Document No. _____

Westlands Water District

Contract Documents

For

ANNUAL COATING OF STEEL REGULATING TANKS

Specification No. 20-04

Bids will be received until 3:00 p.m., July 30, 2020
and publicly opened on July 31, 2020 at 3:00 p.m.
either in person or online via video conferencing
Westlands Water District Office,
3130 North Fresno Street, Fresno, California 93703

INVITATION FOR BIDS
FOR
ANNUAL COATING OF STEEL REGULATING TANKS

SPECIFICATION NO. 20-04

Board of Directors

Daniel Errotabere, President
Frank Coelho, Jr., Vice-President
Jim Anderson
William Bourdeau
Larry Enos
Ryan Ferguson
Todd Neves
Stan Nunn
Don Peracchi

District Staff

Thomas W. Birmingham, General Manager
Jose Gutierrez, Chief Operating Officer

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WESTLANDS WATER DISTRICT

NOTICE INVITING BIDS

ANNUAL COATING OF STEEL REGULATING TANKS

Notice is hereby given that:

A-1. Sealed bids for Annual Coating of Steel Regulating Tanks ("Project"), including all other work in accordance with the District's Specification No. 20-04, will be received by Westlands Water District by electronic submittal until 3:00 p.m., Pacific Daylight Savings Time, July 30, 2020. The submitted bids will be publicly opened and read live, either in person or online via video conferencing on July 31, 2020, 3:00 p.m., Pacific Daylight Savings Time. The selection of the bid opening venue will be made no later than one week prior to the bid submission deadline. Those prospective bidders that attended the entirety of the pre-bid meeting will be notified via email and notice will be posted on the Districts' website as soon as a venue is selected. The link and instructions to attend an online bid opening will be provided one week prior to the conference. Bidders are encouraged to test their Internet viewing capability in advance. No bid will be considered unless it is received in the specified location prior to the bidding deadline.

A-2. The District reserves the right, after opening bids, to reject all bids, which may or may not include rebidding the work, and to waive any immaterial irregularity in any bid. With the Engineer's recommendation, the General Manager may award the Contract to the lowest responsive, responsible Bidder. Bids will be compared on the basis of the Engineer's estimate of the quantities of the several items of work shown in the Bidding Schedules.

A-3. Bidders are required to attend a mandatory pre-bid conference with District personnel to familiarize themselves with existing conditions and clarify any Specification details. Bidders are to meet at the Five Points Shop and Field Office, located at 23050 W. Mt. Whitney, Five Points, CA 93624 at 10:00 a.m. on July 16, 2020, and from there, bidders will be escorted to the job site. Attendance for the duration of the meeting and site visit is mandatory, and each Bidder shall be required to sign in at the pre-bid conference and to certify on its Bid Documents that the Bidder attended the entirety of the conference. **Failure to attend the pre-bid conference waives the right to submit a bid.**

During the site walk, the following procedures will be in place in order to comply with the County of Fresno's May 18, 2020 amended Order of the Health Officer addressing measure to limit and slow the spread of COVID-19 in the County:

A-3.1 All attendees will be required to sign in.

A-3.2 All attendees will be required to confirm (1) they do not have, and for the prior 48 hours have not had a fever, chills, respiratory symptoms or any other symptoms of COVD-19, (2) within the prior 48 hours they have not come in contact with someone they know to have symptoms of COVID-19, and (3) within the prior two weeks, they have not been to a place where COVID-19 is known to be spreading. Any person who cannot provide all of these confirmations will not be allowed to attend the pre-bid conference or site visit.

A-3.3 All attendees must wear a face mask and observe social distancing to the extent possible.

It is the responsibility of the Bidder to ensure that its representative at the site walk can meet all of the requirements in A-3.1-A-3.3. Bidders are required to certify in their Bid Documents that the Bidder attended the entirety of the pre-bid conference and site walk. Failure to attend all portions of the pre-bid conference waives the right to submit a bid.

A-4. The District will **ONLY ACCEPT ELECTRONIC BIDS** in response to this solicitation. Bidders must notify the District at kvandergon@wwd.ca.gov no later than 2:30 p.m. on July 28, 2020 of up to two (2) email (electronic mail) addresses authorized to submit the bid. Instructions for bid file upload will then be emailed directly to those email addresses. Bids will be considered only if fully uploaded **on or before** the due date and time. **Bids must be verified as authentic;** the bidder must send the original of the electronic bid with wet signatures by overnight delivery or first class U.S. mail to the District Office at 3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703, post marked or confirmed to be sent on or before the bid due date.

A-5. No bid will be accepted which is not on the bid form included in the Bid Documents. No bid will be accepted from a bidder who is not licensed in accordance with the California Contractors License Law (California Business and Professions Code Sections 7000 *et seq.*). The successful Bidder will be required to possess a current and valid California Contractor's License of the following class: A or C-34. No bid will be accepted from a Bidder who is not registered with the Department of Industrial Relations (DIR) as required by Labor Code section 1725.5.

A-6. Each bid must be accompanied by Bid Security in the amount of not less than Ten Percent (10%) of the Total Bid Amount, in the form of a certified check, a cashier's check, a bidder's bond issued by a corporate surety acceptable to the District, or cash, as a guaranty that the Bidder will, if an award is made to it in accordance with the terms of its bid, promptly secure the required insurance, payment bond, and performance bond, and execute an Agreement in the required form. A bid may be withdrawn prior to bid opening, but a Bidder may not withdraw its bid for a period of 45 days after the date and time set for the opening thereof without forfeiting its Bid Security.

A-7. The Project is a public works project within the requirements of Division 2, Part 7, Chapter 1 of the California Labor Code, and, as a result, the Contractor must pay prevailing wages under Labor Code Section 1771. In accordance with the provisions of Sections 1770 through 1773.5 of the California Labor Code, the Director of DIR has determined the general prevailing rates of wages and employer payments for workmen needed to perform the Contract. Said rates are on file at the District Office, are incorporated herein by reference, and will be made available to any interested party on request.

A-8. Pursuant to Public Contract Code section 22300, securities may be substituted for any money to be withheld by the District from the Contractor to ensure performance under the Contract. At the request and expense of the Contractor, eligible securities equivalent to the amount to be withheld shall be deposited with the District Treasurer or a state or federally chartered bank as the escrow agent. Such securities shall be delivered to the Contractor only upon satisfactory completion of the Contract. The Contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

A-9. The Bid Documents shall consist of this Notice Inviting Bids, together with the Instructions to Bidders, Bid, Bidding Schedule(s), Agreement, Specifications, and the Drawings listed therein, and any addenda that may be issued by the District prior to the time set for the opening of bids.

Due to ongoing concerns related to the Coronavirus, **printed Bid Documents <u>will not</u> be available at the office of Westlands Water District, 3130 N. Fresno Street, Fresno, California.**

The Bid Documents will be available electronically for bidders to download and use for bidding purposes. Bid Documents are currently available at the District's website under the Notices section at the following address https://wwd.ca.gov/news-and-reports/notices/.

Dated: 06/30/2020

WESTLANDS WATER DISTRICT

By _____
Bobbie Ormonde,
Deputy General Manager Finance & Administration

INSTRUCTIONS TO BIDDERS

B - 1 **FORM OF BID AND SIGNATURE**. The bid shall be submitted on the attached form. The District will **ONLY ACCEPT ELECTRONIC BIDS** in response to this solicitation. Bids must be submitted as a single electronic file in PDF format, no more than 10MB in size. Bids will be considered only if uploaded **on or before** the specified due date and time. Bids sent directly to an email address will not be considered. Bid uploads from anyone other than those authorized and sent upload instructions will not be permitted and, as such, will not be considered. **Bids must be verified as authentic with delivery of the original of the electronic bid** with wet signatures by overnight delivery or first class U.S. mail, post marked or confirmed to be sent **on or before the bid due date** to the following address:

Westlands Water District, District Office
3130 N. Fresno Street
P.O. Box 6056
Fresno, California 93703

The hard copy bid shall be enclosed in a sealed envelope plainly marked with the name and address of the Bidder and "Proposal for," followed by the name of the Project and the date of opening bids. The Bid Security shall be enclosed in the same envelope with the bid.

If the bid is made by an individual, it shall be signed by the Bidder; if it is made by a partnership or limited liability company, it shall be signed in the firm's name by a member of the firm with authority to bind the Bidder; and if it is made by a corporation or joint venture, it shall be signed by its duly authorized officer. Scanned signatures are acceptable on the electronic bid documents and will fully bind the bidder, just as would the "wet" signature required in the confirming original. Receipt of a valid bid bond shall further indicate agreement that the bidder is bound by the bid.

Bids will be considered from licensed contractors who are registered with the Department of Industrial Relations (DIR) under Labor Code section 1725.5 only, and the Bidder shall give its license number and classification and DIR registration number in the place provided therefor in the bid form.

B - 2 **PREPARATION AND SUBMISSION OF THE BID**. Blank spaces in the bid form shall be properly completed. The bid form must not be changed or made conditional. Alterations by erasure or interlineation must be initialed by the Bidder. Alternative bids will not be considered unless specifically provided for. A Bidder may withdraw its bid before the hour fixed for opening bids, without prejudice to resubmitting a bid, by submitting a written request to the Supervisor of Procurement and Fleet Services for its withdrawal. No bid may be withdrawn after the hour fixed for opening bids without forfeiture of the Bid Security, except in accordance with Public Contract Code sections 5100 *et seq.*. No bid received after the time named, or at any place other than the place stated in the Notice Inviting Bids, will be considered. Telephone, email, or faxed bids or modifications will not be accepted. Bidders shall prepare bids at their own expense. Westlands will not reimburse any costs associated with submittal of any bid.

Bids must be submitted no later than July 30, 2020 at 3:00pm. Bidders must notify the District at kvandergon@wwd.ca.gov no later than 2:30 p.m. on July 28, 2020 of up to two (2) individuals authorized to submit the bid, with their email (electronic mail) addresses. Instructions for bid file upload will then be emailed directly to those email addresses. Following receipt of the bid, the District will respond to the provided email indicating the date and time that the bid was received. Bids will be maintained as confidential until the bid opening time. Email and electronic systems may reflect some delay in delivery and upload, and the **District assumes no responsibility if the entire bid is not received prior to the bid opening time**.

B - 3 **CONSIDERATION OF BIDS**. The bid opening and tabulation will be conducted live either in person or online via a group meeting software. The selection of the bid opening venue will be made no later than one week prior to the bid submission deadline. Those prospective bidders that attended the entirety of the pre-bid meeting will be notified via email and notice will be posted on the Districts' website as soon as a venue is selected. The link and instructions to attend an online bid opening will be provided one week prior to the conference. All bids will be opened and declared publicly. Bidders, their representative, and others interested are invited to be present at the opening. Participation in the bid opening is not mandatory as the successful bidder will be notified independently. The meeting link will be provided to bidders having uploaded timely bids. Additionally, the link to bid opening access notice will be posted to the public on the District website under the notices section (wwd.ca.gov/news-and-reports/notices/). All interested parties are encouraged to test their Internet viewing capability in advance as the District assumes no responsibility for connectivity or other technical viewing problems during the bid opening, and inability to view the bid opening will not serve as grounds for protest.

The District may evaluate a Bidder's and its subcontractors' quality, fitness, capacity, and experience to satisfactorily perform the work, as well as their trustworthiness, prior to selecting the lowest responsible Bidder, and may reject a bid if the Bidder is found not to be responsible following the hearing required by law. The District will reject any bid not accompanied by the required Bid Security or otherwise materially deviating from the requirements of the Bid Documents. The District reserves the right either to waive any immaterial irregularity in a bid or to reject a bid containing such a deviation. The District may reject all bids upon a finding that such rejection is necessary and in the best interest of the District.

The Bidder shall state in figures the unit prices and extended prices, or the lump sum price, for which it proposes to supply the labor, materials, supplies, or machinery, and perform the work required by the Specifications. If the unit price and extended price for any item are not consistent, then the unit price will control and the extended price will be corrected to conform thereto. The sum of the extended bid items shall control over the stated bid amount, and if the sum of the extended bid items does not equal the stated bid amount, then the District shall correct the bid amount. Where unit prices are called for, modifications to the extended price will not modify the unit price.

B - 4 **QUALIFICATIONS**. The Bidder must have a minimum of five years of experience. The Bidder must possess a valid and current class A or C-33 California Contractor's license.

B - 5 **BID SECURITY**. Each Bidder shall submit with its bid a certified check or cashier's check made payable to Westlands Water District, or a bidder's bond issued by a corporate surety satisfactory to the District, in the amount of at least ten percent (10%) of the total bid amount ("Bid Security"), as a guaranty that the Bidder will, if an award is made to it in accordance

with the terms of its bid, promptly execute an Agreement in the required form, obtain the required performance and payment bonds, and satisfy the insurance requirements set forth herein. If a Bidder to whom an award is made fails to do so within the time stated in paragraph B-8 hereof, then the Bid Security shall be used to compensate the District for the difference in price between the low bidder's bid price and the price at which the Contract is awarded, as well as all other expenses of the District, including without limitation attorneys' fees and any necessary acceleration costs due to the delay, incurred as a result of the Bidder's failure(s). The Bid Security of all other bidders, including the Contractor, will be returned after the Agreement is executed and required bonds and insurance have been provided.

B - 6 **DIR REGISTRATION AND PREVAILING WAGES**. The Project is a public works project within the requirements of Division 2, Part 7, Chapter 1 of the California Labor Code. As such, the Bidder and all subcontractors are required to be registered pursuant to Labor Code section 1725.5 at the time of bidding. Failure of the Bidder to be registered at the time of bidding shall render the bid non-responsive and unavailable for award. A subcontractor who is unregistered at the time of bidding will not be permitted to work on the Project. If any subcontractor required to be listed in the bid is unregistered, the Contractor will be required to substitute that subcontractor with a registered Subcontractor at no additional cost to the District. Bidders shall provide the DIR registration numbers for all listed subcontractors within 24 hours of bid opening and registration numbers of all subcontractors who are not required to be listed not later than 24 hours before they are to start work on the Project.

This project is a "public work," as that term is defined by Labor Code Section 1720, so is subject to prevailing wages under Labor Code Section 1771. Contractor and its subcontractors shall fully comply with all the provisions of the California Labor Code governing the performance of public works contracts including, but not limited to, payment of prevailing wages, limitations on time worked, compliance with apprentice requirements, maintenance of payroll records, posting of wages at the job site, and prohibitions against discrimination. Copies of such prevailing rate of per diem wages are available upon request at Westlands' office, 3130 N. Fresno Street, Fresno, CA 93703-6056 or on the Internet at http://www.dir.ca.gov/OPRL/PWD. This Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

B - 7 **LOCAL CONDITIONS**. By submitting a bid, the Bidder represents that it has reviewed the Specifications, Drawings, and other Contract Documents; has adequately inspected the Project site; and has reviewed local conditions, uncertainty of weather, and all other contingencies sufficient to allow the Bidder to bid. The District assumes no responsibility with respect to the sufficiency or accuracy of borings or of the log of test borings or other preliminary investigations or of the interpretation thereof, and does not guaranty, expressly or impliedly, that the conditions indicated are representative of those existing throughout the Project. If provided, test borings, soils studies and/or any other report of subsurface conditions are included only for the convenience of bidders, and shall not be construed as a waiver of the requirement for bidders to satisfy themselves through their own investigations as to the conditions to be encountered. The quantities of work or material stated in the unit price items of the Bidding Schedules are given only as a basis for the comparison of bids, and the District does not expressly or by implication agree that the actual amount of work or material will correspond therewith. Contractor shall have no claim for damages or loss of profits or otherwise because of any difference between the quantities of work actually done and material furnished and those stated in said unit price items of the Bidding Schedules.

B - 8 **EXECUTION OF CONTRACT**. A Bidder to whom the award is made shall execute a written Contract with the District on the form of Agreement attached hereto, satisfy the insurance requirements set forth herein, and furnish bonds as required in the following paragraph, all within 10 days from the date of the District's Notice of Intent to award the Contract, or such later time allowed by the District. If a Bidder to whom award is made fails or refuses to enter into the Contract or to conform to any of the requirements stated herein, then the Bidder forfeits its Bid Security, and the District may award the Contract to the next lowest responsible bidder. A corporation to which an award is made will be required, before the Contract is finally executed, to furnish evidence of its corporate existence, of its right to do business in California, and of the authority of the officer signing the Contract and bonds for the corporation to so sign.

B - 9 **BONDS.** A Bidder to whom the Contract is awarded shall within the time mentioned in the preceding paragraph furnish the following bonds issued in a form and by a corporate surety acceptable to the District: a) a performance bond conditioned upon the faithful performance by the bidder of all covenants and stipulations in the Contract and b) in accordance with the provisions of Civil Code sections 9550 *et seq.,* a payment bond. Each bond shall be in an amount not less than 100 percent of the estimated aggregate payments to be made under the Contract. All bonds shall be furnished by the Bidder to whom the Contract has been awarded at its own cost and expense.

B - 10 **LIABILITY**. Contractor will be responsible for completing the work in accordance with the Contract, and will be responsible for any and all injury or damage arising out of its or its subcontractors' performance of the work, except for injury or damage caused by the active or sole negligence or willful misconduct of the District. The Contractor shall assume the defense of, indemnify, and hold harmless the District, its officers, officials, directors, employees, and agents, from and against any loss, liability, expense, claims, costs, including attorneys' fees, suits, and damages therefor, excluding indemnification for injury or damage caused by the active or sole negligence or willful misconduct of the District.

B - 11 **INSURANCE.**

1. **Insurance Requirements**. After notice of intent to award the Contract, the Contractor shall promptly obtain, at its own expense, all required insurance and shall submit a completed insurance coverage verification form for review and approval by the District. The insurance requirements must be met within the period allowed for Contract execution. Approval of the insurance coverage by the District does not relieve the Contractor or subcontractors from liability under paragraph B-10.

   The Contract will not be executed by the District, and the Contractor shall not begin work, until such insurance has been approved by the District. The Contractor shall not allow any subcontractor to begin work on its subcontract until all similar insurance required of the subcontractor has been obtained.

2. **Workers' Compensation and Employer's Liability Insurance**. The Contractor and each subcontractor shall take out, and maintain during the life of the Contract, Workers' Compensation and Employer's Liability Insurance for all employees to be engaged in the work under the Contract in accordance with Labor Code section 3700 and in the amounts required by law.

