CITY OF GOLETA

CONTRACT BIDDING DOCUMENTS
SPECIFICATIONS AND STANDARD DRAWINGS

FOR THE

9009A SAN JOSE CREEK EMERGENCY CHANNEL
REPAIR PROJECT

By  
Charles W. Ebeling, PE, TE 
Public Works Director

Project Number: 9009A 
Bid Number: 03-20 

Bid Opening: August 4, 2020 @ 3:00 P.M.
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This contract shall be in conformance with CALTRANS STANDARD SPECIFICATIONS, 2018 EDITION (including amendments current as of the date of the Notice Inviting Sealed Bids, which are incorporated by reference).

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SECTION A NOTICE INVITING SEALED BIDS

NOTICE INVITING SEALED BIDS
FOR THE
9009A SAN JOSE CREEK CHANNEL EMERGENCY REPAIR PROJECT

130 Cremona Drive, Suite B, City of Goleta, CA

PUBLIC NOTICE IS HEREBY GIVEN that the City of Goleta (“CITY”), invites sealed bids for the above stated project and will receive such bids in the office of the City Clerk, 130 Cremona Drive, Suite B, Goleta, California 93117, before 3:00 PM, August 4, 2020, and will be publicly opened and read aloud promptly thereafter. Faxes or any electronic format is not acceptable. Electronic copies of the Contract Documents and Specifications are available online from Construction Bidboard, Inc. at http://www.ebidboard.com/, or the CITY website at http://www.cityofgoleta.org/i-want-to/view/city-bid-opportunities.

The work includes all labor, material, supervision, plant and equipment necessary to construct and deliver a finished 9009A SAN JOSE CREEK CHANNEL EMERGENCY REPAIR PROJECT.

A) Coordinating delivery of the new Articulated Slope Revetment (ASR) which will be provided to the contactor as owner-furnished material. This material will be furnished by the CITY because of the long-lead time for fabrication and short construction window.

B) Temporary removal of chain link fencing and/or metal guard rail to provide construction access. This material will be reinstalled near the end of construction.

C) Constructing a stream by-pass.

D) Removing the temporary rock slope protection and fabric which was placed in 2017.

E) Excavation and shaping the channel subgrade.

F) Furnishing and installing crushed rock, geogrid and rock slope protection fabric.

G) Installing galvanized “eyes” in channel wall to connect the ASR.

H) Installation of the ASR; includes effort to join ASR to channel walls using owner-furnished polypropylenes “cables” and crimp fasteners.

I) Installation of soil anchors.

J) Constructing new concrete fish weir and “timber wedges”.

K) Constructing the improvements with the limited construction access identified in the Contract Documents.

L) All other items needed to complete the work and meet the requirements identified in the Contract Documents.

Work shall be performed per the project plans and specifications in San Jose Creek Channel within the City of Goleta, CA. The contract period is 20 Working Days.

The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR) per California Labor Code Section 1771.4, including prevailing wage rates and apprenticeship employment standards. Affirmative action to ensure against discrimination in employment practices on the basis of race, color, national origin, ancestry, sex, or religion will also be required. The CITY hereby affirmatively ensures that all business enterprises will be afforded full opportunity to submit bids in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, sex, or religion in any consideration leading to the award of contract.
Bids must be prepared on the approved bid forms in conformance with the “Bidding Instructions” and the General Provisions and submitted in a sealed envelope plainly marked on the outside, “SEALED BID FOR 9009A SAN JOSE CREEK CHANNEL EMERGENCY REPAIR PROJECT. DO NOT OPEN WITH REGULAR MAIL.” The bid must be accompanied by cash or cashier’s check, certified cashier’s check, or bidder’s bond executed by an admitted surety, made payable to CITY. The bid security shall be an amount equal to ten percent (10%) of the total maximum amount bid with their proposals as required by California law.

A contract may only be awarded to the lowest responsive and responsible bidder that holds a valid Class “A” Contractor’s license or specialty licensing in accordance with the provisions of the California Business and Professions Code.

The successful Bidder will be required to furnish a Performance Bond and a Payment Bond each in an amount equal to 100% of the Contract Price. Each bond shall be in the forms set forth herein, shall be secured from a surety company that meets all State of California bonding requirements, as defined in Code of Civil Procedure Section 995.120, and that is a California admitted surety insurer.

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the DIR. No Bid will be accepted nor any contract entered into without proof of the contractor’s and subcontractors’ current registration with the DIR to perform public work. If awarded a contract, the Bidder and its subcontractors, of any tier, shall maintain active registration with the DIR for the duration of the Project. Failure to provide proof of the contractor’s current registration pursuant to Labor Code Section 1725.5 may result in rejection of the bid as non-responsive.

The Contractor Company, including the Responsible Managing Officer (RMO) for the Contractor Company, shall demonstrate a minimum of three (3) years’ experience successfully performing projects of substantially similar type, magnitude, and character of the work bid. The CITY reserves the right to reject all bids, reject any bid that is not responsive to the invitation, or to waive any minor irregularity and to take all bids under advisement for a period of up to ninety (90) days.

Pursuant to Public Contract Code section 22300, the successful bidder may substitute certain securities for funds withheld by CITY to ensure performance under the Contract or, in the alternative, request the CITY to make payment of retention to an escrow agent.

Any protest to an intended award of this contract shall be made in writing addressed to the City Clerk prior to the award. Any protest may be considered and acted on by the City Council at the time noticed for award of the contract. To request a copy of the notice of agenda for award, please contact the City Clerk (805) 961-7505 or register on the CITY’s website (www.cityofgoleta.org).

For information relating to the details of this Project and bidding requirements contact Gerald Comati in writing at gcomati@cityofgoleta.org.

CITY OF GOLETA

Deborah S. Lopez, City Clerk
Published:
Santa Barbara Independent: July 9 and July 16, 2020
SECTION B BIDDING INSTRUCTIONS

Replace the entire Section 2 BIDDING Caltrans Standard Specifications with the following:

1. DEFINITIONS. Unless provided otherwise, the definitions in the contract documents are applicable to all bidding documents.

   1.1 “Addenda” means written or graphic instruments issued by the City before the bid deadline that modify or interpret the bidding documents by additions, deletions, clarifications, or corrections.

   1.2 “Alternate” means an amount stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as Alternate Work, to be added or deducted from the Total Base Bid, which shall be the Contractor’s responsibility if the City accepts the Alternate Bid Item.

   1.3 “Bid Deadline” means the date and time designated in the notice inviting sealed bids as the last date and time for receipt of bids, as may be revised by addenda.

   1.4 “Bidder” means a person or firm that submits a bid.

   1.5 “Contract Documents” means the Contract, Addenda, Notice Inviting Sealed Bids, bidding instructions, Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Completion) when attached as an exhibit to the Contract, the Bonds, permits from jurisdictional regulatory agencies, Special Provisions, Plans, Standard Plans, Standard Specifications, Reference Specifications, Change Orders, and Supplemental Agreements.

   1.6 “Inspector” means the person designated by the engineer to ensure specification compliance.

   1.7 “Total Base Bid” means the sum stated in the bid for which bidder offers to perform the Work described in the bidding documents, but not including alternates.

   1.8 “Unit or Contract Unit Price” means an amount entered in the bid by bidder or a “Contract Item” price established by the City in the bid, as a price per unit of measurement for payment for materials, equipment or services including taxes, supervision, overhead and profit for a portion of the work described in the Contract Documents.

2. BIDDER’S REPRESENTATIONS. By making its bid, bidder represents that:

   2.1 Bidder has read, understood, and made the bid pursuant to the requirements in the Contract Documents.

   2.2 The Bidder, at its sole cost and expense, has carefully examined the Contract Documents and visited the Project site to become fully acquainted with the local...
site conditions affecting the Work to be performed including transportation, disposal, handling, and storage of materials.

2.3 The bid, and the Contract Unit Prices bid, is based upon the labor, materials, equipment, and systems required by the Contract Documents.

2.4 Bidder and all subcontractors, regardless of tier, have the appropriate registrations and current licenses issued by the State of California Contractor’s State License Board and Department of Industrial Relations (DIR) for the Work to be performed. If bidder is a joint venture, the bidder will have a joint venture license appropriate for the performance of the Work, and each member of the joint venture will likewise have the appropriate license. Business and professions code §§ 7000-7191 establish licensing requirements for contractors. If a bidder, that is a specialty contractor, submits a bid involving 3 or more specialized building trades, the Work of which is more than incidental and supplemental to the performance of the Work for which bidder holds a specialty contractor license, bidder must also hold either (1) a specialty contractor “C” license in each such trade or (2) a general engineering contractor “A” license. This requirement is applicable whether or not bidder lists a subcontractor for each such trade.

2.5 Bidder shall have the expertise, including the Responsible Managing Officer (RMO) for the Contractor Company, demonstrating a minimum of three (3) years' experience successfully performing projects of the same type, magnitude, and character of the work bid, and financial capacity to perform and complete all obligations under the Contract Documents. The person executing the bid form is duly authorized and empowered to execute the bid form on bidder’s behalf.

2.7 Bidder is aware of and, if awarded the contract, will comply with legal requirements in its performance of the Work.

2.8 Bidder is aware of and, if identified as the apparent lowest responsible bidder, would be required to pay City business license fee(s). Bidder shall not damage or endanger and shall preserve and protect adjacent properties.

2.10 Bidder has familiarized itself with the staging and material storage constraints of the Project site and surrounding buildings and will confine its staging and storage operations to approved areas.

2.11 Bidder will coordinate its construction activities with the other contractors and utility companies performing work on the Project site, if any, including, but not limited to, any separate contractor retained by the City.

2.12 Bidder has checked the figures set forth in the bid schedule and understands that neither the City nor any officer or employee therefore will be responsible for any misunderstandings, errors, or omissions on the part of the Bidder in submitting its Bid. The failure of a Bidder to receive or examine any of the Bidding Documents or to inspect the site shall not relieve such Bidder from any obligation with respect to the Bid, the Contract, or the Work required under the Contract Documents.
3. CONTRACT DOCUMENTS.

3.1. Bidders may obtain complete sets of the Contract Documents from the Construction Bidboard, Inc. (eBidboard), the City of Goleta website, or the city’s Public Works Department for the sum stated in the notice inviting sealed bids.

3.2. Bidders will use a complete set of Contract Documents in preparing bids.

3.3. The City makes copies of the Contract Documents available, on the above terms, for the sole purpose of obtaining bids for the Work and does not confer a license or grant permission for any other use of the Contract Documents.

3.4. The City does not assume any liability or responsibility based on any defective or incomplete copying, excerpting, scanning, faxing, downloading, or printing of the Contract Documents.

4. INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS.

4.1. Before submitting its bid, bidder will carefully study and compare the various documents comprising the Contract Documents and compare them with any other work being bid concurrently or presently under construction which relates to the Work for which the bid is submitted; will examine the project site, the conditions under which the Work is to be performed, and the local conditions; and will at once report to the City’s representative errors, inconsistencies, or ambiguities discovered. The drawings and specifications contained in these Contract Documents do not constitute a representation or warranty that any conditions shown therein actually exist. All soil and test hole data, groundwater elevations, and soil analyses shown on the Plans or included in the Special Provisions apply only at the location of the test holes and to the depths indicated.

4.2. Bidder requests for clarification or interpretation of the Contract Documents will be addressed to the City’s representative at least five (5) calendar days before the bid deadline.

4.3. Clarifications, interpretations, corrections, and changes to the Contract Documents will only be made by addenda. Purported clarifications, interpretations, corrections, and changes to the Contract Documents made in any other manner will not be binding and bidders will not rely upon them.

5. PRODUCT SUBSTITUTIONS. No requests for product substitutions will be considered before award of contract unless requested through the Request for Information (RFI) process so that all bidders will be informed. Bidders wishing to obtain authorization for an or equal substitution of an equivalent material, product or equipment, shall submit all requests for or equal substitution using the form included as Attachment A to these Bidding Instructions, together with data substantiating Bidder’s representation that the non-specified item is of equal quality to the item. Requests for product substitutions not handled through the RFI process will only be considered after award of the contract and in the manner provided for in the contract documents. Authorization of an equal substitution of equivalent materials is solely within the discretion of the City and, if given, shall be made by Addendum or Change Order issued by the City. Bids shall not be based on any or equal substitution request that has not been authorized in writing by City
Addendum. In the absence of a written Addendum authorizing a pre-Bid or equal substitution request, the request shall be deemed denied

6. SUBCONTRACTORS.

6.1. Each bidder will list in the bid form all first-tier subcontractors that will perform work, labor or render such services in excess of ½ of one percent of the total bid of the total bid or $10,000, whichever is greater. The bid form contains spaces for the following information when listing subcontractors: (1) work activity; (2) name of subcontractor; (3) city of subcontractor’s business location; (4) California contractor’s license number, and (5) DIR public works contractor registration number. An inadvertent error in listing the California contractor’s license number or public works contractor registration number shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected contractor's license number is submitted to the City by the Bidder within 24 hours after the bid opening and provided the corrected contractor's license number corresponds to the submitted name and location for that subcontractor. Failure to list any of these other items on the bid form will result in the City treating the bid as if no subcontractor was listed for the work and that bidder represents to the City that it is fully qualified to perform that portion of the Work and will so perform such Work.

6.2. Substitution of subcontractors after the bid deadline who are listed in the bid form will only be allowed with the City’s written consent and in accordance with California law.

7. ADDENDA.

7.1. Before the Bid Deadline, the City may modify the Work, the Bidding Documents or any portion(s) thereof by the issuance of written addenda. Addenda will be in writing and issued only by the City.

7.2. Addenda will be posted to the City’s website, eBidboard, and distributed to certain planrooms. Addenda will be emailed to all who are known by the City to have received a complete set of Contract Documents and who have provided a mailing address for receipt of addenda.

7.3. Copies of addenda will be made available for inspection at the City’s Public Works Department.

7.4. The City will issue addenda so that they are received by prospective bidders not less than three (3) business days before the bid deadline. Addenda that withdraw the request for bids or postpone the bid deadline may be issued any time before the bid deadline.

7.5. Each bidder is responsible for ensuring that it has received all issued addenda before submitting a bid. All bidders are required to acknowledge and confirm receipt of each and every addendum in their Bid Proposal Form. Failure to acknowledge all Addenda may result in a Bid being deemed nonresponsive and not eligible for award of the Contract.

8. NOT USED
9. FORM AND STYLE OF BIDS.

9.1. Bids will be submitted on the bid form included with the Contract Documents. Bids not submitted on the City’s bid form will be rejected. All blanks on the bid form will be filled in legibly in ink or by typewriter.

9.2. Bidder’s failure to submit a price for any alternate or unit price will result in the bid being considered as non-responsive. If alternates are called for and no change in the lump sum base bid is required, enter “no change.”

9.3. Each bidder must fill out the “bidders statement of past contract disqualifications” form stating any and all instances of contract disqualifications due to a violation of a law or safety regulation. The bidder must explain the circumstances of each disqualification.

9.4. Bidder will make no stipulations on the bid form nor qualify the bid in any manner.

9.5. The bids will be based upon full completion of all the Work as shown on the plans and specifications. It is expressly understood that the plans are drawn with as much accuracy as is possible in advance, but should errors, omissions or discrepancies exist in the plans which show conditions that vary from those encountered in construction, the bidder (if awarded the contract) specifically agrees to construct a completed Work ready for the use and in the manner which is intended.

9.6. The bid form will be signed by a person or persons legally authorized to bind bidder to a contract. Bidder’s representative will sign and date the declaration of eligibility to contract included in the bid form. Failure to sign and date the declaration will cause the bid to be rejected.

10. BID SECURITY.

10.1. Each bid must be accompanied by bid security, in the amount of 10% of the Total Base Bid on the base Contract Work, excluding any Alternate Bid Items, as security for bidder’s obligation to enter into a contract with the City on the terms stated in the bid form and to furnish all items required by the Contract Documents.

10.2. If the apparent lowest responsible bidder fails to sign the contract and furnish all items required by the bidding documents within the time limits specified in these bidding instructions, the City may reject such bidder and select the next apparent lowest responsible bidder until all bids have been exhausted or the City may reject all bids. In the event the bid is rejected, such bidder will be liable for and forfeit to the City the amount of the difference, not to exceed the amount of the bid security, between the amount of the disqualified bid and the larger amount for which the City procures the Work. The City may also use the bid security to cover the cost of rebidding the project.

10.3. If a bid bond is submitted and an attorney-in-fact executes the bid bond on behalf of the surety, a notarized and current copy of the power of attorney will be affixed to the bid bond. The surety issuing the bid bond must be admitted to provide surety within the State of California.
10.4. The City will retain the bid security until the occurrence of one of the following:

10.4.1 All items required by the bidding documents have been furnished and the contract has been signed by the successful bidder and the City.

10.4.2 The specified time has elapsed during which bids may be withdrawn.

10.4.3 All bids have been rejected.

11. BID DELIVERY.

11.1 The bid form, bid security, and all other documents required to be submitted with the bid must be enclosed in a sealed opaque envelope addressed to the City Clerk. The envelope shall identify the project name as shown in the notice inviting sealed bids, bidder’s name and address, and, if applicable, the designated portion of the project for which the bid is submitted. If the bid is sent by mail, the sealed bid must be enclosed in a separate mailing envelope labeled with the project name as shown in the notice inviting sealed bids and “do not open with regular mail.”

11.2 Bids must be deposited at the designated location on or before the bid deadline. A bid received after the bid deadline will be returned to bidder unopened.

11.3 Bidder will assume full responsibility for timely delivery at the location designated for receipt of bids.

11.4 Oral, telephonic, facsimile, electronic or telegraphic bids are invalid and will not be accepted.

12. MODIFICATION OR WITHDRAWAL OF BID.

12.1 Bids may not be modified, withdrawn, or canceled within one hundred twenty (120) days after the bid deadline unless otherwise provided in any supplementary instructions to bidders.

13. OPENING OF BIDS.

13.1 Bids submitted in the manner required by these instructions and received on or before the bid deadline will be opened publicly.

14. EVALUATION AND REJECTION OF BIDS.

14.1. Bidders will be evaluated for responsiveness and responsibility based on bid proposal information provided in the bid documents under “designation of subcontractors” and bidder’s references.”

14.2. A responsive Bid is a Bid that conforms, in all material respects, to these Instructions to Bidders. Non-responsive Bids will be rejected.

14.3. A responsible bidder means a bidder who has demonstrated the attributes of trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform fully the requirements of the Contract Bidding Documents and the moral and business integrity and reliability that will assure good faith performance in the sole discretion of the County. Any determination of a bidder’s non-responsibility by the
City shall be based on the fitness and capacity of the bidder to satisfactorily perform the obligations of the Contract, whether or not the bidder is qualified to perform those obligations, whether or not the bidder is trustworthy, and such other bases as may be relevant.

14.4. In addition to other provisions of the Bidding Documents, upon the request of the City, a bidder whose Bid is under consideration for the award of the Contract shall submit satisfactory evidence to City within three (3) calendar days showing the bidder’s financial resources, experience in the field, and organization and other factors evidencing bidder’s ability to successfully execute and complete the Contract.

14.5. The City reserves the right to reject any or all bids and to waive discrepancies, irregularities, informalities, or any other error in the bid or bidding, when to do so seems to best serve the public interest. The right of the City to waive errors applies even if the Bidding Documents state that a discrepancy, irregularity, informality, or other error make a bid nonresponsive, so long as the error does not constitute a material error. The City reserves the right, in its sole discretion, to: judge the bidder’s representations as stated in the Bid forms and any post-Bid information to determine whether or not bidder is qualified to perform the Work; be the sole judge regarding the suitability of the products, services, or supplies offered; to not purchase all items or the full quantity of each item listed in the Bid Item List; reject any or all Bids; waive any deficiencies, irregularities, or informalities in any Bids or in the bidding process; modify, cancel, or withdraw the Notice Inviting Sealed Bids; issue a new Notice Inviting Sealed Bids; suspend or abandon the Project; seek the assistance of outside technical experts in Bid evaluation; require a bidder to provide a guarantee (or guarantees) of the Contract by a third party; and not issue a Notice to Proceed after execution of the Contract. In submitting a Bid in response to the Notice Inviting Sealed Bids, the bidder is specifically acknowledging the City holds these rights. The Notice Inviting Sealed Bids does not commit the City to enter into a Contract, to reject, in its sole discretion, all Bids, nor does it obligate the City pay for any costs incurred by bidders in preparation and submission of a Bid or in anticipation of a Contract. By submitting a Bid, the bidder disclaims any right to be paid for such costs.

14.6. The City may reject any bid not accompanied by the required bid security or any other item required by the bidding documents, or a bid which is in any other way materially incomplete, irregular or not responsive to the bid request in the sole determination of the City.
15. AWARD.

15.1 The City may retain all bids for a period of one hundred twenty (120) days for examination and comparison, and to delete any portion of the Work from the contract.

15.2 The City may waive nonmaterial irregularities in a bid and will accept the lowest responsive bid from a responsible bidder as determined by the City.

15.3 The City will determine the low bidder on the basis of the total bid price in words on the bidding sheet as described on the bidding sheet.

15.4 City Staff will identify the apparent lowest responsive and responsible bidder and notify such bidder within one hundred twenty (120) days (unless the number of days is modified in any Addendum issued to bidders) after the Bid Deadline.

15.5 Following City Council approval and authorization to award the construction contract, the City will issue a written notice of award. Within five calendar days after receiving the City’s written notice of award the bidder will submit to the City all of the following items as required by the City:

15.5.1 Two originals of the contract signed by bidder.

15.5.2 One original of the payment bond.

15.5.3 One original of the performance bond.

15.5.4 Certificates of insurance and additional insured endorsements on forms provided by the city.

15.5.5 Copy of current City of Goleta business license certificate.

15.5.6 Names of all subcontractors, with their DIR registration number, license numbers, addresses, telephone number, facsimile number and trade on bidders’ company stationery. Evidence, as required by the city, of the reliability and responsibility of the proposed subcontractors such as statements of experience, statements of financial condition, and references.

15.6 A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. This Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

15.7 If bidder submits the two original signed contracts and all other items within fifteen (15) days after receiving the City’s notification, and all such items comply with the requirements of the bidding documents, the City will submit the bid to the City Council for award of Contract. Following City Council Award of Contract, the City will sign the contract and return a signed copy of the contract to bidder.
16. NOTICE OF INTENT TO AWARD CONTRACT. Following the opening of bids and determination of the lowest responsible Bidder, the City will issue a notice of intent to award the Contract, identifying the Bidder to whom the City intends to award the Contract. The award of the Contracts shall be made by the City Council.

17. PUBLIC RECORDS. City seeks to conduct its business openly. Upon identification of the lowest responsive and responsible bidder and upon notifying such bidder, Bids shall be regarded as public, with the exception any elements of each Bid that are identified by the Bidder as business or trade secrets and plainly marked as “trade secret,” “confidential,” or “proprietary.” Each element of a Bid which a Bidder desires not to be considered public must be clearly marked as set forth above; any blanket statement (i.e. regarding entire pages, documents, or other, non-specific designations) shall not be sufficient and shall not bind the City in any way whatsoever. If City receives a request from a third party to make a Bid available for inspection or copying, the City will notify the Bidder of the request. If a Bidder instructs the City that the information is not to be released, City will withhold the information, provided, the Bidder expeditiously seeks a protective order from a court of competent jurisdiction to prevent such release. If disclosure is required by law (despite the Bidder’s request for confidentiality), the City shall not in any way be liable or responsible for the disclosure of such records or part thereof.

18. BID PROTEST. Any registered Bidder may file a protest provided that each and all of the following are complied with:

18.1. The bid protest is in writing;

18.2. Protests based upon alleged defects or improprieties in the Bidding Documents are filed with the City prior to the Bid Deadline;

18.3. All other protests are filed and received by the City not more than five (5) calendar days following the date of City’s Notice of Intent to Award the Contract; and

18.4. The written bid protest sets forth, in detail, all grounds for the bid protest, including without limitation all facts, supporting documentation, legal authorities and argument in support of the grounds for the bid protest. All factual contentions must be supported by competent, admissible and credible evidence.

18.5. Any matters not set forth in the written bid protest shall be deemed waived. Any bid protest not conforming to the foregoing shall be rejected by the City as invalid.
ATTACHMENT A – BIDDING INSTRUCTIONS

EQUAL SUBSTITUTION FORM

Project: ________________________________________________________________

Location: ______________________________________________________________

TO: ___________________________________________________________________

FROM: __________________________________________________________________

1. Section, Paragraph and Page Number of Specification or Drawing to which this Request applies: ______
   ___________________________________________________________________

2. Item specified for which substitution is requested:

   Name or Brand: _______________________________________________________
   Manufacturer: _______________________________________________________
   Catalog No.: _______________________________________________________

3. The proposed substitution is:

   Name or Brand: _______________________________________________________
   Manufacturer: _______________________________________________________
   Catalog No.: _______________________________________________________

4. Contractor is required to provide product data for the proposed substitution consisting of the description of
   the product or item, reference standards and performance test data, together with substantiating data,
   supporting the claim that the non-specified product is equal to that specified. No substitution request will be
   considered by the City without a completed Substitution Request form and substantiating data. Contractor
   shall attach hereto complete technical data, including technical information, complete manufacturer’s
   catalogs, brochures and drawings, certified laboratory test reports and samples as applicable for the
   proposed substitution, installation and operating instructions, manufacturing warranties and other
   descriptive material.

5. Reasons for substitution request: ______________________________________
   ___________________________________________________________________

6. Detailed comparison of significant qualities and properties (size, weight, durability, performance and similar
   characteristics) including the visual effect where applicable, for the proposed substitution in comparison
with original requirements includes (list detailed comparison with supporting data, use separate sheets if required):

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

7. Installation changes and changes to Drawings and Specifications required by the proposed substitution are (list all required changes, use separate sheets if required):
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

8. Does this substitution affect dimensions shown on Drawings?

Yes ____________ No ____________

If yes, clearly indicate changes on each Drawing by Sheet No.:
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

9. List the effects of the proposed substitution on other parts of the Work or on separate contracts, including required changes in Drawings, dimensions, engineering and detailing costs and effect on other trades.
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

10. What effect does substitution have on applicable code requirements?
________________________________________________________________________

11. Identify differences between the proposed substitution and the specified item.
________________________________________________________________________
________________________________________________________________________

B-12
12. Attach a copy of manufacturer’s warranty. Manufacturer’s guarantees and warranties of proposed and
specified items are:

Same

Different
(Explain on attachment.)

Manufacturer shall provide a letter stating the fitness for intended use, and performance
equivalence with the specified item.

13. List the name and address of three similar projects (not necessarily installed by Contractor) on which the
proposed product was used and date of installation:

(1) Name of Project: ____________________________________________

Address: ____________________________________________

Date of Installation: ______________________________

(2) Name of Project: ____________________________________________

Address: ____________________________________________

Date of Installation: ______________________________

(3) Name of Project: ____________________________________________

Address: ____________________________________________

Date of Installation: ______________________________

14. Use of the substitution will cause the Contract Time to be:
15. Use of the substitution will affect the critical path of the Construction Schedule as follows (identify any proposed adjustment to the Contract Time):

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

16. Reduction in the Contract Sum of $__________ will result from use of the substituted item.

17. Estimated cost of any engineering, design or agency fees required for work of all trades directly or indirectly affected by the substitution is: $______.

18. The date by which City must accept this Request in order for the time and cost estimates in Paragraphs 14 and 16 to remain valid is: ____________________.

