Agreement is by and between California-American Water Company, a California ~~C~~corporation (Owner), and **Boart Longyear Company, a Utah corporation**~~———~~ ("Contractor").
Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

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

Construction of seven to nine subsurface slant wells to produce the source water supply for a desalination plant

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Monterey Peninsula Water Supply Project - Construction of Source Water Slant Wells

ARTICLE 3 – ENGINEER

3.01 The Engineer for the Project will act as the Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

3.02 The following Owner-affiliated entities or independent engineers, consultants, or managers have been retained by Owner to undertake some or all of Engineer's or Owner's authority, duties, or responsibilities under the Contract Documents:

GEOSCIENCE Support Services, Inc.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

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

4.02 *Days to Achieve Substantial Completion and Final Completion*

A. The Work shall be substantially completed within **450 days** after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions.

B. The Work will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within **540 days** after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner: (1) **$10,000** for each day that expires after the time specified in Paragraph 4.02.A for Substantial Completion, or any extension thereof in accordance with Paragraph 12.02 of the General Conditions, until the Work is substantially complete ; and (2) **$10,000** for each day that expires after the time specified in Paragraph 4.02.B for completion and readiness for final payment, or any extension thereof in accordance with Paragraph 12.02 of the General Conditions, until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

A. The Contract Price for all Work is [**to be identified in the Notice to Proceed]**, as further specified in Exhibit C, subject to any subsequent amendments.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer and as otherwise specified in Paragraph 14.02 of the General Conditions. All such payments will be measured by the schedule of values established as provided in Paragraph 2.05.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

B. Progress payments will be made in an amount equal to **90%** of Work completed (with the balance being retainage) until 50% of the Contract Price has been paid, at which time remaining progress payments will be paid in an amount equal to 100% of the Work completed thereafter, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may

withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.

C. Upon Substantial Completion, Owner may withhold **100%** of Owner's determination of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

D. All applications for progress payments shall be accompanied by a conditional lien release and, for payments after the first, an affidavit of payment.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price, and any retained funds, as provided in said Paragraph 14.07.

B. An application for final payment shall be accompanied by a conditional lien release and an affidavit of payment.

ARTICLE 7 – CONTRACTOR'S REPRESENTATIONS

7.01 To induce Owner to enter into this Agreement, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been provided pursuant to Paragraph 4.02 of the General Conditions.

E. Contractor has considered the information known to Contractor, information and observations obtained from visits to the Site, information commonly known to contractors doing business in the locality of the Site, the Contract Documents, and the reports and drawings identified in the Contract Documents and referred to in Paragraph 7.01.D above with respect to the effect of such information and observations on: (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Contractor's safety precautions and programs.

F. Based on the information and observations referred to in Paragraph 7.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor is prepared to comply with the applicable requirements of Owner's safety program, if any.

I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

K. Contractor will provide Owner with a performance bond and a payment bond conforming to Article 5 of the General Conditions.

L. To the best of its knowledge, neither the execution nor delivery of the Contract by Contractor nor the performance by Contractor of its obligations in connection with the Contract or the fulfillment by Contractor of the terms or conditions of the Contract (1) conflicts with, violates or results in a breach of any law, governmental regulation, bylaws or certificate of incorporation applicable to Contractor or (2) conflicts with, violates or results in a breach of any order, judgment or decree, or any contract, agreement or instrument to which Contractor is a party or by which Contractor or any of its properties or assets are bound, or constitutes a default under any of the foregoing.

M. Contractor has determined that in performing its obligations in connection with the Contract, no potential exists for any conflict of interest or unfair advantage. Contractor shall immediately notify Owner in writing if Contractor becomes aware of any potential conflict of interest or unfair advantage that arises in connection with the Contract, including any potential perceived conflict or unfair advantage.

ARTICLE 8 – CONTRACT DOCUMENTS

8.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement (pages **AG-1** to **AG-~~[INSERT]~~10**, inclusive).

2. General Conditions (pages **GC-i** to **GC-~~[INSERT]~~71**, inclusive).

3. Specifications bearing the title(s): **Monterey Peninsula Water Supply Project, Nine Subsurface Desalination Feed Water Slant Wells, Design Documents,**

Supplemental General Conditions and Technical Specifications, November 20, 2015, including Appendices A through E~~**Monterey Peninsula Water Supply Project, Subsurface Source Water Slant Wells, Design Documents, Supplemental General Conditions and Technical Specifications, [INSERT DATE], including Appendices A through E and Construction Drawings**~~

4. Drawings bearing the title(s): **Monterey Peninsula Water Supply Project, Construction Plans for; Nine Desalination Feed Water Slant Wells, November 20, 2015, consisting of 36 pages (included with Specifications identified in Item 3 above)**~~**Monterey Peninsula Water Supply Project, Construction Plans for; Nine Desalination Feed Water Slant Wells, November 20, 2015, consisting of 36 pages**~~**Monterey Peninsula Water Supply Project, Nine Subsurface Desalination Feed Water Slant Wells, [INSERT DATE], consisting of 37 pages**~~

5. Exhibits to this Agreement (enumerated as follows):

   a. Performance bond form, identified as Exhibit A consisting of pages **A-1** through **A-2**;

   b. Payment bond form, identified as Exhibit B, consisting of pages **B-1** through **B-2**.

   c. Contractor's Bid identified as Exhibit C and consisting of ~~**[insert number]**~~**13** pages.

   d. WMDVBE and Local Resources Utilization identified as Exhibit D.

   e. List of Required Additional Insureds, identified as Exhibit G.

   f. Insurance Requirements, identified as Exhibit H.

   g. Project Team Member List and Key Personnel, identified as Exhibit I.

   h. Conditional Release of Lien forms, identified as Exhibits J and K.

   i. Affidavit of Payment to Subcontractors form, identified as Exhibit L.

6. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

   a. Pre-Mobilization Notice.

   b. Notice to Proceed.

   c. Work Change Directives substantially conforming to the form attached hereto as Exhibit E.

   d. Change Orders substantially conforming to the form attached hereto as Exhibit F.

B. The documents listed in Paragraph 8.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 8.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 9 – MISCELLANEOUS

9.01 *Terms*

A. Capitalized terms used in this Agreement will have the meanings stated in the General Conditions.

9.02 *Assignment of Contract*

A. No assignment by Contractor of any rights under or interests in the Contract will be binding on Owner without the written consent of Owner; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge Contractor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

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

9.04 *Severability*

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

9.05 *Contractor's Certifications*

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 9.05:

1. "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution.

2. "Fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.

3. "Collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels.

4. "Coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

B. Contractor certifies that Contractor will conform its business dealings with Owner in accordance with the underlying principles of the Owner's Code of Ethics, a copy of which is available on the Owner's website at http://californiaamwater.com.

9.06 *Other Provisions*

A. Government Regulations

The following clauses, where applicable, are incorporated in this Agreement by reference as if fully set out: The Equal Opportunity Clause prescribed in 41 CFR 60-1.40, the Affirmative Action Clause prescribed in 41 CFR 60-250.4, regarding veterans and veterans of the Vietnam Era, and the Affirmative Action Clause for Handicapped Workers prescribed in 41 CFR 60-741.4.

B. Background Check

Contractor shall conduct a background check on each of its employees prior to the employee performing any function or activity under this Agreement involving any direct customer contact, or on-site at any of the Owner's water treatment plants. As used in the Agreement, "direct customer contact" shall include but not be limited to, any activity by the Contractor's employee at or near a customer's premises. The background check conducted by Contractor shall consist of a check of at least the following: Previous employers and dates of employment; Education; Driving record; Criminal history (state and federal); References; Credit history. Prior to commencing any work under this Agreement, Contractor shall provide proof to the Owner that the requirements of this Paragraph have been met. Contractor shall make available to the Owner, upon request, the documentation and results of the background check with respect to any employee of Contractor performing any function under this Agreement involving any direct customer contact.

C. Project Manuals

Owner shall furnish to Contractor up to two (2) printed copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

D. Notices

Unless other specified in a specific provision of this Agreement, any notice required by the Contract Documents to be given to the Owner shall be addressed as follows:

Ian Crooks
California American Water
511 Forest Lodge Road, Suite 100
Pacific Grove, CA 93950

Any notice required by the Contract Documents to be given to the Contractor shall be addressed as follows:

Jason Lamb~~Insert Contractor's Contact~~
2745 W California Avenue~~Insert Contractor's Street Address~~
Salt Lake City, UT 84104~~Insert Contractor's City, State and ZIP~~

E. WMDVBE Goal.

Owner has established a combined women, minority and disabled veteran owned business enterprises ("WMDVBE") non-mandatory participation goal for the Work of twenty-five percent (25%) of the Contract Price in accordance with CPUC General Order 156. In contribution to this goal, Contractor must make a good faith effort to employ WMDVBE subcontractors for any subcontracted portion of the Work, and must monitor and report to Owner any WMDVBE utilization during the term of the Contract. Contractor's WMDVBE utilization for the Work is described in Exhibit D.

F. Local Resources Goal.

Owner acknowledges the benefit that the local community receives through utilization of local contractors, laborers, and suppliers. In contribution to this goal, Contractor must make a good faith effort to employ qualified individuals who are, and have been for at least one year out of the three years prior to the opening of Proposals, residents of Monterey County, San Benito County, or Santa Cruz County in sufficient numbers so that no less than fifty percent of Contractor's total work force, including any Subcontractor work force (with exception of specialty subcontractor items), measured in labor work hours, is comprised of residents of such counties. Contractor must monitor and report to Owner any local resources utilization during the term of the Contract. Contractor's local resources utilization for the Work is described in Exhibit D.

G. Public Funding/Labor Law Compliance.

1. Prevailing Wages and Labor Compliance Program. Contractor shall pay prevailing wage rates. The general prevailing wage rates for the Work are available on the California Department of Industrial Relations' website at http://www.dir.ca.gov, copies of which are on file at the offices of Owner and are available to Contractor or any interested party upon request. Further, the Work may be subject to a statutory requirement to adopt and enforce a labor compliance program for the monitoring and enforcement of prevailing wage requirements. Contractor shall, at no additional cost to Owner, comply with any applicable labor law and labor compliance program requirements. Contractor is responsible for all failures by Subcontractors to comply with labor compliance program requirements. Pursuant to section 1773 of the

California Labor Code, the general prevailing wage rates in the county in which the Work is to be done have been determined by the Director of the California Department of Industrial Relations.

2. CWSRF Funding Responsibilities.

(a) Application and Submittals. Owner shall submit all filings, applications and reports necessary to obtain reimbursement from the Clean Water State Revolving Fund ("CWSRF") for the Project.

(b) Contractor Responsibilities. Contractor shall be responsible for cooperating with and providing reasonable assistance to Owner in all activities related to the loan agreement regarding the CWSRF loan from the State Water Resources Control Board ("SWRCB") to the Owner to partially fund the Project ("CWSRF Loan Agreement") including:

(i) coordinating with Owner or Owner's consultant on the schedule and content of the submittals required for the CWSRF program;

(ii) assisting Owner or Owner's consultant in developing and furnishing all necessary and reasonably required supporting material;

(iii) supplying all data and information which may be reasonably required;

(iv) familiarizing itself with the terms and conditions of the CWSRF program relating to construction activities and practices;

(v) complying with the terms and conditions of the CWSRF Loan Agreement or other financing document required by the CWSRF program or by applicable law with respect to construction activities and practices;

(vi) attending meetings, as necessary, with SWRCB and other governmental bodies; and

(vii) taking all other actions reasonably requested by Owner in order to assist and support Owner related to the CWSRF financing for the Project.

Contractor shall take all reasonable actions necessary to comply with the conditions to disbursement of proceeds of the CWSRF Loan Agreement and to maximize Owner's eligibility to receive timely reimbursement under the CWSRF Loan Agreement. Contractor shall perform its CWSRF-related responsibilities in a manner which complies with all CWSRF program requirements.

(c) Data and Information. All data, information and action required to be supplied or taken in connection with any CWSRF financing shall be supplied and taken on a timely basis considering the CWSRF requirements at Contractor's sole cost and expense. The data and information supplied by the Contractor to Owner or Owner's consultant and the SWRCB in connection therewith shall be correct and complete in all material respects and shall be submitted in draft form to Owner or Owner's consultant sufficiently in advance to allow full and meaningful review and comment by Owner. Contractor shall not be entitled to any schedule or price relief or escalation which result

from a delay due to the submission of materially incorrect or incomplete information. Owner reserves the right to reject, modify, alter, amend, delete or supplement any information supplied by Contractor pursuant to this Section.