3. **Liability Insurance**. The Contractor and each subcontractor shall take out and maintain in the name of the Contractor and the District during the life of the Contract and for two years following acceptance of the work by the District, such Comprehensive General Liability Insurance as shall protect himself, the District, its officers, officials, directors, employees, and agents, from claims which may arise from

operations under the Contract. This liability insurance shall include, but shall not be limited to, Owner's contingent coverage, protection against claims for personal and bodily injury and property damage arising from the Contractor's or subcontractors' operations, use of owned or nonowned automobiles, products, and completed operations. The amounts of insurance, unless otherwise specifically authorized by the Engineer, shall not be less than the following:

Combined Single Limit Coverage applying to Bodily and Personal Injury Liability and Property Damage	$2,000,000

The following endorsements must be attached to the policy:

a. The policy must cover personal injury, as well as bodily injury.

b. The policy must cover complete contractual liability. Exclusions of contractual liability as to bodily injury, personal injury, and property damage must be eliminated from the basic policy endorsements.

c. Broad form property damage liability must be afforded.

d. The District, its officers, officials, directors, employees, and agents must be added as a named insured under the coverage afforded with respect to the work being performed under the Contract.

e. An endorsement shall be provided which states that the coverage is PRIMARY INSURANCE and that no other insurance effected by the District will be called upon to contribute to a loss under this coverage.

f. Deletion of explosion, collapse, and underground Property Damage (XCU) Exclusion.

g. Cross Liability and Severability of Interest Clause.

h. The policy must provide for at least 30 days' notice to the District prior to cancellation of the policy (10 days for nonpayment of premium).

B - 12 **INTERPRETATION OF BID DOCUMENTS**. Should a bidder find discrepancies in, or omissions from, the Bid Documents, or should it be in doubt as to their meaning, it shall at once notify the Engineer in writing. Should it be found that clarification is required, a written Addendum will be sent to all bidders. Any such issue which is not raised with the Engineer at least two (2) days prior to the bid deadline shall be waived, and the District will not consider any challenge based on the contents, structure, or terms of the Bid Documents after the bid deadline. The District shall be bound only by written responses to questions contained in an addendum. Oral responses or email responses shall not be binding on the District.

B - 13 **ADDENDA.** Any Addenda supplementing the Bid Documents and issued prior to the time set for the opening of bids shall form a part of the documents furnished the Bidder for the preparation of its bid. The Bidder must acknowledge all addenda in the bid.

The District reserves the right to postpone the date for presentation and opening of bids and will provide notice of any such postponement in an addendum to each prospective Bidder.

B - 14 **SUBCONTRACTS**. In accordance with the requirements of Public Contract Code sections

4100 *et seq.,* the bid shall list the name, location of the place of business, the California contractor license number, and public works contractor registration number issued pursuant to Section 1725.5 of the Labor Code of each subcontractor who will perform work or labor, render service, or specially fabricate and install a portion of the work in excess of one-half of one percent of the total amount of the bid. The Bidder shall specify the portion of the work which will be performed by each subcontractor. Only one subcontractor shall be listed for each portion of the work. If a Bidder fails to list a subcontractor for a portion of work in excess of one-half of one percent of the bid, or if or if a Bidder specifies more than one subcontractor for the same portion of work, the Bidder represents that it is fully qualified to perform that portion itself, and that the Contractor shall perform that portion itself. A listed subcontractor must be used to perform the work for which it was listed, and shall not be substituted except as permitted by law.

B - 15 **SCHEDULE.** Work Schedule is as follows:

The project is scheduled to begin September 2020. The Contractor will have until November 2020 or 60 days after Notice to Proceed, to complete all the work described in the Contract Documents. The Contractor shall submit a proposed schedule within ten (10) days after receipt of the Notice to Proceed.

BID FORM

BID FOR: ANNUAL COATING OF STEEL REGULATING TANKS; 20-04

TO: Supervisor of Procurement & Fleet Services
Westlands Water District
3130 N. Fresno Street
P.O. Box 6056
Fresno, CA 93703

Bid from _____
(Bidder)

_____
(Address)

_____ _____
(Phone) (Email)

The undersigned bidder is hereby certifying that the bidder is licensed and in good standing in accordance with the Contractors State License Board, has the following license classifications, and is registered with the Department of Industrial Relations (DIR) as indicated below.

License number: _____. License type: ___. License expiration date: _____.

DIR Registration #_____ Expiration date: _____

To Whom It May Concern:

On behalf of Bidder, the undersigned hereby represents that Bidder's authorized representative attended the full duration of the pre-bid conference (if mandatory); that Bidder has read the Bid Documents and agrees to all the stipulations contained therein; that it has carefully examined the site of the work, the form of Agreement approved by the District, the Specifications and Drawings therein referred to, and other information regarding the project made available to bidders, and it proposes and agrees that, if its bid is accepted, it will contract in the form so approved to furnish and provide all labor, materials, supervision, transportation, tools, equipment, services and other facilities necessary and required for the expeditious completion of the work included in the Agreement, in strict conformity with the Contract Documents, and to complete the same within the time stipulated therein; and that it will accept in full payment therefor, the prices named in the Bidding Schedule.

Enclosed herewith is Bid Security in an amount not less than ten percent (10%) of the bid amount, made payable to the District as a guarantee that Bidder will enter into the Agreement and will furnish specified insurance and bonds. Bidder agrees that, upon receipt of written notice of the Intent to Award the Contract to Bidder based on this bid, it will execute the Agreement, secure the required insurance, and furnish the required bonds, all within 10 days from the date of receipt of the Notice, or within such additional time as may be allowed by the District; and that failure or refusal to do so within said time will forfeit the Bid Security. If Bidder timely executes the Agreement, secures the required insurance, and furnishes the required bonds, then the District shall return the Bid Security within three days thereafter, and the bid bond, if furnished, shall become void.

Surety(ies) that have agreed to provide payment and performance bonds: _____

The Bidder has investigated and is satisfied as to the conditions (including but not limited to, subsurface conditions to be encountered), the character, quality, and quantities of work to be performed and materials to be furnished, the difficulties to be encountered, and the requirements of the Bid Documents.

Bidder has notified the District of any discrepancies, ambiguities, inconsistencies, errors or omissions in the Bidding Documents, Contract Documents, applicable law or requirements, and/or of any doubt about the meaning of any of the Contract Documents. Bidder has contacted the District before bid date to verify that it has received any clarifying addenda, and acknowledges receipt of the following addenda:

(Include All Addenda Received)

NO.____ DATE _____
NO.____ DATE _____
NO.____ DATE _____

The undersigned has the authority to bind Bidder to these representations and agreements, and does so under penalty of perjury of the laws of the State of California by the signature below.

NOTE: If Bidder is a corporation, the legal name of the corporation shall be set forth below; if Bidder is a partnership, limited liability company, or joint venture, the true name of the firm shall be set forth below.

NAME OF BIDDER: _____

BIDDER'S ADDRESS: _____

_____
(Signed)

_____
(Date)

_____
(Print Name)

_____
(Title)

Bidder is a (check one):
☐ Individual
☐ Partnership
☐ Limited Liability Company
☐ Corporation
☐ Joint Venture

BIDDER'S REFERENCES

The following contracts have been completed in the last five years for the persons, firm or authority indicated, and to whom reference is made. Public works projects involving similar work are preferred. (Name four contracts.)

1. Project Name: _____

Year(s): _____ Contract Amount: $_____

☐ Prime Contract ☐ Subcontract (subcontract amount) $_____

Project Owner: _____
Name Address

Project Contact: _____
Name Position

_____
Phone Number Email

Project Description (type of work): _____

_____

2. Project Name: _____

Year(s): _____ Contract Amount: $_____

☐ Prime Contract ☐ Subcontract (subcontract amount) $_____

Project Owner: _____
Name Address

Project Contact: _____
Name Position

_____
Phone Number Email

Project Description (type of work): _____

_____

3. Project Name: _____

Year(s): _____ Contract Amount: $_____

☐ Prime Contract ☐ Subcontract (subcontract amount) $_____

Project Owner: _____
Name Address

Project Contact: _____
Name Position

_____
Phone Number Email

Project Description (type of work): _____

_____

4. Project Name: _____

Year(s): _____ Contract Amount: $_____

☐ Prime Contract ☐ Subcontract (subcontract amount) $_____

Project Owner: _____
Name Address

Project Contact: _____
Name Position

_____
Phone Number Email

Project Description (type of work): _____

_____

DESIGNATION OF SUBCONTRACTORS

LIST OF SUBCONTRACTORS FOR _____ (BIDDER)

PROJECT: _____

Pursuant to the provisions of Sections 4100 to 4114 inclusive, of the California Public Contract Code, the above-named Bidder hereby designates below the names, portion of work, contractor license numbers, locations of the place of business, and DIR registration number of each subcontractor. Please check one of the boxes and sign below:

___ We are not using any Subcontractors.

___ All of our Subcontractors are performing at least 1/2 of 1% of the Work listed below, including additive alternates, if any.

PORTION OF WORK	SUBCONTRACTOR NAME	LICENSE NUMBER	SUBCONTRACTOR ADDRESS	DIR REGISTRATION NUMBER

Signed: _____

BIDDING SCHEDULE

Bidder's Name: _____

PROJECT: **Annual Coating of Steel Regulating Tanks**

NOTE: The work under this Schedule shall be based on the Contractor performing all work in accordance with the plans, specifications and drawings in the Bid Documents and includes all costs to perform the complete Project work.

Item No.	Work or Material	Estimated Quantity	Unit Price	Extended Amount
1.	Silt Removal for 3R-A Tank	LS	_____	_____
2.	Surface Preparation for 3R-A Tank	6,990 SF	_____	_____
3.	Coating Interior of 3R-A Tank	6,990 SF	_____	_____
4.	Silt Removal for 26R-A Tank	LS	_____	_____
5.	Surface Preparation for 26R-A Tank	3,869 SF	_____	_____
6.	Coating Interior of 26R-A Tank	3,869 SF	_____	_____

TOTAL BID AMOUNT (in numbers)**:** **$**_____

TOTAL BID AMOUNT (in words): _____

_____

Standby Charge $_____ per hour

Additional Costs, if necessary, due to Unfavorable Weather Conditions;

Tenting, De-humidifying, and Heating equipment (labor included) $ _____ per hour

Daily Rental rate for above equipment $ _____ per hour

NONCOLLUSION DECLARATION

STATE OF _____)
) ss.
County of _____)

Noncollusion Declaration to be Executed by Bidder and Submitted with Bid.

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

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

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

By: _____
(Signature)

Print: _____

CONTRACT AGREEMENT

This agreement is made and entered into this ___ day of _____, 20__, by and between the Westlands Water District, acting by and through its Governing Board ("Owner") and _____, a California [type of business, *e.g.*, corporation] ("Contractor"). Owner and Contractor may be referenced herein individually as "Party" or collectively as the "Parties."

WITNESSETH, that for and in consideration of the mutual promises, covenants, agreements, and conditions herein contained, the Parties agree as follows:

1. **THE WORK:** The Work constitutes a public work of improvement. Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, light, heat, utilities, transportation and other facilities and services necessary for the execution and completion of the Work in accordance with the Contract Documents and any applicable code or statute, whether or not specifically described herein, as long as same is reasonably inferable there from as being necessary to produce the intended results. Contractor agrees to perform and complete in a good and workmanlike manner the work of painting the interior of 3R-A and 26R-A steel regulating tanks ("Work"). The Work is subject to the approval of Westlands' Supervisor of Field Engineering and Planning Department or his designee.

2. **CONTRACT DOCUMENTS:** The Contract Documents, sometimes also referred to as "the Contract", consist of the Notice to Bidders, the Instructions for Bidders, the Bid, this Contract Agreement, the Bid Bond, the Performance Bond, the Payment Bond, the General Conditions, the Special Provisions, Exhibits, the Technical Specifications, the Contract Drawings and Plans, all duly issued Addenda, Interpretations, Change Orders, Directives, supplemental drawings, Architect's Instruction Bulletins, the Contractor's Guarantee and Bond, and the Contract Schedule. Unless otherwise specifically provided herein, all words and phrases defined in the General Conditions shall have the same meaning and intent in this Agreement.

3. **LICENSE AND DIR REGISTRATION:** By executing this Agreement, Contractor represents that it is currently licensed by the California Contractors State License Board, Class ____, License number _____, and that Contractor is registered with the California Department of Industrial Relations as required by California Labor Code section 1725.5, registration number _____.

4. **BONDS:** If the Contract Price is twenty-five thousand dollars ($25,000.00) or more, then Contractor shall provide to Owner payment and performance bonds in an amount not less than 100 percent of the total amount payable by the terms of the contract before the District executes this Agreement.

5. **LOCATION OF WORK:** The Work is to be performed at the following location: Steel Regulating Tanks 3R-A and 26R-A, shown on the Location Map included ("Site").

6. **TIME FOR COMPLETION:** The Parties hereby agree that the Work shall be completed within 60 calendar days after the date of the Notice to Proceed ("Contract Time").

Time is of the essence in this Agreement and the Contract Documents. Failure of Contractor to complete the Work by the completion date and in the manner provided for by the Contract Documents shall subject Contractor to liquidated damages as hereinafter provided.

7. **PREVAILING WAGES AND RECORDS:** As provided in detail in the General Conditions, Contractor and all subcontractors shall comply with and adhere to the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of Industrial Relations pursuant to Division 2, Part 7, Chapter 1, of the California Labor Code. Failure to comply with wage and hour requirements may result in the Contractor being assessed penalties in accordance with the California Labor Code.

8. **CONTRACT PRICE AND PAYMENT:** As compensation for the Work in accordance with the Contract Documents, and its satisfactory construction, erection and completion, Owner shall pay or cause to be paid to Contractor in accordance with the unit prices on the Bid Schedule attached hereto as Exhibit A, subject to additions and deductions as provided by change order ("Contract Price"). Payment will be made in accordance with the payment provisions of the General Conditions.

9. **ASSIGNMENT:** Neither this Agreement nor any rights herein of Contractor shall be assigned without the prior written consent of Owner.

10. **LIQUIDATED DAMAGES:** Should the Work not be completed within the Contract Time, as adjusted for any delays caused by conditions beyond the control and without the fault or negligence of Contractor, Contractor acknowledges that Owner will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between Contractor and Owner that Contractor shall pay to Owner as fixed and liquidated damages, and not as a penalty, the sum of $300 per calendar day delay until final completion of the Work and its delivery to Owner, and that Owner may deduct Liquidated Damages from any monies due or that may become due to Contractor.

11. **EXECUTION OF CONTRACT:** IN WITNESS WHEREOF, this agreement has been duly executed by the above named parties, on the day and year first above written.

CONTRACTOR:	**OWNER:**
[name] _____	Westlands Water District
[address] _____	3130 N. Fresno Street, P.O. Box 6056
[address] _____	Fresno, California 93703-6056
By: _____	**By:** _____
[Name]	Jose L. Gutierrez, P.E.
Title: _____	**Title:** Chief Operating Officer
Date: _____	**Date:** _____

GENERAL CONDITIONS

ARTICLE 1. DEFINITIONS

SECTION 1.01. ARCHITECT.

The "Architect" is the architectural firm engaged as an agent by the District to perform the services set forth in the Contract Documents. The Architect is designated by the District as the District's agent to perform all functions delegated to the Architect by the Contract Documents.

SECTION 1.02. CHANGE ORDER.

"Change Order" shall mean a written order to the Contractor, issued after execution of the Contract, signed by the District and the Contractor, authorizing a change in the Work and/or an adjustment in the Contract amount and/or the Contract time. Change Orders may incorporate CCDs.

SECTION 1.03. CONTRACT DOCUMENTS.

The "Contract Documents" shall include the Notice to Bidders, the Instructions for Bidders, the Bid, the Agreement for Construction, the Bid Bond, the Performance Bond, the Payment Bond, these General Conditions, the Special Provisions, Exhibits, the Technical Specifications, the Contract Drawings and Plans, all duly issued Addenda, Interpretations, Change Orders, Directives, supplemental drawings, Architect's Instruction Bulletins, the Contractor's Guarantee and Bond, and the Contract Schedule.

SECTION 1.04. CONTRACT TIME.

"Contract Time" shall mean the period specified for completion of the Work, as set forth in the Agreement for Construction and adjusted by any Change Order issued pursuant to the Contract Documents.

SECTION 1.05. CONTRACTOR.

"The Contractor" shall mean the person or persons, partnership, or corporation, who have entered into the Agreement for Construction of the Work with the District or its legal representatives, or successors, assigns, executors, or heirs.

SECTION 1.06. DAY.

Unless otherwise expressly defined, a "day" shall mean a calendar day, including every day of the year.

SECTION 1.07. DISTRICT.

"District" shall mean the Westlands Water District. The District is sometimes designated "Owner."

SECTION 1.08. DISTRICT REPRESENTATIVE.

"District Representative" shall mean the District's designated agent engaged to perform all functions delegated to the District Representative by the Contract Documents. The District Representative may or may not be a construction manager. The District Representative will be the Contractor's primary contact during construction of the Project.

SECTION 1.09. NOTICE OF INTENT TO AWARD.

The "Notice of Intent to Award" is issued following District approval of a bid. It authorizes the Contractor to obtain required bonds and insurance necessary prior to District's execution of the Agreement for Construction.

SECTION 1.10. NOTICE TO PROCEED.

"Notice to Proceed" is the notice given to the Contractor following execution of the Agreement for Construction and receipt of all required preconstruction submittals as itemized in the Notice of Intent to Award. The Notice to Proceed establishes the start of the Work and authorizes the Contractor to begin construction.

SECTION 1.11. PROJECT.

"Project" shall mean the total construction of the work of improvement described in the Contract Documents, of which the Work may be the whole or a part.

SECTION 1.12. PROJECT INSPECTOR.

The "Project Inspector" shall mean the person or persons employed or engaged as (an) independent contractor(s) by the District to inspect the performance of the Work by the Contractor for compliance with the Contract Documents. The Project Inspector is hereby designated as an agent of the District for such purpose and no other. The Project Inspector is supervised by, and reports to, the Architect. The authority of the Project Inspector to monitor the work shall be strictly limited to that authority specified herein and in Title 24, California Code of Regulations, and no additional authority has been granted nor shall be inferred.

SECTION 1.13. SITE.

"Site" is the area within which the Project is to be constructed.

SECTION 1.14. SPECIAL PROVISIONS.

The "Special Provisions" are specific clauses setting forth conditions or requirements peculiar to the Work, and supplementary to the General Conditions and Technical Specifications.