19. **Contractor Affidavit.** The undersigned, having thoroughly investigated the proposed substitution represents, certifies and declares, under penalty of perjury under the laws of the State of California that:

   (1) Contractor has personally investigated the proposed substitution and determined that it is equal or superior in all respects to the material, product, thing or service specified except as specifically noted: ____________________;

   (2) Contractor will provide the same warranty and correction responsibility for the proposed substitution that the Contractor would have provided for that specified;

   (3) The cost data presented is complete and includes all related costs under this Contract except any redesign costs and agency fees;

   (4) Contractor will indemnify City from and pay all redesign, engineering, detailing, special inspection costs and agency fees caused by the use of this substitution;

   (5) Contractor will coordinate the installation of the accepted substitution, making such changes as may be required for the Work to be complete in all respects.

   (6) Contractor waives all claims for additional costs relating to the substitution which may subsequently become apparent; and

   (7) Contractor assumes all responsibility for and will indemnify City from and pay all direct or indirect costs and/or time impacts as a result of the use of the substitution.
Executed this ________ day of ________ 20__, at ___________, California.

________________________________________________________________________

(Type or print name)

Submitted by:

________________________________________

(Firm)

________________________________________

(Address)

For use by City:

___ Accepted ___ Accepted as noted

___ Not Accepted ___ Rejected as late

________________________________________________________________________

(By)

________________________________________________________________________

(Date)
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SECTION C PROPOSAL

BID PROPOSAL
FOR
9009A SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT

TO THE CITY OF GOLETA (“City”):

In accordance with City’s Notice Inviting Sealed Bids, the undersigned Bidder hereby proposes to furnish all materials, equipment, tools, labor, and incidentals required for the 9009A San Jose Creek EMERGENCY Channel Repair Project as set forth in the Plans, Specifications, and Contract Documents, and to perform all Work in the manner and time prescribed therein.

Bidder declares that this Bid is based upon careful examination of the Work site, Plans, Specifications, Bidding Instructions, and all other Contract Documents. If this Bid is accepted for award, Bidder agrees to enter into a contract with City at the unit and/or lump sum prices set forth in the following Bid Schedule. Bidder understands that failure to enter into a contract in the manner and time prescribed will result in forfeiture to City of the Bid Security accompanying this Bid.

Bidder understands that a Bid is required for the entire Work, that the estimated quantities set forth in the Bid Schedule are solely for the purpose of comparing Bids, and that final compensation under the Contract will be based upon the actual quantities of Work satisfactorily completed. THE CITY RESERVES THE RIGHT TO INCREASE OR DECREASE THE AMOUNT OF ANY QUANTITY SHOWN AND TO DELETE ANY ITEM FROM THE CONTRACT per Sections 9-1.06B and C. It is agreed that the unit and/or lump sum prices bid include all overhead, profit, appurtenant expenses, taxes, royalties, and fees. In the case of discrepancies in the amounts bid, unit prices shall govern over extended amount, and words shall govern over figures.

If awarded the Contract, the undersigned further agrees that in the event of the Bidder’s default in executing the Contract and filing the necessary bonds and insurance certificates WITHIN FIFTEEN (15) WORKING DAYS, not including Saturdays, Sundays and legal holidays, after the City has mailed notice of the award of contract to the Bidder, the proceeds of the Bid Security accompanying this Bid shall become the property of the City and this Bid and the acceptance hereof may, at the City’s option, be considered null and void.
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BID PROPOSAL
FOR
9009A SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT

Bids will be received before **3:00 P.M., Tuesday, August 04, 2020**, at the City of Goleta, City Hall Building, 130 Cremona Drive, Suite B, Goleta, CA 93117.

Questions regarding the Contract Documents, Specifications, Proposal or other Bidding Documents, shall be submitted in writing and emailed to gcomati@cityofgoleta.org.

The Project insurance requirements are per the Caltrans Standard Specifications, as modified by the City General Provisions contained herein.

Contract Time: 20 Working Days. Time is of the essence in the performance of this contract

BIDDER SHALL COMPLETE:

Bidder’s Name ________________________________________________________________

Street Address ________________________________________________________________

City __________________________ State _________ Zip Code ________________

Telephone Number ___________________ Fax Number ____________________________

E-mail ________________________________________________________________

The following Addenda are acknowledged:  
(Bidder must fill in number and date of each Addendum or may enter the word “none” if appropriate)

<table>
<thead>
<tr>
<th>Number</th>
<th>Dated</th>
<th>Initials</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

BIDDERS Signature ___________________________ DATE ___________________________

__________________________________________

Tax I.D. Number
BIDDING SHEET (Page 1 of 3)

The cost of all labor, material and equipment necessary for the completion of the work itemized, even though not shown or specified, shall be included in the unit or lump sum prices for the various items shown herein.

The City further reserves the right to reject any or all bids, to waive any informality or irregularity in any bid or the bidding procedure, and to delete any items of work in the award of contract. The City's decision on the bid amount is final.

Bidders must bid on all items in the Bid Schedule including the Supplemental and/or Alternative Bid Items in order for their bids to be complete. The award of contract will be based on the lowest responsive Base Bid only.

In the case of unit basis items, the amount set forth under the "Item Total" column (total base bid in words) shall be the product of the unit price bid and the estimated quantity for the item.

Bids on lump sum items are item totals. If a unit price of a lump sum item is entered and it differs from the item total, the item total prevails.

Entries are to be expressed in dollars or decimal fractions of a dollar. Symbols such as commas and dollar signs are ignored and have no significance in establishing unit price or item total.

Unit prices and item totals are interpreted by the number of digits and decimal placement. Do not round item totals or the total bid.

In case of discrepancy between the unit price and the total set forth for a unit basis item, the unit price prevails, except as provided in (a) or (b), as follows:

(a) If the amount set forth as a unit price is unreadable or otherwise unclear, or is omitted, or is the same as the amount of the entry in the item total column, then the amount set forth in the item total column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price;

(b) (Decimal Errors) If the product of the entered unit price and the estimated quantity is exactly off by a factor of ten, one hundred, etc., or one-tenth, or one-hundredth, etc. from the entered total, the discrepancy will be resolved by using the entered unit price or item total, whichever most closely approximates percentage-wise the unit price or item total in the City's Final Estimate of cost.

If both the unit price and the item total are unreadable or otherwise unclear, or are omitted, the bid may be deemed irregular. Likewise, if the item total for a lump sum item is unreadable or otherwise unclear, or is omitted, the bid may be deemed irregular unless the project being bid has only a single item and a clear, readable total bid is provided.

Bid comparison are prescribed in Section 2-1.33B of the Caltrans Standard Specification as amended by City's General Provisions.
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<table>
<thead>
<tr>
<th>ITEM NO</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>QTY</th>
<th>UNIT PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CONSTRUCTION AREA SIGNS</td>
<td>LS</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>JOB SITE MANAGEMENT</td>
<td>LS</td>
<td>1</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>3</td>
<td>PREPARE WATER POLLUTION CONTROL PROGRAM</td>
<td>LS</td>
<td>1</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>4</td>
<td>TEMPORARY CHECK DAM</td>
<td>LF</td>
<td>60</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>5</td>
<td>TEMPORARY CREEK DIVERSION SYSTEMS</td>
<td>LS</td>
<td>1</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>6</td>
<td>DEWATERING</td>
<td>LS</td>
<td>1</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>7</td>
<td>SALVAGE AND REINSTALL CHAIN LINK FENCE AND METAL BEAM GUARD RAIL</td>
<td>LS</td>
<td>1</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>8</td>
<td>REMOVE EXISTING ROCK SLOPE PROTECTION</td>
<td>LS</td>
<td>1</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>9F</td>
<td>CHANNEL EXCAVATION</td>
<td>CY</td>
<td>476</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>10F</td>
<td>ROCK SLOPE PROTECTION FABRIC - CLASS 8</td>
<td>SF</td>
<td>5600</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>11</td>
<td>¾-INCH CRUSHED ROCK</td>
<td>CY</td>
<td>340</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>12F</td>
<td>BIAXIAL GEOGRID</td>
<td>SF</td>
<td>5600</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>13</td>
<td>COORDINATE AND INSTALL OWNER-FURNISHED ARTICULATED SLOPE REVETMENT</td>
<td>LS</td>
<td>1</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>14</td>
<td>GALVANIZED EYE BOLT CONNECTION FOR ASR</td>
<td>EA</td>
<td>90</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>15</td>
<td>CONSTRUCTION JOINT BETWEEN ASR AND SIDE WALLS, AND BETWEEN EXISTING ASR UPSTREAM AND DOWNSTREAM</td>
<td>LS</td>
<td>1</td>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

Note: * Items designated with (F) are “Final Pay” items
### BIDDING SHEET (Page 3 of 3)

<table>
<thead>
<tr>
<th>ITEM NO</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>QTY</th>
<th>UNIT PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>SOIL ANCHORS</td>
<td>EA</td>
<td>101</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>MISCELLANEOUS METAL: ASR TIE DOWN CONNECTION</td>
<td>EA</td>
<td>101</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>SALVAGE ON-SITE GRAVEL : WEST-SIDE ACCESS ROAD</td>
<td>LS</td>
<td>1</td>
<td></td>
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</tr>
<tr>
<td>19</td>
<td>CONCRETE FISH WIER</td>
<td>EA</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>TIMBER FISH WEDGE</td>
<td>EA</td>
<td>1</td>
<td></td>
<td></td>
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<tr>
<td>21</td>
<td>PARKING LOT REPAIR</td>
<td>LS</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>MOBILIZATION</td>
<td>LS</td>
<td>1</td>
<td></td>
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</tr>
</tbody>
</table>

**TOTAL BASE BID** $  

Note: * Items designated with (F) are “Final Pay” items

______________________________________
(Total Bid in Words)

______________________________________
Company Name of Bidder
**PROPOSED EQUIPMENT AND MATERIAL MANUFACTURERS**

The Bidder must indicate the name of the manufacturer of the equipment, and supplier of the material, proposed to be furnished under the contract. Awarding of a contract based on this bid does not imply approval by the City of the manufacturers or suppliers listed by the Bidder. No substitution will be permitted after award of contract except upon written approval of the City.

<table>
<thead>
<tr>
<th>Equipment/Materials</th>
<th>Supplier</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Portland Cement Concrete</td>
<td></td>
</tr>
<tr>
<td>2. Soil Anchors</td>
<td></td>
</tr>
<tr>
<td>3. ¾-inch Crushed Rock</td>
<td></td>
</tr>
<tr>
<td>4. Rock Slope Protection Fabric</td>
<td></td>
</tr>
<tr>
<td>5. Biaxial Geogrid</td>
<td></td>
</tr>
<tr>
<td>6. Miscel Metal : Eye Bolt for connection</td>
<td></td>
</tr>
<tr>
<td>7. Miscel Metal: AST Tie-Down Connection</td>
<td></td>
</tr>
</tbody>
</table>

Additional items in the Special Provisions

|                                                           |          |
|                                                           |          |
|                                                           |          |
|                                                           |          |
|                                                           |          |
|                                                           |          |
|                                                           |          |
**DESIGNATION OF SUBCONTRACTORS**

Bidder proposes to subcontract certain portions of the Work which are in excess of one-half of one percent (0.5%) of the total amount base bid or $10,000, whichever is greater, and to procure materials and equipment from suppliers and vendors.

These Subcontractors are identified as follows:

<table>
<thead>
<tr>
<th>Work to be Performed</th>
<th>Subcontractor License Number</th>
<th>Subcontractor DIR Registration Number (Note1)</th>
<th>Percent of Total Bid</th>
<th>Subcontractor’s Name &amp; Address</th>
</tr>
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<tbody>
<tr>
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Note 1: Bidders have 24 hours after the Bid Deadline to submit this information
BIDDER’S REFERENCES

The following are the names, addresses, and phone numbers for three public agencies for which Bidder has performed projects of the same magnitude and character of the work bid within the past three years:

1. Name of Agency
   Agency Address
   Telephone
   Contact Person
   Contract Amount

2. Name of Agency
   Agency Address
   Telephone
   Contact Person
   Contract Amount

3. Name of Agency
   Agency Address
   Telephone
   Contact Person
   Contract Amount

The following are the names, addresses, and phone numbers for all brokers and sureties from whom Bidder intends to procure insurance bonds:

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

Bidder certifies that in all previous contracts or subcontracts, all reports which may have been due under the requirements of any local, State, or Federal equal employment opportunity orders have been satisfactorily filed, and that no such reports are currently outstanding.
ELIGIBILITY TO CONTRACT

The successful Bidder is prohibited from performing work on this Project with a Subcontractor who is ineligible to perform work on the Project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

BIDDER’S INFORMATION

Bidder certifies that the following information is true and correct:

Bidder’s Name ______________________________________________________________

Business Address ___________________________________________________________

__________________________________________________________________________

Telephone _________________________________________________________________

State Contractor’s License No. and Class _________________________________________

Original Date Issued _____________ Expiration Date _____________________________

DIR Registration No: _________________________________________________________

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint venturers, and/or corporate officers having a principal interest in this Bid:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

The date of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this Bid are as follows:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

All current and prior DBA’s, alias, and/or fictitious business names for any principal having an interest in this Bid are as follows:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________
I declare under penalty of perjury under the laws of the State of California that the above representations are true and correct. Executed this _____ day of ____________, 202_, at _____________________ California.

______________________________
Signature and Title of Bidder
or Authorized Representative

(SEAL)
BIDDER’S STATEMENT OF PAST CONTRACT DISQUALIFICATIONS AND DEFAULTS

Identify all instances of being disqualified, removed, determined to be a non-responsible bidder, debarred, assessed liquidated damages, terminated for default or otherwise prevented from bidding on, or completing, a federal, state, or local government project.

1. Have you ever been disqualified from any government contract?
   Yes ☐ No ☐

2. If yes, explain the circumstances including date of public entity action, name of project, contract award amount and current contact person at public entity:

   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________
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   ______________________________________________________________
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   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________
   ______________________________________________________________

   Signature and Title of Bidder or Authorized Representative
KNOW ALL PERSONS BY THESE PRESENTS that [Bidder] ________________________
__________________________ as PRINCIPAL, and _______________________________, a
corporation organized under the laws of the State of _________________________ and
licensed by the State of California to execute bonds and undertakings as sole surety, as
SURETY, are held and firmly bound unto the City of Goleta, as City, in the penal sum of ten
percent (10%) of the total Base Bid Price on the base Contract Work, excluding any Alternate
Bid Items submitted by PRINCIPAL to CITY for the above stated project, for the payment of
which sum, PRINCIPAL and SURETY agree to be bound, jointly and severally, firmly by these
presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas PRINCIPAL has
submitted a proposal to CITY for the above stated project.

NOW, THEREFORE, the penal sum guaranteed by this bond shall be forfeited to the City in the
event of any of the following: (1) The aforesaid Principal withdraws said bid after the Bid Deadline
contrary to applicable law; or (2) Principal fails, within ten (10) business days after receipt of
written notice that the contract has been awarded to Principal and tender of the Contract, to,
deliver to City the executed Agreement, in the prescribed form, in accordance with the bid as
accepted, and file with the City all documents required in section 3-1.18 of the City’s General
Provisions.

In case suit is brought upon this bond, SURETY further agrees to pay all reasonable attorneys’
fees and costs incurred by CITY in an amount fixed by the court. SURETY hereby waives the
provisions of California Civil Code Sections 2845 and 2849.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this
_______day of ________________________, 202_.

PRINCIPAL: ______________________________
(Address) ________________________________
______________________________

BY: ________________________________
    (Signature and Title of Authorized Officer)

BY: ________________________________
    (Signature and Title of Authorized Officer)
SURETY: ________________________________

(Address) ________________________________

______________________________

BY: ________________________________

(Signature and Title of Authorized Officer)

BY: ________________________________

(Signature and Title of Authorized Officer)

Note: All signatures must be acknowledged before a notary public. Attach appropriate acknowledgment. Also, evidence of the authority of any person signing as attorney-in-fact must be attached.
STATEMENT ACKNOWLEDGING PENAL AND CIVIL PENALTIES
CONCERNING THE CONTRACTOR’S LICENSING LAWS
[Business & Professions Code § 7028.15; Public Contract Code § 20103.5]

The undersigned, a duly authorized representative of the Bidder, certify that I am aware of the provisions of California law and that I, or the company/individual on whose behalf this Bid is being submitted, hold a currently valid California contractor’s license as set forth in the Business and Professions Code § 7028.15 and Public Contract Code § 20103.5 (and any updates).

A contractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

Bidder: ____________________________________________________________

License No.: ____________________________ Class _________ Expiration date: ________________

DIR Registration No.: ______________________

Date __________________________ Signature __________________________
DECLARATION OF ELIGIBILITY TO CONTRACT
[Labor Code §§ 1777.1 and 1777.7; Public Contract Code § 6109]

The undersigned, a duly authorized representative of the Bidder, certifies and declares that:

1. The Bidder is aware of Sections 1771.1 and 1777.7 of the California Labor Code, which prohibit a contractor or subcontractor who has been found by the Labor Commissioner or the Director of Industrial Relations to be in violation of certain provisions of the Labor Code, from bidding on, being awarded, or performing work as a subcontractor on a public works project for specified periods of time.

2. The Bidder is not ineligible to bid on, be awarded or perform work as a subcontractor on a public works project by virtue of the foregoing provisions of Sections 1771.1 or 1777.7 of the California Labor Code or any other provision of law.

3. The Bidder is aware of California Public Contract Code Section 6109 (and any updates.)

4. The Bidder has investigated the eligibility of each and every subcontractor the contractor intends to use on this public works project, and determined that none of them is ineligible to perform work as a subcontractor on a public works project by virtue of the foregoing provisions of the Public Contract Code, Sections 1771.1 and 1777.7 of the Labor Code, or any other provision of law.

5. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this ________ day of ________________________, 20__ at ________________________, California.

Signature: ____________________________

Name: _______________________________

Title: ________________________________

Name of Company: ____________________

Note: Signature must be acknowledged before a notary public. Attach appropriate acknowledgment.
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NON-COLLUSION DECLARATION
FOR
9009A SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT

I am the [title] of [name of bidder], the party making the foregoing bid, declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly, colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on

[date], at [city], [state]

(Signature and Title of Authorized Representative)
SECTION D

CONTRACT AWARD AND EXECUTION

CONTRACT
PERFORMANCE BOND FORM
PAYMENT BOND FORM
SAMPLE CONTRACT

This Public Works Agreement (herein referred to as “AGREEMENT”) is made and entered into this ____ day of __ , 20__, by and between the CITY OF GOLETA, a municipal corporation (herein referred to as "CITY"), and CONTRACTOR (hereinafter referred to as “CONTRACTOR”).

RE C I T A L S

A. Pursuant to the Notice Inviting Sealed Bids for the 9009A SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT, bids were received, publicly opened, and declared on the date specified in the notice.

B. On ______________, Goleta’s City Council declared CONTRACTOR to be the lowest responsible bidder and accepted the bid of CONTRACTOR.

C. The City Council on this _____ day of (month), 20___, approved this AGREEMENT and authorized the City Manager to execute the AGREEMENT with CONTRACTOR for furnishing labor, equipment and material for the 9009A SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT in the City of Goleta.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, it is agreed:

1. GENERAL SCOPE OF WORK: CITY agrees to engage CONTRACTOR and CONTRACTOR agrees to furnish all necessary labor, tools, materials, appliances, and equipment for and do the work for the 9009A SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT in the City of Goleta. The work shall be performed in accordance with the Plans and Specifications dated (and as generally described in the “Notice Inviting Bids,” attached as Exhibit A) and in accordance with bid prices set forth in CONTRACTOR’S Bid Proposal (attached as Exhibit B) and in accordance with the instructions of the City Engineer, or City’s Manager’s designee.

2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: The contract documents for the aforesaid project, a complete set of which is on file with the Goleta City Clerk’s Office, shall consist of the Notice Inviting Bids, Instructions to Bidders, Bid Proposal, Standard Specifications, Special Provisions, and all referenced specifications, details, standard drawings, and appendices; together with this Agreement and all required bonds, insurance certificates, permits, notices and affidavits; and also, including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to insure its completion in an acceptable manner. All of the provisions of said contract documents are made a part hereof as though fully set forth herein. This contract is intended to require a complete and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written agreement, the provisions of this Agreement, and the Standard Specifications, in
that order, shall control. Collectively, these contract documents constitute the complete agreement between CITY and CONTRACTOR and supersede any previous agreements or understandings.

3. **COMPENSATION:** CONTRACTOR agrees to receive and accept the prices set forth in its Bid Proposal as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid contract documents; and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work.

4. **TIME OF PERFORMANCE:** CONTRACTOR agrees to complete the work within 180 working days from the date of the notice to proceed. By signing this Agreement, CONTRACTOR represents to CITY that the contract time is reasonable for completion of the work and that CONTRACTOR will complete such work within the contract time. In accordance with Government Code Section 53069.85, CONTRACTOR agrees to forfeit and pay CITY as liquidated damages, not as a penalty, the sum of $1000 per day for each and every day of unauthorized delay beyond the completion date, which amount shall be deducted from any payments due or to become due the CONTRACTOR.

5. **PREVAILING WAGES:**

   A. Pursuant to Labor Code Sections §§1720 et seq., including but not limited to sections 1771, 1774 and 1775, and as specified in Title 8, California Code of Regulations, Section 16000 et seq., CONTRACTOR must pay its workers prevailing wages. It is CONTRACTOR’s responsibility to interpret and implement any prevailing wage requirements and CONTRACTOR agrees to pay any penalty or civil damages resulting from a violation of the prevailing wage laws.

   B. In accordance with Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are available upon request from CITY’s Engineering Division or the website for State of California Prevailing wage determination at http://www.dir.ca.gov/DLSR/PWD. CONTRACTOR must post a copy of the prevailing rate of per diem wages at the job site.

   C. CITY directs CONTRACTOR’s attention to Labor Code Sections 1777.5, 1777.6 and 3098 concerning the employment of apprentices by CONTRACTOR or any subcontractor.

   D. Labor Code Section 1777.5 requires CONTRACTOR or subcontractor employing tradesmen in any apprenticeship occupation to apply to the joint apprenticeship committee nearest the site of the public works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate must also fix the ratio of apprentices to journeymen that will be used in the performance of the contract. The ratio of apprentices to journeymen in such cases will not be less than one to five except:
(1) When employment in the area of coverage by the joint apprenticeship committee has exceeded an average of 15 percent in the 90 days before the request for certificate, or

(2) When the number of apprentices in training in the area exceeds a ratio of one to five, or

(3) When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis state-wide or locally, or

(4) When assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

Pursuant to Labor Code § 1776, CONTRACTOR shall comply with all Department of Industrial Relations registration requirements.

E. CONTRACTOR is required to make contributions to funds established for the administration of apprenticeship programs if CONTRACTOR employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions.

F. CONTRACTOR and any subcontractor must comply with Labor Code Sections 1777.5 and 1777.6 in the employment of apprentices.

G. Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the Director of Industrial Relations (DIR), ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

H. CONTRACTOR and its subcontractors must keep an accurate certified payroll records showing the name, occupation, and the actual per diem wages paid to each worker employed in connection with this Agreement. The record will be kept open at all reasonable hours to the inspection of the body awarding the contract and to the Division of Labor Law Enforcement. If requested by CITY, CONTRACTOR must provide copies of the records at its cost.

6. **LEGAL HOURS OF WORK:** CONTRACTOR agrees to comply with the provisions of California Labor Code Section 1813 concerning penalties for workers who work excess hours. Except as provided by Labor Code Section 1815, the CONTRACTOR shall, as a penalty to the CITY, forfeit twenty five dollars ($25) for each worker employed in the execution of the Contract by the CONTRACTOR or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 (commencing at Section 1810) of the California Labor Code.
7. **TRAVEL AND SUBSISTENCE PAY:** CONTRACTOR agrees to pay travel and subsistence pay to each worker needed to execute the work required by this Agreement as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8.

8. **CONTRACTOR'S LIABILITY:** The CITY and its officers, agents and employees ("Indemnities") shall not be answerable or accountable in any manner for any loss or damage that may happen to the work or any part thereof, or for any of the materials or other things used or employed in performing the work; or for injury or damage to any person or persons, either workers or employees of CONTRACTOR, of its subcontractors or the public, or for damage to adjoining or other property from any cause whatsoever arising out of or in connection with the performance of the work. CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever.

CONTRACTOR will indemnify Indemnities against and will hold and save Indemnitees harmless from any and all actions, claims, damages to persons or property, penalties, obligations or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, or other organization arising out of or in connection with the work, operation, or activities of CONTRACTOR, its agents, employees, subcontractors or invitees provided for herein, whether or not there is concurrent passive negligence on the part of CITY. In connection therewith:

a. CONTRACTOR will defend any action or actions filed in connection with any such claims, damages, penalties, obligations or liabilities and will pay all costs and expenses, including attorneys' fees, expert fees and costs incurred in connection therewith.

b. CONTRACTOR will promptly pay any judgment rendered against CONTRACTOR or Indemnitees covering such claims, damages, penalties, obligations and liabilities arising out of or in connection with such work, operations or activities of CONTRACTOR hereunder, and CONTRACTOR agrees to save and hold the Indemnitees harmless therefrom.

c. In the event Indemnitees are made a party to any action or proceeding filed or prosecuted against CONTRACTOR for damages or other claims arising out of or in connection with the work, operation or activities hereunder, CONTRACTOR agrees to pay to Indemnitees and any all costs and expenses incurred by Indemnitees in such action or proceeding together with reasonable attorneys' fees.

CONTRACTOR'S obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of CITY under any provision of this agreement, Contractor shall not be required to indemnify and hold harmless CITY for liability attributable to the active negligence of CITY, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where CITY is shown to have been actively negligent and where CITY active negligence accounts for only a percentage of the liability involved, the
obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

So much of the money due to CONTRACTOR under and by virtue of the contract as shall be considered necessary by CITY may be retained by CITY until disposition has been made of such actions or claims for damages as aforesaid.

It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnitees may have under the law.

This indemnity is effective without reference to the existence or applicability of any insurance coverage which may have been required under this Agreement or any additional insured endorsements which may extend to Indemnitees.

CONTRACTOR, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the CONTRACTOR regardless of any prior, concurrent, or subsequent passive negligence by the Indemnitees.

9. THIRD PARTY CLAIMS: In accordance with Public Contracts Code Section 9201, CITY will promptly inform CONTRACTOR regarding third-party claims against CONTRACTOR, but in no event later than ten (10) business days after CITY receives such claims. Such notification will be in writing and forwarded in accordance with the “Notice” section of this Agreement. As more specifically detailed in the contract documents, CONTRACTOR agrees to indemnify and defend the City against any third-party claim.

10. WORKERS COMPENSATION: In accordance with California Labor Code Sections 1860 and 3700, CONTRACTOR and each of its subcontractors will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, CONTRACTOR, by signing this contract, certifies as follows: “I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

11. INSURANCE: With respect to performance of work under this Agreement, CONTRACTOR shall maintain and shall require all of its subcontractors to maintain insurance as required in the Standard Specifications.

12. ASSIGNMENT: This Agreement is not assignable nor the performance of either party's duties delegable without the prior written consent of the other party. Any attempted or purported assignment or delegation of any of the rights of obligations of either party without the prior written consent of the other shall be void and of no force and effect.

13. INDEPENDENT CONTRACTOR: CONTRACTOR is and shall at all times remain as to the CITY, a wholly independent contractor. Neither the CITY nor any of its agents shall
have control of the conduct of CONTRACTOR or any of CONTRACTOR’S employees, except as herein set forth. CONTRACTOR shall not at any time or in any manner represent that it or any of its agents or employees are in any manner agents or employees of CITY.

14. **TAXES:** CONTRACTOR is responsible for paying all retail sales and use, transportation, export, import, special or other taxes and duties applicable to, and assessable against any work, materials, equipment, services, processes and operations incidental to or involved in this contract. CONTRACTOR is responsible for ascertaining and arranging to pay them. The prices established in the contract shall include compensation for any taxes CONTRACTOR is required to pay by laws and regulations in effect at the bid opening date.

