

**EMERALD BAY SERVICE DISTRICT
Laguna Beach, CA**

FULL-LENGTH SEWER LINING REPAIRS

BID AND CONTRACT DOCUMENTS

FEBRUARY 2018

Notice: Bids due 11:00 a.m. – February 20, 2018
Pre-Bid Meeting: 10:00 a.m. – February 8, 2018

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**EMERALD BAY SERVICE DISTRICT
NOTICE INVITING BIDS
For the
FULL-LENGTH SEWER LINING REPAIRS**

The Emerald Bay Service District (“District”) will receive in a sealed envelope plainly marked on the outside “SEALED BID FOR CONSTRUCTION OF “Full-Length Sewer Lining Repair” for the “Full-Length Sewer Lining Repair” (“Project”) from qualified Bidders at the office of the front reception at 600 Emerald Bay Drive, Laguna Beach, California no later than 11:00 am on February 19, 2018 at which time or thereafter said Bids will be opened and read aloud. Bids received after this time will be returned unopened. Bids shall be valid for ninety (90) calendar days after the Bid opening date.

The Engineer’s opinion of probable cost is \$80,000 for the Base Bid.

Bids must be submitted on the District’s Bid Forms. Prospective bidders may obtain the contract documents by emailing a request to receive Contract Documents to MDunbar@EBservicedistrict.com. Prospective bidders who intend to submit a bid shall complete an Intent to Bid Form found in Section A – Instruction to Bidders. Only those who have submitted an Intent to Bid Form will be notified of addenda to the Contract Documents.

Bids must be accompanied by cash, a certified or cashier’s check, or a Bid Bond in favor of the District in an amount not less than ten percent (10%) of the submitted Total Bid Price.

A MANDATORY Pre-Bid Conference will be held at 600 Emerald Bay, Laguna Beach, CA 92651 on the following date(s) and time(s): February 8, 2018 at 10:00 a.m. Prospective Bids will not be accepted from any Bidder who did not attend the Pre-Bid Conference.

Each Bid shall be accompanied by the security referred to in the Contract Documents, the non-collusion affidavit, the list of proposed subcontractors, and all additional documentation required by the Instructions to Bidders.

The successful Bidder will be required to furnish the District with a Performance Bond equal to one hundred percent (100%) of the successful Bid, and a Payment (Labor and Materials) Bond equal to one hundred percent (100%) of the successful Bid, prior to execution of the Contract. All bonds are to be secured from a surety that meets all of the State of California bonding requirements, as defined in Code of Civil Procedure Section 995.120, and is admitted by the State of California. The cost of said bonds shall be included in the Bid amount. Pursuant to Public Contract Code Section 22300, the successful Bidder may substitute certain securities for funds withheld by District to ensure its performance under the Contract.

The Director of Industrial Relations has determined the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute the Contract which will be awarded to the successful Bidder, copies are online at <http://www.dir.ca.gov/dlsr>. A copy of these rates shall be posted by the successful Bidder at the job site. The successful Bidder and all subcontractor(s) under him or her, shall comply with all applicable Labor Code provisions, which include, but are not limited to the payment of not less than the required prevailing rates to all workers employed by them in the execution of the Contract, the

employment of apprentices, the hours of labor and the debarment of contractors and subcontractors. If the Work involves federal funds or otherwise requires compliance with the Davis-Bacon Fair Labor Standards Act, the Contractor and all its subcontractors shall comply with the higher of the state or federal prevailing wage rates.

Each Bidder shall be a licensed contractor pursuant to the Business and Professions Code and shall be licensed in the following appropriate classification(s) of contractor's license(s), for the Work Bid upon, and must maintain the license(s) throughout the duration of the Contract: State of California – License A.

Pursuant to Public Contract Code Section 3400(b), the District may make findings designating certain materials, products, things, or services by specific brand or trade name, if such findings have been made for this Project, the findings and the materials, products, things, or services and their specific brand or trade names will be set forth in the Special Conditions.

The District shall award the Contract for the Project to the lowest responsive, responsible Bidder as on the basis of the base Bid alone by the District. The District reserves the right to reject any or all Bids or to waive any irregularities or informalities in any Bids or in the Bidding process.

For further information, contact Michael Dunbar at MDunbar@EBservicedistrict.com or at (949) 494-8572.

EMERALD BAY SERVICE DISTRICT

SECTION A - INSTRUCTIONS TO BIDDERS

1. Availability of Contract Documents. Bids must be submitted to the District on the Bid Forms which are a part of the Bid Package for the Project. Contract Documents may be obtained as indicated in the Notice Inviting Bids.

Prospective bidders who intend to submit a bid shall complete an Intent to Bid form found at the end of this section.

2. Examination of Contract Documents. Bidders shall be solely responsible for examining the Project Site and the Contract Documents, including any Addenda issued during the Bidding period, and for informing itself with respect to local labor availability, means of transportation, necessity for security, laws and codes, local permit requirements, wage scales, local tax structure, contractors' licensing requirements, availability of required insurance, and other factors that could affect the Work. Bidders are responsible for consulting the standards referenced in the Contract. Failure of Bidder to so examine and inform itself shall be at its sole risk, and no relief for error or omission will be given except as required under State law.

3. Interpretation of Contract Documents. Discrepancies in, and/or omissions from the Plans, Specifications or other Contract Documents or questions as to their meaning shall be immediately brought to the attention of the District by submission of a written request for an interpretation or correction to the District. Such submission, if any, must be sent to the Michael Dunbar at MDunbar@EBservicedistrict.com or at (949) 494-8572 NO LATER THAN 5 WORKING DAYS PRIOR TO BID SO ANSWERS/ADDENDA CAN BE ISSUED AT LEAST 72 HOURS BEFORE BID OPENING.

Any interpretation of the Contract Documents will be made only by written Addenda duly issued only to individuals who submitted an Intent to Bid Form. The District will not be responsible for any explanations or interpretations provided in any other manner. No person is authorized to make any oral interpretation of any provision in the Contract Documents to any Bidder, and no Bidder should rely on any such oral interpretation.

Bids shall include complete compensation for all items that are noted in the Contract Documents as the responsibility of the Contractor.

4. Inspection of Site, Pre-Bid Conference and Site Walk. Each prospective Bidder is responsible for fully acquainting itself with the conditions of the Project Site (which may include more than one site), as well as those relating to the construction and labor of the Project, to fully understand the facilities, difficulties and restrictions which may impact the cost or effort required to complete the Project. To this end, a Pre-Bid Conference and Site Walk will be held on the date(s) and time(s) indicated in the Notice Inviting Bids.

Storm, surface, nuisance, or other waters may be encountered at various times during construction of the Project. Federal and State laws require the District and its contractors to appropriately manage such waters pursuant to the requirements of California State Water Resources Control Board Order Number 2009-0009-DWQ, the Federal Clean Water Act, and the California Porter Cologne Water Quality Control Act. By submitting a Bid, each bidder acknowledges that it

has investigated the risk arising from such waters, has prepared its Bid accordingly, and assumes any and all risks and liabilities arising therefrom.

5. Addenda. The District reserves the right to revise the Contract Documents prior to the Bid opening date. Revisions, if any, shall be made by written Addenda. All Addenda issued by the District shall be included in the Bid and made part of the Contract Documents. Pursuant to Public Contract Code Section 4104.5, if the District issues an Addendum which includes material changes to the Project less than seventy-two (72) hours prior to the deadline for submission of Bids, the District will extend the deadline for submission of Bids. The District may determine, in its sole discretion, whether an Addendum warrants postponement of the Bid submission date. Each prospective Bidder shall submit an Intent to Bid form and provide the District a name, address and email address, and/or facsimile number to which Addenda may be sent, as well as a telephone number by which the District can contact the Bidder. Copies of Addenda will be available at 600 Emerald Bay, Laguna Beach, CA 92651. Please Note: Bidders are responsible for ensuring that they have received any and all Addenda. To this end, each Bidder should contact Michael Dunbar at MDunbar@EBservicedistrict.com or at (949) 494-8572 to verify that they have received all Addenda issued, if any, within 72 hours prior to the Bid opening.

6. Alternate Bids. If alternate Bid items are called for in the Contract Documents, the lowest Bid will be determined on the basis of the base Bid only. However, the District may choose to award the contract on the basis of the base Bid alone or the base Bid and any alternate or combination of alternates. The time required for completion of the alternate Bid items has been factored into the Contract duration and no additional Contract time will be awarded for any of the alternate Bid items. The District may elect to include one (1) or more of the alternate Bid items, or to otherwise remove certain work from the Project scope of work, accordingly each Bidder must ensure that each Bid item contains a proportionate share of profit, overhead and other costs or expenses which will be incurred by the Bidder.

7. Completion of Bid Forms. Bids shall only be prepared using copies of the Bid Forms which are included in the Contract Documents. The use of substitute Bid forms other than clear and correct photocopies of those provided by the District will not be permitted. Bids shall be executed by an authorized signatory as described in these Instructions to Bidders. In addition, Bidders shall fill in all blank spaces (including inserting "N/A" where applicable) and initial all interlineations, alterations, or erasures to the Bid Forms. Bidders shall neither delete, modify, nor supplement printed matter on the Bid Forms, nor make substitutions thereon. **USE OF BLACK OR BLUE INK, INDELIBLE PENCIL OR A TYPEWRITER IS REQUIRED.** Deviations in the Bid form may result in the Bid being deemed non-responsive.

8. Modifications of Bids. Each Bidder shall submit its Bid in strict conformity with the requirements of the Contract Documents. Unauthorized additions, modifications, revisions, conditions, limitations, exclusions or provisions attached to a Bid may render it non-responsive and may cause its rejection. Bidders shall neither delete, modify, nor supplement the printed matter on the Bid Forms, nor make substitutions thereon. Oral, telephonic and electronic modifications will not be considered.

9. Designation of Subcontractors. Pursuant to State law, the Bidders must designate the name and location of each subcontractor who will perform work or render services for the Bidder in an amount that exceeds one half of one percent (1/2%) of the Bidder's Total Bid Price, as well as the portion of Work each such subcontractor will perform on the form provided herein by the

District. No additional time will be provided to Bidders to submit any of the requested information in the Designation of Subcontractor form.

10. Licensing Requirements. Pursuant to Section 7028.15 of the Business and Professions Code and Section 3300 of the Public Contract Code, all Bidders must possess proper licenses for performance of this Contract. Subcontractors must possess the appropriate licenses for each specialty subcontracted. Pursuant to Section 7028.5 of the Business and Professions Code, the District shall consider any Bid submitted by a contractor not currently licensed in accordance with state law and pursuant to the requirements found in the Contract Documents to be nonresponsive, and the District shall reject the Bid. The District shall have the right to request, and Bidders shall provide within five (5) calendar days, evidence satisfactory to the District of all valid license(s) currently held by that Bidder and each of the Bidder's subcontractors, before awarding the Contract. Please also note that, pursuant to Public Contract Code Section 20676, sellers of "mined material" must be on an approved list of sellers published pursuant to Public Resources Code Section 2717(b) in order to supply mined material for this Contract.

11. Certifications. Special Provisions or Technical Provisions of these Contract Documents may require that the contractor and/or sub-contractor be certified by third-party organizations. Notwithstanding any language to the contrary in the Contract Documents, including the order of precedence between the Contract Documents, the District may, in its sole discretion, elect to deem the bidder as non-responsive or waive the bid error as immaterial if such certification requirements are not met at the time the bid is submitted.

12. Signing of Bids. All Bids submitted shall be executed by the Bidder or its authorized representative. Bidders may be asked to provide evidence in the form of a Power of Attorney evidencing the capacity of the person signing the Bid to bind the Bidder to each Bid and to any Contract arising there from.

If a Bidder is a joint venture or partnership, it may be asked to submit an authenticated Power of Attorney executed by each joint venturer or partner appointing and designating one of the joint venturers or partners as a management sponsor to execute the Bid on behalf of Bidder. Only that joint venturer or partner shall execute the Bid. The Power of Attorney shall also: (1) authorize that particular joint venturer or partner to act for and bind Bidder in all matters relating to the Bid; and (2) provide that each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of Bidder assumed under the Bid and under any Contract arising there from. The Bid shall be executed by the designated joint venturer or partner on behalf of the joint venture or partnership in its legal name.

13. Bid Guarantee (Bond). Each Bid shall be accompanied by: (a) cash; (b) a certified check made payable to the District; (c) a cashier's check made payable to the District; or (d) a Bid bond payable to the District executed by the Bidder as principal and surety as obligor in an amount not less than ten percent (10%) of the maximum amount of the Bid. Personal sureties and unregistered surety companies are unacceptable. The surety insurer shall be a California admitted surety insurer, as defined in Code of Civil Procedure Section 995.120. The cash, check or Bid bond shall be given as a guarantee that the Bidder shall execute the Contract if it be awarded to the Bidder, shall provide the payment and performance bonds and insurance certificates and endorsements as required herein within ten (10) calendar days after notification of the award of the Contract to the Bidder. Failure to provide the required documents may result in forfeiture of the Bidder's Bid

deposit or bond to the District and the District may award the Contract to the next lowest responsive, responsible Bidder, or may call for new Bids.

14. Submission of Sealed Bids. Once the Bid and supporting documents have been completed and signed as set forth herein, they shall be placed, along with the Bid Guarantee and other required materials in an envelope, sealed, addressed and delivered or mailed, postage prepaid to the District at the place and to the attention of the person indicated in the Notice Inviting Bids. No oral or telephonic Bids will be considered. No forms transmitted via the internet, e-mail, facsimile, or any other electronic means will be considered. The envelope shall also contain the following in the lower left-hand corner thereof:

Bid of _____ (BIDDER'S NAME)

for the

FULL-LENGTH SEWER LINING REPAIRS

Only where expressly permitted in the Notice Inviting Bids may Bidders submit their Bids via electronic transmission pursuant to Public Contract Code Sections 1600 and 1601. The acceptable method(s) of electronic transmission shall be stated in the Notice Inviting Bids. The District reserves the right to not accept electronically transmitted Bids when not specifically authorized in the Notice Inviting Bids, and may reject any Bid not strictly complying with District's designated methods for delivery.

15. Delivery and Opening of Bids. Bids will be received by the District at the address shown in the Notice Inviting Bids up to the date and time shown therein. The District will leave unopened any Bid received after the specified date and time, and any such unopened Bid will be returned to the Bidder. It is the Bidder's sole responsibility to ensure that its Bid is received as specified. Bids may be submitted earlier than the dates(s) and time(s) indicated.

Bids will be opened at the date and time stated in the Notice Inviting Bids, and the amount of each Bid will be read aloud and recorded. All Bidders may, if they desire, attend the opening of Bids. The District may in its sole discretion, elect to postpone the opening of the submitted Bids. District reserves the right to reject any or all Bids and to waive any informality or irregularity in any Bid. In the event of a discrepancy between the written amount of the Bid Price and the numerical amount of the Bid Price, the written amount shall govern.

16. Withdrawal of Bid. Prior to Bid opening, a Bid may be withdrawn by the Bidder only by means of a written request signed by the Bidder or its properly authorized representative.

17. Basis of Award; Balanced Bids. The District shall award the Contract to the lowest responsive, responsible Bidder submitting a responsive Bid. The District may reject any Bid which, in its opinion when compared to other Bids received or to the District's internal estimates, does not accurately reflect the cost to perform the Work. The District may reject as non-responsive any Bid which unevenly weights or allocates costs, including but not limited to overhead and profit to one or more particular Bid items.

18. Disqualification of Bidders; Interest in More Than One Bid. No Bidder shall be allowed to make, submit or be interested in more than one (1) Bid. However, a person, firm,

corporation or other entity that has submitted a sub-proposal to a Bidder, or that has quoted prices of materials to a Bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other Bidders submitting a Bid to the District. No person, firm, corporation, or other entity may submit sub-proposal to a Bidder, or quote prices of materials to a Bidder, when also submitting a prime Bid on the same Project.

19. Insurance Requirements. The successful Bidder shall procure the insurance in the form and in the amount specified in the Contract Documents.

20. Award Process. Once all Bids are opened and reviewed to determine the lowest responsive and responsible Bidder, the District may award the contract. The apparent successful Bidder should begin to prepare the following documents: (1) the Performance Bond; (2) the Payment (Labor and Materials) Bond; and (3) the required insurance certificates and endorsements. These documents are found in Section B – Bid Forms. Once the District notifies the Bidder of the award, the Bidder will have ten (10) consecutive calendar days from the date of this notification letter to execute the Contract and supply the District with all of the required documents and certifications. Regardless whether the Bidder supplies the required documents and certifications in a timely manner, the Contract time will begin to run ten (10) calendar days from the date of the notification. Once the District receives all of the properly drafted and executed documents and certifications from the Bidder, the District shall issue a Notice to Proceed to that Bidder.