SECTION 1.15. SPECIFICATIONS.

"Specifications" include the special provisions, general conditions, general requirements, and technical specifications applicable to the Work, all duly executed and issued addenda and interpretations, and all modifications approved by the District pursuant to a Change Order.

SECTION 1.16. SUBCONTRACTOR.

"Subcontractor" shall mean each person or firm who is required by law to be and who is licensed to and will perform work, labor, or render services to the Contractor in or about the construction of the Work, or who, under subcontract to the Contractor, fabricates and installs a portion of the work or improvement.

SECTION 1.17. WORK.

The "Work" shall mean that scope of work to be performed hereunder and includes all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill its obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 2. CONTRACT DOCUMENTS

SECTION 2.01. THE CONTRACT.

The Contract Documents form the Contract for Construction. This Contract represents the entire and integrated agreement between the District and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. The Contract may be amended only by a written Change Order. The Contract Documents do not create any contractual relationship between the District and any Subcontractor or sub-subcontractor, or between the District Representative or the Architect and the Contractor.

Prior to starting work, Contractor shall prepare a Contract Schedule consistent with the Contract Time and any standards specified by the District. For projects of 90 days or more, the schedule shall use the critical path method.

The Contract Documents are complementary and what is called for by any one shall be as binding as if called for by all. In case of conflict, large scale (detail) Drawings shall govern over small-scale Drawings, the Specifications shall govern over the Contract Drawings except as noted below, special provisions shall govern over both the Contract Drawings and the general conditions, and subsequent addenda, Interpretations, or approved change orders shall govern over the original documents, unless a different order of precedence is noted elsewhere in conjunction with a specific portion of the documents.

No extra compensation will be allowed for anything omitted but fairly implied to be included in the Contract Documents. The prices paid for the various items in the bid shall include full compensation for furnishing all labor, materials, tools, equipment, temporary utilities (water, power, telephone, and sanitary services), transportation and incidentals, and doing all items necessary to complete the Work as provided by the Contract Documents.

SECTION 2.02. WRITTEN NOTICE.

Written notice may be accomplished by personal delivery, United States mail, overnight mail, email with a copy by mail, facsimile or any other form of commercially accepted communication. The written notice shall become effective upon delivery. Delivery is complete when the notice is hand delivered to Contractor's home office, job-site office, or to Contractor's superintendent; or when the facsimile transmission is complete during normal business hours; or one business day after email transmission; or three days after mailing by U.S. mail; or upon actual delivery as evidenced by a delivery receipt.

SECTION 2.03. RIGHTS AND REMEDIES.

The duties and obligations of the Contractor imposed by the Contract Documents and the rights and remedies of the District available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

Neither the inspection by District or its agents, nor any payment for any part of the Work by District, nor any extensions of time, nor any position taken by District or its agents shall waive any provision of the Contract Documents, or any power reserved to District, or any right to damages. The failure of the District to insist on the strict performance of any one or more of the provisions of this Contract, or to exercise any right, shall not waive the District's right to subsequently demand such strict performance or to exercise such right(s).

SECTION 2.04. UNENFORCEABILITY OF ANY CLAUSE.

If any clause or provision of the Contract Documents is held to be unenforceable or invalid, then that provision of the Contract shall be stricken and the remaining portion shall remain in full force and effect.

SECTION 2.05. PROJECT PHOTOGRAPHS.

Existing conditions throughout and adjacent to the project site, including without limitation the condition of utilities, buildings, fences, concrete, irrigation systems, driveways, parking lots, canals, access roads, plants and landscaping, shall be photographed by the Contractor before starting construction. Photos shall be taken in the presence of the District Representative. The Contractor shall document its Work with photographs, including any that may be requested by the District Representative, at no added cost to the District.

ARTICLE 3. INDEMNIFICATION AND INSURANCE

SECTION 3.01. INDEMNIFICATION.

To the fullest extent permitted by law, the Contractor shall defend with counsel acceptable to the District, indemnify and save harmless the District, the District Representative, and the Architect and any of their respective officers, agents, and employees from and against, any and all losses, claims, demands, damages, costs, expenses, attorney's fees, or liability of every nature arising out of or in any way connected with the performance or attempted performance of the provisions hereof, or in any way arising out of or connected with this Contract, including but not limited to, equitable relief, stop notice actions, or any acts or omissions, any wrongful act, or any negligent act or omission to act, whether active or passive, on the part of the Contractor or any of its agents, employees, independent contractors, subcontractors or suppliers; provided, further, without limiting the foregoing, that the defense and indemnity is intended to apply to any wrongful acts, or any actively or passively negligent acts or omissions to act, committed jointly or concurrently by the Contractor and the Contractor's agents, employees, independent contractors, or subcontractors or suppliers, and the District, its agents, employees, or independent contractors. Nothing contained in the foregoing indemnity provisions shall be construed to require the Contractor to indemnify the District in contravention of Section 2782 of the Civil Code for the active or sole negligence or willful misconduct of the District.

In claims against any person or entity herein indemnified that are made by an employee, agent, independent contractor, subcontractor or supplier, or anyone else for whose acts the Contractor may be liable, the defense and/or indemnification obligation herein shall not be limited by any limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or the Contractor's agents, independent contractors, subcontractors or suppliers under workers' compensation acts, disability acts, or other employee benefit acts.

The defense and indemnities set forth herein shall not be limited by the insurance requirements set forth in the Contract Documents.

The defense and indemnification requirements herein set forth shall extend to claims occurring after this Contract is terminated as well as while it is in force.

SECTION 3.02. INSURANCE.

The Contractor and its Subcontractors (except as otherwise provided herein) shall obtain, and maintain during the entire Contract, at their sole cost and expense, the following insurance:

a. Workers' Compensation Insurance: In accordance with the provisions of Section 3700 of the Labor Code, the Contractor, and each subcontractor, shall provide workers' compensation insurance as required by law covering all workplaces involved in the Contract Documents. By executing the contract, the Contractor acknowledges that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions.

b. Liability Insurance: The Contractor and its Subcontractors shall procure and maintain insurance on all of their operations during the progress of the Work, with reliable insurance companies, on forms acceptable to District, for the following minimum insurance coverages:

   i. Comprehensive general liability insurance, including but not limited to protection for claims of bodily injury and property damage liability, personal injury liability, and products completed operations liability. Coverage shall be with limits of not less than $1,000,000 per occurrence and $2,000,000 general aggregate.

   ii. Automobile bodily injury and property damage insurance, including all owned, hired and non-owned equipment with combined bodily injury and property damage liability of $1,000,000.

   iii. Additional coverages and/or limits may be required in the Special Provisions.

All liability insurance shall be written on an occurrence basis. The liability insurance policies shall be endorsed (1) to include by name the District, Architect, District Representative, and any other consultant retained by the District as additional insureds and shall provide that they are primary with any insurance maintained by District as non-contributory and will have severability of interest endorsement, and (2) to waive all rights of subrogation for losses arising from work performed by the Contractor for the District.

c. Builder's Risk Insurance: The Contractor shall purchase, maintain and keep in force at all times during the term of the Contract and until the date of transfer of the insurable interest to and acceptance by the District, insurance as to protect the District from loss or damage to work in the course of construction. This insurance shall be in the form of "Builders All-risk", "All-risk Installation Floater" or the equivalent, and the limits of liability shall be equal to one hundred percent (100%) of the contract value. Coverage shall be written on a completed value, non-reporting form, on a replacement cost basis, and shall cover the property against all risks of physical loss or damage. The policy shall contain a provision that both the interests of the District and the Contractor are covered and that any loss shall be payable to the District and the Contractor as their interests may appear. Notwithstanding any other requirement herein, Subcontractors shall not be required to obtain such insurance.

Certificates of all required insurance by the Contractor and copies of its insurance policies and endorsements shall be delivered to the District as required in the Instructions to Bidders or Notice of

Intent to Award, and before execution of the Agreement for Construction by the District. Insurance is to be placed with insurers approved by the State of California Department of Insurance. Insurance provided by an insurer with a Bests' rating of less than (A-) Level VII may be rejected by the District.

Every policy shall be endorsed to state that it shall not be assigned, canceled, or reduced in coverage without thirty (30) days' prior written notice to District, or ten (10) days for non-renewal.

The Contractor shall not allow any Subcontractor to commence work on its subcontract until the Subcontractor has provided the insurance specified herein.

Any deductibles or self-insured retentions must be declared to and approved by the District. Any and all deductibles or self-insurance retentions in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of the Contractor.

ARTICLE 4. PERMITS, LICENSES, ORDINANCES, AND REGULATIONS

SECTION 4.01. DEPARTMENT OF INDUSTRIAL RELATIONS REGISTRATION.

The Contractor, and any subcontractor, shall be registered pursuant to Labor Code section 1725.5 prior to engaging in the performance of any work, and shall maintain current registration throughout the term of this Contract.

SECTION 4.02. PERMITS.

The District will reimburse the Contractor for utility connection fees, encroachment permits, and utility service charges (other than temporary utility charges) necessary for the completion of the Work. All other fees and permits shall be at the expense of the Contractor.

SECTION 4.03. COMPLIANCE WITH LAWS AND REGULATIONS.

The Contractor shall observe and comply with all laws, ordinances, regulations, orders, and decrees which in any manner affect those engaged or employed on the Work, or the materials used in the Work, or in any way affect the conduct of the Work.

All work shall be performed in accordance with the rules and regulations, Title 24, Parts 1-5 and 9, California Code of Regulations, and a copy shall be kept on the job at all times during construction.

SECTION 4.04. NO OBSTRUCTION WITHOUT PERMITS.

The Contractor shall not close or obstruct any portion of any highway, road, or street until Contractor obtains permits therefor from the proper authorities. Except as otherwise specifically provided in the Specifications, Contractor shall not do any work that would affect any railway track, pipeline, telephone, telegraph, or electric transmission line, irrigation ditch or other structure, nor enter upon the right-of-way or other lands appurtenant thereto, until notified by the District Representative that District has secured authority therefor.

ARTICLE 5. DRAWINGS AND SPECIFICATIONS

SECTION 5.01. SITE CONDITIONS.

Where information regarding subsurface conditions is shown on the Drawings or Plans, it represents only a statement by the District as to the character of the materials which have been encountered by the District's investigation. This information is only included for the convenience of bidders, including the Contractor, and the District assumes no responsibility with respect to the sufficiency or accuracy of the information or of the interpretation thereof. There is no guaranty, express or implied, that the conditions indicated are representative of those existing throughout the Project or the Work or that unanticipated conditions may not occur. See also Specification Section 01710.

SECTION 5.02. INTERPRETATIONS AND ADDITIONAL INSTRUCTIONS.

If the Contractor discovers any conflicts, omissions, or errors in the Contract Documents, or has any question about interpretation or clarification of the Contract Documents, then the Contractor shall notify the District Representative in writing before proceeding with the work affected and shall request interpretation or clarification. If the Contractor proceeds with the work affected before receipt of instructions and/or authorization to proceed, it shall remove and replace or adjust any work which is not in accordance therewith, and it shall be responsible for any resultant damage, defect, or added cost without an extension of time.

The Architect may furnish supplemental drawings or instructions to make clear or to define in greater detail the intent of the Contract Drawings and Specifications. If supplemental drawings or instructions are known to involve extra cost, then the Contractor shall be asked to price the extra work. These supplemental drawings and instructions shall become a part of the Contract Documents; the Contractor shall make its work conform to them.

If the Contractor does not agree that work in an interpretation or supplemental drawing or instruction is within the scope of the Contract Documents, the Contractor shall immediately notify the District Representative and, within seven (7) days after receiving the interpretation or instruction, provide the District Representative with a Proposed Change Order detailing how contract requirements were exceeded and the cost impact. The District Representative will determine whether a Change Order will be issued. The Contractor shall perform the work without delay.

SECTION 5.03. AS-BUILT DRAWINGS AND SPECIFICATIONS.

The Contractor shall maintain a master set of red line Drawings and Specifications at the Site which shall be updated weekly to reflect current as-built conditions of the Work as the Work progresses. The information to be recorded by the Contractor will be determined by the Architect. The updated drawings and specifications shall be available for review by the District Representative and the Inspector. Failure to comply with the preparation of as-builts may result in the District withholding payment.

As a condition to certification of final completion and of final payment, the Contractor shall provide the original as-built drawings and specifications, together with all additional information requested by the Architect. Delays in the submission of complete as-built documents may subject the Contractor to liquidated damages.

ARTICLE 6. SUBCONTRACTORS

SECTION 6.01. SUBCONTRACTING.

If the Contractor subcontracts any work to be performed or materials to be supplied pursuant to the Contract, the Contractor shall be as fully responsible to the District for the acts and/or omissions of such Subcontractor or supplier as it is for its own acts and omissions. Any and all discussions between any Subcontractor or supplier and the District or any of its representatives shall be initiated through the Contractor or its representative.

No contractual relationship exists between any Subcontractor or supplier and the District, and this Contract shall not be construed to be for the benefit of any Subcontractor or supplier.

Each Subcontractor shall have an active contractor's license in its classification of work maintained in good standing throughout the Subcontractor's work on the Project. Each Subcontractor shall be registered pursuant to Labor Code section 1725.5 before performing any work, and shall maintain its registration through Project completion.

The Contractor shall not perform work on the Project with a Subcontractor who is ineligible to perform work on public works project pursuant to Labor Code sections 1777.1 or 1777.7.

SECTION 6.02. USE OF LISTED SUBCONTRACTORS.

The Contractor shall comply with the requirements of the Subletting and Subcontracting Fair Practices Act, Chapter 4 of Part 1 of Division 2 of the Public Contract Code, commencing with Section 4100, requiring use of Subcontractors listed in the Contractor's bid.

SECTION 6.03. TERMINATION OF UNSATISFACTORY SUBCONTRACTORS.

When any subcontracted Work is not being satisfactorily prosecuted, or when materials supplied do not conform to the Contract Documents, the District may, in its discretion, direct the Contractor to discharge the Subcontractor or supplier. The District shall not be responsible for any added costs or delay associated with discharge of such a Subcontractor or supplier.

ARTICLE 7. STATE REQUIREMENTS REGARDING WAGES, HOURS, AND EQUAL OPPORTUNITY

SECTION 7.01. PREVAILING WAGE RATE; NOTICE.

As provided under Labor Code Sections 1726-1861, the Director of the Department of Industrial Relations (DIR) of the State of California has determined the prevailing rate of wages in the locality in which the work on the project is to be performed for each craft, classification, or type of worker needed to execute this Contract. The prevailing rates so determined are on file with the District, and they are available for public inspection. They may also be obtained on the internet at http://www.dir.ca.gov/DIR/S&R/statistics_research.html. Those prevailing wage rates hereby are incorporated in this agreement and made a part hereof.

The Contractor shall obtain and post copies of these prevailing wage rates in a prominent place at the job site, in accordance with the regulations of the Department of Industrial Relations.

The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

SECTION 7.02. PAYMENT OF PREVAILING WAGE RATES.

Pursuant to Labor Code Section 1772, workers employed to perform Work under the Contract are deemed to be employed upon public work as defined in Labor Code Sections 1720-1725. The Contractor shall pay, and shall cause all Subcontractors, whether under contract with the Contractor or under contract with any Subcontractor, to pay not less than the specified prevailing wage rates to all workers employed in the execution of this Contract.

SECTION 7.03. RECORDS OF HOURS WORKED AND WAGES.

The Contractor shall keep, and shall cause all Subcontractors on the Project to keep, certified payroll records of the hours and wages of all employees employed on the Project, and those records shall be open at all times for inspection by the District and/or the Division of Labor Statistics and Enforcement, in accordance with Sections 1776 and 1812 of the Labor Code. Upon the District's request, the Contractor shall provide the District a copy of certified payroll records, which the District may require the Contractor to redact or otherwise mark, at no cost to the District, to prevent disclosure of any individual's name, address, and social security number.

In the event that the Contractor and/or any Subcontractor fails to submit certified payroll records to the District within ten (10) calendar days of a request from the District for the records, the Contractor and/or the Subcontractor shall, as a penalty, forfeit one hundred dollars ($100) per calendar day, per worker, until strict compliance is effectuated. These penalties shall be withheld from payments then due and/or to become due. The Contractor is not subject to this penalty assessment due to the failure of a Subcontractor to comply with these requirements if the Contractor can demonstrate that it has fully complied with the provisions of Labor Code Section 1776.

In accordance with Government Code section 8546.7, all books, records, and files of the Contractor, or any Subcontractor, shall be subject to examination and audit by the Auditor General for three (3) years after final payment. Contractor shall preserve and cause all Subcontractors to preserve such books, records and files for the audit period.

SECTION 7.04. ADDITIONAL REQUIREMENTS FOR LABOR COMPLIANCE.

The Contractor shall comply with the following additional requirements and shall cause all Subcontractors to comply. The records kept by the Contactor and all Subcontractors of the hours and wages of all employees employed on Project also shall be open at all times for inspection by the DIR and DLSE, in accordance with Sections 1776 and 1812 of the Labor Code. Such records shall be furnished electronically to the Labor Commissioner of the DIR monthly, unless more frequent submission is required herein, and shall be furnished within 10 days of any separate request by the DIR or DLSE. Payroll records shall be furnished in a format prescribed by the DIR and uploaded into the electronic certified payroll reporting (eCPR) system.

On a random basis and at such other times as it deems appropriate, the DIR also may confirm the accuracy of payroll reports, including by corroboration of information in payroll reports through independent sources, including without limitation worker interviews, examination of any time and pay records found within the definition of "Payroll Records" in section 16000 of Title 8 of the California Code of Regulations, direct verification of employer payments through third-party recipients of those

payments, or any other legal and reasonable method of corroboration. As part of its confirmation process, the DIR may require Contractor and any of its Subcontractors to furnish for inspection itemized statements prepared in accordance with Labor Code Section 226. The DIR may conduct random confirmation based on a recognized statistical sampling of the records submitted.

The DIR may conduct in-person inspection(s) at the site or sites at which the Work of the Project is being performed ("On-Site Visits"). On-Site Visits may include visual inspection of required job site notices, including but not limited to (1) the determination(s) of prevailing wage rates required to be posted at each job site; (2) the Notice of pay days and time and place of payment required by Labor Code Section 207; and (3) any other notices prescribed by law. On-Site Visits may also include inspections of records, inspections of the work site and work activities, interviews, and any other activities deemed necessary by the DIR to ensure compliance with prevailing wage requirements. In accordance with Labor Code Section 90, the Labor Commissioner and his deputies and agents shall have free access to any construction site or other place of labor and may obtain any information or statistics pertaining to the lawful duties of the Labor Commissioner.