(d) CWSRF Requirements. Owner is informed that in order to obtain CWSRF financing for the Project: (a) American Iron and Steel (AIS) requirements will apply; (b) the State Water Resources Control Board ("SWRCB") CWSRF policy will apply; and (c) the SWRCB applies USEPA guidance on AIS requirements. Contractor agrees to cooperate with Owner to meet all CWSRF financing requirements applicable to the Project and Contractor has included all costs necessary to comply with AIS requirements in the Contract Price.

H. Value Engineering

If requested by Owner, prior to commencement of Work Contractor shall participate in a value engineering process as determined by Owner which process shall take no longer than sixty (60) days to complete.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on the date it has been executed by OWNER (which is the Effective Date of the Agreement).

OWNER:	CONTRACTOR
California-American Water Company	Boart Longyear Company~~Insert Contractor Name~~
By: _____	By: _____
Title: _____	Title: _____
Date:	Date:
_____	Attest: _____
_____	Title: _____
_____	Date: _____
	Contractor's License No.: 694686~~_____~~
	_____
	_____
	_____

GENERAL CONDITIONS

This document is a MODIFIED version of EJCDC® C-700, Copyright © 2007 by the National Society of Professional Engineers, American Society of Civil Engineers, and American Council of Engineering Companies, or is based in part on excerpts from EJCDC documents. Those portions of the text that originated in published EJCDC documents remain subject to the copyright. These General Conditions are based on the Standard General Conditions of the Construction Contract prepared by the Engineers Joint Contract Document Committee (EJCDC Doc. No. C-700, 2007 Edition). The General Conditions incorporate terms and conditions that are consistent with American Water System practices and policies. Only the General Conditions contained herein are a part of the Contract Documents for the Project.

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GENERAL CONDITIONS

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda* – Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement* – The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.

3. *Application for Payment* – The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid* – The offer or proposal of a Bidder submitted on the prescribed bid schedule(s) setting forth the prices for the Work to be performed.

6. *Bidder* – The individual or entity who submits a Bid directly to Owner.

7. *Bidding Documents* – The Bidding Requirements and the proposed Contract Documents (including all Addenda).

8. *Bidding Requirements* – The Request for Proposals, bid security of acceptable form, if any, and the bid schedules.

9. *Change Order* – A document recommended by Engineer which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or

an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim* – A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract* – The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents* – Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents.

13. *Contract Price* – The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times* – The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any, (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

15. *Contractor* – ~~The individual or entity with whom Owner has entered into the Agreement~~Boart Longyear Company.

16. *Cost of the Work* – See Paragraph 11.01.A for definition.

17. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

18. *Effective Date of the Agreement* – The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *Engineer* – Ian Crooks or his designee.

20. *Field Order* – A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

21. *General Requirements* – Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

22. *Hazardous Environmental Condition* – The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

23. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

24. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

25. *Liens* – Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

26. *Milestone* – A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

27. *Not used.*

28. *Notice to Proceed* – A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run. The notice also fixes the Contract Price by designating the number of wells to be constructed in accordance with the s corresponding bid schedule included in Exhibit C.

29. *Owner* – California-American Water Company.

30. *PCBs* – Polychlorinated biphenyls.

31. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

32. *Pre-Mobilization Notice* – A written notice given by Owner to Contractor authorizing the Contractor to commence the portion of the Work described in Bid Item 101 of the Specifications.

33. *Progress Schedule* – A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.

34. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.

35. *Project Manual* – The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

36. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

37. *Resident Project Representative* – The authorized representative of Engineer who may be assigned to the Site or any part thereof.

38. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Schedule of Submittals* – A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

40. *Schedule of Values* – A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

41. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

42. *Site* – Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

43. *Specifications* – That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.

44. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

45. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified

part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

46. *Not used.*

47. *Not used.*

48. *Supplier* – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or any Subcontractor.

49. *Underground Facilities* – All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

50. *Unit Price Work* – Work to be paid for on the basis of unit prices.

51. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

52. *Work Change Directive* – A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 *Terminology*

A. The following words or terms are not defined but, when used in the Bidding Requirements or Contract Documents, have the following meaning.

B. *Intent of Certain Terms or Adjectives*

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.07 or any other provision of the Contract Documents.

C. *Day*

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

   a. does not conform to the Contract Documents, or

   b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents, or

   c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 14.04 or 14.05).

   d. Fails to perform to industry standards within the geographic area of the Project at any time during the Correction Period specified in Paragraph 13.07.

E. *Furnish, Install, Perform, Provide*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, "provide" is implied.

F. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds, Evidence of Insurance, and Construction Quality Management Plan*

A. *Bonds:* The bonds required by Paragraph 7.01.K of the Agreement shall be delivered to Owner as follows: (1) before any Work at the Site is started, Contractor shall deliver the performance bond; and (2) before any materials are ordered for use in the Work, Contractor shall deliver the payment bond.

B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor shall also deliver to Owner certificates of insurance (and other evidence of insurance which Owner or any additional insured may reasonably request) which Contractor is required to purchase and maintain in accordance with Article 5.

C. *Construction Quality Management Plan:* Before any Work at the Site is started, Contractor shall also deliver to Owner a construction quality management plan meeting the minimum requirements of the Contract.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor the number of printed or hard copies of the Contract Documents specified in Paragraph 9.06.C of the Agreement. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. The Notice to Proceed will be accompanied by a no-cost Change Order memorializing the fixing of the Contract Price. Owner will not issue a Notice to Proceed until Contractor has delivered the bonds, evidence of insurance, and construction quality management

plan referenced in Paragraph 2.01. Unless otherwise agreed to in writing by Owner and Contractor, a Notice to Proceed may be given at any time within 730 days after the Effective Date of the Agreement. Except as specifically provided in Paragraphs 2.04.B and 2.04.C below, Owner shall not have any obligations or duties to Contractor under the Agreement until the Contract Times commence to run.

2.04 *Starting the Work*

A. Except as specifically provided in Paragraphs 2.04.B and 2.04.C below, Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

B. After execution of the Agreement by Owner and Contractor, Contractor shall perform the Pre-Construction Planning activities as directed by Owner and contemplated by Bid Item 100 as set forth in Exhibit C and the Specifications. Owner shall not be liable or responsible for the payment of more than the bid item allowance for Bid Item 100.

C. Owner will issue the Pre-Mobilization Notice a minimum of 180 days prior to the day the Notice to Proceed is issued. If Owner issues the ~~Notice to Proceed~~Pre-Mobilization Notice less than 180 days prior to issuance of the Notice to Proceed, Contractor may make a Claim for an adjustment of the Contract Times in accordance with Paragraphs 10.05.A and 12.02.B, but, Contractor shall not be entitled to an adjustment in the Contract Price. ~~Prior to issuance of the Notice to Proceed,~~ Owner shall not be liable or responsible for the payment of more than ~~$500,000.00~~the amount specified in Contractor's Bid for Bid Item 101. ~~If and when the Notice to Proceed is issued, Contractor may submit an Application for Payment for any remaining costs incurred under Bid Item 101 prior to issuance of the Notice to Proceed.~~

2.05 *Preliminary Schedules*

A. *Submission of Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified by Owner or Engineer in writing or at the Preconstruction Conference), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress

payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

B. *Acceptance of Preliminary Schedules*: No progress payment shall be made to Contractor until schedules are submitted to Engineer in accordance with Paragraph 2.05.A and accepted by Engineer:

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work and the allocation of the Contract Price as shown in the Progress Schedule.

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

B. At this conference Owner and Contractor shall each designate, in writing, specific individuals to act as their respective representatives with respect to the services and responsibilities of each party under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from

the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for at no additional cost to Owner.

C. Clarifications and interpretations of the Contract Documents shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

A. Standards, Specifications, Codes, Laws, and Regulations

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to Owner, or Engineer, or any of their Related Entities, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

B. Unless specified otherwise in the Contract Documents, all Work shall meet the laws, regulations, codes, and industry standards (in that order) applicable to the location of the Work.

3.03 *Reporting and Resolving Discrepancies*

A. Reporting Discrepancies

1. *Contractor's Review of Contract Documents Before Starting Work*: Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers or has actual knowledge of and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.

2. *Contractor's Review of Contract Documents During Performance of Work*: If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and

any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.15.A) until a modification to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. Resolving Discrepancies

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Modifying Contract Documents*

A. The Contract Documents may be modified to provide for additions, deletions, or revisions (or any combination thereof) in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:

1. Work Change Directive

2. Change Order

3. Field Order;

4. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.16.D.3); or

5. Engineer's written interpretation or clarification.

C. Changes in Contract Time or Contract Price must be made by Change Order.

3.05 *Reuse of Documents*

A. Contractor and any Subcontractor or Supplier shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or

2. reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.

B. The prohibition of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

A. Copies of data furnished by Owner or Engineer to Contractor or Contractor to Owner or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which

Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Not used.*

B. *Limited Reliance by Contractor Authorized:* The Specifications, which are Contract Documents, present as a contractual baseline those subsurface conditions that Contractor may assume it will encounter; however, Owner does not warrant that actual conditions will not vary from the assumed conditions. Contractor may rely upon the express statements and depictions regarding assumed subsurface conditions at the Site presented as a contractual baseline in the Specifications. Except for such reliance, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their Related Entities, with respect to:

1. the completeness of the description of the subsurface conditions contained in the Specifications, or content, quality, or completeness of any other such reports, tests, or drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in any such reports or tests, or shown or indicated in any such drawings; or

3. any Contractor interpretation of or conclusion drawn from any such report, test, or drawing or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice*

1. The Contractor shall promptly give written notice to Owner and Engineer of (a) subsurface or latent physical conditions at the Site which differ materially from those indicated in the Specifications or (b) unknown physical conditions at the Site of an unusual nature that differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the Contract Documents.

2. The Contractor's notice shall provide the Owner and Engineer the opportunity to investigate the conditions at the Site, and to obtain additional exploration or tests with respect to the pertinent condition. Owner shall provide to Contractor the results of any such additional tests or exploration.

B. *Engineer's Review*: After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. Possible Price and Times Adjustments

1. The Contract Price or the Contract Times, or both, will be adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

   a. such condition must meet at least one of the two categories described in Paragraph 4.03.A.1; and

   b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.05 and 11.03.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:

   a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

   b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or

   c. Contractor failed to give the written notice as required by Paragraph 4.03.A.

3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, Contractor may make a Claim therefor as provided in Paragraph 10.05. However, Owner and Engineer, and any of their Related Entities shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Contract Documents:

1. Contractor may assume the general accuracy and completeness of any such information and data shown or indicated in the Contract Documents; and

2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:

a. reviewing and checking all such information and data,

b. locating for field construction purposes all Underground Facilities shown or indicated in the Contract Documents,

c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction, and

d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.15.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer. Engineer will promptly review the Underground Facility and advise Owner as to the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or

location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

2. If Owner concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points and property monuments necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 *Hazardous Environmental Condition at Site*

A. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.

B. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.15.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by paragraph 4.06.C.

C. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

D. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

E. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.E shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

F. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 4.06.F shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

G. The provisions of Paragraphs 4.02, 4.03, and 4.04 do not apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

4.07 *Notice of Hazardous Materials*

A. In accordance with the intent of the Federal Occupational Safety and Health Administration (OSHA) Standard Section 29 CFR 1910.1200, Hazard Communication with effective date of May 25, 1986, as it may be amended from time to time, the Owner hereby notifies the Contractor that Work is to be performed on company property where the Contractor's employees may be exposed to hazardous materials existing on the premises.

   A list of chemicals known to be used or stored by the Owner and required to be disclosed by said OSHA Standard Section 29 CFR 1910.1200, if any, will be provided to Contractor.

B. Owner, Contractor, and any Subcontractors will each provide or make available to the others: (a) any written hazard communication program required to be maintained with respect to the site and any material safety data sheet and other hazard communication information required to be provided in accordance with the applicable Laws and applicable Regulations; or (b) in the event that applicable Laws and Regulations do not require the provision or exchange of such hazard communications, Contractor and any Subcontractors shall, nevertheless, provide or make available to Owner and any other employers at the site a written hazard communication program, material safety data sheets and other hazard communication information of the type and consistent with the intent of said OSHA Standard Section 29 CFR 1910.1200 and acceptable to Owner and Engineer. Contractor shall be responsible for coordinating any such required exchange of documents or information between or among Owner and any other employers at the Site, or any of them. Contractor shall include the provisions of this paragraph in any subcontract for any part of the Work at the site.

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. If required by the Contract Documents, Contractor shall furnish performance and payment bonds, each in an amount ~~at least~~ equal to the Contract Price (or such lesser amount as the parties may mutually agree to in writing) as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 13.07, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as

Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

D. All bonds furnished in compliance with the above shall be executed by sureties having a rating of "A" by the most recent Best's Key Rating Guide and as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

5.02 *Licensed Sureties and Insurers*

A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in these General Conditions.

