

# REGIONAL WASTE MANAGEMENT AUTHORITY

Serving Sutter County, Yuba County, Live Oak, Marysville, Wheatland and Yuba City



## MEETING NOTICE & AGENDA

**DATE:** Thursday, April 20, 2023

**TIME:** 4:30 p.m.

**PLACE:** Yuba County Government Center  
Board of Supervisors Chambers  
915 Eighth Street  
Marysville, California

### I. Call to Order & Roll Call

Bains (Chairman), Buttacavoli, Shaw (Vice Chairman), Teter, Vasquez and Woten

### II. Public Business from the Floor

Members of the public may address the Authority on items of interest that are within the jurisdiction of the Authority and are not on the agenda for this meeting. No action may be taken on items that do not appear on the posted agenda.

### III. Consent Calendar

All matters listed under the Consent Calendar are considered to be routine and can be enacted in one motion. There will be no separate discussion of these items prior to the time the Board votes on the motion unless members of the Board, staff or public request specific items to be discussed or removed from the Consent Calendar for specific action.

- A. Minutes from the Meeting of March 16, 2023. (Attachment)
- B. Disbursement List for March 2023. (Attachment)

### IV. Reports

#### A. Local Government Waste Tire Amnesty Grant Program (TA7 Cycle, FY 2023/24). (Attachment)

RECOMMENDATION: Adopt Resolution No. 1-23 authorizing the submittal of a regional application under the Local Government Waste Tire Amnesty Grant Program (TA7 Cycle, FY 2023/24) as proposed.

#### B. Regional Waste Management Authority Budget Adoption Procedures and Contracting Guidelines. (Attachment)

RECOMMENDATION: Adopt Resolution No. 2-23 adopting Regional Waste Management Authority Budget Adoption Procedures and Contracting Guidelines as proposed.

**C. Yuba-Sutter Household Hazardous Waste Facility Concrete Pavement Repair Project Draft Bid Packet.**  
(Attachment)

RECOMMENDATION: Approve and authorize the release of the Yuba-Sutter Household Hazardous Waste Facility Concrete Pavement Repair project bid packet as proposed.

**V. Other Business**

**VI. Adjournment**

**THE NEXT REGULAR MEETING IS SCHEDULED FOR 4:30 P.M. ON THURSDAY, MAY 25, 2023  
IN THE YUBA COUNTY BOARD OF SUPERVISORS CHAMBERS.**

**AGENDA ITEM III – A**

**REGIONAL WASTE MANAGEMENT AUTHORITY  
MEETING MINUTES  
March 16, 2023**

**I. Call to Order and Roll Call**

The meeting was called to order by Vice Chairman Bains at 5:07 p.m.

Present: Bains, Blaser (for Vasquez) Buttacavoli, Shaw, Teter, and Woten  
Absent: Vasquez

**II. Board Business**

**A. Nomination and Election of Board Officers for 2023**

Director Woten made a motion to nominate Director Karm Bains as Chairman, Director Shaw seconded the motion and it carried unanimously.

Director Woten made a motion to nominate Director David Shas as Vice-Chair, Director Buttacavoli seconded the motion and it carried unanimously.

**B. Statements of Economic Interest**

Scholz noted that this is a reminder of the requirement to file yearly statements with the FPPC. Form 700 is due to the FPPC by April 1st for ongoing members or alternates and within 30 days from appointment for new members or alternates. A copy of the form should be provided to Lisa O'Leary, Board Clerk, for public record requests and any related questions should be directed to her.

**II. Public Business from the Floor**

None.

**IV. Consent Calendar**

Director Shaw made a motion to approve the Consent Calendar. Director Buttacavoli seconded the motion and it carried unanimously.

**V. Reports**

**A. FY 2021/2022 RWMA Financial Audit Report.**

Scholz presented Simone Reed to give the update. Simone stated that the 2021/2022 financial audit report has no audit findings or comments as in previous years.

Director Woten made a motion to adopt the FY 2021/2022 RWMA financial Audit Report as submitted. Director Shaw seconded the motion and it carried unanimously.

**B. Annual Investment Policy Review.**

Scholz presented Simone Reed to give the update. Simone state this is our annual investment policy review and there are no changes from the previous year.

**C. Regional Waste Management Authority Bylaws.**

Scholz stated in pursuant to the RWMA and joint powers authority adopted on November 1, 2021, staff has prepared for the board to review and approve the bylaws to govern its activities.

The proposed bylaws address how meetings will be called and conducted, budgeting procedures as well as contracting guidelines which will be adopted by a resolution at the next meeting.

Director Shaw asked if the bylaws where shown to municipality members. Scholz stated that the Board of Directors is the only ones who have seen the bylaws.

Director Shaw made a motion to adopt bylaws as presented. Director Buttacavoli seconded the motion and it carried unanimously.

**D. Transition Plan Presentation.**

Scholz presented a presentation regarding the short-term transition plan for RWMA. Scholz stated that RWMA will become an independent organization by June 30, 2023, that is when our daily ongoing support we receive from Yuba-Sutter Transit will end. We are in the process of looking for a local office and working on the FY 2024 budget, approving the bylaws and understanding all the grant the RWMA currently has.

RWMA need to identify staffing needs and budgeting for the new staffing needs. We will also need to create job descriptions, pay scale, etc. and recruit and onboard new staff. We are looking at hiring an Admin/Payroll/Office Manager and an Environmental Program Manager. We will continue to utilize existing consultant on projects such as Annual CalRecycle Report and grant opportunities.

We are looking for on office space for RWMA in downtown Marysville near the new Recology Office. Hoping to move into new office space no later than June 2023.

RWMA budget will be ready for approval at the May 2023 board meeting. Scholz stated he has been working with counsel to review existing governance for any missing or needed updates. No change to the RWMA Surcharge fee will be needed for FY2024.

Over the next twelve months we will be working on getting in compliance with SB 1383/AB341 and AB 1826 are numbers are lower than they need to be. We are working with Recology to bring up our compliance levels. Scholz stated he will be developing a 5-10 year was plan for the Sutter/Yuba Counties.

**VI. Other Business**

None.

**VII. Adjournment.**

The meeting was adjourned at 5:49 p.m.

**The next regular meeting of the Regional Waste Management Authority is scheduled for 4:30 p.m. on Thursday, April 20, 2023 in the Yuba County Board of Supervisors Chambers at the Yuba County Government Center unless otherwise noticed.**

**AGENDA ITEM III - B  
REGIONAL WASTE MANAGEMENT AUTHORITY  
DISBURSEMENT LIST  
MONTH OF MARCH 2023**

CHECK NO.	AMOUNT	VENDOR	PURPOSE
EFT	\$ 1,800.00	YUBA-SUTTER TRANSIT	CONTRACT SERVICES - FEBRUARY 2023
EFT	\$ 22,181.46	PAYCHEX OF NEW YORK	PAYROLL FEBRUARY 2023
EFT	\$ 108.11	PAYCHEX OF NEW YORK	PAYROLL SERVICES FOR FEBRUARY 2023
EFT	\$ 1,300.00	MISSIONSQUARE	457 CONTRIBUTIONS - MARCH 2023
EFT	\$ 1,000.00	MISSIONSQUARE	401(a) CONTRIBUTIONS - MARCH 2023
EFT	\$ 100.00	ANGELA TETER	BOARD MEETING 3/16/2023
EFT	\$ 100.00	DAVID SHAW	BOARD MEETING 3/16/2023
EFT	\$ 100.00	DON BLASER	BOARD MEETING 3/16/2023
EFT	\$ 100.00	KARM BAINS	BOARD MEETING 3/16/2023
8194	\$ 6,258.60	AURORA ENVIRONMENTAL INC	PROFESSIONAL SERVICES - FEBRUARY 2023
8194	3172.50	AURORA ENVIRONMENTAL INC	SB1383 PROGRAM IMPLEMENTATION & ADMINISTRATION 2/23
8195	\$ 19.99	CARD SERVICE CENTER	CREDIT CARD: BLUEHOST.COM SUBSCRIPTION
8196	\$ 1,200.54	RECOLOGY YUBA SUTTER	HHW & USED OIL EXPENSES - DECEMBER 2022
8196	\$ 36,451.40	RECOLOGY YUBA SUTTER	HHW & USED OIL - DECEMBER 2022
8197	\$ 74.67	SHANNON ALDRICH	MILEAGE REIMBURSEMENT: 2/8/2023 - 2/27/2023
8198	\$ 150.00	STREAMLINE	WEBSITE SERVICES - MARCH 2023
8199	\$ 100.00	BOB WOTEN	BOARD MEETING 3/16/2023
8200	\$ 100.00	BRUCE BUTTACAVOLI	BOARD MEETING 3/16/2023
8201	\$ 1,093.18	RECOLOGY YUBA SUTTER	HHW & USED OIL EXPENSES - JANUARY 2023
8201	\$ 27,418.24	RECOLOGY YUBA SUTTER	HHW & USED OIL - JANUARY 2023
8201	\$ 420.00	RECOLOGY YUBA SUTTER	TIRE GRANT - FEBRUARY 2023
8202	\$ 500.00	RICHARDSON & COMPANY	PROFESSIONAL SERVICES FOR FY 2022 AUDIT
8203	\$ 5,274.62	SUTTER COUNTY HUMAN RESOURCES DEPT	EMPLOYEE FRINGE BENEFITS - SS & SA - 4/2023
	<b>\$ 109,023.31</b>		

**LAIF  
TRANSFERS**

AGENDA ITEM IV – A  
STAFF REPORT

LOCAL GOVERNMENT WASTE TIRE AMNESTY GRANT PROGRAM  
(TA7 CYCLE, FY 2023/24)

The California Department of Resources Recycling and Recovery (CalRecycle) issued the application package for the next cycle of the Local Government Waste Tire Amnesty Grant Program in March of 2023. A total of \$1.25 million is available for this grant program with a maximum award of \$40,000 per individual applicant (i.e., jurisdiction) and \$90,000 for regional applicants (i.e., lead agency plus additional participating agencies or a joint powers authority). The RWMA has long received funding under this grant program which is available on a competitive basis for eligible projects to be completed during the two-year period, October 2023 through October 2025. For the RWMA, the proposed grant application will be ranked as follows:

- Rank One: A total program cost of \$5.00 or less per tire and the following:
  - Two waste tire amnesty event locations are located within a census tract that is in the 71-100 percentile range as calculated using the California Communities Environmental Health Screening Tool (CalEnviroScreen 4.0).
- Rank Two: Provide documentation showing coordination with a Local Conservation Corps and total program cost is \$5.00 or less per tire.
- Rank Three: Applicants that are cities with less than 20,000 residents, a county with less than 50,000 residents, a special district, or a Qualifying Indian Tribe; and total program cost is \$7.00 or less per tire.
- Rank Four: Applicants not meeting the requirements for Rank One, Rank Two or Rank Three and that have a total program cost of \$5.00 or less per tire.

The RWMA's proposed grant program includes two collection locations within census tracts that are in the 71-100 percentile range of CalEnviroScreen 4.0. The Recology Yuba-Sutter MRF/Transfer Station will accept tires through the coupon program and the community clean-up event location at the Yuba County Airport. With these two collection locations and a total program cost of \$5.00 or less per tire, the RWMA application is expected to qualify in Rank One. It is important to note that the lower cost per tire was achieved by following the CalRecycle grant manager's advice to increase the estimated number of tires to be collected as CalRecycle experienced delays in obtaining anticipated approval for increasing the per tire program cost for this cycle and it is expected to be accomplished in the near future.

The program criterion for this grant cycle allows for the following entities to bring in passenger car and light truck tires:

- The public for tires that they generate.
- Residents and businesses that have been victims of illegal dumping; and,
- Tires generated from agricultural operations and businesses that do not change tires on customer vehicles.

As noted above relative to application rankings, there is a \$5.00 per tire limit for applications to be considered eligible for funding. The tire collection and disposal charges for larger tires generated from agricultural and trucking/transportation operations could not be accommodated within the grant budget without a significant increase in cost to the RWMA. As a result, it is proposed that the program continue to be limited to passenger car and light truck tires with maximum rim diameters of 22 inches.

Grant applications were due by April 6, 2023, with a secondary due date of May 3, 2023, for submittal of the required resolution. Staff submitted a grant application by the due date to not miss this funding opportunity. Attached is a resolution authorizing participation in this new grant cycle as a regional program for consideration by the RWMA Board.

	<u>Grant Request</u>
<u>Public Education and Free Disposal Coupon Promotion</u>	
• Newsprint Ads	\$1,130
• Radio PSAs	\$400
 <u>Free Disposal Coupon Production and Distribution</u>	
• Print free tire vouchers	\$100
• Take phone orders and distribute free tire vouchers (staff time)	\$4,000
• Mail free tire vouchers	\$315
 <u>Amnesty Waste Tire Collection and Recycling</u>	
• Receive, load, transport and recycle 4,000 waste tires	\$15,000
• Provide waste tire bins for ten (10) community cleanup events for collecting approximately 6,000 waste tires.	\$23,500
 <u>Grant Administration and Management</u>	
• RWMA Staff	\$5,400
 <b>TOTAL</b>	 <b>\$49,845</b>



Similar to past programs, the proposed public education and amnesty program will offer free tire disposal coupons to the public and waste tire bins for community cleanup events. The tire amnesty portion of the program will target residential consumers to cleanup nuisance tires and small tire piles. Tires will not be accepted from waste tire generating businesses. The coupon program will provide for the drop-off of up to 20 tires at one time and a maximum of one coupon will be available to individual addresses in each year of the two-year program. Due to state laws restricting the number of waste tires that can be legally hauled at one time without permission from the Local Enforcement Agency, the number of tires that can be transported to community clean-up events will be limited to nine (9) passenger car and light truck tires. The public education program will focus on proper tire disposal, ways to properly care for tires (to extend tire life) and on the health, safety and environmental issues associated with the illegal disposal of waste tires.

Staff will be prepared at the meeting to review the proposed waste tire grant program in detail.

RECOMMENDATION:        Adopt Resolution No. 1-23 authorizing the submittal of a regional application under the Local Government Waste Tire Amnesty Grant Program (TA7 Cycle, FY 2023/24) as proposed.

REGIONAL WASTE MANAGEMENT AUTHORITY  
RESOLUTION NO. 1-23

LOCAL GOVERNMENT WASTE TIRE AMNESTY GRANT PROGRAM  
(TA7 CYCLE, FY 2023/24)

WHEREAS, Public Resources Code Sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (State) efforts to reduce, recycle and reuse solid waste generated in the State, thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, the Local Government Waste Tire Amnesty Grant Program allows regional grant projects; and

WHEREAS, CalRecycle grant application procedures require, among other things, a regional applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants; and

NOW, THEREFORE, BE IT RESOLVED that the Regional Waste Management Authority authorizes the submittal of a regional application to CalRecycle for a Local Government Waste Tire Amnesty Grant Program (TA7 Cycle, FY 2023/24) on behalf of itself as Lead Agency and the participating jurisdictions: Cities of Live Oak, Marysville, Yuba City and Wheatland and Yuba and Sutter Counties.

BE IT FURTHER RESOLVED that the Executive Director of the Regional Waste Management Authority, or designee, is hereby authorized and empowered to execute on behalf of the Regional Waste Management Authority all grant related documents, including, but not limited to, applications, payment requests, agreements, and amendments necessary to secure grant funds and to implement the approved grant project; and

BE IT FURTHER RESOLVED that these authorizations are effective April 20, 2023, through October 30, 2025.

The foregoing resolution was passed by the Regional Waste Management Authority this 20<sup>th</sup> day of April 2023.

\_\_\_\_\_  
Chairperson  
Regional Waste Management Authority

ATTEST:

Signed: \_\_\_\_\_  
Lisa O'Leary, Board Clerk

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

AGENDA ITEM IV – B  
STAFF REPORT

REGIONAL WASTE MANAGEMENT AUTHORITY  
BUDGET ADOPTION PROCEDURES AND CONTRACTING GUIDELINES

The Regional Waste Management Authority Fourth and Restated Joint Powers Authority agreement adopted effective November 1, 2021, provides that the Board shall cause to be prepared and shall subsequently adopt rules or by-laws to govern its activities and that said rules or by-laws shall provide for budget adoption procedures, contracting guidelines, the manner in which meetings may be called, the notice to be given therefore and such other matters as may be deemed approved by the Board. The Board approved the Bylaws of the Regional Waste Management Authority at the March meeting.

Staff has prepared for board review and consideration of adoption the attached Budget Adoption Procedures and Contracting Guidelines that addresses the following subjects:

- Budget Adoption Procedures
- Contracting Guidelines
- Purchase Requisition Procedures
- Methods of Procurement
- Capital Purchase Procedures
- Non-Capital Purchase Procedures
- Definitions
- Miscellaneous Provisions

Also attached is a resolution adopting the attached Budget Adoption Procedures and Contracting Guidelines for consideration by the RWMA Board.

Staff will be prepared at the meeting to review the proposed Budget Adoption Procedures and Contracting Guidelines in detail.

RECOMMENDATION: Adopt Resolution No. 2-23 adopting the Regional Waste Management Authority Budget Adoption Procedures and Contracting Guidelines as proposed.

RESOLUTION OF THE REGIONAL WASTE MANAGEMENT AUTHORITY ADOPTING BUDGET  
ADOPTION PROCEDURES AND CONTRACTING GUIDELINES  
RESOLUTION NO. 2-23

WHEREAS,

The Bylaws of the Regional Waste Management Authority (the "Authority") provide that the Authority shall establish contracting guidelines; and

WHEREAS,

The Board has considered the attached proposed Regional Waste Management Authority Budget Adoption Procedures and Contracting Guidelines and finds them to be appropriate to the current needs of the Authority; and

WHEREAS,

The Authority reserves unto itself the ability to amend such guidelines from time to time.

NOW, THEREFORE, BE IT RESOLVED by the Regional Waste Management Authority Board that:

The "Budget Adoption Procedures and Contracting Guidelines" attached hereto are incorporated herein and adopted until such time as the Board may modify such guidelines in whole or in part.

The foregoing resolution was passed by the Regional Waste Management Authority this 20<sup>th</sup> day of April 2023.

\_\_\_\_\_  
Chairperson  
Regional Waste Management Authority

ATTEST:

Signed: \_\_\_\_\_  
Lisa O'Leary, Board Clerk

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

# **REGIONAL WASTE MANAGEMENT AUTHORITY**

Serving Sutter County, Yuba County, Live Oak, Marysville, Wheatland and Yuba City



## **BUDGET ADOPTION PROCEDURES AND CONTRACTING GUIDELINES**

**REGIONAL WASTE MANAGEMENT AUTHORITY**  
**BUDGET ADOPTION PROCEDURES**  
**AND**  
**CONTRACTING GUIDELINES**

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## **I. Budget Adoption Procedures**

Prior to the end of each fiscal year, Regional Waste Management Authority (the “Authority”) staff shall prepare an annual budget for the next fiscal year and present the draft budget to the Board of Directors for consideration of adoption for the ensuing fiscal year. The Board of Directors may authorize mid-year budget adjustments, as needed.

## **II. Contracting Guidelines**

The Board of Directors authorizes and delegates to the Executive Director the authority and responsibility to:

- A. Approve and execute Purchase Orders and Contracts which do not exceed \$25,000.00.
- B. Approve and execute Change Orders and Contract Amendments as may from time to time be necessary, which do not exceed \$12,500 or 10% of the original total contract price, whichever is greater.
- C. Execute all contract documents including Purchase Orders, Blanket Purchase Orders, Contracts, Change Orders, and Contract Amendments after any necessary approval by the Board of Directors.

All of the above is to be within the approved official budget and consistent with the established policies and approved projects of the Regional Waste Management Authority.

All Purchase Orders, Contracts, Blanket Purchase Orders, Contract Change Orders, and Contract amendments in excess of the amounts set forth above shall be submitted for approval to the Board of Directors prior to execution.

In those instances, where work must progress immediately, the Executive Director may approve any Purchase Order, Blanket Purchase Order, Contract, Change Order, or Contract amendment within the budget and under an approved project. The facts and circumstances of such action shall be reported to the Board of Directors at its next meeting for ratification.

The Executive Director may delegate, in writing, any of the authorities granted to them under this Resolution; provided, however, that the said Executive Director shall retain overall responsibility for the control over all matters conducted by them or as a result of their delegation of authority hereunder.

Purchases and contracts in excess of the Executive Director’s authority shall be approved by the Authority’s Board of Directors. To the extent the purchase or contract exceeds the Executive

Director's authority, any reference to the Executive Director shall mean the Authority's Board of Directors.

### **III. Purchase Requisition Procedures**

#### **General Requirements**

The purpose of this chapter is to outline the method by which materials, supplies, equipment and services will be requested.

Requests for purchases may be submitted orally or in writing to the Executive Director. The level of procurement method will be determined for approved projects and staff will be assigned to proceed accordingly.

The individual initiating the purchase request is responsible for the accuracy and adequacy of information supporting the request. Requests should be submitted early enough for the material or service to be obtained when needed.

#### **Purchase Requisition Preparation - Direct**

Purchase requisitions shall contain appropriate data on price, quantity/frequency, budget cost center, recommended supplier or manufacturer, and a detailed description of the product including any model numbers.

**Sole Source.** If a sole source item is specified, the sole source must be justified in writing.

#### **Development of Scope of Work For Professional/Consultant Services**

Solicitations of offers for professional/consultant services shall clearly and accurately set forth all requirements which the bidders must fulfill, including the factors to be used in evaluating the bids or proposals. The Scope of Work shall be developed and shall contain the appropriate information in the following format:

- A. **General.** A broad description of the services and project/program objectives. This section describes the contractor's specific responsibilities and the items i.e., property, materials, etc. that must be furnished by the Contractor.
- B. **Applicable Standards.** This part contains a description of all standards the Contractor must fulfill, including federal, state, local and Regional Waste Management Authority standards that are applicable to the project.
- C. **Regional Waste Management Authority Furnished Data, Property or Services.** This portion contains detailed lists of all data, property, and services which will be provided to the



Contractor by the Regional Waste Management Authority for use in the performance of the Contract.

- D. Specific Task Breakdown. This portion shall contain, in detail, all tasks the Contractor must perform, and where applicable, should specify step by step instructions and coordination requirements.
- E. Data Submission/Delivery Schedules. This portion shall specify the data that must be submitted for approval and the schedule requirements for submission/approval to assure the project progresses in a logical, expeditious manner.

### **Professional or Consultant Services Contract Requirements**

Purchase requisitions for professional or consultant services shall have the following documentation attached:

- A. A complete and comprehensive Scope of Work.
- B. An itemized listing of Evaluation Criteria (if applicable).
- C. Desired delivery schedule (milestones).

### **Lease vs. Purchase Alternatives**

A purchase request for leasing equipment must be accompanied by an analysis addressing the economics of lease vs. purchase. The extent of the analysis should be appropriate to the size and complexity of the procurement.

### **Exceptions**

Certain expenses are routinely incurred without the issuance of purchasing documentation. These expenses typically include the following types of items:

- A. Emergencies coordinated through the Executive Director - A procurement requisition shall be submitted as soon as possible.
- B. Payroll reimbursement, taxes, deductions, and associated benefit payments pursuant to staffing plans and fringe benefit plans.
- C. Reimbursement of petty cash.
- D. Travel expenses, travel advances and employee expense reimbursements.
- E. Conferences, staff seminars and workshops.

- F. Utilities.
- G. Medical expenses.
- H. Legal expenses.
- I. Insurance.
- J. Routine and re-stocking of office supplies.
- K. Dues & Subscriptions.

Purchase Orders below \$25,000 that did not require Board of Directors approval and later require Change Orders resulting from unforeseeable situations that cause the original Purchase Order to exceed \$25,000 shall be brought before the Board of Directors immediately for ratification.

#### **IV. Methods of Procurement**

The following methods of procurement may be used as appropriate:

##### **Procurement by Micro-Purchases**

Procurement by micro-purchases are those purchases up to \$10,000. Purchases below that threshold may be made without obtaining competitive quotations if the Regional Waste Management Authority determines that the price is fair and reasonable. This determination and how it was made shall be documented. Davis-Bacon prevailing wage requirements apply to construction contracts exceeding \$2,000. There should be equitable distribution among qualified suppliers and no splitting of procurements merely to come within the micro-purchase limit.

##### **Procurement by Small Purchase Procedures**

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property valued greater than \$10,000 but not exceeding \$50,000. If small purchasing procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources. Procurements shall not be reduced in size or divided to avoid the additional procurement requirements applicable to larger acquisitions.

##### **Procurement by Sealed Bids/Invitation for Bid (IFB)**

Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the overall lowest and best.

- A. In order for sealed bidding to be feasible, the following conditions should be present:
  - 1. A complete, adequate, and realistic specification or purchase description is available;
  - 2. Two or more responsible bidders are willing and able to compete effectively for the business;
  - 3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the bases of price.
  - 4. No discussion with bidders is needed.
  
- B. If this procurement method is used, the following requirements apply:
  - 1. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening bids;
  - 2. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
  - 3. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest;
  - 4. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
  - 5. Any or all bids may be rejected in the discretion of the Executive Director.

### **Procurements by Competitive Proposal/Request for Proposals (RFP)**

The competitive proposal method of procurement is normally conducted with more than one source submitting an offer (i.e., proposal). Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. If this procurement method is used the following requirements apply:

- A. Requests for proposals will be publicized. All evaluation factors will be identified along with their relative importance.
- B. Proposals will be solicited from an adequate number of qualified sources.
- C. The Regional Waste Management Authority will have a method in place for conducting technical evaluations of the proposals received and for selecting awards.
- D. Awards will be made to the most responsible firm whose proposal is most advantageous to the Regional Waste Management Authority's program with price and other factors considered.