In accordance with Section 16463 of Title 8 of the California Code of Regulations ("8 CCR Section 16463"), the District may, on its own or if required by the Labor Commissioner, withhold funds due to the Contractor when payroll records are delinquent or inadequate. The amount withheld shall be those payments due or estimated to be due to the Contractor or Subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Commissioner has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the Contractor or Subcontractor whose payroll records are delinquent or inadequate. The Contractor shall cease all payments to a Subcontractor whose payroll records are delinquent or inadequate until the Labor Commissioner provides notice that the Subcontractor has cured the delinquency or deficiency. When payments are withheld under 8 CCR Section 16463, the Labor Commissioner will provide the Contractor and Subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies what amounts the District has been directed to withhold; and (3) informs the Contractor or Subcontractor of the right to request an expedited hearing to review the withholding of payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Commissioner has exceeded his or her authority under 8 CCR Section 16463. Where the violation is by a Subcontractor, the Contractor shall be notified of the nature of the violation and reference shall be made to Contractor's rights to withhold or recover payments from the Subcontractor under Labor Code Section 1729. The withholdings under 8 CCR Section 16463 do not preclude assessment of penalties under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records, as set forth below.

SECTION 7.05. APPRENTICES.

Attention is directed to the provisions of Sections 1777.5, 1777.6 and 1777.7 of the Labor Code concerning the employment of apprentices by the Contractor or any Subcontractor. The Contractor and all Subcontractors shall comply with the requirements of the Labor Code in the employment of apprentices.

SECTION 7.06. PENALTIES.

In accordance with Articles 2 and 3, Chapter 1, Part 7, Division 2 of the Labor Code, particularly Sections 1775, 1776, 1777.7 and 1813, the Contractor shall forfeit to District as a penalty the sums specified by

law and/or the Labor Commissioner, over and above any retention or withholds otherwise authorized by the agreement.

SECTION 7.07. COMPLIANCE WITH STATE ANTI-DISCRIMINATION LAWS.

The Contractor shall comply with Section 1735 of the Labor Code, which generally prohibits discrimination in the employment of persons upon public works.

ARTICLE 8. SUPERVISION AND LABOR

SECTION 8.01. SUPERVISION.

The Contractor shall supervise and direct the Work using its best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, and procedures and for coordinating all portions of the Work under the Contract.

The Contractor shall at all times keep a superintendent who is fully empowered to act as agent for the Contractor on the Site. The Contractor shall advise the District in writing of its agent prior to the start of any work.

The Contractor shall enforce strict discipline and good order among all employees, and shall not employ on the Work any unfit person or anyone not skilled in the assigned task. The District may require that the Contractor immediately remove from the Work any employee of the Contractor or any Subcontractor for cause.

The Contractor's employees, agents and subcontractors shall not enter existing buildings and structures except as required by the Work. If requested by the District, the Contractor shall provide a list of all employees and vehicles that need access to the Site. The Contractor shall maintain a sign in/out log for all visitors to the Site. Visitors must be escorted by a Contractor employee at all times while on the Site. Food vendors are not allowed on the Site.

SECTION 8.02. CONTRACTOR'S COORDINATION OF WORK.

The District reserves the right to do other work in connection with the Project by separate contract or otherwise. The Contractor shall conduct its Work so as not to interfere with the District or others engaged in the work, and shall coordinate its Work with the work of others so that no delays or discrepancies shall result in the whole Project.

SECTION 8.03. DAILY REPORTS.

No less than on a weekly basis, the Contractor's superintendent shall submit to the District Representative daily reports, which daily reports shall include, without limitation, the identity of Subcontractors on the Site; an accurate headcount of workers on the Site; materials and equipment delivered to the Site; visitors to the Site; work performed; and any problems encountered.

ARTICLE 9. INSPECTION AND TESTING

SECTION 9.01. INSPECTION.

Inspection shall be provided as required under CCR Title 24. All inspection costs will be paid for by the District.

All work shall be available for inspection and the Project Inspector shall have full access to review all work during all working times. Where the work is required to be inspected, tested or approved before the work proceeds, such work shall not proceed, nor shall it be covered up without inspection. The Contractor shall provide written notice to the Project Inspector at least twenty-four (24) hours in advance of the readiness for inspection. If any part of the Work is covered prior to inspection, the District may order the work to be uncovered so that inspection may be accomplished. The Contractor shall bear all expenses of such examination and satisfactory reconstruction.

SECTION 9.02. AUTHORITY OF PROJECT INSPECTOR; STOP WORK NOTICES.

The Project Inspector shall have the authority to order the work stopped if, in the Project Inspector's opinion, that work is proceeding in violation of the Contract Documents or any orders issued by the District, its representatives, or the Architect. The failure of the Project Inspector to order the work stopped does not excuse the Contractor from complying with the Contract Documents for that work.

Following a stop work notice, the Architect shall inspect the work in question and determine whether it complies with the Contract Documents. The decision of the Architect shall be final, subject to the claim procedures herein. The Contractor shall comply with the Architect's instructions regarding curing any defect. The suspended work shall be resumed only when the Architect's instructions are fulfilled. The Contractor is not entitled to a time extension for a suspension of work in connection with which non-compliant work is identified.

SECTION 9.03. INSPECTION OF COMPLETED WORK.

At any time before final inspection and acceptance of the Work, the District may direct the Contractor to remove or expose any previously-completed work to allow for inspection of work already completed. If the work is defective due to the fault of the Contractor or any Subcontractor, then the Contractor shall bear all expenses of such examination and satisfactory reconstruction. If the work meets the requirements of the Contract Documents, then a Change Order shall be issued for the additional cost involved in the examination and replacement and any time impact to the critical path.

SECTION 9.04. TESTING.

The District reserves the right to require the Contractor to provide samples, and to perform tests on any materials, articles, equipment, installations, or construction performed by the Contractor. The District shall assume the cost of sampling and testing materials only when the Contract Documents do not require the Contractor to do so.

All tests shall be performed under the supervision of the testing laboratory or consultant employed by the District, when convenient to the District. The Contractor shall provide written notice to the District Representative at least 24 hours prior to the need for off-site tests or inspections, and the District Representative will arrange such tests or inspections. The Contractor shall bear all expenses of tests performed where the Contractor fails to provide this minimum notice.

The Contractor shall, at the Contractor's sole cost and expense, furnish, package, mark, and deliver all samples to be tested at locations other than the Site. Delivery of all samples to the testing laboratory shall be made in ample time to allow the test to be made without delaying construction. No extra time will be allowed for the completion of the Work by reason of delay in testing samples required by the Contract Documents or due to the Contractor's request for substitution.

If as a result of any test, whether originally specified or not, any material or work is found to be unacceptable, it shall be rejected, and all further sampling and testing shall be at the Contractor's expense.

SECTION 9.05. EFFECT OF INSPECTION, SAMPLING AND TESTING.

Neither any inspection nor any testing nor any payment shall relieve the Contractor of its obligation to fulfill the Contract as required by the Contract Documents.

See Specification Section 01450.

ARTICLE 10. PROTECTION OF WORKERS, PUBLIC AND PROPERTY

SECTION 10.01. SAFETY PRECAUTIONS AND PROGRAMS.

The Contractor shall initiate, maintain and supervise all safety precautions and programs in connection with the Work, maintain all safety and health conditions on the Site, and ensure against and/or correct any hazardous conditions on the Site. The District has neither direct nor indirect responsibility for maintaining any safety or health conditions, or for ensuring against or correcting any hazardous conditions on the Site. The Contractor shall at all times maintain adequate protection against injury to persons or damage to property, on or near the Project, or adjacent to the Site. The Contractor shall protect all Work from damage, loss, defacement, or vandalism.

The Contractor shall take every precaution and implement all necessary safeguards for the safety of all employees and others on the Work, and comply with all applicable safety laws, rules and regulations applicable to the Work (including without limitation all Occupational Safety laws) and building codes to prevent accidents or injury to persons on, about, or adjacent to the Site. The Contractor shall erect and properly maintain at all times danger signs warning against hazards created by construction.

Any sequencing requirements and/or construction constraints described are critical elements of the Work. The District owns and operates pumping and conveyance facilities that may be impacted by the Work. Except for any allowable out-of-service periods, operation of pumping facilities must be maintained.

Material storage and vehicle access and parking shall be subject to District approval. The use of alcohol or drugs will not be permitted on District property. The Contractor shall ensure that no firearms are brought onto District property.

The Contractor's superintendent shall have the duty to prevent accidents and for overall jobsite safety, unless another individual at the Site is designated by the Contractor in writing to the District Representative.

SECTION 10.02. PROTECTION OF EXISTING IMPROVEMENTS.

The Contractor shall take all necessary precautions to protect all existing improvements and facilities from any damage resulting from the operations, equipment or workers of the Contractor during the course of the construction. The Contractor shall be strictly liable for failure to adequately protect any existing improvements and/or facilities, and all damaged improvements and facilities shall be replaced, repaired, and restored to their original condition without additional cost to the District and without an extension of time.

SECTION 10.03. PROTECTION OF ADJACENT PROPERTY AND UTILITIES; NOTICES.

In addition to any requirements imposed by law, the Contractor shall shore up, brace, underpin, and protect as may be necessary all foundations and other parts of all existing structures on the Site or adjacent to the Site which are in any way affected by the excavations or other operations connected with the completion of the Work.

Prior to excavation, the Contractor shall notify all public utilities and governmental agencies of the work proposed, and shall ascertain from them the exact location of their utilities.

Prior to commencing any work which in any way affects adjoining or adjacent land or buildings thereon, or public utilities, the Contractor shall notify the District Representative, who will send the District and occupants thereof a notice, which specifies the type of work to be done, the schedule of the work, the impacts expected from the work and the protective measures being taken by the Contractor. The Contractor shall provide notice at least seven (7) days in advance of the work, or longer if required by law or regulation, with a copy to the District Representative.

The Contractor shall, at the written instruction of the District Representative, meet with any recipient of such notice to explain and discuss the proposed work.

See Specification Section 01112.

SECTION 10.04. FIRE PROTECTION.

The Contractor shall take all steps necessary to protect all structures from fires and sparks originating from the Work, shall comply with all laws and regulations regarding fire protection, and shall comply with all instructions of the fire department with jurisdiction. The Contractor must keep the fire and intrusion detection systems operational throughout the duration and scope of its work. The Contractor shall notify the District Representative and the fire department in writing at least 72 hours prior to disconnection of either water or electrical service to the Site, and shall comply with the fire department's instructions regarding fire safety.

SECTION 10.05. EMERGENCY SAFETY ACTIONS.

In an emergency affecting the safety of life or property, the Contractor, without previous instructions or authorizations from the District, is authorized and shall act at its discretion and risk to prevent such threatened loss or injury, and the Contractor shall bear all costs of that action. The Contractor shall immediately notify the District Representative of such actions, and thereafter shall comply with any instructions issued by the District Representative.

Upon the failure of the Contractor to make immediate emergency repairs, the District may perform such work itself as is necessary to protect life and property, in its sole discretion, and deduct the total

cost of such work from the next payment. No prior notice to the Contractor shall be necessary for the District to take this action.

SECTION 10.06. ENVIRONMENTAL CONTROLS.

Comply with Specification Section 01560.

SECTION 10.07. CONFINED SPACES – RESPONSIBILITY & QUALIFICATIONS.

When working in a confined space, Contractor shall comply with all confined space requirements of Title 8, General Industry Safety Orders (Cal-OSHA), Article 108, Sections 5156 through 5159.
Prior to any confined space entry, Contractor shall submit for Westlands review:

a. Contractor's procedures for confined space operations.

b. Copies of all documents and certificates that qualify Contractor to safely perform work in permit-required confined spaces. Contractor shall also submit all applicable Material Safety Data Sheets (MSDS) and hazard information on chemicals, products, materials, or procedures.

c. Sufficient documentation and evidence that a permit-required confined space entry can be made in accordance with Article 108. Documentation shall include, but not be limited to the following:

    i. Equipment availability, suitability, and integrity.

    ii. Personnel training.

    iii. Experience.

    iv. Supervision.

    v. Safety.

    vi. Accident experience.

    vii. Permit-required confined space policy.

    viii. Hot work procedures (if applicable).

    ix. Lock-out/tag-out procedures.

Contractor's submittal shall be made thirty (30) Calendar Days prior to any confined space entry.

Contractor will not be allowed to make a permit-required confined space entry until Westlands has reviewed Contractor's qualifications and proposed methods. The District shall schedule the facilities for service interruptions and dewatering according to the approved schedule provided by the Contractor. The Contractor shall notify the District of any changes/delays in the schedule. The District shall provide a Safe Clearance to the Contractor on facilities where a confined space entry will be made in accordance with the District's policies and procedures. The Contractor shall be responsible for daily lock-out/tag-out producers for any confined space entry.

Contractor shall conform to the procedures established by Contractor's submittal during all confined space operations. Contractor shall provide all monitoring and safety equipment necessary to perform pre-entry checks of confined spaces. Contractor shall also provide all monitoring, safety, and communications equipment required for confined space operations.

ARTICLE 11. SUBMITTALS AND MATERIALS

SECTION 11.01. SUBMITTALS.

The Contractor shall furnish to the District Representative all Submittals and other descriptive material as are required by the Specifications or requested by the Architect. The Contractor shall submit its Submittals so as not to delay the Project. Unless otherwise specified, the Contractor shall allow ten (10) days for the District Representative and the Architect to review each Submittal.

Submittals shall be submitted in the form specified by the District Representative. No Submittals requiring color selections, samples, or shop drawings will be accepted as electronic Submittals. The District Representative will not review the Submittals for technical compliance, but may reject any Submittal found, in the District Representative's judgment, to be incomplete.

By approving and submitting shop drawings, product data, manufacturers' instructions, and samples, the Contractor represents that it has determined and verified all materials, field measurements and field construction criteria related thereto and that it has checked and coordinated the information contained within those Submittals with the requirements of the Work and to the Contract Documents. The Contractor shall adhere to any supplementary processing and scheduling instructions pertaining to Submittals as may be issued by the District Representative.

SECTION 11.02. REVIEW OF SUBMITTALS.

Following submission, the Submittals will be reviewed and returned with one or more of five possible responses by the District Representative or Architect. These possible responses are as follows:

A. Unreviewed: If the Submittal is not required, or if it is not complete, or if it does not meet the form, format, and number requirements specified, it may be returned unreviewed. If the Submittal is not required, work may commence; if the Submittal was returned due to form requirements, it shall be resubmitted and approval obtained prior to commencement of the work.
B. No exceptions taken: In the event the Submittal is acceptable as submitted, it will be returned with this status. Work may proceed upon receipt of approved Submittal.

C. Make Corrections Noted: If the Submittal is acceptable except for certain items which have been noted by the Architect, it will be so designated. Work may proceed with the corrections made, and no resubmittal is necessary.

D. Amend and Resubmit: Revisions will be noted on the Submittal, and an additional Submittal is required to reflect the revisions and/or additional information. Work may not start until the resubmittal is approved.

E. Rejected–See Remarks: A Submittal may be rejected if it is not in compliance with the Contract Documents, or if it proposes an "or equal" or substitution which is not acceptable to the Architect. A superseding Submittal shall be submitted and approved prior to commencement of the work.

Should the Contractor proceed with the work shown on a Submittal before approval is received, it shall remove and replace or adjust any work which is not in accordance with the Submittal as ultimately approved, and it shall be responsible for any resultant damage, defect, or added cost.

The Contractor shall resubmit Submittals in categories "D" and "E" above after making any changes required so that Submittals will comply with the Contract Documents. When resubmitting, the Contractor shall include a letter responding to each of the review comments and shall direct specific attention to deficient areas. Resubmittals shall be made with sufficient time to avoid delay to the Work.

SECTION 11.03. SUBMITTALS SHOWING VARIATION FROM CONTRACT.

The Contractor must identify any variation or discrepancy between the Submittals and the Contract Documents, and explain why they are requested, in its letter of transmittal. Failure to identify any such variation or discrepancy shall render the approval null and void, and the Contractor shall bear all risk of loss and reconstruction costs or delays. The Contractor shall bear all costs associated with any approved variation or discrepancy, including but not limited to design fees, construction management fees, costs incurred by other contractors, and inspection fees.

SECTION 11.04. EQUAL MATERIALS.

Unless otherwise provided in the technical specifications, whenever in the Contract Documents any systems, processes, products, or materials are indicated or specified by the name brand of the manufacturer, or by patent or proprietary names, those specifications shall be deemed to be a measure of quality and utility or a standard, and shall be deemed to be followed by the words, "or equal." It is the intent of this article to comply with Public Contract Code Section 3400. If the Contractor desires to use any "equal" brand or manufacturer, it shall apply to the District Representative in writing, within five (5) business days after Notice of Intent to Award, and shall submit samples and all other information necessary to substantiate its claim of "or equal."

A request for approval of an "equal" constitutes a certification that the Contractor:

A. Has investigated the proposed "equal" and determined that it meets or exceeds, in all respects, the specified system, process, product, or material.
B. Will provide the same or better warranty for the proposed "equal" as for the specified system, process, product or material.
C. Will coordinate installation and make other changes which may be required for work to be complete in all respects and at no additional cost to the District.
D. Waives claims for additional costs and/or time which may subsequently become apparent.

The District may determine that samples and testing are required to evaluate a request, and the Contractor shall, at no cost to the District, provide samples and bear all costs of sampling and testing required to decide a request for approval of an "equal."

The District Representative and/or the Architect shall evaluate the request, and shall approve, deny, or approve with conditions the Contractor's request. The District's decision on the request shall be final.

If the request is not accepted, the Contractor shall provide the specified system, process, product or material without an increase in the Contract price and/or time.

SECTION 11.05. MATERIALS AND PRODUCTS DELIVERED TO THE SITE.

The Contractor shall confine the storage of materials, products, and equipment to the areas specified by the District.

All materials delivered to the Site shall be new, unless otherwise specified, of the type, capacity, and quality specified, and free from defects. All materials shall remain in their original packages or containers until ready for use. The labels of all packages or containers shall remain affixed, and kept legible. No product shall be stored in any container, the label of which does not accurately describe the contents of the container.

See Specification Section 01600.

ARTICLE 12. PAYMENTS

SECTION 12.01. APPLICATION FOR PAYMENT.