5.03 *Certificates of Insurance*

A. Contractor shall deliver to Owner, with copies to each additional insured identified in Exhibit G, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.

B. Failure of Owner to demand such certificates or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

C. Owner does not represent that coverage and limits will necessarily be adequate to protect Contractor against all risks, including Contractor's obligation to indemnify Owner.

D. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner in the Contract Documents.

5.04 *Contractor's Insurance*

A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:

   a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or

   b. by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in Exhibit G, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages provided in Exhibit H or required by Laws or Regulations, whichever is greater;

3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraphs 6.11 and 6.19;

4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in Exhibit G to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and

6. include completed operations coverage:

   a. Such insurance shall remain in effect for five years after final payment.

   b. Contractor shall furnish Owner and each other additional insured identified in Exhibit G, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment and five years thereafter.

C. The limits of liability for the insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations.

1. At no expense to Owner, Contractor shall (1) obtain and keep in force during the term of this Agreement, and any renewals or extensions hereof; and (2) require its Subcontractors to obtain and keep in force during the terms of their respective

engagements or contracts, the minimum insurance limits and coverage set forth in Exhibit H. The insurance coverage limits stated therein are minimum coverage requirements, not limitations of liability, and shall not be construed in any way as Owner's acceptance of the responsibility of Contractor. Owner may approve in its sole discretion reduced coverages for Subcontractors upon written request by Contractor. Owner's approval of any such reduced coverages must be in writing.

2. The minimum liability limits required may be satisfied through the combination of the primary general liability, employers' liability, and automobile liability limits with an umbrella liability policy (with coverage no more restrictive than the underlying insurance) providing excess limits at least equal to or greater than the combined primary limits.

3. All commercial general liability including completed operations-products liability coverage, EIL or pollution liability and automobile liability insurance shall designate Owner, its parent, affiliates and subsidiaries, their respective directors, officers and employees as additional insureds. All such insurance should be primary and non-contributory, and is required to respond and pay prior to any other insurance or self-insurance available to Owner. In addition to the liability limits available, such insurance will pay on behalf of or will indemnify Owner for defense costs. Any other coverage available to Owner applies on a contingent and excess basis. Such insurance shall include appropriate clauses pursuant to which the insurance companies shall waive their rights of subrogation against Owner.

4. Contractor and any of its subcontractors shall furnish, prior to the start of Work, certificates or adequate proof of the foregoing insurance including, if specifically requested by Owner, copies of the endorsements and insurance policies naming Owner as an additional insured, as provided herein. Current certificates of insurance shall be provided prior to the commencement of work and shall be maintained until termination of this Agreement. Contractor shall notify Owner in writing, at least thirty (30) calendar days prior to cancellation, or of a material change in any policy. Such cancellation or material alteration shall not relieve Contractor of its continuing obligation to maintain insurance coverage in accordance with this Contract.

5. The certificate holder is included as an additional insured with respect to liability arising out of the named insured's operations performed on behalf of such certificate holder. A waiver of any subrogation endorsement must accompany a certificate of insurance and must include workers' compensation policies.

6. Carriers providing coverage will be rated by A.M. Best with at least an A-rating and a financial size category of at least Class VII. Carriers shall be licensed in the state(s) where work is performed.

7. If Contractor shall fail to procure and maintain such insurance, Owner, upon written notice, may, but shall not be required to, procure and maintain same, but at the expense of Contractor. In the alternative, Owner may declare a default hereunder and, unless such default is timely cured, terminate the Agreement. Unless and until the default is cured, neither Contractor nor its servants, employees or agents will be allowed to enter upon the Owner's premises.

5.05 *Owner's Liability Insurance*

A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance – Builder's Risk Insurance*

The Contractor shall bear all risks of all loss or damage to the materials and Work until the Work is finally accepted by the Owner, except that the Contractor may claim reimbursement under the Owner's builder's risk insurance policy as herein provided and limited. Owner may carry "All Risk" Builders Risk Insurance subject to deductibles, terms and conditions as stated in the policy and below. It is the obligation and responsibility of the Contractor to make appropriate claim to the insurance company for all losses claimed under the policy. Should any loss not be covered under this policy, in whole in or parts, the Contractor shall bear the loss. Any questions regarding coverages, limitation, exclusion, etc. contained in the policy shall be addressed by bidders prior to submittal of bids, to ***Director, Risk Management, American Water, 1025 Laurel Oak Road, Voorhees, NJ 08043.***

Such insurance shall cover the full value of the cost of replacement to the Owner, less applicable deductibles, of all completed portions of the work to be performed throughout the entire time of construction. The deductibles on each separate and unrelated loss are: $100,000 on all losses except as follows: (1) 3% of the Total Insurable Value (TIV) at the time of the loss at each location involved in the loss or damage, subject to a minimum of $500,000 any one Flood occurrence; and (2) 5% TIV, minimum of $250,000 per Earth Movement occurrence. Owner will furnish to the Contractor evidence of the insurance coverage provided.

Such insurance shall not cover (1) damage to or loss of material or equipment furnished by either party which are damaged or lost due to carelessness or negligence on the part of the Contractor, or (2) damage to or loss of machinery, tools, equipment, or other property furnished by the Contractor whether or not used by the Contractor in carrying out the terms of the Contract unless such machinery, tools, equipment or other property are specifically intended for permanent incorporation into the Contract work and are included in an approved application for payment.

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in Exhibit G to be listed as loss payees (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, and Engineer, and all other individuals or entities identified in Exhibit G to be listed as loss payees (and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner as trustee or otherwise payable under any policy so issued.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Owner and made payable to Owner as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Owner shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order.

B. Owner as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Owner's exercise of this power. If such objection be made, Owner as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Owner as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either Owner or Contractor has any objection to the coverage afforded by, or other provisions of, the bonds or insurance purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates or other requested evidence of coverage. Owner and Contractor shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to Paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in the Contract Documents.

B. At all times during the progress of the Work, Contractor shall utilize the Project team members and key personnel listed in Exhibit I who shall not be replaced without written notice to Owner and Engineer and written approval by Owner, which approval shall not be unreasonably withheld, except under extraordinary circumstances.

6.02 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, no like, equivalent, or "or-equal" item, and no substitution, is permitted.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection.

B. If the Contract Documents require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner for Owner's acceptance by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Contract Documents, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked by Owner on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity, nor

2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade. This paragraph does not authorize Contractor to assign work to Subcontractors or Suppliers in violation of licensing requirements or other laws and regulations.

G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate written agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Contract Documents to be listed as insureds or additional insureds (and the respective officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

H. Owner or Engineer may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by a particular Subcontractor or Supplier.

I. Subcontractors approved by the Owner and Engineer are listed in Exhibit I. Approved Subcontractors shall not be replaced without prior notice to Owner. Owner shall have all rights provided in this Paragraph 6.06 with respect to any proposed replacement Subcontractor.

6.07 *Patent Fees and Royalties*

A. Contractor shall pay any required license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of Owner or Engineer its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. Owner has entered into a Patent License and Non-Assertion Agreement effective July 27, 2015 with GEOSCIENCE Support Services, Inc. ("Geoscience") and Dennis Williams regarding the use of the slant well technology offered by Geoscience ("Geoscience Agreement"). The Geoscience Agreement is available for review on the Monterey Peninsula Water Supply Project website (www.watersupplyproject.org).

C. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor and Subcontractors, and the officers, directors, partners, employees, agents, and consultants of each and any of them from and against all claims, costs, losses, and damages, including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

D. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

A. Owner will obtain and pay for all necessary permits which by Laws or Regulations must be obtained by the Owner. The Contractor will obtain and pay for all other permits, licenses and certificates of inspection. The Contractor will pay for all inspection costs and fees. The Owner and Engineer will assist the Contractor as required by the Permitting Agency in obtaining all permits required to be obtained by the Contractor. The Contractor will assist the Owner as required by the Permitting Agency in obtaining the permits required to be obtained by the Owner.

B. The Contractor and/or his Subcontractor(s) shall obtain, complete, seal and sign all applications required to obtain construction permits required by state and local government agencies. A copy of the electrician's and plumber's current state and/or local license shall be delivered to the Owner.

C. When required by the local governing body, the electrician and plumber will execute a mechanical bond in the form approved by the local government.

D. If Owner is required by Laws and Regulations to apply for a building permit, all bonds, application forms and copies of licenses shall be delivered to the Owner by Contractor so these documents may be submitted with the Owner's application for a building permit. The Contractor shall assist the Owner in preparing the building permit. The Owner will pay for the building permit.

6.09 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work knowing or having reason to know that is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

A. Unless otherwise provided in the Contract Documents, Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

B. Contractor's responsibility under Paragraph 6.10 to pay all such taxes shall: (i) include the obligations to pay any interest or penalties that may be assessed as a result of Contractor's late payment or failure to pay such taxes, and (ii) survive final payment, completion and acceptance of the Work and termination or completion of the Agreement.

C. Contractor shall indemnify and hold harmless and defend Owner from and against all claims, losses, expenses, damages and liability relating to: (i) Contractor's nonpayment of any sales, consumer, use and other similar taxes or interest or penalties required to be

paid by Contractor, or (ii) Contractor's failure to utilize or implement any available sales and use tax exemption or Contractor's failure to obtain any necessary exemption certificate or other required exemption evidence.

D. Contractor shall furnish evidence satisfactory to Owner that Contractor has paid all sales, consumer, use and other similar taxes required to be paid by Contractor. Contractor shall also furnish to Owner with Contractor's applications for final payment a schedule of all items incorporated in the Work that Contractor has determined are entitled to sales and use taxes exemption and for which no sales and use taxes were paid by Contractor. Owner reserves the right to audit the Contractor's compliance with applicable sales and use taxes requirements prior to release of retainage and final payment. If Owner disagrees with any of Contractor's determinations or exemptions or otherwise has reason to believe that Contractor has not paid all applicable sales and use taxes, Owner shall be entitled to withhold the amount of sales and use taxes Owner believes Owner may be potentially liable for as a result of Contractor's nonpayment until: (i) Contractor presents evidence satisfactory to Owner that Contractor has paid the taxes in question or that the items in question are exempt and (ii) all statutes of limitation for the applicable taxing authority to bring an action against Owner for payment of the taxes in question have expired, whichever first occurs.

E. In addition to Owner's other rights and remedies under this Paragraph 6.10, Owner shall be entitled to set off against monies otherwise due Contractor hereunder the amount of any sales and use tax, or any other tax, which Owner is required to pay be reason of Contractor's failure to comply with this Paragraph 6.10.

6.11 *Use of Site and Other Areas*

A. Limitation on Use of Site and Other Areas

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, partners, employees, agents, consultants and subcontractors of each and any of them from

and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work which is not in compliance with this Contract.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work, Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. At the completion of Work, all waste materials, rubbish, and other debris generated by the Work shall be removed from the Site. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work, Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work, Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents, Samples, and Shop Drawings to Engineer for Owner.

6.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

C. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

D. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor

in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.16 *Shop Drawings and Samples*

A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the acceptable Schedule of Submittals (as required by Paragraph 2.05). Each submittal will be identified as Engineer may require.

1. *Shop Drawings*

a. Submit number of copies specified by Engineer.

b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.16.D.

2. *Samples:* Contractor shall also submit Samples to Engineer for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals.

a. Submit number of Samples specified in the Specifications.

b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.16.D.

B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the Contractor's risk; no Change Order will be issued to provide additional time or compensation for corrections needed to conform previously performed work to the Shop Drawing or Sample approved by the Engineer.

C. *Submittal Procedures*

1. Before submitting each Shop Drawing or Sample, Contractor shall have:

a. reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

c. determined and verified the suitability of all materials offered with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.

2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations, that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. *Engineer's Review*

1. Engineer will provide timely review of Shop Drawings and Samples not to exceed 14 days after the date of submittal by Contractor and in accordance with the Schedule of Submittals approved pursuant to Paragraph 2.05. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.16.C.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review

and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.16.C.1.

E. *Resubmittal Procedures*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals. Engineer will provide timely review of resubmittals not to exceed 7 days after the date of resubmittal by Contractor.

F. Contractor shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing subsequent submittals of Shop Drawings, samples or other items requiring approval and Contractor shall reimburse Owner for Engineer's charges for such time.

6.17 *Continuing the Work*

A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.18 *Contractor's General Warranty and Guarantee*

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Owner and its Related Entities shall be entitled to rely on Contractor's warranty and guarantee.