## **Procurement of Architectural and Engineering Services (A&E)**

The Regional Waste Management Authority will use competitive proposal procedures based on the Brooks Act when contracting for A&E services. Other types of services considered A&E services include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a registered or licensed architect or engineer. The Brooks Act requires that:

- A. All offeror's qualifications be evaluated;
- B. Price be excluded as an evaluation factor;
- C. Negotiations be conducted with only the most qualified offeror; and
- D. Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable.

This "qualifications based procurement method" can only be used for the procurement of A&E services. This method of procurement cannot be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types of services. These requirements apply except to the extent any state adopts or has adopted by statute a formal procedure for the procurement of architectural and engineering services.

## **Procurement by Noncompetitive Proposals (Sole Source)**

- A. Sole Source procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph.
  1. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:
    - a. The item is available only from a single source;
    - b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; or
    - c. After solicitation of a number of sources, competition is determined inadequate.
- B. The Regional Waste Management Authority must first certify in writing:
  1. That such manufacturer or supplier is the only source for such item; and
  2. That the price of such item is no higher than the price paid for such item by like customers.
- C. A cost analysis is required to verify the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit.

## **V. Capital Purchase Procedures**

### **Determination of Capital Purchases**

Capital purchases consists of items that are:

- A. Non-expendable tangible property which costs at least \$5,000 and has a useful life of more than one (1) year.
- B. Costs associated with the construction of buildings and facilities.
- C. Real property.
- D. Expendable incidentals, labor force account, overhead and other costs associated with a capital purchase.

All capital purchases should be included in the annual budget.

### **Procedures for Capital Purchases**

- A. Applicable Staff:
  - 1. Obtains/creates support documents for the purchase requisition as necessary. (specifications, Scope of Work, Plans, etc.)
  - 2. Obtains required approval for the requisition via the Contracting Guideline (see section II).
  - 3. Reviews the requisition for verification of funding availability.
  - 4. Determines method of procurement based on the Regional Waste Management Authority purchasing policies and requirements on the purchase requisition.
    - a. If \$10,000 or less, purchases item from appropriate source at a price determined as fair and reasonable and documents how the determination was made.
    - b. If more than \$10,000 and not over \$50,000, obtains price and rate quotations from an adequate number of qualified sources.
    - c. If greater than \$50,000, solicits competitive bids.
  - 6. Conducts Cost & Price Analysis.
  - 7. Requests Board of Directors approval if needed.
  - 8. Selects vendor.
- B. Upon receipt of goods, applicable Staff:
  - 1. Verifies merchandise or material have been received.
  - 2. Verifies merchandise or material to the corresponding order.
  - 3. Signs and forwards packing slip/invoice to Accounts Payable.

## **VI. Non-Capital Purchase Procedures**

### **Introduction**

This section sets forth the procedure for the procurement of non-capital supplies, material, equipment and services. These purchases shall be made competitively except where it is clearly in the best interest of the Regional Waste Management Authority to accomplish such purchases by less formal methods.

- A. Competition and Price Reasonableness. Purchases not exceeding \$10,000 may be accomplished without securing competitive quotations if the prices are considered to be fair and reasonable.

Reasonableness of a proposed price may be determined by comparison of the proposed price with:

1. Prices found reasonable on recent previous purchases.
2. Current price lists.
3. Catalogs.
4. Advertisements.
5. Similar items in a related industry.
6. Purchasing Agent's/Buyers knowledge of the item being procured.

Purchases greater than \$10,000 and not exceeding \$50,000 may be accomplished by obtaining price or rate quotations from an adequate number (minimum of two) of qualified sources.

Purchases in excess of \$50,000 require formal competitive bidding.

### **Procedures for Non-Capital Purchases**

- A. Applicable Staff:

1. Determines purchasing requirement and obtains/creates supporting documents for the purchase requisition as necessary. (Technical specification, Scope of Work, Plans, etc.)
2. Obtains required approval for the requisition.
3. Determines method of procurement based on Regional Waste Management Authority purchasing policies and requirements on the purchase requisition.
  - a. If not over \$10,000, purchases item from appropriate source at a price determined as fair and reasonable, documenting how the determination was made.
  - b. If greater than \$10,000 and not exceeding \$50,000, obtains price or rate quotations from an adequate number (minimum two) of qualified sources.
  - c. If greater than \$50,000, competitive bids are solicited.

4. Conducts Cost & Price Analysis.
5. Selects vendor.

B. Upon receipt of goods, applicable Staff:

1. Verifies services or goods have been received.
2. Verifies merchandise or material to the corresponding order.
3. Signs and forwards packing slip/invoice to Accounts Payable.

## **VII. Definitions**

**Bid**: Offer of the Bidder for the work when submitted on the prescribed bid form, properly signed and guaranteed, including the schedule of bid items.

**Bidder**: Any individual, firm, partnership, corporation, or combination thereof, submitting a bid for the work contemplated, acting directly or through a duly authorized representative.

**Blanket Purchase Order**: A Purchase Order covering an extended period of time from one vendor.

**Board of Directors**: The governing body of the Regional Waste Management Authority consisting of eight directors who exercise and perform all powers, duties, functions, rights, and privileges vested in them pursuant to the joint powers agreement and bylaws of the Regional Waste Management Authority.

**Change Order**: A written unilateral document authorized by the Regional Waste Management Authority and issued to the Contractor amending the Contract documents. (It is a bilateral document for construction Contracts.)

**Contract**: Establishment of a binding legal relationship obligating the seller to furnish property or services (including construction) and the buyer to pay therefore. It includes all types of commitments which obligate the Regional Waste Management Authority to an expenditure of funds and which are in writing. It includes all actions resulting from acceptance of offers by awards, notices of award and purchase orders. The Contract becomes effective by written acceptance or performance.

**Contractor**: The "Contractor" is the person or organization identified as such in the Contract Documents and is singular in number. The term "Contractor" means the Contractor or its authorized representative.

**Cost Analysis:** Review and evaluation of a Contractor's cost or pricing data and of the judgmental factors applied in projecting from the data to the estimated costs. A cost analysis is performed in order to form an opinion of the degree to which Contractor's proposed costs represent what performance of the Contract should cost.

**Evaluation Criteria:** Measurable skills, expertise and conditions used to equate Requests for Proposals.

**Invitation for Bids (IFB):** The complete assembly of related documents furnished to prospective Bidders for the purpose of bidding, based on a clear and accurate description of the technical requirements for the material, product, or service to be procured.

**Price Analysis:** Process of examining and evaluating the reasonableness of a bidder's or proposer's price without evaluation of the separate cost elements and proposed profit of the bidder/proposer.

**Purchase Order:** A legal, contractual document used as a written confirmation factually describing all aspects of an agreement reached between the buyer (Regional Waste Management Authority) and seller. The end product of a Purchase Order is an item purchase or a rental, maintenance, or office support agreement, or purchase of services.

**Responsible Bidder/Proposer:** A bidder having the financial resources, judgment, skill, integrity and ability to fulfill successfully the requirements of the Contract.

**Responsive Bid:** A bid, which conforms to all technical and legal requirements of the Bid Document.

**Scope of Work:** Detailed description of project and performance requirements as defined in a Request for Proposal.

## **VIII. Miscellaneous Provisions**

**Scope of Guidelines:** These guidelines, except to the extent stated above, exclude public works contracts and “public works” within the meaning of California Public Contract Code Section 20161.

**Grants and Grant Contract Requirements:** To the extent the Authority is a recipient of grant funds which expressly or by their nature require methods of procurement in addition to those specified in these guidelines (to include for example 2CFR part 200) then these guidelines shall, in addition to any procedures stated herein, shall be deemed to include such additional provisions. To



the extent that such additional provision provides dollar limits which authorize a particular procurement method, these guidelines shall be deemed to authorize the limits provided for such procurement methods (for example, 2CFR section 200.320 contains various methods of procurement with dollar limits specified, and such limits as may be amended from time to time are deemed incorporated into these guidelines).

**Contract Provision Requirements:** To the extent the Authority is a party to any contract which provides for procurement methods and/or contracting methods different from or in addition to these guidelines, the Authority shall follow such contract requirements and these guidelines shall be deemed to allow procurement pursuant to the contract provision.

**The Authority May Use Borrowed Procedures from its Member Jurisdictions:** To the extent applicable law allows, the Authority reserves unto itself the power to borrow from established ordinances, policies or procedures from one or more of its member jurisdictions and utilize such ordinances, rules or procedures for purchases and contracts in place of or in the alternative to these guidelines, which shall be deemed to have incorporated such ordinances, rules and procedures, if, in the opinion of the Executive Director the same are best suited to the acquisition or contract in question.

AGENDA ITEM IV – C  
STAFF REPORT

YUBA-SUTTER HOUSEHOLD HAZARDOUS WASTE FACILITY  
CONCRETE PAVEMENT REPAIR PROJECT BID PACKET

In November 2021, CalRecycle awarded the RWMA a \$100,000 Small Project Household Hazardous Waste Grant for the following projects:

- Update and print 15,000 hazardous waste program brochures to update and replace the current brochure stock.
- Install a new outdoor water supply on the east side of the HHW Facility building with interior shut-off equipment.
- Purchase replacement and additional personal protection equipment (e.g., gloves, masks, and lab coats) for use at the HHW Facility.
- Replace portions of cracked concrete paving on the west side of the HHW Facility building; and,
- Provide grant project management and administration.

The grant term extends through September 2024.

RWMA staff contracted with MHM Incorporated to provide engineering design and construction management services for this project after consulting with two other local engineers. Attached for Board review, approval and consideration of authorization to release are draft concrete pavement repair plans, specifications and invitation for bid documents prepared by MHM Incorporated.

Staff will be prepared at the meeting to review the draft Yuba-Sutter Household Hazardous Waste Facility Concrete Pavement Repair project bid packet in detail.

RECOMMENDATION: Approve and authorize the release of the Yuba-Sutter Household Hazardous Waste Facility Concrete Pavement Repair project bid packet as proposed.

# REGIONAL WASTE MANAGEMENT AUTHORITY

## NOTICE TO CONTRACTORS

Proposals will be received via email at: [jmallen@mhm-inc.com](mailto:jmallen@mhm-inc.com), until **2 P.M. on May 25, 2023** for construction in accordance with the specifications to which special reference is made as follows:

### HOUSEHOLD HAZARDOUS WASTE FACILITY CONCRETE PAVEMENT REPAIR

#### General Work Description:

Removal and replacement of fail concrete slabs per plans dated 03/24/23 by MHM Inc.

Construction will commence on or about July 2023 with Sixty (60) Calendar Days to complete.

Bids are required for the entire work described herein. Submit individual pricing for any Add Alternate or unit price items as listed herein. The Contractor shall possess a Class A, B and/or Class C-8 license.

This contract is subject to state contract nondiscrimination and compliance requirements pursuant to Government Code Section 12990.

### HOUSEHOLD HAZARDOUS WASTE FACILITY CONCRETE PAVEMENT REPAIR

Item No.	Item Description	Estimated Quantity	Unit
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#### **Bid Schedule A - Reinforced Concrete Slab Repair**

1	Mobilization/Demobilization	1	LS
2	Demo and Remove Existing Concrete Section	3260	SF
3	Class 2 Aggregate Base (8-Inch Section)	248	TON
4	Reinforced Concrete Slab (6-Inch Section)	2960	SF
5	4-Foot Valley Gutter (YC ST7)	75	LF
6	Stripe lane lines, arrows, and legend	1	LS

#### **Alternative Add Bid Schedule B - Optional Reinforced Concrete Slab Repair**

1	Demo and Remove Existing Concrete Section	950	SF
3	Class 2 Aggregate Base (8-Inch Section)	350	TON
4	Reinforced Concrete Slab (6-Inch Section)	950	SF
5	4-Foot Valley Gutter (YC ST7)	75	LF

A non-mandatory pre-bid site meeting will be held 10:00 A.M. on May 9, at the facility.

Plans, specifications, and proposal forms for bidding this project can be obtained at the office of the Design Engineer, MHM Inc., 1204 E Street, Marysville, California, 95901, for a non-refundable deposit of \$20 per set. An additional non-refundable deposit of \$15.00 for shipping and handling is required for those requesting delivery by U.S. mail. Deposit shall be in the form of a cashier's check, personal check, or business check.

Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates in the county, or counties, in which the work is to be done have been determined by the Director of the California Department of Industrial Relations. These wages are set forth in the General Prevailing Wage Rates for this project, available at the Labor Compliance Office at the offices of the State of California, Department of Transportation, District Director of Transportation, for the district in which the work is situated.

In its discretion, the Regional Waste Management Authority or its designee may reject any and all bids presented, may accept an item or group of items of any bid, may modify or cancel in whole or in part the notice inviting bids, and may determine to re-advertise for bids. Similarly, the Board or its designee reserves the right to waive informalities and minor irregularities in any bids received.

If two or more bids received are for the same total amount or unit price, quality and service being equal, the Board or its designee may accept the one it chooses or accept the lowest bid made after negotiation with tie bidders.

The administrator or employee conducting the bidding procedure shall present the bid tabulation to the Board or its designee for consideration and award if deemed appropriate.

Bids will be required to set forth the price of the items bid upon. Any difference between the taxes shown on the bid as the total figure and that actually due shall be the responsibility of the bidder.

No charge for delivery, shipping, parcel post, packing, insurance, license fees, permits, or for any other purpose will be paid by the Regional Waste Management Authority unless expressly included and itemized in the bid.

In connection with any discount offered, time will be computed from the date of delivery of supplies and/or equipment acceptable to the Regional Waste Management Authority or from the date correct invoices are received in the office of the officer or employee conducting the bidding process if the latter date is later than the date of delivery. Payment will be deemed to be made, for the purpose of earning the discount, on the date of the mailing of the Regional Waste Management Authority's warrant.

Labor surcharge and equipment rental rates to be used on this contract shall be those in effect when the work is bid.

Pursuant to Section 22300, Public Contracts Code, the Contractor may elect to receive one hundred percent (100%) of payments due under the contract from time to time without retention of any portion of the payment by the public agency in accordance with the provisions of Section 22300 of the Public Contracts Code. Such securities, if deposited by the Contractor, shall be valued by the public agency's finance director (treasurer), whose decision on valuation of the securities shall be final.

Unit prices shall be shown on bids submitted as well as a total price for each item bid upon.

Please direct questions to John Mallen, Construction Project Manager (530) 742-6485, representing the Regional Waste Management Authority.

Scott Scholz, Executive Director  
REGIONAL WASTE MANAGEMENT AUTHORITY

**HOUSEHOLD HAZARDOUS WASTE FACILITY  
CONCRETE PAVEMENT REPAIR**

**GENERAL CONDITIONS**

1. **DEFINITIONS.** The following definitions apply to all Contract Documents, except as amended or supplemented by the Supplemental General Conditions.

**Architect** means the lead architect in responsible charge of any or all portions of the Contract Documents as indicated by their stamp and signature on the Contract Documents.

**Bid Forms** means the Bid, Certification of Compliance with Section 3700 of the Labor Code, Bidder's Non-Collusion Affidavit, Immigration Reform and Control Affidavit, and Bid Bond.

**Bidder** means a person or entity that submits a Bid. After the Agency awards the Contract, the term "Bidder" shall be equivalent to the term "Contractor" for the purpose of identifying Contractor's rights and obligations under the Contract Documents.

**Bidding Documents** means Invitation for Bids, Instructions to Bidders, Supplemental Instructions to Bidders, and Bid Forms.

**Chief Engineer** (as used in the Standard Specifications) means Engineer or Architect.

**Agency** means the Regional Waste Management Authority

**Board** means the governing body of the Agency.

**Standards** means *Agency Standard Specifications and Details*.

**Regulations** means all written laws, rules, and policies established by the City of Yuba City, including those set forth in the General Plan, City of Yuba City Municipal Code, ordinances, resolutions, policies, procedures, and City Design Documents (including Standard Plan, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).

**Claim** (see General Conditions Subsection 9).

**Construction Inspector** means an employee or firm to be assigned by the Agency to perform construction inspection duties on the Project.

**Construction Manager** means an employee or firm to be assigned by the Agency to perform construction management duties on the Project.

**Contract** means the agreement made and entered into by and between the Agency and Contractor to construct the Project.

**Contract Amount** (see Contract Section 4).

**Contract Change Order or Change Order** (see General Conditions Section 10)

**Contract Documents** (see Contract Section 2).

**Contract Time** (see Contract Section 3).

**Contractor** means the person or entity to which the Agency awards this Contract, as identified in the Contract. After the Agency awards the Contract, the term "Contractor" shall be equivalent to the term "Bidder" for the purpose of identifying Contractor's rights and obligations under the Contract Documents.

**HOUSEHOLD HAZARDOUS WASTE FACILITY  
CONCRETE PAVEMENT REPAIR**

**Contractor Representative** (see Contract Section 6)

**County** as used in the Standard Specifications means the City of Yuba City; otherwise means the County of Sutter, California.

**Day** means calendar day, unless otherwise specifically noted.

**Defective Work** means Work that is unsatisfactory, faulty, omitted, incomplete, deficient, or does not conform to the requirements of the Contract Documents, directives of the Project Manager, or requirements of any inspection, reference standard, test, or approval specified in the Contract Documents.

**Department** (as used in the Standard Specifications) means the City of Yuba City Development Services Department.

**Director** (as used in the Standard Specifications) means the Engineer or appointed designee.

**District** (as used in the Standard Specifications) means the City of Yuba City.

**Drawings** mean the Plans.

**Drawing Clarification/Plan Clarification** means an answer from the Agency in response to an inquiry from Contractor intended to make some requirement(s) of the drawings or plans clearly understood. Drawing clarifications/plan clarifications may be sketches, drawings or in narrative form and will not change any requirements of the drawings or plans. Responses to contractor inquiries shall be as outlined in the Article "Requests for Information" of these General Conditions.

**Engineer** means the Engineer or his authorized agent acting within the scope of his authority, who is the representative for administration of this contract.

**Extra Work** (see General Conditions Subsection 10.3).

**Final Completion** (see General Conditions Subsection 13.6).

**Losses** means any and all losses, costs, liabilities, claims, damages, and expenses, including, without limitation, reasonable attorneys' fees and expenses.

**Non-Conformance Notice** means a notice issued by the Agency documenting that the work or some portion thereof, has not been performed in accordance with the requirements of the contract documents. Payment shall not be made on any portion of the work for which a Non-Conformance Notice has been issued and the work not corrected to the satisfaction of the Agency. Contractor shall respond to a Non-Conformance Notice as described in Section 8.6.3.

**Owner** means the Agency and its representatives acting within their delegated authority.

**Plans** means the component of the Contract Documents consisting of the bound set of drawings as identified by the project title appearing on the cover sheet and elsewhere.

**Project** means the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Agency or by Separate Contractors.

**Project Communications** means a routine written communication between the Agency and Contractor in letter, field memo or fax format. Such communications shall not be identified as Requests for Information nor shall they substitute for any other written requirement pursuant to the provisions of these contract documents. Project Communications identified as Requests for Information will be returned to Contractor to be put into the proper form.

**HOUSEHOLD HAZARDOUS WASTE FACILITY  
CONCRETE PAVEMENT REPAIR**

**Project Manager** means the person (or persons) designated on the Invitation for Bids, or any other person designated by the Agency, who is authorized to act on behalf of the Agency regarding the administration and enforcement of the Contract Documents.

**Project Site** (see General Conditions Subsection 7.1).

**Requests for Information or RFI** means a request from Contractor or one of their subcontractors, to the Agency, seeking an interpretation or a clarification of some requirement of the contract documents submitted to the Agency in the form required by the Contract. Contractor shall clearly and concisely set forth the issue for which they seek clarification or interpretation and why a response is needed from the Agency. Contractor shall, in the written request, set forth their interpretation or understanding of the contract's requirements along with reasons why they have reached such an understanding. Responses from the Agency will not change any requirements of the contract documents unless so noted in the Request for Information Response by the Agency. Responses to Contractor inquiries shall be as outlined in the Article "Requests for Information" of these General Conditions.

**Schedule Submittals** means contract schedules, contract schedule updates, contract schedule revisions, time impact analyses, etc. required by the Contract to be provided to the City for review and acceptance.

**Shop Drawings** (see General Conditions Section 4).

**Standard Plans** means State of California Standard Plans, 2018.

**Standard Specifications** means State of California Standard Specifications, 2018. Any reference therein to the State of California or a State Agency, office or officer, shall be interpreted to refer to the Agency or its corresponding agency, office or officer acting under this contract.

**State** as used in the Standard Specifications means the City of Yuba City; otherwise means the State of California.

**Subcontractor** means a person or entity that has a contract with Contractor or with another Subcontractor to perform a portion of the Work. Unless otherwise specifically provided, the term Subcontractor includes subcontractors of any tier.

**Submittals/Shop Drawings** means technical submittals, shop drawings or samples, including supporting catalogue cuts, manufacturer's literature, sketches or drawings, calculations, and other pertinent data, required by any technical specification included in these contract documents. Contractor shall transmit to the Agency submittals/shop drawings in sufficient detail to enable the Agency to review the information and determine that Contractor clearly understands the requirements of the contract documents.

**Substantial Completion** (see General Conditions Subsection 13.5).

**Substitution/Or Equal Submittals** means a request from Contractor to substitute a material, article, device, product, fixture, form, type of construction or process called for in the contract documents with another item which shall be substantially equal in all respects to that so indicated or supplied.

**Supplier** means a person or entity that has a contract with Contractor or with another Subcontractor to supply or manufacture materials or equipment for a portion of the Work. Unless otherwise specifically provided, the term Supplier includes suppliers of any tier.

**Warranty Period** (see Contract Section 19).

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CONCRETE PAVEMENT REPAIR**

**Work** means the construction and services required by the Contract Documents as amended by Contract Modifications, whether completed or partially completed, and includes all labor, materials, equipment, tools, and services provided or to be provided by Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.

**2. REVIEW OF CONTRACT DOCUMENTS AND SITE CONDITIONS, AND NOTICE OF ERRORS AND AMBIGUITIES.**

- 2.1 Obtaining Copies of Contract Documents. The Agency shall provide to Contractor, at Contractor's request and at no cost to Contractor, up to ten (10) copies of the Contract Documents. The Agency shall provide additional copies of the Contract Documents to Contractor, at Contractor's request and for the cost of copying.
- 2.2 Review of Documents. Contractor shall carefully study and compare each component of the Contract Documents with each other, with information furnished by the Agency, and with applicable legal requirements, and Contractor shall promptly provide written notice to the Project Manager regarding any errors, inconsistencies, ambiguities, or omissions in the Contract Documents, or regarding any question Contractor has regarding the meaning of any part of the Contract Documents.
- 2.3 Review of Site Conditions. Contractor shall take field measurements, verify Project site conditions, and carefully compare with the Contract Documents such field measurements, conditions, and other information known to Contractor before commencing the Work (including any trenching or excavation greater or equal to four feet (4') below the surface). Contractor shall promptly communicate errors, inconsistencies, or omissions in the Contract Documents discovered at any time (both orally and in writing) to the Project Manager. Pursuant to Public Contract Code section 7104, Contractor shall promptly, and before the following conditions are disturbed, notify the Project Manager, in writing, of any of the following conditions:
- 2.3.1 Material that Contractor believes may be hazardous waste, as defined by of the California Health and Safety Code Section 25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provision of existing law.
- 2.3.2 Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents.
- 2.3.3 Unknown physical conditions at the site of any unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents, or indicated in or reasonably inferable from the Contract Documents, or discoverable by a reasonable pre-bid Project site inspection.
- 2.4 Requests for Information (RFI). In the event that Contractor, subcontractor or supplier, at any tier, determines that some portion of the drawings, specifications, or other contract documents requires clarification or interpretation by the Agency, Contractor shall submit a Request for Information (RFI) in writing to the Project Manager. RFIs may only be submitted by Contractor and shall only be submitted on the RFI form provided by the Agency. Each RFI shall be dated and numbered sequentially starting with the number 1 and according to the Agency's preferred method of numbering. Contractor shall clearly and concisely set forth the issue for which clarification or interpretation is sought and why a response is needed from the Agency. In the RFI, Contractor shall set forth their interpretation or understanding of the requirement along with reasons why they have reached such an understanding.
- 2.4.1 The Agency will review all Requests for Information to determine whether they are Requests for Information within the meaning of this term. If the Agency determines



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that the document is not a RFI, it will be returned to Contractor, unreviewed as to content, for resubmittal on the proper form and in the proper manner.