If the Work is scheduled to be complete in sixty (60) or fewer calendar days, then the Contractor shall be paid upon completion and acceptance of the Work. If the Work is scheduled to be performed over more than sixty (60) calendar days, then the Contractor shall be paid in progress payments, as detailed below.

Application for Payment shall be made for work completed. Any progress payment will be based on the estimated percentage complete, subject to review and approval by the District. The estimated percentage complete may be based on bid items or a schedule of values, if required by the District. The Contractor shall submit with a progress pay application all documents necessary to substantiate its estimate of percentage completion.

With each application for payment, the Contractor shall submit a conditional lien release warranting that title to all work, labor, materials and equipment covered by the application is free and clear of all liens, claims, security interests or encumbrances. Additionally, the Contractor shall submit unconditional lien releases for all work through the prior progress payment. For final payment, the Contractor and all of its Subcontractors and material suppliers shall submit final conditional and final unconditional lien releases. All lien releases shall be in the form provided by the District

No payment will be released until the District Representative has received the required lien releases and all required certified payroll and other pay records if requested by the District.

SECTION 12.02. PROGRESS PAYMENT; RETENTION.

When making any progress payment other than the final payment, the District shall reserve from monies earned by the Contractor a sum equal to five percent (5%) of the estimates.

If requested in writing by the Contractor within five (5) days after receipt of Notice of Intent to Award, the Contractor may exercise its right to deposit into escrow securities in lieu of retention, or have retention deposited into escrow, in accordance with Public Contract Code section 22300. Upon

satisfactory completion of the Contract, the securities or retention plus interest earned shall be returned to the Contractor. If the Contractor exercises its option hereunder, it must notify its Subcontractors in writing, within ten (10) days of the Contractor exercising its option, of their equivalent right to do so.

SECTION 12.03. WITHHOLDING ADDITIONAL AMOUNTS.

In addition to the amounts which the District may retain as provided in Section 12.02, the District may withhold a sufficient amount from any payment or payments otherwise due to the Contractor as in the District's sole discretion may be necessary to protect the District in the event of the following:

A. Third party claims filed or reasonable evidence indicating probable filing of such claims;

B. Defective work not remedied;

C. Failure of the Contractor to make proper payments to any of its Subcontractors or suppliers;

D. The occurrence of reasonable doubt that the Contract can be completed for the balance of payments then unpaid to the Contractor, or in the time remaining;

E. Failure of the Contractor to comply with any lawful or proper direction concerning the Work;

F. Claims and/or penalties which state law assesses against the Contractor for violation of such law;

G. Any claim or penalty asserted against the District by virtue of the Contractor's failure to comply with governing laws, ordinances, regulations, rules, or orders;

H. Any liquidated damages which may accrue; or

I. Any reason specified elsewhere in the Contract Documents as grounds for a retention or that would legally entitle the District to a set-off.

The basic standard to determine the amount to be withheld pursuant to this Section shall be one hundred fifty percent (150%) of the amounts claimed or the value of the work not done or defectively done; provided, however, that District reserves the authority to retain greater sums should such sums be necessary in the District's discretion.

SECTION 12.04. EFFECT OF PAYMENTS.

Neither the payment, the withholding, nor the retention of all or any portion of any payment shall relieve the Contractor from its obligations under this Contract, or entitle the Contractor to any extension of time. The Contractor shall continue diligently to prosecute the Work notwithstanding any dispute over payment.

ARTICLE 13. [RESERVED]

ARTICLE 14. DELAYS AND EXTENSIONS OF TIME

SECTION 14.01. EXTENSIONS OF TIME; UNAVOIDABLE DELAYS.

The Contractor shall not be granted an extension of time except on the issuance of a Change Order by the District, upon a finding of good cause for such extension.

A. As used herein, the following terms shall have the following meanings:

1. "Excusable Delay" means any delay beyond the Contract Time caused by conditions beyond the control and without the fault or negligence of the Contractor, during which the District concludes that work on the critical path cannot continue. The default of any Subcontractor or supplier is not a condition beyond the Contractor's control. An Excusable Delay may entitle the Contractor to an extension of the Contract Time, but shall not entitle the Contractor to any adjustment of the Contract price.

2. "Compensable Delay" means an Excusable Delay caused solely by the wrongful acts of the District and which delay is unreasonable under the circumstances and not within the contemplation of the parties. A Compensable Delay may entitle the Contractor to an extension of Contract Time and/or an adjustment of the Contract price. Except as provided herein, the Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.

3. "Inexcusable Delay" means any delay beyond the Contract Time resulting from causes other than those listed in Subparagraphs A1 and A2, above. An Inexcusable Delay will not entitle the Contractor to an extension of Contract Time or an adjustment of the Contract price.

B. The Contractor may make a claim for an extension of Contract Time, for an Excusable Delay or a Compensable Delay, subject to the following:

1. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of time shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last.

2. If an Inexcusable Delay occurs concurrently with either an Excusable Delay and/or a Compensable Delay, the maximum extension of time shall be the number of days, if any, by which the duration of the Excusable Delay and/or the Compensable Delay exceeds the Inexcusable Delay. The duration of the concurrence is non-compensable.

Delays in Work which do not prevent or delay the timely completion of the whole Work are not to be considered Excusable or Compensable.

SECTION 14.02. NOTICE OF DELAYS; REQUESTS FOR TIME EXTENSIONS.

Whenever the Contractor anticipates or experiences any delay which the Contractor regards as good cause for an extension, the Contractor shall notify the District Representative in writing of the delay. The notice shall specify the cause of the delay, an analysis showing the effect of the delay on the critical path, and the length of the requested extension of time (if known). **Failure of the Contractor to submit such a notice within ten (10) days after knowledge of the facts giving rise to the delay**

shall constitute a waiver by the Contractor of any entitlement to a time extension and any associated additional compensation.

Upon receipt of a request for extension, the District Representative shall investigate the facts in the notice, shall respond to the notice in writing within ten (10) days of receipt of the request, and shall indicate whether it will recommend for or against the extension.

SECTION 14.03. LIQUIDATED DAMAGES.

If the Work is not completed by the Contractor in the time specified, or within any authorized extension of time, the Contractor acknowledges and admits that the District will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between the Contractor and the District that the Contractor shall pay to the District as fixed and liquidated damages, and not as a penalty, the sum specified in the Agreement for Construction for each calendar day of delay until the Date of Completion, and that both the Contractor and the Contractor's surety shall be liable for the total amount thereof, and that District may deduct Liquidated Damages from any monies due or that may become due to the Contractor.

Pursuant to Government Code Section 4215, the Contractor shall not pay fixed and liquidated damages for delay in completing the project caused by the failure of the District or the owner of utility facilities located on the Project Site to provide for removal or relocation of such facilities.

Payment by the District of any payments after expiration of the Contract time shall not constitute a waiver by the District of its right to claim liquidated damages in accordance with this Section.

If the Contract is terminated, the Contractor shall remain liable to the District for liquidated damages for all periods of time from such termination date until the Date of Completion.

ARTICLE 15. CHANGES TO THE WORK

SECTION 15.01. NO CHANGES WITHOUT CONSENT.

No extra work shall be performed, and no change shall be made, except pursuant to a written Change Order or Proposed Change Order signed by the District, or by a Directive signed by either the District or the District Representative, stating that the extra work or change is authorized.

SECTION 15.02. CHANGE ORDERS.

The District may require changes in, additions to, or deductions from the work to be performed or the materials to be furnished pursuant to the Contract Documents. Changes may be made pursuant to a written Change Order signed by the District, which shall state the scope of the change in the Work; the adjustment in the Contract amount, if any; and the adjustment in the Contract time, if any. Signature by the Contractor on the Change Order constitutes its agreement with and acceptance of the adjustments set forth in the Change Order as full and complete satisfaction of the effects of the changed work.

Any extension of the Contract Time or change in the Contract amount must be included in a Change Order.

If the Contractor believes that it has been directed to do additional work requiring a change in Contract Time or cost, then the Contractor may submit to the District Representative a Proposed Change Order (PCO).

SECTION 15.03. CONSTRUCTION CHANGE DIRECTIVE/DIRECTIVE.

Changes also may be made pursuant to a Directive, which shall direct a change in the Work and state a proposed basis for adjustment, if any, in the Contract amount or Contract time, or both. Directives shall be approved by the District and the Architect, but need not be signed by the Contractor. Signature by the Contractor on the Directive constitutes its agreement with and acceptance of the adjustments in the Contract amount and Contract time, if any, set forth in the Directive as full and complete satisfaction of the effects of the changed work.

Upon receipt of a Directive, the Contractor shall promptly proceed with the change in the Work involved. It is the intent of the District that all Directives will be converted to a Change Order.

If the Contractor disagrees with the adjustment in the Contract amount, then the adjustment shall be determined based on (1) unit prices stated in the Contract Documents or subsequently agreed upon; (2) the District Representative's estimate of the value of the change; or (3) "time and materials," as defined below.

SECTION 15.04. ALLOWABLE COSTS.

A. Allowable costs for any Change Order shall be limited to the following:

    1. Costs of labor, including labor burden;

    2. Actual cost of the project superintendent, but only if associated with a Compensable Delay;

    3. Actual costs of materials, including sales tax and delivery;

    4. Rental costs of machinery and equipment, exclusive of small tools, whether rented from the Contractor or others;

    5. Combined Overhead and Profit of fifteen percent (15%) of the costs specified in (1) through (4) above to the contractor performing the work, plus ten percent (10%) of the amount specified above which is performed by a Subcontractor as the Contractor's markup on such work. Cumulative total markup shall not exceed twenty-five percent (25%).

B. When both additions and credits are involved, the allowance for Overhead and Profit shall be figured on the basis of the net increase or decrease, if any, with respect to the change. If the net value of a change results in a credit, then the credit shall be the actual net cost, plus five percent (5%) for Overhead and Profit.

SECTION 15.05. TIME AND MATERIALS ADJUSTMENT.

For time and materials pricing, the price shall be calculated using the Allowable Costs in Section 15.04. Time and material (T & M) labor rates shall be pre-approved by the District Representative for T & M work.

The Contractor shall keep and present daily, in such form as the District Representative may prescribe, an itemized accounting together with appropriate invoices and other supporting data of the labor, materials, and equipment used during that day. All labor shall be separately recorded and clearly identified with the Directive number and scope of extra work. Time sheets including extra labor shall be signed daily by the Project Inspector or the District Representative. No costs will be allowed for time not recorded and submitted for signature the same day the work takes place. The Contractor and the District Representative shall discuss and attempt to resolve any disputes concerning the Contractor's daily records at the time the report is submitted.

The Contractor shall, with its payment request, specify all work performed under a T & M Directive during the period of the payment request. A final reconciliation shall be submitted within 30 days after the work of the Directive is completed. No costs will be allowed for work not specified with the payment request or timely included in a reconciliation.

SECTION 15.06. EFFECT ON SURETIES.

All changes authorized by the Contract Documents may be made without notice to or consent of the sureties on the contract bonds, and shall not reduce the sureties' liability on the bonds.

SECTION 15.07. UNFORESEEN SITE CONDITIONS.

If this Contract requires the digging of trenches or other excavations that extend deeper than four feet below the existing surface, the following provision shall apply to those trenches or excavations:

A. If any of the following described conditions is suspected to exist in the trench or excavation, the Contractor shall promptly, and before the condition is disturbed, notify the District Representative, in writing, of any:

    1. Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

    2. Subsurface or latent physical conditions at the Site differing materially from those indicated in the Contract Documents.

    3. Unknown physical conditions at the Site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.

B. Upon receipt of notice from the Contractor, the District Representative and the Architect shall promptly investigate the conditions, and if it is determined that the conditions do materially so differ or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work shall issue a Change Order or Directive.

C. If a dispute arises as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall proceed with all work to be performed and document the work as though it were extra work subject to a Directive. The Contractor shall retain any and all rights which pertain to the resolution of disputes between the parties.

D. No contract adjustment which results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice under paragraph A of this Section.

See Specification Section 01910.

SECTION 15.08. NOTICE OF DISPUTE

If the Contractor intends to make a claim for a change in the Contract amount or Contract Time, the Contractor must give the District Representative written notice within five (5) days of the occurrence of the event giving rise to the claim. Failure to provide timely written notice within shall constitute a waiver by the Contractor of any claim for a change in the Contract amount or Contract time.

ARTICLE 16. [RESERVED]

ARTICLE 17. REJECTION AND REPLACEMENT OF WORK AND MATERIALS

SECTION 17.01. REJECTION OF MATERIALS AND WORKMANSHIP AND CORRECTION OF WORK.

The District may reject materials and workmanship which are determined to be defective or fail to comply with the Contract Documents. The Contractor shall promptly correct all work rejected by the District. Rejected workmanship and materials shall be corrected to the satisfaction of the District and/or Architect all without added cost to the District and/or an increase in the Contract time.

If the District determines that it is in its best interest not to correct defective workmanship and/or materials, then the Contractor agrees that an equitable deduction from the Contract amount shall be made therefor.

If, within one (1) year after acceptance of the Work, or within such longer time as may be prescribed by law or by any applicable special warranty, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct any or all such work, together with any other work which may be displaced in so doing, without expense to the District, promptly after receipt of a written notice from the District unless the District has previously given the Contractor a written acceptance of such condition.

SECTION 17.02. NOTICE OF DEFAULT; DEDUCTION OF COST.

If the Contractor fails to carry out the Work in accordance with the Contract Documents, and fails to begin correcting defective Work within three (3) days after receipt of written notice of the defect from the District, then the District may correct the deficiencies and may complete that portion of the Work through such means as the District may select, including the use of a new contractor. In such case, an appropriate Change Order shall be issued deducting from the Contract price the cost to correct the deficiencies and any other associated costs. If the payments due the Contractor are not sufficient to cover that amount, the Contractor shall pay the difference to the District.

ARTICLE 18. DISTRICT'S RIGHT TO TERMINATE CONTRACT

SECTION 18.01. TERMINATION BY THE DISTRICT FOR CONVENIENCE.

The District may at any time and for any reason, terminate, in whole or in part, Contractor's Work for the District's convenience. Termination shall be by written notice to Contractor. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue Contractor's Work, take necessary actions to protect the Work, and take such other actions reasonably directed by the District to transfer or terminate any obligations associated with the Work.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) at Contract rates for Work performed in conformity with the Contract, less amounts previously paid; plus (2) previously unpaid and documented costs for materials delivered to the Site but not incorporated in the Work, not to exceed the portion of the Contract amount allocable to said items; plus (3) proven losses with respect to materials and equipment directly resulting from the termination; plus (4) reasonable demobilization costs.

If this Contract is terminated for default, and if it is later determined that the default was wrongful, such default termination automatically shall be converted to and treated as a termination for convenience under this Section.

SECTION 18.02. TERMINATION BY THE DISTRICT FOR CAUSE.

The District may terminate the Contract for the following causes:

A. The Contractor is insolvent or has made a general assignment for the benefit of creditors, or a receiver has been appointed on account of the insolvency of the Contractor; or

B. The Contractor or any of its Subcontractors materially breach any of the provisions of the Contract Documents, including without limitation failure of the Work to conform to the Contract Documents, failure to complete the Work within the Contract time, failing to make prompt payment to Subcontractors or suppliers, persistent failure to comply with the law or the instructions of the District or its representatives or agents, failure to keep required insurance in effect, or any other material breach.

Prior to terminating for cause, the District shall give written notice to the Contractor and its surety or sureties of its intention to terminate the Contract. Unless the Contractor shall cease such violation and make satisfactory arrangements for a correction thereof within seven (7) days of the delivery of such notice, the District shall have the right to terminate the Contractor's right to complete the Work by written notice to the Contractor and its surety or sureties. Upon such notice, the surety shall have the rights and obligations set forth in the performance bond.

If the District takes over the Work, it may prosecute the same to completion by contract or by any other method it may deem advisable, and the Contractor and its sureties shall be liable to the District for any excess costs, including management, supervision, and design support, occasioned thereby. In such event, the District may, without liability, take possession of and utilize in completing the Work, the Contractor's materials that are necessary for completion. Contractor hereby assigns to the District all of its interest in orders and/or contracts existing at the time of termination, subject to the District providing notice of acceptance of the assignment in writing, and only as to those orders and/or contracts which the District designates in writing. If the Contractor's right to proceed is terminated, then the

Contractor shall not be entitled to receive any further payment until the Work is finished, and shall be liable to the District for all losses incurred by the District in completing the Work.

SECTION 18.03. SURVIVAL OF OBLIGATIONS.

No termination of this Contract or of Contractor's Work shall excuse or otherwise relieve the Contractor of its responsibilities under the Contract Documents with respect to any Work performed prior to the date of termination.

ARTICLE 19. PRESERVATION AND CLEANING

SECTION 19.01. PERIODIC CLEANING OF PROJECT.

The Contractor shall properly clean its work and the Site, and maintain its work area in an orderly manner, including removing all dirt, debris, and waste from the Project, the adjacent sidewalks and streets, and the working area. To the extent practical, the Contractor shall provide construction waste management services that divert construction waste materials generated by the Work from landfill disposal.

SECTION 19.02. FINAL CLEANING OF PROJECT.

Prior to final acceptance/inspection and occupancy by the District, the Contractor shall thoroughly clean the Site and adjacent areas of all material related to its performance of the Work. Prior to final completion or District occupancy, the Contractor shall conduct an inspection of sight-exposed surfaces, and all work areas, to verify that the entire work Site is clean.

See Specification Section 01740.

ARTICLE 20. COMPLETION, INSPECTION, AND OCCUPANCY BY DISTRICT

SECTION 20.01. NOTICE OF PUNCH LIST INSPECTION.

When the Contractor believes that its Work is complete, it shall request in writing a punch list inspection. Within five (5) days of the receipt of such request, the District Representative, the Project Inspector and the Architect shall schedule a punch list inspection or inform the Contractor that the work is not ready for punch list inspection. The Contractor or its representatives shall be present at the punch list inspection.

If the Contractor requests a punch list inspection when the Work is not ready for the inspection, the Contractor shall pay all costs associated with the inspection.

SECTION 20.02. PUNCH LIST.

The District shall prepare a written punch list notifying the Contractor of any deficiencies to be remedied prior to final acceptance. The Contractor shall remedy all items shown on the punch list prior to final acceptance.

Upon completion of punch list work, the Contractor shall again request a punch list inspection. If the Work still does not comply with the Contract Documents, then the District may issue further punch

lists or deduct from the final payment the cost of correcting any work not completed in accordance with the Contract Documents.