21. Filing of Bid Protests. Bidders may file a “protest” of a Bid with the District’s General Manger, Michael Dunbar. In order for a Bidder’s protest to be considered valid, the protest must:

- A. Be filed in writing within five (5) calendar days after the Bid opening date;
- B. Clearly identify the specific irregularity or accusation;
- C. Specify, in detail, the grounds of the protest and the facts supporting the protest; and
- D. Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each of these requirements, it will be rejected as invalid.

If the protest is valid, the District’s General Manger, or other designated District staff member, shall review the basis of the protest and all relevant information. The General Manager, or other designated District staff member, will provide a written decision to the protestor. After following the bid protest procedures, the bidder may present information regarding their protest to the Board of Directors prior to the disposition of the bid protest and award of the contract.

22. Workers Compensation. Each Bidder shall submit the Contractor’s Certificate Regarding Workers’ Compensation form.

23. Substitution of Security. The Contract Documents call for monthly progress payments based upon the percentage of the Work completed. The District will retain five percent (5%) of each progress payment as provided by the Contract Documents. At the request and expense of the successful Bidder, the District will substitute securities for the amount so retained in accordance with Public Contract Code Section 22300.

24. Prevailing Wages. The District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute the Contract. These rates are available online at <http://www.dir.ca.gov/dlsr>. Bidders are advised that a copy of these rates must be posted by the successful Bidder at the job site(s). The District will not recognize any claim for additional compensation because of the payment by the Contractor of any wage rate in excess of the prevailing wages set forth herein. The possibility of wage increases is one of the elements to be considered by the Contractor is determining its bids, and will not under any circumstances be considered as the basis of a claim against the District under the Contract Documents.

25. Debarment of Contractors and Subcontractors. In accordance with the provisions of the Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the Labor Code. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to the District. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

26. Performance Bond and Payment (Labor and Materials) Bond Requirements. Within the time specified in the Contract Documents, the Bidder to whom a Contract is awarded shall deliver to the District four (4) identical counterparts of the Performance Bond and Payment (Labor and Materials) Bond, each in an amount equal to one hundred percent (100%) of the Total Bid Price and in the form supplied by the District and included in the Contract Documents. Failure to do so may, at the sole discretion of District, result in forfeiture of the Bid Guarantee. The surety supplying the bond must be an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business as such in the State of California and satisfactory to the District.

27. Request for Substitutions. The successful Bidder shall comply with the substitution request provisions set forth in the Special Conditions, including any deadlines for substitution requests which may occur prior to the Bid opening date, as specified in the General Conditions.

28. Sales and Other Applicable Taxes, Permits, Licenses and Fees. Contractor and its subcontractors performing work under this Contract will be required to pay California sales tax and other applicable taxes, and to pay for permits, licenses and fees required by the agencies with District in the jurisdiction in which the Work will be located, for the amount in force at the time of the transaction unless otherwise expressly provided by the Contract Documents.

29. Execution of Contract. As required herein the Bidder to whom an award is made shall execute the Contract in the amount determined by the Contract Documents. The District may require appropriate evidence that the persons executing the Contract are duly empowered to do so.

END OF INSTRUCTIONS TO BIDDERS

Please submit this page upon receipt.

**INTENT TO BID
NOTICE OF BID FOR THE
FULL-LENGTH SEWER LINING REPAIRS**

Please fax or e-mail this page upon receipt of the Contract Documents for the subject project. For any clarifications, please contact Michael Dunbar at MDunbar@EBservicedistrict.com or at (949) 494-8572.

Check one:

Yes, I intend to submit a Bid.

No, I will not be able to submit a Bid for the following reason:

Date: _____

Company: _____

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____

Fax: _____

E-mail Address: _____

SECTION B - BID FORMS

(Place this form as the first page of the proposal)

NAME OF BIDDER: _____

The undersigned, hereby declare that we have carefully examined the location of the proposed Work, and have read and examined the Contract Documents, including all plans, specifications, and all Addenda, if any, for the following Project:

FULL-LENGTH SEWER LINING REPAIRS

We hereby propose to furnish all labor, materials, equipment, tools, transportation, and services, and to discharge all duties and obligations necessary and required to perform and complete the Project for the following TOTAL BID PRICE:

Item No.	Approx. Quantity	Description	Unit Price	Total Cost
1.	335 L.F. 8-inch	Bay Crest Drive Item 1 – Breaks and multiple cracks MH 119 to MH 118. Line entire Length of 8-inch VCP sewer pipe from MH 119 to MH 118 for the unit price of:	\$ _____	\$ _____
2.	95 L.F. 8-inch	Bay Crest Drive Item 2 – Breaks and multiple roots MH 207 to MH 206. Line entire length of 8-inch VCP (lined) sewer pipe from MH 207 to MH 206 for the unit price of	\$ _____	\$ _____
3.	130 L.F. 6-inch	Ledge Wood Road Item 3 – Breaks and cracks MH 318 to MH 317. Line entire length of 6-inch VCP sewer pipe from MH 318 to MH 317 for the unit price of:	\$ _____	\$ _____
4.	250 L.F. 6-inch	Pacific Coast Highway Item 4 – Breaks MH 346 to MH 345. Line entire length of 6-inch VCP sewer pipe from MH 346 to MH 345 for the unit price of:	\$ _____	\$ _____

Item No.	Approx. Quantity	Description	Unit Price	Total Cost
5.	90 L.F. 8-inch	Carlow Road (Easement) Item 5 – Breaks and roots MH 485 to MH 477. Line entire length of 8-inch VCP sewer pipe from MH 485 to MH 477 for the unit price of:	\$ _____	\$ _____
TOTAL OF BASE BID REPAIRS (ITEMS 1 – 5)			\$ _____	

ALTERNATIVE BID A

1A.	240 L.F. 6-inch	Sunny Slope Road Item 1A – Breaks and roots MH 322 to MH 523. Line entire Length of 6-inch VCP sewer pipe from MH 322 to MH 523 for the unit price of	\$ _____	\$ _____
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ALTERNATIVE BID B

1B	270 L.F. 8-inch	Inishmore Road Item 1B – Breaks and multiple cracks (intruding sewer lateral) MH 421 to MH 420. Line entire length of 8-inch VCP sewer pipe from MH 421 to MH 420 for the unit price of:	\$ _____	\$ _____
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ALTERNATIVE BID C

1C	150 L.F. 8-inch	Shamrock Road Item 1C – Breaks and cracks MH 460 to MH 402. Line entire length of 8-inch VCP sewer pipe from MH 460 to MH 402 for the unit price of	\$ _____	\$ _____
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Item No.	Approx. Quantity	Description	Unit Price	Total Cost
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ALTERNATIVE BID D

1D	90 L.F. 8-inch	Carlow Road (Easement) Item D – Breaks and roots MH 478 to MH 477. Line entire length of 8-inch VCP sewer pipe from MH 478 to MH 477 for the unit price of:	\$ _____	\$ _____
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ALTERNATIVE BID E

1E	90 L.F. 6-inch	Tyburn Road Item E – Breaks and cracks MH 311 to MH 310. Line entire Length of 6-inch VCP sewer pipe from MH 311 to MH 310 for the unit price of:	\$ _____	\$ _____
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ALTERNATIVE BID F

1F	240 L.F. 6-inch	East Mesa Drive Item F – Breaks and sag in pipeline MH 333 to MH 332. Line entire length of 6-inch VCP sewer pipe from MH 333 to MH 332 for the unit price of	\$ _____	\$ _____
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ALTERNATIVE BID G

1G	220 L.F. 8-inch	Crosshaven Road Item G – Breaks and cracks MH 423 to MH 419. Line entire length of 8-inch VCP sewer pipe from MH 423 to MH 419 for the unit price of:	\$ _____	\$ _____
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Item No.	Approx. Quantity	Description	Unit Price	Total Cost
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ALTERNATIVE BID H

1H	255 L.F. 8-inch	Londonderry Road Item H – Breaks and cracks MH 427 to MH 417. Line entire length of 8-inch VCP sewer pipe from MH 427 to MH 417 for the unit price of:	\$ _____	\$ _____
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BIDDER: _____

AUTHORIZED SIGNATURE/TITLE: _____

The award of contract, if awarded, will not be made for less than the sum of the Base Bid Items 1 through 5. The Alternative Bids Items (Items 1A through 1H) may be awarded by the District at its sole discretion. The District may choose one or all or any combination of Alternative Bid Items.

Each individual Bid Item shall be determined from visiting the work site, reviewing the Specifications, reviewing the video tape of the existing condition of the particular sewer pipeline and all other portions of the Contract Documents and shall include all items necessary to complete the work, including the assumption of all obligations, duties and responsibilities necessary for the successful completion of the Contract, and the furnishing of all materials and equipment required to be incorporated in and form a permanent part of the work: tools, equipment, supplies, transportation, facilities, labor, superintendence and services required to perform and complete the Work; and bonds, insurance and submittals; all as per the requirements of the Contract Documents, whether or not expressly listed or designated.

It is understood that the foregoing quantities are approximate only and are solely for the purpose of facilitating the comparison of Bids, and that the Contractor's compensation will be computed upon the basis of the actual quantities in the completed work whether they be more or less than those shown on the Bid Form.

The undersigned agrees that this Bid Form constitutes a firm offer to the District which cannot be withdrawn for the number of calendar days indicated in the Notice Inviting Bids from and after the Bid opening, or until a Contract for the Work is fully executed by the District and a third party, whichever is earlier.

The Contract duration shall commence on the date stated in the District's Notice to Proceed, and shall be completed by the Contractor in the time specified in the Contract Documents. In no case shall the Contractor commence construction prior to the date stated in the District's Notice to Proceed.

Bidder certifies that it is licensed in accordance with the law providing for the registration of Contractors, License No. _____, Expiration Date _____, class of license _____. If the Bidder is a joint venture, each member of the joint venture must include the above information.

The undersigned acknowledges complete review, understanding, and full consideration of the specifications and drawings that are incorporated into these Contract Documents.

The undersigned affirms that a representative of the Bidder inspected the site of the proposed work under the Contract Documents.

The undersigned acknowledges receipt, understanding and full consideration of the following Addenda to the Contract Documents. (Attached signed copies of each addenda)

Addenda No. _____

Addenda No. _____

Addenda No. _____

Addenda No. _____

Addenda No. _____

1. Attached is the required Bid security in the amount of not less than ten percent (10%) of the Total Bid Price.
2. Attached is the fully executed Non-Collusion Affidavit form.
3. Attached is the completed Designation of Subcontractors form.
4. Attached is the completed Bidder Information Form.
5. Attached is the completed Contractor's Certificate Regarding Workers' Compensation form.
6. Bidder acknowledges and understands that, pursuant to Public Contract Code Section 20676, sellers of "mined material" must be on an approved list of sellers published pursuant to Public Resources Code Section 2717(b) in order to supply mined material for this Contract.

I hereby certify under penalty of perjury under the laws of the State of California that all of the information submitted in connection with this Bid and all of the representations made herein are true and correct.

Name of Bidder _____

Signature _____

Name and Title _____ Dated _____

BID BOND

The makers of this bond are, _____, as Principal, and _____, as Surety and are held and firmly bound unto the Emerald Bay Service District (“District”), in the penal sum of TEN PERCENT (10%) OF THE TOTAL BID PRICE of the Principal submitted to the District for the Work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying Bid dated _____, 2018, for the

FULL-LENGTH SEWER LINING REPAIRS

If the Principal does not withdraw its Bid within the time specified in the Contract Documents; and if the Principal is awarded the Contract and provides all documents to the District as required by the Contract Documents; then this obligation shall be null and void. Otherwise, this bond will remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents shall in affect its obligation under this bond, and Surety does hereby waive notice of any such changes.

In the event a lawsuit is brought upon this bond by the District and judgment is recovered, the Surety shall pay all litigation expenses incurred by the District in such suit, including reasonable attorneys’ fees, court costs, expert witness fees and expenses.

IN WITNESS WHEREOF, the above-bound Parties have executed this instrument under their several seals this _____ day of _____, 2015, the name and corporate seal of each corporation.

(Corporate Seal)

Principal

By _____
Title _____

Corporate Seal)

Surety

By _____
Title Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____,
(Insert name and title of the officer)

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

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

WITNESS my hand and official seal

Signature (Seal)

NOTE: A copy of the Power-of-Attorney to local representatives of the bonding company must be attached hereto.

Portions of Work	Subcontractor/ License No.	Location of Business	% of the Work

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____

CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____

INFORMATION REQUIRED OF BIDDERS

1. INFORMATION ABOUT BIDDER

*Indicate not applicable (“N/A”) where appropriate.

NOTE: Where Bidder is a joint venture, pages shall be duplicated and information provided for all parties to the joint venture.

1. Name of Bidder: _____

2. Type, if Entity: _____

3. Bidder Address: _____

Facsimile Number _____ Telephone Number _____

4. How many years has Bidder’s organization been in business under its present name?

4.1 Under what other or former names has Bidder’s organization operated?

5. If Bidder’s organization is a corporation, answer the following:

5.1 Date of Incorporation: _____

5.2 State of Incorporation: _____

5.3 President’s Name: _____

5.4 Vice President’s Name(s): _____

5.5 Secretary’s Name: _____

5.6 Treasurer’s Name: _____

6. If an individual or a partnership, answer the following:

6.1 Date of Organization: _____

6.2 Name and address of all partners (state whether general or limited partnership):

7. If other than a corporation or partnership, describe organization and name principals:

8. List other states in which Bidder's organization is legally qualified to do business.

9. What type of work does the Bidder normally perform with its own forces?

10. Has Bidder ever failed to complete any work awarded to it? If so, note when, where, and why:

11. Within the last five (5) years, has any officer or partner of Bidder's organization ever been an officer or partner of another organization when it failed to complete a contract? If so, attach a separate sheet of explanation:

12. List Trade References:

13. List Bank References (Bank and Branch Address):

14. Name of Bonding Company and Name and Address of Agent:

4. EXPERIENCE AND TECHNICAL QUALIFICATIONS QUESTIONNAIRE

Personnel:

The Bidder shall identify the key personnel to be assigned to this Project in a management, construction supervision or engineering capacity. Note that changes in personnel require approval in writing by the Engineer.

- 1. List each person's job title, name and percent of time to be allocated to this Project:

- 2. Summarize each person's specialized education:

- 3. List each person's years of construction experience relevant to the Project:

- 4. Summarize such experience:

Bidder agrees that personnel named in this Bid will remain on this Project until completion of all relevant Work, unless substituted by personnel of equivalent experience and qualifications approved in advance by the District.

Additional Bidder's Statements:

If the Bidder feels that there is additional information which has not been included in the questionnaire above, and which would contribute to the qualification review, it may add that information in a statement here or on an attached sheet, appropriately marked:

5. EXPERIENCE

1. In the last five (5) years has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible Bidder?

Yes No

If “yes,” explain on a separate signed page. Identify the year of the event, the owner, the project and the basis for the finding by the public agency.

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about “pass-through” disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$50,000.

2. In the past five (5) years has any claim against your firm concerning your firm’s work on a construction project been filed in court or arbitration?

Yes No

If “yes,” on separate signed sheets of paper identify the claim(s) by providing the project name, date of the claim, name of the claimant, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution). If “yes,” are there any current claims against your company that should you lose the claim(s), would adversely affect your financial position or your ability to meet your obligations if awarded the contract for this project? If so, please explain.

* * * * *

3. In the past five (5) years has your firm made any claim against a project owner concerning work on a project or payment for a contract and filed that claim in court or arbitration?

Yes No

If “yes,” on separate signed sheets of paper identify the claim by providing the project name, date of the claim, name of the entity (or entities) against whom the claim was filed, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending, or if resolved, a brief description of the resolution). If “yes,” are there any current claims against a project owner that should you lose the claim(s), would adversely affect your financial position or your ability to meet your obligations if awarded the contract for this project? If so, please explain.

* * * * *

4. At any time during the past five (5) years, has any surety company made any payments on your firm's behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf, in connection with a construction project, either public or private?

Yes No

If "yes," explain on a separate signed page the amount of each such claim, the name and telephone number of the claimant, the date of the claim, the grounds for the claim, the present status of the claim, the date of resolution of such claim if resolved, the method by which such was resolved if resolved, the nature of the resolution and the amount, if any, at which the claim was resolved.

5. In the last five (5) years has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

Yes No

If "yes," explain on a separate signed page. Name the insurance carrier, the form of insurance and the year of the refusal.

6. VERIFICATION AND EXECUTION

These Bid Forms shall be executed only by a duly authorized official of the Bidder:

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

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____

NON-COLLUSION AFFIDAVIT

I, _____, being first duly sworn, deposes and says that he is of _____ the party making the attached Bid; that the Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the Bid is genuine and not collusive or sham; that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham Bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham Bid, or that anyone shall refrain from Bidding; that the Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the Bid price, or of that of any other Bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the Bid are true; and, further, that the Bidder has not, directly or indirectly, submitted his or her Bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, Bid depository, or to any member or agent thereof to effectuate a collusive or sham Bid.