- 2.4.2 Responses to Requests for Information or a Letter of Instruction will be issued within ten (10) working days of receipt of the request from Contractor unless the Agency determines that a longer period of time is necessary to provide an adequate response. If a longer period of time is determined necessary by the Agency, the Agency will, within ten (10) working days of receipt of the request, notify Contractor of the anticipated response time. The ten (10) working days referred to herein will start on the date stamped received "In from Contractor" by the Agency and ends on the date stamped "Out to Contractor" by the Agency. If Contractor submits a RFI on an activity with ten (10) working days or less of float on the current project schedule, Contractor shall not be entitled to any time extension due to the time it takes the Agency to respond to the request provided that the Agency responds within the ten (10) working days set forth above.
- 2.4.3 Responses to Requests for Information from the Agency will not change any requirement of the contract documents unless so noted by the Agency in the response to the RFI. In the event Contractor believes that a response to a RFI will cause a change to the requirements of the contract document Contractor shall give written notice to the Agency stating that Contractor considers the response to be a Change Order within two working days of receipt of the response. Contractor's failure to give such written notice within two (2) working days shall waive Contractor's right to seek additional time or cost under the Changes article of these General Conditions.
- 2.5 Notices by Contractor. All required by this Section 2. shall be promptly communicated (as soon as possible depending upon relevant circumstances, orally or in writing) by Contractor to the Project Manager; and, in any event, written notice shall be made no later than three (3) days after the first observation of the relevant condition or conditions. Contractor shall deliver the written notice to allow sufficient time for review by the Agency. No extension of Contract Time shall be made by the Agency due to Contractor's failure to provide a timely notice in accordance with this Section.
- 2.6 Agency's Obligation upon Receipt of Notice. The Project Manager will promptly investigate the condition identified in Contractor's notice and respond in writing in one of the following ways: (a) issue a notice of the Agency's intent to perform any necessary work itself; (b) issue a Letter of Instruction which instructs Contractor to perform in accordance with the Contract Documents in a manner which is consistent with or reasonably inferable from the overall intent of the Contract Documents; (c) issue a Notice of Suspension of Work in accordance with the Contract or a Suspension Order in accordance with General Conditions; or (d) if the Project Manager finds that the conditions are materially different than those described in the Contract Documents, or involve unidentified hazardous waste, issue a change order in accordance with General Conditions Section 10.
- 2.7 Agency's Statutory Obligations. (NOT USED)
- 2.8 Contractor's Responsibility for Costs. If Contractor performs any construction activity which it knows or should know involves an error, inconsistency, ambiguity, or omission referred to in this section, without notifying and obtaining the written consent of the Project Manager, Contractor shall be responsible for the resultant costs, including, without limitation, the costs of correcting Defective Work. However, in an emergency affecting the safety of persons or property, Contractor shall take all reasonably necessary precautions to prevent or minimize damage, injury, or loss.
- 2.9 Contractor's Obligation to Identify and Protect Subsurface Infrastructure. Contractor shall locate and protect service laterals, conduits, and appurtenances of any underground facility, the

## HOUSEHOLD HAZARDOUS WASTE FACILITY CONCRETE PAVEMENT REPAIR

presence of which could be reasonably inferred from the Contract Documents or from the presence of visible facilities such as buildings, meters, and junction boxes, prior to doing any work that may damage any such facilities, or interfere with their service. Where underground main distribution conduits, such as water, gas, sewer, electric power, telephone, or cable television are shown on the plans, Contractor shall assume that every property parcel will be served by a service connection for each type of utility. Contractor shall comply with all requirements for the protection of underground infrastructure as set forth in California Government Code sections 4215 through 4216.9.

### **3. REQUEST FOR SUBSTITUTION OF MATERIALS.**

- 3.1 Pursuant to California Public Contract Code Section 3400, the Agency shall not limit the bidding, directly or indirectly, to any one specific concern. Whenever any particular material (for the purpose of this Section 3, the term "material" includes any product, thing, equipment, or service) is indicated in the Contract Documents by patent, proprietary or brand name, or by name of manufacturer, such wording is used for the purpose of facilitating its description and shall be deemed to be followed by the words "or equal." A listing of materials is not intended to be comprehensive or in order of preference.
- 3.2 Unless Contractor submits a request for substitution of "equal" materials in accordance with the requirements of the Contract Documents, and unless the Agency approves the substitution, Contractor shall furnish and install the specified materials for the Contract Amount.
- 3.3 Contractor shall, at its expense, request substitutions in writing and furnish data which substantiates that the requested substitute materials is "equal" to the materials identified in the Contract Documents. Contractor shall, at its expense, have the material tested as required by the Project Manager to determine that the quality, strength, physical, chemical, or other characteristics, including durability, finish, efficiency, dimensions, service, and suitability are such that the requested substitute material will fulfill its intended function, and will sufficiently match other materials in use by the Agency on public improvements either completed or in the course of completion.
- 3.4 Test methods shall be subject to the approval of the Project Manager. Test results shall be reported promptly to the Project Manager, who will evaluate the results and determine if the requested substitute material is equal.
- 3.5 All data and test results submitted by Contractor in substantiation of the requested substitute material shall be submitted to the Project Manager no later than thirty (30) calendar days prior to the earlier of the date on which Contractor is required to submit shop drawings or submittals regarding the material to the Agency, in accordance with the Project Schedule.
- 3.6 Within ten (10) calendar days after Contractor submits all substantiation of the offer, the Project Manager shall either: (a) issue a written determination to Contractor as to whether or not the requested substitute material may be used in the performance of the Contract Documents; or (b) if the Project Manager fails to issue a written determination within thirty (30) calendar days, the requested substitute material shall be deemed rejected. If the Project Manager determines that the substitute material may be used, he will issue a Change Order to Contractor for such use on the Project. The Project Manager's determination shall be final. Contractor shall not order, install or use the substitute material unless and until approved by Change Order.
- 3.7 If a requested substitute material is not found to be equal to the material specified in the Contract Documents, Contractor shall furnish and install the specified material at the Contract Amount.
- 3.8 Contractor shall not be entitled to an extension of Contract Time resulting from a request for a substitution of materials.

**HOUSEHOLD HAZARDOUS WASTE FACILITY  
CONCRETE PAVEMENT REPAIR**

**4. SHOP DRAWINGS AND SUBMITTALS.**

- 4.1 Shop drawings and submittals shall be submitted by Contractor, subject to the approval of the Project Manager, in accordance with the requirements of the Technical Specifications. All shop drawings and submittals shall be accompanied by a Submittal form.
- 4.2 Contractor shall submit three (3) copies of all shop drawings and other submittals, except that three (3) copies of samples may be submitted. These shall bear a stamp or specific written statement that Contractor has satisfied its responsibilities under the Contract Documents with respect to the review of the submittal. All submittals shall be identified clearly as to materials, supplier, pertinent data such as catalog numbers and the use for which intended, as the Agency may require. The data shown on the shop drawings, samples, or other submittals shall be complete with respect to quantities, dimensions, specified performance, design criteria, materials and similar data to enable review of the information by the Agency.
- 4.3 Contractor shall submit all shop drawings, samples and other submittals required by the Contract Documents to the Agency with such promptness as to cause no delay in the work.
- 4.4 Before submission of each shop drawing, sample or other submittal, Contractor shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed and coordinated each shop drawing sample or other submittal with each other and with the requirements of the Contract Documents and the work.
- 4.5 At the time of each submission, Contractor shall give the Agency specific written notice of each variation that the shop drawings, samples or other submittals may have from the requirements of the Contract Documents and, in addition, shall cause a specific notation of each such variation to be made for each shop drawing, sample and other submittal.
- 4.6 Review of shop drawings, samples or other submittals by the Agency or any party acting on the Agency's behalf shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has in writing called the Project Manager's attention to that variation at the time of submission as required in Paragraph 4.5 and Contractor has received written acknowledgement of each such variation incorporated into or accompanying the approval of each shop drawing, sample or other submittal. No review by the Agency or parties acting on behalf of the Agency shall relieve Contractor from responsibility for errors or omissions in the shop drawing, sample or other submittal.
- 4.7 The Agency will endeavor to have the shop drawings, samples or other submittals reviewed and returned to Contractor, with a written indication of approval or the reason for rejection, not later than ten (10) working days after the date of submission to the Agency.
- 4.8 Contractor shall make at its own expense any corrections to the shop drawings, samples or other submittals that are required by the Agency, and Contractor shall resubmit the required number of corrected copies. Contractor shall indicate in writing on each resubmittal any revisions other than or in addition to the corrections required in the previous submittals. Contractor shall be responsible for all costs incurred by the Agency, including professional services and administration when more than two (2) resubmittals are required for any item. The initial submittal and two (2) subsequent resubmittals are paid for by the Agency, but Contractor shall pay all review costs for third and subsequent resubmittal.
- 4.9 Where a shop drawing, sample or other submittal is required by the Contract Documents, any related work performed prior to the review, approval, and return to Contractor of the pertinent submittal shall be a the sole risk, expense and responsibility of Contractor.

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- 4.10 Shop drawings, samples and other submittals, in any part, in any form or in any stage of review or approval shall not constitute Contract Documents or parts thereof.
- 4.11 For the excavation of any trench or trenches five feet (5') or more in depth, prior to commencement of excavation Contractor shall submit a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches, in accordance with California Labor Code sections 6705 and 6707.

**5. PROJECT MEETINGS.**

- 5.1 The Project Manager may call, schedule, and conduct project meetings to be attended by Contractor and, at the request of the Project Manager, Subcontractors, suppliers, and personnel performing services or providing materials to the Project. Project review meetings may be held weekly with Contractor and Subcontractors. Project progress meetings will be scheduled monthly.
- 5.2 Prior to commencement of Work, Contractor shall meet with the Project Manager (and other Agency employees and consultants) to discuss the Construction Schedule, the Schedule of Values, the Submittal Schedule, and contract administration procedures, including: project meetings, submittal and review of invoices, submittal and review of shop drawings, and procedures for communications.

**6. SITE SAFETY, AND SUPERVISION AND CONTROL OF WORK.**

- 6.1 Contractor shall submit (prior to commencement of Work) and maintain (throughout the performance of Work) a safety program which identifies the methods by which Contractor will implement all safety obligations at the Project site, including all requirements of this Section 6, and all requirements of State and Federal law. The safety program shall identify Contractor's safety officer, who will be responsible for the enforcement of the safety program and who will be at the Project site at all times during performance of Work.
- 6.2 Contractor shall supervise, coordinate, and direct the Work using Contractor's best skill and attention. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures, and the coordination of all portions of the Work in accordance with the terms of the Contract Documents.
- 6.3 Contractor shall be responsible in all respects for the actions or inaction of all Subcontractors, Suppliers and Materialmen, at all tiers, regardless of whether they are MBE, WBE, or DBE firm or are stipulated suppliers or sole sourced. No claim, request for equitable adjustment, or change order request shall be submitted to the Agency for any action of any Subcontractor, Supplier or Materialmen, at any tier, unless Contractor can demonstrate that the Agency is the proximate cause of the change or delay alleged in such request. The Agency will not accept any responsibility or liability for any action or inaction of any Subcontractor, Supplier or Materialmen, at any tier, except to the extent that the Agency is the proximate cause of the change or delay.
- 6.4 Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. Contractor's responsibilities shall specifically include the safety of persons involved in the Work, other persons who are affected by the performance of the Work, the Work in place, materials and equipment to be incorporated in the Work, other property at the Project site, and adjoining property.

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- 6.5 Contractor shall be responsible to the Agency for acts and omissions of all persons performing services or providing materials for the Project, including agents and employees of Contractor and Contractor's Subcontractors and suppliers.
- 6.6 Contractor shall be responsible for the care and custody of Work and the Project site, including all necessary security provisions, on a 24-hour per day basis through the entire term of this Contract. Contractor shall ensure that the Project site is used only for the performance of the Work (including Project site security), and for no other purpose. No person shall occupy, live upon, or otherwise make use of the Project site at any time, unless specifically provided in the Contract Documents.
- 6.7 Contractor shall inspect all portions of the Work to ensure that all portions of the Work conform to the requirements of the Contract Documents and are ready to receive subsequent work. Contractor's obligation to perform the Work and inspect the Work, in accordance with the Contract Documents, shall not be relieved by any inspection or test performed by the Agency or any other firm or agency.
- 6.8 Contractor shall at all times maintain good discipline and order among its employees and Subcontractors. Contractor shall provide competent, fully qualified, properly licensed and certified personnel and Subcontractors to perform the Work. Contractor shall promptly remove from the Project site any person or entity which does not meet the requirements of the Contract Documents, and replace that person or entity without adversely impacting the Contract Time or the Contract Amount.
- 6.9 No work shall be performed by Contractor or any Subcontractor who is ineligible pursuant to California Labor Code sections 1777.1 and 1777.7 and California Public Contract Code Section 6109.
- 6.10 Contractor shall only be allowed to substitute key personnel assigned to the Project (superintendent, project manager and higher) with prior Agency approval. Written requests shall include the name of persons to be replaced, name of proposed replacements, resumes of proposed replacements including three (3) public agency references for similar work, current workload and availability for the Project.

**7. USE OF SITE AND CLEAN UP.**

- 7.1 Contractor shall confine operations at the Project site to areas permitted by applicable legal requirements (including Agency Regulations), permits, and the Contract Documents. To the extent Contractor requires additional space (in addition to the property specified in the Contract Documents) for any other purpose, including temporary construction facilities or storage of materials or equipment, Contractor shall obtain the property at its own expense.
- 7.2 Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points, and shall make no changes or relocations without the prior written approval of the Agency. Contractor shall report to the Project Manager whenever any reference point is lost, destroyed, or required relocation due to necessary changes in grades or locations. Contractor shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.
- 7.3 Access. Contractor shall not unreasonably encumber the roadways with materials or equipment. Contractor shall, during performance of the Work, keep the roadways free from the accumulation of excess dirt and debris.
- 7.4 Project Appearance and Waste. Contractor shall, during performance of the Work, keep the Project site and surrounding area free from the accumulation of excess dirt, waste materials, spoils piles, debris and rubbish caused by Contractor. Contractor shall remove all excess dirt,

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waste material, and rubbish caused by Contractor; tools; equipment; machinery; and surplus materials from the Project site and surrounding area at the completion of the Work.

Contractor shall establish a system for daily collection and disposal of waste materials from construction areas and elsewhere on the site. Contractor shall handle waste materials that are hazardous, dangerous, or unsanitary separately from inert waste by containerizing appropriately. Burning or burying of waste materials on site will not be permitted.

- 7.5 Air Pollution Control. Contractor shall report in writing to the Project Manager, to the Air Pollution Control District, and to the Regional Office of the Environmental Protection Agency any discharge of smoke, dust, or any other air contaminants which are a violation of any applicable legal requirement. Contractor shall take all steps necessary to minimize the impact of adverse odors upon adjacent properties.
- 7.6 Noise Control. Contractor shall comply with all requirements of the City's Noise Ordinance and shall take all steps necessary to minimize noise impacts from the Project site upon adjacent properties.
- 7.7 Vermin Control. Prior to the Agency's approval of Substantial Completion, structures entirely constructed under the Contract Documents shall be free of rodents, insects, vermin and pests. Necessary extermination work shall be arranged and paid for by Contractor as part of the Work within the Contract Time and shall be performed by a licensed exterminator in accordance with requirements of law. Contractor shall be responsible for any injury to persons or property and for the elimination of offensive odors resulting from extermination operations.
- 7.8 Toilet Facilities. Contractor shall provide toilet facilities for the use of persons engaged in the Work. These accommodations shall be maintained in a neat and sanitary condition.
- 7.9 Wastewater. (NOT USED)
- 7.10 Temporary Light, Power, and Water. Contractor shall at its own expense, furnish, install, maintain, and remove all temporary light, power, and water, including piping, wiring, lamps, and other equipment, necessary for the Work. Contractor shall not draw water from any fire hydrant without first obtaining permission from the Project Manager, except to extinguish a fire.
- 7.11 Water Pollution Control. Contractor shall exercise every reasonable precaution to protect channels, storm drains, and bodies of water from pollution and shall conduct and schedule its operations so as to minimize or avoid muddying and silting of said channels, drains, and waters. Water pollution control work shall consist of construction of those facilities which may be required to provide prevention, control, and abatement of water pollution. Contractor shall report in writing to the City, the Regional Quality Control Board, and to the Regional Office of the Environmental Protection Agency, any violation of any applicable legal requirement.
- 7.12 Drainage and Erosion Control. Contractor shall maintain drainage within and through the Work areas. Earth dams will not be permitted in paved areas. Temporary dams of sandbags, asphaltic concrete, or other acceptable materials will be permitted when necessary to protect the Work, provided their use does not create a hazard or nuisance to the public. Such dams shall be removed from the site as soon as their use is no longer necessary.
- 7.13 Advertising. No contractor or other commercial signs will be permitted. Contractor's name may be displayed on the Project Sign.
- 7.14 Final Clean-up. Prior to final completion of the Project, Contractor shall remove from the Project site all waste materials, rubbish, debris, as well as tools, appliances, construction equipment, machinery, and surplus materials, and shall leave the Project site clean and ready for

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occupancy. Contractor shall restore to original condition all property not designated for alteration by the Contract Documents.

**8. CONTRACTOR'S PERFORMANCE OF WORK.**

8.1 Trucking.

8.1.1 Contractor shall obtain transportation permits from the City of Yuba City and other agencies when hauling oversized, overweight or overheight loads.

8.2 Protection of Property.

8.2.1 Contractor shall take all actions necessary to protect property at the Project site and any property adjacent to the Project site during the performance of Work for this Project.

8.2.2 Contractor shall repair any damage to the Project site and any property adjacent to the Project site, resulting from the performance of Work for this Project.

8.3 Coordination with Other Contractors.

8.3.1 Other work related to the Project may be performed at the Project site by "Other Contractors," including the Agency's own forces, or by Agency contract with other contractors or by utility owners.

8.3.2 To the extent that Contractor is notified of work being performed at the Project site by Other Contractors, Contractor shall coordinate its Work with the work of Other Contractors.

8.4 Cutting and Patching.

8.4.1 Contractor shall do all cutting, fitting, and patching of the Work required to make all parts of the Work come together properly and to allow the Work to receive or be received by existing site conditions and work of Other Contractors shown upon, or reasonably implied by, the Contract Documents including but not limited to:

- a. Make several parts fit properly.
- b. Uncover work to provide for installation of ill-timed work.
- c. Remove and replace work not conforming to requirements of Contract Documents.
- d. Remove and replace defective work.
- e. Remove and replace existing improvements to accommodate installation of new work.
- f. Remove samples of installed work as specified for testing and restore the work.

8.4.2 Contractor shall not endanger the Work, the Project, or adjacent property by cutting, digging, or otherwise.

8.4.3 Contractor shall not cut or alter the Work of any Other Contractors without the prior consent of the Project Manager.

8.4.4 Contractor shall do the following:

- a. Inspect existing conditions of work, including elements subject to movement or damage during cutting and patching.
- b. Prior to cutting, provide shoring, bracing, and support as required to maintain structural integrity.
- c. Provide protection for other portions of the Project.
- d. Provide protections from the elements.

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- e. Execute fitting and adjustment of products to provide finished installation to comply with specified tolerances and finishes.
- f. Execute cutting and demolition by methods which will prevent damage to other work and will provide proper surfaces to receive installation of repairs and new work.
  - 1. Where ever feasible, as determined by the Agency, material to be removed and material to remain shall be saw cut along neat, square and straight lines.
  - 2. Concrete and masonry cutting shall be accomplished with non-impact tools where possible and without distressing remaining material. Impact tools may be used with extreme care, where necessary.
- g. Restore work which has been damaged, cut, or removed, and which is to remain in the completed Work.
  - 1. Restoration shall be done with appropriate methods for new work of similar nature; or, if not specified, best recommended practice of materials manufacturer, or appropriate trade association.
  - 2. Restore work in such a way that there is a secure and intimate bond or fastening between new and old work. Restored surfaces shall be finished to such planes, shapes and textures that no transition between old and new work is evident in finished surfaces.
- h. Refinish entire surfaces as necessary to provide an even finish:
  - 1. Continuous Surfaces: To nearest intersections.
  - 2. Assemblies: Entire refinishing.

**8.5 Inspections.**

- 8.5.1 Unless otherwise specified in the Contract Documents, Contractor shall give the Project Manager at least forty-eight (48) hours prior notice of the readiness of Work for any required inspections, tests, or approvals.
- 8.5.2 Unless otherwise specified in the Contract Documents, if a governmental agency other than the City has jurisdiction over any portion of the Work, Contractor shall pay all costs in connection with the inspection, testing, or approval of that portion of the Work.
- 8.5.3 Unless otherwise specified in the Contract Documents, shall coordinate and schedule all required inspections including City, Health Department, and Fire inspections.

**8.6 Correction of Defective Work.**

- 8.6.1 Defective Work. Contractor shall perform the Work to the satisfaction of the Project Manager. In determining whether the Work conforms with the requirements of the Contract Documents, the Project Manager may require special inspection or testing of the Work. If the Project Manager determines that all or a portion of the Work does not conform to the requirements of the Contract Documents, the Project Manager will issue a Non-Conformance Notice in writing to Contractor. Such Notice shall record the fact that, in the opinion of the Agency, the work has been determined to be defective or not in compliance with the Contract requirements.
- 8.6.2 Payment will not be made on any portion of the work for which a Non-Conformance Notice has been issued and the work not corrected to the satisfaction of the Agency.
- 8.6.3 Upon receipt of a Non-Conformance Notice Contractor shall provide a written Response to Non-Conformance Notice within five (5) working days after receipt of the Notice. To Contractor's response shall detail either:
  - a. Why they believe that the work was performed in accordance with the contract documents, or



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- b. What corrective action they intend to take, at their sole expense, to correct the non-conforming work
- 8.6.4 If Contractor disputes issuance of the Notice the Project Manager has five (5) working days in which to respond by either:
  - a. Withdrawing the Notice of Non-Conformance, or
  - b. Directing Contractor to correct Defective Work, and to replace, repair, or restore to the Agency's satisfaction any other parts of the Work and any other real or personal property which is damaged or destroyed as a result of Defective Work or the correction of Defective Work.
- 8.6.5 Such determination by the Project Manager shall be final and conclusive of the matter. If directed to correct the work, Contractor shall do so within five (5) working days after receipt of such direction from the Project Manager, or such other time as may be agreed to with the Project Manger. If Contractor believes that this determination is in error, he shall nevertheless, proceed promptly to repair or replace the work, as directed, keeping separate track of the costs of such repair or replacement. Contractor may submit a request for equitable adjustment for such costs under the provisions of the Disputes Clause of these Contract Documents.
- 8.6.6 Contractor shall remove from the Project site portions of the Work and materials which are not in accordance with the Contract Documents and which are neither corrected by Contractor nor accepted by the Agency.
- 8.6.7 If Contractor fails to pay the costs of such removal and storage within ten (10) working days after written demand, the Agency may, without prejudice to other remedies, sell such materials at auction or at private sale, or otherwise dispose of such material. Contractor shall be entitled to the proceeds of such sale, if any, in excess of the costs and damages for which Contractor is liable to the Agency, including reasonable attorneys' fees and expenses and compensation for the Agency's services and expenses.
- 8.7 Acceptance of Defective Work.
  - 8.7.1 Notwithstanding the provisions of General Conditions Subsection 8.6, the Agency shall have the option, at its sole discretion and by notice to Contractor, to accept Defective Work instead of requiring its removal or correction, in which case the Contract Amount shall be reduced by an amount equal to the difference between: (a) the value to the Agency such Work would have had were it complete, correct, and in conformity with the Contract Documents; and (b) the value to the Agency of such Defective Work. Such option shall be exercised solely by notice to Contractor and shall not be implied from any act or omission by the Agency or the Project Manager. If the remaining payments and retention are insufficient to cover the amount of the reduction of the Contract Amount, Contractor shall promptly pay to the Agency the amount of any such deficiency.
- 8.8 Uncovering of Work.
  - 8.8.1 If a portion of the Work is covered prior to inspection by the Agency (contrary to Project Manager's request or direction, or contrary to the requirements of the Contract Documents), Contractor shall, if required in writing by Project Manager, uncover the Work for the Project Manager's observation, and replace the Work at Contractor's expense without adjustment of the Contract Time or the Contract Sum.
  - 8.8.2 If a portion of the Work has been covered, which is not required by the Contract Documents to be observed or inspected prior to its being covered and which the Project

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Manager has not specifically requested to observe prior to its being covered, the Project Manager may request to see such Work and it shall be uncovered and replaced by Contractor. If such Work is in accordance with the Contract Documents, the costs of uncovering and replacing the Work shall be added to the Contract Amount by Change Order; and if the uncovering and replacing of the Work results in an Excusable Delay or a Compensable Delay, an appropriate adjustment of the Contract Time shall be made by Change Order. If such Work is not in accordance with the Contract Documents, Contractor shall pay such costs and shall not be entitled to an adjustment of the Contract Time or the Contract Amount.

8.9 Contractor Quality Control.

8.9.1 Contractor shall, at its sole expense, perform all labor and services and furnish all materials, tools and appliances necessary and proper for performing and completing the work of the Project in strict compliance with the terms and conditions of the Contract Documents. Contractor shall provide all labor, materials and equipment in conformity with the Contract Documents and other directions given by the Agency.

8.9.2 Contractor shall, at its sole expense, inspect their own work to determine strict conformance to the requirements of the Contract Documents. If Contractor determines that some work performed on the Project does not comply with the requirements of the Contract Documents, Contractor shall repair or replace such defective work at its sole expense.

8.9.3 Contractor shall gain no protection or right of reliance on the Agency or City's inspection of the Work. If it is determined that the Agency or inspected work failed to call defects or non-conforming items to the attention of Contractor, the Agency or shall not be deemed to have waived the requirements of the Contract Documents or accepted the Work.

8.10 Reference and Standards.

8.10.1 All construction shall be in accordance with the current California Code of Regulations (CCR) Title 24.

8.10.2 Various standards are referenced in the Specifications and notes on the Drawings. Reference standards shall be in current edition, as of the date of these specifications, of the document.