The District reserves the right to require compliance with the Contract Documents, notwithstanding the issuance of a punch list or the completion by the Contractor of all items on the punch list.

SECTION 20.03. USE OF WORK PRIOR TO ACCEPTANCE.

The District may take possession of a portion of the Work prior to final acceptance. Contractor acknowledges and agrees such occupancy and/or use does not constitute acceptance or completion as defined by California Civil Code section 9200. The Contractor shall be obligated to make only those repairs in the portion of the Work occupied prior to acceptance that are due to defective material or workmanship, or the operations of the Contractor, but not those due to ordinary wear and tear.

ARTICLE 21. CONTRACT CLOSEOUT

SECTION 21.01. CONTRACTOR'S REQUEST FOR FINAL PAYMENT.

When the Contractor determines that all of its Work is complete and all items on the punch list have been satisfied, the Contractor shall submit to the District Representative a certificate of completion, an application for final payment, and the following items:

A. As-built drawing information.

B. Three (3) sets of any required operation and maintenance documentation.

C. Hazardous material documentation, if required.

D. Any extra stock material and equipment and manufacturer warranties/guarantees as required by the Contract Documents.

E. Other items as required in the Contract Documents.

No payment will be processed unless accompanied by the above listed submissions in acceptable form.

SECTION 21.02. FINAL PAYMENT PROCESS.

Upon receipt of the Contractor's final payment application, the District Representative shall review the submittals required by this Article and verify that all of the Work is complete, including all punch list items.

The Architect shall prepare a statement of final inspection, stating that the Work has been given a final inspection, stating that the Contractor has submitted the required documents, detailing any deviations in the Work from the Contract Documents, and estimating the cost of correction of such deviations. The District Representative shall provide a copy of the Architect's statement of final inspection to the Contractor.

The District Representative shall either (1) recommend that the District accept the payment application, or (2) reject the payment application, stating the basis therefor, and, within twenty (20) days of receipt of the final payment application, submit a written estimate of the sum due to the Contractor.

If the Contractor contests the estimate of sums due prepared by the District Representative, then the Contractor may file a claim in writing with the District Representative pursuant to the requirements of Article 23 and setting forth in detail all grounds alleged by the Contractor to justify an adjustment to the District Representative's estimate.

Following acceptance of the Work, the District shall authorize final payment to the Contractor of the undisputed sums found due. This final payment shall be made within sixty (60) days after completion, as defined below and reflected in the Notice of Completion.

SECTION 21.05. COMPLETION; ACCEPTANCE OF CONTRACT; NOTICE OF COMPLETION; FINAL PAYMENT.

Completion means the Contractor's complete performance of all Work required by the Contract Documents, and the District's formal acceptance of the Work, without regard to prior occupancy, substantial completion doctrine, beneficial occupancy or otherwise.

Acceptance of the Work shall be made only by formal acceptance by the District. Recordation of a Notice of Completion shall be in the manner prescribed by law, provided that the Work shall then be fully and satisfactorily completed, and the provisions of the Contract Documents fully and satisfactorily performed in all respects.

ARTICLE 22. GUARANTEES

SECTION 22.01. GUARANTEE REQUIRED.

In addition to any guarantees required elsewhere by the Contract Documents, the Contractor shall guarantee the Work for a minimum of one (1) year from and after the recordation of the Notice of Completion and formal acceptance by the District. The guarantee period for corrected defective work shall continue for a duration equivalent to the original guarantee period, beginning when the correction is complete.

ARTICLE 23. CLAIM REQUIREMENTS

Claims shall be subject to the requirements of Public Contract Code sections 20104 *et seq*. and 9204. A summary of those provisions is set forth below. To the extent that the summary below is inconsistent with any requirement of those statutes, the statutes shall control.

SECTION 23.01. NOTICE OF POTENTIAL CLAIM.

Contractor shall promptly provide a written Notice of Potential Claim to the District upon discovery of concealed or unknown conditions or discovery of facts regarding any disagreement, protest, direction, situation, event, or occurrence that may result in a claim, including but not limited to changes in work and delays. The written Notice of Potential Claim shall set forth the reasons for which the

Contractor believes adjustment to the Contract Price or Contract Time will or may be due, the nature of the costs and/or time involved, and, insofar as possible, the amount of the potential claim. The Notice shall be submitted as soon as practical, but no more than five (5) working days after the discovery of any facts or event that does or may give rise to the claim, unless a different period for notice is specified in the Contract. **Failure to timely submit the Notice of Potential Claim constitutes acknowledgement that the condition(s), fact(s), occurrence(s) or event(s) did not cause any increase in cost or time to perform and waives any Claim that Contractor otherwise may have had the right to submit based on such condition(s), fact(s), occurrence(s) or event(s).**

SECTION 23.02. DEFINITIONS.

"Claim" means a separate demand by Contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) a time extension, including, without limitation, for relief from damages or penalties for delay.

(B) payment of money or damages arising from work done by, or on behalf of, Contractor pursuant to the contract and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) payment of an amount that is disputed by the Owner.

"Mediation" means any nonbinding process in which an independent third party or board assists the parties in dispute resolution through negotiation or evaluation.

"Public works contract" or "public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

"Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with the Contractor or is a lower tier subcontractor.

SECTION 23.03. CLAIMS PROCEDURE.

All Claims under this Agreement shall be resolved using the following procedure.

23.03.01 The Claim shall be in writing and include the documents necessary to substantiate the Claim. Claims must be filed on or before the date of final payment, except that the Claim must be submitted no later than thirty (30) days from the date of the District Representative's estimate of sums due. Any Claim shall be certified under penalty of perjury and in compliance with the California False Claims Act, as set forth in Section 23.04 below. Failure to include these certifications will constitute grounds for immediate rejection of the Claim and shall be deemed a waiver and absolute bar of the Claim, including any right to pursue the Claim further.

23.03.02 The Contractor may present a Claim on behalf of a Subcontractor. A first-tier Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier Subcontractor, that the Contractor present a Claim on behalf of the Subcontractor for work that was performed by the Subcontractor. The Subcontractor requesting that the claim be presented shall furnish reasonable

documentation to support the Claim. Within 45 days of receipt of this written request, the Contractor shall notify the Subcontractor in writing as to whether the Contractor presented the Claim and, if the Contractor did not present the Claim, provide the Subcontractor with a statement of the reasons for not having done so.

23.03.03 Upon receipt of a Claim, the District shall conduct a reasonable review of the Claim. Within 30 days of receipt of the Claim, the District may request, in writing, any additional documentation supporting the Claim or relating to defenses to the Claim that the District may have against the claimant. Where additional information is requested by the District, the time in which the District must respond to a Claim shall be tolled until all requested information is provided. If additional information is thereafter required, then it shall be requested and provided upon mutual agreement of the District and the claimant.

23.03.04 Within 45 days of receipt of the Claim, as that time may be tolled as provided in Section 23.03.03 above, the District shall provide the claimant with a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the District and the Contractor may, by mutual agreement, extend the time period for a response. Failure by the District to respond to a Claim within the time periods described herein shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by failure of the District to respond shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the claimant.

23.03.05 Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement. The District shall not fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the Agreement.

23.03.06 If the claimant disputes the District's written response, or the District fails to respond within the time prescribed, the claimant may so notify the District, in writing, either within 15 days of receipt of the District's response or within 15 days of the District's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, sent by registered mail or certified mail, return receipt requested, the District shall schedule a meet and confer conference within 30 days for settlement of the dispute.

23.03.07 Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, then the District shall provide the claimant a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Failure by the District to provide the written statement within the time periods described herein shall result in the remaining Claim issues being deemed rejected in their entirety. Denial by failure of the District to respond shall not constitute an adverse finding with regard to the merits of the remaining Claim issues or the responsibility or qualifications of the claimant. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the District issues its written statement.

23.03.08 Any remaining disputed portion of the Claim following the meet and confer conference shall be submitted to nonbinding mediation, with the District and the claimant sharing the associated costs equally. The District and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. Unless otherwise agreed to by the District and the Contractor in writing, the mediation conducted pursuant to this Section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced. This Section does not preclude arbitration if mediation under this Section does not resolve the parties' dispute.

23.03.09 If mediation is unsuccessful, then the claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code with respect to the parts of the Claim remaining in dispute. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written Claim pursuant to Section 23.03.01 until the time that mediation of disputed portions of that Claim is completed. This Section does not apply to tort claims, and nothing in this Section is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

23.03.10 Amounts not paid in a timely manner as required by this Section shall bear interest at seven percent (7%) per year.

23.03.11 Claims of $375,000 or less are subject to the following procedures for civil actions filed to resolve the claims:

(a) The case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any such proceeding, consistent with the rules pertaining to judicial arbitration.

(b) The parties stipulate that the arbitrator shall be experienced in construction law and shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(c) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who, after receiving an arbitration award, requests a trial *de novo* but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorneys' fees of the other party arising out of trial de novo.

(d) The court may, upon request by any party, order any witnesses to participate in arbitration process.

In any suit filed under Public Contract Code Section 20104.4, the District shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

SECTION 23.04. CLAIM CERTIFICATION.

Contractor acknowledges that it has read and is familiar with the provisions of the False Claims Act (California Government Code sections 12650 *et seq*.). Submission by Contractor of any claim (as the term "claim" is defined in the False Claims Act) to the District in connection with the Project, whether on its behalf or on behalf of a Subcontractor or material supplier, shall constitute a representation by Contractor to the District that submission of the claim does not in any respect, violate the False Claims Act. Any party with an interest in the claim, including Contractor and any Subcontractor or material supplier, shall certify under penalty of perjury the validity and accuracy of any claim submitted to the District, as provided below. Compliance with this claims certification requirement shall be a condition precedent to any obligation District might otherwise have to review the claim, and failure to provide such certification shall constitute a waiver of the claim.

The claim certification required by this Section shall provide as follows:

CLAIM CERTIFICATION

Under penalty of perjury, and with specific reference to the California False Claims Act, Government Code sections 12650 *et seq*., I certify that submission of the attached claim is made in good faith; that the supporting data prepared by the undersigned company are accurate and complete to the best of my knowledge and belief; that submission of the claim to the District does not violate the False Claims Act; and that I am duly authorized to certify the claim on behalf of the claimant.

Dated: _____

_____
(Company)

_____
(Signature)

Title: _____

SECTION 23.05. CONTINUANCE OF WORK.

Pending resolution of any dispute between the Parties as to performance of the Work or the interpretation of the Contract Documents, or payment or nonpayment for Work performed or not performed, the Contractor agrees to continue the Work diligently.

ARTICLE 24. ADDITIONAL PROVISIONS

SECTION 24.01. NO ORAL AGREEMENTS.

No oral agreement shall affect or modify any term or condition contained in the Contract Documents, nor shall such oral agreement entitle the Contractor to any additional payment or time to perform.

SECTION 24.02. ANTI-TRUST ASSIGNMENT.

By execution of the Contract Documents, or any subcontract awarded by the Contractor, the Contractor or any Subcontractor offers and agrees to assign and hereby does assign to the District all rights, title, and interest in and to all causes of action the Contractor or Subcontractor may have under Section 4 of the Clayton Act (15 USC Section 15) or under the Cartwright Act (Chapter 2 of Part 2 of Division 7 of the Business and Professions Code, commencing with Section 16700), arising from purchases of goods, services, or materials pursuant to this public works contract or subcontract. This assignment shall be made and shall become effective at the time the District tenders final payment to the Contractor, without further acknowledgment by the Parties.

SECTION 24.03. CONTRACTOR NOT AGENT, NOR EMPLOYEE.

Neither Contractor, nor any Subcontractor, nor any officer, agent, or employee of either, is an officer, agent, or employee of the District.

SECTION 24.04. NO THIRD PARTY BENEFICIARIES.

The Contract is entered into solely between the District and Contractor. There are no third-party beneficiaries, intended, unintended, or otherwise.

SECTION 24.05. ACCESS TO RECORDS.

The District shall have access, upon reasonable notice and during normal business hours, to any books, documents, accounting records, project files, and other relevant records of the Contractor and all Subcontractors directly or indirectly pertinent to the Work. Such access shall include the right to examine and audit such records, and make excerpts, transcriptions, and photocopies at the District's cost.

END OF SECTION

SECTION 01112

EXISTING FACILITIES

PART 1 - GENERAL

1.01 RELATIONSHIP WITH EXISTING FACILITIES

A. Westlands Water District owns and operates raw water facilities located on the project site. The Work under this project will interface with these existing facilities.

B. Westlands' personnel will be responsible for operating and maintaining the existing facilities throughout the execution of this Contract.

C. Take particular care to avoid clutter and debris at the site of the work. This includes work areas and staging areas adjacent to the site.

D. Limit operations, storage of equipment, and materials and parking of employees to the areas designated on the Drawings.

E. Except for allowable out-of-service periods as specified, the Contractor shall be responsible for maintaining in operation during construction all sanitary and storm sewers, service laterals, catch basins, manholes, and related facilities. Provide all temporary pumps and piping required to keep facilities in operation throughout the construction period. No existing sanitary or storm sewer shall be taken out of service without the written permission of the Engineer.

1.02 REFERENCED SECTIONS

A. The following Section is referenced in this Section

1. GC-General Conditions

a. Article 10 – Protection of Workers, Public and Property

1.03 EXISTING UTILITIES

A. Perform the Work in accordance with the requirements of General Conditions.

B. Protect existing utilities and other improvements which may be impaired during construction operations, regardless of whether or not the Utilities are indicated on the Drawings. Take all possible precautions for the protection of unforeseen utility lines to provide for uninterrupted service and to provide such special protection as may be necessary.

C. Approval of Repairs

1. All repairs to a damaged Utility or improvement are subject to inspection and approval by an authorized representative of the Utility or improvement owner before being concealed by backfill or other work.

1.04 CONTRACTOR'S RESPONSIBILITY FOR UTILITY PROPERTIES AND SERVICE

A. Where the Contractor's operations could cause damage or inconvenience to existing telephone, power, oil, gas, water, sewer, or irrigation systems, make arrangements necessary for the protection and sustained operation of these utilities and services. If temporary disruption is necessary to complete the work, make arrangements with the owner of the utility prior to service cutoff and also notify the Engineer.

B. The Contractor is solely and directly responsible to the Owners of utilities, property, fences, and other existing appurtenances for any damage, injury, expense, loss, inconvenience, delay, suits, actions, or claims of any character brought because of any injuries or damage that may result from the construction operations under this Contract.

C. Neither the Owner nor its officers or agents shall be responsible to the Contractor or the Contractor’s subcontractors for damages as a result of the Contractor's failure to protect utilities encountered in the work.

D. Replace, at Contractors expense, any and all existing utilities or structures damaged during construction, unless otherwise provided for in these Contract Documents.

1.05 FIELD RELOCATION

A. During the progress of construction, minor relocations of the work may be necessary. If field conditions are encountered that will prevent construction as shown, notify the Engineer before continuing with the work. The Engineer may make minor field revisions as necessary to resolve the field condition without change in the Contract Price. If the Contractor fails to notify the Engineer when such field conditions are encountered, and proceeds with the work despite the interference, it shall be at the Contractor’s own risk.

PART 2 - NOT USED

PART 3 - NOT USED

END OF SECTION

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SECTION 01450

TESTING AND INSPECTIONS

PART 1 - GENERAL

1.01 SECTION INCLUDES

A. Tests and inspections and allocation of responsibilities associated with tests and inspections.

B. The detailed tests and inspections required to be performed by the Contractor are specified in the individual Sections of Divisions 2 through 16.

1.02 REFERENCED SECTIONS

A. The following Section is referenced in this Section

1. General Conditions

a. Article 9 – Inspection and Testing

2. Section 09900 – Paint and Coatings

1.03 WESTLANDS' TESTING AGENCY

A. Westlands will employ and pay for testing conducted to confirm compliance with the requirements of the Contract. Testing may be on-site or off-site. If deemed necessary, Westlands' staff may visually inspect work in leu of employing a testing agency as listed below.

B. Westlands' employment of the Testing Agency does not relieve the Contractor of his obligations to perform the work in accordance with Contract requirements nor to retain their own testing firm for quality control.

1.04 QUALITY ASSURANCE

A. Failure of Materials and Equipment Tested or Inspected:

1. The Contractor shall be charged for retesting and reinspection resulting from the Contractor's noncompliance with the Contract as evidenced by tests and inspections by Westlands' Testing Agency.

1.05 CONTRACTOR'S RESPONSIBILITIES

A. Initiate and coordinate tests and inspections required by Contract Documents and public authorities having jurisdiction of the work.

B. Contractor shall be responsible for testing and logging temperature (atmospheric and steel surface temperature), humidity, and dew point prior to any phase of coating applications. If conditions do not meet the minimum set by the material selected for coating, Contractor shall notify Westlands immediately and/or delay work until conditions meet minimums required.

1. All condition logs shall be kept and submitted to Westlands after coating application is completed.

C. Notify Westlands a sufficient time in advance (but no less than 48 hours) of the need for inspection or anticipated completion time prior to inspection so that minimal delay is created.

D. When changes of construction schedule are necessary during construction, coordinate all such changes with Westlands as required.

E. When Westlands is ready to test according to the established schedule, but is prevented from testing or taking specimens due to incompleteness of the work, all extra charges for testing attributable to the delay may be backcharged to the Contractor and shall not be borne by Westlands.

F. Provide access, facilities, tools, and labor necessary for duties to be performed at the site by Westlands, including furnishing ladders, scaffolding, hoisting, lighting, water supply and like services.

1. Scaffolding and ladders shall not be broken down for any level of the work prior to Westlands staff inspecting that section of the work.

G. If laws, ordinances, rules, regulations, or orders of public agency having jurisdiction require work to be inspected, tested or approved by some authority other than Westlands, or Contractor, the Contractor shall give required notices and make arrangements, deliver to Westlands the certificates of inspection, test, or approval of such public agency, and pay costs therefore unless otherwise provided in the Contract Documents.

1.06 TEST PROCEDURES

A. Testing:

1. Westlands will perform tests according to method(s) of test specified in these Specifications.

2. If no procedure or test method is specified, testing shall conform to material specification references unless otherwise directed by Westlands.

B. Retesting:

1. Repeat applicable tests at specified intervals, when:

a. The source of supply is changed.

b. The characteristics of the materials change or vary.

c. Unsatisfactory test results are received.

2. Quantity and nature of additional testing, if required, will be determined by Westlands.

3. Additional tests shall be taken in the presence of the Engineer.

4. Proof of non-compliance will make the Contractor liable for any corrective action which Westlands feels is prudent, including complete removal and replacement of defective materials.