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

Name of Bidder _____

Signature _____

Name and Title _____

Dated _____

SECTION C - CONTRACT

THIS CONTRACT is made this ____ day of _____, 20__, in the County of Orange, State of California, by and between the Emerald Bay Service District (“District”), and _____, (“Contractor”). District and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this contract (“Contract”). The District and Contractor for the considerations stated herein agree as follows:

**ARTICLE 1
SCOPE OF WORK**

The Contractor shall perform all Work within the time stipulated in the Contract and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 8 below for the following Project:

FULL-LENGTH SEWER LINING REPAIRS

The Contractor and its surety shall be liable to the District for any damages arising as a result of the Contractor’s failure to comply with this obligation.

**ARTICLE 2
TIME FOR COMPLETION**

a. The Work shall be commenced on the date stated in the District’s Notice to Proceed. The Contractor shall complete all Work required by the Contract Documents within sixty (60) calendar days from the commencement date stated in the Notice to Proceed. By its signature hereunder and its initials in the space provided for below, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work and that Contractor, utilized the above calendar days in formulating its bid.

Contractor’s Initials

b. Contractor shall coordinate the Work with the other work being performed on the Project, in accordance with those schedules as may be issued from time to time during the performance of the Work, and any other scheduling requirements listed in this Agreement, so as not to delay, impede, obstruct, hinder or interfere with the commencement, progress or completion of the whole or any part of the Work or other work on the Project.

c. The Contractor shall participate and cooperate with the District in the development of schedules and other efforts to achieve timely completion of the Work providing information for the scheduling of the times and sequence of operations required for its Work (“Contractor Schedule”). The Contractor shall notify the Engineer within forty-eight (48) hours of any slippage in the Contractor Schedule and shall submit a detailed recovery plan to the Engineer for approval within five (5) calendar days of such notice.

d. Should the progress of the Work or of the Project be delayed disrupted, hindered, obstructed, or interfered with by any fault or neglect or act or failure to act of the Contractor or any of its officers, agents, servants, employees, subcontractors or suppliers so as to cause any additional

cost, expense, liability or damage to the District, the Engineer or any consultants retained by the District for the Project, including legal fees and disbursements incurred by the District, the Engineer, or the consultants retained by the District for the Project, (whether incurred in defending claims arising from such delay or in seeking reimbursement and indemnity from the Contractor and its surety hereunder or otherwise) or any damages or additional costs or expenses for which the District, the Engineer or the consultants retained by the District for the Project, may or shall become liable, the Contractor and its surety shall and does hereby agree to compensate the District, the Engineer or the consultants retained by the District for the Project, for and indemnify them against all such costs, expenses, damages and liability.

e. The District, in its sole discretion, may direct the Contractor to work overtime and, if so directed, the Contractor shall work said overtime and, provided that the Contractor is not in default under any of the terms or provisions of this Agreement or of any of the other Contract Documents, the District will pay the Contractor for such actual additional wages paid, if any, at the prevailing wage rates plus taxes imposed by law on such additional wages, plus workers' compensation insurance, liability insurance and levies on such additional wages if required to be paid by the Contractor.

f. If, however, the progress of the Work or of the Project is delayed by any fault or neglect or act or failure to act of the Contractor or any of its officers, agents, servants, employees, subcontractors or suppliers, then the Contractor shall, in addition to all of the other obligations imposed by this Agreement upon the Contractor in such case, and at its own cost and expense, work such overtime as may be necessary to make up for all time lost in the completion of the Work and of the Project due to such delay. Should the Contractor fail to make up for the time lost by reason of such delay, the Engineer or District shall have the right to cause other contractors to work overtime and to take whatever other action it deems necessary to avoid delay in the completion of the Work and of the Project, and the cost and expense of such overtime and/or such other action shall be borne solely by the Contractor.

**ARTICLE 3
CONTRACT PRICE**

The District shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of _____ dollars (\$_____). Payment shall be made as set forth in the General Conditions.

**ARTICLE 4
PAYMENTS**

g. The District shall make monthly progress payments following receipt of undisputed and properly submitted payment requests. Contractor shall be paid a sum equal to ninety five percent (95%) of the value of Work performed up to the last day of the previous month, less the aggregate of previous payments. Unless the Board adopts a resolution finding this project "substantially complex", then the percent paid to the Contractor becomes ninety percent (90%).

h. The Contractor shall, after the full completion of The Work, submit a final payment application. All prior progress estimates shall be subject to correction in the final estimate and payment.

i. Unless otherwise required by law, the final payment of five percent (5%) of the value of the Work, if unencumbered, shall be paid no later than sixty (60) Days after the date of recordation of the Notice of Completion. Unless the Board determined this project is “substantially complex”, then final payment of ten percent (10%) will be paid per above.

j. Acceptance by Contractor of the final payment shall constitute a waiver of all claims against the District arising from this Contract.

k. Payments to the Contractor shall not be construed to be an acceptance of any defective work or improper materials, or to relieve the Contractor of its obligations under the Contract Documents.

l. The Contractor shall submit with each payment request the Contractor’s conditional waiver of lien for the entire amount covered by such payment request, as well as a valid unconditional waiver of lien from the Contractor and all subcontractors and material men for all work and materials included in any prior invoices. Waivers of lien shall be in the forms prescribed by California Civil Code Section 3262. Prior to final payment by the District, the Contractor shall submit a final waiver of lien for the Contractor’s work, together with releases of lien from any subcontractor or materialmen.

m. Change orders shall be in the format set forth in Exhibit A, attached hereto and incorporated herein. By its execution of this Contract, Contractor agrees to execute change orders in the format set forth in the exhibit and shall not attempt to modify the change order form or otherwise reserve any rights under the change order form.

n. The Contractor shall submit each payment request in the format provided in Exhibit B, attached hereto and incorporated herein. By its execution of this Contract, Contractor agrees to submit payment requests in the format set forth in the exhibit and shall not attempt to modify the payment request form or otherwise reserve any rights under the payment request form.

ARTICLE 5 PAYMENTS WITHHELD AND BACKCHARGES

In addition to amounts which the District may retain under other provisions of the Contract Documents the District may withhold payments, or partial payments, due to Contractor as may be necessary to cover:

- o. Stop Notice Claims.
- p. Defective work not remedied.
- q. Failure of Contractor to make proper payments to its subcontractors or suppliers.
- r. Completion of the Contract if there exists a reasonable doubt that the work can be completed for balance then unpaid.
- s. Damage to another contractor or third party.
- t. Amounts which may be due the District for claims against Contractor.

- u. Failure of Contractor to keep the record (“as-built”) drawings up to date.
- v. Failure to provide updates on the construction schedule.
- w. Site clean-up.
- x. Failure of the Contractor to comply with requirements of the Contract Documents.
- y. Liquated damages.
- z. Legally permitted penalties.

Upon completion of the Contract, the District will reduce the final Contract amount to reflect costs charged to the Contractor, back charges or payments withheld pursuant to the Contract Documents.

ARTICLE 6 CHANGES AND EXTRA WORK

aa. The District, without invalidating the Contract, may order changes in the Work consisting of additions, deletions or other revisions, the Contract amount and Contract time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, in the form attached hereto and incorporated herein as Exhibit “A,” and shall be performed under the applicable conditions of the Contract Documents. A Change Order signed by the Contractor indicates the Contractor’s agreement therewith, including any adjustment in the Contract amount or the Contract time, and the full and final settlement of all costs (direct, indirect and overhead) related to the Work authorized by the Change Order.

bb. All claims for additional compensation to the Contractor shall be presented in writing before the expense is incurred and will be adjusted as provided herein. No work shall be allowed to lag pending such adjustment, but shall be promptly executed as directed, even if a dispute arises. No claim will be considered after the work in question has been done unless a written contract change order has been issued or a timely written notice of claim has been made by Contractor. Contractor shall not be entitled to claim or bring suit for damages, whether for loss of profits or otherwise, on account of any decrease or omission of any item or portion of Work to be done. Whenever any change is made as provided for herein, such change shall be considered and treated as though originally included in the Contract, and shall be subject to all terms, conditions and provisions of the original Contract.

cc. Owner Initiated Change. The Contractor must submit a complete cost proposal, including any change in the Contract time, within seven (7) Days after receipt of a scope of a proposed change order, unless the District requests that proposals be submitted in less than seven (7) Days.

dd. Contractor Initiated Change. The Contractor must give written notice of a proposed change order required for compliance with the Contract Documents within seven (7) Days of discovery of the facts giving rise to the proposed change order.

ee. Whenever possible, any changes to the Contract amount shall be in a lump sum mutually agreed to by the Contractor and the District.

ff. Price quotations from the Contractor shall be accompanied by sufficiently detailed supporting documentation to permit verification by the District.

gg. If the Contractor fails to submit the cost proposal within the seven (7) Day period (or as requested), the District has the right to issue a Construction Change Directive to order the Contractor in writing to commence the work immediately on a force account basis and/or issue a lump sum change to the contract price in accordance with the District's estimate of cost. If the change is issued based on the District estimate, the Contractor will waive its right to dispute the action unless within fifteen (15) Days following completion of the added/deleted work, the Contractor presents written proof that the District's estimate was in error.

hh. Estimates for lump sum quotations and accounting for cost-plus-percentage work shall be limited to direct expenditures necessitated specifically by the subject extra work, and shall be segregated as follows:

(a) Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft or type of worker at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State or local laws, as well as assessment or benefits required by lawful collective bargaining agreements. The use of a labor classification which would increase the extra work cost will not be permitted unless the contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

(b) Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available in the quantities involved, plus sales tax, freight and delivery. Materials cost shall be based upon supplier or manufacturer's invoice. If invoices or other satisfactory evidence of cost are not furnished within fifteen (15) Days of delivery, then the Engineer shall determine the materials cost, at its sole discretion.

(c) Tool and Equipment Use. No payment will be made for the use of small tools, tools which have a replacement value of one thousand dollars (\$1,000) or less. Regardless of ownership, the rates to be used in determining equipment use costs shall not exceed listed rates prevailing locally at equipment rental agencies, or distributors, at the time the work is performed. Cost of tools and equipment shall be for time that tools and equipment are actually engaged in the performance of the work.

(d) Overhead, Profit and Other Charges. The mark-up for overhead (including supervision) and profit on work added to the Contract shall be according to the following:

(i) "Net Cost" is defined as consisting of costs of labor, materials and tools and equipment including sales tax, freight, and delivery charges only excluding overhead and profit. The costs of applicable insurance and bond premium will be reimbursed to the Contractor and subcontractors at cost only, without mark-up.

(ii) For Work performed by the Contractor's forces the added cost for overhead and profit shall not exceed fifteen percent (15%) of the Net Cost of the Work.

(iii) For Work performed by a subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the Net Cost of the Work to which the Contractor may add five percent (5%) of the subcontractor's Net Cost for subcontractor overhead and profit.

(iv) For Work performed by a sub-subcontractor the added cost for overhead and profit shall not exceed fifteen percent (15%) of the Net Cost for Work to which the subcontractor and general contractor may each add an additional five percent (5%) of the Net Cost of the lower tier subcontractor.

(v) No additional mark-up will be allowed for lower tier subcontractors, and in no case shall the added cost for overhead and profit payable by District exceed twenty-five percent (25%) of the Net Cost as defined herein.

(vi) For added or deducted Work by subcontractors, the Contractor shall furnish to the District the subcontractor's signed detailed estimate of the cost of labor, material and equipment, including the subcontractor markup for overhead and profit. The same requirement shall apply to sub-subcontractors.

(vii) For added or deducted work furnished by a vendor or supplier, the Contractor shall furnish to the District a detailed estimate or quotation of the cost to the Contractor, signed by such vendor or supplier.

(viii) Any change in The Work involving both additions and deletions shall indicate a net total cost, including subcontracts and materials. Allowance for overhead and profit, as specified herein, shall be applied if the net total cost is an extra; overhead and profit allowances shall not be applied if the net total cost is a credit. The estimated cost of deductions shall be based on labor and material prices on the date the Contract was executed.

(ix) Contractor shall not reserve a right to assert impact costs, extended job site costs, extended overhead, constructive acceleration and/or actual acceleration beyond what is stated in the change order for work. No claims shall be allowed for impact, extended overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. The Contractor may not change or modify the District's change order form in an attempt to reserve additional rights.

(x) If the District disagrees with the proposal submitted by Contractor, it will notify the Contractor and the District will provide its opinion of the appropriate price and/or time extension. If the Contractor agrees with the District, a change order will be issued by the District. If no agreement can be reached, the District shall have the right to issue a unilateral change order setting forth its determination of the reasonable additions or savings in costs and time attributable to the extra or deleted work. Such determination shall become final and binding if the Contractor fails to submit a claim in writing to the District within fifteen (15) Days of the issuance of the unilateral change order, disputing the terms of the unilateral change order.

(xi) No dispute, disagreement or failure of the Parties to reach agreement on the terms of the change order shall relieve the Contractor from the obligation to proceed with performance of the Work, including extra work, promptly and expeditiously.

(xii) Any alterations, extensions of time, extra work or any other changes may be made without securing consent of the Contractor's surety or sureties.

(e) For cost-plus-percentage work, the Contractor shall submit to the Engineer daily work sheets showing an itemized breakdown of labor, materials, tools, and equipment used in performance of the force account work. The District will use its best efforts to reconcile these worksheets within five (5) business days of the Contractor's completion of the force account work presented in the work sheets. No payment will be made for force account work not verified by the Engineer.

ARTICLE 7

LIQUIDATED DAMAGES

In accordance with Government Code Section 53069.85, it is agreed that the Contractor will pay the District the sum of \$1,000 for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the District may deduct that amount from any money due or that may become due the Contractor under the Contract. This Article does not exclude recovery of other damages specified in the Contract Documents.

ARTICLE 8

COMPONENT PARTS OF THE CONTRACT

The "Contract Documents" include the following:

- Notice Inviting Bids
- Instructions to Bidders
- Contractor's Bid Forms
- Contractor's Certificate Regarding Workers' Compensation
- Bid Bond
- Designation of Subcontractors
- Information Required of Bidders
- Non-Collusion Affidavit form
- Contract
- Performance Bond
- Payment (Labor and Materials) Bond
- General Conditions

- Special Provisions (or Special Conditions)
- Measurement and payment conditions
- Supplemental conditions
- California Building Codes as defined in the General Conditions
- Addenda
- Plans and Contract Drawings
- Approved and fully executed change orders
- Any other documents contained in or incorporated into the Contract

The Contactor shall complete the Work in strict accordance with all of the Contract Documents. All of the Contract Documents are intended to be complementary. Work required by one (1) of the Contract Documents and not by others shall be done as if required by all. This Contract shall supersede any prior agreement of the Parties.

ARTICLE 9 PROVISIONS REQUIRED BY LAW

Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Project.

ARTICLE 10 INDEMNIFICATION

ii. To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the District, the Engineer, the Construction Manager, and their respective officials, officers, agents, employees, and representatives (“indemnitees”) from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages (including without limitation the payment of all consequential damages and attorney’s fees and other related costs and expenses) or injuries, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to tangible property or persons (including wrongful death) arising out of or resulting from the performance of the Work or this Agreement (including claims made by subcontractors for nonpayment), to the extent that the acts, omissions or willful misconduct are attributable to the Contractor or anyone employed directly or indirectly by any of them. Contractor shall defend, at Contractor’s own cost, expense and risk, with legal counsel of indemnitees’ choosing, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the District, the Engineer, the Construction Manager, and their respective officials, officers, agents, employees and representatives. To the extent of its liability, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the District, the Engineer, the Construction Manager, and their respective officials, officers, agents, employees, and

representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse the District, the Engineer, Construction Manager, and their respective officials, officers, agents, employees, and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code Section 2782.

jj. Nothing contained in the preceding section shall be deemed to obligate the Contractor to indemnify the District, the Engineer, the Construction Manager, or any of the other indemnitees, against liability for damages or any other loss, damage or expense sustained, suffered or incurred on account of death or bodily injury to active persons or injury to property caused by the sole negligence or willful misconduct of the District, the Engineer, the Construction Manager, or any of the other indemnitees set forth above. Therefore, if it is determined by legal proceedings or agreement, that the Contractor has no direct contributory or incidental negligence or other obligation to the District, the Engineer, the Construction Manager, or the other indemnitees, and the Contractor is in no way a proper party to a particular claim, then the Contractor shall not be obligated to hold the District, the Engineer, the Construction Manager, or any indemnitees harmless with respect to said claim. However, until such determination is made by legal proceedings or agreement, or if the Contractor is found to have any degree of direct or contributory negligence or if it is determined that the Contractor is in any way or to any degree a proper party to said claim, then the Contractor's obligations under all of the terms and provisions of the preceding section shall remain in full force and effect.

kk. Nothing in this provision, or elsewhere in the Contract Documents, shall be deemed to relieve the Contractor of its duty to defend the District, the Engineer, the Construction Manager, or any indemnitee, as specified under this Article, pending a determination of the respective liabilities of the District, the Engineer, the Construction Manager, or any indemnitee, by legal proceeding or agreement.

ll. In furtherance to, but not in limitation of the indemnity provisions in this Agreement, Contractor hereby expressly and specifically agrees that its obligation to indemnify, defend and hold harmless as provided in this Agreement shall not in any way be affected or diminished by any statutory or constitutional immunity it enjoys from suits by its own employees or from limitations of liability or recovery under workers' compensation laws.