B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;

2. recommendation by Engineer or payment by Owner of any progress or final payment;
3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
4. use or occupancy of the Work or any part thereof by Owner;
5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;
6. any inspection, test, or approval by others; or
7. any correction of defective Work by Owner.

6.19 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and its officers, directors, partners, employees, agents, consultants and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all reasonable fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of, in connection with, or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable. Contractor's obligations under this Section 6.19 shall not be limited to or by the amount of insurance coverage required by the Contract Documents.

B. In any and all claims against Owner or its officers, directors, partners, employees, agents, consultants or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.19.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

6.20 *Delegation of Professional Design Services*

A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. Contractor shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 6.20, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.16.D.1.

E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

6.21 *Limitations of Liability.*

A. In no event shall either party hereto be liable to the other or obligated in any manner to pay to the other any special, incidental, consequential, punitive, or similar damages based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Contract, or upon the material inaccuracy of any representation made in this Contract, whether such claims are based upon contract, tort, negligence, warranty or other legal theory. The waiver of the foregoing damages under this Paragraph 6.21.A is intended to apply to only disputes and claims as between Owner and Contractor, and specifically is not intended to limit the scope of the indemnity provision in Paragraph 6.19.A, which indemnity includes all claims by third parties irrespective of the nature thereof or the relief sought thereby.

~~E.~~B. Contractor's aggregate liability under this Contract with respect to damages of any kind payable to Owner arising out of the performance or unexcused non-performance of the Work as a consequence of a Claim or action initiated by Owner shall not exceed an amount equal to 100% of the Contract Price. This limitation on Contractor's liability shall include delay liquidated damages paid to Owner pursuant to Paragraph 4.03.A of the Agreement and damages associated with a termination for cause by Owner pursuant to Paragraph 15.02. This limitation on Contractor's liability does not include any other

liability, loss, damage, cost or expense that may be incurred by Contractor in connection with this Contract, including the following: (i) any claims, losses or penalties incurred by Contractor to third parties; (ii) any indemnity payment made or required to be made by Contractor to Owner in accordance with Paragraph 6.19(A); and (iii) any claims, losses, or settlement payments paid to Owner in connection with any tort claim by Owner against Contractor based on negligence, willful misconduct, fraud, misrepresentation or false claims.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

A. Owner may perform other work related to the Project at the Site with Owner's employees, or via other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to Contractor prior to starting any such other work; and

2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.

B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and shall properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be agreed to at the Preconstruction Conference :

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Contract Documents, Owner shall have sole authority and responsibility for such coordination.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

8.02 *Replacement of Engineer*

A. In case of termination of the employment of Engineer, Owner shall appoint an engineer whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

8.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. Owner's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by Engineer in preparing the Contract Documents.

8.06 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.07 *Compliance with Safety Program*

A. While at the Site, Owner and its employees and representatives shall become familiar with Contractor's safety programs as initiated and maintained under Paragraph 6.13 and shall comply with the requirements of such programs while at the Site.

~~A.~~B. Owner will provide or will cause to be provided to Contractor reasonable warnings or other notifications of any hazards or other unsafe conditions at the Site of which Owner has actual knowledge.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period.

B. Owner reserves the right to at any time, and in Owner's sole discretion to: 1) designate an employee or Owner or an Owner-affiliated entity as Engineer, 2) directly undertake or perform some or all Engineer's authority, duties, or responsibilities, and 3) retain Owner-affiliated entities or independent engineers, consultants, or managers to undertake some or all of Engineer's or Owner's authority, duties or responsibilities under the Contract Documents.

C. The assignment of any authority, duties or responsibilities to Engineer or others under the Contract Documents, or any undertaking, exercise or performance thereof by Engineer, Owner, or others is intended to be for the sole and exclusive benefit of Owner and not for the benefit of Contractor, Subcontractor, Supplier, or any other person or organization.

9.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer

will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 9.07. Particularly, but without limiting the foregoing, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Authorized Variations in Work*

A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.04 *Rejecting Defective Work*

A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require inspection or testing of the Work as provided in Paragraph 13.03, whether or not the Work is fabricated, installed, or completed.

9.05 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

9.06 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing within 30 days of the event giving rise to the question.

B. Engineer will, with reasonable promptness, render a written decision on the issue referred. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. For the purposes of determining the timeliness of a Claim under Paragraph 10.05.A, the date of Engineer's decision under this Paragraph 9.06.B shall be the date of the event giving rise to the Claim.

C. Engineer's written decision on the issue referred will be final and binding on Owner and Contractor, subject to the provisions of Paragraph 10.05.

D. When functioning as interpreter and judge under this Paragraph 9.06, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.07 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 9.07 shall also apply to the Resident Project Representative, if any, and assistants, if any.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as modified in accordance with Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.15 or in the case of uncovering Work as provided in Paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:

1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, Contractor shall carry on the Work and adhere to the Progress Schedule as provided in Paragraph 6.17.A.

10.04 *Notification to Surety*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any bond to be given to a surety, the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 *Claims*

A. *Notice:* Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event. A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to Engineer and the claimant within 30 days after receipt of the claimant's last submittal.

B. *Other Party's Action*: The other party will review each Claim and, within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

1. deny the Claim in whole or in part, or

2. approve the Claim.

C. In the event that the other party does not take action on a Claim within said 30 days, the Claim shall be deemed denied.

D. The other party's written action under Paragraph 10.05.B or denial pursuant to Paragraph 10.05.C will be final and binding upon the claimant, Owner and Contractor, unless claimant invokes the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.

E. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in Paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.

4. Costs of special consultants (including but not limited to Engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

    a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

    b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

    c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

    d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, imposed by Laws and Regulations.

    e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

    f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or

indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expresses, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded.* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office, for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or not specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A and 11.01.B.

C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

11.02 *Allowances*

A. The Contract Price includes all allowances identified in the Contract Documents. Contractor shall cause the Work covered by such allowances, if any, to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer. Contractor is not entitled to any part of an unexpended balance of an allowance.

B. *Cash Allowances*

1. Contractor agrees that:

a. cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

b. cash allowances do not include Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, or other expenses related to the Work covered by the cash allowances, all of which have been included separately in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs. Expenditures from the contingency allowance, if any, are authorized and valued changes in the Work in accordance with Articles 10 and 12. Owner shall determine which changes in the Work, if any, are paid from the contingency allowance.

D. Prior to final payment, if applicable, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.05.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect to any other item of Work; and

3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in

Paragraph 11.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C).

4. Because the Notice to Proceed will be issued sometime after the Effective Date, the Contract Price shall be adjusted (increased or decreased) by multiplying (i) the Contract Price (or percentage of the Contract Price if multiple indices are used), by (ii) the percentage change in the Price Escalator Index (set forth in the table below) between (a) the Index value for the month in which the Effective Date occurred, and (b) the Index value for the month in which the Notice to Proceed is issued. The Contract Price shall not escalate during delays caused in whole or in part by fault of Contractor.

Price Escalator

~~[INSERT TABLE AGREED UPON BY OWNER AND CONTRACTOR]~~

Price Escalator Index	**Percent of the Contract Price**
General Prevailing Wage Determination Made By the Director of Industrial Relations Locality: Monterey County Basic Hourly Rate of Applicable Crafts (e.g. Water Well Driller, Pump Installer, Helper) Average or Mean if multiple increases or decreases	40%
USEIA –Petroleum & Other Liquids – Diesel (On-Highway) – All Types	15%
MEPS – North American Stainless Steel Price Index - 316L (Hot Rolled Plate)	45%

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

    a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;

    b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;

    c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

    d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

    e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost; and

    f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but

not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an adjustment in the Contract Price or the Contract Times, or both. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall be entitled to an adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays described in this Paragraph 12.03.C.

D. Owner, Engineer and the Related Entities of each of them shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of Engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspecting, and testing. Contractor shall provide them proper and safe conditions for such

access and advise them of Contractor's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. Owner may employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in said Paragraph 13.04.C; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals and furnish Engineer the required certificates of inspection or approval. Owner shall pay any inspection fee imposed by the public body.

D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation.

F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

G. No observations, inspections, tests, or approvals by Engineer, Owner, or others shall relieve Contractor of its obligation to perform the Work in accordance with the Contract Documents.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.

B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

D. If, the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all

fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Contract Documents) any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. repair such defective land or areas; or

2. correct such defective Work; or

3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and

4. satisfactorily correct or repair or remove and replace any damage caused by the defective Work including any damage to other Work, to the work of others or to other land or areas.

B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period

hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner or Owner may offset an appropriate amount from final payment if not yet paid. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.

13.09 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of any of Contractor's materials and equipment stored~~tools, appliances, construction equipment and machinery~~ at the Site which have been purchased specifically for incorporation into the Work, and incorporate in the Work all materials and equipment stored at the Site which have been purchased specifically for incorporation into the Work or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and

Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The Schedule of Values established as provided in Paragraph 2.05 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. *Applications for Payments*

1. At intervals of once a month, Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed to the first day of such month and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested for materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

2. Each Application for Payment shall be accompanied by completed and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work, to the date of the Application for Payment. Applications for progress payments shall be accompanied by a Conditional Release of Lien substantially conforming to the form specified in California Civil Code section 8132. Contractor may use the form attached hereto as Exhibit J.

3. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment. Such affidavit shall substantially conform to the form attached as Exhibit L. It shall be Contractor's responsibility to maintain the property free of all liens from subcontractors retained or employed by Contractor upon submitting an Application for Payment covering such subcontractor's work and an affidavit attesting that such payment has been applied to such Subcontractor's account.

4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Owner or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations on the Site of the executed Work as an experienced and qualified design professional and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

   a. the Work has progressed to the point indicated;

   b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under Paragraph 9.05, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

   a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or

   b. there are no other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's nor Owner's review of Contractor's Work for the purposes of recommending payments or determining to make payments, nor Engineer's recommendation of any payment, including final payment, nor Owner's decision to make any payment, including final payment, will impose responsibility on Engineer or Owner:

   a. to supervise, direct, or control the Work, or

   b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or

   c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or

   d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or

   e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has corrected defective Work or completed Work in accordance with Paragraph 13.09; or

d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. *Payment Becomes Due*

1. Thirty days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02.D) become due, and when due will be paid by Owner to Contractor.

D. *Reduction in Payment*

1. Owner may refuse to make payment of the full amount recommended by Engineer because:

   a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;

   b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;

   c. there are other items entitling Owner to a set-off against the amount recommended; or

   d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.

2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner free and clear of all liens no later than the time of payment.

14.04 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that Engineer issue a certificate of Substantial Completion.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the tentative certificate during which to make written objection to Engineer as to any provisions of the certificate or attached list. If, after considering such objections, Engineer concludes that the Work is not substantially complete, Engineer will within 14 days after submission of the tentative certificate to Owner notify Contractor in writing, stating the reasons therefor. If, after consideration of Owner's objections, Engineer considers the Work substantially complete, Engineer will within said 14 days execute and deliver to Owner and Contractor a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless Owner and Contractor agree otherwise in writing and so inform Engineer in writing prior to Engineer's issuing the definitive certificate of Substantial Completion, Engineer's aforesaid recommendation will be binding on Owner and Contractor until final payment.

E. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions.

1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner and Engineer will follow the procedures of paragraph 14.04 A.-D. for that part of the Work.

2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:

   a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 5.04.B.6;

   b. consent of the surety, if any, to final payment;

   c. a list of all Claims against Owner that Contractor believes are unsettled; and

   d. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of or Liens filed in connection with the Work.

3. The Application for Final Payment shall be accompanied by a Release of Lien completed by Contractor, Subcontractors and Suppliers substantially conforming to the form specified in California Civil Code section 8136. Contractor, Subcontractors, or Suppliers may use the form attached hereto as Exhibit K.

4. Contractor shall defend, indemnify, and hold Owner harmless against any Lien filed in connection with the Work by any Subcontractor, Supplier, or other lien claimant. At Owner's request, Contractor shall furnish a bond or other collateral satisfactory to Owner to protect and indemnify Owner against any Lien.

B. *Engineer's Review of Application and Acceptance*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and

Contractor that the Work is acceptable subject to the provisions of Paragraph 14.09. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Payment Becomes Due*

1. Thirty days after the presentation to Owner of the Application for Payment and accompanying documentation, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by Contractor against Owner and a release of all liens other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

A. At any time after issuance of the Notice to Proceed and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 730 days by notice in writing to Contractor and Engineer which may fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed, if any, or on the date later specified by Owner. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

A. Upon the occurrence of any one or more of the following events of default, Owner may terminate the Contract after giving Contractor (and surety) ~~seven~~ ten days' prior written notice of intent to terminate:

1. A material failure by Contractor to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.05 as adjusted from time to time pursuant to Paragraph 6.04);

2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;

3. Contractor's repeated disregard of the authority of Engineer; or

4. Contractor's violation in any substantial way of any provisions of the Contract Documents, including a misrepresentation or failure to comply under Article 7 of the Agreement.