15. **LICENSES:** CONTRACTOR represents and warrants to CITY that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required of CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to CITY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance, and approvals which are legally required of CONTRACTOR to practice its profession. CONTRACTOR shall maintain a City of Goleta business license, if required under CITY ordinance.

16. **RECORDS:** CONTRACTOR shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by CITY or any authorized representative, and will be retained for four years after the expiration of this Agreement. All such records shall be made available for inspection or audit by CITY at any time during regular business hours.

17. **SEVERABILITY:** If any portion of these contract documents are declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect provided that it does not frustrate the mutual intent of the parties herein.

18. **WHOLE AGREEMENT:** This Agreement supersedes any and all other agreements either oral or written, between the parties and contains all of the covenants and agreements between the parties pertaining to the work of improvements described herein. Each party to this contract acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement, statements or promise not contained in this contract shall not be valid or binding. Any modifications of this contract will be effective only if signed by the party to be charged.

19. **AUTHORITY:** CONTRACTOR affirms that the signatures, titles, and seals set forth hereinafter in execution of this Agreement represent all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest herein. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party. This
Agreement may be modified by written amendment. CITY’s City Manager may execute any such amendment on CITY’s behalf.

20. **NOTICES:** All notices permitted or required under this Agreement shall be in writing, and shall be deemed made when delivered to the applicable party’s representative as provided in this Agreement. Additionally, such notices may be given to the respective parties at the following addresses, or at such other addresses as the parties may provide in writing for this purpose.

Such notices shall be deemed made when personally delivered or when mailed forty-eight (48) hours after deposit in the U.S. mail, first-class postage prepaid, and addressed to the party at its applicable address. Courtesy copies of notices may be sent via electronic mail, provided that the original notice is deposited in the U.S. mail or personally delivered as specified in this Section.

CITY OF GOLETA
130 Cremona Drive, Suite B
Goleta, CA 93117
Attn: City Manager

CONTRACTOR

21. **DISPUTES:** Disputes arising from this contract will be determined in accordance with the contract documents.

22. **NON-DISCRIMINATION:** No discrimination shall be made in the employment of persons in the work contemplated by this Agreement because of race, religion, color, medical condition, sex, sexual orientation, national origin, political affiliation or opinion, or pregnancy or pregnancy-related condition. A violation of this section exposes CONTRACTOR to the penalties provided for in Labor Code Section 1735.

23. **NO THIRD PARTY BENEFICIARY:** This Agreement and every provision herein is for the exclusive benefit of CONTRACTOR and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of the CONTRACTOR’s or the CITY’s obligations under this Contract.

24. **TIME IS OF ESSENCE.** Time is of the essence for each and every provision of the Contract Documents.

25. **ACCEPTANCE OF FACSIMILE OR ELECTRONIC SIGNATURES:** The Parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.
26. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of California, and exclusive venue for any action involving this Agreement will be in Santa Barbara County.

**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement with all the formalities required by law on the respective dates set forth opposite their signatures.

This Agreement is executed on this ___ day of ___ , _____, at Goleta, California, and effective as of _____________, ______.

**CITY OF GOLETA:**

__________________________
Michelle Greene, City Manager

**ATTEST:**

__________________________
Deborah Lopez, City Clerk

**APPROVED AS TO FORM:**

__________________________
Winnie Cai, Assistant City Attorney

**CONTRACTOR:**

___________________________________
Name, Title

___________________________________
State of California License No.

___________________________________
Department of Industrial Relations Registration No.

___________________________________
Business Phone No.

___________________________________
CONTRACTOR’S Emergency Phone No. at which contractor can be reached at any time

___________________________________

___________________________________
FAITHFUL PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Goleta, (hereinafter referred to as “City”) has awarded to _______________________________, (hereinafter referred to as the “Contractor”) an agreement for the 9009A SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT, (hereinafter referred to as the “Project”).

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

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

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

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

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

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

1. Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or

2. Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term “balance of the contract price” as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

3. Permit the City to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term “balance of the contract price” as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

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

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

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

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]
IN WITNESS WHEREOF, we have hereunto set our hands and seals this ______ day of ____________, 20__.  

(Corporate Seal)  

______________________________  Contractor/ Principal  

By ______________________________  

Title ______________________________  

(Corporate Seal)  

______________________________  Surety  

By ______________________________  

______________________________  Attorney-in-Fact  

(Attach Attorney-in-Fact Certificate)  

Title ______________________________  

The rate of premium on this bond is ____________ per thousand. The total amount of premium charges is $_____________________________.  

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

THIS IS A REQUIRED FORM  

Any claims under this bond may be addressed to:  

(Name and Address of Surety)  

___________________________________________  

___________________________________________  

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

___________________________________________  

___________________________________________  

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

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

STATE OF CALIFORNIA
COUNTY OF ______________

On ________________, 20__, before me, ______________________________, Notary Public, personally appeared ______________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

□ Individual
□ Corporate Officer

Title(s)

□ Partner(s)
□ Limited
□ General

Title or Type of Document

□ Attorney-In-Fact

□ Trustee(s)

□ Guardian/Conservator

□ Other:

Signer is representing:

Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.
**Notary Acknowledgment**

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

**STATE OF CALIFORNIA**

**COUNTY OF ______________**

On ______________, 20__, before me, ______________________________, Notary Public, personally appeared ______________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

**WITNESS my hand and official seal.**

Signature of Notary Public

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**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

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Signer is representing:

Name Of Person(s) Or Entity(ies)

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<th>Signer(s) Other Than Named Above</th>
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</table>

**NOTE:** This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of Attorney to local representatives of the bonding company must also be attached.

**END OF PERFORMANCE BOND**

D-15
LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS That

WHEREAS, the City of Goleta (hereinafter designated as the “City”), by action taken or a resolution passed ___________________ , 20____, has awarded to ________________________ hereinafter designated as the “Principal,” a contract for the work described as follows: the 9009A SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT (the “Project”); and

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

NOW THEREFORE, we, the Principal and __________________________ as Surety, are held and firmly bound unto the City in the penal sum of ______________ Dollars ($___________) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Civil Code Section 9100, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Revenue and Taxation Code Section 18663, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by the City in such suit, including reasonable attorneys’ fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole
conditions of recovery shall be that claimant is a person described in Civil Code Section 9100, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

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

(Corporate Seal)  
Contractor/ Principal  
By__________________________  
Title__________________________

(Corporate Seal)  
Surety  
By __________________________  
Attorney-in-Fact  

(Attach Attorney-in-Fact Certificate)  
Title__________________________
Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF ______________

On ________________, 20__, before me, ________________________________, Notary Public, personally appeared ________________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

| Individual |
| Corporate Officer |
| Partner(s) Limited General |
| Attorney-In-Fact |
| Trustee(s) |
| Guardian/Conservator |
| Other: |

Signer is representing:

Name Of Person(s) Or Entity(ies)

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.
Notary Acknowledgment

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

STATE OF CALIFORNIA
COUNTY OF ______________

On ______________ , 20__, before me, ______________________________, Notary Public, personally appeared ______________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

____________________________
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

<table>
<thead>
<tr>
<th></th>
<th>DESCRIPTION OF ATTACHED DOCUMENT</th>
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<tbody>
<tr>
<td>□ Individual</td>
<td>□ Corporate Officer</td>
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<td>□ Partner(s)</td>
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<td>□ Other:</td>
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<td></td>
<td>Signer is representing:</td>
</tr>
<tr>
<td></td>
<td>Name Of Person(s) Or Entity(ies)</td>
</tr>
</tbody>
</table>

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

END OF PAYMENT BOND
D-20
SECTION E

CITY GENERAL PROVISIONS

The work provided herein shall be performed in accordance with the State of California Department of Transportation Standard Specifications 2018 edition (Standard Specifications). The Standard Specifications is as amended by Caltrans Standard Special Conditions and amendments in effect as of the Bid Deadline are incorporated herein by reference, as deleted or supplemented by the Contract Documents.

ORDER OF PRECEDENCE

In the event of conflicts or discrepancies between the Contract Documents, the provision placing a more stringent requirement on the Contractor shall prevail. The Contractor shall provide the better quality or greater quantity of Work and/or materials, unless otherwise directed by Owner in writing. In the event none of the Contract Documents place a more stringent requirement or greater burden on the Contractor, the controlling provision shall be that which is found in the document with higher precedence.

The governing ranking of Contract parts in descending order is:

1. Permits and other governmental approvals;
2. Change Orders and Construction Change Directives, issued after execution of the Agreement
3. Agreement/Contract; including all attachments and Addenda with later Addenda having priority over earlier Addenda
4. City Special provisions
5. City General Provisions
6. Project plans
8. Caltrans Revised standard specifications
9. Caltrans Standard specifications
10. Caltrans Revised standard plans
11. Supplemental project information
12. Written numbers and notes on a drawing govern over graphics
13. A detail drawing governs over a general drawing
14. A detail specification governs over a general specification
15. A specification in a section governs over a specification referenced by that section

If a discrepancy is found or confusion arises, submit a Request for Information (RFI.)

MODIFICATIONS TO STANDARD SPECIFICATIONS

The following modifications shall be made to the Caltrans Standard Specifications and are incorporated into the Contract:
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1-1.01B Severability.
In the event any Article, Section, Sub-article, Paragraph, Subparagraph, sentence, clause or phrase contained in the Contract Documents shall be deemed, determined, declared or adjudged invalid, illegal, unconstitutional, void or otherwise unenforceable such provision or clause shall be deemed to be severed and deleted from the Contract Documents and all remaining provisions shall continue in full force and effect.

1-1.01C Provisions Deemed Inserted.
Each and every provision of law and clause required to be inserted in the Contract Documents shall be deemed to be inserted herein and the Contract Documents shall be read and enforced as though such provision or clause is included herein, and if through mistake, or otherwise, any such provision is not inserted or not correctly inserted, then upon application of either party, the Contract Documents shall forthwith be physically amended to make such insertion or correction.

1-1.01D Neutral Interpretation.
The Contract Documents shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

Revise and add the following definitions in 1-1.07B Glossary:

Addenda: Written or graphic instruments issued by the City before the bid deadline that modify or interpret the bidding documents by additions, deletions, clarifications, or corrections.

Affiliate: An affiliate of a bidder, Contractor, or Subcontractor is an entity that is subject to control by the same persons who control the bidder, Contractor, or Subcontractor, through joint ownership or otherwise.

Acknowledgement of Final Closeout and Release of Claims and Final Payment: The final written declaration by the Contractor to City that: the entire Work has been fully completed; Contractor has submitted all required closeout documents; Contractor has completed all closeout and commissioning procedures, all in accordance with the Contract Documents; that the Work is ready for final inspection and that upon receipt of final payment, Contractor releases claims against the City excepting only disputed claims in stated amounts identified in the Acknowledgement of Final Closeout and Release of Claims form.

Agreement: The executed construction Contract between the City and the Contractor.

Alternate: An amount stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as Alternate Work, to be added or deducted from the Total Base Bid, which shall be the Contractor's responsibility if the City accepts the Alternate Bid Item.

Applicable law: All state, federal and local laws, statutes, ordinances, codes, rules and regulations governing the Work.

Application for final payment: The Contractor's written request for final payment including reconciliation of all partial payments, claims, changes or other proper adjustments to the Contract.
**Bid Deadline:** means the date and time designated in the notice inviting sealed bids as the last date and time for receipt of bids, as may be revised by addenda.

**Bidder:** A person or firm that submits a bid.

**Bidding Documents:** means the Notice Inviting Sealed Bids, Bidding Instructions, the City-prescribed bid forms, which each bidder must complete to submit a bid, the Contract Documents enumerated in the Agreement and all other construction documents prepared and issued for bidding purposes including all addenda.

**Change Order:** A Bilateral Change Order or a Unilateral Change Order as defined in Section 4-1.05C below:

**Bilateral Change Order:** A written document executed by the Contractor and the City using the City’s standard form of Change Order form, reflecting mutual agreement between the City and Contractor for: (A) any alteration in, deviation from, addition to, or deletion from the general scope of Work of the Contract including any increase or decrease in the quantity of any bid item or portion of the Work or the deletion of any bid item or portion of the Work; (B) a change in the terms or conditions of the Contract; and (C) the amount of the adjustment, if any, in the Contract Price and Contract Time.

**Unilateral Change Order:** A written document issued by the City to adjust the Contract Price and/or Contract Time if the City and Contractor cannot agree on the adjustment only in the following instances: 1) withholds and deductions allowed under the Contract Documents; and 2) final quantity adjustments for unit price work that reconcile original estimated quantities on the Bid Item List with final actual quantities used; and 3) an increase or decrease in the Contract Time consistent with the Contract Documents.

**Construction Change Directive:** A unilateral written order prepared by the Engineer directing the Contractor to perform a change in the Work in accordance with Section 4-1.05.

**Construction permits:** Permits required for the proper execution and completion of the Work, which are customarily secured after execution of the Contract including, but not limited to, permits related to trenching, excavation, street work, mechanical, electrical, plumbing, and elevators.

**Contract:** See Agreement.

**Contract Acceptance:** The formal written action by the City accepting the Work as complete. (Also known as Final Acceptance.) For purposes of Final Acceptance, the City Council must accept the Work.

**Contract Documents:** The Contract Documents are enumerated in the Agreement.

**Contract Price:** The Contract Price is the total aggregate amount of the Contractor’s bid price based on the estimated quantities listed in the Biding Sheet as set forth in the award of the Contract approved by the City Council, subject to adjustment for variances in quantities and changes pursuant to Change Orders executed in accordance with the Contract Documents.

**Contract Time:** Number of working days specified in the Agreement and as adjusted by any time adjustment within which the Contractor must fully perform all Work under the Contract.

**Department:** City of Goleta (City) acting by and through its Public Works Department; its authorized representatives.

**Director:** The Public Works Director of the City
Engineer: Any duly authorized representative either employed by or contracting with the City acting within the scope of the particular duties delegated to them.

Extra work: Any Work, desired or performed, but not included in the original Contract and not covered by a Bid Item Unit Price

Final Completion: Final Completion is the stage of performance of the Work when:

1. All Work required by the Contract Documents has been fully completed in compliance with the Contract Documents and all Applicable Laws including, but not limited to, correction or completion of all punch list items;
2. Contractor has delivered to the City all closeout documentation required by the Contract Documents including but not limited to the closeout documentation required by Section 9-1.17;
3. The Work passes the Engineer’s final inspection;
4. Final inspection and approval by the City and all applicable governmental agencies has occurred;
5. The City Council accepts the Work as complete and Engineer, in his or her discretion, records a Notice of Completion.

Final pay item: Bid item whose quantity shown on the Bid Item List is the quantity to be paid, regardless of actual quantity used, except as provided in Section 9-1.02C.

Force Majeure: Any of the following events, which materially and adversely affect Contractor's obligations hereunder: earthquakes; acts of god, epidemic, blockade, embargoes, rebellion, war, terrorism, national emergency, riot, act of sabotage, or civil commotion; discovery of any archaeological, paleontological or cultural resources; spill of hazardous substances by a third party at or near the project site which is required to be reported to the California Environmental Protection Agency, Department of Toxic Substances Control; discovery at, near, or on the site of any species listed as “threatened” or “endangered” under the Federal or State Endangered Species Act; or unusually severe weather conditions.

Holiday: Holiday shown in the following table:

<table>
<thead>
<tr>
<th>Holiday</th>
<th>Date observed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every Sunday</td>
<td>Every Sunday</td>
</tr>
<tr>
<td>New Year's Day</td>
<td>January 1st</td>
</tr>
<tr>
<td>Birthday of Martin Luther King, Jr.</td>
<td>3rd Monday in January</td>
</tr>
<tr>
<td>President's Day</td>
<td>3rd Monday in February</td>
</tr>
<tr>
<td>Memorial Day</td>
<td>Last Monday in May</td>
</tr>
<tr>
<td>Independence Day</td>
<td>July 4th</td>
</tr>
<tr>
<td>Labor Day</td>
<td>1st Monday in September</td>
</tr>
<tr>
<td>Veterans Day</td>
<td>November 12th</td>
</tr>
<tr>
<td>Thanksgiving Day</td>
<td>4th Thursday in November</td>
</tr>
<tr>
<td>Day after Thanksgiving Day</td>
<td>Day after Thanksgiving Day</td>
</tr>
<tr>
<td>Christmas Eve</td>
<td>December 24th</td>
</tr>
<tr>
<td>Christmas Day</td>
<td>December 25th</td>
</tr>
<tr>
<td>New Year’s Eve</td>
<td>December 31st</td>
</tr>
</tbody>
</table>
Inspector: The person designated by the engineer to ensure specification compliance.

Major Bid item: A single Contract item constituting 10 percent or more of the original Contract Price.

Milestone: A deadline for completion of a portion of the Work established in the Contract Documents and includes an event activity on a schedule that has zero duration and is used to represent the start or end of a certain phase of the Work.

Or equal substitution: The material product, equipment or process proposed by the Contractor for use in the Work as equivalent to that specified in the Contract Documents. See Section 4-1.07.

Product data: Illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

Registered Bidder: A Bidder that registers with the City by providing its street address, e-mail, phone, and fax to the City at the time of pick-up of or request for Bidding Documents.

Samples: Physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

Schedule:

1. Baseline Schedule: Initial schedule accepted by City showing the original work plan starting on the date of commencement established by City’s Notice to Proceed. This schedule shows no completed work to date and no negative float or negative lag to any activity.
2. Revised Schedule: Schedule that incorporates a proposed or past change to logic or activity durations.
3. Updated Schedule: Current schedule developed from the accepted baseline and any subsequent City-accepted updated or revised schedules through Engineer’s regular monthly review to incorporate actual past progress.

Shop drawings: Drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, manufacturer, supplier or distributor showing details of manufactured or assembled products or systems proposed to be incorporated into the Work.

Special Notice: A notice in writing required to be provided under the Contract Documents within a specified interval of time (e.g., 48 hours) prior to commencement of the contemplated action. See section 12-2.

Subcontract: Contract between the Contractor and Subcontractor to perform a portion of the Work.

Subcontractor: A Subcontractor is a person or entity who has a direct contract with the Contractor or with another Subcontractor to perform a portion of the Work at the site. The term “Subcontractor” is referred to throughout the Bidding Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.

Submittal: Shop drawings, product data, samples, test samples, quality control plans, work plans schedules and similar submittals:
1. **Action Submittal**: Written and graphic information and samples that require the City’s response.

2. **Informational Submittal**: Written information that does not require the City’s response.

**Supplemental Project Information.** Drawings and documents showing existing site conditions or as-built improvements and made available to Bidders for general background information about the Project. No guarantee is made that existing improvements or site conditions are accurately shown or described in Supplemental Project Information.

**State:** The State of California

Add the following definitions to 1-1.07B Glossary:

**Total Base Bid**: The sum stated in the bid for which bidder offers to perform the Work described in the bidding documents, but not including alternates.

**Unauthorized work**: Work performed that is not required or authorized by the Contract. Contractor shall undertake, at its risk, work included in any oral request, written order, Change Order, or Construction Change Directive issued by a person in excess of that person’s authority as provided herein. Additionally, any work performed by the Contractor beyond the lines and grades shown on the Contract Documents or any extra work performed or provided by the Contractor without notice to the City shall be considered unauthorized and at the sole expense of the Contractor. Unauthorized work will not be measured or paid for and no extension of Contract Time will be granted on account thereof. Any unauthorized work may be ordered removed at the Contractor’s sole cost and expense. The failure of the City to direct or order removal of unauthorized work shall not constitute acceptance or approval of such work nor relieve the Contractor from any liability on account thereof.

**Unit Price**: An amount entered in the bid by a bidder or a “Contract Item” price established by the City in the Bid as a price per unit of measurement for payment for materials, equipment or services including taxes, supervision, overhead and profit for a portion of the Work described in the Bidding Documents.

**Work**: The resources, activities, construction and other services specified, indicated, shown, or reasonably inferable from the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations, including, but not limited to all alterations, amendments, extensions to it made by Change Order or Construction Change Directive required for Contract acceptance by the City.

**Work Directive**: A unilateral written order issued by the City directing the Contractor to continue performance of the Work or a disputed item of Work pending resolution of a claim or dispute concerning the scope of work or issued after a Contractor default.

**Work Moratorium**: Per City of Goleta Resolution 15-45, all work in the commercial zone on Hollister Avenue between Fairview Avenue and Patterson Avenue is prohibited between November 15 and January 2.

Replace section 1-1.12 with:

1-1.12 **MISCELLANY**

Checks and bonds are payable to the City of Goleta.
2 DELETED See Notice Inviting Sealed Bids and Bidding Instructions.

3 CONTRACT AWARD AND EXECUTION

DELETE 3-1.04.

Delete 3-1.05 and substitute the following:

3-1.05 CONTRACT BONDS (PUBLIC CONTRACT CODE § 7103 AND CIVIL CODE § 3247 ET SEQ.)

The successful bidder must furnish 2 bonds:

1. Payment bond meeting all the statutory requirements of the State of California on a form provided by the City in an amount that shall equal least one hundred percent (100%) of the Contract Price to secure payment of all claims, demands, stop payment notices, or charges of the State of California, of material suppliers, mechanics, or laborers employed by the Contractor or by any Subcontractor or any person, firm or entity eligible to file a stop payment notice with respect to the Work; and.

2. Performance bond meeting all statutory requirements of the State of California on the form provided by the City. The bond shall be furnished as a guarantee of the faithful performance of the requirements of the Contract Documents as may be amended from time to time including, but not limited to, liability for delays and damages (both direct and consequential) to the City and the City’s separate contractors and consultants, warranties, guarantees and indemnity obligations, in an amount that shall equal at least one hundred percent (100%) of the Contract Price.

City-approved bond forms are included in the Agreement section of the Contract Documents.

All bonds shall be executed by a California admitted surety insurer. Bonds issued by a California admitted surety listed in the latest versions of the U.S. Department of Treasury Circular 570 shall be deemed to be accepted unless specifically rejected by the City. Bonds from a California admitted surety not listed in Treasury Circular 570 must be accompanied by all of the documents enumerated in California Code of Civil Procedure Section 995.660(a). The attorney-in-fact who executes the required bonds on behalf of the surety shall affix thereto a certified and current copy of the power of attorney. The signatures shall be acknowledged by a Notary Public.

Every bond must display the surety’s bond number and incorporate the Contract for construction of the Work by reference. The terms of the bonds shall provide that the surety agrees that no change, extension of time, alteration or modification of the Contract Documents or the Work to be performed thereunder shall in any way affect its obligations and shall waive notice of any such change, extension of time, or alteration or modification of the Contract Documents.

Surety further must agree that it is obligated under the bonds to any successor, grantee, or assignee of the City.

Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.
Should any bond become insufficient, or should any of the sureties, in the opinion of the City, become non-responsible or unacceptable, the Contractor shall within ten (10) calendar days after receiving notice from City provide written documentation to the satisfaction of City that Contractor has secured new or additional sureties for the bonds, otherwise the Contractor shall be in default of the Contract. No further payments shall be deemed due or will be made under the Contract until a new surety(ies) qualifies and is accepted by City.

Delete 3-1.08 – 3-1.19:

=================================================================================================

4 SCOPE OF WORK

Add to the end paragraph of section 4-1.02:

4-1.02A FIELD MEASUREMENTS
Since the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various plans and other Contract Documents relative to that portion of the Work, as well as the Supplemental Project Information furnished by the City (surveys), if any, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Engineer any errors, inconsistencies or omissions discovered by or made known to the Contractor as a Request for Information ("RFI") submitted to the Engineer, in such form as the Engineer may require. The accuracy of grades, elevations, dimensions, or locations of existing conditions are not guaranteed by the City, and the Contractor is responsible for verifying same, except to the extent that the City performs the construction staking for the Project.

Delete 4-1.05 and substitute the following:

4-1.05 CHANGES AND EXTRA WORK
4-1.05A General
Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Construction Change Directive, subject to the limitations stated in this Section 4-1.05 and elsewhere in the Contract Documents. The City may, at any time, without notice to Contractor’s surety(ies), order changes in the Work within the general scope of the Contract.

Changes in the Work shall be performed under applicable provisions of the Contract Documents. Until the City issues a signed Change Order, do not commence changes to the Work; unless the City issues a Construction Change Directive pursuant to Section 4-1.05E.

4-1.05B Work-Character Changes
The City adjusts the unit price for an item if:

1. An ordered plan or specification change materially changes the character of a work item from that on which the bid price was based
2. The unit cost of the changed item differs when compared to the unit cost of that item under the original plans and specifications
3. No approved Change Order addresses the payment
The City adjusts the payment under section 9-1.15, “Work-Character Changes.”

4-1.05C Change Orders
A Change Order is a Bilateral Change Order or a Unilateral Change Order, as defined below:

Bilateral Change Order: a written document executed by the Contractor and the City using the City’s standard Change Order form, reflecting mutual agreement between the City and Contractor for

1. Any alteration in, deviation from, addition to, or deletion from the general scope of Work of the Contract, including any increase or decrease in the quantity of any bid item or portion of the Work or the deletion of any bid item or portion of the Work;
2. A change in the terms or conditions of the Contract; and
3. The amount of the adjustment, if any, in the Contract Price and/or Contract Time.

All changes in Contract Price or Contract Time require a Bilateral Change Order unless the change falls within the definition of a Unilateral Change Order.

Unilateral Change Order: A written document issued by the City to adjust the Contract Price and/or Contract Time if the City and Contractor cannot agree on the adjustment only in the following instances:

1. Withholds and deductions allowed under the Contract Documents;
2. Final quantity adjustments for unit price work that reconcile original estimated quantities on the Bid Item List with final actual quantities used; and
3. An increase or decrease in the Contract Time consistent with the Contract Documents.

The issuance of a Unilateral Change Order is subject to the City’s sole discretion.

4-1.05D Accord and Satisfaction
Contractor’s agreement on any Bilateral Change Order shall be a full compromise and settlement of all adjustments to the Contract Time and Contract Price, and all compensation for any and all delay, extended or additional field and home office overhead, disruption, acceleration, inefficiencies, lost labor or equipment productivity, differing site conditions, construction interferences and other extraordinary or consequential damages (hereinafter called “Impacts”), including any ripple or cumulative effect of said Impacts on the overall Work under the Contract arising directly or indirectly from the performance of Work described in the Change Order. By execution of any Bilateral Change Order, Contractor agrees that the Bilateral Change Order constitutes a complete accord and satisfaction with respect to all claims for schedule extension, Impacts, or any costs of whatsoever nature, character or kind arising out of or incidental to the Bilateral Change Order. No action, conduct, omission, product failure or course of dealing by the City shall act to waive, modify, change, or alter the requirement that Bilateral Change Orders must be in writing, signed by the City and Contractor and that such written Bilateral Change Orders are the exclusive method for effectuating any change to the Contract Price and/or Contract Time, except when Unilateral Change Orders are authorized, as set forth above.

4-1.05E Construction Change Directives
A unilateral written order prepared and signed by the Engineer directing the Contractor to perform a change in the Work. The Engineer may by Construction Change Directive, without invalidating the Contract, order changes in the Work, including additions, deletions, revisions,
extra work. A Construction Change Directive may or may not warrant a change in Contract Time or Contract Price. The Construction Change Directive may specify that the change in the Work shall not exceed specified estimates of cost and time prior to final agreement on the extent of adjustment in the Contract Price and adjustment of the Contract Time, if any. Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Engineer of the Contractor’s agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Price or Contract Time.