[Remainder of Page Left Intentionally Blank]

**ARTICLE 11
PREVAILING WAGES**

Contractor shall be required to pay the prevailing rate of wages in accordance with all applicable provisions of Labor Code, Division 2, Part 7, Chapter 1, Article 2, commencing with Section 1770. Such rates are available online at <http://www.dir.ca.gov/dlsr>. and shall be posted at the job site. (Current Wage Determination from the U.S. Department of Labor will be provided when the contract is executed.)

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named Parties, on the day and year above written.

EMERALD BAY SERVICE DISTRICT

[INSERT CONTRACTOR'S NAME]

By: _____
Michael Dunbar
General Manager/CEO

By: _____
[**INSERT NAME**]
[**INSERT TITLE**]

Attest:¹

By: _____
[**INSERT NAME**]
[**INSERT TITLE**]

Reviewed by:

[INSERT NAME]

¹ Attestation of Contractor's signature must be obtained when required by the by-laws, articles of incorporation or other laws, rules or regulations applicable to Contractor's business entity.

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, Emerald Bay Service District (“District”) has awarded to _____, (“Contractor”) an agreement for _____ (hereinafter referred to as the “Project”).

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as “Contract Documents”), the incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, _____, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the District in the sum of _____ dollars, (\$ _____), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one (1) year guarantee of all materials and workmanship; and shall indemnify and save harmless the District, its officers and agents, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorney’s fees, incurred by District in enforcing such obligation.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the guarantee obligation shall hold good for a period of one (1) year after the acceptance of the work by District, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the District from loss or damage resulting from or caused by defective materials or faulty workmanship the above obligation and penal sum thereof shall remain in full force and effect. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the District’s rights or the Contractor or Surety’s obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure Section 337.15.

Whenever Contractor shall be, and is declared by the District to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the District's option:

- (1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
- (2) Obtain a Bid or Bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible Bidder, arrange for a Contract between such Bidder, the Surety and the District, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the Contract price, including other costs and damages for which Surety may be liable. The term "balance of the Contract price" as used in this paragraph shall mean the total amount payable to Contractor by the District under the Contract and any modification thereto, less any amount previously paid by the District to the Contractor and any other set offs pursuant to the Contract Documents.
- (3) Permit the District to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the Contract price, including other costs and damages for which Surety may be liable. The term "balance of the Contract price" as used in this paragraph shall mean the total amount payable to Contractor by the District under the Contract and any modification thereto, less any amount previously paid by the District to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the District may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a Bid from Contractor for completion of the Project if the District, when declaring the Contractor in default, notifies Surety of the District's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

CONTRACTOR/PRINCIPAL

By: _____
Name

SURETY

By: _____
Attorney-In-Fact

The rate of premium on this bond is _____ per thousand. The total amount of premium charges are \$_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety) _____

(Name and Address of Agent or Representative for service of process in California, if different from above) _____

(Telephone number of Surety and Agent or Representative for service of process in California) _____

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____,
(Insert name and title of the officer)

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

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

WITNESS my hand and official seal

Signature (Seal)

NOTE: A copy of the Power-of-Attorney to local representatives of the bonding company must be attached hereto.

PAYMENT BOND (LABOR AND MATERIALS)

KNOW ALL MEN BY THESE PRESENTS That;

WHEREAS, the Emerald Bay Service District (“District”), by action taken or a resolution passed _____, 20__ has awarded to _____ hereinafter designated as the “Principal,” a contract (“Contract”) for the work described as follows:

FULL-LENGTH SEWER LINING REPAIRS

(“Project”); and

WHEREAS, said Principal is required to furnish a bond in connection with said Contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the District in the penal sum of _____ dollars (\$ _____) lawful money of the United States of America, for the said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Section 3181 of the Civil Code, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the Work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the Contractor and his subcontractors pursuant to Section 18663 of the Revenue and Taxation Code, with respect to such Work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by the District in such suit, including reasonable attorneys’ fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Section 3181 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any

terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such Contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of Contract between the owner or District and original Contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 or 3112 of the Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed unoriginal thereof, have been duly executed by the Principal and

(Corporate Seal)

Principal (Property Name of Contractor)

By _____
(Signature of Contractor)

(Seal of Surety)

Surety

By _____
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate and Required Acknowledgements)

*Note: Appropriate Notarial Acknowledgments of Execution by Contractor and Surety and a Power of Attorney MUST BE ATTACHED.

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____,
(Insert name and title of the officer)

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

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

WITNESS my hand and official seal

Signature (Seal)

Note: A copy of the Power-of-Attorney to local representatives of the bonding company must be attached hereto.

EXHIBIT A
CHANGE ORDER FORM

[Attached behind this Cover Page]

**EMERALD BY SERVICE DISTRICT
CONSTRUCTION CHANGE ORDER**

DATE:

CHANGE ORDER NO. XX

PROJECT NAME:

SPECIFICATION NO.

CONTRACTOR

ACCOUNTING #

You are hereby directed to make the herein described change(s) from the Specifications, Drawings and/or Contract Documents, or do the following described work not included in the Contract Documents. *(This Change Order is not effective until signed by the Emerald Bay Service District and the Contractor)*

DESCRIPTION OF CHANGE ORDER:

Lump Sum _____ Time & Materials (Not-to-Exceed) _____ Cost Decrease \$ _____ Increase \$ _____

By reason of this Change Order, the revised Contract Completion Date: is _____

Remains Unchanged: _____

Approval	Signature	Title	Date
Recommended By		Project Manager	
Approved By		General Manager/CEO	

We, the undersigned Contractor, have given careful consideration to the change proposed and hereby agree, if the Change Order is accepted, that we shall provide all equipment, furnish all labor and materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will accept as full payment therefore the price(s) shown above. We understand that the execution of this Change Order constitutes a binding accord and satisfaction that fully satisfies, waives, and releases the Emerald Bay Service District from all claims, demands, costs and liabilities, in Contract, law or equity, arising out of or related to the subject of the change and indirect costs and/or damages for delay, disruption, acceleration, loss of productivity, and any and all consequential damages.

ACCEPTED: Date _____ Contractor _____

By _____ Title _____

**EMERALD BAY SERVICE DISTRICT
CONSTRUCTION CHANGE ORDER**

		# Days
Original Contract Amount:	\$	
Total of Prior Change Orders:	\$	0
Total of This Change Order:	\$	0
Total of all Change Orders:	\$	0
Total Adjusted Contract:	\$	0

SECTION D - GENERAL CONDITIONS

ARTICLE 1 DEFINITIONS

- a. Acceptable, Acceptance or words of similar import: shall be understood to be the acceptance of the Engineer and/or the District.
- b. Act of God: are naturally occurring events (except inclement weather normal for the area where the Work is being performed) such as earthquakes of magnitude 3.5 or higher on the Richter scale, fires, tidal waves, tornadoes and hurricanes.
- c. Approval: means written authorization by Engineer and/or District.
- d. Code: Codes of the State of California as well as every other federal or local law, statute, ordinance, rule or regulation.
- e. Contract Documents: includes all documents as stated in the Contract.
- f. Contractor: is as stated in the Contract.
- g. Day: shall mean calendar day unless otherwise specifically designated.
- h. District: shall mean the Emerald Bay Service District. The terms District and Owner may be used interchangeably.
- i. Engineer: shall mean the General Manager, or his or her designee, for the District, acting either directly or through properly authorized agents, such as agents acting within the scope of the particular duties entrusted to them. Also sometimes referred to as the "District's Representative" or "Representative" in the Contract Documents.
- j. Equal, Equivalent, Satisfactory, Directed, Designated, Selected, As Required and similar words: shall mean the written approval, selection, satisfaction, direction, or similar action of the Engineer and/or District.
- k. Force Majeure: shall mean (i) riots, civil disturbances, insurrection or acts of public enemy, but only occurring at or in the immediate vicinity of the Site or if directly disrupting or delaying the supply chain of materials to the Project; (ii) war if declared by the United States Congress but only if directly disrupting or delaying the supply chain of labor or materials to the Project; (iii) a court administrative or other governmental order directing that the construction of the Project be stopped (except where due to failure to obtain or comply with any authorizations of governmental authorities); (iv) strikes or labor disputes, but only if directly disrupting or delaying the supply chain of labor or materials to the Project and only if not precipitated by Contractor's or a Subcontractor's actual violation of the Union Requirement; (v) casualty at the Site resulting in direct physical damage to the Work not the result, in whole or in part, of the actions or omissions of Contractor or Subcontractors; (vi) acts of terrorism directed at the Project or resulting in direct physical damage to the Project or directly disrupting or delaying the supply chain of labor or materials to the Project; (vii) Delays caused, other than by Contractor's negligence or breach of the Contract Documents, by conflicts in the coordination of Contractor's Work with the work of other contractors; (viii) delay in the issuance of permits or approvals by governmental authorities to the

extent caused solely by circumstances within the control and responsibility of District; or (viii) Acts of God.

l. Indicated, Shown, Detailed, Noted, Scheduled or words of similar meaning: shall mean that reference is made to the drawings, unless otherwise noted. It shall be understood that the direction, designation, selection, or similar import of the Engineer and/or District is intended, unless stated otherwise.

m. Install: means the complete installation of any item, equipment or material.

n. Material: shall include machinery, equipment, manufactured articles, or construction such as form work, fasteners, etc., and any other classes of material to be furnished in connection with the Contract. All materials shall be new unless specified otherwise.

o. Perform: shall mean that the Contractor, at Contractor's expense, shall take all actions necessary to complete The Work, including furnishing of necessary labor, tools, and equipment, and providing and installing Materials that are indicated, specified, or required to complete such performance.

p. Project: is The Work planned by District as provided in the Contract Documents.

q. Provide: shall include provide complete in place, that is furnish, install, test and make ready for use.

r. Specifications: means that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the work. The Work shall be done in accordance with the most recent edition of the "Standard Specifications for Public Works Construction," the "Greenbook," except for Part I of the Greenbook which, notwithstanding any reference to the Greenbook herein, is expressly excluded from incorporation into the Contract Documents by this reference. The Work shall also, to the extent applicable, conform to the California Building Codes, as defined herein, including all current supplements, Addenda, and revisions thereof which are incorporated herein. In any conflict the Contract Documents will be interpreted as set forth below.

s. The Work: means the entire improvement planned by the District pursuant to the Contract Documents.

t. Work: means labor, equipment and materials incorporated in, or to be incorporated in the construction covered by the Contract Documents.

ARTICLE 2 CONTRACT DOCUMENTS

u. Contract Documents. The Contract Documents are complementary, and what is called for by one (1) shall be as binding as if called for by all.

v. Interpretations. The Contract Documents are intended to be fully cooperative and to be complementary. If Contractor observes that any documents are in conflict, the Contractor shall promptly notify the Engineer in writing. In case of conflicts between the Contract Documents, the order of precedence shall be as follows:

1. Change Orders or Work Change Directives
2. Addenda
3. Special Provisions (or Special Conditions)
4. Technical Specifications
5. Contract
7. General Conditions
8. Instructions to Bidders
9. Notice Inviting Bids
10. Contractor's Bid Forms
11. California Building Codes
12. Reference Documents

w. Conflicts in Contract Documents. Notwithstanding the orders of precedence established above, in the event of conflicts, the more stringent requirement and higher standard shall always apply.

x. Organization of Contract Documents. Organization of the Contract Documents into divisions, sections, and articles, and arrangement of drawings shall not control the Contractor in dividing The Work among subcontractors or in establishing the extent of Work to be performed by any trade.

ARTICLE 3 CONTRACT DOCUMENTS: COPIES & MAINTENANCE

Contractor will be furnished, free of charge, six (6) copies of the Contract Documents. Additional copies may be obtained at cost of reproduction.

Contractor shall maintain a clean, undamaged set of Contract Documents at the Project site.

ARTICLE 4 DETAIL DRAWINGS AND INSTRUCTIONS

a. Examination of Contract Documents. Before commencing any portion of /The Work, Contractor shall again carefully examine all applicable Contract Documents, the Project site and other information given to Contractor as to materials and methods of construction and other Project requirements. Contractor shall immediately notify the Engineer of any potential error, inconsistency, ambiguity, conflict or lack of detail or explanation. If Contractor performs, permits or causes the performance of any Work which is in error, inconstant or ambiguous or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including, without limitation, the cost of correction. In no case shall the Contractor or any subcontractor proceed with Work if uncertain as to the applicable requirements.

Additional Instructions: After notification of any error, inconsistency, ambiguity, conflict or lack of detail or explanation, the Engineer will provide any required additional

instructions by means of drawings or other written direction, necessary for proper execution of Work within a reasonable time from the receipt of such notification.

b. Quality of Parts, Construction and Finish. All parts of The Work shall be of the best quality of their respective kinds and the Contractor must use all diligence to inform itself fully as to the required construction and finish. In no case shall Contractor proceed with The Work without obtaining first from the Engineer such Approval may be necessary for the proper performance of Work.

c. Contractor's Variation from Contract Document Requirements. If it is found that the Contractor has varied from the requirements of the Contract Documents including the requirement to comply with all applicable laws, ordinances, rules and regulations, the Engineer may at any time, before or after the completion of the Work, order the improper Work removed, remade or replaced by the Contractor at the Contractor's expense.

ARTICLE 5 EXISTENCE OF UTILITIES AT THE WORK SITE

y. The District has endeavored to determine the existence of utilities at the Project site from the records of the owners of known utilities in the vicinity of the Project. The positions of these utilities as derived from such records are shown on the Plans. Notwithstanding, Contractor shall be solely liable for identifying and verifying the location of underground utilities. Nothing set forth herein shall be deemed to confer liability to the District if the underground utilities are later determined to be in a location other than that indicated in the Project drawings. The service connections to these utilities are not shown on the plans. It shall be the sole responsibility of the Contractor to determine the exact location of all service connections. The Contractor shall make its own investigations, including exploratory excavations and potholing, to determine the locations and type of service connections, prior to commencing Work which could result in damage to such utilities. The Contractor shall immediately notify the District in writing of any utility discovered in a different location than shown on the Plans or which is not shown on the Plans.

All water meters, water valves, fire hydrants, electrical utility vaults, telephone vaults, gas utility valves, and other subsurface structures shall be relocated or adjusted to final grade by the Contractor. Locations of existing utilities shown on the Plans are approximate and may not be complete. The Contractor shall be responsible for coordinating its Work with all utility companies during the construction of The Work.

Notwithstanding the above, pursuant to Section 4215 of the Government Code, the District has the responsibility to identify, with reasonable accuracy, main or trunkline facilities on the plans and specifications. In the event that main or trunkline utility facilities are not identified with reasonable accuracy in the plans and specifications made a part of the invitation for Bids, District shall assume the responsibility for their timely removal, relocation, or protection.

Contractor, except in an emergency, shall contact the appropriate regional notification center, Southern California Underground Service Alert at 1-800-227-2600 at least two (2) working days prior to commencing any excavation if the excavation will be performed in an area which is known, or reasonably should have been known, to contain subsurface installations other than the underground facilities owned or operated by the District, and obtain an inquiry identification number from that notification center. No excavation shall be commenced or carried out by the Contractor

unless such an inquiry identification number has been assigned to the Contractor or any subcontractor of the Contractor and the District has been given the identification number by the Contractor.

ARTICLE 6 SCHEDULE

z. Estimated Schedule. Within fourteen (14) days after the issuance of the Notice to Proceed, Contractor shall prepare a Contractor Schedule and shall submit this to the Engineer for Approval. The receipt or Approval of any Contractor Schedules by the Engineer or the District shall not in any way relieve the Contractor of its obligations under the Contract Documents. The Contractor is fully responsible to determine and provide for any and all staffing and resources at levels which allow for good quality and timely completion of the Project. Contractor's failure to incorporate all elements of Work required for the performance of the Contract or any inaccuracy in the Contractor Schedule shall not excuse the Contractor from performing all Work required for a completed Project within the specified Contract time period. If the required Contractor Schedule is not received by the time the first payment under the Contract is due, Contractor shall not be paid until the Contractor Schedule is received, reviewed and accepted by the Engineer.