B. If Owner terminates the Contract in accordance with Paragraph 15.02.A, Owner may:

1. exclude Contractor from the Site, and take possession of the Work and of ~~all Contractor's tools, appliances, construction equipment, and machinery~~any materials and equipment stored at the Site which have been purchased specifically for incorporation into the Work, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion),

2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and

3. complete the Work as Owner may deem expedient.

C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this Paragraph Owner shall not be required to obtain the lowest price for the Work performed.

D. Notwithstanding Paragraph 15.02.A, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within the time reasonably necessary to complete the cure, provided, however, that such failure must be cured within no more than 60 days of receipt of said notice or such other time period agreed upon in writing by Owner and Contractor.

E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

15.03 *Owner May Terminate For Convenience*

A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, after issuance of the Notice to Proceed Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. reasonable expenses directly attributable to termination.

B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

C. If Owner terminates the Contract prior to issuance of the Notice to Proceed, Contractor shall only be entitled to compensation as set forth in Paragraph 2.04.B.

15.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 730 consecutive days by Owner or under an order of court or other public authority, or (ii) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (iii) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph.

~~B.~~C. If Contractor reasonably believes that an unsafe or hazardous condition exists at the Site, Contractor may immediately suspend the Work until the condition is corrected and make a Claim under Paragraph 10.05 for an adjustment in the Contract Times directly attributable to correction of such condition provided that: (i) the condition exists through no act or fault of Contractor; (ii) Owner has the obligation under the Contract Documents to correct the condition; and (iii) the condition has placed Contractor's employees, representatives or agents in imminent danger of death or bodily harm. The provisions of this Paragraph 15.04.C are not intended to preclude Contractor from temporarily suspending the Work due to an unsafe or hazardous condition but instead to specify and limit the circumstances under which Contractor may make a Claim for an adjustment in the Contract Times as a result of an unsafe or hazardous condition at the Site.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. At any time after submitting notice of a claim under Paragraph 10.05.A and prior to the expiration of the 30-day time period set forth in Paragraph 10.05.D, Owner or Contractor may give to the other party written notice of intent to submit the Claim to a process of bilateral negotiations as set forth below.

B. Within 30 days of delivery of such notice, Owner and Contractor shall meet and confer regarding the Claim. A good-faith effort to negotiate resolution shall be made by both parties.

C. If the negotiations contemplated by Paragraph 16.01.B are unsuccessful, management representatives of Owner and Contractor at least one tier above the individuals who met under 16.01.B shall meet, confer, and negotiate within 30 days of the closure of the unsuccessful negotiations.

D. If the Claim is not resolved by negotiation, the Claim shall be deemed denied and shall become final and binding 30 days after termination of the negotiations unless, within that time period, Claimant:

1. invokes the dispute resolution process provided for in Paragraph 16.01.E, or

2. agrees with the other party to submit the Claim to another dispute resolution process.

E. Mandatory Non-binding Mediation. If a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the Parties agree to first endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the Construction Industry Mediation Rules of the American Arbitration Association before having recourse in a court of law. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required travel and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the Parties, unless they agree otherwise. Any resultant agreements from mediation shall be documented in writing. All mediation proceedings, results, and documentation shall be inadmissible for any purpose in any legal proceeding (pursuant to California Evidence Codes sections 1115 thru 1128), unless such admission is otherwise agreed upon in writing by both parties. Mediators shall not be subject to any subpoena or liability, and their actions shall not be subject to discovery.

F. Any dispute arising under the Contract not resolved through mediation shall be resolved through submittal of the dispute to a court of competent jurisdiction.

G. Covenant of Good Faith and Fair Dealing:

1. This contract imposes an obligation of good faith and fair dealing in its performance and enforcement. The Contractor, Engineer and Owner, with a positive commitment to honesty and integrity, agree to the following mutual duties:

   a. Each will function within the laws and statues applicable to their duties and responsibilities.
   b. Each will assist in the other's performance.
   c. Each will avoid hindering the other's performance.
   d. Each will proceed to fulfill its obligations diligently.
   e. Each will cooperate in the common endeavor of the contract.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:

   1. 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

   2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice, or by facsimile transmission.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

A. This Contract is to be governed by the laws of the state of California.

17.06 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

MPWSP Construction of Source Water Slant Wells

Contract Documents
EXHIBIT LIST

A	Performance Bond Form
B	Payment Bond Form
C	Contractors' Bid ~~[Note: to be added]~~
D	WMDVBE and Local Resources Utilization ~~[Note: to be added]~~
E	Work Change Directive Form
F	Change Order Form
G	List of Required Additional Insureds
H	Insurance Requirements
I	Project Team Member List and Key Personnel ~~[Note: to be added]~~
J	Conditional Waiver and Release on Progress Payment Form
K	Conditional Waiver and Release Final Payment Form
L	Affidavit of Payment to Subcontractors Form

Exhibit A
PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that _____,

having an office at _____, as Principal, hereinafter

called CONTRACTOR, and _____,

having an office at _____, as Surety, hereinafter

called Surety, are held and firmly bound unto the **(Water Company name)**

_____, having an office at **(Water Company address)**, as Obligee, hereinafter called OWNER, for the use and benefit of claimants as

hereinbelow defined, in the amount of _____ ($_____), for the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrations, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, CONTRACTOR has by written agreement dated _____, 20___, entered into a Contract with the OWNER for the construction of the project entitled **(Project Title)**, in accordance with Drawings and Specifications prepared by **(Engineer or Engineer's consultant as appropriate)**, which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if CONTRACTOR shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of Contract Times made by the OWNER.

Whenever CONTRACTOR shall be and declared by OWNER to be in default under the Contract, the Surety shall promptly remedy the default. If the OWNER terminates the Contract for such default, the following precautions shall govern the liability of the CONTRACTOR and the Surety hereunder.

In the event of such termination, the CONTRACTOR and the Surety shall remain fully liable to the OWNER for the CONTRACTOR'S failure to timely complete the Contract, any additional costs incurred by the OWNER in completing the Contract, and liquidated damages from the originally scheduled completion date to the date of the actual completion of the work by the OWNER.

In the event of such termination, the Surety company may elect to take over and complete performance of the Contract by giving written notice to the OWNER of such determination within seven (7) days of the OWNER'S mailing of notice of termination to the Surety and actually commencing completion with fourteen (14) days of the OWNER'S notice to the Surety. The Surety shall fully complete the work by the originally scheduled date of completion and the CONTRACTOR and the Surety shall remain liable to the OWNER for all damages sustained by the OWNER and for liquidated damages for delay.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due or before the expiration of two (2) years from the Date of Substantial Completion of the Project, whichever is later.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the OWNER named herein or the heirs, executors, administrators or successors of the OWNER.

Signed and sealed this _____ day of _____, 20___.

WITNESS:

CONTRACTOR (SEAL)

_____ By _____

(Witness)

Title _____

WITNESS:

(Name of Surety) (SEAL)

_____

(Witness) By _____

(Attach Power of Attorney)

Title _____

Exhibit B
LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that _____,

having an office at _____, as Principal, hereinafter

called CONTRACTOR, and _____,

having an office at _____, as Surety, hereinafter

called Surety, are held and firmly bound unto the **(Water Company name)**

_____, having an office at **(Water Company address)**, as Obligee, hereinafter called OWNER, for the use and benefit of claimants as

hereinbelow defined, in the amount of _____ ($_____), for the payment whereof CONTRACTOR and Surety bind themselves, their heirs, executors, administrations, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, CONTRACTOR has by written agreement dated _____, 20__, entered into a Contract with the OWNER for the construction of the project entitled **(Project Title)**, in accordance with Drawings and Specifications prepared by **(Engineer or Engineer's consultant as appropriate)**, which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if CONTRACTOR shall promptly make payment of all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however to the following conditions:

1. A claimant is defined as one having a direct contract with the CONTRACTOR or with a Subcontractor of the CONTRACTOR for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named CONTRACTOR and Surety hereby jointly and severally agreed with the OWNER that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The OWNER shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

    a. Unless claimant, other than one having a direct contract with the CONTRACTOR, shall have given written notice to any two of the following: the CONTRACTOR, the OWNER or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which

said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the CONTRACTOR, OWNER or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b. After the expiration of one (1) year following the date on which CONTRACTOR ceased Work on said Contract or after the expiration of one (1) year following the Date of Substantial Completion of the Project, whichever is later, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

c. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, on any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against such improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this _____ day of _____, 20___.

WITNESS:

CONTRACTOR (SEAL)

_____

(Witness)

By _____

Title _____

WITNESS:

(Name of Surety) (SEAL)

_____

(Witness)

By _____

(Attach Power of Attorney)

Title _____

EXHIBIT C

Contractor's Bid

BID FOR SEVEN SLANT WELLS

BID SCHEDULE

BIDDER: Boart Longyear

Drilling, Constructing, Developing and Testing of Seven Subsurface Source Water Slant Wells

Bid Items 1-143

Schedule of Work Items
Seven Slant Wells

Item No.	Approx. Quantity		Description	Unit Price Dlrs./Cts.	Total Amount Dlrs./Cts.
1	1	LS	Obtaining bonds (performance and payment) and insurance.	$ 549,915.00	$ 549,915.00
100	1	T&M	Pre-Construction Planning not-to-exceed Allowance, including but not limited to engineering, coordination, and planning efforts with Owner, and obtaining Monterey County drilling permits.	$ 40,000.00	$ 40,000.00
101	1	LS	Pre-mobilization activities to construct, modify, and prepare modifications as necessary to a DR-40 Drilling Rig to drill at an angle of 14 degree below horizontal to an estimated lineal depth of 1,000 ft, work shall include preparation of any supporting equipment.	$ 183,500.00	$ 183,500.00
102	1	LS	Primary Mobilization of Drilling Equipment Including Dual Rotary Reverse Circulation Drilling Rig (DR-40 or equal) modified to drill at an angle of 14° below horizontal, including necessary support equipment, temporary facilities and personnel. Costs shall include crew per diem, demobilization, removal of all temporary facilities, site clean-up, and restoration upon completion of project.	$ 100,000.00	$ 100,000.00
102A	1	LS	Final Project Demobilization, removal of all temporary facilities, equipment, site clean-up, and restoration upon completion of project.	$ 99,500.00	$ 99,500.00
103	6	EACH	Mobilization of Drilling Equipment Between Sites. Costs shall include crew per diem, demobilization, removal of all temporary facilities, site clean-up, and restoration upon completion of project.	$ 32,500.00	$ 195,000.00
104	7	EACH	Furnish and install anchoring system and jack support plates for DR-40 drilling rig during temporary drill casing installation and removal.	$ 29,970.00	$ 209,790.00
105	7	EACH	Furnish and install temporary chain-link construction fencing (min. 6 ft height), with privacy panels and gates, to completely surround both drilling site and staging/storage area.	$ 12,600.00	$ 88,200.00
106	7	EACH	Furnish and install noise mitigation measures adjacent to rig engine and air compressor (minimum 16 ft high, 60 ft long), as specified.	$ 35,250.00	$ 246,750.00
107	7	EACH	Furnish and install erosion control measures, i.e.,6-mil liner to cover the work area for containing spills and preventing run off of fluids during the work.	$ 11,250.00	$ 78,750.00

108	7	EACH	Furnish and install baffled Baker tank, piping and pumps for recirculating fluids to borehole during drilling and well construction.	$	14,600.00	$	102,200.00
109	7	EACH	Furnish and install temporary above ground pipeline, which will connect to temporary disposal pipeline standpipe (provided by others).	$	6,000.00	$	42,000.00

Drilling, Constructing, Developing and Testing of Seven Subsurface Source Water Slant Wells