8.11 Products.

8.11.1 Only products approved by the Architect shall be used.

8.11.2 The burden of proof of compliance with project requirements rests with Contractor.

8.11.3 Contractor shall coordinate installation of accepted substitutions and product options into the Work making such changes as necessary to accommodate the proposed products without additional cost to the Agency.

8.11.4 Product colors:

8.11.4.1 The Architect will provide a schedule of colors.

8.11.4.2 No individual color selections will be made until after approval of all pertinent materials and equipment and after receipt of appropriate samples.

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8.11.4.3 Contractor shall request priority for any item requiring advance order to maintain schedule.

8.12 Controls During Construction.

8.12.1 Provide control on the site as required to abate dust or other air pollution nuisance on or adjacent to the site. Dirt shall not be allowed to accumulate on streets or sidewalks nor be washed into sewer. Noise from construction operations shall be kept to a minimum.

8.12.2 Maintain premises and public properties free from accumulations of waste, and debris due to the Work. Legally dispose of waste materials, debris, and rubbish off the site.

8.12.3 Post and maintain notices required by law.

8.13 Installation of Products.

8.13.1 Comply with manufacturers' instructions and recommendations for installation of products in the applications indicated. Anchor each product securely in place, accurately located and aligned with other Work.

8.13.2 Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.

8.14 Cleaning.

8.14.1 Clean areas and spaces where cutting and patching are performed. Completely remove paint, mortar, oils, putty, and similar items. Thoroughly clean piping, conduit, and similar features before applying paint or other finishing materials. Restore damaged pipe covering to its original condition.

8.14.2 Remove temporary facilities upon completion of Project.

8.14.3 At completion, leave Project clean and ready for use.

8.14.4 Legally dispose of waste materials, debris and rubbish off the site.

8.14.5 Remove grease, dust, dirt, stains, labels, fingerprints, and other foreign materials, from exposed and semi-exposed surfaces.

8.14.6 Repair, patch and touch up marred surfaces to specified finish, to match adjacent surfaces.

8.14.6 Vacuum clean all interior spaces including inside cabinets. Broom clean paved surfaces, rake clean other surfaces of grounds.

**9. CLAIMS.**

9.1 Definition of "Claim." The term "Claim" means a written demand or assertion by Contractor seeking, as a matter of asserted right, adjustment of the terms of the Contract Documents, payment of money in addition to the Contract Amount, extension of Contract Time, or determination of other disputes or matters in question between the Agency and Contractor arising out of or related to the Contract Documents or the performance of the Work, including claims alleging an error or omission in the Contract Documents.

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- 9.2 Contents of Claims. Contractor may submit a claim concerning a matter properly noticed in accordance with the requirements of this Contract. A claim must be made in writing with specificity, including identification of the event giving rise to the claim, the date of the event, the asserted effect on Contract Amount and Contract Time, and all documents and data necessary to substantiate the claim. If all supporting documentation or data for a claim is not available at the time the claim is made, the supporting documentation and data which is then available shall be submitted, and supplemental documentation and data supporting the exact amount of and support for the claim shall be submitted as soon as available. For each claim, at a minimum, Contractor shall submit documentation to the Project Manager which establishes the following elements:
- 9.2.1 For any requested adjustment to the Contract Amount, include references to specific provisions of the Contract Documents which support the adjustment, including all data required for a Contractor's request for change order set forth in General Conditions Section 10, and including: (a) a detailed audit which confirms the appropriateness of all costs quoted; (b) an isolation of Labor, Material, and Equipment costs, providing detailed quantities and unit prices for changed Work; and (c) documentation of actual increased costs associated with the time period cited in the claim.
- 9.2.2 For any requested adjustment to the Contract Time, include scheduling documentation supporting the extension of time, pursuant to General Conditions Section 12.
- 9.2.3 Claim documentation shall conform to Generally Accepted Accounting Principals and shall be in the following format:
1. General Introduction
  2. General Background Discussion
  3. Issues
    - a. Index of Issues (listed numerically)
    - b. For each issue:
      - (1) Background
      - (2) Chronology
      - (3) Contractor's position (reason for Agency's potential liability)
      - (4) Supporting documentation of merit or entitlement
      - (5) Supporting documentation of damages
      - (6) Begin each issue on a new page.
  4. All critical path method schedules, both as-planned, monthly updates, schedule revisions, and as-built along with the computer disks of all schedules related to the claim.
  5. Productivity exhibits (if appropriate)
  6. Summary of Issues and Damages
- 9.2.4 Supporting documentation of merit for each issue shall be cited by reference, photocopies, or explanation. Supporting documentation may include, but shall not be limited to, general conditions; general requirements; technical specifications; drawings; correspondence; conference notes; shop drawings and submittals; shop drawing logs; survey books; inspection reports; delivery schedules; test reports; daily reports; subcontracts; fragmentary CPM schedules or time impact analyses; photographs; technical reports; requests for information; field instructions; and all other related records necessary to support Contractor's claim.
- 9.2.5 Supporting documentation of damages for each issue shall be cited, photocopied, or explained. Supporting documentation may include, but shall not be limited to, any or all documents related to the preparation and submission of the bid; certified, detailed labor records including labor distribution reports; material and equipment procurement records; construction equipment ownership cost records or rental records;

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Subcontractor or vendor files and cost records; service cost records; purchase orders; invoices; project as-planned and as-built cost records; general ledger records; variance reports; accounting adjustment records; and any other accounting materials necessary to support Contractor's claim.

- 9.2.6 Each copy of the claim documentation shall be certified by a responsible office of Contractor in accordance with the requirements of these Contract Documents. A Certificate of Current Cost and Pricing Data and a False Claim Certificate signed by a responsible officer of Contractor must accompany each claim.
- 9.2.7 Claims shall not be computed by merely subtracting bid price from the total cost of the affected work nor shall they be calculated by subtracting payments from the Agency from actual costs incurred by Contractor.
- 9.2.8 However, if any claims are based upon the Total Cost Method, then, to be considered by the Agency, they shall be supported by evidence furnished by Contractor that:
1. The nature of the dispute(s) makes it impossible or impracticable to determine cost impacts of specific incidents, events or action with a reasonable degree of accuracy, and
  2. Contractor's bid estimate was realistic and free of any material errors, and
  3. Contractor's actual costs were reasonable, and
  4. That none of the added expenses or cost overruns resulted from actions of Contractor or any Subcontractor, supplier or materialman, at any tier.
- 9.2.9 If Contractor elects to file a Total Cost Claim under the provisions above, Contractor shall immediately make available all documents related in any way whatsoever to the preparation and submission of Contractor's bid and all job cost records (including at a minimum all as-planned or budget costs, all actual cost reports on a monthly basis, all labor distribution reports, all Subcontractor, supplier and vendor records, and all variance reports).
- 9.2.10 Measured Mile Study. Any request for equitable adjustment seeking additional compensation for loss or productivity or loss of efficiency shall be supported by submittal of a Measured Mile Study, prepared by Contractor and submitted to the Agency, of the work of this project so impacted. The Measured Mile Study shall identify those activities impacted and shall show by use of contemporaneous project documentation, what was the actual level of efficiency or productivity achieved by Contractor's forces before and after a known event or set of events. In the event that different activities on the project were impacted, staffed by different trades, Contractor shall support a separate Measured Mile Study for each set of activities so impacted. Contractor shall also submit a written narrative detailing the cause of such labor productivity or efficiency and demonstrating that the Agency was the proximate cause of the event(s) that caused such loss. Failure to provide such Measured Mile Study or Studies to the Agency in a timely manner shall constitute waiver of any and all claims related, in any way whatsoever, to loss of productivity or loss of efficiency.
- 9.1.11 Should Contractor be unable to support any part of the claim and it is determined that such inability is attributable to falsity of such certification or misrepresentation of fact or fraud on the part of Contractor, Contractor shall be liable to the Agency as provided for under California Government Code Section 12650 et. seq.
- 9.3 Time for Contractor's Submittal of Claim. Contractor shall submit all claims to the Project Manager in the manner set forth in this section, within the time which is the first to occur of the following time limits: (a) promptly but not later than ten (10) working days after the date Contractor first recognized, or reasonably should have recognized, the condition or event giving rise to the claim, whichever is earlier; (b) before Contractor proceeds to execute the Work or

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portions of the Work giving rise to the claims; or (c) no later than thirty (30) days after the event or situation causing the claim has been overcome.

- 9.4 Effect of Contractor's Failure to Make Timely Claims. Exhaustion of Contractor's administrative remedies set forth in this Section 9 shall be a condition precedent to Contractor's submission of such claim to appeal or mediation, arbitration, or litigation. If Contractor fails to make a claim in accordance with this Section 9 prior to proceeding to execute the Work or portions of the Work giving rise to (or arising from) the claim (whether or not the exact amount of such claims is ascertainable), then Contractor is expressly barred from asserting that claim. Contractor hereby expressly waives all claims not made in accordance with the requirements of this Section 9.
- 9.5 Continuing Contract Performance. After Contractor makes a claim in accordance with this Section 9, and prior to Contractor's receipt of a response by the Agency: (a) Contractor shall diligently proceed with performance of the Work in accordance with the Contract Documents; (b) Contractor shall not cause any delay, cessation, or termination in or of Contractor's performance of the Work, including Work pertaining to a pending claim; and (c) the Agency will continue to make payments in accordance with the Contract Documents.
- 9.6 Agency Response to Claims. The Project Manager shall promptly review all claims made by Contractor in accordance with this Section 9, in accordance with the timing requirements of California Public Contract Code sections 20104, *et seq.*, a summary of which is set forth below.
- 9.6.1 If the Project Manager determines that additional supporting documentation is needed in order for the Agency to review Contractor's claim, the Project Manager shall request such additional documentation within thirty calendar days after receipt of the claim. Contractor shall furnish the requested additional documentation no later than fifteen calendar days after receipt of Agency's request, unless Contractor provides information to the satisfaction of the Project Manager that additional time is required to obtain the additional documentation.
- 9.6.2 After Contractor has provided all required documentation in support of the claim, the Project Manager shall render a written response within the following time limits:
- 9.6.2.1 For claims less than Fifty Thousand Dollars (\$50,000), the written response shall be made within forty-five (45) calendar days of receipt of the claim; however, if the Project Manager requires additional documentation from Contractor, the written response shall be made after Agency's receipt of the additional documentation by the later of: (a) fifteen (15) calendar days, or (b) the number of calendar days taken by Contractor in producing the additional documentation.
- 9.6.2.2 For claims greater than Fifty Thousand Dollars (\$50,000) and less than or equal to Three Hundred and Seventy-five Thousand Dollars (\$375,000), the written response shall be made within sixty (60) calendar days of receipt of the claim; however, if the Project Manager requires additional documentation from Contractor, the written response shall be made after Agency's receipt of the additional documentation by the later of: (a) thirty (30) calendar days, or (b) the number of calendar days taken by Contractor in producing the additional documentation.
- 9.6.3 Failure of the Project Manager to render a decision within the time periods set forth herein shall be deemed a denial of the claim and the last day of such period shall be the date of such decision. The decision of the Project Manager shall be final and binding unless appealed in accordance with General Conditions Subsection 9.7.

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- 9.7 Appeal of the Project Managers Decision. If Contractor disputes the Project Manager's decision of a claim, Contractor may, within fifteen (15) calendar days of the decision, submit a written appeal to the Project Manager requesting a conference to meet and confer for settlement of the issues in dispute. The written appeal shall include all supporting data upon which Contractor requests the Agency to make its decision, including all documentation transmitted between Contractor and the Project Manager on the underlying claim. The Project Manager will schedule a meet and confer settlement meeting within thirty (30) calendar days after receipt of Contractor's written appeal.
- 9.8 Government Code Claims. If Contractor is not satisfied with the results of the meet and confer settlement meeting, Contractor may file a claim in accordance with California Government Code sections 900, *et seq.*, and California Public Contract Code Subsections 20104.2(e) and (f).

**10. CHANGES IN THE WORK.**

10.1 Change Orders.

- 10.1.1 The Agency may, from time to time, order additions, deletions, and other changes in the Work by Change Order, without invalidating the Contract and without notice to sureties. The Change Order shall describe the change in the Work, the adjustment of the Contract Amount (if any), and the adjustment of the Contract Time (if any). The Change Order may be in the form of a directed Change Order, or an agreed Change Order. Upon the receipt of either form of Change Order from the Agency, Contractor shall proceed promptly and diligently with any changes in the Work as described in the Change Order.
- 10.1.2 Contractor may submit a written proposal for the Change Order regarding changes in specific methods of construction, or changes in the plans and specifications. The change proposal shall be reviewed by the Project Manager, and may be approved by the Project Manager if the change does not materially affect the Work, the change is not detrimental to the Work or the interests of the Agency, and the proposal is received by the Project Manager within ten (10) working days of the start of the condition which caused the proposed change. Nothing herein shall be construed as granting a right to Contractor to adjust the Contract Amount or the Contract Time as a result of the change proposal.
- 10.1.3 The process of submitting a proposed change, a cost proposal, or negotiating an agreed change order, or any failure to reach an agreement as to any resulting adjustment to the Contract Amount or the Contract Time, shall not relieve Contractor of its obligation to perform in accordance with the Contract Documents.

10.2 Directed Change Orders.

- 10.2.1 A directed Change Order may be issued by the Agency without Contractor's signature where the Agency determines that it is in the Agency's best interest, and the change does not materially alter the character of the Work, and the adjustments to the Contract Amount (if any) have been made in accordance with the prices identified in the Schedule of Values or General Conditions Section 10.3, and the adjustments to the Contract Time (if any) have been made in accordance with General Conditions Section 12. It is hereby agreed and understood by Contractor that a change does not materially alter the character of the Work if the change results in a change (increase or decrease) of any line item on the Schedule of Values by twenty-five percent (25%) or less, and a change of the total Contract Amount by twenty-five percent (25%) or less. Upon receipt of the directed Change Order, Contractor shall promptly and diligently proceed with the change in the Work. Contractor shall be deemed to have accepted the terms of any directed Change Order unless Contractor asserts a claim with respect to the

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directed Change Order in accordance with Section 9 and not later than ten (10) working days following Contractor's receipt of the directed Change Order.

10.2.2 Acceleration of Work Schedule. The Agency reserves the right to accelerate the work of the Contract. In the event that the Agency directs acceleration, such directive will be only in written form. Contractor shall keep cost and other project records related to the acceleration directive separately from normal project costs and records and shall provide a written record of acceleration cost to the Project Manager on a daily basis.

10.2.2.1 In the event that Contractor believes that some action or inaction on the part of the Agency constitutes an acceleration directive, Contractor shall immediately notify the Project Manager in writing that Contractor considers the actions an acceleration directive. This written notification shall detail the circumstances of the acceleration directive. Contractor shall not accelerate their work efforts until the Project Manager responds to the written notification. If acceleration is then directed or required by the Agency, all cost records referred to above shall be maintained by Contractor and provided to the Project Manager on a daily basis.

10.2.2.2 In order to recover additional costs due to acceleration, Contractor must document that additional expenses were incurred and paid by Contractor. Labor costs recoverable will be only overtime or shift premium costs or the cost of additional laborers brought to the site to accomplish the accelerated work effort. Equipment costs recoverable will be only the cost of added equipment mobilized to the site to accomplish the accelerated work effort.

10.3 Agreed Change Orders.

10.3.1 A change (increase or decrease) in the Work shall be referred to as "Extra Work." Extra Work shall be calculated based on the criteria set forth in this Subsection 10.3 and Subsection 12.2, unless otherwise agreed by the Agency and Contractor (such as a lump sum price or the prices identified in the Schedule of Values). During the performance of Extra Work, as a condition to Contractor's right to an adjustment of the Contract Amount, Contractor shall keep daily detailed and accurate records itemizing each element of cost and shall provide substantiating records and documentation, including time cards and invoices. Such records and documentation shall be submitted to and approved by the Project Manager on a daily basis.

10.3.2 For Work to be deleted by Agreed Change Order, the reduction of the Contract Amount shall be calculated based on the criteria set forth in this Subsection 10.3, unless otherwise agreed by the Agency and Contractor (such as a lump sum price, or prices identified in the Schedule of Values), in an amount not greater than the actual and reasonable costs incurred in connection with the deleted item.

10.3.3 Within ten (10) working days of receipt of the Agency's written request for an agreed Change Order, Contractor shall provide the Project Manager with a Cost Proposal, in a form satisfactory to the Project Manager, setting forth Contractor's proposed adjustments of the Contract Amount (including the Prices identified in the Schedule of Values, or actual Cost of Extra Work plus Contractor Fee, as defined in this Subsection 10.3) and the Contract Time, if any, for performing the change in the Work, as described in the written request. Adjustments of the Contract Amount shall be determined using the methods described in this Subsection 10.3 and Subsection 12.2. Adjustments of the Contract Time shall be determined using the methods described in General Conditions Section 12.



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10.3.4 It is the intent of the Agency to settle all Change Orders full and final at the time the Change Order is issued. Therefore, the following paragraph will be incorporated in writing on the face of all Change Orders.

10.3.4.1 The compensation (time and cost) set forth in the Change Order comprises the total compensation due Contractor, all Subcontractors and all suppliers, for the work or change defined in the Change Order, including all impact on any unchanged work. By signing the Change Order, Contractor acknowledges and agrees, on behalf of himself, all Subcontractors, and all suppliers, that the stipulated compensation includes payment for all work contained in the Change Order, plus all payment for the interruption of schedules, extended overhead costs, delay, and all impact, ripple effect or cumulative impact on all other work under this Contract. The signing of the Change Order shall indicate that the Change Order constitutes full mutual accord and satisfaction for the change, and that the time and/or cost under the Change Order constitutes the total equitable adjustment owed Contractor, all Subcontractors, and all suppliers, as a result of the change. Contractor, on behalf of himself, all Subcontractors, and all suppliers, agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of or as a result of this Change Order or the impact of this Change Order on the remainder of the work under this Contract.

10.3.5 The "Cost of Extra Work" includes the actual cost of Extra Work actually performed by Contractor and each Subcontractor involved in the Extra Work, not greater than the costs prevailing in the locality of the Project, and limited to the following:

- a. Straight time wages or salaries (including fringe benefits and payroll taxes) for employees directly employed at the Project site or at fabrication sites off the Project site in the performance of the Extra Work.
- b. Straight time wages or salaries (including fringe benefits and payroll taxes) for supervisory and administrative personnel directly employed at the Project site in the performance of the Extra Work, but only if: (1) the Extra Work requires an extension of the Contract Time or requires direct supervision and administration of overtime work; and (2) to the extent such personnel are solely engaged in supervising and administering such Extra Work during an extension of the Contract Time or periods of overtime.
- c. Overtime wages or salaries, specifically authorized in writing by the Project Manager, for employees directly employed at the Project site or at fabrication sites off the Project site in the performance of the Extra Work.
- d. Overtime wages or salaries, specifically authorized in writing by the Project Manager, for supervisory and administrative personnel directly employed at the Project site in the performance of the Extra Work, but only if: (1) the Extra Work requires direct supervision and administration of overtime work; and (2) to the extent such personnel are solely engaged in supervising and administering such Extra Work during periods of overtime.
- e. Costs of materials and consumable items which are incorporated into and used in the performance of the Extra Work. Costs of materials and consumable items, as approved by the Project Manager, shall not exceed competitive costs obtainable from other Subcontractors, suppliers, manufacturers, and distributors in the area of the Project site, and shall include all related costs for transportation, maintenance, and storage.

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- f. Sales taxes on the costs of materials and consumable items which are incorporated into and used in the performance of the Extra Work.
  - g. Rental charges for necessary machinery and equipment, exclusive of small tools (such as goods with a replacement value of Fifty Dollars (\$50) or less), used directly in the performance of the Extra Work. Rental charges shall be at rates, as approved by the Project Manager, not exceeding competitive rates obtainable from unrelated third parties in the area of the Project site.
  - h. Additional costs required for the Extra Work for: royalties, permits, utilities, taxes, additional insurance, and additional bonds.
  - i. Cost of Extra Work shall exclude the cost of any item not specifically and expressly described in this Subsection 10.3.5, such as overhead, profit, administrative costs (including Contractor's officers, executives, principals, and partners not specifically identified in Subsection 10.3.5), loss of efficiency, legal costs, interest cost of any type other than those mandated by statute, claim preparation or filing costs, the costs of preparing or reviewing proposed Change Orders or Change Order proposals concerning Change Orders which are not issued by the Agency, lost revenues, lost profits, lost income or earnings, rescheduling costs, costs of idled equipment when such equipment is not yet at the site or has not yet been employed on the work, lost earnings or interest on unpaid retainage, claims consulting costs, the costs of corporate officers or staff visiting the site or participating in meetings with the Agency, any compensation due to the fluctuation of foreign currency conversions or exchange rates, loss of other business, or any other cost identified as an unallowable cost under the provisions of the Federal Acquisition Regulations.
- 10.3.6. The full amount of compensation to be paid to Contractor for all costs and expenses related to Extra Work shall be as set forth in this Subsection 10.3.6. If the Project Manager determines that Contractor is not entitled to a "Compensable Delay" (as defined by Subsection 12.2), Contractor's compensation for Extra Work shall be limited to the "Cost of Extra Work" (as defined by Subsection 10.3.5), and the "Contractor Fee" (as defined by Subsection 10.3.7). If the Project Manager determines that Contractor is entitled to a "Compensable Delay" (as defined by Subsection 12.2), Contractor's compensation for Extra Work shall be limited to the "Cost of Extra Work" (as defined by Subsection 10.3.5) and the "Cost of Compensable Delay" (as defined by Subsection 12.2.4).
- 10.3.7 Unless otherwise agreed in writing between the parties, Contractor Fee shall consist of the sum of the following two parts, as applicable: (1) "Markup Fee" and (2) "Handling Fee." However, the combined total Contractor Fee (the Markup Fee and Handling Fee) shall not exceed fifteen percent (15%) of the Cost of Extra Work.
- a. Contractor or any Subcontractor shall be entitled to a "Markup Fee" of up to ten percent (10%) of the amount of Extra Work actually performed.
  - b. Contractor shall be entitled to a "Handling Fee" of up to five percent (5%) of the amount of Extra Work performed by any Subcontractor.
- 10.3.8 If the Agency determines that any price, including profit or fee, negotiated in connection with any Change Order or claim settlement under this Contract, or any cost reimbursable under this Contract, was increased because:

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- a. Contractor furnished cost or pricing data which was not accurate, complete and current as certified in Contractor's Certificate of Current Cost or Pricing Data form;
- b. A Subcontractor, supplier, materialman, or prospective Subcontractor, at any tier, furnished cost or pricing data in support of a subcontract cost estimate furnished by Contractor but which was not accurate, complete and current as of the date certified in Contractor's Certificate of Current Cost or Pricing Data form; or
- c. Contractor or a Subcontractor, supplier, materialman, or prospective Subcontractor, at any tier, furnished any data not within a. or b. above which was not accurate as submitted.

The price shall be reduced accordingly and Contractor shall be notified in writing as may be necessary to reflect such reduction. However, any reduction in the Contract price due to defective subcontract data of a prospective Subcontractor, when the subcontract was not subsequently awarded to such Subcontractor, will be limited to the amount (plus applicable overhead and profit) by which the actual subcontract or actual cost to the Contract if there was no Subcontract, was less than the prospective subcontract cost estimate submitted by Contractor; provided that the actual subcontract price was not affected by defective cost or pricing data.

- 10.3.9 Contractor shall provide a Certificate of Current Cost and Pricing Data for each Change Order cost quotation or request or all requests for equitable adjustment in excess of Five Thousand Dollars (\$5,000.00).

**11. LETTERS OF INSTRUCTION.** The Project Manager may issue Letters of Instruction which make interpretations of the Contract Documents that do not change the Scope of Work or involve an adjustment of the Contract Amount or the Contract Time and that are consistent with the intent of the Contract Documents. Letters of Instruction shall be binding upon Contractor. Contractor shall promptly and diligently carry out the requirements of such Letters of Instruction.

**12. CONTRACT TIME.**

12.1 Commencement and Progress of the Work, and Construction Schedule.

- 12.1.1 The date of commencement of the Work shall be set forth in the Notice to Proceed. The Contract Time, within which the Work shall be substantially completed by Contractor, is set forth in the Invitation for Bids.
- 12.1.2 Contractor shall submit, prior to commencement of Work, and shall maintain throughout performance of Work an up-to-date Construction Schedule, providing an orderly, feasible, and realistic progression of the Work to final completion within the Contract Time, and completion milestones, specified in the Contract Documents. The Construction Schedule, and each update, shall be subject to the review and approval of the Project Manager, and shall accurately reflect Contractor's actual intent and reasonable expectations regarding the sequences of activities, productivity or efficiency, expected weather conditions, completion of any activity or item of Work, delays or problems encountered or anticipated, and specified float time. At a minimum, subject to the approval of the Project Manager, the Construction Schedule shall be in a sufficient level of detail to show the coordination of all items of work for a 30 to 90 day period, with an overall master schedule for the final completion of the Work within the Contract Time.
- 12.1.3 Contractor shall prepare and maintain the Construction Schedule using "Microsoft Project" or approved equivalent software as determined by the Project Manager.