Contractor Schedule Contents. The Contractor Schedule shall allow enough time for inclement weather. The Contractor Schedule shall indicate the beginning and completion dates of all phases of construction; critical path for all critical, sequential time related activities; and "float time" for all "slack" or "gaps" in the non-critical activities. The Contractor Schedule shall clearly identify all staffing and other resources which in the Contractor's judgment are needed to complete the Project within the time specified for completion. Contractor Schedule duration shall match the Contract time. Contractor Schedules indicating early completion will be rejected. Excess work time beyond what the Contractor deems necessary to complete the Contract should be indicated as slack time and slack time should be distributed throughout the Contractor Schedule.

Contractor Schedule Updates. The Contractor Schedule shall allow enough time for inclement weather. The Contractor Schedule shall indicate the beginning and completion dates of all phases of the Work; critical path for all critical, sequential time related activities; all move-ins necessary for proper performance of the Work; and "float time" for all "slack" or "gaps" in the non-critical activities. The Contractor's Schedule shall clearly identify all staffing and other resources which in the Contractor's judgment are needed to complete the Work within the Contract Time. The Contractor Schedule duration shall meet all critical deadlines set forth in the most current Master Schedule. A Contractor Schedule indicating early completion will be rejected.

1. Should Contractor fall behind schedule, Contractor may utilize its "float time" if needed or desired to meet critical deadlines in the Contractor's Schedule. A "bar chart" in reasonably complete detail may be deemed adequate by the Engineer and shall show critical path items. All Contractor Schedules shall be updated on a monthly basis to reflect changes in the status of the job, including weather delays. Said updates shall be provided to the Engineer before submission of Contractor's monthly Application for Payment.
2. The District may withhold progress payments or other amounts due under the Contract Documents if Contractor fails to submit an updated and accurate Contractor Schedule.

ARTICLE 7 SUBSTITUTIONS

aa. Pursuant to Public Contract Code Section 3400(b) the District may make a finding that is described in the invitation for Bids that designates certain products, things, or services by specific brand or trade name.

bb. Unless specifically designated in the Contract Documents, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such Specifications shall be deemed to be used for the purpose of facilitating the description of the material, process or article desired and shall be deemed to be followed by the words “or equal.” Contractor may, unless otherwise stated, offer for substitution any material, process or article which shall be substantially equal or better in every respect to that so indicated or specified in the Contract Documents. However, the District may have adopted certain uniform standards for certain materials, processes and articles.

cc. Any request or offer to substitute any material, process or article is to be made pursuant to the procedure and time deadlines set forth in the Contract Documents, including, but not limited to, the Special Provisions (or Special Conditions), Technical Specifications, Plans (Contract Drawings), Contract, Instructions to Bidders or Notice Inviting Bids. However, if the Contract Documents do not contain a different procedure or time deadline for requesting or offering to substitute any material, process or article, the Contractor shall:

(a) Submit requests, together with substantiating data, for substitution of any “or equal” material, process or article no later than thirty-five (35) days after award of the Contract. To facilitate the construction schedule and sequencing, some requests may need to be submitted before thirty-five (35) days after award of Contract. Provisions regarding submission of “or equal” requests shall not in any way authorize an extension of time for performance of this Contract. If a proposed “or equal” substitution request is rejected, Contractor shall be responsible for providing the specified material, process or article. The burden of proof as to the equality of any material, process or article shall rest with the Contractor. The District has the complete and sole discretion to determine if a material, process or article is an “or equal” material, process or article that may be substituted.

(b) Data required to substantiate requests for substitutions of an “or equal” material, process or article shall include a signed affidavit from the Contractor stating that, and describing how, the substituted “or equal” material, process or article is equivalent to that specified in every way except as listed on the affidavit. Substantiating data shall include any and all illustrations, specifications, and other relevant data including catalog information which describes the requested substituted “or equal” material, process or article, and substantiates that it is an “or equal” to the material, process or article. The substantiating data must also include information regarding the durability and lifecycle cost of the requested substituted “or equal” material, process or article. Failure to submit all the required substantiating data, including the signed affidavit, to the District in a timely fashion will result in the rejection of the proposed substitution.

dd. The Contractor shall be responsible for and shall, therefore, bear all costs related to a substituted “or equal” material, process or article for those substitution requests submitted to the Engineer following Contract award if the timelines set forth herein permit the submission of substitution requests after Contract award. Such substitution request costs may include District staff

time, independent consultants, any tests or inspections made necessary by the substitution request, in the sole discretion of the District, and the increased cost, if any, of the proposed “or equal” material. If the timeline set forth herein, permits a substitution request to be made prior to Contract award, the District, in its sole discretion, may require the Bidder to submit a deposit or payment for the estimated reasonable costs which may be incurred by the District staff and independent consultants in evaluating the substitution request, as a condition of reviewing the substitution request.

ee. Contractor is directed to the Special Conditions (if any) to review any findings made pursuant to Public Contract Code Section 3400.

ARTICLE 8 SHOP DRAWINGS

ff. Contractor shall check and verify all field measurements and shall submit with such promptness as to provide adequate time for review and cause no delay on his own Work or in that of any other contractor, subcontractor, or worker on the Project, six (6) copies of all shop or setting drawings, calculations, schedules, and materials list, and all other provisions required by the Contract. Contractor shall sign all submittals affirming that submittals have been reviewed and approved by Contractor prior to submission to Engineer. Each signed submittal shall affirm that the submittal meets all the requirements of the Contract Documents except as specifically and clearly noted and listed on the cover sheet of the submittal.

gg. Contractor shall make any corrections required by the Engineer, and file with the Engineer six (6) corrected copies each, and furnish such other copies as may be needed for completion of the Work. Engineer’s approval of shop drawings shall not relieve Contractor from responsibility for deviations from the Contract Documents unless Contractor has, in writing, called Engineer’s attention to such deviations at time of submission and has secured the Engineer’s written Approval. Engineer’s Approval of shop drawings shall not relieve Contractor from responsibility for errors in shop drawings.

hh. Shop drawings not meeting requirements of the Contract Documents may be rejected without review.

ARTICLE 9 SUBMITTALS

ii. Within fourteen (14) days after the issuance of the Notice to Proceed, Contractor shall prepare a preliminary schedule of submittals in a form satisfactory to the Engineer showing the content and proposed dates for delivery of submittals as required herein. Once approved, this will be the master submittal list.

Contractor shall furnish to the Engineer for approval, prior to purchasing or commencing any Work, a log of all samples, material lists and certifications, mix designs, schedules, and other submittals, as required in the specifications. The log shall indicate whether samples will be provided in accordance with other provisions of this Contract.

Contractor will provide samples and submittals, together with catalogs and supporting data required by the Engineer, to the Engineer within a reasonable time period to provide for adequate review and avoid delays in the Work.

These requirements shall not authorize any extension of time for performance of this Contract. Engineer will check and approve such samples, but only for conformance with design concept of work and for compliance with information given in the Contract Documents. Work shall be in accordance with approved samples and submittals.

Whenever called for in these Specifications, or where required by the District, the Contractor shall furnish to the District for review an electronic submittal via email to MDunbar@EBservicedistrict.com at no expense to the District. Copies of all shop drawings shall be submitted, accompanied by a letter of transmittal, and shall be addressed to the Engineer.

The submittal letter of transmittal, shall give a list of the numbers of the drawings submitted. The submittals shall be consecutively numbered in a method approved by the Engineer. All drawings must be marked with the specification number, the name of the Project, and the name of the Contractor. All drawings must be complete in every respect.

Revisions indicated on submittals shall be considered as changes necessary to meet the requirements of the Contract Drawings and Specifications and shall not be taken as the basis of claims for extra work.

jj. It is considered reasonable that the Contractor shall make a complete and acceptable submittal to the District by the second submission of a submittal item. The Contractor shall respond to each District comment on the returned submittal. The District reserves the right to withhold monies due the Contractor to cover additional costs of the Engineer's review beyond the second submission of a submittal item.

kk. Submittals not meeting requirements of the Contract Documents may be rejected without review.

ARTICLE 10 MATERIALS

ll. Except as otherwise specifically stated in the Contract Documents, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this Contract within specified time.

Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted and/or specified, and workmanship shall be of good quality.

Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of The Work and shall be stored properly and protected as required by the Contract Documents. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or Work.

No materials, supplies, or equipment for Work under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or

in any part thereof is retained by the seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in the Work and agrees upon completion of all Work to deliver the Project, to the District free from any claims, liens, or charges.

Materials shall be stored on the Project site in such manner so as not to interfere with any operations of the District or any independent contractor.

mm. All materials for use in The Work shall be handled and stored by the Contractor in such a manner as to prevent damage due to mishandling, exposure to the elements, admixture of foreign materials or from any other cause.

ARTICLE 11 CONTRACTOR'S SUPERVISION

Contractor shall continuously keep at the Project site, a competent and experienced full-time Project superintendent approved by the District. Superintendent must be able to proficiently speak, read and write in English. Any change in Project Superintendent must be approved in writing by the District prior to personnel being changed. Contractor shall continuously provide efficient supervision of the Project.

ARTICLE 12 WORKERS

nn. Contractor shall at all times enforce strict discipline and good order among its employees. Contractor shall not employ on the Project any unfit person or any one not skilled in the Work assigned to him or her.

oo. Any person in the employ of the Contractor whom the District may deem incompetent or unfit shall be dismissed from The Work and shall not be employed on this Project except with the written Approval of the District.

ARTICLE 13 SUBCONTRACTORS

pp. Contractor agrees to bind every subcontractor to the terms of the Contract Documents as far as such terms are applicable to subcontractor's portion of The Work. Contractor shall be as fully responsible to the District for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by its subcontractors, as Contractor is for acts and omissions of persons directly employed by Contractor. Nothing contained in these Contract Documents shall create any contractual relationship between any subcontractor and the District.

The District reserves the right to Approve all subcontractors. The District's Approval of any subcontractor under this Contract shall not in any way relieve Contractor of its obligations in the Contract Documents.

Prior to substituting any subcontractor listed in the Bid Forms, Contractor must comply with the requirements of the Subletting and Subcontracting Fair Practices Act pursuant to California Public Contract Code Section 4100 *et seq.*

ARTICLE 14
PERMITS AND LICENSES

Permits and licenses necessary for prosecution of The Work shall be secured and paid for by Contractor, unless otherwise specified in the Contract Documents.

Contractor shall obtain and pay for all other permits and licenses required for The Work, including excavation permit and for plumbing, mechanical and electrical work and for operations in or over public streets or right of way under jurisdiction of public agencies other than the District.

The Contractor shall arrange and pay for all off-site inspection of the Work related to permits and licenses, including certification, required by the specifications, drawings, or by governing authorities, except for such off-site inspections delineated as the District's responsibility pursuant to the Contract Documents.

Before Acceptance of the Project, the Contractor shall submit all licenses, permits, certificates of inspection and required approvals to the District.

ARTICLE 15
UTILITY USAGE

qq. All temporary utilities, including but not limited to electricity, water, gas, and telephone, used on the Work shall be furnished and paid for by Contractor. Contractor shall provide necessary temporary distribution systems, including meters, if necessary, from distribution points to points on The Work where the utility is needed. Upon completion of The Work, Contractor shall remove all temporary distribution systems.

Contractor shall provide necessary and adequate utilities and pay all costs for water, electricity, gas, oil, and sewer charges required for completion of the Project.

All permanent meters installed shall be listed in the Contractor's name until Project Acceptance. If the Contract is for construction in existing facilities, Contractor may, with prior written approval of the District, use the District's existing utilities by compensating the District for utilities used by Contractor.

ARTICLE 16
INSPECTION FEES FOR PERMANENT UTILITIES

All inspection fees and other municipal charges for permanent utilities including, but not limited to, sewer, electrical, phone, gas, water, and irrigation shall be paid for by the District. Contractor shall be responsible for coordinating, arranging for and scheduling the District's payment of inspection fees and other municipal fees relating to permanent utilities. Dates that fees are due shall be included in the initial submission of the Contractor Schedule. Contractor shall plan for sufficient time for permit application review (including time allocated for revisions of the permit application), fee payment, and final permit approval in its Schedule. Invoices for permit fees shall be submitted to the District within one (1) business day of the Contractor receiving the invoice from the permitting entity. Normally, District payment will be issued within thirty (30) calendar days of submission and acceptance of a properly formatted invoice. If authorization for accelerated payment of a specific permit fee is requested by the Contractor and granted by the District, payment can be

made within ten (10) business days. Contractor shall be responsible for allocating sufficient time in its Contractor Schedule to allow for the timely completion of the permitting forms, review and approval by the permitting agency and submission of the permitting fee. In the event that the District's timeframe for paying a permit application fee would unreasonably delay or otherwise impact the Contractor Schedule, Contractor shall pay such fees directly and may request reimbursement at actual cost from the District (without any mark-up) to avoid delaying the Project.

ARTICLE 17 TRENCHES

rr. Trenches Five (5) Feet or More in Depth. The Contractor shall submit to the Engineer, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five (5) feet or more in depth. If the plan varies from shoring system standards established by the CAL/OSHA Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations.

All Excavations. If work under this Contract involves digging trenches or other excavation, Contractor shall promptly, and before the following conditions are disturbed, notify the Engineer, in writing, of any:

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

The Engineer shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's Contract Price, or Contract Time for any part of the Work, the Engineer shall recommend that the Owner issue a Change Order under the procedures described in the Contract Documents.

If the Owner determines that physical conditions at the site are not latent or are not materially different from those indicated in Contract Documents or that no change in terms of the Contract Documents is justified, the Owner will so notify Contractor in writing, stating reasons Contractor shall not be entitled to any adjustment in the Contract Price or Contract Time regarding claimed latent or materially different site conditions (whether above or below grade) if:

1. Contractor knew of the existence of such conditions at the time Contractor submitted its Bid; or

2. Contractor should have known of the existence of such conditions as a result of having complied with the requirements of Contract Documents; or
3. The information or conditions claimed by Contractor to be latent or materially different consist of information, conclusions, opinions or deductions of the kind that precludes reliance upon; or
4. Contractor was required to give written notice of differing site conditions as specified herein and failed to do so within the time required.

In the event that a dispute arises between the Engineer and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contract Price or Contract Time, the Contractor shall not be excused from any scheduled completion date provided for by the Contract Documents, but shall proceed with all Work to be performed under the Agreement. Contractor shall file a Claim pursuant to the Dispute Resolution Procedures set forth herein and shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the Parties.

ARTICLE 18 UNANTICIPATED OBSTRUCTIONS

Underground utility lines not shown on the drawings that are encountered and which require additional labor or material by the Contractor may be considered unanticipated obstructions, subject to the review and approval of the Engineer. Contractor shall be reimbursed for unanticipated obstructions at the unit price of \$250.00 each. Unanticipated obstructions do not include abandoned facilities, utilities marked in the filed through Underground Service Alter, service laterals connected to utility lines shown on the drawings or marked in the field, or utility lines whose presence can reasonably be inferred from other field-marked or visible facilities. Contractor shall not be assessed a forfeiture for delay in completion of the Project when such delay was caused by the failure of the District to identify said utilities or for the owner of the utility to provide for the removal or relocation of existing utility facilities. The Section is intended to cover costs for unanticipated obstructions that do not cause modifications to the horizontal or vertical locations. Of the installations contemplated hereunder. Costs for unanticipated obstructions that require modifications to the horizontal or vertical locations of mainline piping or relocation of a utility will be paid for in accordance with the Extra Work provisions of these Contract Documents.

ARTICLE 19 EASEMENT REQUIREMENTS

Working hours within easements, if applicable, shall be between 8:00 a.m. and 4:30 p.m. on working days as described elsewhere within these specifications. All working areas within easements shall be left in a clean, safe and secure condition, allowing property owners full vehicle access to property at the end of each workday, except during paving operations. Storage of equipment, tools, or supplies will not be permitted on private property without written permission in the form of a signed "Waiver of Liability Agreement for Temporary Storage of Materials" submitted to the District.

**ARTICLE 20
REMOVAL OF HAZARDOUS MATERIALS**

Should Contractor encounter material reasonably believed to be toxic wastes and hazardous materials which have not been mitigated as required by Federal, State, and local regulatory requirements at the Project site, the Contractor shall immediately stop work at the affected Project site and shall report the condition to the District in writing. The District shall contract for any services required to directly remove and/or abate PCBs and other toxic wastes and hazardous materials, if required by the Project site(s), and shall not require the Contractor to subcontract for such services. The Work in the affected area shall not thereafter be resumed except by written agreement of the District and Contractor.

**ARTICLE 21
SANITARY FACILITIES**

Contractor shall provide sanitary temporary toilet buildings for the use of all workers. All toilets shall comply with local codes and ordinances. Toilets shall be kept supplied with toilet paper and shall have workable door fasteners. Hand washing facilities with soap and clean water shall be provided by the Contractor. Toilets shall be serviced no less than once weekly and shall be present in a quantity of not less than one (1) per twenty (20) workers as required by CAL-OSHA regulation. The toilets shall be maintained in a sanitary condition at all times. Use of toilet facilities in The Work under construction shall not be permitted. Any other Sanitary Facilities required by CAL-OSHA shall be the responsibility of the Contractor.