Schedule of Work Items
Seven Slant Wells

Bid Items 1-143

Item No.	Approx. Quantity		Description		Unit Price Dlrs./Cts.		Total Amount Dlrs./Cts.
110	7	EACH	Provide for offsite disposal of all drill cuttings generated during the project, as specified.	$	7,500.00	$	52,500.00
111	250	FT	Furnish and install 34-in. OD x 1/2 in. wall mild steel casing within the 40-inch casing to a lineal depth of 50 ft, as specified.	$	600.00	$	150,000.00
112	300	FT	Advance by drilling the 34-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$	592.00	$	177,600.00
113	440	FT	Furnish and install 32-in. OD x 1/2 in. wall mild steel casing within the 34-inch casing as specified.	$	452.00	$	198,880.00
114	130	FT	Advance by drilling the 32-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$	1,332.00	$	173,160.00
115	780	FT	Furnish and install 30-in. OD x 1/2 in. wall mild steel casing within the 36-, 34-, and 32-inch casing as specified.	$	353.00	$	275,340.00
116	980	FT	Advance by drilling 30-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$	499.00	$	489,020.00
117	1,760	FT	Furnish and install 28-in. OD x 1/2 in. wall mild steel casing within the 30-inch casing as specified.	$	255.00	$	448,800.00
118	1,120	FT	Advance by drilling the 28-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$	343.00	$	384,160.00
119	2,880	FT	Furnish and install 26-in. OD x 1/2 in. wall mild steel casing within the 28-inch casing as specified.	$	171.00	$	492,480.00

BID SCHEDULE

BIDDER: Boart Longyear

Drilling, Constructing, Developing and Testing of Seven Subsurface Source Water Slant Wells

Bid Items 1-143

Schedule of Work Items
Seven Slant Wells

Item No.	Approx. Quantity		Description	Unit Price Dlrs./Cts.	Total Amount Dlrs./Cts.
120	1,260	FT	Advance by the drilling 26-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$ 596.00	$ 750,960.00
121	4,140	FT	Furnish and install 24-in. OD x 1/2 in. wall mild steel casing within the 26-inch casing as specified.	$ 129.00	$ 534,060.00
122	1,400	FT	Advance by drilling the 24-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$ 590.00	$ 826,000.00
123	5,540	FT	Furnish and install 22-in. OD x 1/2 in. wall mild steel casing within the 24-inch casing as specified.	$ 88.00	$ 487,520.00
124	1,460	FT	Advance by drilling the 22-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$ 571.00	$ 833,660.00
125	7	EACH	Flush interior of casing thoroughly to remove all drill cuttings and debris, remove dual wall drill string and drilling bit from within the 22-in. temporary drill casing.	$ 2,566.00	$ 17,962.00
126	1,800	FT	Furnish and Install nominal 18-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) blank casing as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivate.	$ 976.00	$ 1,756,800.00
127	2,310	FT	Furnish and Install nominal 18-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) ful-flo louvered screen with 0.060 in. openings as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivated.	$ 1,017.00	$ 2,349,270.00
128	350	FT	Furnish and Install nominal 12-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) blank casing as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivated.	$ 848.00	$ 296,800.00

BID SCHEDULE

BIDDER: Boart Longyear

Drilling, Constructing, Developing and Testing of Seven Subsurface Source Water Slant Wells

Schedule of Work Items
Seven Slant Wells

Bid Items 1-143

Item No.	Approx. Quantity		Description	Unit Price Dlrs./Cts.	Total Amount Dlrs./Cts.
129	2,519	FT	Furnish and Install nominal 12-in. OD (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) ful-flo louvered screen with 0.060 in. openings as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivated.	$ 882.00	$ 2,221,758.00
130	7	each	Furnish and Install cone reducer and wall hook for transition from nominal 18-in. OD (1/4 in. wall thickness) to nominal 12-in. OD (1/4 in. wall thickness) fabricated from Type 2507 Super Duplex Stainless Steel (ASTM A928). All field welds shall be passivated.	$ 42,000.00	$ 294,000.00
131	5,690	FT	Furnish and install custom blend filter pack material, as specified, in annular space between the well casing and borehole wall. Filter pack to be placed as temporary drill casings are removed. The screen interval shall be pre-developed by swabbing and airlifting in 5 ft intervals, as the filter pack is placed.	$ 249.00	$ 1,416,810.00
132	840	HR	Perform initial development using mechanical means (i.e., airlifting and swabbing) using a swabbing tool attached to the dual wall drill pipe, as specified. Additional filter pack to be added as needed.	$ 1,095.00	$ 919,800.00
133	1,310	FT	Furnish and install specified 10.3 sack sand-cement grout in annular seal between the well casing and borehole wall as temporary drill casing is removed.	$ 275.00	$ 360,250.00
134	7	EACH	Mobilize pump hoist, submersible test pump, crews, generator, panel, discharge piping, control valves, and necessary support equipment, including removal of residual sediment from the low side of the well, if needed.	$ 12,500.00	$ 87,500.00
135	610	FT	Furnish 12-in. pump column pipe with Certa-lok type connections and centralizers from Type 2507 SDSS, as specified.	$ 748.00	$ 456,280.00
136	7	EACH	Furnish and install temporary submersible test pump, downhole level instrumentation, temporary generator for pump power, ancillary equipment, and discharge head manufactured from Type 2507 SDSS to produce specified flow rate. Intake to be set as specified for final well development and aquifer testing.	$ 29,337.00	$ 205,359.00
137	420	HR	Conduct final development by pumping and surging, as specified, with temporary submersible pump.	$ 604.00	$ 253,680.00
138	70	HR	Conduct step drawdown pumping test for yield and drawdown.	$ 698.00	$ 48,860.00

BID SCHEDULE

BIDDER: Boart Longyear

Drilling, Constructing, Developing and Testing of Seven Subsurface Source Water Slant Wells

Bid Items 1-143

Schedule of Work Items
Seven Slant Wells

Item No.	Approx. Quantity		Description		Unit Price Dlrs./Cts.		Total Amount Dlrs./Cts.
139	840	HR	Conduct 5 day constant rate pumping test and recovery measurements for yield and drawdown.	$	604.00	$	507,360.00
140	7	EACH	Conduct color "dual-cam" video survey to total depth, as specified. Initially the video survey shall be performed on the 18-in. ID pump chamber, then within the 12-in. ID screen section (i.e., two passes). Provide 3 copes of video survey in DVD format.	$	10,641.00	$	74,487.00
141	7	EACH	Conduct final well disinfection using liquid chlorine to achieve 500 mg/L residual chlorine concentration.	$	6,339.00	$	44,373.00
142	7	EACH	Excavate wellhead and provide shoring to accommodate wellhead vault structure; cut nominal 18-in. slant well casing to required depth and install flange to accommodate wellhead discharge adapter.	$	10,739.00	$	75,173.00
143	560	HR	Standby time with active Dual Rotary drilling rig and crew as directed for special circumstances.	$	675.00	$	378,000.00
			TOTAL - DRILLING, CONSTRUCTION, DEVELOPMENT AND TESTING OF NINE SLANT WELLS (Bid Items 1-143):	**$**			**19,974,267.00**
			OPTIONAL ITEMS:				
144	1,800	FT	Furnish and Install nominal 20-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) blank casing as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivate.	$	976.00	$	1,756,800.00
145	2,310	FT	Furnish and Install nominal 20-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) ful-flo louvered screen with 0.060 in. openings as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivated.	$	1,034.00	$	2,388,540.00

BID FOR NINE SLANT WELLS

BID SCHEDULE

BIDDER: Boart Longyear

Drilling, Constructing, Developing and Testing of Nine Subsurface Source Water Slant Wells

Schedule of Work Items
Nine Slant Wells

Bid Items 1-143

Item No.	Approx. Quantity		Description	Unit Price Dlrs./Cts.	Total Amount Dlrs./Cts.
1	1	LS	Obtaining bonds (performance and payment) and insurance.	$ 670,896.00	$ 670,896.00
100	1	T&M	Pre-Construction Planning not-to-exceed Allowance, including but not limited to engineering, coordination, and planning efforts with Owner, and obtaining Monterey County drilling permits.	$ 40,000.00	$ 40,000.00
101	1	LS	Pre-mobilization activities to construct, modify, and prepare modifications as necessary to a DR-40 Drilling Rig to drill at an angle of 14 degree below horizontal to an estimated lineal depth of 1,000 ft, work shall include preparation of any supporting equipment.	$ 183,500.00	$ 183,500.00
102	1	LS	Primary Mobilization of Drilling Equipment Including Dual Rotary Reverse Circulation Drilling Rig (DR-40 or equal) modified to drill at an angle of 14° below horizontal, including necessary support equipment, temporary facilities and personnel. Costs shall include crew per diem, demobilization, removal of all temporary facilities, site clean-up, and restoration upon completion of project.	$ 100,000.00	$ 100,000.00
102A	1	LS	Final Project Demobilization, removal of all temporary facilities, equipment, site clean-up, and restoration upon completion of project.	$ 99,500.00	$ 99,500.00
103	8	EACH	Mobilization of Drilling Equipment between Well drilling locations. Costs shall include crew per diem, demobilization, removal of all temporary facilities, site clean-up, and restoration upon completion of project.	$ 32,500.00	$ 260,000.00
104	9	EACH	Furnish and install anchoring system and jack support plates for DR-40 drilling rig during temporary drill casing installation and removal.	$ 29,970.00	$ 269,730.00
105	9	EACH	Furnish and install temporary chain-link construction fencing (min. 6 ft height), with privacy panels and gates, to completely surround both drilling site and staging/storage area.	$ 12,600.00	$ 113,400.00
106	9	EACH	Furnish and install noise mitigation measures adjacent to rig engine and air compressor (minimum 16 ft high, 100 ft long), as specified.	$ 35,250.00	$ 317,250.00
107	9	EACH	Furnish and install erosion control measures, i.e.,6-mil liner to cover the work area for containing spills and preventing run off of fluids during the work.	$ 11,250.00	$ 101,250.00
108	9	EACH	Furnish and install baffled Baker tank, piping and pumps for recirculating fluids to borehole during drilling and well construction.	$ 14,600.00	$ 131,400.00
109	9	EACH	Furnish and install temporary above ground pipeline, which will connect to temporary disposal pipeline standpipe (provided by others).	$ 5,800.00	$ 52,200.00

BID SCHEDULE

BIDDER: Boart Longyear

Drilling, Constructing, Developing and Testing of Nine Subsurface Source Water Slant Wells

Bid Items 1-143

Schedule of Work Items
Nine Slant Wells

Item No.	Approx. Quantity		Description		Unit Price Dlrs./Cts.		Total Amount Dlrs./Cts.
110	9	EACH	Provide for offsite disposal of all drill cuttings generated during the project, as specified.	$	7,500.00	$	67,500.00
111	350	FT	Furnish and install 34-in. OD x 1/2 in. wall mild steel casing within the 40-inch casing to a lineal depth of 50 ft, as specified.	$	595.00	$	208,250.00
112	420	FT	Advance by drilling the 34-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$	578.00	$	242,760.00
113	660	FT	Furnish and install 32-in. OD x 1/2 in. wall mild steel casing within the 34-inch casing as specified.	$	446.00	$	294,360.00
114	190	FT	Advance by drilling the 32-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$	1,344.00	$	255,360.00
115	1,060	FT	Furnish and install 30-in. OD x 1/2 in. wall mild steel casing within the 36-, 34-, and 32-inch casing as specified.	$	338.00	$	358,280.00
116	1,260	FT	Advance by drilling 30-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$	567.00	$	714,420.00
117	2,320	FT	Furnish and install 28-in. OD x 1/2 in. wall mild steel casing within the 30-inch casing as specified.	$	249.00	$	577,680.00
118	1,440	FT	Advance by drilling the 28-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$	357.00	$	514,080.00
119	3,760	FT	Furnish and install 26-in. OD x 1/2 in. wall mild steel casing within the 28-inch casing as specified.	$	170.00	$	639,200.00

Drilling, Constructing, Developing and Testing of Nine Subsurface Source Water Slant Wells

Schedule of Work Items
Nine Slant Wells

Bid Items 1-143

Item No.	Approx. Quantity		Description	Unit Price Dlrs./Cts.	Total Amount Dlrs./Cts.
120	1,620	FT	Advance by the drilling 26-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$ 617.00	$ 999,540.00
121	5,380	FT	Furnish and install 24-in. OD x 1/2 in. wall mild steel casing within the 26-inch casing as specified.	$ 126.00	$ 677,880.00
122	1,800	FT	Advance by drilling the 24-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$ 532.00	$ 957,600.00
123	7,180	FT	Furnish and install 22-in. OD x 1/2 in. wall mild steel casing within the 24-inch casing as specified.	$ 101.00	$ 725,180.00
124	1,820	FT	Advance by drilling the 22-in. OD x 1/2 in. wall mild steel temporary drill casing as specified, at an angle of 14 degrees below horizontal. Borehole angle to be measured each 100 lineal ft of depth.	$ 579.00	$ 1,053,780.00
125	9	EACH	Flush interior of casing thoroughly to remove all drill cuttings and debris, remove dual wall drill string and drilling bit from within the 22-in. temporary drill casing.	$ 2,563.00	$ 23,067.00
126	2,170	FT	Furnish and install nominal 18-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) blank casing as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivate.	$ 966.00	$ 2,096,220.00
127	3,160	FT	Furnish and install nominal 18-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) ful-flo louvered screen with 0.060 in. openings as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivated.	$ 1,004.00	$ 3,172,640.00
128	450	FT	Furnish and install nominal 12-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) blank casing as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivated.	$ 828.00	$ 372,600.00