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- 12.1.4 Prior to submittal of the Construction Schedule, Contractor shall coordinate with the Project Manager regarding the format of the Construction Schedule. The Construction Schedule shall be prepared in a critical path network format, with critical paths clearly indicated. Each scheduled activity shall be matched with an item on the Schedule of Values. The Construction Schedule shall incorporate the Schedule of Submittals (and shop drawings). In addition to a graphic plot of the network, the Construction Schedule shall include reports sorting and listing the activities in order of increasing float, by early start dates, and by late start dates.
- 12.1.5 Contractor shall regularly update the Construction Schedule, not less than monthly, so that it accurately reflects the progress of the Work (including all change orders) and final completion of the Work within the Contract Time.
- 12.1.6 If Contractor is not diligently proceeding with the prosecution of the Work as set forth in the Construction Schedule, Contractor shall, immediately and at no additional cost to the Agency, take all measures necessary, including: increasing the number of employees, or working overtime, additional shifts, Sundays, or holidays, as may be required to ensure final completion of the Work within the Contract Time.
- 12.1.7 The Agency, Project Manager, and Architect shall not be responsible for failure of Contractor to plan, schedule and perform the Work in accordance with the Master Schedule or Contractor's Construction Schedule, or Contractor's failure to cooperate with other contractors, or Contractor's failure to meet scheduled completion dates or the schedule and coordinate the work of Contractor's own Subcontractors or suppliers.
- 12.2 Delay.
- 12.2.1 In the event Contractor seeks an adjustment of the Contract Time or the Contract Amount as the result of an Excusable Delay or a Compensable Delay, as defined herein, Contractor shall submit a Claim in accordance with the requirements of General Conditions Section 9. For any delay claim, Contractor shall have the burden of providing documentation to the satisfaction of the Project Manager that there has been a delay to the critical path which caused Contractor's substantial completion of the Work to be delayed beyond the Contract Time and that the delay is an Excusable Delay or a Compensable Delay. Contractor shall not be entitled to an adjustment of the Contract Time or the Contract Amount for: (a) an Inexcusable Delay; or (b) an interference with Contractor's early completion of Work.
- 12.2.2 The following definitions shall apply to the Contract Documents:
- a. "Excusable Delay" means any delay of the substantial completion of the Work beyond the expiration of the Contract Time caused by conditions beyond the control and without the fault or negligence of Contractor such as strikes, embargoes, fire, unavoidable casualties, unusual delays in transportation, national emergency, and abnormal stormy or inclement weather conditions. Abnormal stormy or inclement weather is defined as the ten-year average of accumulated record mean values from climatological data from the U.S. Department of Commerce National Oceanic and Atmospheric Administration for the project locale plus one standard deviation for the ten years of data considering the full term of the contract. The financial inability of Contractor or any Subcontractor or Supplier, and any default of Contractor or any Subcontractor or Supplier, without limitation, shall not be deemed conditions beyond Contractor's control. An Excusable Delay may entitle Contractor to an extension of the Contract Time, in accordance with General Conditions Subsection 12.2.3, but shall not entitle Contractor to any adjustment of the Contract Amount.

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- b. "Compensable Delay" means any delay of the substantial completion of the Work beyond the expiration date of the Contract Time caused by the active negligence or willful acts of the Agency, and which delay is unreasonable under the circumstances involved and not within the contemplation of the parties. A Compensable Delay may entitle Contractor to an extension of the Contract Time, in accordance with General Conditions Subsection 12.2.3, and/or an adjustment of the Contract Amount, in accordance with General Conditions Subsection 12.2.4. Except as provided herein, Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.
- c. "Inexcusable Delay" means any delay of the substantial completion of the Work beyond the expiration of the Contract Time resulting from causes other than those listed in General Conditions Subsections 12.2.2(a) and 12.2.2(b). An Inexcusable Delay shall not entitle Contractor to an extension of the Contract Time or an adjustment of Contract Amount.

12.2.3 Claims for Adjustment of the Contract Time for Delays: Contractor may make a Claim pursuant to General Conditions Section 9 for an extension of the Contract Time, for an Excusable Delay or a Compensable Delay, subject to the following:

- a. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of calendar days from the commencement of the first delay to the cessation of the delay which ends last.
- b. If an Inexcusable Delay occurs concurrently with either an Excusable Delay or a Compensable Delay, the maximum extension of the Contract Time shall be the number of calendar days, if any, by which the Excusable Delay or the Compensable Delay exceeds the Inexcusable Delay.

12.2.4 Cost of Compensable Delay. For a Compensable Delay, Contractor may make a Claim (pursuant to General Conditions Section 9) for an adjustment of the Contract Amount in an amount calculated in accordance with this Subsection 12.2. If an Excusable Delay or an Inexcusable Delay occurs concurrently with a Compensable Delay, the maximum number of days for which Contractor will be entitled to compensation shall be the number of calendar days, if any, by which the Compensable Delay exceeds the Excusable Delay and the Inexcusable Delay.

- a. Actual and unavoidable additional costs of labor, material, and equipment provided by Contractor at the Project site as a result of the Compensable Delay.
- b. Actual and unavoidable additional costs incurred by Contractor for labor, material, and equipment provided by Subcontractors as a result of the Compensable Delay.
- c. Actual and unavoidable additional wages or salaries and Fringe Benefits and Payroll Taxes of supervisory and administrative personnel provided by Contractor and Subcontractors at the Project site as a result of the Compensable Delay.
- d. The amount of Contractor Fee determined by applying the provisions of General Conditions Subsection 10.3 to the sum of the items set forth in this Subsection 12.2.4.

12.2.5 Time Impact Analysis. When Contractor experiences delays and a time extension is requested, Contractor shall submit to the Agency, a written Time Impact Analysis illustrating the influence of all changes or all delays on the current project completion

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date. Each claimed delay shall be identified as “Excusable,” “Compensable,” or “Inexcusable.” The time impact analysis shall be constructed on an As-Built Schedule Analysis approach. The As-Built Schedule created will incorporate all actual start and finish dates, actual durations of activities, actual sequences of construction (referred to as the As-Built Logic) current as of the time the Time Impact Analysis is performed. This Time Impact Analysis shall incorporate all delays (including Agency, Contractor and third party delays without exception) in the timeframe that they actually occurred with actual logic ties. The As-Built Schedule data shall be obtained from the most recent approved monthly schedule update. The As-Built Schedule shall be created as an early start schedule with the actual start and finish dates coinciding with the early start and finish dates from the most recent approved monthly schedule update. The As-Built Schedule shall show the original activity durations equal to the actual duration and the actual logic driving all activities. The Agency will validate the As-Built Schedule. All requests for time extension shall be based upon an analysis of this As-Built Schedule. The critical path will be established and all Compensable Delays on the critical path will be identified. The time extension will be based solely upon the cumulative duration of all Compensable and Excusable delays (as set forth in the Delay Clause of these Contract Documents) which are on the critical path. Any time extensions to the Project’s Interim Milestone Dates, if any, shall be non-compensable time extensions only.

12.2.5.1 Each Time Impact Analysis shall demonstrate the estimated time impact based on the events of delay, the date the Change Order was given to Contractor, the status of construction at that point in time, and the event time computation of all activities affected by the change or delay. The event times used in the analysis shall be those included in the latest approved update of the project schedule, in effect at the time the change or delay was encountered.

12.2.5 Extended Field Office Overhead Costs. Within thirty (30) days after receipt of the Notice to Proceed, Contractor shall submit a written statement to the Agency detailing field office overhead costs that are time related. The Agency will review this cost submittal and reach written agreement with Contractor on a daily field office overhead cost rate which shall be issued as an agreed upon Change Order. The daily rate agreed to in this Change Order will be applicable throughout the duration of the Contract. No field office costs will be paid until such agreement is reached between the Agency and Contractor and the Change Order concerning this daily rate is executed by both.

12.2.6.1 The individual cost components of the daily field office overhead rate shall represent costs which increase as a direct result of any time extension caused solely and exclusively by act of the Agency. This listing may include such cost items as on-site project management, supervision, engineering and clerical salaries; on-site office utilities and rent; on-site company vehicles and their operating expenses; and site maintenance and security expenses. Field office overhead costs which are unaffected by increased time shall not be allowable costs in calculating the daily field office overhead rate. These non-time related costs include, but are not limited to, acquisition and installation of stationary equipment; temporary construction facilities; utilities and office furnishings (unless such items are rented or leased); the preparation of the site including clearing, grubbing, grading and fencing; mobilization and demobilization costs; and the cost of permits, bonds and insurance coverage for the Project.

12.2.6.2 The daily field office overhead rate shall be multiplied by the number of Compensable Delay days and shall be added to the agreed upon Change Order cost. The days of Compensable Delay shall be those caused solely by action of the Agency and documented by a time impact analysis prepared and

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submitted by Contractor. In the event a deductive Change Order is issued which reduces time under the Contract, the daily field office overhead rate shall be added to the deductive amount. No allowance for overhead costs and no profit allowance shall be added to the extended field office overhead cost.

12.2.7 Unabsorbed Home Office Overhead. Payment will be made to Contractor for recovery of unabsorbed home office overhead costs only when Contractor demonstrates full compliance with all of the following:

- a. Contractor shall demonstrate that the delay is Compensable Delay. Delay to the work is defined as any time the projected end date of the work is extended beyond the current contract completion date and the most recent date predicted for completion of the work on the accepted schedule update current as of the time of the delay.
- b. To demonstrate such an impact, Contractor shall prepare and submit a detailed time impact analysis that clearly shows that the current controlling operation has been or will be delayed or prolonged solely by some action of the Agency and has or will cause the time of completion of the work to be delayed past the current contract completion date and the most recent date predicted for completion of the work on the accepted schedule update current as of the time of the delay. A delay to the controlling operation may only arise after the first working day on the Project has occurred.
- c. Contractor shall demonstrate that the Project's cash flow has been or will be substantially adversely impacted as a direct and sole result of such Compensable Delay. Substantial impact to the Project's cash flow for the work is defined as a reduction of at least ninety percent (90%) of the projected cash flow for the entire Project for a period of at least one (1) month or more.

12.2.7.1 Contractor shall also document that:

- 1. The Compensable Delay was of an unknown or uncertain duration at the time the delay arose;
- 2. That Contractor was required to remain on standby during the Compensable Delay period;
- 3. Contractor was unable to resequence or reorganize the work in order to continue working and maintain cash flow for the Project;
- 4. That the Compensable Delay to the Project's end date did not simply result from additional work caused by Change Orders which did not result in a substantial impact to the Project's cash flow; and
- 5. That there was no concurrent delay during this period of time.

12.2.7.2 Provided that Contractor complies fully with all of the above requirements, unabsorbed home office overhead costs shall be calculated in strict accordance with the following formula. No modifications to this formula shall be allowed, and Contractor shall be required to provide sufficient back up documentation to support the costs utilized in this formula.

Contract Billings for the Actual Contract Period	Total Company Overhead	Overhead
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----- Total Company Billings for the Actual Contract Period	x	Expenses During the Actual Contract Period	=	Allocable to the Project
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Overhead Allocable to the Project	----- Actual Days of Contract Performance	=	Overhead Allocable to the Contract per Day
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Daily Overhead	x	Number of Days of Compensable Delay	=	Unabsorbed Home Office Overhead
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12.2.7.3 Contractor shall submit their annual audited financial statement(s) for the company for every year in which the work was performed in order to document the numbers used in the formula for “Total Company Billings for the Actual Contract Period” and “Total Company Overhead Expenses During the Actual Contract Period.”

12.2.7.4 Any payment of unabsorbed home office overhead costs shall not be subject to any other markups for overhead or profit. If payment is made for unabsorbed home office overhead costs under this section, such payment shall be adjusted by subtracting the amount of overhead cost paid to Contractor on change order work during the period in which the unabsorbed home office overhead occurred.

**13. PAYMENTS AND COMPLETION.**

13.1 Schedule of Values.

13.1.1 Contractor shall prepare and maintain a Schedule of Values, to the satisfaction of the Project Manager. The Schedule of Values shall be submitted to the Agency prior to commencement of Work. The Schedule of Values shall include quantities and prices of items of Work, with the sum of all items shown on the Schedule of Values equal to the Contract Amount. The Schedule of Values shall identify a reasonable, balanced, and feasible distribution of Project costs.

13.1.2 The Schedule of Values shall show all items of Work included in Contractor’s Construction Schedule.

13.1.3 The Schedule of Values shall include an item “Project Finalization and Closeout” equal to five percent (5%) of the Contract Amount.

13.1.4 All costs shown by Contractor on requests for progress payments, and all payments made by the Agency to Contractor, shall be in accordance with the costs identified in the Schedule of Values.

13.2 Progress Payment.



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- 13.2.1 The Agency agrees to pay Contractor monthly, in accordance with the procedures set forth herein, an amount equal to the sum of the following:
- a. Cost of Work in permanent place plus cost of materials on-site but not yet incorporated in Work, subject to General Conditions Subsection 13.3.4.
  - b. Less retention in the amount calculated pursuant to General Conditions Subsection 13.2.2.
  - c. Less amounts previously paid.
  - d. Less deductions pursuant to General Conditions Subsection 13.4.2.
- 13.2.2 The amount of the retention shall be five percent (5%) of the Cost of Work as identified in General Conditions Subsection 13.2.1(a), unless otherwise specified in this Subsection.
- a. b.Retention may be held in an escrow account, pursuant to California Public Contract Code Section 22300, at Contractor's sole expense, if Contractor submits a timely request for said substitution of securities.
- 13.2.3 The balance of the Contract Amount shall be paid after Project completion in accordance with General Conditions Subsections 13.5 and 13.6.

13.3 Application for Payment.

- 13.3.1 The Agency shall make monthly payments to Contractor, based upon all documents properly and timely submitted by Contractor to the Agency. In order to receive timely payment from the Agency, Contractor shall, on or before the date agreed by the parties, and set forth in a writing signed by the Project Manager, submit to the Project Manager an itemized Application for Payment, which includes the following elements:
- a. Use forms provided by the Agency.
  - b. Itemize the Work in permanent place and the cost of materials, for which payment is requested, subject to review and approval of the Project Manager, in accordance with the line items set forth in the Schedule of Values.
  - c. Include such data substantiating Contractor's right to payment as the Project Manager may reasonably require, such as invoices from Subcontractors and suppliers, certified payrolls, daily time and material records, and, if securities are deposited in lieu of retention, a certification of the market value of all such securities as of a date not earlier than five (5) days prior to the date of the Application for Payment.
  - d. Itemize retention, amounts previously paid, and deductions.
  - e. Unconditional Waiver and Release upon Progress Payment (in the form set forth in California Civil Code Section 3262) for all payments made to Subcontractors and suppliers through the date of the previous billing month.
- 13.3.2 An Application for Payment shall be accompanied by a summary showing payments that will be made to Subcontractors covered by such application and, if requested by the Project Manager, Conditional Waiver and Release Upon Progress Payment (in the

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form set forth in California Civil Code Section 3262) from each Subcontractor and Supplier.

- 13.3.3 Contractor warrants that, upon submittal of an Application for Payment, all Work, for which Certificates for Payment have been previously issued and payment has been received from the Agency, shall be free and clear of all claims, stop notices, security interests, and encumbrances in favor of Contractor, Subcontractors, or other persons or firms entitled to make claims by reason of having provided labor, materials, or equipment relating to Work.
- 13.3.4 At the sole discretion of the Agency, the Project Manager may approve for inclusion in the Application for Payment the cost of materials not yet incorporated in the Work but already delivered and suitably stored either at the Project site or at some other appropriate location acceptable to the Project Manager. In such case, Contractor shall furnish evidence satisfactory to Project Manager: (1) of the cost of such materials; (2) that such materials are under the exclusive control of Contractor; and (3) that such materials are free and clear of all liens, charges, security interests, and encumbrances. Only materials to be incorporated in the Work will be considered for payment. Any payment shall not be construed as acceptance of such materials, nor shall it relieve Contractor from sole responsibility for the care and protection of such materials, nor shall it relieve Contractor from risk of loss to such materials from any cause whatsoever, nor shall it relieve Contractor from its obligation to complete the Work in accordance with the Contract, nor shall it act as a waiver of the right of the Agency to require fulfillment of all terms of the Contract.
- 13.3.5 Payment Procedure: No application for progress payment will be reviewed or paid by the Agency unless all of the following documents have been received and approved by the Agency, and are up to date:
- a. Current evidence of insurance.
  - b. Improvement security.
  - c. Identification of Contractor Representative.
  - d. List of Subcontractors and suppliers.
  - e. Progress schedule.
  - f. Submittal schedule, and all required submittals (if any).
  - g. Evidence of current "as-built" mark-ups.

The first application for progress payment will not be reviewed or paid by the Agency until Contractor submits the following documents:

- a. Schedule of Values for Agency review and comment.
- ~~b. Draft Initial Network Analysis Schedule defining planned operations for first sixty (60) days of Work and outline for remainder of Work for review and comment or approval by Agency.~~

The second application for progress will not be reviewed or paid by the Agency until Contractor submits the following documents:

- a. Schedule of Values approved by the Agency.

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- b. Initial Network Analysis Schedule for review, including written certification that major Subcontractors have reviewed and accepted proposed schedule.

13.4 Certificate for Payment.

13.4.1 If Contractor has made application in accordance with this Section 13, the Project Manager shall either: (a) make a written request to Contractor to submit additional documentation in order to correct errors or omissions, or explain contradictory information; or (b) make a determination regarding the amount of the progress payment which is properly due by the Agency to Contractor.

13.4.2 Approval of all or any part of an Application for Payment may be withheld, and all or part of a previous Certificate for Payment may be nullified and that amount withheld from a current Certificate for Payment on account of any of the following:

- a. Defective Work not remedied.
- b. Third-party claims against Contractor or the Agency arising from the acts or omissions of Contractor or Subcontractors.
- c. Stop notices.
- d. Failure of Contractor to make timely payments due employees, Subcontractors, or suppliers for material or labor.
- e. A reasonable doubt that the Work can be completed for the balance of the Contract Amount then unpaid.
- f. Damage to the Agency or Separate Contractor for which Contractor is responsible.
- g. Reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance of the Contract Amount would not be adequate to cover the Agency's damages for the anticipated delay.
- h. Failure of Contractor to maintain and update record documents.
- i. Failure to provide required daily reports to the project manager.
- i. Failure of Contractor to submit and obtain Agency approval of network analysis schedules or their updates as required by the Contract Documents.
- j. Performance of Work by Contractor without properly processed Shop Drawings.
- k. Liquidated damages assessed in accordance with Contract Section 5.
- l. Any other failure of Contractor to perform its obligations under the Contract Documents.

13.4.3 Neither a Certificate for Payment nor a progress payment made by the Agency shall constitute acceptance of Defective Work.

13.5 Substantial Completion.

13.5.1 "Substantial Completion" means the stage in the progress of the Work, as determined by the Project Manager, when the Work is complete and in accordance with the

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Contract Documents except only for completion of minor “final punch list” items which do not impair the Agency’s ability to occupy and fully utilize the Work for its intended purpose. If a portion of the Work has been designated by the Agency in the Contract Documents for separate delivery, Substantial Completion may occur for such designated portion of the Work.

- 13.5.2 When Contractor gives notice to the Project Manager that the Work is substantially complete, unless the Project Manager determines that the Work or designated portion thereof is not sufficiently complete to warrant an inspection to determine Substantial Completion, the Project Manager will inspect the Work and prepare and give to Contractor a preliminary punch list of items, if any, to be completed or corrected before establishing Substantial Completion. Contractor shall proceed promptly to complete and correct items on the preliminary punch list. Failure to include an item on the preliminary punch list does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents. If the Project Manager’s inspection discloses any item, whether or not included on the preliminary punch list, which must be completed or corrected before Substantial Completion, Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item. Contractor shall then submit a request for another inspection by the Project Manager to determine Substantial Completion.
- 13.5.3 When the Project Manager determines that the Work or such designed portion thereof is substantially complete, the Project Manager will prepare a Certificate of Substantial Completion (along with the final punch list) on the Agency’s form. The Certificate of Substantial Completion shall be effective only after signed by the Project Manager in accordance with acceptance of improvements by the Board. The effective date of the Certificate of Substantial Completion shall establish the date of Substantial Completion and the responsibilities of the Agency and Contractor for security, maintenance, heat, utilities, insurance, and damage to the Work or such designated portion thereof. Unless otherwise provided in the Certificate of Substantial Completion, the Warranty Period for the Work or such designated portion thereof covered by the Certificate of Substantial Completion, excluding any systems which are not yet fully operational and accepted by the Agency, shall commence on the date of the Certificate of Substantial Completion of the Work or such designated portion thereof. The Warranty Period for systems which become fully operational and accepted subsequent to Substantial Completion will begin on the date of their acceptance by the Agency.
- 13.5.4 Upon issuance of the Certificate of Substantial Completion for the Work or such designated portion thereof, after receipt of an Application for Payment from Contractor, the Agency shall reduce the amount of retention in accordance with California Public Contract Code Section 7107, and the Agency shall continue to withhold retention in an amount to cover the following costs.
- a. Estimated cost of the remaining Work and correction of Defective Work
  - b. Amounts which are or may be owed by Contractor to the Agency under the Contract Documents.
  - c. Stop Notice claims (including the reasonable cost of litigation) received by the Agency.
  - d. Other requirements of the Contract Documents, including those set forth in General Conditions Subsection 13.4.2.

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13.6 Final Completion and Final Payment.

- 13.6.1 After Contractor has received the Certificate of Substantial Completion along with the final punch list and Contractor has completed the work on the final punch list, Contractor may make a written request for final inspection, including the following documentation:
- a. Copy of the previous list of items to be completed or corrected, stating that each has been completed or otherwise resolved for acceptance.
  - b. Updated final statement, accounting for final changes to the Contract Amount.
  - c. Consent of surety to final payment.
  - d. Description of unsettled claims.
  - e. Other documents required by the Contract Documents.
- 13.6.2 Final Completion shall be when the Project Manager determines that the Work is fully completed and in accordance with the Contract Documents. After receipt of the final Application for Payment, if the Project Manager determines that Final Completion has occurred, the Agency will issue the final payment and a Certificate of Final Completion.
- 13.6.3 Neither final payment nor any remaining retention shall become due until Contractor submits the following items to the Project Manager:
- a. The final Application for Payment and all submittals.
  - b. If required by the Agency, Unconditional Waiver and Release Upon Final Payment (in the form set forth in California Civil Code Section 3262) for all payments made to Subcontractors and suppliers through the date of the previous billing month, and Conditional Waiver and Release Upon Final Payment (in the form set forth in California Civil Code Section 3262) for all payments made to Subcontractors and suppliers to be made to Subcontractors and suppliers upon final payment.
  - c. All guarantees and warranties procured by Contractor from Subcontractors, all maintenance and operating manuals for equipment installed in the Project, record (“as-built”) documents, and all other submittals required by the Contract Documents.
- 13.6.4 If Conditional Waiver and Release forms are required, Contractor shall pay or cause to be paid to Subcontractors and suppliers the amount stated in the conditional releases within five (5) days after receipt of the final payment, and shall promptly thereafter furnish evidence of such payment to the Agency. If the Agency does not require Conditional Waiver and Release forms, the final payment shall be made, subject to the satisfaction of all other conditions to final payment, thirty-five (35) days after the filing of the Notice of Completion.
- 13.6.5 Acceptance of final payment by Contractor shall constitute a waiver of all claims, except those previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment.

**14. SUSPENSION OF THE CONTRACT.**

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**14.1 Suspension by the Agency for Convenience.**

- 14.1.1 The Agency may, at any time and from time to time, without cause, order Contractor in writing, to suspend, delay, or interrupt the Work in whole or in part for such period of time, up to ninety (90) days, as the Agency may determine, with such period of suspension to be computed from the date of delivery of the written order. Such order shall be specifically identified as a "Suspension Order" under this Subsection 14.1. The Work may be stopped for such further period as the parties may agree. Upon receipt of a Suspension Order, Contractor shall, at the Agency's expense, comply with its terms and take all reasonable steps to minimize costs allocable to the Work covered by the Suspension Order during the period of work stoppage. Within ninety (90) days after the issuance of the Suspension Order or such extension to that period as is agreed upon by Contractor and the Agency, the Agency shall either cancel the Suspension Order or delete the Work covered by such Suspension Order by issuing a Change Order.
- 14.1.2 If a Suspension Order is canceled or expires, Contractor shall continue with the Work. A Change Order will be issued to cover any adjustments of the Contract Amount or the Contract Time necessarily caused by such suspension. Any claim by Contractor for an adjustment of the Contract Amount or the Contract Time shall be made within ten (10) working days after the end of the Work suspension.
- 14.1.3 The provisions of this Subsection 14.1 shall not apply if a Suspension Order is not issued by the Agency. A Suspension Order shall not be required to stop the Work as permitted or required under any other provision of the Contract Documents.

**14.2 Termination by the Agency for Convenience.**

- 14.2.1 The Agency may, at its option, terminate this Contract, in whole or from time to time in part, at any time by giving notice to Contractor. Upon such termination, Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof; and, as the sole right and remedy of Contractor, the Agency shall pay Contractor in accordance with this Subsection 14.2.
- 14.2.2 Upon receipt of notice of termination under this Subsection 14.2, Contractor shall, unless the notice directs otherwise, do the following:
- a. Immediately discontinue the Work to the extent specified in the notice.
  - b. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of such portion of the Work as is not discontinued.
  - c. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts and supply contracts, to the extent they relate to the performance of the discontinued portion of the Work.
  - d. At the request of the Project Manager, assign any outstanding contracts to the Agency, and transfer title of any deliverables to the Agency.
  - e. Thereafter do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.
- 14.2.3 Upon such termination, the obligations of Contractor shall continue as to portions of the Work already performed and, subject to Contractor's obligations under General

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Conditions Subsection 14.2.2, as to bona fide obligations assumed by Contractor prior to the date of termination.