**4-1.05F Adjustment of Contract Price**

If the Construction Change Directive or Bilateral Change Order provides for an adjustment to the Contract Price, the adjustment shall be based on one or a combination of the following methods:

1. Bid item prices
2. Agreed price
3. Force account
4. Specialist billing (see Section 9-1.05)

If the Engineer chooses to pay for change order work based on an agreed price, but the Contractor and the Engineer cannot agree on the price, the City pays by force account.

If extra work or a portion of extra work is covered by bid items, the City pays for this work as changed quantities in those items. If a portion of the extra work is not covered by bid items, the City pays for the remaining portion of the extra work by force account or agreed price.

**4-1.05G Authority to Approve Changes**

The City Manager has authority to approve change orders up to the contingency amount (usually 10% of the Contract Price) as authorized by the City Council. Any change orders exceeding this amount must be approved by the City Council. The Engineer is authorized to approve changes in work in urgency situations. Except as specified in this Section, the Engineer shall have exclusive authority over the monetary and budgetary matters concerning the project.

**4-1.05H No Verbal Changes**

All changes to the Contract, whether resulting in an increase, decrease, or no change in the Contract Price or Contract Time, must be in a written document that is authorized by the Contract Documents and signed by an authorized representative of the City.

**4-1.05I City-Initiated Change Proposal Request**

The City may issue a change proposal request, in writing, to the Contractor, describing a proposed change to the Work and requesting the Contractor submit an itemized proposal in a format acceptable to the City within ten (10) calendar days after the City’s issuance of the “Change Proposal Request.” The Contractor’s proposal shall include an analysis of impacts to cost and time, if any, to perform the extra work, or to delete Work, as applicable, including the effects and impacts, if any, on unchanged Work, estimates of costs, and Contractor’s proposed methods to minimize costs, delay and disruption to the performance of the Work. If Contractor fails to submit a written proposal within such period of time, the change described in the City’s Change Proposal Request shall be deemed to not result in an increase to the Contract Price or Contract Time and the change shall be performed by Contractor without any such increases. A Change Proposal Request does not authorize the Contractor to commence performance of the changed work. Contractor shall not perform any change until receipt of the City’s written approval through either a Change Order or Construction Change Directive.
4-1.05J Contractor-Initiated Change Order Request

If the Contractor alleges that instructions issued after the date of the Contract will result in increases to the Contract Price or Contract Time, if latent or unforeseen conditions require modification of the Contract Documents, or if the Contractor otherwise becomes aware of the need for or desirability of a change in the Work, an Initial Notice of Potential Claim may be submitted to the Engineer in writing pursuant to Section 5-1.43, in a format acceptable to the City, and must specify the reasons for such change, including relevant circumstances and impacts on the schedule. Contractor shall submit a written price proposal, as described in Section 4-1.05I above, concurrently with the Initial Notice of Potential Claim. Any Contractor-initiated change order request included in an Initial Notice of Potential Claim that is approved by the City will be incorporated in a Change Order or Construction Change Directive. If the Engineer determines that the Work in question is not a change, the City will issue a work directive, ordering the Contractor to proceed with the Work without delay and shall maintain the records required by Sections 4-1.05 and 5-1.43A(2) below.

4-1.05K Contractor’s Good Faith Review of Subcontractor Requests for Changes and Claims

Contractor shall make a good faith determination of the validity of the nature and amount of changes and claims requested by Subcontractors before passing through such requests to the City. It is the Contractor’s responsibility to check all Subcontractor and supplier questions for correctness, completeness, detail and fairness before submitting to the City.

4-1.05L Contractor Maintenance of Daily Records for Changes and Claims

In the event that Contractor is directed to perform any changes to the Work, or should Contractor encounter conditions which the Contractor believes would obligate the City to adjust the Contract Price and/or the Contract Time, Contractor shall maintain detailed records of the cost of such changes on a daily basis summarized in a daily report supplemented by back-up records. Such records shall include without limitation hourly records for labor and construction equipment, itemized records of materials, including delivery tickets, and equipment used each day in connection with the performance of any change to the Work. In the event that more than one change to the Work is performed by the Contractor in a calendar day, Contractor shall maintain separate records of labor, construction equipment, materials, and equipment for each such change. In the event that one or more changes to the Work is performed by the Contractor in a calendar day in addition to base Contract Work, Contractor shall maintain separate records of labor, equipment, and materials for each change and the base Contract Work. In the event that any Subcontractor of any tier, shall provide or perform any portion of any change to the Work, Contractor shall require that each such Subcontractor maintain records in accordance with this paragraph. Each daily record maintained hereunder shall be signed by Contractor; such signature shall be deemed Contractor’s representation and warranty that all information contained therein is true, accurate, complete, and relates only to the change referenced therein. All records maintained by Subcontractors of any tier, relating to the costs of a change in the Work shall be signed by such Subcontractor’s authorized project manager or superintendent. All such records shall be forwarded to the City on the day the Work is performed (same day) for independent verification. The City shall attempt to review and reconcile costs for changes on a daily basis. The City’s signature on the report shall indicate agreement with the information reflected therein, not that the Contractor is entitled to payment of the costs in the report. In the event that Contractor shall fail or refuse, for any reason, to maintain or make available for inspection, review, and/or reproduction such records, adjustments to the Contract Price or Contract Time, if any, on account of any change to the Work may be deemed waived for that
day. Contractor’s obligation to maintain back-up records hereunder is in addition to, and not in lieu of, any other Contractor obligation under the Contract Documents with respect to changes to the Work, including but not limited to the Claims procedures.

**Labor.** The daily report shall show the names, trade, labor, classifications, and hours worked, for the workers.

**Material.** The daily report shall describe and list quantities of materials used, attaching delivery tickets.

**Equipment.** The daily report shall show type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable.

**Other Services and Expenditures.** Other services and expenditures shall be described in such detail in the daily report as the City may require.

**Cost.** The report shall provide dollar values for each category of cost.

### 4-1.05M Credit for Deleted Work

Contractor agrees that the City has the right, in its sole discretion, to determine whether any or all of the Work described in the Contract Documents shall be deleted or whether to terminate Contractor’s performance, in whole or in part, under the Contract Documents and without any penalty being incurred by the City. See Section 9-1.06 regarding payment for changed quantities. See Section 8-1.13 regarding termination.

### 4-1.05N Final Determination of Adjustment of Contract Sum and Contract Time

After issuance of a Construction Change Directive, when the City and Contractor reach agreement on adjustment of the Contract Price and Contract Time, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

### 4-1.05O CONTRACT UNIT PRICES

If a change is ordered in an item of work covered by Contract Unit Price, and such change does not involve a substantial—to be determined at the sole discretion of the City Engineer—change in the character of work from that shown on the Plans or included in the Specifications, then payment will be based upon the increase or decrease in quantity and the Contract Unit Price as described in Section 9-1.06B and 9-1.06C.

In the case of such an increase or decrease in a Major Bid item (defined as a single Contract item constituting 10 percent or more of the original Contract Price), the use of this basis for adjustment of payment will be limited to that portion of the change, which together with all previous changes to that item, is not in excess of 25 percent of the total cost of such item based on the original quantity and unit price.

If a change is ordered in an item of work covered by a Contract Unit Price, and such change does involve a substantial change in the character of the work from that shown on the plans or included in the specifications, an adjustment in payment will be made.

Should any Contract item be deleted in its entirety, payment will be made only for actual costs incurred for that item prior to notification of such deletion.
4-1.05P  Work by Contractor
The following percentage shall be the maximum allowed to be added to the Contractor’s extra work costs and shall constitute the maximum markup for all overhead and profits. The markups established in Sections 9-1.04, 9-1.06 and 9-1.11 shall be replaced with:

1. Labor 15%
2. Materials 10%
3. Equipment Rental 10%
4. Other items and Expenditures 10%

To the sum of the costs and markups provided for in this subsection, 1 percent shall be added as compensation for bonding.

4-1.05Q  Work by Subcontractor
When all or any part of the extra work is performed by a Subcontractor, the markup established in 4-1.05P shall be applied to the Subcontractor’s actual cost of such work. A markup of 10 percent on the first $5,000 of the subcontracted portion of the extra work and a markup of 5 percent on work added in excess of $5,000 of the subcontracted portion of the extra work may be added for the Contractor’s costs and supervision.

4-1.05R  Disputed Work
If the Contractor and the City are unable to reach agreement on disputed work, the City may direct the Contractor to proceed with the work. Payment shall be determined later by mediation, if the City and Contractor agree thereto, or as fixed in a court of law.

Although not to be construed as proceeding under extra work provisions, the Contractor shall keep and furnish records of disputed work.

4-1.06  DIFFERING SITE CONDITIONS
Add the following:

4-1.06D  Existing Utilities; Location, Removal, Relocation and Protection.
Known utilities and their respective owners are shown on the Plans or specified in Supplemental Project Information. In accordance with California Government Code § 4215, City shall assume the responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Project Site, if such utilities are not indicated on the Bidding Documents and cannot be inferred from the presence of other visible facilities on or adjacent to the Project site. Contractor will not be compensated for the costs of locating, repairing damage due to the Contractor’s failure to exercise reasonable care, in removing or relocating utility facilities not indicated in the Contract Documents with reasonable accuracy, and for equipment on the Project Site necessarily idled during such work. The Contractor will not be assessed liquidated damages for delay in completion of the Project, when such delay was caused by the failure of the City to provide for removal or relation of such utility facilities. Nothing in Government Code § 4215 shall be deemed to require City to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Project Site can be inferred from the presence of other visible facilities, such as buildings, meters, curb markings, street markings, valves, hydrants, manhole covers, water valve covers, survey monuments, grates, vaults and junction boxes, on or adjacent to the Project Site, provided, however, nothing in Government Code § 4215 shall relieve City from identifying main or trunklines in the Contract Documents. If the Contractor encounters utility facilities not identified by the City in the Contract Documents, the Contractor shall immediately notify, in writing, the City and the utility owner. In
the event that such utility facilities are owned by City, City shall have the sole discretion to perform repairs or relocation work at a price determined in accordance with the Contract Documents.

(a) The Contractor shall make a minimum of 2 exploratory excavations of all utilities lying wholly or in part within two feet of the Contractor’s proposed excavation limits, whether approximately parallel to or crossing the proposed limits to determine the alignment of utilities. All such exploratory excavations shall be performed as soon as practicable after award of the Contract sufficiently in advance of construction to avoid possible delays to the Work. When such exploratory excavations show a utility location different than indicated on the Plans, the Contractor shall notify the Engineer. After determining the exact location of such utilities, the Contractor shall backfill the excavations and shall immediately construct either a temporary or permanent resurfacing over the backfill. Temporary resurfacing shall be constructed when the exploratory excavations are made in the area located within the proposed excavations. Permanent resurfacing shall be constructed when the exploratory excavations are made in an area outside the proposed excavations. The permanent resurfacing shall be of the type and thickness specified for resurfacing over the adjacent area or as field conditions may otherwise require, as determined by the Engineer. In either case, the excavations shall be backfilled in accordance with the Plans and Specifications.

(b) All costs for making exploratory excavations (including backfilling and resurfacing as specified herein) shall be absorbed or included in the prices bid for the various items of the Work. The Contractor shall notify the utility owners of the proposed schedule of the Work sufficiently in advance to allow for the overall coordination of any relocation work to be done and shall cooperate with utility owners in the performance of their work.

(c) In accordance with California Government Code (“CGC”) Section 4216 et seq., when Work is to be conducted in an area which is known, or can be inferred from the presence of other visible facilities on or adjacent to the Project site, to contain underground utilities or subsurface improvements, the Contractor shall contact Underground Service Alert of Southern California at least two (2) Working Days, but not more than 14 Calendar Days, in advance of any construction activity that will or could damage or affect any underground utility or subsurface improvement, and obtain an inquiry identification number (CGC 4216). Caltrans and certain other agencies are not required to become a member of Underground Service Alert. The Contractor shall contact non-member agencies directly and request they locate and mark their subsurface installations. Pursuant to CGC section 4216.2, when any proposed excavation is within 10 feet of a “high priority subsurface installation” the Contractor shall coordinate with the operator. The Contractor shall delineate with white paint or other suitable markings the area to be excavated. The Contractor shall notify Underground Service Alert in the event of change in the Project limits or change in original Work previously shown on the Plans or indicated in the Specifications. When all Work is completed, the Contractor shall remove all markings for underground utilities.

(d) Subsurface installations are any underground pipeline, conduit, duct, wire, or other structure, except non-pressurized sewer lines, non-pressurized storm drains, or other non-pressurized drain lines. "Approximate location of subsurface installations" means a strip of land not more than 24 inches on either side of the exterior surface of the subsurface installation. "Approximate location" does not mean depth. (CGC 4216). When the subsurface installation markings are no longer reasonably visible, the Contractor shall notify Underground Service Alert to remark those subsurface installations that may be affected by excavation to the extent necessary (CGC 4216.3(c)).
4-1.06E  Payment for Location, Removal, Relocation and Protection of Existing Utilities

Payment for location, protection, removal and relocation of existing utilities shall be included in the prices bid for the various items of Work involved and no additional payment will be made thereof (except to the extent such utilities are not indicated on the Bidding Documents and cannot be inferred from the presence of other visible facilities on or adjacent to the Project site).

In accordance with California Government Code Section 4215, if such utilities have not been identified with reasonable accuracy in the Contract Documents, the Contractor shall be compensated for the cost of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Plans and Specifications with reasonable accuracy, and for equipment on the Project necessarily idled during such Work. The Contractor shall not be assessed liquidated damages for delay in completion of the Project, when such delay was caused by the failure of the City or the owner of the utility to provide for removal or relocation of such utility facilities.

4-1.06F  Protection of Existing Utilities

The Contractor shall protect manhole covers, water valve covers, survey monuments, and grates of existing facilities. If necessary, they will be adjusted to grade by respective utility companies, unless noted on Plans as part of the Work of the Contract. The Contractor shall cover grates with material suitable for preventing any paving material from passing through the grate. On covers needing grade adjustment, the Contractor shall mark the location of all existing covers by scribing a cross in the new surface course. The cross mark shall be clear and legible after final rolling.

Curb markings for referencing the location of existing water valves, manholes and survey monuments shall be limited to 100 square inches at each location. Such markings shall be made with white paint backgrounds with black lettering. Any paint markings not in conformance with the above requirement shall be completely removed by the Contractor prior to completion of the project.

The Contractor shall maintain existing survey monuments identified on the plans as well as those discovered during construction (not shown on the plans).

Although overhead utilities have not been shown on all of the project plans, the Contractor is responsible to protect and maintain poles and overhead utility facilities.

Existing surface utilities to remain are known to encroach into the construction area. The Contractor is advised to carefully evaluate the location of existing poles and water meters during bidding. These existing utility features may reduce productivity or limit the use of some construction equipment.

See also section 5-1.36D.

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5 CONTROL OF WORK

Add to the end of section 5-1.03:

At Contractor’s own risk, Contractor may implement any work suggested by the Engineer, in writing, but not specified or required.
5-1.04 CITY’S RIGHT TO STOP THE WORK AND CARRY OUT THE WORK

5-1.04A City’s Right to Stop the Work
If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 6-2.01H or repeatedly fails to carry out Work in accordance with the Contract Documents, the City may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the City to stop the Work shall not give rise to a duty on the part of the City to exercise this right for the benefit of the Contractor or any other person or entity. The City’s right to stop the Work is in addition to and without prejudice to any other rights or remedies of the City.

5-1.04B City’s Right to Carry Out the Work
Notwithstanding other remedies available to the City, if the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a forty-eight (48) hour period after receipt of written notice from the City to commence and continue correction of such default or neglect with diligence and promptness, the City, at its sole option and without obligation, may, with its own or outside forces, correct such deficiencies. In such case, an appropriate Change Order or Construction Change Directive shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including compensation for the City and its consultants’ additional services and expenses made necessary by such default, neglect, or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the City, immediately. This remedy is cumulative. The City may terminate the Contractor’s performance pursuant to the terms of the Contract. The City also has the right, but not the obligation, to self-perform or have other companies perform portions of the Work previously assigned to Contractor. In such case an appropriate Change Order or Construction Change Directive shall be issued deducting from payments then or thereafter due the Contractor the cost of performing such work efforts.

5-1.05 EMERGENCIES
In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor’s discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Sections 5-1.43.

5-1.13E Contingent Assignment of Subcontracts
Each subcontract or supply agreement is assigned by the Contractor to the City, provided that

1. assignment is effective only after termination of the Contractor’s performance by the City, for cause or convenience, and only for those Subcontracts and supply agreements that the City accepts by notifying the Subcontractor, supplier, and Contractor in writing; and

2. assignment is subject to any prior rights of the surety obligated under bond relating to the Contract.

When the City accepts the assignment of a subcontract, the City assumes the Contractor’s rights and obligations under the subcontract.

5-1.13F Arm’s Length Transactions and Commercially Useful Function of Subcontractors and Suppliers
To assure competitive bids and to assure that no bid rigging, unfair practices, collusion or conflicts of interest occur in connection with the Work, Contractor agrees that all agreements
between Contractor and Subcontractors and suppliers for performance of the Work shall be pursuant to arm’s length transactions, with unrelated and unaffiliated firms (a “related” or “affiliated” firm is one which is subject to the control of the same persons through joint ownership or otherwise). In all such agreements, each firm shall act in its own best interest, for compensation that reflects the fair market values of the materials or services that are the subject of the transaction.

Contractor further agrees that each Subcontractor and supplier for the Work will perform a commercially useful function (i.e. is responsible for the performance, management and supervision of a distinct element of the Work). A Subcontractor or supplier does not perform a commercially useful function when, for example: the Work is outside the firm’s experience or qualifications; the firm provides little or no supervision of the Work; more than fifty percent (50%) of the Work designated to be performed by a Subcontractor is performed by a lower tier Subcontractor or supplier; the Subcontractor only purchases materials while performing little or no Work; the firm works for only one prime contractor; or the same employees work for the firm and the Contractor.

If, upon the City’s request, Contractor fails to provide adequate assurances of arm’s length transactions or that all Subcontractors and suppliers will perform a commercially useful function, Contractor shall remove such Subcontractor or supplier from the project, exclude the cost associated with such firm from all Applications for Payment and change order requests and, if necessary, propose another Subcontractor or supplier to whom the City has no objection, without increase to the Contract Price or Contract Time.

Add to the end of section 5-1.16:
The representative must be able to competently speak, read, and write the English language and be able to clearly converse with all workers under his or her control. At no time shall the project be left with no person on site who is competent in the English language.

If the contract involves asphalt concrete repair or asphalt concrete resurfacing, asphalt concrete repair or asphalt concrete resurfacing work must be supervised by personnel with no less than 5 years of experience in asphalt concrete repair and asphalt concrete resurfacing. If asphalt concrete resurfacing or asphalt concrete repair work is consistently out of specified tolerance, discharge the worker immediately and provide replacement within one day of request, either verbal or written.

Add to the 1st paragraph of section 5-1.20A:
Attend weekly coordination meeting with Engineer and other entity at a time and location determined by the Engineer.

Add to the beginning of 5-1.23 SUBMITTALS:

5-1.23 GENERAL
The Contractor shall submit the following items to the Engineer for review at least five (5) working days prior to the preconstruction meeting. The schedule is subject to revisions by the Engineer in order to coordinate with other City projects.

Issuance of a Notice to Proceed is dependent on the timelines and the proper level of detail of these submittals. Submittals shall include, but are not limited to:

1. Key Personnel, Telephone Numbers and Emergency Telephone Numbers;
2. Project Construction Schedule per specifications;
3. Public Notices (i.e. Notifications and Door Hangers);
4. Storage Site Locations;
5. Traffic Control Plan / Detour Plans;
6. Parking Restriction Signs/Sample “No Parking” sign;
7. Noise mitigation measures;
8. Dust Control measures;
9. Waste Disposal Plan;
10. Copies of pertinent permits, licenses, certifications or required approvals per specifications;
11. List of Required Inspections;
12. Storm Water Pollution Prevention Plan (SWPPP);
13. Water Pollution Control Program (WPCP);
14. Electrical, Signal Poles, and Equipment proof of order receipt;
15. Specific date, hours and location of work;
16. Complete description of work to be done;
17. Number and type of equipment to be used;
18. Noise mitigation measures to be employed;
19. Distance of the nearest resident to the work.

The Contractor shall deliver a minimum of two (2) sets with an electronic copy in PDF format. Each submittal item shall be individually dated and numbered for tracking purposes, with an accompanying transmittal.

Review, acceptance or approval of substitutions, schedules, shop drawings, list of materials and procedures submitted or required by Contractor shall not add to the Contract amount, and additional costs which may result therefrom shall be solely the obligation of the Contractor.

Add to section 5-1.26:
Construction Surveys: Contractor shall be responsible for all project control and construction surveying and for referencing, replacement and recording of survey monuments, and shall include this in the bid. No grade setting, staking or survey services will be performed by the Engineer. Surveying shall be performed by a Land Surveyor registered in the State of California to perform these services. The Engineer reserves the right to check the Contractor’s work at any time during the project. Checks performed by the Engineer will not relieve the Contractor from responsibility to properly locate and construct the Work in accordance with these Contract Documents.

Construction surveys and staking will be included in payment for other bid items of work and no additional compensation will be provided.

Delete 5-1.27E and substitute the following:

5-1.27E Change Order Records
Maintain separate records for change order work costs.

Add section 5.127F and G:

5-1.27F As-Builts
Contractor shall maintain at the project site, and shall make available to the Engineer a set of as-built plans, which shall be continuously updated during the prosecution of the Work, and shall show all deviations and changes to the Work, existing conditions, and any other information the Engineer may request in a legible manner.
Contractor’s obligation to keep as-built plans current, and to make them available to the Engineer, is a condition precedent to the City’s duty to process Applications for Payment. Contractor’s obligations under this section shall survive completion of the Work or termination.

5-1.27G Daily Reports
The Contractor shall complete a daily report in accordance with 8-1.01.

Add to section 5-1.31 JOB SITE APPEARANCE:
Contractor shall maintain job site in a clean and orderly fashion and in accordance with Dust Control specifications. Public Access shall remain clear of debris and hazards at all times. The Contractor shall prevent dust, grit, mud, excessive noise and other nuisances in and around the work areas during the entire contract period, including weekends and holidays.

Add to the end of section 5-1.32:
If you are authorized to use any portion of a street or parking lot, contractor shall repair, slurry seal and restripe to the limits designated by the Engineer.

Add to the end of section 5-1.36D:
Assist the City with compliance required of the City as an operator under the provisions of Government Code §4216-4216.5.

Notify the Engineer if the infrastructure described in the Contract cannot be found. Unless otherwise specified in the Contract Documents, payment for locating underground utilities and infrastructure shall be considered as included in the Bid prices for other items of works and no additional compensation will be allowed.

See also section 4-1.06 DIFFERING SITE CONDITIONS.

Replace entire section 5-1.43 with:

5-1.43 POTENTIAL CLAIMS AND DISPUTE RESOLUTION
5-1.43A Potential Claim
Any demand or assertion by the Contractor seeking an adjustment of Contract Price and/or Contract Time, or other relief, for any reason whatsoever, must be in strict compliance with the requirements of this Section 5-1.43. For purposes of this Section 5-1.43, any and all work relating to any such demand or assertion shall be referred to as “Disputed Work,” regardless of whether the basis of the demand or assertion arises from an interpretation of the Contract Documents, an action or inaction of the Contractor, the Engineer, or the City, or any other event, issue, or circumstance. The Contractor shall bear all costs incurred in complying with the provisions of this Section 5-1.43.

Promptly upon becoming aware of any event, issue, or circumstance including, but not limited to, disputes arising under the Contract, the acts or omissions of the Engineer or City or by operation of law, which the Contractor believes, in whole or in part, provides a basis for an adjustment of Contract Price and/or Contract Time, or that Contractor’s performance is excused, or other relief, Contractor shall provide a signed written Initial Notice of Potential Claim to the Engineer in a format acceptable to the City. Contractor shall provide a signed written initial notice of potential claim to the Engineer within 5 days from the date the dispute first arose and before commencing any disputed work. The initial notice of potential claim shall provide the nature and circumstances involved in the dispute which shall remain consistent through the dispute. The initial notice of potential claim shall be submitted on Form CEM-6201A available on Caltrans’ website and shall be certified with reference to the California False Claims Act, Government
Code Sections 12650-12655. Assign an exclusive identification number for each dispute, determined by chronological sequencing, based on the date of the dispute.

The exclusive identification number for each dispute shall be used on the following corresponding documents:

1. Initial notice of potential claim.
2. Supplemental notice of potential claim.
3. Full and final documentation of potential claim.
4. Corresponding claim included in the Contractor's written statement of claims.

Provide the Engineer the opportunity to examine the site of work within 5 days from the date of the initial notice of potential claim. Proceed with the performance of contract work unless otherwise specified or directed by the Engineer.

Throughout the disputed work, maintain records that provide a clear distinction between the incurred direct costs of disputed work and that of undisputed work. Allow the Engineer access to your project records deemed necessary by the Engineer to evaluate the potential claim within 20 days of the date of the Engineer's written request.

Within 15 days of submitting the initial notice of potential claim, submit a signed supplemental notice of potential claim to the Engineer that provides the following information:

1. The complete nature and circumstances of the dispute which caused the potential claim.
2. The contract provisions that provide the basis of claim.
3. The estimated cost of the potential claim, including an itemized breakdown of individual costs and how the estimate was determined.
4. A time impact analysis of the project schedule that illustrates the effect on the scheduled completion date due to schedule changes or disruptions where a request for adjustment of contract time is made.

Include your complete reasoning for additional compensation or adjustments.

Submit the supplemental notice of potential claim on Form CEM-6201B furnished by the Department and certify with reference to the California False Claims Act, Government Code Sections 12650-12655. The Engineer will evaluate the information presented in the supplemental notice of potential claim and provide a written response within 20 days of receipt. If the estimated cost or effect on the scheduled completion date changes, update information in items 3 and 4 above as soon as the change is recognized and submit this information to the Engineer.

Within 30 days of the completion of work related to the potential claim, submit the full and final documentation of potential claim to the Engineer that provides the following information:

(1.) A detailed factual narration of events fully describing the nature and circumstances that caused the dispute, including, but not limited to, necessary dates, locations, and items of work affected by the dispute.
(2.) The specific provisions of the contract that support the potential claim and a statement of the reasons these provisions support and provide a basis for entitlement of the potential claim.
(3.) When additional monetary compensation is requested, the exact amount requested calculated in conformance with section 4-1.05 or section 8-1.07C, including an itemized
breakdown of individual costs. These costs shall be segregated into the following cost categories:

3.1. Labor – A listing of individuals, classifications, regular hours and overtime hours worked, dates worked, and other pertinent information related to the requested reimbursement of labor costs.

3.2. Materials – Invoices, purchase orders, location of materials either stored or incorporated into the work, dates materials were transported to the project or incorporated into the work, and other pertinent information related to the requested reimbursement of material costs.

3.3. Equipment – Listing of detailed description (make, model, and serial number), hours of use, dates of use and equipment rates. Equipment rates shall be at the applicable State rental rate as listed in the Department of Transportation publication entitled "Labor Surcharge and Equipment Rental Rates," in effect when the affected work related to the dispute was performed.

3.4. Other categories as specified by the Contractor or the Engineer.

4. When an adjustment of contract time is requested, include the following:

4.1. The specific dates for which contract time is being requested.

4.2. The specific reasons for entitlement to a contract time adjustment.

4.3. The specific provisions of the contract that provide the basis for the requested contract time adjustment.

4.4. A detailed time impact analysis of the project schedule. The time impact analysis shall show the effect of changes or disruptions on the scheduled completion date to demonstrate entitlement to a contract time adjustment.