BID SCHEDULE

BIDDER: Boart Longyear

Drilling, Constructing, Developing and Testing of Nine Subsurface Source Water Slant Wells

Bid Items 1-143

Schedule of Work Items
Nine Slant Wells

Item No.	Approx. Quantity		Description	Unit Price Dlrs./Cts.	Total Amount Dlrs./Cts.
129	3,193	FT	Furnish and install nominal 12-in. OD (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) ful-flo louvered screen with 0.060 in. openings, as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivated.	$ 863.00	$ 2,755,559.00
130	9	each	Furnish and install cone reducer and wall hook for transition from nominal 18-in. OD (1/4 in. wall thickness) to nominal 12-in. OD (1/4 in. wall thickness) fabricated from Type 2507 Super Duplex Stainless Steel (ASTM A928). All field welds shall be passivated.	$ 42,000.00	$ 378,000.00
131	7,460	FT	Furnish and install custom blend filter pack material, as specified, in annular space between the well casing and borehole wall. Filter pack to be placed as temporary drill casings are removed. The screen interval shall be pre-developed by swabbing and airlifting in 5 ft intervals, as the filter pack is placed.	$ 239.00	$ 1,782,940.00
132	1,080	HR	Perform initial development using mechanical means (i.e., airlifting and swabbing) using a swabbing tool attached to the dual wall drill pipe, as specified. Additional filter pack to be added as needed.	$ 1,095.00	$ 1,182,600.00
133	1,540	FT	Furnish and install specified 10.3 sack sand-cement grout in annular seal between the well casing and borehole wall as temporary drill casing is removed.	$ 275.00	$ 423,500.00
134	9	EACH	Mobilize pump hoist, submersible test pump, crews, generator, panel, discharge piping, control valves, and necessary support equipment, including removal of residual sediment from the low side of the well, if needed.	$ 12,500.00	$ 112,500.00
135	610	FT	Furnish 12-in. pump column pipe with Certa-lok type connections and centralizers from Type 2507 SDSS, as specified.	$ 748.00	$ 456,280.00
136	9	EACH	Furnish and install temporary submersible test pump, downhole level instrumentation, temporary generator for pump power, ancillary equipment, and discharge head manufactured from Type 2507 SDSS to produce specified flow rate. Intake to be set as specified for final well development and aquifer testing.	$ 29,163.00	$ 262,467.00
137	540	HR	Conduct final development by pumping and surging, as specified, with temporary submersible pump.	$ 602.00	$ 325,080.00
138	90	HR	Conduct step drawdown pumping test for yield and drawdown.	$ 690.00	$ 62,100.00

BID SCHEDULE

BIDDER: Boart Longyear

Drilling, Constructing, Developing and Testing of Nine Subsurface Source Water Slant Wells

Bid Items 1-143

Schedule of Work Items
Nine Slant Wells

Item No.	Approx. Quantity		Description		Unit Price Dlrs./Cts.		Total Amount Dlrs./Cts.
139	1,080	HR	Conduct 5 day constant rate pumping test and recovery measurements for yield and drawdown.	$	602.00	$	650,160.00
140	9	EACH	Conduct color "dual-cam" video survey to total depth, as specified. Initially the video survey shall be performed on the 18-in. ID pump chamber, then within the 12-In. ID screen section (i.e., two passes). Provide 3 copes of video survey in DVD format.	$	10,686.00	$	96,174.00
141	9	EACH	Conduct final well disinfection using liquid chlorine to achieve 500 mg/L residual chlorine concentration.	$	6,371.00	$	57,339.00
142	9	EACH	Excavate wellhead and provide shoring to accommodate wellhead vault structure; cut nominal 18-in. slant well casing to required depth and install flange to accommodate wellhead discharge adapter.	$	10,789.00	$	97,101.00
143	720	HR	Standby time with active Dual Rotary drilling rig and crew as directed for special circumstances.	$	675.00	$	486,000.00
			TOTAL - DRILLING, CONSTRUCTION, DEVELOPMENT AND TESTING OF NINE SLANT WELLS (Bid Items 1-143):	**$**			**25,417,323.00**
			OPTIONAL ITEMS:				
144	2,170	FT	Furnish and Install nominal 20-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) blank casing as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivate.	$	978.00	$	2,122,260.00
145	3,160	FT	Furnish and Install nominal 20-in. (1/4 in. wall thickness) Type 2507 Super Duplex Stainless Steel (ASTM A928) ful-flo louvered screen with 0.060 in. openings as specified, including Type 2507 SDSS tremie guides and centralizers as specified. All field welds shall be passivated.	$	1,033.00	$	3,264,280.00

EXHIBIT D

WMDVBE and Local Resources Utilization Plans

BOART LONGYEAR™

Boart Longyear Company
Drilling Services

2745 West California Ave.
Salt Lake City, UT 84104
Phone: 801-973-6667
Fax: 801-973-4572
www.boartlongyear.com

October 30, 2015

Mr. Ian Crooks
California American Water
511 Forest Lodge Road, Suite 100
Pacific Grove, CA 93950

RE: Utilization of Women, Minority, and Disable Veteran Owned Business Enterprises

As described in Section 2.9 of the RFP, Boart Longyear is going to make a good faith effort to employ WMDVBE subcontractors for any subcontracted portion of the Work. BLY will be utilizing the services of the following subcontractors: Cascade Drilling and Millman Steel. Cascade Drilling will provide the anchor points for our rigs and Millman Steel will provide the temporary casing strings. Both of these companies fall under the WMDVBE utilization.

Thank you,

Jason Lamb
Territory Contracts Manager
Boart Longyear Company
Office: (385) 234-3809
Cell: (801) 971-4471

BOART LONGYEAR™

Boart Longyear Company
Drilling Services

2745 West California Ave.
Salt Lake City, UT 84104
Phone: 801-973-6667
Fax: 801-973-4572
www.boartlongyear.com

October 30, 2015

Mr. Ian Crooks
California American Water
511 Forest Lodge Road, Suite 100
Pacific Grove, CA 93950

RE: Local Resources Utilization

As described in Section 2.10 of the RFP, "the Contractor must make a good faith effort to employ qualified individuals who are, and have been for at least one year out of the three years prior to the opening of proposals, residents of Monterey County, San Benito County, or Santa Cruz County in sufficient numbers to achieve a goal of at least fifty percent of the Contractor's total construction work force, including any subcontractor work force (with the exception of specialty subcontractor items), measured in labor work hours, is comprised of residents of such counties." Boart Longyear expects to use 20 to 30 percent of the local labour, provided that the local sources can meet our demands. We will only use less if they cannot provide us with the qualified workers as it pertains to our business.

Thank you,

Jason Lamb
Territory Contracts Manager
Boart Longyear Company
Office: (385) 234-3809
Cell: (801) 971-4471

Exhibit E
WORK CHANGE DIRECTIVE

No. _____

PROJECT: _____ DATE OF ISSUANCE: _____

OWNER: _____
(Name,
Address):_____

CONTRACTOR: _____
(Name,
Address): _____

ENGINEER: _____

You are directed to proceed promptly with the following change(s):

Description: _____
_____

Purpose of Work Directive Change: _____
_____

Attachments: (list documents supporting change) _____
_____

If a claim is made that the above change(s) have affected Contract Price or Contract Times, any claim for a Change Order based thereon will involve one of the following methods of determining the effect of the change(s).

Method of determining change in Contract Price:

[ ] Time and materials
[ ] Unit prices
[ ] Cost plus fixed fee
[ ] Other _____

Contract Times:

[ ] Contractor's records
[ ] Engineer's records
[ ] Other_____

Estimated increase (decrease) in Contract Price: $_____

Estimated increase (decrease) in Contract Times: _____days.

If the change involves an increase, the estimated amount is not to be exceeded without further authorization.

If the change involves an increase, the estimated amount is not to be exceeded without further authorization.

RECOMMENDED:

by_____
Engineer

AUTHORIZED:

by_____
Owner

Exhibit F
CHANGE ORDER

Owner: California-American Water Company **No.**_____
Contractor:_____ **Issue Date:** _____
Project:_____ **P/BusUnit:** _____

	SUMMARY OF THE CHANGE(S)	COST INCREASE	COST DECREASE
	[INSERT SUMMARY]. See Item No(s) xx through xx on page(s) xx through xx for detail.	**$**	**$**
	NET increase/(decrease)	**$**	
Attachments (list documents supporting change):			

CHANGE IN CONTRACT PRICE:		CHANGE IN CONTRACT TIMES:
Original Contract Price	$_____	Original Contract Times: Substantial Completion – _____ DAYS OR DATE Completed/Ready for Final Payment – _____ DAYS OR DATE
Net change from previous Change Orders: (No. __ through No. __)	$_____	Net change from previous Change Orders: _____ DAYS
Contract Price prior to this Change Order:	$_____	Contract Times prior to this Change Order: Substantial Completion – _____ DAYS OR DATE Completed/Ready for Final Payment – _____ DAYS OR DATE
Net increase (decrease) in Contract Price:	$_____	Net increase (decrease) in Contract Times per this Change Order: _____ DAYS
Contract Price with all approved Change Orders:	$_____	Contract Times with all approved Change Orders: Substantial Completion – _____ DAYS OR DATE Completed/Ready for Final Payment – _____ DAYS OR DATE

This Change Order shall be effective when executed by Owner and Contractor. Payment under this Change Order shall constitute full and complete compensation to Contractor for the change(s) to the Work, direct or indirect impact on Contractor's schedule, and for any equitable adjustment or time extension to which Contractor may be entitled, whether pursuant to the Contract Documents or on any other basis.

RECOMMENDED:	APPROVED:	APPROVED:
By _____	By _____	By _____
Engineer:_____	Owner: _____	Contractor: _____
Date: _____	Date: _____	Date: _____

Exhibit F
CHANGE ORDER

Owner: California-American Water Company **No.**_____
Contractor:_____ **Issue Date:** _____
Project:_____ **P/BusUnit:** _____

ITEM NO.	DESCRIPTION OF THE CHANGE	COST INCREASE	COST DECREASE
	SUB-TOTAL:		

EXHIBIT G

List of Required Additional Insureds

1. California-American Water Company
2. GEOSCIENCE Support Services, Inc.
3. [Insert as applicable]CEMEX, Inc.
3.4. RMC Pacific Materials, LLC

Coverage to include the respective affiliates (including parent and subsidiaries), officers, directors, partners, employees, agents, consultants and subcontractors of each and any of all such additional insureds.

EXHIBIT H

Insurance Requirements

Minimum Insurance Limits and Coverage Requirements.

1. **Commercial General Liability**: $1,000,000 per occurrence Combined Single Limits
   $1,000,000 General Aggregate
   $1,000,000 Products and Completed Operations Aggregate

   CGL ISO 1996 or later Occurrence form including Premises and Operations Coverage, Products and Completed Operations, Coverage for Independent Contractors, Personal Injury Coverage and Blanket Contractual Liability, and Contractor's Protective Liability if the Contractor subcontracts to another all or any portion of the Work.

2. **Workers Compensation**:

   A. Applicable Federal or State Requirements: Statutory minimum
   B. Employer's Liability: Each Accident - $1,000,000
      Policy Limit - $1,000,000
      Disease
      Each Employee - $1,000,000
      Disease
   C. Other States insurance

   The Workers' Compensation policy shall also include U.S. Longshoremen and Harbor Workers' Compensation Act Coverage, if any Work shall be done over or within 100 feet of any body of water, or otherwise at the sole discretion of the Owner. It shall also provide maritime (Jones Act) coverage if a boat or vessel of any type is to be used.

3. **Automobile Liability**

   Including owned, hired, borrowed and non-ownership liability.

   Bodily Injury and Property Damage Liability: $1,000,000 each accident Combined Single Limits

4. Umbrella Liability $25,000,000 each occurrence and annual aggregate in excess of Employer's Liability, General Liability and Automobile Liability (no more restrictive than the underlying insurance).

5. Environmental Impairment Liability (EIL) or Pollution Liability insurance

Covering losses caused by pollution conditions that arise from the operations of Contractor described in this Contract. This insurance shall apply to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically injured; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims. The policy of insurance affording these required coverages shall be written in an amount of at least $5,000,000 per claim with an annual aggregate of at least $5,000,000.