- 14.2.4 Upon such termination, the Agency shall pay to Contractor the sum of the following (not to exceed the Contract Amount):
- a. The amount of the Contract Amount allocable to the portion of the Work properly performed by Contractor as of the date of termination, less sums previously paid to Contractor, and less payment withholdings pursuant to General Conditions Subsection 13.2.2 and Subsection 13.4.2.
  - b. Plus an amount equal to the lesser of Fifty Thousand Dollars (\$50,000) or five percent (5%) of the difference between the Contract Amount and the amount of the Contract Amount allocable to the portion of the Work properly performed by Contractor as of the date of termination.
  - c. Plus previously unpaid costs of any items delivered to the Project site which were fabricated for subsequent incorporation in the Work.
  - d. Plus any proven losses with respect to materials and equipment directly resulting from such termination.
  - e. Plus reasonable demobilization costs.
  - f. Plus reasonable costs of preparing a statement of the aforesaid costs, expenses, and losses in connection with such termination.
- 14.2.5 The above payment shall be the sole and exclusive remedy to which Contractor is entitled in the event of termination of the Contract by the Agency pursuant to General Conditions Subsection 14.2; and Contractor will be entitled to no other compensation or damages and expressly waives same.

**15. LABOR CODE REQUIREMENTS.**

15.1 Compliance with California Labor Code.

- 15.1.1 Contractor shall comply, and shall ensure that all Subcontractors comply, with California Labor Code sections 1720, *et seq.*, specifically including sections 1720 through 1815.
- 15.1.2 Unless a contrary meaning is specified in the Contract Documents, the terms used in this Section 15 shall be as defined in the California Labor Code.

15.2 Prevailing Wage Rates.

- 15.2.1 Prevailing Wage Schedule. Pursuant to California Labor Code Section 1773.2, the California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality in which the Work is to be performed for each craft, classification, or type of worker required to perform the Work. A schedule of the most recent general prevailing per diem wage rates ("Prevailing Wage Schedule") is on file at the office of the Project Manager and will be made available to any interested party upon request. The Prevailing Wage Schedule is provided by the City for Bidder's information only, and Contractor shall verify all appropriate prevailing wage rates and pay those rates as required. The Prevailing Wage Schedule is incorporated herein by reference. Contractor shall post a copy of the Prevailing Wage Schedule at the Project Site.

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**The Contractor and all subcontractors shall furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement).**

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

- 15.2.2 Payment of Prevailing Wages. Pursuant to California Labor Code Section 1774, Contractor, and any Subcontractor shall pay not less than the prevailing per diem wage rates, as specified in the Prevailing Wage Schedule, to all workers employed in the execution of the Work. Contractor shall cause all subcontracts to include the provision that all Subcontractors shall pay not less than the specified prevailing per diem wage rates to all workers employed by such Subcontractors in the execution of the Work.
- 15.2.3 Forfeiture for Violation. Pursuant to California Labor Code Section 1775, Contractor shall forfeit a penalty to the City in an amount determined by the California Labor Commissioner of not more than Fifty Dollars (\$50.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates for the performance of any portion of the Work done by Contractor or, to the extent authorized by California Labor Code Subsection 1775(b), any Subcontractor. Such forfeiture amounts may be deducted from the Contract Amount.

15.3 (NOT USED)

15.4 PAYROLL RECORDS

- 15.4.1 Pursuant to California Labor Code Section 1776, Contractor and all Subcontractors shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (a) the information contained in the payroll record is true and correct; and (b) the employer has complied with the requirements of California Labor Code sections 1771, 1811, and 1815 for any work performed by his or her employees for the Project.
- 15.4.2 The payroll records identified pursuant to General Conditions Subsection 15.4.1 shall be certified, on forms provided by the Division of Labor Standards Enforcement (or contain the same information), and shall be available for inspection at all reasonable hours at the principal office of Contractor on the following basis:
- a. Certified payroll records shall be furnished to the Agency on a monthly basis.
  - b. A certified copy of all payroll records shall be made available for inspection upon request to the Agency, the State of California Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State of California Division of Industrial Relations.
  - c. A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof. However, a request by the public shall be made to either the Agency, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of Contractor or Subcontractors. Any copy of the records made available for inspection as copies and furnished upon request to



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the public or any public agency by the Agency 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 Contractor awarded the Contract or performing the Contract shall not be marked or obliterated.

- 15.4.3 Contractor or Subcontractors shall file a certified copy of the payroll records with the entity that requested the records within ten (10) days after receipt of a written request.
- 15.4.4 Contractor shall inform the Agency of the location of such payroll records for the Project, including the street address, Agency, and county; and Contractor shall, within five (5) working days, provide notice of change of location of such records.
- 15.4.5 Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Contractor must comply with this Section 15.4 (including California Labor Code Section 1776). In the event Contractor fails to comply within the 10-day period, Contractor shall, as a penalty, forfeit Twenty-five Dollars (\$25.00) for each calendar day or portion thereof, for each worker, until strict compliance is effectuated. Such forfeiture amounts may be deducted from the Contract Amount.

15.5 Apprentices.

- 15.5.1 Attention is directed to California Labor Code sections 1777.5, 1777.6, and 1777.7; and Title 8 of the California Code of Regulations, sections 200, *et seq.* To ensure compliance and complete understanding of the law requiring apprentices, and specifically the required ratio thereunder, Contractor or Subcontractors should, where some question exists, contact the Division of Apprenticeship Standards, 525 Golden Gate Avenue, San Francisco, California, or one of its branch offices prior to commencement of the Work. Contractor is responsible for compliance with these requirements.
- 15.5.2 Nothing contained herein shall be considered or interpreted as prohibiting or preventing the hiring by Contractor or Subcontractors of journeyman trainees who may receive on-the-job training to enable them to achieve journeyman status in any craft or trade under standards other than those set forth for apprentices.
- 15.5.3 Forfeiture for Violation. Pursuant to California Labor Code Section 1777.7, Contractor shall forfeit a penalty in an amount not more than One Hundred Dollars (\$100.00) for the first violation, and not more than Three Hundred Dollars (\$300.00) for each subsequent violation, for each full calendar day of noncompliance with California Labor Code Section 1777.5. Such forfeiture amounts may be deducted from the Contract Amount.

15.6 Workday.

- 15.6.1 Contractor shall comply and shall ensure that all Subcontractors comply with California Labor Code sections 1810, *et seq.* Contractor shall not permit any worker to labor more than eight (8) hours during any one (1) calendar day or more than forty (40) hours during any one (1) calendar week, except as permitted by law and upon such conditions as are provided by law.
- 15.6.2 Contractor and all Subcontractors shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed in connection with the Project. The record shall be kept open at all

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reasonable hours to the inspection of the Agency and the Division of Labor Standards Enforcement.

- 15.6.3 Forfeiture for Violation. Pursuant to California Labor Code Section 1813, Contractor shall forfeit a penalty in an amount not more than Twenty five Dollars (\$25.00) for each worker employed in work for the Project for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one (1) calendar day or more than forty (40) hours in any one (1) calendar week in violation of the terms of California Labor Code Section 1810, *et seq.* Such forfeiture amounts may be deducted from the Contract Amount.

**PROPOSAL TO THE REGIONAL WASTE MANAGEMENT AUTHORITY  
CONCRETE PAVEMENT REPAIR**

NAME OF BIDDER: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE OF BIDDER: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

CONTRACTOR LICENSE NO. \_\_\_\_\_ CLASSIFICATION \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

TELEPHONE NO.: AREA CODE (     ) \_\_\_\_\_

PLACE OF RESIDENCE: \_\_\_\_\_

The work to be done and referred to herein is in Yuba City, State of California, and shall be constructed in accordance with the Special Provisions (including the payment of not less than the minimum wage rates set forth therein) and the contract annexed hereto and also in accordance with the Standard Plans and Specifications dated 2018, the wage rates of the General Prevailing Wage Rates of the Department of Transportation, and the equipment rental rate and labor surcharge portions of the publication entitled "Labor Surcharges and Equipment Rental Rates."

The work to be done in accordance with the Special Provisions entitled:

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Bids are submitted for the entire work. The amount of the bid, for comparison purposes, will be the total of all items. The total of unit basis items will be determined by extension of the item price on the basis of the estimated quantity set forth for the item.

The bidder shall set for each item of work, in clearly legible figures, an item price and a total for the item in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "Total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

In case of discrepancy between the item price and the total set forth for the item, the item price shall prevail; provided, however, if the amount set forth as an item price is ambiguous, unintelligible or uncertain for any cause or is omitted, or in the case of unit basis items is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail in accordance with the following:

1. As to lump sum items, the amount set forth in the "Total" column shall be the item price.
2. As to unit basis items, the amount set forth in the "Total" column shall be divided by the estimated quantity for the item and the price thus obtained shall be the item price.

If this proposal shall be accepted and the undersigned shall fail to enter into the contract, within fifteen (15) days, not including Sundays and legal holidays, after the bidder has received notice from the Regional Waste Management Authority that the contract has been awarded, the Regional Waste Management Authority may, at its option, determine that the bidder has abandoned the contract, and thereupon this proposal and the acceptance thereof shall be null and void and the forfeiture of such security accompanying this proposal shall operate and the same shall be the property of the Regional Waste Management Authority.

The undersigned, as bidder, declares that he/she has received Addendum Nos. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

The undersigned, as bidder, declares that the only persons or parties interested in this proposal as principals are those named herein, that this proposal is made without collusion with any other person, firm, or corporation, and in submitting this proposal the undersigned bidder agrees that if it is determined that he is the successful bidder, he will execute the attached non-collusion affidavit, that he has carefully examined the location of the proposed work, the annexed proposed form of contract, and the plans therein referred to, and he proposes and agrees, if this proposal is accepted, that he will contract with the Regional Waste Management Authority in the form of the copy of the contract annexed hereto, to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all the materials specified in the contract, in the manner and time therein prescribed, and according to the requirements of the Engineer as therein set forth, and that he will take in full payment therefor the following item prices, to wit:

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Item No.	Item Description	Estimated Quantity	Unit	Unit Price (\$/Unit)	Amount (\$)
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**Bid Schedule A - Reinforced Concrete Slab Repair**

1	Mobilization/Demobilization	1	LS		
2	Demo and Remove Existing Concrete Section	3260	SF		
3	Class 2 Aggregate Base (8-Inch Section)	248	TON		
4	Reinforced Concrete Slab (6-Inch Section)	2960	SF		
5	4-Foot Valley Gutter (YC ST7)	75	LF		
6	Stripe lane lines, arrows, and legend	1	LS		

**Bid Schedule A Items Total = \_\_\_\_\_**

**Alternative Add Bid Schedule B - Optional Reinforced Concrete Slab Repair**

1	Demo and Remove Existing Concrete Section	950	SF		
3	Class 2 Aggregate Base (8-Inch Section)	350	TON		
4	Reinforced Concrete Slab (6-Inch Section)	950	SF		
5	4-Foot Valley Gutter (YC ST7)	75	LF		

**Bid Schedule B Items Total = \_\_\_\_\_**

**Total Bid with Alternate = \_\_\_\_\_**

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

**REGIONAL WASTE MANAGEMENT AUTHORITY**  
**HOUSEHOLD HAZARDOUS WASTE FACILITY**  
**CONCRETE PAVEMENT REPAIR**

**SAMPLE**  
**CONTRACT AGREEMENT**

This Contract is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the Regional Waste Management Authority, (hereinafter "Authority"), and XXX (hereinafter "Contractor").

**RECITALS**

- A. In accordance with the applicable provisions of State law, including the California Public Contract Code, the Authority issued an invitation for competitive bids for this Project.
- B. In response to the invitation for bids, Contractor submitted the Bid Forms, which are incorporated herein by reference, which were found by the Authority to be responsive to the invitation for bids.
- C. After reviewing all bids submitted in response to the invitation for bids, the Authority found Contractor to be the Lowest Responsible Bidder, and the Authority Board awarded this Contract to Contractor at their XXX meeting.
- D. The Project is more specifically described in the Contract Documents, but generally involves:
  - Concrete Pavement Repair per plans dated 03/24/23 by MHM Inc.
  - Exhibit A
  - Reliable Contractor Declaration

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **SCOPE OF WORK.** Contractor shall supply all labor and materials and shall perform, or cause to be performed, the Work described in the Contract Documents and any Addenda, as specified in Section 2.3 of this Contract, (hereinafter "Work"), to the satisfaction of the Authority, and subject to the final acceptance by the Authority Board.
2. **CONTRACT DOCUMENTS.**
  - 2.1 **List of Contract Documents.** The Contract Documents consist of this executed Contract; all Bidding Documents (including the Invitation for Bids, Instructions to Bidders, Supplemental Instructions to Bidders, Bid Forms, and Addenda (if any) as identified below); the Specifications (including the General Conditions, the Supplemental General Conditions, and the Technical Specifications); the Exhibits (including bonds), and the **Drawings by MHM Inc. dated 03/24/23** (also defined as "Plans").
  - 2.2 **Precedence of Contract Documents.** In the event of a conflict between component parts of the Contract Documents, the document highest in precedence shall control. The precedence shall be as follows in descending order:
    - 2.2.1 Contract, as amended by Contract Change Orders
    - 2.2.2 All Bidding Documents, as amended by Addenda
    - 2.2.3 Technical Specifications
    - 2.2.4 Supplemental General Conditions
    - 2.2.5 General Conditions
    - 2.2.6 Standard Specifications

- 2.2.7 Plans
- 2.2.8 Standard Plans
- 2.2.9 Exhibits

2.3 Addenda. The following Addenda are hereby incorporated into the Contract Documents:

<u>Addendum No.</u>	<u>Date of Issue</u>
_____	_____
_____	_____

3. **CONTRACT TIME.** After Contractor has provided all documents required by the Notice of Award, as identified in the Instructions to Bidders, the Authority shall issue a Notice to Proceed to Contractor. Contractor shall commence the Work on the date specified in the Notice to Proceed (which date shall be no later than ten (10) calendar days after the issuance of the Notice to Proceed). The Work shall be diligently prosecuted and all of the Work shall be substantially completed within the time specified in the Invitation for Bids (**Thirty (30) calendar days**). Time is of the essence in the performance of all obligations under these Contract Documents, and all timing requirements shall be strictly adhered to unless otherwise modified by the Authority in accordance with the Contract Documents. In accordance with the General Conditions, Contractor shall submit all requests for extensions of time to the Authority, in writing, no later than ten (10) working days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.
4. **CONTRACT AMOUNT.** Authority shall pay to Contractor, for the performance of the Work, the Contract Amount pursuant to the General Conditions, subject to adjustment for unit price items, and as modified pursuant to the terms of the Contract Documents. Contractor's compensation shall include all costs incurred by Contractor in the performance of the Work, including: furnishing all labor (including supervision), materials (including the costs of any and all applicable taxes, patent rights, royalties, licenses, and permits), equipment, tools, transportation, and services necessary to complete the Work (including costs to protect the Work, and all damages to the Work prior to acceptance of the Work by the Authority, unless otherwise specifically provided in the Contract Documents). **The Contract Amount is:** \_\_\_\_\_
5. **LIQUIDATED DAMAGES.** If Contractor fails to complete the Work within the Contract Time, Contractor shall pay to the Authority, as liquidated damages and not as a penalty, the sum specified in the Invitation for Bids - \$50.00 for each calendar day after the expiration of the Contract Time that the Work remains incomplete. The Authority and Contractor agree that in the event the Work is not completed within the Contract Time, the Authority's damages would be extremely difficult or impracticable to determine and therefore the Authority and Contractor agree that the amount stated herein is a reasonable estimate of the amount of such damages. The Authority may at any time deduct any liquidated damages owed to the Authority, as determined by the Authority, from any payments otherwise payable to Contractor under this Contract. Nothing contained herein shall limit the Authority's rights or remedies against Contractor for any default other than failure to complete the Work within the Contract Time. This provision for liquidated damages shall not be applicable nor act as a limitation upon the Authority if Contractor abandons the Work. In such event, Contractor shall be liable to the Authority for all losses incurred.
6. **CONTRACTOR REPRESENTATIVE.** At all times during the progress of the Work, Contractor shall have a competent foreman or superintendent (hereinafter "Contractor Representative") on site with authority to act on behalf of Contractor. The Contractor Representative shall be authorized by Contractor to sign, send, and receive all notices contemplated or required by the Contract Documents. Contractor shall, at all times, keep the Authority's Project Manager informed in writing of the name, telephone number and 24-hour emergency telephone numbers of the Contractor Representative. Contractor shall, at all times, keep the Project Manager informed in writing of the names and telephone numbers of all subcontractors performing work at the project site.
7. **ACCESS TO THE SITE AND INSPECTION OF WORK.**

- 7.1 Access to the Site. In order to permit the Authority to inspect the Work, Contractor shall, at all times, provide to the Authority (including agencies and entities designated by the Authority) proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.
- 7.2 Inspection. The Authority's inspection of the work is intended to determine whether the work is being accomplished in strict conformance with the requirements of the Contract Documents. The Authority shall be the sole beneficiary of such inspection, and Contractor will receive no protection whatsoever and derive no benefit from inspections performed by the Authority.
- 7.3 Authority of Inspectors. Inspectors are authorized to enforce strict compliance with the terms and conditions of the Contract Documents and determine the acceptability of materials and workmanship. Inspectors are authorized to reject work or materials if they determine that such work or materials do not conform to the requirements of the Contract Documents. Whenever an inspector determines that some work installed by Contractor, or any subcontractor, supplier or materialman at any tier, does not conform to the requirements of the Contract Documents, a Notice of Non-Conformance will be issued to record this determination.
- 7.3.1 In the event of a dispute between Contractor and an inspector concerning non-conforming work, Contractor shall pursue the issue in accordance with the requirements of Section 8.6 of the General Conditions.
- 7.3.2 Inspectors are not authorized to issue or direct changes to the requirements of the Contract Documents. In the event that Contractor believes some direction given by an inspector does constitute a change to the requirements of the Contract Documents, Contractor shall within two (2) work days provide written notice to the Authority detailing the direction given, by whom, when and under what circumstances, and why Contractor believes that such direction constitutes a change to the requirements of the Contract Documents. Failure to provide such written notice to the Authority within the specified timeframe shall constitute waiver of claim with respect to the direction received by Contractor.
- 7.4 Nonconforming Work. Any nonconformity in the work that is discovered prior to Contract completion, or before final payment is made, or during the guarantee and warranty period, shall be removed and replaced, or made good, by Contractor with work that conforms to the provisions of the Contract Documents at Contractor's sole expense. Failure on the part of the Authority to condemn or reject such work shall not constitute acceptance or implied acceptance of the work.

## **8. DOCUMENTATION AND RECORD KEEPING.**

- 8.1 Contractor's Project Records. Contractor's Project records shall include all of Contractor's accounting records, employment records, and project work records for all employees, subcontractors, and suppliers, including: the Contract Documents, one record copy of the plans and specifications, change orders, requests for clarifications, instructions from the Authority, contracts with suppliers and subcontractors, correspondence, submittals, samples, shop drawings, invoices, receipts, vouchers, purchase orders, notes, daily logs, and memoranda relating to the Work. Contractor's Project records shall also include all financial information and data used by Contractor in the preparation or support of any cost submission, including Contractor's original bid, required for this Contract, any Change Order, claim or other request for equitable adjustment and a copy of the cost summary and information submitted to the Authority.
- 8.1.1 Daily Records. Contractor shall prepare and maintain Daily Project Records to document the progress of the work on a daily basis. Such daily records shall include a daily accounting of all labor and all equipment on the site for Contractor and all subcontractors, at any tier. Such daily records will make a clear distinction between work being performed under Change Order, base scope work and/or disputed work. Copies of Contractor's daily reports shall be submitted to the Project Manager within five (5) days of the date of the report.



- 8.1.2 Records of Authority-Caused Delay. In the event that any labor or equipment is idled, solely as a result of the Authority's actions or inactions, the Daily Records shall record which laborers and equipment were idled and for how long. In the event that specific work activities were stopped, solely as a result of the Authority's actions or inactions, and labor and equipment was reassigned to perform work on other activities, the Daily Records will make a clear record of which activities were stopped and where labor and equipment was redirected to.
- 8.2 Contractor's Maintenance of Project Records. Contractor shall keep and preserve Project records in accordance with generally accepted accounting principles and practices consistently applied, and state law requirements. Contractor shall also maintain all financial information and data used by Contractor in the preparation or support of any cost submission, including Contractor's original bid, required for this Contract, or any Change Order, claim or other request for equitable adjustment, and a copy of the cost summary or information submitted to the Authority. During performance of the Work, Contractor shall keep all of Contractor's Project records in a secure location at the Project Site. After completion of the Work, Contractor shall maintain the Project records for no less than four (4) years after final completion of the Work.
- 8.3 Audit by the Authority. All of Contractor's Project records, as identified above, shall be made available to the Authority (including agencies and entities designated by the Authority), and Contractor shall provide copies of Contractor's records upon request by the Authority. The Authority's representatives shall have access upon twenty-four (24) hours advanced written notice, at all times during normal business hours, to all such books, records, documents, financial information, and all other evidence for the purpose of inspection, audit, and copying. Contractor shall, at no cost to the Authority, provide proper facilities for such access, inspection and copying purposes.
- 8.3.1 Contractor agrees to make the provisions of Section 8 of this agreement applicable to this Contract, and all Change Orders, claims or other requests for equitable adjustment affecting the Contract time or price. Contractor agrees to include the provisions of this Section in all subcontracts and sub-subcontracts or purchase orders, at any tier, and make this Section applicable to all subcontracts, at any tier, in excess of Ten Thousand Dollars (\$10,000) and to make the provisions of this Section applicable to all Change Orders, claims, and other requests for equitable adjustment related to project performance.
- 8.3.2 Audits conducted under this Section shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency.
- 8.3.3 Contractor agrees to the disclosure of all information and reports resulting from access to records under the provisions of this Section to the Authority and other affected agencies.
- 8.3.4 This right of access section applies to all financial records pertaining to this Contract and all Change Orders and claims. In addition, this right of access applies to all records pertaining to all contracts, Change Orders and Contract Amendments:
1. To the extent the records pertain directly to Contract performance;
  2. If there is any indication that fraud, gross abuse, or corrupt practices may be involved;
  3. If the Contract is terminated for default or convenience.
- 8.3.5 Access to records is not limited to the required retention periods. The authorized representatives of the Authority shall have access to records at any reasonable time for as long as the records are maintained.
9. **INDEPENDENT CONTRACTOR STATUS.** Contractor is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Contractor is not Authority's employee and Contractor shall have no authority, express or implied, to act on behalf of the Authority as an agent, or to bind the Authority to any obligation whatsoever, unless the Authority provides prior written authorization to Contractor.

10. **CONFLICTS OF INTEREST.** Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Contract. In the event that Contractor maintains or acquires such a conflicting interest, any contract (including this Contract) involving Contractor's conflicting interest may be terminated by the Authority.
11. **NONDISCRIMINATION.** Contractor shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Contract. Contractor shall not discriminate against any employee or applicant because of race, color, religious creed, national origin, physical disability, mental disability, medical condition, marital status, sexual orientation, or sex.
12. **COMPLIANCE WITH LAW.** Contractor shall comply with all applicable legal requirements including all federal, state, and local laws (including ordinances, resolutions, and Authority regulations), whether or not said laws are expressly stated in this Contract.
13. **PERMITS AND LICENSES.** Contractor shall obtain, pay all fees, and maintain all necessary permits and licenses for the performance of the Work.
- 13.1 **City of Yuba City Business Registration.** Prior to the commencement of the Work, Contractor and all subcontractors shall apply for City of Yuba City Business License and pay the required fee.
- 13.2 **Fees, Royalties, and Patents.** Contractor shall pay all license fees and royalties related to or necessary for the Work and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device that is the subject of patent rights or copyrights held by others.
- 13.3 **City of Yuba City Building Department.** Contractor shall apply for all permits required by the City of Yuba City Building Department, including but not limited to building, electrical, plumbing, mechanical, fire alarm and sprinkler permits. The initial application and permit fees for Building Department permits shall be paid by the Authority. Contractor may be subject to Building Department fees for re-inspections of work that, in the opinion of the Building Department, are considered excessive.
14. **IMPROVEMENT SECURITY.** Concurrently with the execution of this Contract by Contractor, and prior to the commencement of any Work, Contractor shall furnish improvement security, in a form substantially the same as that set forth in the Exhibits, attached hereto, or in an alternate form authorized by state law and approved by the Authority, in the following amounts:
- 14.1 **Faithful Performance** security not less than one hundred percent (100%) of the Contract Amount to secure faithful performance of this Contract (until the date on which the Authority Council accepts the Work as complete).
- 14.2 **Labor and Material** security not less than one hundred percent (100%) of the Contract Amount to secure payment by Contractor to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen pursuant to law).
- 14.3 **Warranty** security in the amount of ten percent (10%) of the Contract Amount (in the form of the Faithful Performance security) to secure faithful performance of this Contract (from the date on which the Authority Board accepts the Work as complete until one (1) year thereafter).
15. **INSURANCE.** Contractor shall procure and maintain for the duration of the Contract 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 Contractor, his agents, representatives, employees or subcontractors.