5. The identification and copies of documents and the substance of oral communications that support the potential claim.

The full and final documentation of the potential claim shall be submitted on Form CEM-6201C furnished by the Department and shall be certified with reference to the California False Claims Act, Government Code Sections 12650-12655.

Pertinent information, references, arguments, and data to support the potential claim shall be included in the full and final documentation of potential claim. Information submitted subsequent to the full and final documentation submittal will not be considered. Information required in the full and final documentation of potential claim, as listed in items 1 to 5 above, that is not applicable to the dispute may be exempted as determined by the Engineer. No full and final documentation of potential claim will be considered that does not have the same nature and circumstances, and basis of claim as those specified on the initial and supplemental notices of potential claim.

If you, in conjunction with or subsequent to the assertion of a potential claim, request inspection and copying of documents or records in the possession of the City that pertain to the potential claim, you must make your records of the project, as deemed by the City to be pertinent to the potential claim, available to the City for inspection and copying."

Unless otherwise specified, the Engineer will evaluate the information presented in the full and final documentation of potential claim and provide a written response within 30 days of receipt. The Engineer's receipt of the full and final documentation of potential claim shall be evidenced by postal receipt or the Engineer's written receipt if delivered by hand. If you submit full and final documentation of potential claim after acceptance of the work by the City, the Engineer need not provide a written response.
5-1.43B Dispute Resolution
All disputes and claims arising under or by virtue of this contract shall be directed to and be determined by the Public Works Director. The Director’s determination can be appealed to City Manager or their designee. The determination by the City Manager or their designee of disputes and claims shall constitute the decision of the City of Goleta; provided, however, that Public Contract Code section 9204 shall apply to all public works claims and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code shall apply to the public works claim of $375,000 or less.

5-1.43C Dispute Resolution - Claims exceeding $375,000
Any claim, dispute, or other matter in question arising out of or related to the Contract or Project exceeding three-hundred seventy-five thousand dollars ($375,000.00) that cannot be resolved between the City and the Contractor shall be resolved by the Santa Barbara County Superior Court. Section 9-1.22, “Arbitration” of the Caltrans Standard Specifications, is deleted.

5-1.43D Claims Procedures as a Prerequisite to Filing Suit
Contractor acknowledges and agrees that its failure to submit any notice of potential claim or claim arising under this Contract in accordance with Section 5-1.43, shall constitute a waiver of Contractor’s right to additional compensation and/or extension of time. Failure to follow the provisions set forth in this Contract shall constitute a waiver of Contractor’s right to receive any additional time or money as a result of any event giving rise to a claim or request for change order. Notwithstanding any other provisions in the Contract relating to any additional time or money which Contractor may be entitled to upon the occurrence of any directive or other event, or any other circumstance, Contractor must comply with the provisions of Section 5-1.43 to avoid a waiver of any such entitlement to any additional time or money. Contractor’s failure, neglect, or refusal to comply with the requirements of Section 5-1.43, or any portion thereof, shall bar Contractor’s request for additional compensation or adjustments to contract time. Such failure, neglect, or refusal prejudices the City’s and the Engineer’s ability to recognize and mitigate delay, and such failure, neglect, or refusal prevent the timely analysis of requests for adjustment of contract time, and whether such adjustments may be warranted. Contractor hereby waives all rights to additional compensation or adjustments of contract time due to delays or accelerations that result from or occur during periods of time for which Contractor fails, neglects, or refuses to fully comply with the requirements of Section 5-1.43.

5-1.43E Government Code Claims.
Notwithstanding Contractor’s participation in dispute resolution proceedings or other claims procedures under the Contract, such proceedings are in addition to Contractor’s obligation to present a written Government Code claim in accordance with Section 900 et al of the California Government Code, which is a prerequisite to filing a lawsuit for money or damages against the City. Contractor further acknowledges that notwithstanding Contractor’s compliance with the claims procedures set forth in Section 5-1.43 or in the City Special Provisions, such procedures are in addition to Contractor’s obligation to comply with the claims procedures set forth in Government Code sections 900 et al prior to filing a lawsuit against the City for any such claim. Failure to submit a Government Code claim, or comply with the claims provision contained in Section 5-1.43 or in the City Special Provisions, shall bar Contractor from bringing and maintaining a valid lawsuit against the City.

5-1.43F Participation in Dispute Resolution Proceedings
Contractor and the City agree that all parties necessary to resolve a claim or dispute should be parties to the same dispute resolution proceeding. Contractor agrees upon request of the City to be joined in any mediation or arbitration when Contractor’s presence is required if complete
relief is to be accorded and to prevent the possibility of conflicting rulings on a common issue of law or fact and otherwise to prevent the risk of the parties being subjected to inconsistent obligations or decisions.

5-1.43G Contractor's Continuing Obligations.
At all times during the processing of the Contractor's potential Claim, including, but not limited to, in response to a work directive issued by the Engineer, the Contractor shall diligently proceed with the performance of the Disputed Work and other Work, unless otherwise specified or directed by the Engineer.

The Contractor shall provide the Engineer the opportunity to examine the site of the Disputed Work as soon as reasonably possible, and in no event later than five (5) days from the date of the Initial Notice of Potential Claim. Throughout the processing of the Contractor's potential Claim, the Contractor shall provide the Engineer a reasonable opportunity to examine the site of the Disputed Work within five (5) days of the date of Engineer's written request therefor.

The Contractor shall promptly respond to any requests for further information or documentation regarding the Contractor's potential Claim.

Although not to be construed as proceeding with force account work, throughout the performance of the Disputed Work, the Contractor shall maintain daily records in accordance with Section 4-1.05, that provide a clear distinction between the incurred direct costs of Disputed Work and other Work. The Contractor shall allow the Engineer access to its project records deemed necessary by the Engineer to evaluate the potential Claim within fifteen (15) days of the date of the Engineer's written request.

All Subcontractor's and material supplier's claims of any type shall be brought only through Contractor pursuant to the provisions of this Section 5-1.43 and Contractor's prior good faith review pursuant to Section 4-1.05. Under no circumstances shall any Subcontractor or material supplier make any direct claim against City.

Except where provided by law, or elsewhere in these Contract Documents, THE CITY SHALL NOT BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES AND THE CONTRACTOR SHALL NOT INCLUDE THEM IN ITS CLAIMS. Contractor shall be limited in its recovery on any Claim(s) to the adjustments allowed in the Contract Documents.

During each step in the processing of the Contractor's Claim, each notice shall be accompanied by the Contractor's written statement that the adjustment or relief claimed is the entire adjustment or relief to which the claimant believes it is entitled as a result of the event, issue, or circumstance giving rise to the Claim.

Under no circumstances may the Contractor submit an Initial Notice of Potential Claim, Supplemental Notice of Potential Claim, or Notice of Final Claim after the date of final payment.

5-1.43H Notice of Third-Party Claims
The City shall provide Contractor with prompt written notice of the receipt of any third-party claim relating to the Contract in accordance with Public Contract Code section 9201 by sending a copy of the third-party claim to Contractor at the address indicated in the Agreement via first class mail.

Replace the 2nd paragraph of section 5-1.46 with:
Immediately following the date the Engineer reports to the City Council as work completed, you are relieved from:
Add to the end of section 5-1.46:
A list of the remaining items (a punch list) will be prepared by the Engineer and given to the Contractor.

All punch list items shall be completed during the contract period. Failure to do so will not be considered an occasion of unavoidable delay. When all items have been completed to the satisfaction of the City Engineer, the project will be submitted to the City Council, which may accept the completed work.

6 CONTROL OF MATERIALS

Add to the end of section 6-1.05:
Unless otherwise authorized by the Engineer, the substantiation of offers of equivalency must be submitted at the preconstruction meeting.

In the event Contractor furnishes any "or equal" material more expensive than that specified in the bid form, the difference in cost of such material so furnished will be borne by Contractor under Public Contract Code Section 3400.

Along with information supplied by the Contractor regarding equivalency of the proposed item, the Contractor shall clearly identify all deviations from the specified item. Deviations discovered by the Engineer after acceptance of an "or equal" item which were not identified by the Contractor with the submittal shall be cause for rejection of the "or equal" item. Contractor shall be due no additional compensation in time or money for either acceptance or rejection of a proposed "or equal" item and subsequent replacement with the item specified. Contractor shall pay cost to City for analysis of any submittals which requires more than a general review of an "or equal" item. Changes that result from the Contractor’s use of “or equal” items shall be the sole responsibility of the Contractor and he shall bear all time and cost impacts to the project.

“Or equal” products may be accepted by the Engineer upon submittal of the following information:

1. Product Date Design Criteria
2. Physical Properties Limitations of Process
3. Material Specifications List of Previous Projects
4. Installation Specifications Size of Completed Projects
5. Testing Methods List of Current Projects
6. Third Party Test Data
7. Size of Current Projects
8. References (All references must include current names and telephone numbers)
9. List of all deviations from the specifications or referenced product or materials

The substitution request must include:

1. Description of the Contract specifications, plans and drawing details for performing the work and the proposed changes.
2. Itemization of Contract specifications and plan details that would be changed.
3. Detailed cost estimate for performing the work under the existing Contract and under the proposed change. Determine the estimates under section 9-1.04.
4. Reasonable deadline for the Engineer to decide on the changes.
5. Bid items affected and resulting quantity changes.

If the data provided to the City in support of a substitution request is incomplete or otherwise insufficient to prove the two points above, the Engineer may either deny the request outright or provide the Contractor the opportunity to provide additional information in support of its request. If the Contractor is provided an opportunity to resubmit additional information, the City has thirty (30) days to review such additional information. The Contractor shall not be entitled to any extension of the Contract Time for the time involved in the substitution request process.

By making a substitution request, Contractor shall be deemed to certify that: (i) the proposed substitution is equal to or exceeds all requirements of the pertinent Contract Documents as reasonably determined by Contractor; (ii) Contractor accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified; (iii) the cost data presented is complete and includes all related costs under Contract, including an estimate of the redesign costs; (iv) Contractor will coordinate the installation of any accepted substitution, making such changes as may be required for the Work to be complete in all respects; (v) Contractor waives all Claims and will indemnify the City for additional costs related to the substitution which subsequently become apparent; and (vi) Contractor accepts all responsibility and will indemnify the City for direct or indirect costs and/or time impacts as result of the substitution including impacts to Work not identified in the proposal.

Contractor shall proceed with performance of the Work as required by the Contract Documents and shall not modify such requirements in accordance with any substitution request unless the City accepts such request in a written Change Order.

Additional testing may be required, and all costs for testing shall be borne by the Contractor.

*Add section 6-2.01G:*

**6-2.01G WARRANTIES**

6-2.01G(1) Warranty

The Contractor warrants to the City that materials and equipment furnished under the Contract will be of good quality and new. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects. Work, materials, or equipment not conforming to these requirements, including substitution requests not properly approved and authorized pursuant to 6-1.05, shall be considered defective. If required by the City, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Section 6-2.01H herein. Contractor’s performance bond surety shall be liable for breaches of all warranties and correction guarantees referenced in this Section or Section 6-2.01H.

Where any warranties provided under the Contract Documents overlap, conflict, or are duplicative, Contractor shall be bound by the more stringent requirements.

6-2.01G(2) Procurement and Assignment of Warranties

Any and all warranties or guarantees which the Contractor is required to obtain pursuant to the Contract Documents which are obtained from any person or entity other than the Contractor including, but not limited to, Subcontractors and manufacturers, shall either be obtained by Contractor in the name of the City (or such other name as the City may designate in writing to Contractor) or be legally transferred or assigned to the City (or the City’s designee) at the time of Final Completion of the Work. The Contractor shall perform the Work in such a manner so as
to preserve any and all such guarantees and warranties. The Contractor shall secure written warranties from Subcontractors, material suppliers, and manufacturers’ warranties for labor and materials which extend beyond the one-year correction period in writing. Any warranty upgrades or extensions that are offered by suppliers or manufacturers of any equipment or system in the project shall be provided to the City as part of Contractor’s and Subcontractors’ standard warranties. Provided, however, if any such upgrade/extension offers would expire in less than 90 days after final completion of the Work, the Contractor shall provide the City with such offers at 90 days before the expiration date.

6-2.01G(3) Survival of Warranties
The provisions of this Section 6-2.01G shall survive Contractor’s completion of the Work or termination of the Contractor’s performance of the Work.

Add section 6-2.01H:

6-2.01H CORRECTION GUARANTEE
6-2.01H(1) Before or After Final Completion
The Contractor shall promptly correct Work rejected by the City or failing to conform to the requirements of the Contract Documents, whether discovered before or after Final Completion and regardless of whether or not the Work was fabricated, installed, or performed by the Contractor or any Subcontractor. All costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the City’s services and expenses made necessary thereby, shall be at the Contractor’s expense.

6-2.01H(2) After Final Completion
In addition to the Contractor’s obligations under Section 6-2.01G, if, within one (1) year after the date of Final Completion of the Work or designated portion thereof, or after the date for commencement of warranties, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the City to do so unless the City has previously given the Contractor a written acceptance of such condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the City, the City may correct it in accordance with Section 5-1.04.

The one (1) year correction period shall be extended with respect to portions of Work first performed after Final Completion by the period of time between Final Completion and the actual completion of that portion of the Work.

During the one (1) year correction guarantee period, the Contractor shall act on all notices received from the City within forty-eight (48) hours, unless the notice states that an emergency response is required (in which event, the Contractor shall act immediately). The City will not be required to call Subcontractors, suppliers or manufacturers directly.

The Contractor’s performance bond surety shall be liable for any breaches of all guarantees, including the correction guarantee established by this Section.

In the event of failure of the Contractor to comply with above mentioned conditions within two (2) calendar days (48 hours) or immediately for emergencies after being notified in writing, the City is hereby authorized to proceed to have defects repaired and made good at the expense of the Contractor who hereby agrees to pay all costs and charges, direct and indirect, therefore immediately on demand.
If, in the opinion of the City, defective Work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the City or to prevent interruption of operations of the City, the City will attempt to give the notice required by this Section 6-2.01H. If the Contractor cannot be contacted or does not comply with the City’s request for correction within a reasonable time as determined by the City, the City may, notwithstanding the provisions of this Section 6-2.01H, proceed to make such correction or provide such attention and the costs of such correction or attention shall be charged against the Contractor. Such action by the City will not relieve the Contractor of the guarantees provided in this Section 6-2.01H or elsewhere in this Contract.

This Section 6-2.01H does not in any way limit the guarantee on any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. The Contractor shall furnish the City all appropriate guarantee or warranty certificates, as required, upon completion of this project.

6-2.01H(3) Removal of Non-Conforming Work
The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the City.

6-2.01H(4) Cost of Correction Due to Non-Conforming Work
If the Contractor’s correction or removal of Work that is not in accordance with the requirements of the Contract Documents damages or removes any other property, including but not limited to completed or partially completed construction of the City or any contractor, the Contractor shall bear the cost of correcting any and all such damaged or removed property.

6-2.01H(5) No Impact on Statutes of Limitation
Nothing contained in this Section 6-2.01H shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in this Section 6-2.01H relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor’s liability with respect to the Contractor’s obligations. Nothing contained in this Section 6-2.01H shall be construed as establishing any limitation period with respect to the City’s enforcement of any Contractor obligations under the Contract Documents that is shorter than the longest limitation period allowed under applicable law.

6-2.01H(6) Acceptance of Non-Conforming Work
If the City prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the City may do so instead of requiring its removal and correction, in which case the Contract Price will be reduced by an amount equal to the entire cost of replacing the Work to make it as originally specified and intended. Such adjustment shall be effected whether or not final payment has been made.

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7 LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC
Add to section 7-1.02K(5):

Unless authorized by the Engineer, regular working hours shall be within the hours of 7:30 a.m. and 4:30 p.m. Where night work is required, working hours shall be within the hours of 7:00 pm.
to 5:30 a.m., unless otherwise authorized by the Engineer. When school is in session, regular working hours may be altered by the Engineer to coincide with the school hours of operations.

If overtime work is approved by the Engineer, the City shall have the right and authority to make deductions in payments due or to become due to the Contractor as the City may deem just and reasonable for engineering, inspection, general supervision and overhead expenses.

Add new sections 7-1.03A and 7-1.03B:

7-1.03A Public Notification
The Contractor shall be responsible for Public Notification for each phase of the Work. Upon notification, Contractor shall prepare and submit a map of locations where the notifications will be delivered, including date and time of the planned notification to the Engineer for approval.

Contractor shall deliver public notices to:

1. Businesses and residences along the street included in the work; and
2. Businesses and residences along streets with access exclusively through streets included in the work.

Where apartment and office complexes are affected by the work, door hangers shall be delivered to each tenant. Posting notices on a common mailbox is not considered acceptable.

7-1.03A(1) Material
Public notices must include:

1. Start date of work;
2. Daily schedule of proposed work;
3. Typical parking restrictions;
4. Times of any restricted driveway access;
5. Your company name and phone number; and
6. Other information deemed necessary by the Engineer

Door hangers must be 14 inches by 4 inches Springhill index or equivalent, printed in English on one side and Spanish on reverse side.

Sample public notices are provided in the appendices.

7-1.03A(2) Submittal
Submit public notices for approval.

7-1.03A(3) Construction
Deliver "Here We Come" public notice two (2) weeks before starting work.
Deliver "Door Hanger" public notice no less than 72 hours before work on specific block on the street.

7-1.03B Parking Control
Use if required by special provisions.

7-1.03B(1) Material
Parking Signs must meet the following requirements:

1. Be of moisture resistant heavy cardstock
2. No less than 1.75 square feet in surface area
3. On a pre-printed template with red water-resistant lettering on white background
4. Include the words "Tow Away" and "No Parking" with a character height of no less than 2.75 inches and a stroke width of not less than 0.5 inches
5. Include specific day, date and time of restriction in lettering height of no less than 2.00 inches and stroke with of no less than 0.35 inches
6. Include your name and local telephone number in lettering no less than 0.75 inch in height
7. Be mounted such that the words "No Parking" are at an elevation between 3 feet and 7 feet above grade
8. Tied with string to trees and power poles, taped to existing sign poles or mounted on stakes or barricades you provide
9. Be placed no more than 75 linear feet apart

At the telephone number provided on signs, provide staff for telephone inquiries between the hours of 7:00 a.m. and 6:00 p.m. on working days.

7-1.03B(2) Construction
7-1.03B(2)(a) Signs
Post and maintain signs as follows:
1. Comply with approved Traffic Control Plan;
2. On time restricted streets, 24 hours prior to temporary restrictions; and
3. On unrestricted streets, 72 hours prior to restrictions.

Notify the Engineer when the signs are placed.

Promptly reset or replace missing, damaged or defective signs. Replace signs if work is delayed.

When no longer required, promptly remove signs, string, tape, lath, barricade and any other material used. Removed material becomes your property.

7-1.03B(2)(b) Remove vehicles
Notify Sheriff Communications Center at (805) 681-4100 and City of Goleta Code Enforcement Officer at (805) 961-7556 no less than two hours prior to needed removal. Provide the address nearest the parked vehicle, make, model, color and license number.

7-1.03B(3) Payment
Payment for parking control is included in Traffic Control System.

If a vehicle owner successfully contests a towing citation in court, and his or her citation is dismissed for cause related to your failure to perform under section 7-1.03A, the City will make deductions in payments due or to become due. If a claim is filed after acceptance of the work by the City, you must reimburse the City.

Replace the 1st paragraphs of section 7-1.05A with:

7-1.05A General
To the maximum extent permitted by law, Contractor agrees to defend, indemnify and hold harmless City and all of its officers, employees and agents from any liability, financial loss, claims, demands, or causes of action, including but not limited to related expenses, attorney’s fees and costs, based on, arising out of, or in any way related to the work undertaken by Contractor or any person or entity employed by Contractor or its agents. Nothing in this section shall narrow the indemnification provisions contained in the Caltrans Standard Specifications.
The defense of the City and its officers, employees and agents must be provided by qualified and experienced counsel acceptable to the City Attorney. Any counsel proposed to defend the City must have professional liability insurance from an admitted insurer with available limits of at least $5,000,000 per claim.

**Add the following:**

### 7-1.05C Survival of Indemnity Obligations

Contractor’s obligations under this Section 7-1.05A are binding on Contractor’s and its Subcontractors’ successors, heirs and assigns and shall survive the completion of the Work or termination of the Contractor’s performance of the Work.

**Replace the first paragraph of section 7-1.06D(1) with:**

**7-1.06D(1) General**

Contractor, at its sole cost and expense, agrees to purchase and maintain in full force and effect throughout the term of this Agreement insurance coverage acceptable to the City against any claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work by Contractor, its agents, representatives or employees. Insurance shall be provided by insurers with a current A.M. Best rating of no less than A- and financial strength VII or better. Contractor shall provide the following insurance:

**Replace section 7-1.06D(2) with:**

**7-1.06D(2) Liability Limits/Additional Insureds**

The limits of liability must be at least combined single limits of no less than $2,000,000 per occurrence for all covered losses and no less than $4,000,000 general aggregate, and must contain:

1. Extension of coverage to the City, its officials, officers, agents and employees, as additional insureds, with respect to Contractor's liabilities hereunder in insurance coverages identified above;
2. A provision that coverage will not be canceled or subject to reduction until at least thirty (30) days' prior written notice has been given to the City Clerk, addressed to 130 Cremona Drive, Suite B, Goleta, CA 93117;
3. A provision that Contractor's insurance shall apply as primary, and not excess of, or contributing with, the City;
4. Contractual liability coverage sufficiently broad so as to include the liability assumed by the Contractor in the indemnity and hold harmless provisions of the Standard Conditions;
5. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each;
6. A broad form property damage endorsement;
7. A provision that the policies be provided on an "occurrence" basis;
8. Coverage for XCU (explosion, collapse, underground) hazards if applicable to the work; and
9. Products and completed operations coverage.

Umbrella or Excess Liability policies (Over Primary) if used to meet limit requirements shall provide coverage at least as broad as specified for underlying coverages and covering those insured in the underlying policies. Any such policy shall include a drop-down provision providing primary coverage above a maximum $25,000 self-insured retention for liability not covered by
primary but covered by the umbrella. Coverage shall be “pay on behalf,” with defense costs payable in addition to policy limits. There shall be no cross-liability exclusion of claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Contractor, subcontractors or others involved in the Work. Limits are subject to review but in no event less than $1,000,000 per occurrence.

Approval of insurance by the City or acceptance of the certificate of insurance by City shall not relieve or decrease the extent to which the Contractor may be held responsible for payment of damages resulting from Contractor's services or operation pursuant to the Agreement, nor shall it be deemed a waiver of City's rights to insurance coverage hereunder.

Replace entire section 7-1.06F with:

7-1.06F Policy Forms, Endorsements and Certificates

Provide and maintain current certificates of Insurance on forms supplied by the City and evidencing the above coverage to City prior to execution of this Agreement by City. Exercise due diligence to require any and all subcontractors and/or sub-subcontractors and all tiers of such subcontractors to provide General and Automobile Liability, and Workers' Compensation and Employer's Liability Insurance with minimum limits of coverage and upon terms and provisions required above.

 Replace entire section 8-1.02 with:

8-1.02 SCHEDULE

Refer to section 8-1.02D Level 3 Critical Path Method Schedule.

Add the following to section 8-1.01:

Weekly meetings will be held at the job site to review the progress of the work and discuss any problems that may have occurred. Provide an updated two-week look-ahead schedule at the weekly meeting. The meeting must include, at a minimum:

1. The Engineer;
2. Inspectors; and
3. Contractor foreman.

In addition to daily reports required to substantiate the costs of claims and changes performed as force account work pursuant to Section 4-1.05L and for Disputed Work pursuant to Section 5-1.43A(2) of the City Special Provisions, you must complete a daily report indicating locations worked, start/finish and milestone dates, total manpower per construction trade for each task, major equipment on site, Contractor's manpower and equipment, each subcontractor's manpower and equipment, materials delivered, weather conditions, safety (meetings, inspections, accidents, OSHA citations, actions taken) quality (meetings, inspections, tests), visitors, problems encountered, shortages, delays to planned progress, and any other related information involved in the performance of the work. The daily report must be completed on forms acceptable to the City, and submitted at the end of each workday. The report must comment on the daily progress and status of the work within each major component of the work.
Add to section 8-1.02:

The Contractor shall include utility working windows in the schedule.

Submit two (2) printed copies of updated Construction Schedule bi-weekly and at a minimum with Contractor’s monthly progress payment request.

The City may withhold payment for noncompliance with this section.

If the Contractor falls behind the accepted Construction Schedule by more than fifteen (15) percentage points based on earned progress payments, the Contractor must take steps, including, but not limited to, increasing the number of personnel, shifts, and/or overtime operations, days of work, and/or amount of construction equipment until such time as the project work is back on schedule. Submit for review no later than the next request for partial payment, such supplementary schedule or schedules as may be deemed necessary to demonstrate the manner in which the rate of progress will be regained. The City does not pay for supplemental schedules or any work necessary to recover performance.

If the Contractor falls behind the accepted construction schedule, as modified by such time extensions as may have been granted by the City for unavoidable delays, by more than thirty-five (35) percentage points based on earned progress payments, the Contractor will be deemed in material breach of Contract and the Work may turned over to the surety for completion within the Contract Time.

Replace entire section 8-1.03 with:

8-1.03 CONFERENCES AND MEETINGS

8-1.03A Preconstruction Conference

Attend a preconstruction conference at a time and location determined by the Engineer. Those attending the meeting shall include, but not be limited to, the following:

1. The Contractor, including the superintendent who will be supervising the work,
2. Subcontractors,
3. Utilities, and
4. Engineer.

Submit the items in Section 5-1.23.

8-1.03B Progress Meetings

Attend Weekly Project Status Meetings with key personnel, including Contractor’s assigned representative and subcontractors’ representative. The meeting will have duration of approximately one hour. The meeting shall be held on the same working day of each week and at the same time of the day as mutually agreed to by Engineer and Contractor. The purpose of this meeting shall be to discuss interfacing work, scheduling, problems, issues, and other issues related to the project. If not previously submitted, submit the following to the Engineer at the beginning of the meeting:

1. Daily manpower and equipment utilization and certified payroll for the preceding week; and
2. Projected daily work for the next two weeks.

Replace entire section 8-1.04A with:

8-1.04A Notice to Proceed

Within one hundred twenty (1200) days after the execution of the contract, and receipt of required bonds, insurance, etc., written notice to proceed will be given by the City to the
Contractor. Notwithstanding any other provision of the contract, City shall not be obligated to accept or to pay for any work furnished by the Contractor prior to delivery of notice to proceed whether or not the City has knowledge of the furnishing of such work.

Submit the items in Section 5-1.23 in advance of the commencement of the proposed work.

Replace entire section 8-1.04B with:

8-1.04B Start of Job Site Activities
Contractor shall not begin any job site activities until the Notice to Proceed is issued. Notify the City seventy-two (72) hours in advance of commencing job site activities.

Add to the end of section 8-1.06:

Responsibilities of Contractor During Suspension Periods. During periods that Work is suspended, Contractor shall continue to be responsible for the Work and shall prevent damage or injury to the project, provide for drainage, and shall erect necessary temporary structures, signs, or other facilities required to maintain the project and public safety and continue to perform in accordance with the safety requirements of the Contract Documents.

Add to the end of section 8-1.07B:

If the Engineer grants an adjustment in time for avoidable delay, the City shall have the right and authority to make deductions in payments due or to become due to the Contractor as the City may deem just and reasonable for engineering, inspection, general supervision and overhead expenses.

8-1.07B(1) Delays to Critical Path
Extensions of time, when granted, will be based upon the effect of delays to the critical path of the Work as a whole and will not be granted for non-controlling delays to included portions of Work unless it can be shown that such delays did, in fact, delay the progress of the Work as a whole.