EXHIBIT I

Project Team Member List and Key Personnel

Project Team

US Zone Manager: Scott Krug

- Overall project management/executive and program leadership

Contracts Manager: Jason Lamb

- Contractual clarification, invoice review/negotiations, change orders

Operations Manager: Jeffrey Kent

- Billing, project scheduling, operational communication with the client

Operations Coordinator: Andy Lestage

- Crew planning, labor, EHS

Technical Operations Coordinator: Jay Christensen

- Permitting, coordinate project start-up, tech support throughout project

EHS Manager: Rhett Beecher

- Site visits/inspections, audit MSHA regulations, ensure crew are meeting EHS standards

Rig Supervisor: Marlen Cross

- Oversee drilling operations, day to day client communication, Supervised Monterey Test Slant Well

Rig Supervisor: Marty McCoy

- Oversee drilling operations, day to day client communication, Supervised Monterey Test Slant Well

Drillers: Riley Ostler, Doug Tucker and Rick Archibald

- Drillers on the Monterey Test Slant Well, oversee and operate site equipment

PROPOSAL FORM 4

KEY PERSONNEL[13]

(Copy and complete this form for Key Personnel. Attach additional pages along with organizational charts as needed)

General Information

Name:	Jason Lamb
Firm:	Boart Longyear
Title:	Contracts Manager
Year employed by firm:	16 years
Total Professional Experience:	16 years
Professional Registration and Licenses (type/number/state/year)[14]	Contractor License C57/694686/CA/2016 Contractor License A4/073446/AZ/2017 Water Well License 83/AZ/2016 Water Well License WD1161/NM/2016 Well Driller License 1458/CO/2016 Well Driller License 3285/MN/2016 Well Driller License 799/UT/2016 NGWA 3159930/Multiple States/2016 NMGWA 60/NM/2016

Project-Specific Information

Title/Assignment	Contracts Manager / Executive Leadership
Description of Role/Responsibilities:	Invoice negotiations, change orders, contractual language

Commitment[15]

Permitting	%	**Construction**	%
Contracts	80 %	**Startup and Testing:**	%

Footnotes:

[13] Proposers shall duplicate this form for all Key Personnel. Refer to subsection 4.4.2 of the RFP for a list of the minimum personnel for which this form shall be completed.

[14] Where applicable, key construction personnel must provide either: (1) proof of current California licensure; or (2) if not currently licensed in California, a detailed plan to obtain a required California license no later than the effective date of the Contract.

[15] Commitment indicates the amount of time (in percent) that the individual would be available to work on the Project during the construction, start-up and testing phases of the Project. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Project.

PROPOSAL FORM 4

KEY PERSONNEL[1]

(Copy and complete this form for Key Personnel. Attach additional pages along with organizational charts as needed)

General Information

Name: Scott Krug

Firm: Boart Longyear

Title: Sr. Operations Manager

Year employed by firm: 32 years

Total Professional Experience: 32 years

Professional Registration and Licenses (type/number/state/year)[2]: Contractor/21976/NV/2016

Project-Specific Information

Title/Assignment: Sr. Operations Manager / Program Leadership

Description of Role/Responsibilities: Overall project management/executive & program leadership

Key contact for operations related issues.

Commitment[3] **Permitting** N/A % **Construction** 60 %

Startup and Testing: 20 %

Footnotes:

[1] Proposers shall duplicate this form for all Key Personnel. Refer to subsection 4.4.2 of the RFP for a list of the minimum personnel for which this form shall be completed.

[2] Where applicable, key construction personnel must provide either: (1) proof of current California licensure; or (2) if not currently licensed in California, a detailed plan to obtain a required California license no later than the effective date of the Contract.

[3] Commitment indicates the amount of time (in percent) that the individual would be available to work on the Project during the construction, start-up and testing phases of the Project. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Project.

PROPOSAL FORM 4

KEY PERSONNEL[4]

(Copy and complete this form for Key Personnel. Attach additional pages along with organizational charts as needed)

General Information

Name: Jeffrey Kent

Firm: Boart Longyear

Title: Operations Manager

Year employed by firm: 4.5 years

Total Professional Experience: 9 years

Professional Registration and Licenses (type/number/state/year)[5]: ID Contractor License PWC-C-15627/ID/2015

Project-Specific Information

Title/Assignment: Operations Manager / Overall Project Manager

Description of Role/Responsibilities: Billing and communications with client

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Commitment[6] **Permitting** 15% **Construction** 25 % **Startup and Testing:** 25 %

Footnotes:

[4] Proposers shall duplicate this form for all Key Personnel. Refer to subsection 4.4.2 of the RFP for a list of the minimum personnel for which this form shall be completed.

[5] Where applicable, key construction personnel must provide either: (1) proof of current California licensure; or (2) if not currently licensed in California, a detailed plan to obtain a required California license no later than the effective date of the Contract.

[6] Commitment indicates the amount of time (in percent) that the individual would be available to work on the Project during the construction, start-up and testing phases of the Project. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Project.

PROPOSAL FORM 4

KEY PERSONNEL[7]

(Copy and complete this form for Key Personnel. Attach additional pages along with organizational charts as needed)

General Information

Name: Andy Lestage

Firm: Boart Longyear

Title: Operations Coordinator

Year employed by firm: 16 years

Total Professional Experience: 22 years

Professional Registration and Licenses (type/number/state/year)[8]

Project-Specific Information

Title/Assignment: Operations Coordinator

Description of Role/Responsibilities: Crew planning, Labor, EHS

Commitment[9] **Permitting** ____ % **Construction** 40 %

Startup and Testing: 60 %

Footnotes:

[7] Proposers shall duplicate this form for all Key Personnel. Refer to subsection 4.4.2 of the RFP for a list of the minimum personnel for which this form shall be completed.

[8] Where applicable, key construction personnel must provide either: (1) proof of current California licensure; or (2) if not currently licensed in California, a detailed plan to obtain a required California license no later than the effective date of the Contract.

[9] Commitment indicates the amount of time (in percent) that the individual would be available to work on the Project during the construction, start-up and testing phases of the Project. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Project.

PROPOSAL FORM 4

KEY PERSONNEL[10]

(Copy and complete this form for Key Personnel. Attach additional pages along with organizational charts as needed)

General Information

Name:	Rhett Beecher
Firm:	Boart Longyear
Title:	EHS Manager
Year employed by firm:	5 years
Total Professional Experience:	9 years
Professional Registration and Licenses (type/number/state/year)[11]	Certified Safety Professional CSP/24681/2014/All States

Project-Specific Information

Title/Assignment	Environmental Health and Safety Manager
Description of Role/Responsibilities:	1-2 site visits per month, audit MSHA regulations, ensure crews are meeting EHS standards

Commitment[12] **Permitting** ____ % **Construction** 50 %

Startup and Testing: 80 %

Footnotes:

[10] Proposers shall duplicate this form for all Key Personnel. Refer to subsection 4.4.2 of the RFP for a list of the minimum personnel for which this form shall be completed.

[11] Where applicable, key construction personnel must provide either: (1) proof of current California licensure; or (2) if not currently licensed in California, a detailed plan to obtain a required California license no later than the effective date of the Contract.

[12] Commitment indicates the amount of time (in percent) that the individual would be available to work on the Project during the construction, start-up and testing phases of the Project. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Project.

PROPOSAL FORM 4

KEY PERSONNEL[22]

(Copy and complete this form for Key Personnel. Attach additional pages along with organizational charts as needed)

General Information

Name: Jay Christensen

Firm: Boart Longyear

Title: Technical Operations Coordinator

Year employed by firm: 27 years

Total Professional Experience: 27 years

Professional Registration and Licenses (type/number/state/year)[23]

Project-Specific Information

Title/Assignment: Technical Operations Coordinator, QA/QC Manager

Description of Role/Responsibilities: Permitting, coordinate project start-up, support throughout project

Commitment[24] **Permitting** 100 % **Construction** 80 %

Startup and Testing: 60 %

Footnotes:

[22] Proposers shall duplicate this form for all Key Personnel. Refer to subsection 4.4.2 of the RFP for a list of the minimum personnel for which this form shall be completed.

[23] Where applicable, key construction personnel must provide either: (1) proof of current California licensure; or (2) if not currently licensed in California, a detailed plan to obtain a required California license no later than the effective date of the Contract.

[24] Commitment indicates the amount of time (in percent) that the individual would be available to work on the Project during the construction, start-up and testing phases of the Project. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Project.

PROPOSAL FORM 4

KEY PERSONNEL[19]

(Copy and complete this form for Key Personnel. Attach additional pages along with organizational charts as needed)

General Information

Name:	Terry Marty McCoy
Firm:	Boart Longyear
Title:	Drilling Supervisor
Year employed by firm:	16 years
Total Professional Experience:	26 years
Professional Registration and Licenses (type/number/state/year)[20]	Well Drillers License 3455/ID/2016 Water Well License 871/KS/2015

Project-Specific Information

Title/Assignment	Rig Supervisor / Commissioning Manager
Description of Role/Responsibilities:	Oversees drilling operations, client communication Supervised Monterey Test Slant Well 1

Commitment[21] **Permitting** ____ % **Construction** 100 %

Startup and Testing: 100 %

Footnotes:

[19] Proposers shall duplicate this form for all Key Personnel. Refer to subsection 4.4.2 of the RFP for a list of the minimum personnel for which this form shall be completed.

[20] Where applicable, key construction personnel must provide either: (1) proof of current California licensure; or (2) if not currently licensed in California, a detailed plan to obtain a required California license no later than the effective date of the Contract.

[21] Commitment indicates the amount of time (in percent) that the individual would be available to work on the Project during the construction, start-up and testing phases of the Project. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Project.

PROPOSAL FORM 4

KEY PERSONNEL[16]

(Copy and complete this form for Key Personnel. Attach additional pages along with organizational charts as needed)

General Information

Name:	Marlen Cross
Firm:	Boart Longyear
Title:	Drilling Supervisor
Year employed by firm:	17 years
Total Professional Experience:	26 years
Professional Registration and Licenses (type/number/state/year)[17]	Well Driller License 1740/OR/2016 Well Driller License 524/UT/2016 NGWA Member

Project-Specific Information

Title/Assignment	Rig Supervisor / Commissioning Manager
Description of Role/Responsibilities:	Oversees drilling operations, client communication Supervised Monterey Test Slant Well 1

Commitment[18]	**Permitting**	%	**Construction**	100 %
			Startup and Testing:	100 %

Footnotes:

[16] Proposers shall duplicate this form for all Key Personnel. Refer to subsection 4.4.2 of the RFP for a list of the minimum personnel for which this form shall be completed.

[17] Where applicable, key construction personnel must provide either: (1) proof of current California licensure; or (2) if not currently licensed in California, a detailed plan to obtain a required California license no later than the effective date of the Contract.

[18] Commitment indicates the amount of time (in percent) that the individual would be available to work on the Project during the construction, start-up and testing phases of the Project. Indicate by "N/A" where the individual is not proposed to be involved in a particular phase of the Project.

Exhibit J

CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information

Name of Claimant:
_____

Name of Customer:
_____

Job Location:
_____

Owner:
_____
_

Through Date:
_____

Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check:
_____

Amount of Check: $
_____

Check Payable to:
_____

Exceptions

This document does not affect any of the following:
(1) Retentions.
(2) Extras for which the claimant has not received payment.
(3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:
Date(s) of waiver and release:
_____
Amount(s) of unpaid progress payment(s): $
_____
(4) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

Signature

Claimant's Signature:
_____
Claimant's Title:
_____
Date of Signature:
_____

Exhibit K

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information

Name of Claimant:
_____

Name of Customer:
_____

Job Location:
_____

Owner:
_____

Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check:
_____

Amount of Check: $
_____

Check Payable to:
_____

Exceptions

This document does not affect any of the following:
Disputed claims for extras in the amount of: $
_____

Signature

Claimant's Signature:
_____

Claimant's Title:
_____

Date of Signature:
_____

EXHIBIT L

AFFIDAVIT OF PAYMENT TO SUBCONTRACTORS
PROGRESS PAYMENT

The undersigned warrants that the monies received from this progress payment have been or will be used to promptly pay in full all laborers, subcontractors, materialmen and suppliers for all work, materials, equipment or services provided for or to the job of California-American Water Company

located at _____,
up to the date of this waiver.

Dated: _____ _____
Company Name

By: _____
Name and Title

AFFIDAVIT OF PAYMENT TO SUBCONTRACTORS
FINAL PAYMENT

The undersigned warrants that the monies received from this final payment have been or will be used to promptly pay in full all of laborers, subcontractors, materialmen and suppliers for all work, materials, equipment or services provided for or to the job of California-American Water Company

located at _____.

Dated: _____ _____
Company Name

By: _____
Name and Title