This Contract identifies the minimum insurance levels with which Contractor shall comply; however, the minimum insurance levels shall not relieve Contractor of any other performance responsibilities under this Contract (including the indemnity requirements), and Contractor may carry, at its own expense, any additional insurance it deems necessary or prudent.

15.1 Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) *or* Insurance Services Office Form (CG 00 09 11 88 Owners and Contractors Protective Liability Coverage Form – Coverage for Operations of Designated Contractor).
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Builder's Risk (Course of Construction) insurance covering all risks of loss less policy exclusions.
5. Surety bonds as described below.
6. Professional Liability (if Design/Build).

*Minimum Limits of Insurance* – Contractor shall maintain limits no less than the following:

- 15.1.1 General Liability (including operations, products and completed operations): **\$2,000,000** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- 15.1.2 Automobile Liability: **\$2,000,000** per accident for bodily injury and property damage.
- 15.1.3 Workers' Compensation: As required by the State of California.
- 15.1.5 Employer's Liability: **\$1,000,000** per accident for bodily injury or disease.
- 15.1.6 Builder's Risk: Completed value of the project with no coinsurance penalty provisions.
- 15.1.7 Professional Liability: **\$1,000,000** as needed for design/build.
- 15.1.8 Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority, its officers, officials, employees and volunteers; or Contractor shall provide a financial guarantee satisfactory to the Authority guaranteeing payment of losses and related investigations, claim administrations and defense expenses.

15.2 **Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:**

- 15.2.1 **The Authority, its officers, officials, employees and volunteers are to be covered as insured with respect to liability arising out of automobiles owned, leased, or hired or borrowed by or on behalf of Contractor; and with respect to liability arising out of work or operations furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Contractor's insurance or as a separate owner's policy.**
- 15.2.2 **For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects the Authority, its officers, officials, employees, and volunteers. Any**

**insurance or self-insurance maintained by the Authority, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.**

**15.2.3 Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice has been provided to the Authority via certified mail with return receipt.**

15.3 Waiver of Subrogation. Contractor hereby agrees to waive 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 Authority for all work performed by Contractor, its employees, agents and subcontractors.

15.4 Qualifications of Insurers. All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California, and shall have an A.M. Best's rating of not less than "A:VII."

15.5 Verification of Coverage. Contractor shall furnish the Authority with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the Authority or on other than the Authority's forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the Authority before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. The Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

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

15.7 Builder's Risk (course of Construction) Insurance. Contractors may submit evidence of Builder's Risk insurance as evidence of course of construction coverage. Builder's Risk policies shall contain the following provision:

- **The Regional Waste Management Authority shall be named as loss payee.**

If General Liability, Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors and Omissions coverages are written on a claims-made form:

1. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
3. 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, Contractor must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the Authority for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, Contractors Pollution Liability shall not contain a mold exclusion and the definition of "Pollution" shall include microbial matter including mold.

15.8 Surety Bonds. Contractor shall provide the following Surety Bonds:

15.8.1 A bid bond (as specified elsewhere in these specifications).

15.8.2 A performance bond (as specified elsewhere in these specifications).

15.8.3 A payment bond (as specified elsewhere in these specifications).

16. **REPORTING DAMAGES.** If any damage (including death, personal injury or property damage) occurs in connection with the performance of this Contract, Contractor shall immediately notify the Authority Risk Manager, and Contractor shall promptly submit to the Authority Risk Manager and the Authority's Authorized Representative, a written report (in a form acceptable to the Authority) with the following information: (a) name and address of the injured or deceased person(s), (b) name and address of Contractor subcontractor, if any, (c) name and address of Contractor's liability insurance carrier, and (d) a detailed description of the damage and whether any Authority property was involved.

17. **INDEMNITY.** To the fullest extent allowed by law, Contractor specifically agrees to indemnify, defend, and hold harmless the Authority, its officers, agents, member jurisdictions and employees (hereinafter collectively the "Authority") from and against any and all actions, claims, demands, losses, expenses (including attorneys' fees and expert witness expenses), damages, and liabilities resulting from injury or death of a person or injury to property or any other claim, arising out of or in any way connected with the performance of this Agreement, however caused regardless of any negligence of the Authority, whether active or passive, excepting only such claims as may be caused by the sole active negligence or willful misconduct of the Authority. The Contractor shall pay all costs that may be incurred by the Authority in enforcing this indemnity, including reasonable attorneys' fees. Contractor shall provide indemnity to the Authority pursuant to this paragraph in the event the Claimant and/or the Authority allege conduct on Contractor's part which renders Contractor fully or partially responsible for the alleged claim or otherwise obligated to provide a defense and/or indemnity to the Authority. Contractor's obligations of defense and indemnity arise even if the claim is frivolous or lacking in merit. Contractor shall defend and indemnify the Authority pursuant to this section unless and until it is finally established by a court of law that the Authority's sole active negligence or willful misconduct caused the alleged claim. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall in no way be limited by, the insurance obligations contained in this Agreement. The indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor or its agents under workers' compensation acts, disability benefit acts or other employee benefit acts. The indemnity provisions of this section survive the termination and/or expiration of the Agreement.

Contractor's duty to defend is separate and independent of its duty to indemnify. The duty to defend includes claims for which the Authority may be liable without fault or be strictly liable. The duty to defend applies regardless of whether the issues of negligence, strict liability, fault, default or other obligation on the part of the Authority has been determined. The duty to defend applies immediately regardless of whether the Authority has paid any sums or incurred any detriment arising out of or relating (directly or indirectly) to any claims. Notwithstanding the foregoing, the Authority on behalf of itself reserves the right to assume the defense of any action, arbitration or proceeding against which Contractor may have an obligation to defend pursuant to this Agreement including the right to appoint counsel of its choice, without affecting Contractor's obligation to indemnify for the cost of such defense.

Contractor shall be liable to the Authority for any loss of or damage to Authority property arising from or in connection with Contractor's performance hereunder. Authority may deduct any costs and expenses incurred pursuant to the above from payments due or which may become due to the Contractor.

18. **ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the Authority Board, Contractor shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Project site. Contractor's obligation to perform the Work shall not be satisfied until after the Project Manager has made a

written determination that all obligations of the Contract have been satisfied and all outstanding fees and charges have been paid, and the Authority Board has accepted the Work as complete.

## **19. WARRANTY.**

- 19.1 Quality of Work. Contractor warrants to the Authority that all materials and equipment used in or incorporated into the Work will be of good quality, new, and free of liens, claims, and security interests of third parties; that the Work will be of good quality and free from defects; and that the Work will conform to the requirements of the Contract Documents.
- 19.2 Documentation of Warranty. If required by the Project Manager, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. If required by the Contract Documents, the Contractor shall provide a written warranty from the manufacturer or supplier.
- 19.3 Warranty Period. Contractor shall warrant the quality of the Work, in accordance with the terms of the Contract Documents, for the "Warranty Period." The Warranty Period shall be a one (1) year period (unless a longer period of time is specified in the Contract Documents) commencing as follows: (a) for any Work not described as incomplete in the Certificate of Substantial Completion, commencing on the date of Substantial Completion; and (b) for any Work that is described as incomplete in the Certificate of Substantial Completion, commencing on the date of Final Completion.
- 19.4 Default During Warranty Period. In the event that (during the Warranty Period) any portion of the Work is determined by the Project Manager to be defective as a result of an obligation of the Contractor under this Contract, Contractor shall be in default.

## **20. DEFAULT.**

- 20.1 In the event that Contractor is in default of this Contract, as defined in this Section, the Project Manager shall provide written notice to Contractor and Contractor's surety (if any) in which the default is described.
- 20.2 Contractor shall be in default of this Contract if the Project Manager determines that any one of the following conditions exist:
- 20.2.1 Contractor is insolvent, files for bankruptcy, makes a general assignment for the benefit of its creditors, or fails to pay its debts as they become due.
- 20.2.2 Contractor fails to perform any portion of the Work in accordance with the requirements of the Contract Documents.
- 20.2.3 Contractor fails to perform any portion of the Work in accordance with the timing requirements of the Construction Schedule.
- 20.2.4 Contractor abandons the Project site.
- 20.2.5 Contractor fails to replace or repair any damage caused by Contractor or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.
- 20.2.6 Contractor fails to supply workers, subcontractors, or other personnel with the skills, certifications, or licenses required by the Contract Documents.
- 20.2.7 Contractor violates any legal requirement related to the Work.
- 20.3 The Authority may, in the discretion of the Project Manager, take any or all of the actions identified in this Subsection 20.3, if Contractor fails to: (a) promptly commence, and diligently and continuously prosecute

the cure of the default; or (b) within ten (10) days, cure the default, or provide adequate written assurance to the satisfaction of the Project Manager that the cure will be promptly commenced and diligently prosecuted to its completion,

- 20.3.1 Issue a Notice of Suspension of Work, by which Contractor shall suspend all Work except for those portions of the Work authorized by the Notice, and for which Contractor shall not be entitled to any adjustment of the Contract Amount or Contract Time.
  - 20.3.2 Cure the default and charge Contractor for all costs resulting therefrom, including administrative costs (including Authority staff costs, Authority consultant costs, and attorney's fees) and interest in an amount equal to seven percent (7%) per annum from the date of default, which charge may be deducted by the Authority from amounts otherwise payable to Contractor.
  - 20.3.3 Demand Contractor to complete performance of the Work (including repair, or removal and replacement, of nonconforming Work).
  - 20.3.4 Terminate the Contract.
  - 20.3.5 Remove Contractor from the site and demand Contractor's surety (if any) to complete performance of the Work.
  - 20.3.6 Take possession of the Project site and all materials, supplies, equipment, tools, and construction equipment and machinery thereon owned by Contractor; accept the assignment of any or all of the subcontracts; and then complete the Work by any method the Authority may deem expedient. If requested by the Authority, Contractor shall remove any part or all of Contractor's materials, supplies, equipment, tools, and construction equipment and machinery from the Project site within seven (7) days of such request; and if Contractor fails to do so, the Authority may remove or store, and after ninety (90) days sell, any of the same at Contractor's expense.
- 20.4 In the event that the Contract is terminated by the Authority in accordance with this Section:
- 20.4.1. Contractor shall not be entitled to receive any further payment until the expiration of thirty-five (35) days after Final Completion and acceptance by the Authority of all work completed at that time.
  - 20.4.2. If the unpaid balance of the Contract Amount exceeds the cost of completing the Work (including all additional costs and expenses made necessary thereby, plus all losses sustained, including any liquidated damages provided under the Contract Documents), such excess shall be paid to Contractor. If such costs, expenses, losses and liquidated damages exceed the unpaid balance of the Contract Sum, Contractor shall pay such excess to the Authority.
  - 20.4.3. No termination or action taken by the Authority after termination shall prejudice any other rights or remedies of the Authority provided by law or by the Contract Documents upon such termination; and the Authority may proceed against Contractor to recover all losses suffered by the Authority.

**21. NOTICES.** All notices or demands which the Contract Documents contemplate or require shall be in writing and shall be personally delivered to the respective party as set forth in this Section. Communications shall be deemed to be effective on the first to occur of: (a) actual receipt by a party's Authorized Representative; (b) actual receipt at the address designated below; or (c) three working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

**To Authority:**

Scott Scholz

**To Contractor:**

Executive Director  
Regional Waste Management Authority  
2100 B Street  
Marysville, CA 95901

an Authorized Agent

22. **HEADINGS.** The heading titles for each paragraph of the Contract Documents are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Contract Documents.
23. **SEVERABILITY.** If any term of the Contract Documents (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Contract Documents shall be construed as not containing that term, and the remainder of this Contract shall remain in full force and effect; provided, however, this Section shall not apply to the extent that enforcement of the Contract Documents without the term would be grossly inequitable under all the circumstances or would frustrate the purposes of the Contract Documents.
24. **INTERPRETATION OF CONTRACT DOCUMENTS.**
- 24.1 **Governing Law, Jurisdiction, and Venue.** The interpretation, validity, and enforcement of the Contract Documents shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Contract shall be filed and heard in a court of competent jurisdiction in the County of Sutter.
- 24.2 **Industry Standards.** When Contract terms have a customary technical or trade meaning, the terms shall be interpreted in accordance with that meaning.
- 24.3 **Standard Specifications and Codes.** References to any regulations (including: standard specifications, manuals or codes of a technical society, organization or association; or laws or regulations of any governmental authority) shall mean the regulations in effect at the time of the Bid Deadline, unless otherwise specifically identified in the Contract Documents.
25. **ATTORNEYS' FEES.** (NOT USED)
26. **ASSIGNMENT AND DELEGATION.**
- 26.1 **Assignment of the Contract Documents.** The Contract Documents, and any portion thereof, shall not be assigned or transferred, nor shall any of the Contractor's duties be delegated, without the written consent of the Authority. Any attempt to assign or delegate the Contract Documents without the written consent of the Authority shall be void and of no force and effect. Consent by the Authority to one assignment shall not be deemed to consent to any subsequent assignment.
- 26.2 **Assignment Pursuant to Government Code.** Pursuant to California Government Code Section 4552, the Contractor shall assign to the Authority, all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Action (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 California Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the Authority tenders final payment to Contractor, without further acknowledgment by the parties. Contractor further warrants that all goods, services, and materials provided to the Authority in accordance with this Contract are free and clear of all liens and encumbrances.
27. **MODIFICATIONS.** The Contract Documents may not be modified orally or in any manner other than by an agreement of the parties, in writing, in accordance with the General Conditions.



28. **WAIVERS.** Waiver of a breach or default under the Contract Documents shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of the Contract Documents.
29. **ENTIRE CONTRACT.** The Contract Documents, including all documents incorporated herein by reference, comprise the entire integrated understanding between the Authority and Contractor concerning the Work to be performed for this Project. The Contract Documents supersede all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The Contract Documents are complementary; what is called for in one is binding as if called for by all. To the extent that portions of the Contract Documents are not attached to this Contract, they shall be deemed incorporated herein by reference.
30. **SIGNATURES.** The individuals executing this Contract represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute the Contract Documents on behalf of the respective legal entities of Contractor and the Authority. The Contract Documents shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the Authority and the Contractor do hereby agree to the full performance of the terms set forth herein.

**REGIONAL WASTE MANAGEMENT AUTHORITY**

\_\_\_\_\_  
Scott Scholz (Signature)

\_\_\_\_\_  
By and Title (Signature)

\_\_\_\_\_  
Executive Director (Printed)

\_\_\_\_\_  
Title (Printed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Federal Employer ID No.

\_\_\_\_\_  
Contractor's License Number

The following document(s) were completed and/or signed by Contractor and submitted with Contractor's Bid:

**PROPOSAL FORM**

# REGIONAL WASTE MANAGEMENT AUTHORITY HOUSEHOLD HAZARDOUS WASTE FACILITY

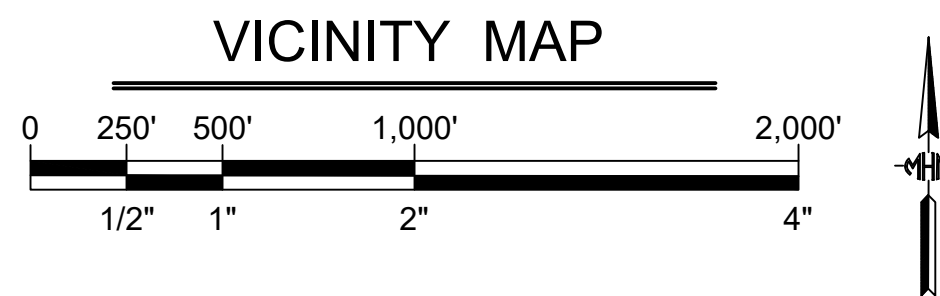
**CONCRETE PAVEMENT REPAIR**  
134 BURNS DRIVE  
YUBA CITY, CA 95991

**GENERAL NOTES:**

1. OWNER/DEVELOPER:  
REGIONAL WASTE MANAGEMENT AUTHORITY  
2100 B ST  
MARYSVILLE, CALIFORNIA 95901
2. CIVIL ENGINEER:  
MHM INCORPORATED  
1204 E STREET, P.O. BOX B  
MARYSVILLE, CALIFORNIA 95901
3. BUILDING DESIGNER /CONTRACTOR:  
N/A
4. ALL GRADING, SITE PREPARATION, PLACING AND COMPACTING OF FILL SHALL BE DONE IN ACCORDANCE WITH THE RECOMMENDATIONS AND UNDER THE CONTROL OF THE SOILS ENGINEER. RECOMMENDATIONS OF THE SOILS REPORT SHALL BE STRICTLY ADHERED TO.
5. **DUST CONTROL:** AT ALL TIMES DURING CONSTRUCTION AND UNTIL FINAL COMPLETION, THE CONTRACTOR WHEN HE OR HIS SUBCONTRACTORS ARE OPERATING EQUIPMENT ON THE SITE, SHALL PREVENT THE FORMATION OF ANY AIRBORNE NUISANCE BY WATERING AND/OR TREATING THE SITE OF THE WORK IN SUCH A MANNER THAT WILL CONFINE DUST PARTICLES TO THE IMMEDIATE SURFACE OF THE WORK. THE CONTRACTOR WILL BE RESPONSIBLE FOR ANY DAMAGE CAUSED BY DUST FROM HIS OWN ACTIVITIES OR HIS SUBCONTRACTOR'S ACTIVITIES IN PERFORMING THE WORK UNDER HIS CONTRACT, AND SHALL BE RESPONSIBLE FOR ANY CITATIONS, FINES OR CHARGES RESULTING FROM DUST NUISANCE.
6. ANY ABANDONED UNDERGROUND PIPELINES EXPOSED DURING GRADING SHALL BE REMOVED OR ADEQUATELY PLUGGED.
7. ROUND CUT SLOPES TO BLEND IN WITH THE NATURAL GROUND CONTOUR.
8. PRIOR TO COMMENCING ANY GRADING ON THE SITE, CONTRACTOR SHALL MARK THE EXTERIOR BOUNDARIES CORNER WITH A 4x4 POST WITH THE TOP 3 FEET PAINTED RED. BOUNDARY MARKERS SHALL BE MAINTAINED UNDISTURBED THROUGHOUT THE GRADING OPERATION.
9. PROTECTIVE FENCING AND/OR BARRIERS SHALL BE PROVIDED WHEN NECESSARY TO PROTECT ADJACENT PROPERTIES DURING GRADING OPERATION.
10. SITE GRADING SHALL BE DONE TO A TOLERANCE OF 0.10± FEET IN GENERAL SITE AREAS. SITE PAVING AND HARDSCAPE AREAS SHALL BE DONE TO A TOLERANCE OF 0.05± FEET.
11. CONTRACTOR SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE STATE CONSTRUCTION SAFETY ORDERS.
12. CONTRACTOR SHALL POST EMERGENCY TELEPHONE NUMBERS FOR PUBLIC WORKS, AMBULANCE, POLICE, AND FIRE DEPARTMENTS.
13. THE OWNER HAS PREPARED AN EROSION CONTROL PLAN FOR THIS PROJECT. ALL EROSION CONTROL MEASURES SHOWN SHALL BE INCLUDED IN THE BASE BID FOR THIS PROJECT, THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL BMPS. A COPY OF THE SWPPP SHALL BE KEPT ON-SITE AT ALL TIMES DURING CONSTRUCTION. A NOTICE OF INTENT (N.O.I.) WILL NOT BE FILED BY THE OWNER AND APPROVED BY THE STATE WATER RESOURCES CONTROL BOARD BECAUSE CONSTRUCTION ACTIVITIES WILL RESULT IN DISTURBANCE OF MUCH LESS THAN ONE (1) ACRE.
14. ALL EXISTING ELEVATIONS ARE AS MEASURED IN THE FIELD UNLESS OTHERWISE NOTED.
15. HOURS OF GRADING OPERATION SHALL BE FROM 7:00 A.M. TO 6:00 P.M. DAILY WITH EXCEPTION OF NO WORK ON SUNDAY. NO WORK OF ANY KIND, INCLUDING MOVEMENT OF EQUIPMENT ON OR OFF THE SITE OR WARMING UP OF EQUIPMENT IS PERMITTED OUTSIDE OF THESE HOURS OF OPERATION.
16. ALL CUT AND FILL SLOPES AT THE BOUNDARY LINE SHALL BE CONSTRUCTED IN SUCH A MANNER THAT ADJACENT FENCES WILL NOT BE DAMAGED. NO CONSTRUCTION WILL BE PERMITTED WITHIN 6 INCHES OF FENCES UNLESS OTHERWISE INDICATED ON THE PLANS.
17. UPON COMPLETION OF PAD GRADING, THE CONTRACTOR SHALL REQUEST THAT THE CIVIL ENGINEER CHECK THE GRADES. ANY PADS THAT DO NOT MEET THE SPECIFICATION SHALL BE REGRADED AT NO ADDITIONAL COST TO THE OWNER. ANY REQUIRED RECHECKS WILL BE BACK CHARGED TO THE CONTRACTOR.
18. ALL EXISTING UTILITIES AND IMPROVEMENTS THAT BECOME DAMAGED DURING CONSTRUCTION SHALL BE COMPLETELY RESTORED TO THE COMPLETE SATISFACTION OF THE LOCAL AGENCY'S ENGINEER AT THE CONTRACTOR'S EXPENSE.
19. WHERE AN EXCAVATION FOR A TRENCH AND/OR STRUCTURE IS FIVE FEET DEEP OR MORE, THE CONTRACTOR SHALL CONFORM TO O.S.H.A. REQUIREMENTS AND SHALL PROVIDE A COPY OF THE APPROVED O.S.H.A. PERMIT AND SHORING DETAILS AND CALCULATIONS PREPARED BY A CALIFORNIA-LICENSED STRUCTURAL ENGINEER TO THE CITY ENGINEER.
20. ALL CONSTRUCTION MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE CITY OF YUBA CITY TECHNICAL SPECIFICATIONS AND/OR THE 2018 CALTRANS STANDARD SPECIFICATIONS AND PLANS AND ALL RECOMMENDED MANUFACTURER'S SPECIFICATIONS. THE CONTRACTOR SHALL OBTAIN AND USE ALL APPLICABLE ADDENDUMS. CONSTRUCTION LAYOUT SHALL CONFORM TO THE DIMENSIONS SHOWN ON THE SITE PLAN SHEET C2.
21. UTILITY RELOCATION REQUIRED FOR THE CONSTRUCTION OF THESE FACILITIES WILL BE PERFORMED BY THE UTILITY COMPANY, UNLESS OTHERWISE NOTED.
22. THE CONTRACTOR SHALL BE SOLELY AND COMPLETELY RESPONSIBLE FOR FURNISHING, INSTALLING AND MAINTAINING ALL WARNING SIGNS AND DEVICES NECESSARY TO SAFEGUARD THE GENERAL PUBLIC AND THE WORK AND PROVIDE FOR THE PROPER AND SAFE ROUTING OF VEHICULAR AND PEDESTRIAN TRAFFIC DURING THE PERFORMANCE OF THE WORK.
23. PRIOR TO THE START OF WORK THE CONTRACTOR SHALL HAVE APPROVED PLANS IN HIS POSSESSION AND SHALL GIVE THE OWNER AND CITY 48 HOURS NOTICE PRIOR TO COMMENCING WORK.
24. THE CONTRACTOR SHALL CONSTRUCT ALL IMPROVEMENTS TO THE LINES AND GRADES SHOWN ON THE PLANS. ANY DEVIATION FROM THE PLANS SHALL REQUIRE THE APPROVAL OF THE OWNER AND CITY.
25. AN ENCROACHMENT PERMIT MUST BE OBTAINED FOR ALL WORK WITHIN THE STREET RIGHT-OF-WAY AND MUST BE IN THE POSSESSION OF THE CONTRACTOR PRIOR TO CONSTRUCTION. CONTACT THE CITY OF YUBA CITY FOR PERMIT. ONLY CONTRACTORS WITH A CLASS A LICENSE WILL BE PERMITTED TO WORK IN THE CITY RIGHT-OF-WAY.
26. NO GUARANTEE IS IMPLIED AS TO THE EXISTING UTILITIES EXACT LOCATION OR THAT OTHER UTILITIES MAY EXIST WHICH ARE NOT SHOWN.
27. ANY EXISTING WELLS TO BE ABANDONED SHALL BE ABANDONED IN ACCORDANCE WITH AND PERMITTED BY SUTTER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT.
28. NO SITE MATERIALS CAN BE STORED WITHIN THE CITY RIGHT-OF-WAY.
29. ALL ADJACENT SIDEWALK SHALL BE MAINTAINED CLEAR AND FREE OF DEBRIS. ANY ADJACENT SIDEWALK OR CURB AND GUTTER THAT IS DAMAGED WILL BE REQUIRED TO BE REPAIRED PRIOR TO ISSUANCE OF FINAL PAYMENT FOR THE PROJECT.
30. ALL CONTRACTORS AND SUBCONTRACTORS SHALL HAVE A CURRENT BUSINESS LICENSE WITH THE CITY OF YUBA CITY.