8-1.07B(2) Conditions to Time Extensions
The Contract Time or Milestones shall be extended only if, in the opinion of City, the Contractor is necessarily delayed in completing the Contract by a cause that meets all of the following conditions:

1. Such cause is beyond the control of Contractor, its Subcontractors, or material suppliers and is not due, in whole or in part, to the breach, negligence or fault of Contractor, its Subcontractors, or material suppliers;

2. Such cause arises after the Bid deadline and neither was nor could have been anticipated before the Bid deadline;

3. The effect of such cause could not be anticipated and avoided or mitigated by the exercise of all reasonable precautions, efforts and measures by the Contractor, including re-planning, scheduling and re-sequencing;

4. Such cause, in fact, results in a delay in the performance of the critical path of the Work, which is not thereon thereafter recovered;

5. Contractor has given notice thereof and provided the back-up documentation and analysis as required by the Contract Documents or as requested by the Engineer or City including but not limited to as-planned versus as-built schedules; and
6. The Contractor has exercised all reasonable precautions, efforts and measures to accomplish such changes in the Work without extending the date for completion.

8-1.07B(3) Excusable Non-Compensable Delay

The Parties acknowledge that “Force Majeure” events, as defined in Section 1-1.07B, are not within the responsibility or control of the City or are reasonably contemplated by the Parties to occur during the course of performance of the Work, which may impact the schedule for performance of the Work and may entitle Contractor to an extension of the Contract Time (“Excusable Non-Compensable Delays”). If the Critical Path of the Work is delayed by Excusable Non-Compensable Delays, provided that such delays did not result from the acts of Contractor and further provided that Contractor takes reasonable precautions to prevent further delays owing to such causes, then the Contract Time and/or Milestones shall be extended by a Change Order or Construction Change Directive.

An extension to the Contract Time and/or to the completion Milestone(s) identified in the Contract Documents shall be the Contractor's sole remedy for Excusable Non-Compensable Delays. In no event shall Contractor be entitled to any compensation or recovery of any damages in connection with the Excusable Non-Compensable Delays defined above.

8-1.07B(4) Excusable Compensable Delay

“Excusable Compensable Delay” means any delay to the critical path of the Work occurring after commencement and prior to completion of the Work:

1. which directly impacts the number of Working Days established in the Agreement for completion;

2. for which City is responsible, is unreasonable under the circumstances involved, and not within the contemplation of the Parties; and

3. is not due, in whole or in part, to the breach, negligence, or fault of Contractor, its Subcontractors, or Suppliers. Contractor's remedy for Excusable Compensable Delay shall be extension of the date for completion and Milestones subject to the Conditions to Time Extensions identified above and reimbursement of actual costs directly resulting from such delays and markup in accordance with Section 9.

8-1.07B(5) Inexcusable Delay

“Inexcusable Delay” means any delay in the critical path of activities required for completion of the Work resulting from causes other than those deemed to be an Excusable Non-Compensable Delay or an Excusable Compensable Delay by these City Special Provisions. An Inexcusable Delay shall not entitle Contractor to either an extension of the date for completion or Milestones or to any additional compensation whatsoever.

8-1.07B(6) Concurrent Delays

To the extent the Contractor is entitled to an extension of time due to an Excusable Non-Compensable Delay or to an Excusable Compensable Delay, but the performance of the Work is independently suspended, delayed, or interrupted by an Inexcusable Delay, the delay shall be deemed to be a “Concurrent Delay.”

In the case of a Concurrent Delay, Contractor shall be entitled to an extension of the Contract Time or Milestone(s) and Contractor shall not be entitled to any additional compensation whatsoever during the period of Concurrent Delay.
8-1.07B(7) Claim for Additional Time
Any claim for extension of time shall be made in writing within the time limits provided in Section 5-1.43 herein. Within ten (10) calendar days after commencement of such delay the Contractor shall furnish the Engineer with detailed information concerning the circumstances of the delay, the number of days actually delayed, the appropriate Contract Document references, and the measures taken to prevent or minimize the delay including an as-planned versus as-built schedule. The Contractor acknowledges the extreme importance of promptly notifying and thoroughly documenting any request for time extension and further specifically acknowledges that the City will suffer extreme prejudice should Contractor fail in any way to comply with this requirement.

8-1.07B(8) Limits on Adjustment of Contract Time or Contract Sum for Material Shortages or Cost Escalation
No extension of Contract Time or adjustment of the Contract Price will be granted for a delay caused by a shortage of materials, unless the Contractor furnishes to the City documented proof that the Contractor has diligently made every effort to obtain such materials from every known source within reasonable reach of the Work. The Contractor shall also submit proof, in the form of network analysis data that the inability to obtain such materials when originally planned did, in fact, cause a delay in completion of the Work which could not be compensated for by revising the sequence of operations. Only the physical shortage of material will be considered under these provisions as a cause for extension of time. No consideration will be given to any claim for adjustment of the Contract Price on the basis that material could not be obtained at a reasonable, practical, or economical cost except as provided in 9-1.07.

Contractor is aware that governmental agencies, such as gas companies, electrical utility companies, water districts and other agencies, may be required to approve Contractor-prepared drawings or approve a proposed installation. Contractor has endeavored to include the cost of such anticipated delays and related costs which may be caused by such agencies in Contractor’s Bid. Thus, Contractor is not entitled to make claim upon the City for damages or delays arising from the delays caused by such agencies. Furthermore, the Contractor has scheduled for such delays and is not entitled to an extension of time for delays caused by governmental agencies which Contractor must obtain approvals from. No extension of time will be granted under this Section 8-1.07B for any delay to the extent: (1) that performance would have been so delayed by any Contractor induced causes, including but not limited to the fault or negligence of the Contractor or its Subcontractors; or (2) for which any remedies are provided for or excluded by any other provision of the Contract.

8-1.07B(9) No Release of Sureties
An extension of time granted shall not release the sureties from their obligations. Work shall continue and be carried on in accordance with all the provisions of the Contract and the Contract shall be and shall remain in full force and effect during the continuance and until the completion and the City’s final acceptance of the Work covered by this Contract unless formally suspended or annulled in accordance with the terms of the Contract Documents.

8-1.07B(10) No Waiver by City
Neither the grant of an extension of time beyond the date fixed for the completion of any part of the Work nor the doing and acceptance of any part of the Work or materials specified by this Contract after the time specified for the completion of the Work, shall be deemed to be a waiver of any other rights and remedies under the Contract.
8-1.07B(11) City’s Right to Order Extraordinary Measures to Mitigate Delay
In the event of delays to the project, the Engineer may order Extraordinary Measures as provided below.

8-1.07B(11)(a) Non-Compensable Extraordinary Measures
In the event the Engineer determines that the performance of the Work, or any portion thereof, has not progressed or reached the level of completion required by the Contract Documents due to causes within the control of Contractor, the Engineer shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation, (1) working additional shifts or overtime, (2) supplying additional manpower, equipment, and facilities, and (3) submitting a recovery schedule for re-sequencing performance of the Work or other similar measures (hereinafter referred to collectively as Extraordinary Measures). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion as required by the Contract Documents. The Contractor shall not be entitled to an adjustment in the Contract Price in connection with the Extraordinary Measures required by the City under or pursuant to this Section. The City may exercise the rights furnished the City under or pursuant to this Section as frequently as the City deems necessary to ensure that the Contractor’s performance of the Work will comply with the Contract Time, or interim completion date set forth in the Contract Documents. If Contractor or its Subcontractors fail to commence Extraordinary Measures within forty-eight (48) hours of City’s written demand, the City may, without prejudice to other remedies, take corrective action at the expense of Contractor.

8-1.07B(11)(b) Compensable Extraordinary Measures
The Engineer, in its discretion, may issue a written request, to the Contractor requesting Contractor to submit an itemized proposal for Extraordinary Measures in order to achieve early completion of all or a portion of the Work, due to no fault of the Contractor, in a form acceptable to the City within ten (10) calendar days after the City’s issuance of the request. Contractor’s proposal shall be limited to direct labor cost (itemized hours and rates) and overhead and profit on the labor costs.

8-1.07B(12) Continuation of the Work
If the construction of the Work is not completed within the Contract Time, as may be extended by the City, the Contractor shall continue performing the Work in accordance with the Contract Documents until the completion of and the acceptance of the Work, or Contractor’s performance is suspended or terminated.

8-1.07C No Early Completion Delay Damages
The Contractor may schedule completion of all of the Work, or portions thereof, earlier than the Contract Time. Contractor, however, shall not be entitled to an adjustment of the Contract Price or to any additional costs or damages (including, but not limited to, claims for extended general conditions costs, home office overhead, jobsite overhead, and management or administrative costs), or any compensation whatsoever for Contractor’s use of float and/or Contractor’s inability to complete the Work earlier than the Contract Time for any reason whatsoever, including, but not limited to, delay caused by the City or other Excusable Compensable Delay. The City is exempt from liability for such costs, damages, and compensation.
Replace entire section 8-1.10A with:

8-1.10A GENERAL
For each and every day that any portion of the work remains unfinished after the time fixed for completion in the contract documents as modified by any extension of time, damage will be sustained by the City. Because of the difficulty in computing the actual material loss and disadvantage to the City, the Contractor and City agree that Contractor will pay the City the amount of damages set forth herein as representing a reasonable forecast of the actual damages which the City will suffer by the failure of the Contractor to complete the work within the stipulated time. The execution of the agreement shall constitute acknowledgment by the Contractor that he or she has ascertained and agrees that the City will actually suffer damages in the amount herein fixed for each and every day during which the completion of the work is avoidably delayed beyond the stipulated completion date.

Unless otherwise provided in the contract documents, the Contractor shall have no claim or right of action against the City for damages, costs, expenses, loss of profits, or otherwise because or by reason of any delay in the fulfillment of the contract within the time limited therefore occasioned by any cause or event within or without the Contractor's control, and whether or not such delay may have resulted from anything done or not done by the City.

Liquidated damages for all work shall be in the amount of $1000.00 for each consecutive calendar day in excess of the time specified for completion of the work. Contractor needs to account for painting traffic striping schedule specified in Section 84-2.03C(3)(a).

Add the following to the end of 8.13:

8-1.13A TERMINATION BY THE CITY FOR CAUSE
8-1.13A(1) Grounds
The City shall have the right to terminate the Contractor's performance of the Work, in whole or in part, if:

1. Contractor fails to promptly commence the Work or unnecessarily or unreasonably delays the Work or improperly discontinues the diligent prosecution of the Work or abandons the Work;

2. Contractor refuses or fails to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to perform the Work in strict accordance with the Contract Documents, and the latest accepted schedule;

3. Contractor fails to make prompt payment of amounts properly due Subcontractors after receiving payment from the City;

4. Contractor disregards applicable laws, statutes, ordinances, codes, rules, regulations, or lawful orders of a public authority;

5. Contractor fails to resume performance of Work which has been suspended or stopped, within a reasonable time after receipt of notice from the City to do so or (if applicable) after cessation of the event preventing performance;

6. Any representation or warranty made by Contractor in the Contract Documents or any certificate, schedule, instrument, or other document delivered by Contractor pursuant to the Contract Documents shall have been false or materially misleading when made;
7. After commencement of the Work the City becomes aware that the Contractor is using an ineligible contractor, subcontractor, or supplier who was barred from performing work or providing materials or services on City projects at the time of Bid;

8. Contractor fails to make payment to Subcontractors for materials or labor in accordance with the respective Contract Documents and applicable law;

9. The Contract is assigned or the Work is sublet otherwise than as specified in the Contract Documents;

10. Contractor otherwise is guilty of breach of a provision of the Contract Documents; or

11. Contractor materially fails to execute the Work in accordance with the Contract Documents or, in the City’s opinion, is violating any of the terms of the Contract or is not executing the Contract in good faith or is not following instructions of the City as to additional force necessary in the opinion of the City for its completion within the required time.

8-1.13A(2) City’s Rights Upon Termination of Contract for Cause: Notice to Cure and Notice of Termination for Default

When any of the reasons specified above exist, the City may, in addition to and without prejudice to any other rights or remedies of the City, issue a written notice to cure the default to the Contractor and its surety. The Contractor shall commence satisfactory corrective actions within five (5) working days after receipt of the notice to cure. If the Contractor fails to commence satisfactory corrective work within 5 working days after receipt of the notice to cure, or to diligently continue satisfactory and timely correction of the default thereafter, the City will advise the performance bond surety of the default and that surety will be given fifteen (15) calendar days to arrange for completion of the Work in accordance with the Contract Documents by another contractor or contractors satisfactory to the City. Should the surety fail to effect satisfactory arrangements within said 15-day period, the City shall have the right to issue a notice of termination for default and to:

1. Exclude the Contractor from the Site;

2. Take possession of the Site and of all materials, equipment, tools and construction equipment, and machinery thereon owned by the Contractor;

3. Suspend any further payments to Contractor;

4. Accept assignment of subcontracts pursuant to Section 5-1.13C; and

5. Finish the Work by whatever reasonable method the City may deem expedient.

When the City terminates the Contractor’s performance of the Work for one of the reasons stated in this Section 8-1.13, the Contractor shall not be entitled to receive further payment until the Work is finished.

The City shall charge the cost to complete the Work, including, but not limited to, protection, investigation, labor, services, equipment, materials, permits, fees, supervisory, and administrative costs to Contractor and its performance bond surety. If the unpaid balance of the Contract Price is less than all costs of finishing the Work, including compensation for the City’s services and expenses made necessary thereby, and other damages incurred by the City and not expressly waived, the Contractor shall pay the difference to the City. This obligation for payment shall survive termination of the Contract. If the unpaid balance of the Contract Price is greater than all costs of finishing the Work, including compensation for the City’s services and expenses made necessary thereby, the Contractor shall receive payment for Work properly
performed by Contractor for which payment was not made previously; any excess amounts shall be retained by the City.

Upon receipt of the written notice of termination for default, the surety shall immediately assume all rights, obligations and liabilities of the Contractor under the Contract. If the surety fails to protect and maintain the work site, the City may do so, and may recover all costs incurred. The surety shall notify the City that it is assuming all rights, obligations and liabilities of the Contractor under the Contract. Within 15 working days of receipt of the written notice of termination for default, the Surety shall submit to the City a written plan detailing the course of action it intends to take to remedy the default. The City will review the plan and notify the surety if the plan is satisfactory. If the surety fails to submit a satisfactory plan, or if the surety fails to maintain progress according to the plan accepted by the City, the City may, upon 48 hours written notice, exclude the Surety from the premises, take possession of all material and equipment, and complete the Work in any way the City deems to be expedient. The cost of completing the Work by the City shall be charged against the surety and may be deducted from any monies due, or which would become due, the surety. If the amounts due under the Contract are insufficient for completion, the surety shall pay to the City, within 30 days after the City submits an invoice, all costs in excess of the remaining Contract Price. The Surety will be paid for completion of the Work in accordance with Section 9 below, less the value of damages caused to the City by acts of the Contractor.

8-1.13A(3) Erroneous Termination
If it has been adjudicated or otherwise determined that the City has erroneously or negligently terminated the Contractor for cause, then said termination shall automatically convert to a termination by the City for convenience as set forth in Section 8-1.13B.

8-1.13A(4) Acceptance of Incomplete or Non-Conforming Work
In lieu of the provisions of this Section for terminating the Contractor’s performance, the City may pay the Contractor for the portion of Work completed according to the provisions of the Contract Documents and may treat the incomplete Work as if they had never been included or contemplated by this Contract, in which case the Contract Price will be reduced by the value of the deleted Work determined in accordance with Section 4-1.05M. The City may also exercise its rights under Section 6-2.01H(6) relating to Acceptance of Nonconforming Work. No claim under this provision will be allowed the Contractor for overhead or prospective profits on Work not completed by the Contractor.

8-1.13A(5) Adequate Financial Assurances
It is recognized that if Contractor is adjudged a bankrupt or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of Contractor’s insolvency, this could impair or frustrate Contractor’s performance of the Work. Accordingly, it is agreed that upon the occurrence of any such event, the City shall be entitled to request of Contractor, or its successor in interest, adequate assurance of future performance in accordance with the terms and conditions hereof. Failure to comply with such request within five (5) calendar days of delivery of the request shall entitle the City to terminate the Contract and to the accompanying rights set forth above. Pending receipt of adequate occurrence of performance and actual performance in accordance therewith, the City shall be entitled to proceed with the Work with its own forces or with other contractors on a time and material or other appropriate basis, the cost of which will be backcharged against the Contract Price.
8-1.13B Termination by the City for Convenience

The City may, at any time, terminate the Contractor’s performance of the Work, in whole or in part, for the City’s convenience without regard to Contractor’s fault or breach upon fourteen (14) calendar days’ written notice to Contractor.

In the event that the City terminates Contractor’s performance of the Work for convenience, Contractor agrees to waive any claims for damages, including, but not limited to, home office overhead, loss of anticipated profits on account thereof, and as the sole right and remedy of Contractor, the City shall pay Contractor in accordance with Section 8-1.13G below. The provisions of the Contract, which by their nature survive final acceptance of the Work, shall remain in full force and effect after such termination to the extent provided in such provisions.

8-1.13C Contractor’s Duties Upon Termination

Upon receipt of written notice from the City of such termination for cause or for the City’s convenience, the Contractor shall, unless the notice directs otherwise, do the following:

1. Cease performance of the Work to the extent specified in the notice;
2. Cooperate with the City to secure the site and demobilize in a safe and orderly fashion;
3. Take actions necessary, or that the City may direct, for the protection and preservation of the Work;
4. Except for Work directed to be performed in the notice, incur no further costs and enter into no further subcontracts and purchase orders;
5. If requested by the City, assign to the City, in the manner and to the extent directed, all of the right, title and interest to the Contractor under the subcontracts, and the City shall have no liability for acts, omissions or causes of action resulting therefrom which accrued prior to the date of termination and assignment, which liability shall remain with the Contract; and
6. Turn over to the City, as soon as possible, but not later than thirty (30) days after receipt of such termination notice, the originals of all of the Contractor’s records, files, documents, drawings and any other items relating to the project, whether located on the project site, at the Contractor’s office or elsewhere.

9 PAYMENT

Replace entire section 9-1.06B with:

Increases of more than 25 percent. Should the actual quantity of an item of work covered by a Contract Unit Price and constructed in conformance with the Plans and Specifications, exceed the Bid quantity by more than 25 percent, payment for the quantity in excess of 125 percent of the Bid quantity will be made on the basis of a decrease in the Contract Unit Price mutually agreed to by the Contractor and Agency, on in the event mutual agreement cannot be reached, on the basis of Extra Work per Section 4-1.05F.

Replace entire section 9-1.06C with:

Decreases of more than 25 percent. The City, at its sole discretion, may decrease the quantities of the items of work to be completed under this contract. In such an event, payment will be made based upon the decrease in quantity at the Contract Unit Price, except for Major Bid Items. In the case of a Major Bid Item, the following shall apply:
Should the actual quantity of an item of work covered by a Contract Unit Price, and constructed in conformance with the Plans and Specifications, be less than 75 percent of the Bid quantity, an adjustment in payment will not be made unless so requested in writing by the contractor. If the Contractor so requests, payment will be made on the basis of an adjustment in the Contract Unit Price mutually agreed to by the Contractor and Agency, or at the option of the Engineer, on the basis of Extra Work per Section 4-1.05F. However, in no case will payment be less than would be made for the actual quantity at the Contract Unit Price nor more than would be made for 75 percent of the Bid quantity at the Contract Unit Price.

**Replace entire section 9-1.16A with:**

After award of contract, the Engineer will establish a closure date for the purpose of making monthly progress payments. The Contractor may request in writing that such monthly closure date be changed. The Engineer may approve such request when it is compatible with the City's payment procedure.

Progress payments will be made monthly by the City after receipt of a properly completed request from the Contractor. The Contractor shall submit all such requests for monthly progress payments, and shall include the following forms as applicable:

- **Form: Progress Payment Request**
  This form is to be completed and signed by the Contractor and attached as a cover sheet to the request for payment. This form will be mandatory on all contract payment requests.

- **Form: Progress Payment Request - Detail**
  This form may be used by the Contractor to provide the detail required to verify the payment quantities. (City will accept the Contractor's standard form if it provides the required information.)

- **Form: Quantity Change Verification Form**
  This form is required before any payment can be made based on actual quantities exceeding bid quantities. At the conclusion of the contract, the City will issue a "Balancing Change Order" incorporating all quantity increases and decreases in the contract items of work.

- **Form: Final Release Form**
  This form must accompany all requests for final payment.

- **Form: Post-Construction Waste Reduction and Recycling Summary Report**
  This form must accompany all requests for final payment.

**9-1.16A Applications for Payment**

**9-1.16A(1) General**

Based upon Applications for Payment submitted to the Engineer by the Contractor, the City shall make progress payments to the Contractor as provided below and elsewhere in the Contract Documents.

The period covered by each Application for Payment shall be one calendar month ending on the 20th day of the month.
The Contractor shall submit each Application for Payment to the Engineer by the last day of each month.

Pursuant to Section 9-1.02 above, Contractor’s Applications for Payment shall be based on the actual installed quantities for payment.

Applications for Payment shall indicate the percentage of completion of each portion of the Work for which a lump sum price is specified as of the end of the period covered by the Application for Payment.

9-1.16A(2) Applications for Payment

Contractor shall submit to the Engineer an Application for Payment (on a form provided by the Engineer) for Work completed in accordance with the measurement of quantities. Such application shall be supported by such data substantiating the Contractor’s right to payment as the Engineer may require.

By submitting an Application for Payment, the Contractor warrants that all Work has been performed in compliance with the Contract Documents, and that all quantities and amounts set forth therein accurately reflect the amount of Work completed during that pay period.

Each Application for Payment shall be reviewed by the Engineer as soon as practicable after receipt for the purpose of determining that the Application for Payment is a “proper” payment request, accurately reflecting the value of Work completed and submitted with the documents required by the Contract Documents. An Application for Payment shall be deemed "proper" only if it is properly completed and submitted on the proper forms. The Engineer shall have the right to adjust any estimate of quantity and to subsequently correct any error made in any Application for Payment.

The City shall make payment to the Contractor not later than thirty (30) calendar days after the Engineer’s verification and approval that an Application for Payment is undisputed and properly submitted.

9-1.16A(3) Payments for Authorized Changes

Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Orders and by Construction Change Directives, which shall be itemized separately from base Contract Work.

9-1.16A(4) No Requests for Disputed Subcontractor Work

Applications for Payment shall not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason, or as to which an appropriate stop payment notice release has not been filed.

9-1.16A(5) City Review and Payment

This Contract is subject to the following provisions of California Public Contract Code Section 20104.50 which provides as follows:

(a)(1) It is the intent of the Legislature in enacting this Section to require all local governments to pay their contractors on time so that these contractors can meet their own obligations. In requiring prompt payment by all local governments, the Legislature hereby finds and declares that the prompt payment of outstanding receipts is not merely a municipal affair, but is, instead, a matter of statewide concern.

(2) It is the intent of the Legislature in enacting this article to fully occupy the field of public policy relating to the prompt payment of local governments’ outstanding receipts. The
Legislature finds and declares that all governmental officials, including those in local government, must set a standard of prompt payment that any business in the private sector that may contract for services should look toward for guidance.

(b) Any local agency which fails to make any progress payment within thirty (30) days after receipt of an undisputed and properly submitted payment request from a Contractor or construction Contract shall pay interest to the Contractor equivalent to the legal rate set forth in subdivision (a) of § 685.010 of the Code of Civil Procedure.

(c) Upon receipt of a payment request, each local agency shall act in accordance with both of the following:

(1) Each payment request shall be reviewed by the local agency as soon as practicable after receipt of the purpose of determining that the payment request is a proper payment request;

(2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to the Contractor as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this Section shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

(d) The number of days available to a local agency to make a payment without incurring interest pursuant to this Section shall be reduced by the number of days by which a local agency exceeds the seven-day return requirement set forth in paragraph (2) of subdivision (c).

(e) For purposes of this Article:

(1) A “local agency” includes, but is not limited to, a city, including a charter city, a county, and a city and county, and is any public entity subject to this part.

(2) A “progress payment” includes all payments due Contractors, except that portion of the final payment designated by the Contract as retention earnings.

(3) A payment request shall be considered properly executed if funds are available for payment of the payment request, and the Financial Officer of the local agency does not delay the payment due to an audit inquiry.

(f) Each local agency shall require that this article, or a summary thereof, be set forth in the terms of any Contract subject to this Article.

9-1.16A(6) Improper Application for Payment
In accordance with Section 20104.50 of the California Public Contract Code, any Application for Payment determined by the Engineer not to be a proper payment request, suitable for payment, shall be returned to the Contractor as soon as practicable, but not later than seven (7) calendar days after receipt by the Engineer. An Application for Payment returned to the Contractor shall be accompanied by written documentation setting forth the reasons why the Application for Payment is not proper and not suitable for payment. If an Application for Payment is so returned as improper, no payment will be due the Contractor. The City reserves the right to make partial payment of undisputed amounts.

9-1.16A(7) Interest on Undisputed Amounts
If the City fails to make any progress payment within thirty (30) calendar days after receipt of an undisputed and proper Application for Payment from the Contractor, the City shall pay interest to the Contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the California Code of Civil Procedure. The number of days available to the City to make a payment
without incurring interest shall be reduced by the number of days by which the Engineer exceeds the seven (7) day return requirement set forth above.

9-1.16A(8) Contractor Warranty of Title to Work
The Contractor warrants that title to all Work covered by an Application for Payment will pass to the City no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which payments have been received from the City shall, to the best of the Contractor’s knowledge, information and belief, be free and clear of liens, claims, security interests, or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. This provision shall not relieve the Contractor from the responsibility for materials and Work upon which payments have been made, the restoration of damaged Work or as waiving the right of the City to require the fulfillment of the terms of the Contract.

Each time the Contractor submits an Application for Payment, the Contractor hereby certifies that each Application for Payment is complete and accurate regarding the quantities and amounts stated in the application, and that all Work for which the Contractor seeks payment have been provided in a manner that meets or exceeds the Contract’s requirements.

Replace entire section 9-1.16E(2) with:

9-1.16E(2) Progress Withholds
The City will withhold five (5) percent of all monthly progress payments as retention to assure completion and payment of labor and materials. Retention will be released to the Contractor sixty (60) days after acceptance of the work by the City Council and the filing of a Notice of Completion.

In accordance with Public Contract Code Section 22300, securities shall be permitted in substitution of money withheld by the City to ensure performance under this contract.

At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the City, or with a state or federally charged bank in this state as the escrow agent, who shall then pay such moneys to the Contractor. Upon satisfactory completion of the contract, the securities shall be returned to the Contractor.

Alternatively, the Contractor may request and the City shall make payment of retentions earned directly to the escrow agent at the expense of the Contractor. At the expense of the Contractor, the Contractor may direct the investment of the payments into securities and the Contractor shall receive the interest earned on the investments upon the same terms provided for in this section for securities deposited by the Contractor. Upon satisfactory completion of the contract, the Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City, pursuant to the terms of this section.

Securities eligible for investment under this paragraph shall include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contract and the City. The Contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

If an escrow agreement is used as security, it shall be null, void and unenforceable unless it is substantially similar to the form stated in Public Contract Code Section 22300.
Replace entire section 9-1.16E(4) with:

The City may withhold payments to cover claims filed under Civil Code § 9000 et seq.

Stop payment notice information may be obtained from City.