5. Nothing contained herein is intended to imply that the Contractor does not have the right to have tests performed on any material at any time for his own information and job control so long as Westlands does not assume responsibility for costs or for giving them consideration when appraising quality of materials.

1.07 PAYMENT FOR TESTING

A. Westlands will perform all initial testing and inspections on the surface preparation and coating applications.

B. When initial tests indicate non-compliance with the Contract Documents, subsequent retesting occasioned by the non-compliance shall be performed by Westlands and costs thereof will be deducted by Westlands from the Contract Sum.

1.08 CONTRACTOR'S CONVENIENCE TESTING

A. Inspection and testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.

1.09 REQUEST FOR TESTING PROCEDURES

A. Testing will be performed as ordered by Westlands' Representative. Follow Westlands' Representative's procedures for requests for tests and inspections. The procedure will be as follows:

1. Westlands' Staff shall be notified after blasting is completed and prior to the application of primer, at which point Westlands will inspect any significant pitting and determine if welding repair is necessary.

   a. If welding repair is necessary, Westlands staff will have 24 hours to complete the repairs without charges for delay by the Contractor other than the stated standby charge listed in the Bidding Schedule.

2. Prior to Prime coating being applied, Contractor shall request Westlands staff to inspect the epoxy filler used to fill pitting less than 50% of the material thickness. Westlands staff will confirm filler has been applied to all pitting and that it has been sanded smooth and is ready for the prime coat

   a. Contractor may elect to apply the prime coat prior to epoxy filler to avoid flash rusting of blasted surface. Contractor must verify that prime coat and epoxy filler are suitable for this application sequence.

3. Once Prime coat has been applied, Contractor shall call for a mil thickness test to be completed by Westlands staff prior to the intermediate coat being applied.
4. Once the Intermediate Coat is applied, Contractor will call for a mil thickness test to be completed by Westlands staff prior to the final coat being applied.
5. Once the final coat is applied, Contractor will call for a mil thickness test to be completed by Westlands staff prior to breaking down scaffolding.
6. The Contractor shall provide a testing schedule which will be reviewed each week for the following week's work.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION (NOT USED)

END OF SECTION

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SECTION 01500

CONSTRUCTION FACILITIES AND UTILITIES

PART 1 - GENERAL

1.01 SECTION INCLUDES

A. Requirements for Contractor's temporary facilities at the job site and for prosecution of the Work.

1.02 REFERENCED SECTIONS

A. The following Section is referenced in this Section.

1. General Conditions

a. Article 11, Section 11.01 – Submittals

1.03 SUBMITTALS

A. Provide the following information in accordance with Section 11.01.

1. Proposed plan and layout for all designated parking areas, sanitary facilities, storage seatrain, and temporary power service and distribution.

2. Proposed equipment list. Include manufacture's name and product literature.

1.04 EASEMENTS

A. Temporary construction easements and permanent easements have been established by the Owner.

B. Contractor shall confine equipment, materials storage and all construction activities within the permanent easements.

1.05 STAGING AREA

A. Before starting the work, submit a proposed plan and layout for all sanitary facilities, storage areas, and temporary power service and distribution.

B. Erect temporary security fence as appropriate. Contractor is responsible for the security of the staging area. Westlands and Engineer do not take any responsibility for missing or damaged equipment, tools or personal belongings.

C. Store only those materials and equipment that are related to the construction within the staging area.

1.06 FENCES

A. Erect temporary fences at the boundary of construction easements and in locations indicated on the Drawings to protect sensitive areas.

B. When existing fences require temporary removal, erect fences to prevent unauthorized entrance to the site. Contractor shall be responsible for loss, injury or damage that results from failure to erect fences.

C. When working in open areas where animals and stock are maintained, provide adequate temporary fencing around open excavations to prevent injury to animals and stock.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.01 TEMPORARY ELECTRIC POWER

A. Contractor shall make provisions to obtain temporary electric power for use during construction. The Contractor shall be responsible for obtaining a source of electric power for construction.

B. Cost of electric power shall be borne by the Contractor.

C. The temporary electric power installation shall meet the construction safety requirements of OSHA, state, and other governing agencies.

3.02 TEMPORARY SANITARY FACILITIES

A. Provide toilet and wash-up facilities for the construction work force at the site of work.

B. Facilities shall comply with applicable laws, ordinances, and regulations pertaining to the public health and sanitation of construction field offices, dwellings, and camps.

3.03 TEMPORARY WATER SUPPLY

A. Obtain approvals and authorizations from Westlands prior to use of water and pay all fees associated with consumption of the water.

1. Westlands will provide temporary water if needed.
2. Westlands will remove temporary water facilities when no longer needed.

END OF SECTION

SECTION 01560

ENVIRONMENTAL CONTROLS

PART 1 - GENERAL

1.01 SECTION INCLUDES

A. Environmental controls to be maintained during construction.

1.02 APPLICABLE LAWS AND REGULATIONS

A. Comply with applicable Federal, State, and local environmental, health and safety laws and regulations.

1.03 SITE CLEANLINESS

A. Maintain work sites, staging areas, public roadways, and private property clean and free of rubbish and debris. Remove materials and equipment from the site when they are no longer necessary for the Work.

B. Keep buildings that are occupied by the Contractor clear of refuse and debris and in a reasonably neat condition.

C. Upon completion of the work and before final acceptance, clear work areas of equipment, unused materials, and rubbish to present a clean and neat appearance.

1.04 HAZARDOUS MATERIALS

A. Handle paints, solvents, and other construction materials with care to prevent contaminants from entering into sewers, storm drains, surface waters, or soils.

B. Develop an emergency response plan for spills of sewage, paint, oil, and other hazardous materials.

C. In the event of a spill, immediately notify the Engineer, Owner, and jurisdictional agencies. Take proper measures to clean up spills of hazardous materials in accordance with the emergency response plan, State, Federal, and local regulations, and manufacturer's recommendations.

1.05 AIR POLLUTION CONTROL

A. Contractor shall not discharge smoke, dust, and other contaminants into the atmosphere that violate the air pollution regulations for the area.

B. Do not idle internal combustion engines for prolonged periods of time.

1.06 NOISE CONTROL

A. Comply with local controls and noise level rules, regulations, and ordinances which apply to any work performed pursuant to the Contract. If the requirements of this Section are more restrictive than those of the local regulations, the requirements of this Section shall govern.

B. Amplified sounds such as telephone, loudspeakers, and other forms of loud communication that constitute a nuisance and potential disturbance shall not be used.

1.07 OIL SPILL PREVENTION AND CONTROL

A. Store fuel and oil in accordance with requirements of the Uniform Fire Code and applicable National Fire Protection Association standards.

B. Assume responsibility for the prevention, containment, and cleanup of spilled oil, fuel, and other petroleum products used in the Contractor's operations. Prevention, containment and cleanup costs shall be borne by the Contractor.

C. Periodically inspect fuel hoses, lubricating equipment, hydraulically operated equipment, oil drums, and other devices for drips, leaks or signs of damage. Maintain and properly store to prevent spills and vandalism.

D. Construct dikes around storage tanks or locate tanks to prevent spills from escaping to surface waters or drainage ditches.

E. Remove oils on land using sand, clay, sawdust, or other absorbent material and dispose in an acceptable manner. Store waste materials in drums or other leak proof containers after cleanup and during transport to disposal.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION (NOT USED)

END OF SECTION

SECTION 01600

MATERIALS AND EQUIPMENT

PART 1 - GENERAL

1.01 SECTION INCLUDES

A. Materials, equipment and products incorporated into the work.

B. Equipment, products, and materials shall be shipped, handled, stored, and installed in ways which will prevent damage to the items.

1.02 MATERIAL AND EQUIPMENT REQUIREMENTS

A. Specified in individual specification Sections in Divisions 2 through 16.

B. Specifications are minimum requirements and manufacturers' standard products may require modifications to meet the specified requirements.

C. Provide products and equipment with all accessories, trim, finish, safety guards and other devices needed for a complete and operational installation.

D. Products to be supplied in quantity shall be the same product from a single source to provide standardization and interchangeability.

1.03 DEFINITIONS

A. Named Products: Items identified by manufacturer's product name and model number as indicated in the manufacturer's published product data.

B. Materials: Products that are shaped, cut, worked, finished or otherwise fabricated or installed to form a part of the Work.

C. Equipment: A product with working parts, whether motorized or manually operated, that requires connections such as wiring or piping.

1.04 PACKAGING AND MARKING

A. All material shall remain in its original packaging with its original product labels visible.

1.05 SHIPPING AND DELIVERY

A. Plan, order, coordinate and deliver materials and equipment in accordance with the construction schedule to avoid delays and conflicts with the Work.

B. Unload products in accordance with the manufacturer's handling instructions. Promptly inspect for completeness and evidence of damage during shipment.

1.06 HANDLING AND STORAGE

A. During the interval between the delivery of equipment to the site and installation, all equipment, unless otherwise specified, shall be stored in an enclosed space affording protection from weather, dust and mechanical damage and providing favorable temperature, humidity and ventilation conditions to ensure against equipment deterioration. Manufacturer's recommendations shall be adhered to in addition to these requirements.

B. Equipment and materials to be located outdoors may be stored outdoors if protected against moisture condensation. Equipment shall be stored at least 6 inches above ground. Temporary power shall be provided to energize space heaters or other heat sources for control of moisture condensation. Space heaters or other heat sources shall be energized without disturbing the sealed enclosure.

C. Store loose granular products in well-drained area on a solid surface to prevent mixing with foreign matter. Cover products that are subject to erosion or deterioration with plastic sheeting.

D. Store electrical, instrumentation and control products in a water-tight enclosure to protect against damage from moisture, dust and corrosion.

PART 2 - PRODUCTS

2.01 GRIT BLASTING

A. The abrasive material used in grit blasting shall be copper slag in nature that will produce an anchor profile according to the paint manufactures recommendation.

2.02 EPOXY FILLER

A. The epoxy filler material used in repairing pits in steel plating shall be compatible with the painting system used and approved by the paint manufacture or the Districts Engineer.

B. The repaired steel surface shall be allowed to dry in accordance with manufactures instructions and sanded smooth before prime coat is applied.

2.03 PRIME COAT

A. The prime coat shall be compatible with the painting system used and approved by the paint manufacturer or the Districts Engineer.

B. The prime coat shall be tinted sufficiently to produce enough contrast to indicate coverage of the surface. Tinting shall be performed in a manner that will not tint or bleed through the topcoat.

2.04 INTERMEDIATE AND TOP COAT

A. The coating system shall be either Amerlock 400 as manufactured by Ameron Protective Coating Group, Devoe Bar Rust 233H as manufactured by Devoe Coatings, or a District approved NSF Standard 61 equal.

PART 3 - EXECUTION

3.01 INSPECTION

A. Prior to commencing work, the application of the Primer, Undercoat, and Topcoat, Westlands will inspect the material to be used in order to ensure that these specifications are met for this project.

END OF SECTION

SECTION 01710

ENVIRONMENTAL CONDITIONS

PART 1 - GENERAL

1.01 SECTION INCLUDES

A. Environmental conditions which have been observed at the Site of the Work and which may reasonably be anticipated throughout the life of the Project. The Owner makes no guarantee of stated environmental conditions.

1.02 SITE CONDITIONS

A. The Site of the Work is at an elevation of approximately 368' above mean sea level. Climate conditions are described as follows:

Description	Range of Conditions
Location:	3RA Regulating Tank located near Avenues. GPS Long. 36.422034; Lat. -120.380823 26RA Regulating Tank located near Avenues. GPS Long. 36.422034; Lat. -120.380823
Relative humidity, %	
Indoors:	
Average outdoors:	21 to 100
Typical Air temperature, ºF	
Indoors:	
Outdoors:	24 to 110 (Temperatures below 24 and above 110 should be expected. Temperatures do not account for the effect of wind or reflected heat from the pavement, buildings, etc.)
Barometric pressure, inches mercury:	28 to 32
Prevailing wind direction	
Summer:	Southwest
Winter:	North-northwest
Typical average daily wind speed, miles per hour	5 (High winds are common and should be expected, particularly during the daylight hours, with gusts of at least 50 miles per hour)

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION (NOT USED)

END OF SECTION

SECTION 01740

CLEANING

PART 1 - GENERAL

1.01 SECTION INCLUDES

A. Intermediate and final cleaning of Work not including special cleaning of closed systems specified elsewhere.

1.02 STORAGE AND HANDLING

A. Store cleaning products and cleaning wastes in containers specifically designed for those materials.

1.03 SCHEDULING

A. Schedule cleaning operations so that dust and other contaminants disturbed by cleaning process will not fall on newly painted surfaces.

PART 2 - PRODUCTS

2.01 MATERIALS

A. Cleaning Agents

1. Compatible with surface being cleaned.
2. New and uncontaminated.
3. For Manufactured Surfaces: Material recommended by manufacturer.

PART 3 - EXECUTION

3.01 GENERAL

A. Prevent accumulation of wastes that create hazardous conditions.

B. Conduct cleaning and disposal operations to comply with laws and safety orders of governing authorities.

C. Do not dispose of volatile wastes such as mineral spirits, oil, or paint thinner in storm or sanitary drains or sewers.

D. Dispose of degradable debris at an approved solid waste disposal site.

E. Dispose of non-degradable debris at an approved solid waste disposal site or in an alternate manner approved by Engineer and regulatory agencies.

F. Handle materials in a controlled manner with as few handlings as possible.

G. Do not drop or throw materials from heights greater than 4-feet or less if conditions warrant greater care.

H. On completion of work, leave area in a clean, natural looking condition. Remove all signs of temporary construction and activities incidental to construction of required permanent Work.

I. Do not burn on-site.

3.02 INTERIOR CLEANING

A. Cleaning During Construction

1. Keep work areas clean so as not to hinder health, safety or convenience of personnel in existing facility operations.
2. At maximum weekly intervals, dispose of waste materials, debris, and rubbish.
3. Vacuum clean interior areas when ready to receive finish painting. Continue vacuum cleaning on an as-needed basis, until final cleaning.
4. Ensure all grit blast material is removed before proceeding to painting.

B. Final Cleaning

1. Complete immediately prior to Final Inspection.
2. Remove grease, mastic, adhesives, dust, dirt, stains, fingerprints, labels, and other foreign materials from sight-exposed surfaces.
3. Broom clean process are floors.

3.03 EXTERIOR SITE CLEANING

A. Cleaning During Construction

1. Construction debris
   a. Confine in strategically located container(s):
      1) Cover to prevent blowing by wind.
      2) Haul from site minimum once a week.
   b. Remove from work area to container daily.

B. Final Cleaning

1. Immediately prior to submittal of a request for inspection for Substantial Completion, clean the project site and make ready for Westlands' use and occupancy.
2. Employ experienced workers or professional cleaners for final cleaning.
3. Use cleaning materials which are recommended by manufacturers of surfaces to be cleaned.

4. Complete the following cleaning operations:

   a. Clean the project site, yard and grounds which were disturbed by construction activities. Remove rubbish, waste material, litter and other foreign material.

   b. Remove tools, construction equipment, machinery and surplus material.

   c. Patch, touch up and repair marred surfaces and finishes. Replace finishes and surfaces that cannot be satisfactorily repaired or restored.

   d. Wipe surfaces of mechanical and electrical equipment, remove excess lubrication, paint splatter and mortar droppings.

   e. Prevent scratching, discoloring, and otherwise damaging surfaces being cleaned.

   f. Remove non-permanent protection and labels.

C. Waste Disposal

1. Arrange for and dispose of surplus materials, waste products, and debris off-site.

   a. Prior to making disposal on private property, obtain written permission from owner of such property.

2. Do not fill ditches, washes, or drainage ways which may create drainage problems.

3. Do not create unsightly or unsanitary nuisances during disposal operations.

4. Maintain disposal site in safe condition and good appearance.

5. Complete leveling and cleanup prior to final acceptance of the Work

3.04 FIELD QUALITY CONTROL

A. Immediately prior to Demonstration Period, conduct an inspection with Engineer to verify condition of all work areas.

END OF SECTION

SECTION 01910

HAZARDOUS MATERIAL PROCEDURES

PART 1 - GENERAL

1.01 SECTION INCLUDES

A. Procedures required when encountering hazardous materials at the Work site.

B. Hazardous materials are those defined by the State of California Health and Safety Code, Section 25117.

1.02 REFERENCED SECTIONS

A. This following Sections are referenced in this Section

1. General Conditions

a. Article 11 – Submittals and Materials

1.03 REFERENCES

A. California Health and Safety Code, Section 25117.

B. State of California Code of Regulations (CCR).

1. Title 8. Industrial Relations.

a. Division 1. Department of Industrial Relations.

2. Title 22. Social Security

a. Division 4. Environmental Health.

b. Division 4.5. Environmental Health Standards for the Management of Hazardous Waste.

C. United States Code of Federal Regulation (CFR), Title 29 and Title 40.

1. 29 CFR 1910.1000.

2. 29 CFR 1910.134.

D. Steel Structure Painting Council:

1. Guide 61 – Guide for Containing Debris Generated During Paint Removal Operations.

2. Guide 61 – Description of Methods and Systems.

3. Guide 71 – Guide for the Disposal of Lead-Contamination Surface Preparation Debris.

4. PA Guide 3.

1.04 SUBMITTALS

A. Comply with Article 11 of General Conditions.

B. Submit laboratory reports, hazardous material removal plans, and certifications.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.01 HAZARDOUS MATERIALS PROCEDURES

A. When Hazardous Materials Including Contaminated Soil Have Been Found:

1. Prepare and initiate implementation of plan of action.
2. Notify immediately Construction Manager, and other affected persons.
3. Notify such agencies as are required to be notified by Laws and Regulations with the times stipulated by such Laws and Regulations.
4. Designate a Certified Industrial Hygienist to issue pertinent instructions and recommendations for protection of workers and other affected persons' health and safety.
5. Identify and contact subcontractors and licensed personnel qualified to undertake storage, removal, transportation, disposal, and other remedial work required by, and in accordance with laws and regulations.

B. Forward to Construction Manager, copies of reports, permits, receipts, and other documentation related to remedial work.

C. Assume responsibility for worker health and safety, including health and safety of Subcontractors and their workers.

1. Instruct workers on recognition and reporting of materials that may be hazardous.

D. File requests for adjustments to Contract Times and Contract Price due to the finding of Hazardous Materials in the Work site in accordance with the General Conditions.