**ARTICLE 22
AIR POLLUTION CONTROL**

Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes. All containers of paint, thinner, curing compound, solvent or liquid asphalt shall be labeled to indicate that the contents fully comply with the applicable material requirements.

Without limiting the foregoing, Contractor must fully comply will all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (“SCAQMD”) and/or California Air Resources Board (“CARB”). Although the SCAQMD and CARB limits and requirements are more broad, the successful Bidder shall specifically be aware of their application to “portable equipment,” which definition is considered by SCAQMD and CARB to include any item of equipment with a fuel powered engine. Contractor will be required to indemnify District against any fines or penalties imposed by SCAQMD, CARB or any other governmental or regulatory agency for violations of applicable laws, rules, and/or regulation by the Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations.

**ARTICLE 23
FIRE PROTECTION**

ss. Contractor is responsible for providing and maintaining fire extinguishers, fire protection, fire watch and other necessary fire protection devices as may be required by the applicable regulatory agencies, the Contract Documents, and/or the District.

Contractor shall provide fire watch and be responsible for all fire prevention in connection with The Work. Open fires will not be permitted on or about the Project site.

The Contractor shall make chemical fire extinguishers available at the location where the Contractor performs any torch cutting or welding operations. Contractor shall provide the Engineer with notice prior to undertaking any torch cutting and welding operations. Contractor, if performing cutting or welding operations, shall undertake all appropriate safety measures including but not limited to a fire watch, fire extinguishers, fire blankets and shall be responsible for any damage caused by its operations.

ARTICLE 24 QUALITY CONTROL

tt. The Contractor shall submit copies of its Quality Control Plan (“QCP”) to the Engineer for Approval prior its first payment request. The QCP shall describe quality control measures that will be implemented for the Project including quality control organization; methods of performing, documenting, and enforcing quality control operations of both the primary Contractor and their subcontractors (including inspection and testing); inspections to be performed; and protocol describing corrective actions.

Contractors shall cooperate fully with quality control functions of the Engineer. This may include provision of samples for testing, allowing access to Contractor’s Work for inspections and scheduling of suitable inspection time. To this end, Contractor shall submit to all manufacturers’ certifications, mill tests, the Material Safety Data Sheets, other production documentation, concurrent with respective material deliveries, or as requested by the Engineer or required by the Contract Documents.

ARTICLE 25 CLEANING UP

uu. Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment. Contractor shall not store debris under, in, or about the premises. Upon completion of Work, Contractor shall clean the interior and exterior of the building or improvement including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected so surfaces are free from foreign material or discoloration. Contractor shall clean and polish all glass, plumbing fixtures, and finish hardware and similar finish surfaces and equipment. Contractor shall also clean all buildings, asphalt and concrete areas to the degree necessary to remove oil, grease, fuel, or other stains caused by Contractor operations or equipment.

Contractor shall fully clean up those areas of the Site where it has been working at the completion of the Work. If the Contractor fails to immediately clean up as required, the District may do so and the cost of such clean up shall be charged back to the Contractor.

Contractor is responsible for its own bulk trash (e.g., boxes, crates, lumber, etc.) removal from the Project Site. Contractor is responsible for the cost of dumpsters generated by its own rubbish and surplus material. The placement of Contractor’s dumpster(s) shall be coordinated with, and subject to approval of, the Engineer prior to delivery. The disposal of construction debris within the Project Site will not be permitted.

Contractor shall store volatile or hazardous waste materials in properly labeled, covered containers and remove from the Project Site daily. Contractor shall also prevent accumulation of wastes that create hazardous conditions and provide adequate ventilation during use of volatile or noxious substances.

Contractor shall provide cleaning materials only as recommended by manufacturer of the surface to be cleaned and coating manufacturer and shall use cleaning materials only on surfaces as recommended by cleaning material manufacturer and in accordance with instructions.

Contractor shall conduct cleaning and disposal operations in accordance with all applicable legal requirements and shall not burn or bury rubbish and waste materials on the Project Site. Contractor shall not dispose of any wastes including mineral spirits, oil, paint, drywall mud, paint thinners, or grout in storm or sanitary drains.

Contractor shall be responsible for cleaning up during and after installation of its materials and shall leave areas broom clean or better. Contractor's Work, lunch, and parking areas will be left neat and in an orderly manner on a daily basis. After every work shift, facilities must be cleaned in a manner acceptable to the Engineer.

Contractor shall, within twenty-four (24) hours from the request of the Engineer, remove excess debris from the Work and/or Project site or Engineer shall undertake such removal work at the expense of the Contractor.

Contractor shall assign one (1) workman for each (10) workers employed at this Site to Joint Clean-up crew, one (1) day per week, for the duration of the Contractor's installation period. This composite crew shall patrol the entire Site and areas of the Work to pick-up unidentifiable trash and debris. Crew sizes less than ten (10) men will provide a proportional amount of help. Cost of this composite crew is included in the Contract Price. The hours required for this operation depends on the overall level of cleanliness practiced by the Contractor throughout each workweek.

ARTICLE 26 EXCESSIVE NOISE

The Contractor shall use only such equipment on the work and in such state of repair so that the emission of sound there from is within the noise tolerance level of that equipment as established by CAL-OSHA.

The Contractor shall comply with the most restrictive of the following: (1) local sound control and noise level rules, regulations and ordinances and (2) the requirements contained in these Contract Documents, including hours of operation requirements. No internal combustion engine shall be operated on the Project without a muffler of the type recommended by the manufacturer. Should any muffler or other control device sustain damage or be determined to be ineffective or defective, the Contractor shall promptly remove the equipment and shall not return said equipment to the job until the device is repaired or replaced. Said noise and vibration level requirements shall apply to all equipment on the job or related to the job, including but not limited to, trucks, transit mixers

ARTICLE 27
TESTS AND INSPECTIONS

If the Contract Documents, the Engineer, or any instructions, laws, ordinances, or public District requires any part of The Work to be tested or Approved, Contractor shall provide the Engineer at least three (3) working days' notice of its readiness for observation or inspection. If inspection is by a public District other than the District, Contractor shall promptly inform the District of the date fixed for such inspection. Required certificates of inspection (or similar) shall be secured by Contractor. Costs for District testing and District inspection shall be paid by the District. Costs of tests for Work found not to be in compliance shall be paid by the Contractor.

If any Work is done or covered up without the required testing or approval, the Contractor shall uncover or deconstruct the Work, and the Work shall be redone after completion of the testing at the Contractor's cost in compliance with the Contract Documents.

Where inspection and testing are to be conducted by an independent laboratory or agency, materials or samples of materials to be inspected or tested shall be selected by such laboratory or agency, or by the District, and not by Contractor. All tests or inspections of materials shall be made in accordance with the commonly recognized standards of national organizations.

In advance of manufacture of materials to be supplied by Contractor which must be tested or inspected, Contractor shall notify the District so that the District may arrange for testing at the source of supply. Any materials which have not satisfactorily passed such testing and inspection shall not be incorporated into The Work.

If the manufacture of materials to be inspected or tested will occur in a plant or location outside the geographic limits of District, the Contractor shall pay for any excessive or unusual costs associated with such testing or inspection, including but not limited to excessive travel time, standby time and required lodging.

Reexamination of Work may be ordered by the District. If so ordered, Work must be uncovered or deconstructed by Contractor. If Work is found to be in accordance with the Contract Documents, the District shall pay the costs of reexamination and reconstruction. If such work is found not to be in accordance with the Contract Documents, Contractor shall pay all costs.

ARTICLE 28
PROTECTION OF WORK AND PROPERTY

The Contractor shall be responsible for all damages to persons or property that occurs as a result of The Work. Contractor shall be responsible for the proper care and protection of all materials delivered and Work performed until completion and final Acceptance by the District. All Work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as necessary. Contractor shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the Project site where Work is being performed. Contractor shall erect and properly maintain at all times, as required by field conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created in the course of construction.

In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from the Engineer, is hereby permitted to act to prevent such threatened loss or injury; and Contractor shall so act, without appeal, if so authorized or instructed by the Engineer or the District. Any compensation claimed by Contractor on account of emergency work shall be determined by and agreed upon by the District and the Contractor.

Contractor shall provide such heat, cooling, covering, and enclosures as are necessary to protect all Work, materials, equipment, appliances, and tools against damage by weather conditions.

Contractor shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, and other adjoining property and structures, and to avoid damage thereto, and Contractor shall repair any damage thereto caused by The Work operations. Contractor shall:

1. Enclose the working area with a substantial barricade, and arrange work to cause minimum amount of inconvenience and danger to the public.
2. Provide substantial barricades around any shrubs or trees indicated to be preserved.
3. Deliver materials to the Project site over a route designated by the Engineer.
4. Provide any and all dust control required and follow the Applicable air quality regulations as appropriate. If the Contractor does not comply, the District shall have the immediate District to provide dust control and deduct the cost from payments to the Contractor.
5. Confine Contractor's apparatus, the storage of materials, and the operations of its workers to limits required by law, ordinances, permits, or directions of the Engineer. Contractor shall not unreasonably encumber the Project site with its materials.
6. Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer or land surveyor, at no cost to the District.
7. Ensure that existing facilities, fences and other structures are all adequately protected and that, upon completion of all Work, all facilities that may have been damaged are restored to a condition acceptable to the District.
8. Preserve and protect from injury all buildings, pole lines and all direction, warning and mileage signs that have been placed within the right-of-way.
9. At the completion of work each day, leave the Project site in a clean, safe condition.
10. Comply with any stage construction and traffic handling plans. Access to residences and businesses shall be maintained at all times.

These precautionary measures will apply continuously and not be limited to normal working hours. Full compensation for the Work involved in the preservation of life, safety and property as above specified shall be considered as included in the prices paid for the various contract items of Work, and no additional allowance will be made therefore.

Should damage to persons or property occur as a result of The Work, Contractor shall be responsible for proper investigation, documentation, including video or photography, to adequately memorialize and make a record of what transpired. The District shall be entitled to inspect and copy any such documentation, video, or photographs.

ARTICLE 29 TRAFFIC AND PARKING

It shall be the responsibility of the Contractor to determine the extent of traffic control and prepare a traffic control plan. If required by the jurisdictional authority(ies), traffic control plan must be submitted to and approved by the jurisdictional authority(ies) before starting any construction work. The cost for this work shall be included in its Bid and no additional compensation will be allowed. Preparation, review, and approval time for the traffic control plan shall be included in the initial submission of the Contractor Schedule. The Contractor shall plan for sufficient time for application review, revisions, fee payment, and final permit approval in its Contractor Schedule.

All excavations and work areas shall be properly signed, lighted and, barricaded in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and City of Laguna Beach requirements.

The Contractor shall undertake its own traffic control measures to ensure compliance with all applicable traffic regulations. Where streets now in use are within or adjacent to the Work and or the Project site, the Contractor shall keep such streets clean and open to vehicular and pedestrian traffic and shall maintain constant access for police, fire and ambulance service.

The Contractor shall furnish flagmen when required for the Work.

ARTICLE 30 CONTRACTORS MEANS AND METHODS

Contractor is solely responsible for the means and methods utilized to Perform the Work. In no case shall the Contractor's means and methods deviate from commonly used industry standards.

ARTICLE 31 AUTHORIZED REPRESENTATIVES

The District shall designate representatives, who shall have the right to be present at the Project site at all times. The District may designate an inspector who shall have the right to observe all of the Contractor's Work. The inspector is not authorized to make changes in the Contract Documents. The inspector shall not be responsible for the Contractor's failure to carry out The Work in accordance with the Contract Documents. Contractor shall provide safe and proper facilities for such access.

**ARTICLE 32
HOURS OF WORK**

Eight (8) hours of work shall constitute a legal day's work. The Contractor and each subcontractor shall forfeit, as penalty to the District, twenty-five dollars (\$25) for each worker employed in the execution of Work by the Contractor or any subcontractor for each day during which such worker is required or permitted to work more than eight (8) hours in any one day and forty (40) hours in any week in violation of the provisions of the Labor Code, and in particular, Section 1810 to Section 1815, except as provided in Labor Code Section 1815.

Work shall be accomplished on a regularly scheduled eight (8) hour per day work shift basis, Monday through Friday unless noted otherwise in the Contract Documents and/or approved by the Engineer. The Contractor and each subcontractor shall be allowed access to the District starting at 7:30 a.m., all work to commence as soon as practical thereafter. All work is to cease no later than 4:30 p.m.

It shall be unlawful for any person to operate, permit, use, or cause to operate any of the following at the Project site, other than between the hours of 7:30 a.m. to 4:30 p.m., Monday through Friday, with no Work allowed on District-observed holidays, unless otherwise approved by the Engineer:

11. Powered Vehicles
12. Construction Equipment
13. Loading and Unloading Vehicles
14. Domestic Power Tool.

**ARTICLE 33
PAYROLL RECORDS**

A. Pursuant to Labor Code Section 1776, the Contractor and each subcontractor shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.

The payroll records described herein shall be certified and submitted by the Contractor with each payment request. The Contractor shall also provide the following:

15. A certified copy of the employee's payroll records shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
16. A certified copy of all payroll records described herein shall be made available for inspection or furnished upon request of the Department of Industrial Relations ("DIR").

The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement (“DLSE”) of the DIR or shall contain the same information as the forms provided by the DLSE.

Any copy of records made available for inspection and furnished upon request to the public shall be marked or obliterated in such a manner as to prevent disclosure of an individual’s name, address, and social security number. The name and address of the Contractor or any subcontractor shall not be marked or obliterated.

In the event of noncompliance with the requirements of this Section, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying any item or actions necessary to ensure compliance with this section. Should noncompliance still be evident after such ten (10) day period, the Contractor shall, as a penalty to the District, forfeit twenty-five dollars (\$25) for each day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the DIR, such penalties shall be withheld from Contract payments.

B. This project is subject to oversight by the Compliance Monitoring Unit (CMU). Effective January 1, 2012, the Compliance Monitoring Unit or “CMU,” a new unit within the California Department of Labor Standards and Enforcement (DLSE) established by the passage of Senate Bill X 2-9 and Assembly Bill 436, will monitor and enforce State prevailing wage requirements on certain public works projects.

ARTICLE 34 PREVAILING RATES OF WAGES

In executing the Contract Documents, Contractor certifies that it is aware of the requirements of Labor Code Sections 1720 *et seq.* and 1770 *et seq.*, as well as California Code of Regulations, Title 8, Section 16000 *et seq.* (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Since this Project involves an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and since the total compensation is one thousand dollars (\$1,000) or more, Contractor agrees to fully comply with such Prevailing Wage Laws. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. In the alternative, the Contractor may view a copy of the prevailing rates of per diem wages at the District. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor’s principal place of business and at the Project site. Contractor shall defend, indemnify and hold the District, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

The Contractor and each subcontractor shall forfeit as a penalty to the District not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate for any work done by him, or by any subcontract under him, in violation of the provisions of the Labor Code. The difference between such stipulated prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which

each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

Contractor shall post, at appropriate conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned. Contractor shall comply with all applicable provisions of Labor Code, Division 2, Part 7, Chapter 1, Article 2, commencing with Section 1770 and implementing regulations regarding labor compliance monitoring and prevailing wage requirements. Failure to comply will be considered a breach of the agreement.

The Davis-Bacon Act (Davis Bacon), as Amended applies to construction, alteration, or repair projects on public buildings or that are public works, that are funded in whole or in part with Federal funds. **PUBLIC LAW 107-217-AUG. 21, 2002 [as amended]**. (“Federal Prevailing Wage Laws”), require the payment of prevailing wage rates on certain “Public Buildings and Public Works” projects funded in whole or in part by Federal funds. This project is partially funded by Federal funds so the Davis Bacon Federal Prevailing Wage Laws apply to this project. A “Wage Determination” with the current Federal Prevailing Wage Rates will be included in the contract. Contractor shall defend, indemnify and hold the District, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Federal Prevailing Wage Laws.

Contractor shall post, at appropriate conspicuous points on the Project site, the Davis Bacon poster and the Wage Determination showing all determined general Federal Prevailing wage rates.

ARTICLE 35 EMPLOYMENT OF APPRENTICES

The Contractor’s attention is directed to the provisions of Sections 1777.5, 1777.6, and 1777.7 of the Labor Code concerning employment of apprentices by the Contractor or any subcontractor. The Contractor shall obtain a certificate of apprenticeship before employing any apprentice pursuant to Section 1777.5, 1777.6, and 1777.7 of the Labor Code. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, the Administrator of Apprenticeships, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

ARTICLE 36 NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Labor Code Section 1735 and other applicable provisions of law, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap on this Project. The Contractor will take affirmative action to insure that employees are treated during employment or training without regard to their race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap.