If at any time there shall be evidence of the existence, whether or not same has been asserted, of any mechanics lien, stop payment notice, or claim arising out of or in connection with the performance or default in performance of this Contract or any subcontract or supply contract entered into by Contractor to perform this Contract, and if the City might become liable for the discharge of or satisfaction of such mechanics lien, stop payment notice, or claim, then the City shall have the right to retain out of any payment then due or thereafter to become due, an amount sufficient to discharge such mechanics lien or stop payment notice or satisfy such claim and to reimburse the City and the representatives of the City for all costs and expenses in connection therewith, including attorneys’ fees. Further, the City, in its sole discretion, shall have the right to discharge or satisfy such mechanics lien, stop payment notice, or claim and pay all costs and expenses in connection therewith if the Contractor does not have such mechanics lien, stop payment notice, or claim discharged or satisfied within ten (10) calendar days after receiving notice thereof from the City or unless some other procedure for discharge or satisfaction of such lien or claim is agreed upon between the City and Contractor. If the amounts retained are insufficient for the aforesaid purposes, or if such mechanics lien, stop payment notice, or claim remains undischarged or unsatisfied after all payments have been made to the Contractor, then the Contractor shall refund to the City all monies that may have been paid to discharge such lien or stop payment notice or satisfy such claims, including the costs, expenses, and attorneys’ fees in connection therewith.

If the Contractor or a Subcontractor disputes the correctness or validity or enforceability of any stop payment notice, the City may, in its discretion, permit the Contractor to file with the City a bond, on a form provided by the City, executed by one or more corporate California admitted surety insurers, in an amount equal to one hundred and twenty-five percent (125%) of the claim stated in the stop payment notice conditioned for the payment of any sum which the stop payment notice claimant may recover on the claim together with its costs of suit in the action. Upon the City’s acceptance of such bond, the City shall not withhold money from the Contractor on account of the stop payment notice. The surety(ies) upon the stop payment notice release bond shall be different than, and jointly and severally liable to the stop payment notice claimant with, the payment bond surety(ies).

If a Subcontractor or material supplier refuses to furnish a release or waiver required by the City, records a mechanics lien, or files a stop payment notice, the Contractor shall, upon the City’s request, furnish a bond satisfactory to the City to release the stop payment notice and shall otherwise fully indemnify the City against such stop payment notice and the City shall enforce its right under the preceding paragraph.

Any lien, stop payment notice, or other claim, filed or asserted after the Contractor’s acceptance of the final payment, by any Subcontractor, laborer, material supplier, or others, in connection with or for Work performed under the Contract Documents shall be the sole and exclusive responsibility of the Contractor, who further agrees to indemnify, defend, and hold harmless the City and its council members, officers, agents and employees from and against any claims, demands, or judgment arising out of or associated therewith, including, without limitation, attorneys’ fees incurred by the City in connection therewith.
Replace entire section 9-1.16F with:
The City will withhold 5 percent of all progress payments as retention (Public Contract Code § 7201). Unless otherwise required under applicable law, retention will be paid to you on the final payment.

Add new section 9-1.16G:

9-1.16G Release of Retention
This Contract is subject to the following provisions of California Public Contract Code § 7200 which provides as follows:

(a)(1) This section shall apply with respect to all Contracts entered into on or after January 1, 1999, between a public entity and an original Contractor, between an original Contractor and a Subcontractor, and between all Subcontractors thereunder, relating to the construction of any public Work of improvement.

(2) For purposes of this Section, “public entity” means the state, including every state agency, office, department, division, bureau, board, or commission, a city, county, city and county, including chartered cities and chartered counties, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(b) In a Contract between the original Contractor and a Subcontractor, and in a Contract between a Subcontractor and any Subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the Contract between the public entity and the original Contractor.

(c) When a performance and payment bond is required in the solicitation for bids, subdivision (b) shall not apply to either of the following:

(1) The original Contractor, if the Subcontractor fails or refuses to provide a performance and payment bond issued by an admitted surety insurer, to the original Contractor.

(2) The Subcontractor, if a Subcontractor thereunder fails or refuses to provide a performance and payment bond issued by an admitted surety insurer, to the Subcontractor.

(d) No party identified in subdivision (b) shall require any other party to waive any provision of this Section.

(e) In the event that the Contractor elects to substitute securities in lieu of retentions, the Contractor may withhold from its Subcontractors, who have not elected to substitute securities in lieu of retentions, the amount of retentions that would have otherwise been withheld.

Add new section 9-1.16H:

9-1.16H Payments to Subcontractors
The Contractor shall pay each Subcontractor, no later than seven (7) calendar days after receipt of payment from the City the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor’s portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to its Subcontractors in a similar manner. Contractor shall obtain and submit releases on City-approved forms for any payment made to Subcontractors and suppliers.
Add new section 9-1.16I:

9-1.16I City’s Right to Disburse Progress and Final Payments by Joint Check or Direct Payments

The City has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the City to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven (7) days, the City shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. The City shall not have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law. The City may, in its sole discretion, issue joint checks to the Contractor and its Subcontractors of any tier and material suppliers or to make payments directly to such Subcontractor or supplier in satisfaction of City’s obligation to make progress payments or the final payment due hereunder.

Add the following to the end of section 9-1.17B:

9-1.17B(1) Acknowledgement of Final Closeout and Release of Claims

The Contractor shall, upon completion of the Work and final cleaning up, submit to the City an Acknowledgement of Final Closeout and Release of Claims on the form provided in Section 9. Properly submitted Claims in stated amounts may be excluded by the Contractor from the operation of the release if the Claims have not yet been resolved. Within thirty (30) calendar days after receipt of the Acknowledgement of Final Closeout and Release of Claims, the Engineer will inspect the Work and will either (1) reject the requested Acknowledgement of Final Closeout and Release of Claims, specifying the defective and/or uncompleted portions of the Work, or (2) accept the Acknowledgement of Final Closeout and Release of Claims and submit a request to the City Council for final acceptance of the Work.

9-1.17B(2) Rejection and Revision

If the City rejects the Acknowledgement of Final Closeout and Release of Claims, specifying defective and/or uncompleted portions of the Work, the Contractor shall promptly remedy the defective and/or uncompleted portions of the Work. Thereafter, the Contractor shall give the City a revised Acknowledgement of Final Closeout and Release of Claims with a new date based on when the defective and/or uncompleted portions of the Work were corrected. The foregoing procedure shall apply successively thereafter until the City accepts Contractor’s Acknowledgement of Final Closeout and Release of Claims.

9-1.17B(3) Documentation

In addition to the requirements for final payment set forth in the other Contract Documents, the final payment shall not become due until at least sixty (60) calendar days after: (i) Contractor has fully performed the Contract, including all punch list work; and (ii) Contractor has submitted to the City:

1. A full, complete and proper Final Application for Payment showing the proposed total amount due the Contractor, segregated as to Contract quantities, changes in the Work, and other basis for payments; deductions made or to be made for prior payments; amounts to be retained; any Claims the Contractor intends to file at that time or a statement that no Claims will be filed; and any unsettled Claims, stating amounts;

2. Written consent of surety(ies) to partial/full release of retention/final payment;

3. Contractor’s written assurance that identified corrective work not complete and accepted will be completed by a stated date agreeable to the City;
4. The required As-Builts (in reproducible format);
5. Reasonable proof that taxes, fees and similar obligations of Contractor have been paid;
6. Documentation that Contractor has inspected, tested, and adjusted performance of every system or facility of the Work to ensure that overall performance is in compliance with terms of the Contract Documents;
7. Reasonable proof that Contractor has discontinued and removed temporary facilities and services from the Site, along with construction tools and facilities, forms, and similar items except for Contractor’s field office;
8. Reasonable proof that Contractor has provided instruction for the City’s operating personnel on systems and equipment operational requirements;
9. A report on performance of completed installations after adjustment that appear unable to comply with the requirements of the Contract Documents;
10. The operating manuals for operating and maintaining the Work; and
11. Four (4) copies of all warranties from vendors and Subcontractors, operation and maintenance manuals, instructions and related agreements, equipment certifications and similar documents, and maintenance and operating instructions.

The Engineer reserves the right to not require any of the above submittals which the Engineer determines, in his/her sole discretion, is not applicable to a particular project.

9-1.17B(4) Disbursement of Final Payment
Pursuant to California Public Contract Code section 7107, if there is any dispute between the City and the Contractor at the time that disbursement of the final payment is due, the City may withhold from disbursement of the final payment an amount not to exceed one hundred fifty percent (150%) of the amount in dispute.

9-1.17B(5) No Waiver of Claims by City
The making of final payment shall not constitute a waiver of any Claims by the City including, but not limited to:

1. unsettled stop payment notices;
2. faulty or defective Work;
3. failure of the Work to comply with the requirements of the Contract Documents;
4. terms of special warranties required by the Contract Documents; or
5. any other cause, unless specifically waived by the City in writing.

9-1.17B(6) Waiver of Claims by Contractor, Subcontractors, and Suppliers
Acceptance of final payment by the Contractor, a Subcontractor, or a material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

Delete section 9-1.22:
# Progress Payment Request

**From:**

Contractor

Contract No.: 

Payment Request No.: 

**Address**

**To:**

CITY OF GOLETA

Public Works Department

130 Cremona Drive, Suite B

Goleta, California  93117

**Original Contract Amount:**

$ 

**Approved Change Orders through #:**

$ 

**Quantity Changes:**

$ 

(Requires Project Engineer verification)

**Total Contract Amount to Date:**

$ 

**Value of Work Completed to Date:**

$ 

**Less Retention:**

$ 

**Less Liquidated Damages:**

$ 

**Subtotal:**

$ 

**Less Previous Payments Approved:**

$ 

**Progress Payment Requested:**

$ 

The undersigned Contractor or Contractor's Authorized Representative certifies that to the best of his or her knowledge, information and belief, the work covered in this application for payment has been completed in accordance with the contract documents and the costs shown are true and correct.

**Signature**

**Print Name**

**Title**

**Date**
### Construction Contract
**Progress Payment Request - Detail**

<table>
<thead>
<tr>
<th>Date:</th>
<th>Payment Request No:</th>
<th>Contract No.:</th>
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<tbody>
<tr>
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</tbody>
</table>

**Contractor:**

**Project Name:** 9009A San Jose Creek EMERGENCY Channel Repair Project

**Payment Period Through Date:**

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>BID QUANTITY</th>
<th>UNIT/ FIRM PRICE</th>
<th>IN THIS PERIOD</th>
<th>IN PLACE TOTAL</th>
<th>PLACE</th>
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</tbody>
</table>

**Contractor Signature** ___________  **Date** ___________  **Inspector Signature** ___________  **Date** ___________

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E-51
**CITY OF GOLETA, CA**  
*Public Works Department*

**Quantity Change Verification Form**

<table>
<thead>
<tr>
<th>Date:</th>
<th>Contract No.:</th>
</tr>
</thead>
</table>

**Contractor:**  
**Project Name:** 9009A San Jose Creek EMERGENCY Channel Repair Project

**INSTRUCTIONS**

This form is to accompany progress payments where there is quantity changes (variations in quantities authorized as part of the progress or final payment.

The quantity changes in amount of $________________________ accompanying Progress Payment #________________ have been reviewed and actual quantities verified.

<table>
<thead>
<tr>
<th>Bid Item #</th>
<th>Item Description</th>
<th>Variance</th>
<th>Total</th>
</tr>
</thead>
</table>

**Project Engineer Signature**  
**Date**

**ATTACH ADDITIONAL SHEETS IF NECESSARY**

**Contractor Signature**  
**Inspector Signature**

**Date**  
**Date**
**CITY OF GOLETA, CA**  
*Public Works Department*

**Construction Contract**  
**Final Release Payment**

<table>
<thead>
<tr>
<th>From: _____________________________</th>
<th>Date: __________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contractor</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Contract No. ____________________</td>
</tr>
<tr>
<td></td>
<td>Payment Request No. _____________</td>
</tr>
<tr>
<td></td>
<td>Address</td>
</tr>
</tbody>
</table>

**To:**  
CITY OF GOLETA  
Public Works Department  
City Hall  
130 Cremona Drive, Suite B  
Goleta, California 93117

Upon settlement of final quantities and approval of a Notice of Completion for the project by the Goleta City Council, including any approved changes, this document shall be effective to release any and all further rights of the Contractor to security for payment, that the undersigned may have for the work furnished for the project. This document is offered as evidence for settlement of final payment and to induce the City Council to approve such final payment for Contractor in connection with the **9009A San Jose Creek EMERGENCY Channel Repair Project**.

This release covers the final payment to the undersigned for all labor, services, equipment and material furnished on the job, including the work of all subcontractors and all materials furnished for all suppliers, and other agents acting on behalf of the undersigned on this work. There are no disputed claims for additional work.

<table>
<thead>
<tr>
<th>Contractor Signature:</th>
<th>Print Name:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Title:</th>
<th>Date:</th>
</tr>
</thead>
</table>

**NOTICE:** A signed final release is required with submittal of request for payment.
Post-Construction Waste Reduction & Recycling Summary Report

**Diversion Requirement:** Reduce quantity of materials disposed at landfills by 65% or more.

Column A: List estimated quantities of waste for each material type (in tons). To convert material quantities to tons, use the Materials Conversion Worksheet provided in your packet.

Columns B, C, D: List estimated quantities reused, recycled, or disposed.

Column E: State the name of all vendors or facilities to be used to reuse, recycle or dispose of material listed. See example below for cases where more than one facility will be used for a particular material type.

Column Totals: Add up all quantities listed in Column A. Do the same for Columns B, C and D.

### Waste Reduction & Recycling Summary REPORT (WRRS Report)

<table>
<thead>
<tr>
<th>Material Type</th>
<th>A Total Tons Generated (A=B+C+D)</th>
<th>B Quantity Salvaged or Reused</th>
<th>C Recycling</th>
<th>D Estimated Disposal</th>
<th>E Anticipated Material Destination(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example: Cardboard</td>
<td>2 tons</td>
<td>1.5</td>
<td>.5</td>
<td></td>
<td>(R) MarBorg (D) Tajiguas Landfill</td>
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<tr>
<td>Asphalt &amp; Concrete</td>
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<tr>
<td>Brick/Masonry/Tile</td>
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<tr>
<td>Building Materials (doors, windows, fixtures, etc.)</td>
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<tr>
<td>Carpet</td>
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<tr>
<td>Carpet padding/Foam</td>
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<tr>
<td>Cardboard</td>
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<tr>
<td>Ceiling tile (acoustic)</td>
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<td>Dirt</td>
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<td>Drywall (used)</td>
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<tr>
<td>Drywall (new, unpainted sheets or scrap)</td>
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<tr>
<td>Landscape Debris (brush, trees, stumps, etc.)</td>
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<tr>
<td>Scrap metal</td>
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<tr>
<td>Unpainted Wood and Pallets</td>
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<tr>
<td>Garbage/Trash</td>
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<tr>
<td>Other</td>
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<tr>
<td>Recycled mixed debris</td>
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<tr>
<td>Column Totals</td>
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</table>

7. To determine if the required 65% project waste reduction will be met, complete the following with the column totals: B + C / A = ______ x 100 = ______

8. Is the percentage listed in #7 greater than or equal to 65%? □ YES □ NO - If "NO" please explain why:

9. Print Name: __________________ Signature: __________________ Date: ___/___/____

E-54
ACKNOWLEDGEMENT OF FINAL CLOSEOUT AND RELEASE OF CLAIMS

THIS ACKNOWLEDGEMENT OF FINAL CLOSEOUT AND RELEASE OF CLAIMS (Acknowledgement) is made in Goleta, California, this _______ day of __________, _______, by and between the City of Goleta, (Owner), and ___________________________________ (Contractor).

KNOW ALL PERSONS BY THESE PRESENTS:

1. That the undersigned, as the authorized representative of Contractor, and for each of its successors, assigns and partners, for and in consideration of __________________________________________________________ ($___________), for the original Contract amount, and the sum of ________________________________________________________________ ($___________) for Contract Change Orders Nos.(1) through _____ (___), receipt of which is acknowledged, does release and forever discharge Owner, and each of its successors, assigns, council members, officers, agents, servants, volunteers and employees, from any and all rights, claims, causes of action, demands, debts, obligations, liabilities, actions, damages, costs and expenses (including but not limited to attorneys’, paralegal and experts’ fees, costs and expenses) and other claims, which may be asserted against Owner by reason of any matter or thing which was the subject matter of or basis for:

   A. The performance of all terms and conditions of the Public Works Contract agreement dated ____________, for Owner project described as SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT.

   B. Change Orders Nos. one (1) through _________ (___), as approved by the parties, pertaining to Purchase Order No. _____ and shown in Payment Request No. ____________ (___), dated ________________.

2. Nothing contained in this Acknowledgement shall waive or alter the rights, privileges, and powers of Owner or the duties, liabilities and obligations of Contractor and its surety(ies) in respect to any portion of the Contract.

3. Owner has received the following claims from Contractor ________________________________________________________________. Except as expressly provided in this section, Owner has received no other claims from Contractor.

4. Upon execution of this Acknowledgement, Owner agrees to promptly initiate the process for City Council to approve the Notice of Completion (NOC) and record the NOC with the Santa Barbara County Recorder.

5. Contractor and Owner agree that the total adjusted Contract Price and time of performance after the execution of change orders, is as follows:

   Original Contract Price  $______________________
   Original Calendar Days   ___________________ days
   Adjusted Contract Price  $______________________
   Adjusted Calendar Days   ___________________ days
6. The current amount owing to Contractor is:
   Adjusted Contract Price: $_____________________
   Amount Previously Paid
   $(_____________________) $(_____________________) $_____________________

7. The retention will be released to Contractor within thirth-five (35) days after acceptance of the work by the City Council and the filing of a Notice of Completion #7. It is understood and agreed by Contractor that the facts with respect to which the release provided pursuant to this Acknowledgement is given may turn out to be other than or different from the facts as now known or believed to be, and Contractor expressly assumes the risk of the facts turning out to be different than they now appear, and agrees that the release provided pursuant to this Acknowledgement shall be, in all respects, effective and not subject to termination or rescission by any such difference in facts and Contractor expressly waives any and all rights it has or may have under California Civil Code Section 1542, which provides as follows:

   "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the Release which if known by him must have materially affected his settlement with the debtor."

8. The release made by Contractor is not to be construed as an admission or admissions of liability and Contractor denies any such liability. Contractor agrees that it will forever refrain and forebear from commencing, instituting or prosecuting any lawsuit, action or other proceeding against Owner based on, arising out of, or in any way connected with the subject matter of this release.

9. Except as specifically provided in this Acknowledgement, the Contractor releases Owner from all claims, including but not limited to those of its Subcontractors for all delay and impact costs, if any.

10. The Contractor represents and warrants to Owner that Contractor has not assigned or transferred or purported to assign or transfer to any person, firm, corporation, association or entity any of the rights, claims, warranties, demands, debts, obligations, liabilities, actions, causes of action, damages, costs, expenses and other claims and Contractor agrees to indemnify and hold harmless Owner, its successors, assigns, council members, officers, agents, servants, volunteers and employees, from and against, without limitation, any and all rights, claims, warranties, demands, debts, obligations, liabilities, actions, causes of action, damages, costs, expenses and other claims, including but not limited to attorneys' fees, paralegal and experts' fees, costs and expenses arising out of or connected with any such assignment or transfer or purported assignment or transfer.

11. The parties acknowledge that they have been represented by counsel of their own choice in connection with the preparation and execution of this Acknowledgement. The parties acknowledge and represent that they understand
and voluntarily consent and agree to each and every provision contained in this Acknowledgement.

12. The persons executing this Acknowledgement represent and warrant to the other party that the execution and performance of the terms of this Acknowledgement have been duly authorized by all individual, corporate, partnership, or other entity requirements and that such persons have the right, power, legal capacity and authority to execute and enter into this Acknowledgement.

13. The parties further acknowledge and represent that no promise, inducement or agreement, not expressed in this Acknowledgement, have been made and that, with respect to the matters considered, this Acknowledgement contains the entire agreement among the parties and that the terms of the Acknowledgement are contractual and not a mere recital.

CITY OF GOLETA

__________________________   _________________________
By/Title               Date                                           By/Title                 Date

CONTRACTOR

__________________________   _________________________

By/Title               Date

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DIVISION II GENERAL CONSTRUCTION

10 GENERAL

Add to section 10-1.01:

10-1.01A Daily Report
On a form acceptable to the Engineer, and at the end of each workday, submit Daily Report indicating manpower, major equipment used and on standby (itemized separately), subcontractors, materials used, bid items and quantities completed, and similar items involved in the performance of the Work.

10-1.01B Night Construction Lighting
Section 10-1.01B applies to contract with planned or proposed night work.

Provide adequate lighting for any night work performed such that there is no difference between the quality of night and day work. A minimum of four portable self-contained light towers shall be provided for each street. One light tower shall be provided for each 150 lineal feet of street centerline within the active work zone. When the length of street work zone is in excess of 500 lineal feet, you may provide 7 light towers to be moved as the work progresses.

Add to section 10-1.02:

Do not start job site activities until the City authorizes or accepts your submittal for:

1. Traffic Control Plan;
2. SWPPP;
3. Schedule;
4. Hot Mix Asphalt Concrete mix design;
5. Portland Cement Concrete mix design; and
6. Notifications and door hangers.
7. Permit, license, agreement, certification, or any combination of these

12 TEMPORARY TRAFFIC CONTROL

Replace section 12-1.04 with:

12-1.04 FLAGGING COSTS

Flaggers may be required for the adequate control of public traffic; the full cost of such flagging is paid for under the bid item Traffic Control System. Each flagger shall be equipped with a "Stop/Slow" paddle [C28A/B], a means of communication with other flaggers (radio, hand signals, or pilot car), and a clean bright orange vest, shirt or jacket. A minimum of two flaggers shall be provided for reversible lane control.
Add to Section 12-3 Traffic Handling Equipment and Devices:

Traffic control devices not placed in accordance with approved plans shall be cause to stop construction by the Engineer.

If any component in the traffic control system is damaged, displaced, or ceases to operate or function as specified, from any cause, during the progress of the work, the Contractor shall immediately repair said component to its original condition or replace said component and shall restore the component to its original location. Failure by the Contractor to continuously maintain the approved traffic control devices shall be sufficient cause for the Engineer to stop all work protected by or associated with such approved traffic control devices.

All warning devices used during hours of darkness shall be reflectorized.

The Contractor shall furnish and post signs where necessary to inform the public about closures or restrictions at parking area entrances.

The Contractor shall have a sufficient cache of extra signs available at or near the project site to erect additional signs requested by the Engineer during the course of the work.

Each vehicle used to place, maintain and remove components of a traffic control system on multi-lane roadways shall be equipped with a Type II flashing arrow sign which shall be in operation when the vehicle is used for placing, maintaining or removing said components. The sign shall be controllable by the operator of the vehicle while the vehicle is in motion. The flashing arrow sign shown on the Standard Plans shall not be used on the vehicles which are doing the placing, maintaining, and removing, and shall be in place before a lane closure requiring its use is completed.

When traffic cones or delineators are used to delineate a temporary edge of traveled way, the line of cones or delineators shall be considered to be the edge of the traveled way. However, the Contractor shall not reduce the width of an existing lane to less than ten (10) feet without written approval from the Engineer. The provisions of this paragraph shall not apply to a work area protected by a permanent or temporary railing or barrier.

All traffic control equipment shall be of standard size unless reduced sizes are specifically approved by the Engineer and shall conform to the provision of the Manual on Uniform Traffic Control Devices and the California supplement.

Trench Plates
All trench plates placed by the Contractor in the traveled way (both vehicular and Pedestrian) shall have a slip resistant surface and be ramped with Asphalt Concrete.

Delete section 12-3.01C Construction

Add to section 12-3.01D Payment:
Furnishing all labor including flagging costs, materials (including signs), tools, equipment, and incidentals, and for doing all the work involved in placing, removing, storing, maintaining, moving to new locations, replacing, and disposing of the components of the traffic control is included in the payment for Traffic Control System.

Payment for slip resistant surface on traffic plates is included in the unit prices paid for the various items of work, which require trench plating.

Add to section 12-4 Maintaining Traffic:
12-4 GENERAL

Except as otherwise provided, the full width of the traveled way shall be open for use by public traffic on Saturdays, Sundays, and designated legal holidays and when construction operations are not actively in progress.

Minor deviations from the requirements of this section concerning hours of work which do not significantly change the cost of work may be permitted upon the written request of the Contractor if, in the opinion of the Engineer, public traffic will be better served and the work expedited. Such deviations shall not be adopted until the Engineer has indicated approval. All other modifications will be made by contract change order.

Add section 12-4.02A(1)(a) City Requirements:

A traffic control system shall consist of signing, flagging, using of pilot vehicles and/or closing traffic lanes or streets in accordance with the details shown on the Standard Plans, the provisions of Sections 7-1.03, Public Convenience and 7-1.04 Public Safety, the Manual on Uniform Traffic Control Devices and the California supplement, and these General Provisions. The traffic control system shall provide for the convenience and safety of vehicles, bicycles and pedestrians. Nothing in these General Provisions shall be construed as relieving the Contractor from responsibility as provided in said sections.

Personal vehicles of the Contractor's employees shall not be parked on the traveled way or shoulders of the construction zone, including any section closed to public traffic. Employees' personal vehicles may be parked on adjacent streets within the legal parking areas.

Construction activity, loading or unloading of equipment shall not block any traffic lane other than those delineated within the work zone.

No hazardous materials shall be stored within public right-of-way. No materials or equipment shall be stored on the roadway surfaces or sidewalk during non-work hours.

At no time, unless prior permission has been obtained from the Engineer, shall any roadway be closed to vehicular traffic. Contractor may only close one side of a street at one time to vehicular traffic, bicycles, and pedestrians. The phasing of traffic control must be approved by the City.

Alternative path/walkways shall be provided by the Contractor to maintain pedestrian traffic at all times. Contractor shall maintain access to residents and business at all times. Sidewalk closures shall be limited to occur only during the actual work activity. During closure, sidewalks shall be barricaded to physically prevent pedestrian passage and appropriate pedestrian detours shall be posted. Provisions for safe pedestrian access through the work area via a temporary walkway shall be provided within the City right of way at all other times.

Contractor must receive the Engineer's approval seventy-two (72) hours prior to placing of any traffic restrictions.

Minor deviations from the requirements of this section concerning hours of work which do not significantly change the cost of work may be permitted upon the written request of the Contractor if, in the opinion of the Engineer, public traffic will be better served and the work expedited. Such deviations shall not be adopted until the Engineer has indicated approval. All other modifications will be made by contract change order.
All work zone traffic control devices, materials and equipment shall be in new condition, as determined by the Engineer. Repair to sign panels will not be allowed, except when approved by the Engineer. At nighttime under vehicular headlight illumination, sign panels that exhibit irregular luminance; shadowing or dark blotches shall be immediately replaced at the Contractor's expense.

**Open Excavation**

Open trenches located within the right-of-way shall, at a minimum, be delineated with type I or II barricades which conform to Section 12-3.02, "Barricades", Caltrans Standard Plan A73C, and these General Provisions. Barricades placed during hours of darkness shall be equipped with operational Type A Low Intensity Flashing Warning Lights. "Open Trench" [C27] signs shall be placed in advance of and at 100-foot intervals in all work zones containing an open trench or abrupt drop within 10 feet of the traveled way.

When work is not actively in progress, two-inch-wide yellow plastic tape labeled "CAUTION" shall be used to delineate all open trenches, abrupt drops or if a difference in excess of 0.15 foot exists between the elevation of the pavement and the work area within the construction area. Steel plates shall be used to cover open trenches within five (5) feet of any public traffic or deeper than three (3) feet. Clearances from traffic lanes shall be five (5) feet to the edge of any excavation. Where a five (5) foot clearance is not feasible, then a slope of 4:1 (horizontal:vertical) or flatter to the bottom of the excavation/work area. During the excavation, you may use native material for this purpose except you must use structural material once you start placing the structural section. Use temporary AC (hot or cold mix) when on the taper is on AC pavement. Compensation for tapers is included in traffic control system and no additional compensation will be made.