**SHEET INDEX**

SHEET NO:	DESCRIPTION
C-01	GENERAL NOTES, LEGEND, AND VICINITY MAP
C-02	SITE SURVEY AND DEMOLITION PLAN
C-03	SITE PLAN AND ENGINEERED FILL



**LEGEND**

	EXISTING	PROPOSED
SURVEY MONUMENT/BENCH MARK	▲	▲
UTILITY POLE	⊙	⊙
STREET LIGHT	⊙	⊙
GUY WIRE AND ANCHOR	⊙	⊙
CONSTRUCTION CENTERLINE		25
CENTERLINE ROAD		25
TOP OF EMBANKMENT	—	—
TOE OF EMBANKMENT	—	—
STORM DRAIN	12"SD	12"SD
SANITARY SEWER	12"SS	12"SS
WATER MAIN	8"W	8"W
GAS MAIN	UG	UC
FENCE (CHAIN LINK)	-X-X-X-	CL-CL-CL
FENCE (WROUGHT IRON)		WI-WI-WI
SLOPE		25.0
SPOT ELEVATION		25.0
CONTOUR LINE	25	
ASSESSOR'S PARCEL NO.	25-025-254	
PROPERTY LINE	---	
TREE	☁	TO BE REMOVED
BUILDING	▭	TO BE REMOVED
TEST PIT LOCATION	■	
IRRIGATION CONTROLLER	⊕	⊕
OVERHEAD UTILITY LINE	OE	
UNDERGROUND UTILITY LINE	UE	
TRANSMISSION LINE TOWER	⊠	
DITCH FLOWLINE	—	
WATER SERVICE	—	
SEWER SERVICE	—	
POSTAL CBU	⊠	
FIRE HYDRANT	⊙	
MANHOLE	⊙	
DRAINAGE INLET	⊙	
HANDICAP RAMP	—	

**PREPARED BY:**

\_\_\_\_\_  
MHM INCORPORATED  
JOHN MALLEN, PE, PLS  
R.C.E.# 62315 EXP. 09-30-23

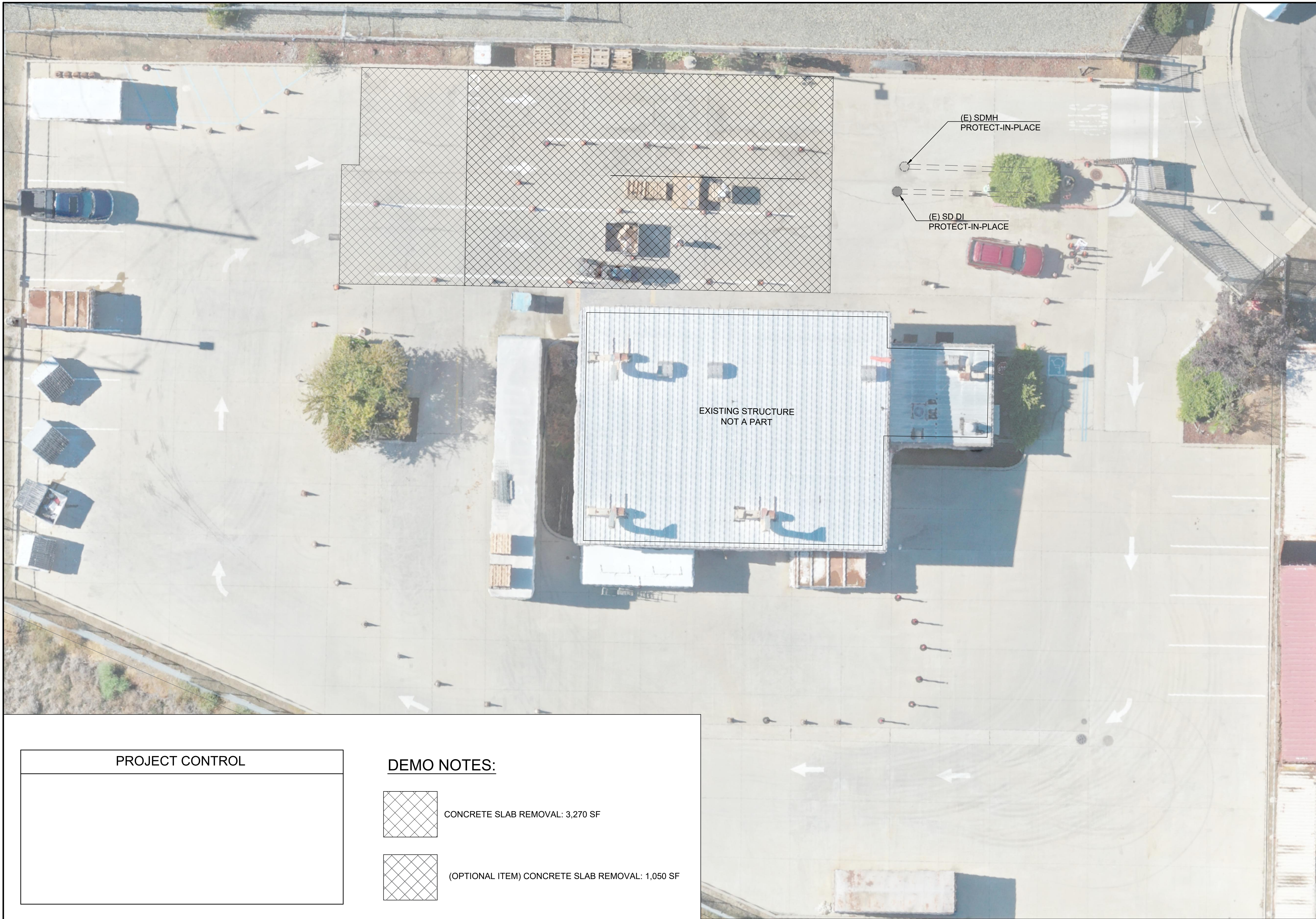
DATE \_\_\_\_\_

**REVIEWED BY:**

\_\_\_\_\_  
REGIONAL WASTE MANAGEMENT AUTHORITY  
THIS PLAN HAS BEEN REVIEWED SCOTT SCHOLZ  
AND IS ACCEPTED FOR CONSTRUCTION AS INDICATED.

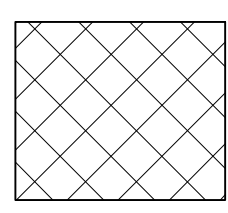
DATE \_\_\_\_\_

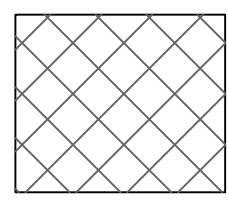
PLAN SCALE: 1" = 10' PROFILE SCALE: N/A DATE: 03-24-23 DWG. NO: C-01 SHEET: 1 OF 3	REGIONAL WASTE MANAGEMENT AUTHORITY YUBA-SUTTER HOUSEHOLD HAZARDOUS WASTE FACILITY - BURNS DRIVE	TITLE SHEET AND GENERAL NOTES
DESIGNED BY: STAFF DRAWN BY: STAFF CHECKED BY: JM JOB NO.: 22698 FILE NAME: 22698MAST	VERIFY SCALE BASE IS ONE INCH ON ORIGINAL DRAWING IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY.	ENGINEERING-SURVEYING 1204 E STREET MARYSVILLE, CALIF. 95901-1674 PH: (530) 742-0485 



**PROJECT CONTROL**

**DEMO NOTES:**

 CONCRETE SLAB REMOVAL: 3,270 SF

 (OPTIONAL ITEM) CONCRETE SLAB REMOVAL: 1,050 SF

**SITE SURVEY & DEMOLITION PLAN**

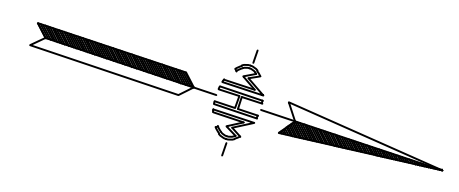
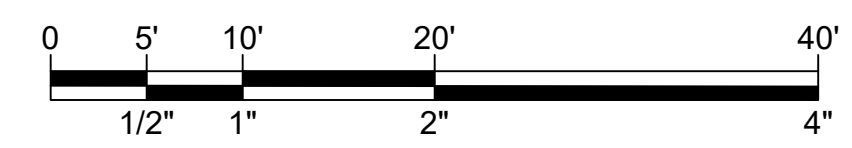
- LEGEND**
- C=0.00 PROPOSED GRADE CALLOUT
  - NUM. ELEV. DESC. PROJECT CONTROL POINT
  - ELEV. DESC. TOPO SHOT - EXISTING SITE
  - AC= ASPHALT CONCRETE SURFACE
  - BW= BACK OF WALK
  - BLDG= BUILDING
  - CONC= CONCRETE
  - DI = DRAINAGE INLET
  - (E)= EXISTING
  - EB= ELECTRICAL BOX
  - EP=EDGE OF PAVEMENT
  - FF=FINISHED FLOOR
  - FS= FINISHED SURFACE
  - FL=FLOW LINE OF SWALE
  - GRD= GROUND SURFACE
  - HMA= HOT MIXED ASPHALT CONCRETE
  - INV= INVERT OF PIPE
  - (N)= NEW ITEM OF WORK
  - LIP= LIP OF CURB AND GUTTER
  - POT= PATH OF TRAVEL
  - RW= RIGHT-OF-WAY
  - SDMH= STORM DRAIN MANHOLE
  - SSMH= SEPTIC/SEWER MANHOLE
  - TBC= TOP BACK OF CURB
  - TW= TOP OF WALL

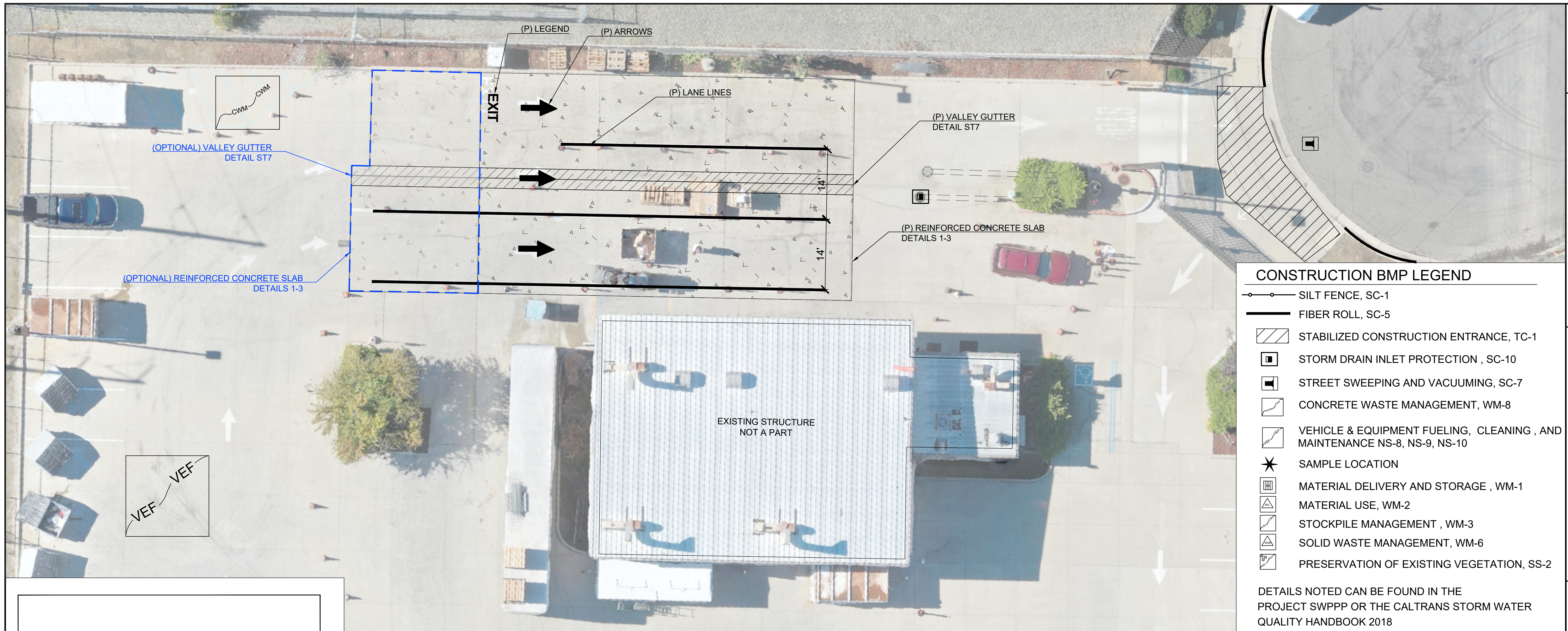
DESIGNED BY:	STAFF	VERIFY SCALE:	BASE IS ONE INCH ON ORIGINAL DRAWING	REGIONAL WASTE MANAGEMENT AUTHORITY	PLAN SCALE: 1" = 10'
DRAWN BY:	STAFF	BASE IS ONE INCH ON ORIGINAL DRAWING	IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY.	YUBA-SUTTER HOUSEHOLD HAZARDOUS WASTE FACILITY - BURNS DRIVE	PROFILE SCALE: N/A
CHECKED BY:	JM				DATE: 02-28-23
JOB NO.:	22698				DWG. NO. C-02
FILE NAME:	22698MAST				SHEET 2 OF 3

**SITE SURVEY AND DEMOLITION PLAN**

**M·H·M**  
ENGINEERS & SURVEYORS SINCE 1982

ENGINEERING-SURVEYING  
1001 STREET  
MARKYVILLE, CALIF. 95901-1674  
PH: (530) 92-0445

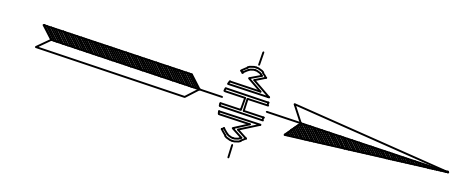
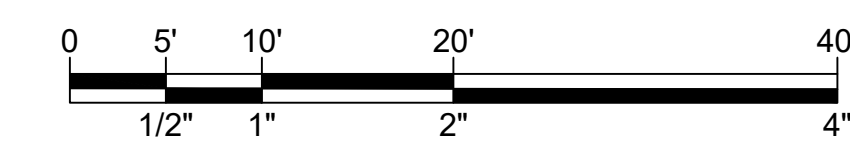




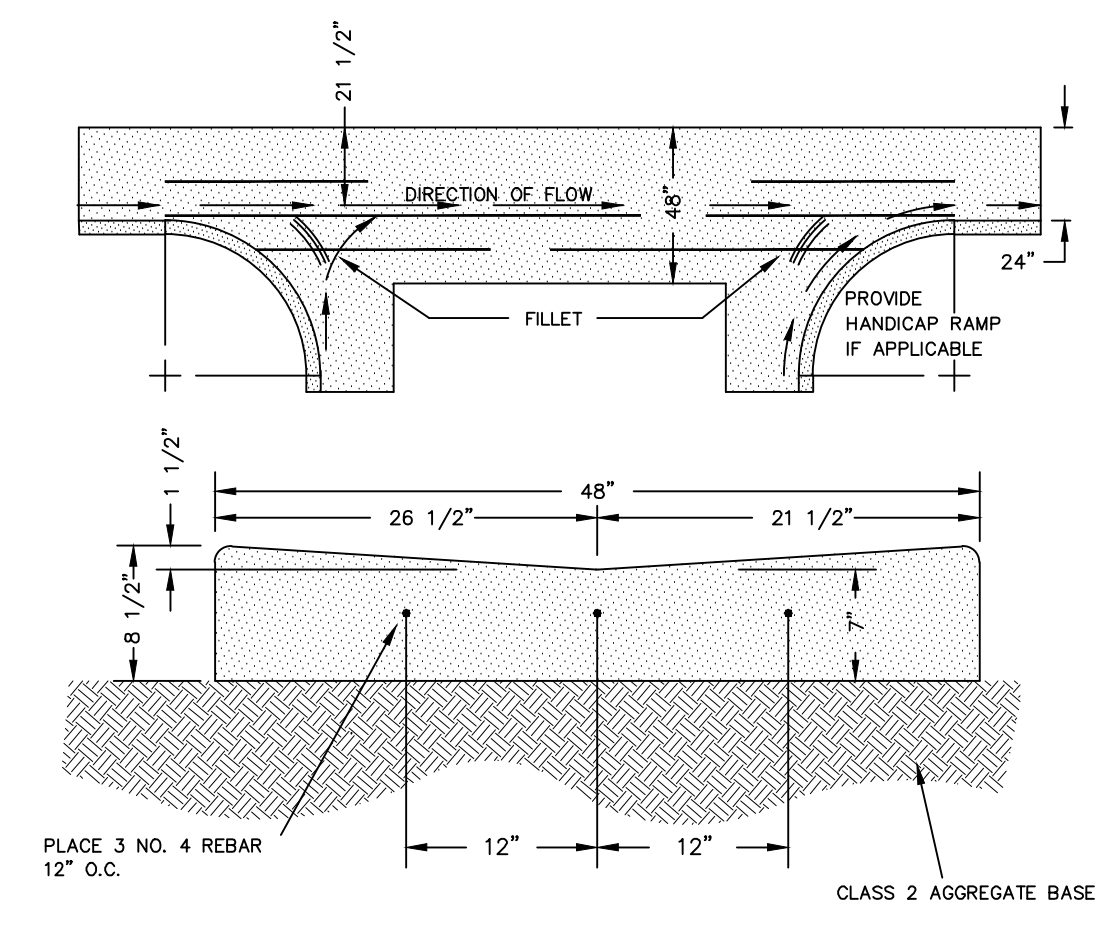
- ### CONSTRUCTION BMP LEGEND
- SILT FENCE, SC-1
  - FIBER ROLL, SC-5
  - STABILIZED CONSTRUCTION ENTRANCE, TC-1
  - STORM DRAIN INLET PROTECTION, SC-10
  - STREET SWEEPING AND VACUUMING, SC-7
  - CONCRETE WASTE MANAGEMENT, WM-8
  - VEHICLE & EQUIPMENT FUELING, CLEANING, AND MAINTENANCE NS-8, NS-9, NS-10
  - SAMPLE LOCATION
  - MATERIAL DELIVERY AND STORAGE, WM-1
  - MATERIAL USE, WM-2
  - STOCKPILE MANAGEMENT, WM-3
  - SOLID WASTE MANAGEMENT, WM-6
  - PRESERVATION OF EXISTING VEGETATION, SS-2

DETAILS NOTED CAN BE FOUND IN THE PROJECT SWPPP OR THE CALTRANS STORM WATER QUALITY HANDBOOK 2018

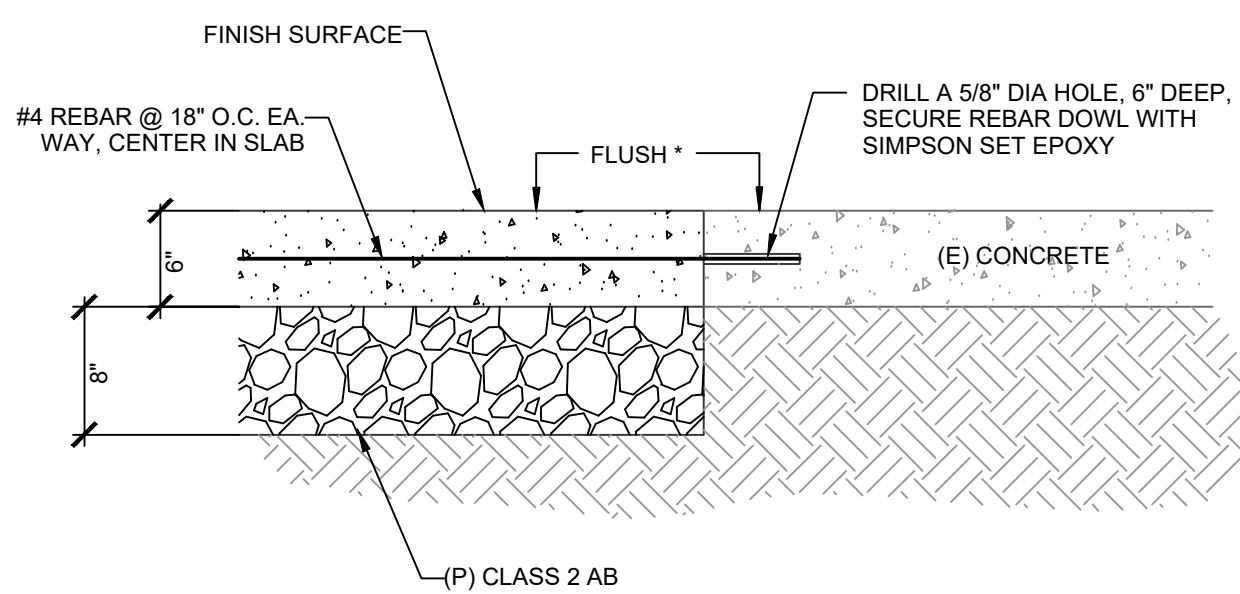
## SITE PLAN AND ENGINEERED FILL



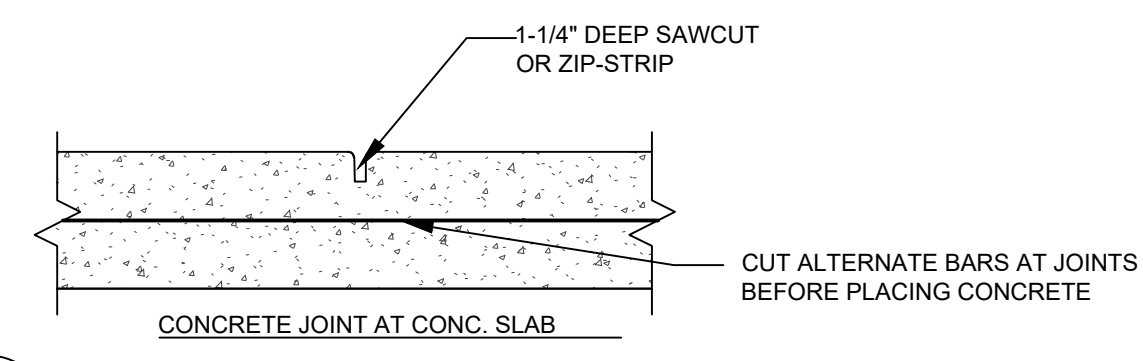
NOTE:  
1. CONCRETE TO MEET MIN 2500 PSI WITH MAX SLUMP OF 4" OR MEET CALTRANS REQUIREMENTS IN THE STANDARD SPECIFICATIONS SECTIONS 73 & 90.



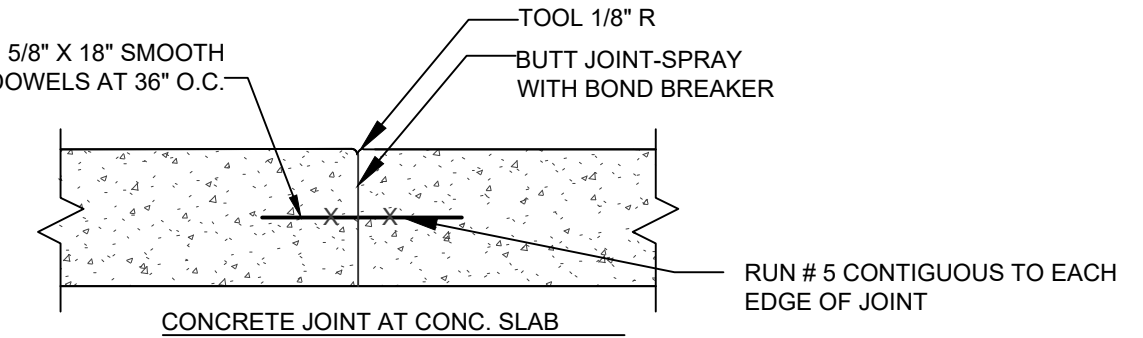
VALLEY GUTTER		CITY OF YUBA CITY	
		STANDARD DETAIL	
		ST7	
DATE	REVISIONS	BY	APPROVED
			DATE



**1** CONCRETE PAVING AT (E) CONCRETE  
NO SCALE



**2** JOINT DETAIL (CUT OR FORMED JOINT)  
NO SCALE



**3** JOINT DETAIL (COLD JOINT)  
NO SCALE

### ENGINEERED FILL NOTES:

- NEW PORTLAND CEMENT CONCRETE : 2,960 SF**  
6" FLATWORK ON 8" AGGREGATE BASE OVER 6" COMPACTED SUBGRADE (95% RELATIVE COMPACTION).  
MINIMUM CONCRETE COMPRESSIVE STRENGTH OF 3000 PSI  
#4 REBAR @ 18" O.C. EACH WAY CENTERED IN CONCRETE SECTION
- (OPTIONAL) NEW PORTLAND CEMENT CONCRETE : 950 SF**  
6" FLATWORK ON 8" AGGREGATE BASE OVER 6" COMPACTED SUBGRADE (95% RELATIVE COMPACTION).  
MINIMUM CONCRETE COMPRESSIVE STRENGTH OF 3000 PSI  
#4 REBAR @ 18" O.C. EACH WAY CENTERED IN CONCRETE SECTION
- NEW 4-FOOT VALLEY GUTTER: 75 LF**  
8" PORTLAND CEMENT CONCRETE VALLEY GUTTER OVER COMPACTED AB SECTION.  
INCLUDE THREE #4 REBAR AT 12" ON CENTER.  
SEE DETAIL ST7 - THIS SHEET
- (OPTIONAL) NEW 4-FOOT VALLEY GUTTER: 25 LF**  
8" PORTLAND CEMENT CONCRETE VALLEY GUTTER OVER COMPACTED AB SECTION.  
INCLUDE THREE #4 REBAR AT 12" ON CENTER.  
SEE DETAIL ST7 - THIS SHEET