Employment Eligibility; Contractor. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions

include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Contract, and shall not violate any such law at any time during the term of the Contract. Contractor shall avoid any violation of any such law during the term of this Contract by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the District or its representatives for inspection and copy at any time during normal business hours. The District shall not be responsible for any costs or expenses related to Contractor's compliance with any said requirements.

Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work relating to the Project or this Contract to make the same verifications and comply with all requirements and restrictions provided for in the Immigration Reform and Control Act of 1986, as amended.

Employment Eligibility; Failure to Comply. Each person executing this Contract on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the District to terminate the Contract for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in the Immigration Reform and Control Act of 1986, as amended; (2) any misrepresentation or material omission concerning compliance with such requirements (including those verifications provided to the Contractor); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

ARTICLE 37 LABOR/EMPLOYMENT SAFETY

The Contractor shall maintain emergency first aid treatment for its employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 *et seq.*), and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations, Chapter 4.

ARTICLE 38 INSURANCE

Contractor shall procure and maintain for the duration of the contract, and for three (3) years thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by the Contractor, his agents, representatives, employees or subcontractors. Policies of insurance shall meet the minimum specifications set forth in these Contract Documents. All certificates and endorsements should be mailed to: Michael Dunbar, Emerald Bay Service District, 600 Emerald Bay, Laguna Beach, CA 92651.

ARTICLE 39
MINIMUM SCOPE AND LIMITS OF INSURANCE

Coverage shall be at least as broad as follows:

- A. **Commercial General Liability:** Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- B. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than \$5,000,000 per accident for bodily injury and property damage.
- C. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
- D. **Surety Bonds** as described in the Contract Documents.

ARTICLE 40
DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

ARTICLE 41
OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provisions:

- A. The District, its officers, officials, employees, member agencies, volunteers, construction manager and its subconsultants to be covered as insureds on the CGL and auto policies with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).
- B. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the District, its officers, officials, employees, member agencies, volunteers, construction manager and its subconsultants. Any insurance or self-insurance maintained by the City, its officers, officials, employees, member agencies, volunteers, construction manager and its subconsultants shall be excess of the Contractor's insurance and shall not contribute with it.

C. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled except after thirty (30) days prior written notice (10 days for non-payment) has been provided to the District. If such endorsement is not provided, Contractor shall be solely responsible to notify the District in writing at least thirty (30) days prior to cancellation of coverage (10 days for non-payment of premium).

ARTICLE 42
CLAIMS MADE POLICIES (IF APPLICABLE – USUALLY ONLY PROFESSIONAL LIABILITY OR POLLUTION /ASBESTOS)

If any coverage required is written on a claims-made form:

A. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work.

B. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.

C. If coverage is canceled or non-renewed, and not replaced with another claims made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.

D. A copy of the claims reporting requirements must be submitted to the District for review.

E. If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

ARTICLE 43
ADDITIONAL INSURANCE TERMS

A. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the District.

B. Waiver of Subrogation. Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the District for all work performed by the Contractor, its employees, agents and subcontractors.

C. Verification of Coverage. Contractor shall furnish the District with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them.

The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

D. Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

E. Special Risks or Circumstances. District reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

ARTICLE 44 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

A. Time for Completion/Liquidated Damages. Work shall be commenced within ten (10) days of the date stated in the District's Notice to Proceed and shall be completed by Contractor in the time specified in the Contract Documents. The District is under no obligation to consider early completion of the Project; and the Contract completion date shall not be amended by the District's receipt or acceptance of the Contractor's proposed earlier completion date. Furthermore, Contractor shall not, under any circumstances, receive additional compensation from the District (including but not limited to indirect, general, administrative or other forms of overhead costs) for the period between the time of earlier completion proposed by the Contractor and the Contract completion date. If The Work is not completed as stated in the Contract Documents, it is understood that the District will suffer damage. In accordance with Government Code Section 53069.85, being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to the District as fixed and liquidated damages, and not as a penalty, the sum stipulated in the Contract for each calendar day of delay until The Work is fully completed. Contractor and its surety shall be liable for any liquidated damages. Any money due or to become due the Contractor may be retained to cover liquidated damages.

B. Inclement Weather. Contractor shall abide the Engineer's determination of what constitutes inclement weather. Time extensions for inclement weather shall only be granted when the Work stopped during inclement weather is on the critical path of the Contractor Schedule.

C. Extension of Time. Contractor shall not be charged liquidated damages because of any delays in completion of The Work due to unforeseeable causes beyond the control and without the fault or negligence of Contractor (or its subcontractors or suppliers). Contractor shall within five (5) Days of identifying any such delay notify the District in writing of causes of delay. The District shall ascertain the facts and extent of delay and grant extension of time for completing The Work when, in its judgment, the facts justify such an extension. Time extensions to the Project shall be requested by the Contractor as they occur and without delay. No delay claims shall be permitted unless the event or occurrence delays the completion of the Project beyond the Contract completion date.

D. No Damages for Reasonable Delay. The District's liability to Contractor for delays for which the District is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall the District be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs. Damages caused by unreasonable District delay, including delays caused by items that are the responsibility of the District pursuant to Government

Code Section 4215, shall be based on actual costs only, no proportions or formulas shall be used to calculate any delay damages.

ARTICLE 45 COST BREAKDOWN AND PERIODIC ESTIMATES

Contractor shall furnish on forms Approved by the District:

Within ten (10) Days of award of the Contract a detailed estimate giving a complete breakdown of the Contract price;

A monthly itemized estimate of Work done for the purpose of making progress payments. In order for the District to consider and evaluate each progress payment application, the Contractor shall submit a detailed measurement of Work performed and a progress estimate of the value thereof before the tenth (10th) Day of the following month.

Contractor shall submit, with each of its payment requests, an adjusted list of actual quantities, verified by the Engineer, for unit price items listed, if any, in the Bid Form. Following the District's Acceptance of the Work, the Contractor shall submit to the District a written statement of the final quantities of unit price items for inclusion in the final payment request.

The District shall have the right to adjust any estimate of quantity and to subsequently correct any error made in any estimate for payment.

Contractor shall certify under penalty of perjury, that all cost breakdowns and periodic estimates accurately reflect the Work on the Project.

ARTICLE 46 MOBILIZATION

A. When a Bid item is included in the Bid Form for mobilization, the costs of Work in advance of construction operations and not directly attributable to any specific Bid item will be included in the progress estimate ("Initial Mobilization"). When no Bid item is provided for "Initial Mobilization," payment for such costs will be deemed to be included in the other items of The Work.

Payment for Initial Mobilization based on the lump sum provided in the Bid Form, which shall constitute full compensation for all such Work. No payment for Initial Mobilization will be made until all of the listed items have been completed to the satisfaction of the Engineer. The scope of the Work included under Initial Mobilization shall include, but shall not be limited to, the following principal items:

17. Obtaining and paying for all bonds, insurance, and permits.
18. Moving on to the Project site of all Contractor's plant and equipment required for first month's operations.
19. Installing temporary construction power, wiring, and lighting facilities.
20. Establishing fire protection system.

21. Developing and installing a construction water supply.
22. Providing and maintaining the field office trailers for the Contractor and the Engineer, complete, with all specified furnishings and utility services including telephones, telephone appurtenances, computer and printer, and copying machine.
23. Providing on-site communication facilities for the Owner and the Engineer, including telephones, radio pagers, and fax machines.
24. Providing on-site sanitary facilities and potable water facilities as specified per Cal-OSHA and these Contract Documents.
25. Furnishing, installing, and maintaining all storage buildings or sheds required for temporary storage of products, equipment, or materials that have not yet been installed in the Work. All such storage shall meet manufacturer's specified storage requirements, and the specific provisions of the specifications, including temperature and humidity control, if recommended by the manufacturer, and for all security.
26. Arranging for and erection of Contractor's work and storage yard.
27. Posting all OSHA required notices and establishment of safety programs per Cal-OSHA.
28. Full-time presence of Contractor's superintendent at the job site as required herein.
29. Submittal of Construction Contractor Schedule as required by the Contract Documents.
30. Preparation, submission, review, revision, and approval of submittals.

ARTICLE 47
BENEFICIAL USE AND PROJECT ACCEPTANCE

A. The District reserves the right to occupy or utilize any portion of The Work at any time before completion, and such occupancy or use shall not constitute Acceptance of any part of Work covered by this Contract. This use shall not relieve the Contractor of its responsibilities under the Contract, nor shall it trigger any warranty or guarantee time periods. Occupancy shall also not constitute commencement of any statute of limitation related to defective workmanship.

The Contractor must obtain Final Acceptance from all required agencies and jurisdictions within thirty (30) days of Notice of Final Inspection. Failure to obtain will result in the District's withholding of sufficient contract funds to independently obtain outside agency acceptance. The District also retains all rights to seek additional compensation from Contractor for any and all damage, including legal fees, incurred because of Contractor's failure to obtain outside agency acceptance as required by the Contract.

Within 10 days after date of acceptance, the District shall record a Notice of Completion in the County Recorder's office.

ARTICLE 48 RECORD ("AS BUILT") DRAWINGS

A. Contractor shall prepare and maintain a complete set of record drawings (herein referred to as "as-builts") and shall require each trade to prepare its own as-builts. The as-builts must show the entire site for each major trade, including but not limited to water, sewer, electrical, data, telephone, cable, fire alarm, gas and plumbing. Contractor shall mark the as-builts to show the actual installation where the installation varies from the Work as originally shown. Contractor shall mark whichever drawings are most capable of showing conditions fully and where shop drawings are used, Contractor must record a cross-reference at the corresponding location on the contract drawings. Contractor shall give particular attention to concealed elements that would be difficult to measure and record at a later date. Contractor shall use colors to distinguish variations in separate categories of The Work.

Contractor shall note related change order numbers where applicable. Contractor shall organize as-builts into manageable sets, bound with durable paper cover sheets and shall print suitable title, dates and other identification on the cover of each set. Contractor to also provide an electronic version of the as-builts. The suitability of the as-builts will be determined by the Engineer.

The as-builts shall remain in the Site construction office or available daily at the Site and be current and available for viewing. The as-builts shall be verified by the Inspector as a requirement prior to submittal of pay estimates.

ARTICLE 49 RESOLUTION OF CONSTRUCTION CLAIMS

A. In accordance with Public Contract Code Sections 20104 *et seq.* and other applicable law, public works claims of \$375,000 or less which arise between the Contractor and the District shall be resolved under the following the statutory procedure unless the District has elected to resolve the dispute pursuant to Public Contract Code Section 10240 *et seq.*

All Claims: All claims shall be submitted in writing and accompanied by substantiating documentation. Claims must be filed on or before the date of final payment unless other notice requirements are provided in the contract. "Claim" means a separate demand by the claimant for (1) a time extension, (2) payment of money or damages arising from work done by or on behalf of the claimant and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled, or (3) an amount the payment of which is disputed by the District.

Claims Under \$50,000: The District shall respond in writing to the claim within forty-five (45) days of receipt of the claim, or, the District may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the District may have. If additional information is needed thereafter, it shall be provided upon mutual agreement of the District and the claimant. The District's written response shall be submitted fifteen (15) days after receiving the additional documentation, or within the same period of time taken by the claimant to produce the additional information, whichever is greater.

Claims over \$50,000 but less than or equal to \$375,000: The District shall respond in writing within sixty (60) days of receipt, or, may request in writing within thirty (30) days of receipt of the claim, any additional documents supporting the claim or relating to defenses or claims the District may have against the claimant. If additional information is needed thereafter, it shall be provided pursuant to mutual agreement between the District and the claimant. The District's response shall be submitted within thirty (30) days after receipt of the further documents, or within the same period of time taken by the claimant to produce the additional information or documents, whichever is greater. The Contractor shall make these records and documents available at all reasonable times, without any direct charge.

The Contractor will submit the claim justification in the following format:

31. Summary of claim merit and price, and Contract clause pursuant to which the claim is made.
32. List of documents relating to claim including, but not limited to:
 - (a) Specifications
 - (b) Drawings
 - (c) Clarifications (Requests for Information)
 - (d) Schedules
 - (e) Other
33. Chronology of events and correspondence
34. Analysis of claim merit
35. Analysis of claim cost
36. Analysis of time impact analysis in CPM format
37. Cover letter and certification of validity of the claim

If the claimant disputes the District's response, or if the District fails to respond within the statutory time period(s), the claimant may so notify the District within fifteen (15) days of the receipt of the response or the failure to respond, and demand an informal conference to meet and confer for settlement. Upon such demand, the District shall schedule a meet and confer conference within thirty (30) Days.

If following the meet and confer conference, the claim or any portion thereof remains in dispute, the claimant shall file a claim pursuant to Government Code 900 *et seq.* and Government Code 910 *et seq.* For purposes of those provisions, the time within which a claim must be filed shall be tolled from the time the claimant submits the written claim until the time the claim is denied, including any time utilized for the meet and confer conference.

Submission of a claim, properly certified, with all required supporting documentation, and written rejection or denial of all or part of the claim by District, is an express condition precedent to any action, proceeding, litigation, suit, general conditions claim, or demand for arbitration by Contractor.

ARTICLE 50
DISTRICT'S RIGHT TO TERMINATE CONTRACT

A. Termination for Cause: The District may, without prejudice to any other right or remedy, serve written notice upon Contractor of its intention to terminate this Contract if the Contractor: (i) refuses or fails to prosecute The Work or any part thereof with such diligence as will ensure its completion within the time required; (ii) fails to complete The Work within the required time; (iii) should file a bankruptcy petition or be adjudged a bankrupt; (iv) should make a general assignment for the benefit of its creditors; (v) should have a receiver appointed; (vi) should persistently or repeatedly refuse or fail to supply enough properly skilled workers or proper materials to complete the work; (vii) should fail to make prompt payment to subcontractors or for material or labor; (viii) persistently disregard laws, ordinances, other requirements or instructions of the District; or (ix) should violate any of the provisions of the Contract Documents.

The notice of intent to terminate shall contain the reasons for such intention to terminate. Unless within ten (10) Days after the service of such notice, such condition shall cease or satisfactory arrangements (acceptable to the District) for the required correction are made, this Contract shall be terminated. In such case, Contractor shall not be entitled to receive any further payment until the Project has been finished. The District may take over and complete The Work by any method it may deem appropriate. Contractor and its surety shall be liable to the District for any excess costs or other damages incurred by the District to complete the Project. If the District takes over The Work, the District may, without liability for so doing, take possession of and utilize in completing The Work such materials, appliances, plant, and other property belonging to the Contractor as may be on the Project site.

Termination for Convenience: The District may terminate performance of The Work in whole or, in part, if the District determines that a termination is in the District's interest.

The Contractor shall terminate all or any part of The Work upon delivery to the Contractor of a Notice of Termination specifying that the termination is for the convenience of the District, the extent of termination, and the effective date of such termination.

After receipt of Notice of Termination, and except as directed by the District, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:

38. Stop Work as specified in the Notice.
39. Complete any Work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.
40. Leave the property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Documents is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.
41. Terminate all subcontracts to the extent that they relate to the portions of The Work terminated.

42. Place no further subcontracts or orders, except as necessary to complete the remaining portion of The Work.
43. Submit to the District, within ten (10) Days from the effective date of the Notice of Termination, all of the documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials and equipment through the Effective Date of the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the District 's exercise of its right to terminate this Contract pursuant to this clause, which costs the Contractor is authorized under the Contract Documents to incur, shall: (i) be submitted to and received by the District no later than thirty (30) Days after the Effective Date of the Notice of Termination; (ii) describe the costs incurred with particularity; and (iii) be conspicuously identified as "Termination Costs Occasioned by the District's Termination for Convenience."
44. These provisions are in addition to and not in limitation of any other rights or remedies available to the District.

Notwithstanding any other provision of this Article, when immediate action is necessary to protect life and safety or to reduce significant exposure or liability, the District may immediately order Contractor to cease Work on the Project until such safety or liability issues are addressed to the satisfaction of the District or the Contract is terminated.

ARTICLE 51 WARRANTY AND GUARANTEE

A. Contractor warrants that all materials and equipment furnished under this Contract shall be new unless otherwise specified in the Contract Documents; and that all Work conforms to the Contract Document requirements and is free of any defect whether performed by the Contractor or any subcontractor or supplier.

Unless otherwise stated, all warranty periods shall begin upon the filing of the Notice of Completion. Unless otherwise stated, the warranty period shall be for one (1) year.

The Contractor shall remedy at its expense any damage to District -owned or controlled real or personal property.

Contractor shall furnish the District with all warranty and guarantee documents prior to final Acceptance of the Project by the District.

The District shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. The Contractor shall within ten (10) Days after being notified commence and perform with due diligence all necessary Work. If the Contractor fails to promptly remedy any defect, or damage; the District shall have the right to replace, repair, or otherwise remedy the defect, or damage at the Contractor's expense.

In the event of any emergency constituting an immediate hazard to health, safety, property, or licensees, when caused by Work of the Contractor not in accordance with the Contract requirements,

the District may undertake at Contractor's expense, and without prior notice, all Work necessary to correct such condition.