1. Minimize delays by continuing performance of the Work in areas not affected by hazardous materials operations.

END OF SECTION

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SECTION 09900

PAINT AND COATING

PART 1 - GENERAL

1.01 SECTION INCLUDES

A. This Section includes the materials, equipment, silt removal, surface preparation, application, and inspection for the interior surfaces in the regulating tanks.

B. All interior surfaces of the tank including the wall, floor overflow pipe, steel ladder, steel pipe floatwells, manhole, and platform including the underside shall be properly prepared and coated in accordance with these specifications.

C. Cleaning and painting shall be performed only during periods of favorable weather conditions, as recommended by the manufacturer, and shall be scheduled so that dust and other contaminants will not fall on wet, newly painted areas. Unfavorable weather conditions will be determined pursuant to Section 14.01 of the General Conditions.

1.02 REFERENCED SECTIONS

A. The following Sections are referenced in this Section

1. General Conditions
2. Article 14, Section 14.01 – Extensions of Time; Unavoidable Delays

1.03 PAINTING SURFACES

A. Coating of all surfaces in the interior of 3R-A and 26R-A steel regulating tanks.

PART 2 - PRODUCTS

2.01 MATERIALS

A. The Contractor shall supply all materials, equipment, tools, labor, paint, thinner, cleaners, blasting grit, epoxy fillers, and any other materials, including all application, inspection, and measurement tools (thickness gages, temperature measurement, climate conditions, etc.), required to complete the work.

B. The Contractor shall submit paint data for approval by the Engineer. The submittal shall include the following:

1. Paint description.
2. Typical uses for the paint.
3. Manufacturer's recommended surface preparation.

4. Manufacturer's recommended application methods including:
    a. Appropriate thickness in mils of each coat.
    b. Curing time.
    c. Pot life.
    d. Application equipment and methods.
    e. Acceptable climatic conditions for applications.
5. Safety data.
6. Shipping and storage recommendations.
7. Performance criteria.

C. The paint used for coating in this Specification must be certified for potable water contact in accordance with ANSI/NSF Standard 61.

1. Grit Blasting
    a. The abrasive material used in grit blasting shall be copper slag in nature that will produce an anchor profile according to the paint manufacture's recommendation.
2. Epoxy Filler
    a. The epoxy filler material used in repairing pits in steel plating shall be compatible with the painting system used and approved by the paint manufacture or the District's Engineer.
    b. The repaired steel surface shall be allowed to dry in accordance with manufacturer's instructions and sanded smooth before prime coat is applied.
3. Prime Coat
    a. The prime coat shall be compatible with the painting system used and approved by the paint manufacturer or the District's Engineer.
    b. The prime coat shall be tinted sufficiently to produce enough contrast to indicate complete coverage of the surface. Tinting shall be performed in a manner that will not tint or bleed through the topcoat.
4. Intermediate and Top coat
    a. The coating system shall be either Amerlock 400 as manufactured by Ameron Protective Coating Group, Devoe Bar Rust 233H as manufactured by Devoe Coatings, or a District approved NSF Standard 61 equal.
    b. The intermediate coat shall be tinted sufficiently to produce enough contract to indicate complete coverage of the surface. Tinting shall be performed in a manner that will not tint or bleed through the topcoat.
    c. The topcoat color shall be white for the interior of the tank.

2.02 EQUIPMENT

A. Provided by Contractor.

1. All equipment (compressor, sand pots, and paint pumps) shall be in good operating condition and of sufficient capacity to meet or exceed the Project Schedule of the expected 1,500 to 2,000 sq. ft. per day completion of surface preparation and coating, and to provide satisfactory results for cleaning and coating.
2. All scaffolding shall be constructed, utilized, and disassembled in accordance with OSHA scaffolding requirements and any other applicable safety regulations.
3. Spray equipment and tip size shall be as recommended by the paint manufacture.
4. Compressed air for grit blasting and coating shall be free from detrimental amounts of water or oil with adequate traps and/or dryers. Adequate lighting shall be provided inside the tank to properly allow for safety, workmanship, and inspection.
5. Air hoods, respirators and proper and sufficient ventilation shall be provided during all aspects of the job including grit blasting, coating, and curing.
6. Sufficient explosion proof ventilation equipment shall be provided to properly and efficiently expel all dust and paint fumes out of the tank and directly into the atmosphere.
7. Available at the site shall be all inspection and measuring equipment such as wet and dry film thickness gauges, steel temperature measuring equipment, holiday detector equipment, thickness gauge calibration standards, anchor profile measurement, climate condition measurement, etc., as required by these Specifications.

PART 3 - EXECUTION

3.01 SILT REMOVAL

A. Work shall include removing all silt from the bottom of the each regulating tank respectively, prior to the surface preparation. The silt shall be removed by manual labor, pumping, or any means that the contractor determines best, as approved by the engineer. The silt shall be placed in an earthen retaining pond that will be located in the general vicinity of the tank. This retention pond shall be constructed by Westlands Water District prior to the first day of work as set forth in this contract.

3.02 SURFACE PREPARATION

A. All surfaces to be painted shall be cleaned in accordance with Steel Structures Painting Counsel (SSPC) Standard SSPC-SP-1, Solvent Cleaning using vapor degreasing or solvent emulsion methods to remove all oil, grease, dirt, and contamination prior to abrasive blasting.

B. The entire interior surface shall be abrasive blast cleaned to a near white metal finish, by removing all existing paint, rust, and other contaminates. All removed materials including paint and rust shall be removed and disposed of by the contractor.

C. The contractor shall use an epoxy filler to repair all pits 50% or less of the plate thickness as determined by the Engineer.

1. Repairs of pits greater than 50% of the plate thickness shall be the responsibility of District personnel or an outside contractor. The District shall have two working days to repair any deterioration of any metals without any penalty clause other than the pre-approved standby charge.

D. The contractor's standby charge shall be shown in the contractor's schedule as dollar ($) per hour and not more than eight (8) hours in any one working day. Payment for the additional equipment and labor required for unfavorable weather condition will be made at the amount bid therefore in the Bidding Schedule.

3.03 APPLICATION

A. Work shall include priming and painting the interior of the tank, including but not limited to walls, overflow pipe, steel ladder, steel pipe float wells, manhole, and platform including the underside, and floor.

B. All paints shall be thoroughly mixed and applied in accordance with the manufacturer's recommendations. Stirring of the paint shall be repeated as required to maintain a uniform consistency during application.

C. Paint shall be thinned only when necessary to maintain the desired viscosity during application as recommended by the manufacturer. Only manufacturer recommended thinners will be used to obtain desired viscosity.

D. The overall coating of the paint surfaces will be comprised of three coats (prime, intermediate, and top) to a total thickness of 15.0 mils.

1. A prime coat (Devoe Bar-Rust 235 or equivalent) will be applied to a minimum uniform dry film thickness of 5.0 mils.

2. An intermediate coat shall be applied at a uniform wet film thickness, as per the coating manufacturer's recommended film thickness with an overall minimum uniform dry film thickness of 5.0 mils.

3. The top coat shall also be applied at a uniform wet film thickness, as per the coating manufacturer's recommended film thickness with an overall minimum uniform dry film thickness of 5.0 mils. The top coat shall completely cover all surface irregularities, and shall tightly adhere to the surface. Excessive film thickness resulting in sags or runs will not be allowed. All runs and sags shall be smoothed out immediately, or the paint shall be removed and the surface repainted. A smooth gloss topcoat finish is expected.

E. The contractor's standby charge shall be shown in the contractor's schedule as dollar ($) per hour and not more than eight (8) hours in any one working day. Payment for

the additional equipment and labor required for unfavorable weather condition will be made at the amount bid therefore in the Bidding Schedule

F. The Engineer or his designee shall measure dry film thickness with a dry film thickness gage within five working days from time of application.

G. All surface preparation, coating application and clean up work are expected to be completed within the time frame schedule unless unfavorable weather conditions, pursuant to Section 14.01 of the General Conditions, prevents the completion of such work.

3.04 INSPECTION

A. The Engineer reserves the right to inspect all cleaned surfaces prior to primer, intermediate coat, and topcoat application. The Engineer shall be notified after blasting is completed and prior to the application of primer, at which point the engineer will inspect any significant pitting and determine if welding repair is necessary.

B. The dry film thickness will be measured by the Engineer with non-destructive dry film thickness gauge. Spot measurements shall be taken to ensure a consistent and uniform application of the coating material. Spot measurements taken shall not be less than the requirements of SSPC-PA-2.

C. Contractor shall notify engineer prior to breaking down of scaffolding after each level of tank painting to allow engineer to perform mil test inspection.

D. The contractor shall perform pinhole and holiday detection using a K-D Bird Dog Low Wet Sponge Holiday Detector, or approved equal, in the presence of the Engineer.

END OF SECTION

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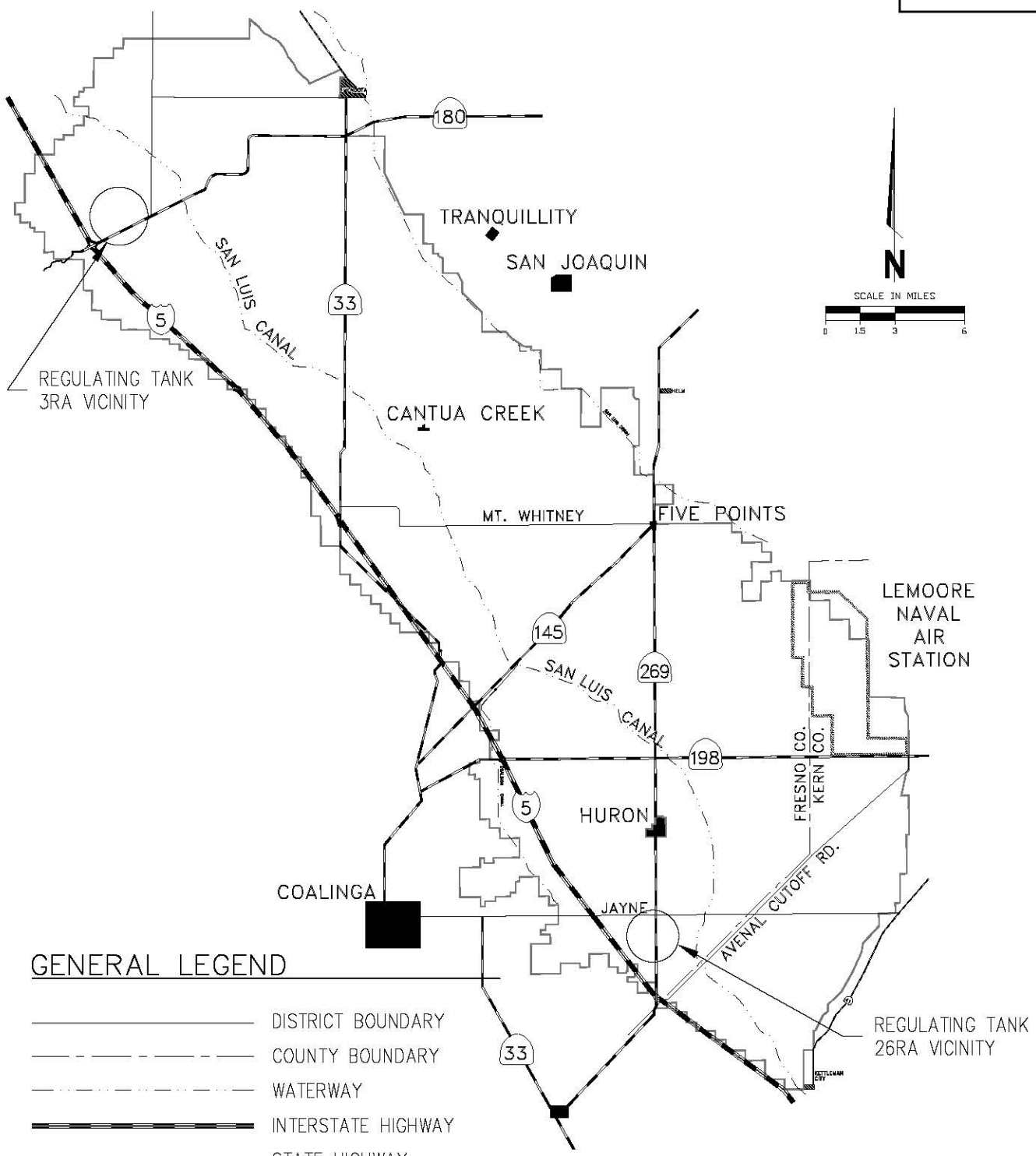
FIGURE 1



GENERAL LEGEND

- DISTRICT BOUNDARY
- COUNTY BOUNDARY
- WATERWAY
- INTERSTATE HIGHWAY
- STATE HIGHWAY
- PAVED ROAD

WESTLANDS WATER DISTRICT
3130 N. FRESNO ST. FRESNO, CALIFORNIA 93703
559.224.1523 Fax 559.241.6277

PROJECT VICINITY MAP

REG TANK AND PP
3RA & 26RA REG TANK

NUMBER	DATE	DRAWN	CHECKED	APPROVED

DRAWN A. YOUNG	APPROVED
CHECKED K. VANDERGON	
DATE 1/15/2020	DRAWING 2020-W-0103

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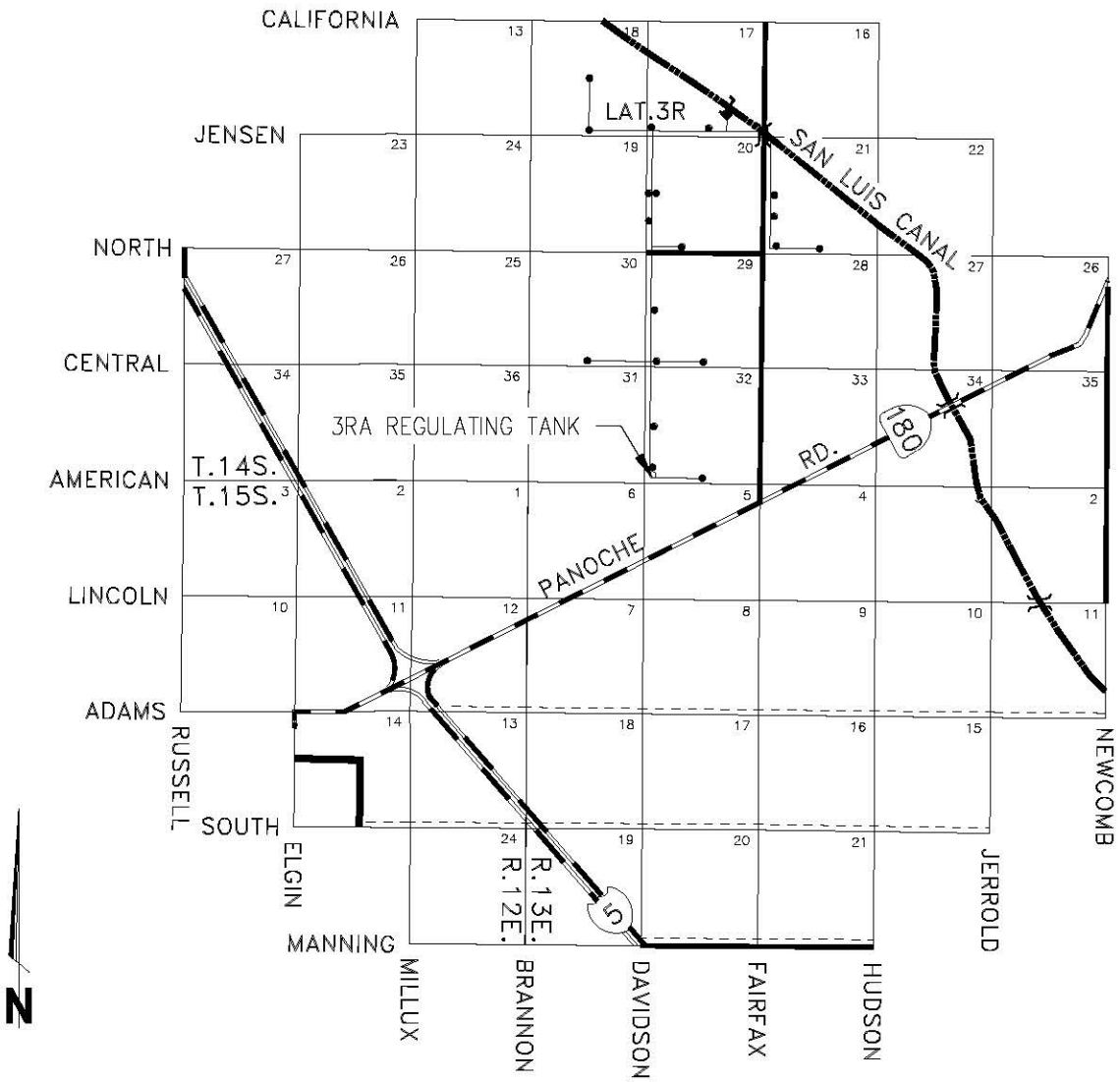
FIGURE 2



GENERAL LEGEND

- DISTRICT BOUNDARY
- INTERSTATE HIGHWAY
- INTERCHANGE
- STATE HIGHWAY
- PAVED ROAD
- WATERWAY
- BRIDGE
- CHECK
- NOT IN DISTRICT

NUMBER	DATE	DRAWN	CHECKED	APPROVED

WESTLANDS WATER DISTRICT
3130 N. FRESNO ST. FRESNO, CALIFORNIA 93703
559.224.1523 Fax 559.241.6277

LOCATION MAP

REG TANK AND PP
3RA REGULATING TANK

DRAWN A. YOUNG	APPROVED
CHECKED K. VANDERGON	
DATE 1/15/2020	DRAWING 2020-W-0105

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FIGURE 3

GENERAL LEGEND

- DISTRICT BOUNDARY
- INTERSTATE HIGHWAY
- INTERCHANGE
- STATE HIGHWAY
- PAVED ROAD
- WATERWAY
- BRIDGE
- CHECK
- NOT IN DISTRICT

NUMBER	DATE	DRAWN	CHECKED	APPROVED

WESTLANDS WATER DISTRICT
3130 N. FRESNO ST. FRESNO, CALIFORNIA 93703
559.224.1523 Fax 559.241.6277

LOCATION MAP

REG TANK AND PP

26RA REGULATING TANK

DRAWN A. YOUNG	APPROVED
CHECKED K. VANDERGON	
DATE 1/15/2020	DRAWING 2020-W-0109

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