With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for Work performed and Materials furnished under this Contract, the Contractor shall:

45. Obtain for District all warranties that would be given in normal commercial practice;
46. Require all warranties to be executed, in writing, for the benefit of the District; and
47. Enforce all warranties for the benefit of the District, unless otherwise directed in writing by the District.

This Article shall not limit the District's rights under this Contract or with respect to latent defects, gross mistakes, or fraud. The District specifically reserves all rights related to defective work, including but not limited to the defect claims pursuant to California Code of Civil Procedure Section 337.15.

ARTICLE 52 DOCUMENT RETENTION & EXAMINATION

A. In accordance with Government Code Section 8546.7, records of both the District and the Contractor shall be subject to examination and audit by the State Auditor General for a period of three (3) years after final payment.

Contractor shall make available to the District any of the Contractor's other documents related to the Project immediately upon request of the District.

In addition to the State Auditor rights above, the District shall have the right to examine and audit all books, estimates, records, contracts, documents, Bid documents, subcontracts, and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the modification in order to evaluate the accuracy and completeness of the cost or pricing data at no additional cost to the District, for a period of four (4) years after final payment.

SEPARATE 53 SEPARATE CONTRACTS

A. The District reserves the right to let other contracts in connection with this Work or on the Project site. Contractor shall permit other contractors reasonable access and storage of their materials and execution of their work and shall properly connect and coordinate its Work with theirs.

B. To ensure proper execution of its subsequent Work, Contractor shall immediately inspect work already in place and shall at once report to the Engineer any problems with the work in place or discrepancies with the Contract Documents.

C. Contractor shall ascertain to its own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by the District in prosecution of the Project to the end that Contractor may perform this Contract in the light of such other contracts, if any.

Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at site of the Project. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on the Project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, the Engineer shall decide which Contractor shall cease Work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. The District shall not be responsible for any damages suffered or for extra costs incurred by Contractor resulting directly or indirectly from award, performance, or attempted performance of any other contract or contracts on the Project site.

**ARTICLE 54
NOTICE AND SERVICE THEREOF**

All notices shall be in writing and either served by personal delivery or mailed to the other party as designated in the Bid Forms. Written notice to the Contractor shall be addressed to Contractor's principal place of business unless Contractor designates another address in writing for service of notice. Notice to District shall be addressed to the District as designated in the Notice Inviting Bids unless District designates another address in writing for service of notice. Notice shall be effective upon receipt or five (5) Days after being sent by first class mail, whichever is earlier. Notice given by facsimile shall not be effective unless acknowledged in writing by the receiving party.

**ARTICLE 55
NOTICE OF THIRD PARTY CLAIMS**

Pursuant to Public Contract Code Section 9201, the District shall provide Contractor with timely notification of the receipt of any third-party claim relating to the Contract.

**ARTICLE 56
STATE LICENSE BOARD NOTICE.**

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

**ARTICLE 57
INTEGRATION**

A. Oral Modifications Ineffective. No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the Contract Documents.

B. Contract Documents Represent Entire Contract. The Contract Documents represent the entire agreement of the District and Contractor.

**ARTICLE 58
ASSIGNMENT**

Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Contract or any part thereof including any claims, without prior written consent of the District. Any assignment without the written consent of the District shall be void. Any assignment of money due or to become due under this Contract shall be subject to a prior lien for services rendered or Material supplied for performance of Work called for under the Contract Documents in favor of all persons, firms, or corporations rendering such services or supplying such Materials to the extent that claims are filed pursuant to the Civil Code, the Code of Civil Procedure or the Government Code.

**ARTICLE 59
CHANGE IN NAME AND NATURE OF CONTRACTOR'S LEGAL ENTITY**

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the District in order that proper steps may be taken to have the change reflected on the Contract.

**ARTICLE 60
ASSIGNMENT OF ANTITRUST ACTIONS**

Pursuant to Section 7103.5 of the Public Contract Code, in entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, Contractor or subcontractor offers and agrees to assign to the District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (chapter 2 (commencing with Section 16700) of part 2 of division 7 of the Business and Professions Code), arising from the purchase of goods, services, or materials pursuant to this Contract or any subcontract. This assignment shall be made and become effective at the time the District makes final payment to the Contractor, without further acknowledgment by the Parties.

**ARTICLE 61
PROHIBITED INTERESTS**

No District official or representative who is authorized in such capacity and on behalf of the District to negotiate, supervise, make, accept, or approve, or to take part in negotiating, supervising, making, accepting or approving any engineering, inspection, construction or material supply contract or any subcontract in connection with construction of the Project, shall be or become directly or indirectly interested financially in the Contract.

**ARTICLE 62
LAWS AND REGULATIONS**

A. Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules and regulations bearing on conduct of Work as indicated and specified by their terms. References to specific laws, rules or regulations in this Contract are for reference purposes only, and shall not limit or affect the applicability of provisions not specifically mentioned. If Contractor observes that drawings and specifications are at variance therewith, he shall promptly notify the Engineer in writing and any necessary changes shall be adjusted as provided for in this Contract for changes in Work. If Contractor performs any Work knowing it to be contrary to such

laws, ordinances, rules and regulations, and without such notice to the Engineer, he shall bear all costs arising there from.

B Contractor shall be responsible for familiarity with the Americans with Disabilities Act (“ADA”) (42 U.S.C. § 12101 *et seq.*). The Work will be performed in compliance with ADA laws, rules and regulations. Contractor shall comply with the Historic Building Code, including, but not limited to, as it relates to the ADA, whenever applicable.

C. Contractor acknowledges and understands that, pursuant to Public Contract Code Section 20676, sellers of “mined material” must be on an approved list of sellers published pursuant to Public Resources Code Section 2717(b) in order to supply mined material for this Contract.

ARTICLE 63 PATENT FEES OR ROYALTIES

The Contractor shall include in its Bid amount the patent fees or royalties on any patented article or process furnished or used in the Work. Contractor shall assume all liability and responsibility arising from the use of any patented, or allegedly patented, materials, equipment, devices or processes used in or incorporated with The Work, and shall defend, indemnify and hold harmless the District, its officials, officers, agents, employees and representatives from and against any and all liabilities, demands, claims, damages, losses, costs and expenses, of whatsoever kind or nature, arising from such use.

ARTICLE 64 OWNERSHIP OF DRAWING

All Contract Documents furnished by the District are District property. They are not to be used by Contractor or any subcontractor on other work nor shall Contractor claim any right to such documents. With exception of one (1) complete set of Contract Documents, all documents shall be returned to the District on request at completion of The Work.

ARTICLE 65 NOTICE OF TAXABLE POSSESSORY INTEREST

In accordance with Revenue and Taxation Code Section 107.6, the Contract Documents may create a possessory interest subject to personal property taxation for which Contractor will be responsible.

ARTICLE 66 ATTORNEYS’ FEES

If any action at law or in equity is necessary to enforce or interpret the terms of this Contract, the prevailing party shall be entitled to reasonable attorneys’ fees, costs and necessary disbursements in addition to any other relief to which it may be entitled. If any action is brought against the Contractor or any subcontractor to enforce a Stop Notice or Notice to Withhold, which names the District as a party to said action, the District shall be entitled to reasonable attorneys’ fees, costs and necessary disbursements arising out of the defense of such action by the District. The District shall be entitled to deduct its costs for any Stop Notice filed, whether court action is involved or not.

SECTION E - SPECIAL CONDITIONS

ARTICLE 2. PUBLIC CONTRACT CODE SECTION 3400 (B) FINDINGS

THE DISTRICT HAS NOT MADE FINDINGS PURSUANT TO PUBLIC CONTRACT CODE SECTION 3400(B) REGARDING THE USE OF SPECIFIC MATERIALS, PRODUCTS, THINGS, AND/OR SERVICES THAT MUST BE UTILIZED FOR THE PROJECT.

ARTICLE 3. PROJECT DESCRIPTION

The Contractor shall construct FULL-LENGTH SEWER LINING REPAIRS all in accordance with Special Conditions, Specifications, and as set forth in the Bidding Sheet herein under Bid Schedule.

ARTICLE 4. CONTRACT COMPLETION SCHEDULE

All work under this contract shall be completed within sixty (60) calendar days from the date the District issues Contractor **“Notice to Proceed.”** This schedule includes Saturdays, Sundays, and Holidays. Contractor shall further note the following Contract Completion Schedule Requirements relating to each phase of the contract:

The Contractor shall prepare and maintain a construction schedule for the entire job. The Contractor shall submit a schedule for all phases of the contract with sufficient detail. The Contractor shall submit an updated schedule to the District each month following the pre-construction meeting along with certified payroll with the monthly progress payment request. All schedule submittals shall be updated to the latest information possible. Each submittal shall indicate completed items, and highlight any delays from the previous submittal for whatever reason. Corrective actions shall be included in the submittal for each late item. Status of corrective actions shall be updated and submitted until the action is complete. The District reserves the right to amend corrective actions necessary for all scheduling issues. The Contractor must submit a proposed project schedule at least two days prior to the pre-construction conference.

Unless otherwise ordered in writing by the District, Contractor is hereby authorized to arrange, prepare and deliver submittals per the technical specifications immediately upon receipt of “Notice of Award.” Submittals are due no later than ten (10) calendar days following issuance of the “Notice to Proceed.” The contract must be completed within the specified time frame.

If Contractor does not conform to the above listed Contract Completion Schedule, the District will enforce the Agreement in the General Provisions titled “Liquidated Damages.” The Contract completion schedule includes two (2) days for inclement weather (refer to Article 49 of the General Conditions Time for Completion/Liquidated Damage and Article 2 and Article 7 of the Contract for additional requirements for schedule, coordination and liquidated damages).

The contract must be completed within the time allowed in the contract. There are no major interim milestones established for this contract.

**ARTICLE 5.
LOCATION OF CONTRACT WORK SITES**

The Contract work site is within The Emerald Bay Community and within the District's easements at specified locations and within Caltrans right-of-way. Refer to the Location Map attached in Appendix A.

**ARTICLE 6.
DESIGNATED CONTRACTOR STAGING AND MATERIALS STORAGE AREAS**

There is no specific contractor staging area or material storage area identified for this project. It is anticipated that no equipment or material can be stored within the right-of-way outside of the special work hours identified for this project. It is the Contractor's responsibility to locate and contract for a suitable staging area, material storage area and/or contractor yard in order to effectively execute the Contract work. The Contractor shall provide to the District written documentation of approval of any staging area, storage area or contractor yard from the owner of said property. All costs for this task shall be included in the bid proposal and no additional compensation will be allowed.

**ARTICLE 7.
ACCESS TO THE PROJECT SITE**

Construction under these Special Requirements and Basic Specifications, is located upon land under the jurisdiction of the following organizations.

- Emerald Bay Community Association
- Emerald Bay Service District

The Contractor must cooperate with the District on scheduling for any other District operations or repairs required on the course of the contract period.

**ARTICLE 8.
PROPERTY RIGHTS AND RESTRICTIONS**

The Contractor is responsible for acquiring all required encroachment permits in order to construct with in any public or private right of way.

**ARTICLE 9.
REQUIRED PERMITS AND FEES**

Contractor shall secure at his own expense all permits and/or licenses necessary for the prosecution of the contract work. Contractor shall comply with the applicable requirements of all permits and/or licenses that have been secured by either the District or the Contractor. All costs for complying with the permit(s) shall be included in the bid proposal and no additional compensation will be allowed.

**ARTICLE 10.
PRE-CONSTRUCTION CONFERENCE**

The Contractor and their field superintendent will be required to attend a pre-construction conference prior to beginning construction. The Contractor shall contact the District to set up this conference shortly after execution of the contract, but no later than two weeks following the Notice to Proceed.

The Contractor shall be required to provide to the District an electronic submittal via email as described in Special Condition Article 17 and 18) of the Construction Schedule at least two (2) business days prior to the pre-construction conference. The schedule shall conform to the Completion Schedule stated in these specifications and show dates for beginning and completing all aspects of contract work (i.e. milestones).

**ARTICLE 11.
PROTECTION OF EXISTING UTILITIES OR FACILITIES**

Contractor shall understand that the existing underground facilities as shown on Drawings are from record, and only limited field checks were made to establish their exact location. Also, other underground facilities may exist. Therefore, it shall be Contractor's responsibility to locate, protect, and preserve, etc., ALL existing underground facilities. All costs associated with these activities shall be included in the Bid Proposal and no additional compensation will be allowed.

**ARTICLE 12.
STATE AND FEDERAL REQUIREMENTS**

Requirements for compliance are referenced herein. See Appendix D for the documents associated with this Contract. The Contractor shall comply with costs for compliance and include costs in bid prices and at no additional compensation or time will be allowed.

It shall be the responsibility of the Contractor and all Subcontracts to be in compliance with State and Federal Grant Funding Requirements in accordance Appendix D.

**ARTICLE 12
CONSTRUCTION WATER**

The Contractor shall arrange for and furnish construction water for the project from a water purveyor(s) located in the general vicinity of the contract work. The Contractor shall pay for, furnish and install all necessary piping, fittings, connections, pumps, water trucks, gauges, meters, etc., in accordance with regulations of the water purveyor(s), required to provide approved facilities to deliver construction water to the jobsite for construction purposes. The Contractor shall pay any and all standard deposit fees for use of the meter and shall return said meters in good condition and working order to the water purveyor(s). All costs for providing construction water shall be included in the bid proposal and no additional compensation will be allowed.

Water for performance testing of the turnouts will be provided by the District at no cost to the Contractor.

**ARTICLE 13
INSPECTION**

The District will make the necessary arrangements for inspection of Contractor's work to support the Contractor's schedule on a regular 40-hour work week during normal work hours allowed in the contract. The financial burden for added inspection shall be the responsibility of the Contractor. The prevailing hourly rates for inspection are on file with the District. Such prevailing rates will be applied at one and one half (1-1/2) times the regular rates for periods over forty (40) hours per week.

**ARTICLE 14
MATERIAL FURNISHED BY CONTRACTOR**

The Contractor shall furnish all materials necessary to complete the contract work, all in strict accordance with these Specifications.

In addition, the Contractor shall furnish all labor, skills and services required for the installation of all materials in order to provide the District with a complete project, in accordance with these Specifications.

**ARTICLE 15
DATA TO BE SUBMITTED BY CONTRACTOR**

As specified in Article 9 of the General Conditions, the Contractor is authorized to arrange, prepare and deliver all required submittals immediately upon receipt of "Notice of Award". Said delivery shall take place no later than fourteen (14) calendar days following issuance of the "Notice to Proceed". All required submittals per the Technical Specifications must be reviewed and approved by the District before any materials are purchased and/or shop fabrication is started. The Contractor shall submit electronic submittals via email. Refer to the "Certified Data Sheet" in the bid forms for list of materials to be submitted.

The District's approval of the Contractor's submittal data shall not relieve the Contractor from having the entire responsibility for the correctness of details and dimensions. The Contractor shall assume all responsibility and risk for misfits due to errors in the Contractor's submittal data.

In addition to the above, the Contractor shall submit to the District for approval, manufacturers' data sheets, brochures, etc. for all mechanical equipment, valves, air valves, blow off, etc.

**ARTICLE 16
MISCELLANEOUS SPECIAL CONDITIONS**

a. Contractor Progress Payments. Invoicing and requests for payment for completed portions of the work shall be in conformance with the Contract Article 4 through Article 6 and other provisions of this specification, utilizing the District's standard Progress Billing Form as shown in Contract Exhibit B. The District will provide an electronic copy of the form at the beginning of the project.

b. Contractor's Field Superintendent. The Contractor shall be required to have a field superintendent, from his organization at the job site during construction activities, to receive

directions or instructions from the District. Contractor shall provide the District with a 24-hour emergency phone number for field superintendent and emergency contact prior to beginning of construction.

**ARTICLE 17
SPECIFIC FINDINGS**

The District has not made findings pursuant to Public Contract Code Section 3400(b) regarding the use of specific materials, products, things, and/or services that must be utilized for the Project.

**ARTICLE 18
TECHNICAL SPECIFICATIONS**

The technical specifications listed in Section F are incorporated herein by reference as if set forth in their entirety and the latest available version has been included in the technical specifications. However the latest version available at the time of bid shall apply for all sections.

**ARTICLE 19
APPENDICES**

Contractor shall adhere to attached appendices.

SECTION E - TECHNICAL SPECIFICATIONS

THE FOLLOWING TECHNICAL SPECIFICATIONS ARE INCORPORATED HEREIN BY REFERENCE AS IF SET FORTH IN THEIR ENTIRETY:

[TO COME]

SECTION F - PLANS AND DRAWINGS

THE FOLLOWING PLANS AND DRAWINGS ARE INCORPORATED HEREIN BY REFERENCE AS IF SET FORTH IN THEIR ENTIRETY:

[TO COME]