**Traffic Control Devices**

All work zone traffic control devices, materials and equipment shall be in new condition, as determined by the Engineer. Repair to sign panels will not be allowed, except when approved by the Engineer. At nighttime under vehicular headlight illumination, sign panels that exhibit irregular luminance; shadowing or dark blotches shall be immediately replaced at the Contractor's expense.

Contractor shall obtain approval from the City Engineer before any stationary signs e.g. wood posts/metal posts with foundation work be allowed for temporary traffic control. If approved wood posts (or Standard Sign Poles by the City of Goleta “Unistrut” Metal Posts can be substituted) for construction area signs shall be in accordance with Caltrans Standard Plan RS-2 or alternative posts tested in accordance with NHCRP Report 350 criterion when approved by the Engineer. Wood posts for signs larger than 7 square feet shall be 4”x6” nominal.

Contractor shall notify the appropriate regional notification center for operators of subsurface installations at least 2 working days, but not more than 14 calendar days, prior to commencing excavation for construction area sign posts. The regional notification centers include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Notification Center</th>
<th>Telephone Number</th>
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<tbody>
<tr>
<td>Underground Service Alert-Northern California (USA)</td>
<td>(800) 642-2444</td>
</tr>
<tr>
<td></td>
<td>(800) 227-2600</td>
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</tbody>
</table>
Excavations required to install construction area signs shall be performed by hand methods without the use of power equipment, except that power equipment may be used if it is determined there are no utility facilities in the area of the proposed post holes. The post hole diameter, if backfilled with Portland cement concrete, shall be at least 4 inches greater than the longer dimension of the post cross section.

Access and Notifications

Notify the following entities no less than 5 business days before implementing Traffic Control Plan:

a. City Public Works Department (805) 961-7564
b. City Sheriff Department (805) 681-4100
c. County Fire Department (805) 681-5500
d. United States Post Office (Station Manager) (805) 564-2226
e. Metropolitan Transit District (805) 963-3364
f. Marborg Industries (805) 963-1852
g. Traffic Solutions/Clean Air Express (805) 961-8920
h. Residences and businesses within and directly affected by the closure area (only if local traffic or access is to be prohibited or restricted)

Access shall be maintained at all times to all business, residences and buildings adjacent to construction. Contractor shall make all necessary arrangements to provide, at the Contractor's expense, vehicular access to driveways, parking areas, and private properties.

Driveway access restrictions may not exceed the time period strictly necessary for performing the work, which cannot be done otherwise. Maximum allowable driveway access restriction is three (3) consecutive days. Outside of the driveway restriction period, the Contractor shall provide resident/customer access to the driveway within 15 minutes. Contractor shall immediately revise operations to meet this requirement if they are non-compliant.

Sidewalk closures shall be coordinated with the local schools. This will ensure the crossing guards are notified of the construction so they can assist/direct children properly thru any pedestrian detours safely.

Contractor shall furnish and post signs where necessary to inform the public about closures or restrictions on streets and at parking area entrances.

Except as otherwise provided, the full width of the traveled way shall be open for use by public traffic on Saturdays, Sundays, and designated legal holidays and when construction operations are not actively in progress. Open traffic lanes and detours shall be continually maintained to prevent the development of potholes and provide smooth, dust-free and mud-free traffic flow. The contractor shall abate dust nuisance on traffic lanes, detours, and work site by cleaning, sweeping, and sprinkling with water or other means during and after the construction hours, including such non-working days.

Parking Restrictions

Parking restriction signs shall be posted and maintained by the Contractor for a period of 72 hours prior to the restriction becoming effective. Parking restrictions shall only be posted for work
that is shown on the currently approved construction schedule, as determined by the Engineer. Contractor shall place new signs promptly when work is delayed or schedule changes. Upon completion of the work, signs, and sign supports shall be removed and disposed by the Contractor.

Contractor’s equipment and personal vehicles of the Contractor’s employees shall not be parked on the traveled way or on any street where traffic is restricted at any time. If construction equipment is parking in the parking lanes overnight, barricades and other suitable warning devices shall be required.

Contractor is responsible to provide for the removal of parked cars that conflict with the work. Parking restriction (no parking) signs posted by the Contractor as required for controlling public parking on the street shall conform to the requirements of these special provisions.

Parking restriction signs posted by the Contractor shall be of moisture resistant heavy cardstock and not less than 1.5 square feet of surface area on the face. Signs shall be clearly legible up to 100 feet from the sign. Background color shall be white and lettering shall be printed in red water-resistant ink except that the specific day, date and time of restriction may be printed or clearly lettered by hand in black water-resistant ink. Lettering height shall be a minimum of 1 inch and stroke width shall be not less than 0.15 inch. Each sign shall also list the Contractor’s name and telephone number in letters having a minimum height of 0.75 inch. The telephone number identified on the signs shall be staffed for telephone inquiries between the hours of 7:30 am and 4:30 pm each workday.

Signs shall be mounted such that the words “No Parking,” are at an elevation of at least 3 feet and not more than 7 feet above the adjacent flow line grade. The signs shall be placed as required to control the parking of cars within the construction zone. Maximum spacing between signs along each side of the roadway shall be 75 lineal feet. The Engineer and Goleta Police Department shall be notified when parking restriction signs are placed.

The Contractor shall be fully responsible for the adequate removal of all parked cars that obstruct the construction. Vehicle removal shall be coordinated with the Santa Barbara County Sheriff’s Department. Two hours advance notification is recommended for vehicle removal.

Full compensation for posting parking restrictions shall be considered as included in the prices paid for Traffic Control System

Add section 12-4.02A(3)(a)(i) City Required Submittals:

Submit traffic control plan.

Each drawing and calculation sheet must be in black ink and sequentially numbered.

Each drawing sheet must:

1. Be 11 by 17 inches
2. Be on minimum of 20 lb. paper
3. Have text of minimum nominal height of 5/32 inch
4. Sealed and signed by an engineer who is registered as a civil engineer in the State.

Allow 10 days for review.

Replace section 12-4.02D with:

Traffic Control System includes development and implementation of traffic control plans, all traffic control devices, and all flagging costs.
14 ENVIRONMENTAL STEWARDSHIP

Add to section 14-9.04 DUST CONTROL:
The Contractor shall implement the following measures during construction or demolition activities:

- Use water trucks or sprinkler systems to keep areas of vehicle movement damp to prevent dust from leaving the site.
- Minimize amount of disturbed area and reduce on-site vehicle speeds to 15 miles per hour or less.
- For fill material, cover, keep moist, or treat soil stock piled for more than two days, and tarp trucks transporting fill material to and from the site.
- Install gravel pads at access points to prevent tracking of mud onto public roads.
- After clearing, grading, earth moving or excavation is completed, treat the disturbed area by watering, re-vegetating, or by spreading soil binders until the area is paved or otherwise developed.

The Contractor shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary.

Dust control shall be included in the various items of work and no separate payment will be made.

Add to section 14-10.02:

14-10.02A Submittals
Submit with your request for final payment, a Post-Construction Waste Reduction and Recycling Summary Report documenting the types and amounts of materials that were used during the project and how much was reused, recycled, composted, salvaged, or landfilled.

DIVISION III GRADING

17 WATERING

Add to the end of section 17-1.01:
Goleta Water District will furnish a temporary construction water meter to the Contractor upon completion of an application and payment of a non-refundable application fee. The Contractor will be billed a monthly meter rental fee and a temporary water rate. All deposits and fees may be verified at the Goleta Water District, 4699 Hollister Avenue, Santa Barbara, CA 93110. Goleta Water District will refund the deposit upon return of the water meter(s), provided that it is in good operational order. Contractor is responsible for verifying current fees or other procedures for obtaining water for construction from GWD. Reclaimed water meters will be used for connection to the Contractor's water truck, and the potable water meters will be used for connection to a City fire hydrant.

Payment for temporary construction water is included in the items of requiring water and no separate payment will be made.
19 EARTHWORK

Add to section 19-1.01A:

Earthwork activities include clearing and grubbing, developing a water supply, and finishing the roadway. Comply with sections 16, 17-2, and 22.

Replace the 2nd, 3rd, and 4th paragraphs of section 19-2.03B with:

Dispose of surplus material. Ensure enough material is available to complete the embankments before disposing of it.

Obtain authorization and haul route permit before disposing of any surplus material.
CITY OF GOLETA

SPECIAL PROVISIONS

9009A SAN JOSE CREEK EMERGENCY CHANNEL REPAIR PROJECT

The various portions of the Contract Documents have been prepared under the direction of the following licensed Civil Engineer, in accordance with California Business and Professions Code §6735.

Civil Design
Prepared by:

July 9, 2020

Registered Civil Engineer Date

Approved by:

July 9, 2020

Charles W. Ebeling PE. TF.
Director of Public Works, City of Goleta
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SECTION F
SPECIAL PROVISIONS

ORGANIZATION
Special provisions are under headings that correspond with the main-section headings of the Standard Specifications. A main-section heading is a heading shown in the table of contents of the Standard Specifications.

Each special provision begins with a revision clause that describes or introduces a revision to the Standard Specifications as revised by any revised standard specification.

Any paragraph added or deleted by a revision clause does not change the paragraph numbering of the Standard Specifications for any other reference to a paragraph of the Standard Specifications.

REVISED STANDARD SPECIFICATIONS
Revised Standard Specifications are available at State of California, Department of Transportation (Caltrans) website at:
Contractor must comply with the most recent revised state standard specifications available prior to bid opening.

DIVISION I  GENERAL PROVISIONS
1  GENERAL
The work embraced herein shall conform to the provisions in the 2018 Standard Specifications and the 2018 Standard Plans of the California Department of Transportation insofar as the same may apply, and these special provisions.

Whenever the following terms occur in the Caltrans Standard Plans and Caltrans Specifications, the meaning shall be interpreted as follows:

State of California – The City of Goleta
Department of Transportation – The Engineering Division of the City of Goleta
Division of Highways – The Engineering Division of the City of Goleta
Director – The Public Works Director of the City of Goleta
Engineer – The Public Works Director of the City of Goleta, acting, either directly or through properly authorized agents, such agents acting within the scope of the particular duties entrusted to them.
## Bid Items and Applicable Sections

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<th>Item description</th>
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<td>130100</td>
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<td>190151</td>
<td>CHANNEL EXCAVATION</td>
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<td>22</td>
<td>999990</td>
<td>MOBILIZATION</td>
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5 CONTROL OF WORK

Replace section 5-1.20D with:

5-1.20D Occupied Improvements within the Right-of-Way

Do not take any action that will result in unnecessary inconvenience or disproportionate injury to or that is coercive in nature to the occupants of the improvements.

DIVISION II GENERAL CONSTRUCTION
10 GENERAL

Replace "Reserved" in section 10-1.01 of the Revised Standard Specifications for section 10-1 with:

The following is a general description of the type of work for each bid item listed in the Bid Schedule, and is not intended to be all-inclusive. Comply with the contract documents for all work.

1. CONSTRUCTION AREA SIGNS
Comply with section 12-3 of the Caltrans Standard Specification and these special provisions. This is a lump sum item.

2. JOB SITE MANAGEMENT
Comply with section 13-4 of the Caltrans Standard Specification and these special provisions. This is a lump sum item.

Job Site Management includes specifications for performing job site management including spill prevention control, material management, waste management, and non-stormwater management activities. Implement effective handling, storage, usage, and disposal practices to control material pollution and manage waste and non-stormwater at the job site before they enter the storm drain systems and receiving waters. This item includes developing the contractor’s water-supply and providing all water for the project; See information regarding obtaining a construction water meter, elsewhere in these contract documents.

3. PREPARE WATER POLLUTION CONTROL PLAN
Comply with section 13-2 of the Caltrans Standard Specification and these special provisions. This is a lump sum item.

Prepare Water Pollution Control Plans includes developing and implementing the WPCP, providing a water pollution control manager, conducting water pollution control training, and monitoring, inspecting and correcting water pollution control practices.

4. TEMPORARY CHECKDAM
Comply with section 13-10 of the Caltrans Standard Specification and these special provisions.
5. TEMPORARY CREEK DIVERSION
Comply with section 13 of the Caltrans Standard Specification, these special provisions and project plans.

6. DEWATERING
Dewatering: Comply with section 13 and 14 of the Caltrans Standard Specifications and the special provisions supplemented herein and all Permits, Licenses, Agreements, and Conditions (PLACs). The bid item includes all labor, materials and equipment and incidentals for the installation, maintenance and removal of the creek diversion.

This is a lump sum item.

In August of 2019, City staff “potholed” the existing rock slope protection, upstream and downstream of the proposed excavation. Depth of groundwater is shown on the plans. At the time the potholes were made, groundwater was below the limits of excavation. At the time of construction, conditions may be different.

The Contractor is responsible for dewatering necessary to keep the construction and work areas dry. The Contractor must design, install, operate, and maintain an adequate system. The system must be of sufficient size and capacity to maintain a dry condition without delays to construction operations.

Dewatering activities specified under another work item will be performed and paid for in accordance with the section in the Caltrans Standard Specifications and the special provisions supplemented herein for that item.

Dewatering activities that are not specified under another work item must be performed in accordance with the following:

a. Conduct dewatering activities under the Department's Field Guide for Construction Site Dewatering.
b. Ensure that any dewatering discharge does not cause erosion, scour, or sedimentary deposits that could impact natural bedding materials.
c. Discharge the water within the project limits. Dispose of the water if it cannot be discharged within project limits due to site constraints or contamination.
d. Do not discharge storm water or non-storm water that has an odor, discoloration other than sediment, an oily sheen, or foam on the surface. Notify the Engineer immediately upon discovering any such condition.

Before start of construction, submit a dewatering and discharge work plan. The dewatering and discharge work plan must comply with PLAC’s and include:

a. Title sheet and table of contents
b. Description of dewatering and discharge activities detailing locations, quantity of water, equipment, and discharge point
c. Estimated schedule for dewatering and discharge start and end dates of intermittent and continuous activities
d. Discharge alternatives, such as dust control or percolation
e. Visual monitoring procedures with inspection log
f. Copy of written approval to discharge into a sanitary sewer system at least 5 business days before starting discharge activities (if allowed).

7. SALVAGE AND REINSTALL METAL BEAM GUARD RAIL AND CHAIN LINK FENCE
Comply with section 15 and 83 of the Caltrans Standard Specification and these special provisions. This is a lump sum item.
Contractor shall determine the limits of the Metal Beam Guard Rail and Chain Link fence to be salvage and reinstall for the project.
The Caltrans Standard Plans shall be used to reconstruct these items.

8. REMOVE EXISTING ROCK SLOPE PROTECTION
Comply with section 15 and 72 of the Caltrans Standard Specification and these special provisions.
This is a lump sum item
The “Exist Rock Slope Protection” is defined as the existing rock slope protection and any existing RSP fabric below it.
This item includes:
• The removal and disposal of the rock in the limits shown on the plans and as directed by the engineer. The rock shall become the property of the Contractor
• Cutting-off any old soil nails which might conflict with the construction.
Special Note Regarding Locations for Staging/Stockpiling the materials generated by “Removal of Existing Rock Slope Protection” and “Channel Excavation” items.

As part of the Environmental Conditions, the City has agreed to restrictions/conditions on hauling material from the channel should water be standing at a depth of greater than 6-inches at the concrete access ramp near the “Drive-In Theater”, ramp during construction. If the standing water is 6-inches or less, which is tide dependent, equipment may be driven through the standing water so long as the wheels are clean and free of dirt and the equipment has no leaking oil or other fluids.

If greater than 6-inch depth of water is standing at this location, rather than “driving through shallow water”, the Contractor shall lift the materials generated by the “Remove Existing Rock Slope Protection” and “Channel Excavation” items over the flood control channel at a location upstream.

“Drive-In theater ramp” Channel Repair Location

Three locations available for the contractor’s use for removal of these materials (see graphic below):

A) Near the work site: Note the walls are high at this location and the contractor will be working on private parking lots/ driveways which shall be protected from damage.

B) At the point where Kellogg Ave. comes close the San Jose Channel; This is the grassy area south of the driveway to approximately 350 South Kellogg Ave. Existing Santa Barbara County Flood Control District and City of Goleta roadway easements allow access to this area.

C) Near the driveway to the News-Press printing plant at 725 S. Kellogg. This is the location which was used by the contractor for the October 2019 sediment removal project. The City of Goleta has made arrangements with the News-Press to stage here, providing access to the printing plant is maintained

In all instances;

- The contractor shall protect/repair the adjacent pavement to pre-construction conditions or better
• Sweep the area daily
• Provide traffic control and access as necessary

The contractor bid price shall include accommodating these restrictions.

Note that these restrictions do not apply to import materials like the crushed rock or ASR if the standing water at the “Drive-in Theater Ramp” is 6-inches deep, or less. In such a case, the contractor can drive through the water. See the environmental permits for more information.
9. CHANNEL EXCAVATION

Comply with section 19 of the Caltrans Standard Specification and these special provisions.

This is a “final pay” item.

Measurement:

The Engineer surveyed the finished grade for the RSP when it was completed in 2017. The contours for that surface are shown on the plans.

The existing rock slope protection (RSP) is about 2-feet deep. The removal of that rock slope protection is paid as a separate item.

The quantity shown on the Bid sheet is the volume of material, including the RSP, which will be excavated to create the subgrade for the new Articulated Slope Revetment proposed in this contract.

This item includes;

Removing any material besides the Existing Rock Slope Protection

Shaping and compacting the channel subgrade to match the design grades and conform to the existing elevations of the ASR upstream and downstream.

In the case that the removal of the RSP and shaping of the subgrade yields a condition where the contractor is “short” on material, the Contractor may:

a. use materials harvested from the low-flow channel at locations approved by the engineer to make-up the subgrade. This operation will require a time allowance to retrieve samples the borrow location and develop compaction curves. All effort for this is included in the Contractor’s price.

b. If directed by the Engineer, import more crushed rock to achieve the subgrade elevations; in such case, the quantity of 3/4-inch Crushed Rock will be increased accordingly.

The shop drawings for the ASR show that the existing sheet pile will remain. However, if more work room is necessary, as determined by the Engineer, Channel Excavation also includes the removal (or “cut-off”) of the existing sheet pile at the downstream conform.

Any excess material excavated shall become the property of the Contractor and shall be removed from the channel.

10. ROCK SLOPE PROTECTION FABRIC - CLASS 8

Comply with section 72 and 96 of the Caltrans Standard Specification and these special provisions.

This is a final pay item and includes furnishing and installing RSP fabric approximately 50-feet wide x 112-feet long.

Note that the RSP fabric will require overlaps and will wraps up the sides along the walls (about 2 feet each side) and at the upstream and downstream ends (another 3 feet). The
Quantity shown is measured in plan view. Overlaps / overruns are expected in the field and should be included in the Contractor’s Bid.

11. **¾-INCH CRUSHED ROCK**

Comply with section 19 of the Caltrans Standard Specification and these special provisions.

A layer of 3/4-inch crushed rock must be placed beneath the cellular concrete mattress in the channel bottom as shown on the plans, as described in these special provisions and as directed by the Engineer.

Sampling and sieve analysis must be performed in accordance with ASTM D-75 and ASTM C-136. Sand equivalents must be determined in accordance with AASHTO T-176. The liquid limit and plasticity index must be determined in accordance with applicable ASTM specifications.

Rock and gravel must be clean, hard, sound, durable, uniform in quality and free of any detrimental quantities of soft, friable, thin, elongated or laminated pieces, disintegrated material, organic matter, oil, alkali, or other deleterious substance.

The loss by abrasion in the Los Angeles abrasion machine, determined as prescribed in ASTM C-131, Grading A, must not exceed 10 percent, by weight, after 100 revolutions nor 40 percent after 500 revolutions.

Crushed rock must consist of the product obtained by crushing rock, stone or gravel so that at least 50 percent by weight of aggregate retained on the No. 4 sieve for 3/4 inch or larger maximum sizes and 50 percent retained on the No. 8 sieve for maximum sizes less than 3/4 inch shall consist of particles which have at least one rough, angular surface produced by crushing. All material that will pass a grizzly with bars spaced 15 inches apart, clear opening, must be crushed during production.

The gradation of crushed rock must comply with ASTM D-448.

**Measurement and Payment**

Quantities of 3/4" CRUSHED ROCK will be paid for at the contract price per cubic yard.

The Quantity listed on the bid sheet was based on volume calculated as follows:

50-feet wide  x 112-feet long x 1.5 feet deep = 311 CY.

The bid Quantity listed on the bid sheet includes an allowance for adjustments ordered by the Engineer. No allowance will be made for crushed rock placed outside those dimensions unless otherwise ordered by the Engineer.

The Contractor shall provide truck tickets and a materials certification defining the unit weight from the supplier to allow the Engineer to convert tonnage to cubic foot / cubic yard.

The above prices and payments must include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in constructing 3/4" CRUSHED ROCK, complete in place, as shown on the plans, and as specified in these special provisions, and as directed by the Engineer.

3/4" CRUSHED ROCK – CY
See “Special Note Regarding Locations for Staging/Stockpiling the materials generated by “Removal of Rock Slope Protection” and “Channel Excavation” items”, for information regarding access requirements.

12. BIAXIAL GEOGRID

Comply with section 19, 26 and 96 of the Caltrans Standard Specification and these special provisions.

This is a final pay item and includes furnishing and installing Biaxial Geogrid approximately 50-feet wide x 112-feet long.

Overlap shall be at least 2-feet.

13. COORDINATE AND INSTALL OWNER-FURNISHED ARTICULATED SLOPE REVETMENT

This is a Lump Sum Item. It includes all coordination and installation of the owner-furnished ARTICULATED SLOPE REVETMENT (ASR).

For this contract, “Owner” means “City of Goleta” or “City”.

Because of the long lead time to order, review shop drawings, and fabricate the ASR, and in order to match the materials in the adjacent channel with new materials sourced from the same supplier, the City has made arrangements with that supplier to manufacture the material shown on the drawings.

This material will has been fabricated and will be delivered as coordinated by the Contractor A copy of the Purchase Order listing the terms-and-conditions will be available for the Contractor’s review as Appendix 4. The shop drawings have been provided in the plan set.

In general the contractor must:

- Contact the supplier 30 calendars days in advance of the day it is needed onsite to make arrangements for delivery.
- Coordinate with the City’s Supplier and the Contractor’s own rigging company to arrange placement.
- Place the owner-furnished ASR as shown on the shop drawings
- Use the owner-furnished polypropylene tendons and crimp fasteners for the connections to the walls. These joints are paid as a separate item. The Engineer suggests that the Contractor coordinate with the Supplier to obtain a sample of the polypropylene tendons and crimp fasteners to make sure that they are compatible with the diameter of the galvanized eyes which were specified.

Note that the existing downstream sheet pile is shown on the shop drawings. If the contractor needs more room to install the ASR, this sheet pile may be cut off.
**Note Regarding Return of Rented Equipment for Contractor’s Use**

Note that some materials rigging including “spreader bars” will be provided to the Contractor under a rental agreement between the City and the Supplier. The Contractor is also responsible for the return of such equipment, as outlined in the purchase agreement; deadlines for return are shown therein.

**Note Regarding Temporary Construction Easements**

The City has acquired Temporary Construction Easements (TCE’s) from Kellogg Ave. to the channel, and some nearby areas. These TCE’s are shown in Appendix 2.

Note that landowners have stored trailers and storage containers alongside the channel. These items will be moved out of the Contractor’s way, by arrangement between the City and the landowners, prior to the start of work.

Access to other parking lot areas and travel around the site has not been arranged by the City. The Engineer suggests bidders (and their rigging subcontractor) should visit the site prior to bidding to evaluate the access and “bid accordingly”.

**14. GALVANIZED EYE BOLT CONNECTION FOR ASR (30 MATS X 3 PER MAT=90)**

The polypropylene tendons from the ASR will be tied to the concrete wall by the galvanized eye bolt connection shown on the plans. The Contractor will furnish and install the eyebolts using and epoxy-bonded joint proposed by the Contractor for approval by the Engineer.

Note that the existing wall is supported by steel soldier piles spaced about 8-feet on center. The location of these piles is evident by the concrete joints at each pile. Do not drill into the steel piles as the concrete is only a couple of inches thick at these locations.

The price paid for this item will be EACH.

The quantity was calculated as follows: 30 mats x 3 connections per mat =90 Eye-bolts.

The contractor’s attention is directed to the related items, COORDINATE AND INSTALL OWNER-FURNISHED ARTICULATED SLOPE REVETMENT and CONSTRUCTION JOINT BETWEEN ASR, CHANNEL WALLS, AND SHEET PILE or more information.

The price includes supplying the eyebolt, drilling and cleaning the holes, supplying the epoxy; supplying all work and materials to layout, furnish, and install the eyebolts complete in place.

**15. CONSTRUCTION JOINTS BETWEEN ASR AND CHANNEL WALLS, AND BETWEEN EXISTING ASR UPSTREAM AND DOWNSTREAM**

Comply with section 51 of the Caltrans Standard Specification and these special provisions. This is a lump sum item.

This item includes constructing the joints between both of the concrete channel walls, the downstream sheet pile if it is left in place, or the downstream ASR if the sheet pile is cut-off, and the upstream ASR, complete in place. The concept is shown on the Construction Details.
Work generally includes:

- placing the polypropylene tendons and crimping the owner-furnished material
- All work to tie the ASR mats to the Contractor's eyebolts and preparing the joint for concrete backfill
- Furnishing, placing, and finishing the concrete backfill around the ASR, and as otherwise needed such filling in around the soil anchors.

16. SOIL ANCHORS
Comply with section 46 of the Caltrans Standard Specification and these special provisions.

Note that at around fish weir, the ASR matting doesn’t include “open” cells” because the location of such open cells would be difficult to anticipate. In such case the soil anchors will penetrate the field of the “solid” ASR matting (as was done on all existing soil anchors). The Contractor's attention is directed to protect the tendons in the ASR.

17. MISCELLANEOUS METAL: ASR TIE DOWN CONNECTION
Comply with section 75 of the Caltrans Standard Specification and these special provisions.

This item is defined as the fabrication and installation “tops” of the Soil Anchors, to hold down the existing ASR. The “tops” consists of the plate which will be threaded on top of the soil anchor to hold down the ASR in the event of uplift.

- Plate is ½ Inch steel: A572 Gr 60:
- Parts are galvanized
- Plate is 12x12 inches on the bottom.
- Edges are beveled 45-degrees.
- Drill one extra hole to help spin plate on soil anchor: this hole is 1-inch diameter, drilled on the diagonal, halfway center anchor and corner
- Soil Anchor nut is welded all around to bottom of plate: weld configuration to accept load mentioned in GROUND ANCHORS AND SOIL NAILS
- Use full-height anchor nut: this is about 2-inches tall (see photo)—use the full-height nut seen elsewhere in the channel. Contractor to obtain a sample from the channel
- Cut extra soil anchor length flush with the top of the plate
- After installation, braze or tack weld nut to top of anchor to keep the plate from being removed by vandals or lost somehow.
- These Tie down Connections are paid “Each”—fabricated, galvanized, installed and spot-welded in the field.
Wrong! Example of wrong use of full-height nut from a location elsewhere on the channel.

This is the type of nut to be used on the bottom of the plates to be fabricated in this contract. Do not use the “short nuts” seen on some of the existing plates in this contract.
18. **SALVAGE ON-SITE GRAVEL: WEST-SIDE ACCESS ROAD**

Comply with section 15 of the Caltrans Standard Specification and these special provisions. This is a lump sum item.

Santa Barbara County Flood Control would like to drive across the west side of the ASR as a continuation of the maintenance road which proceeds upstream from the ramp at the south end of Kellogg Ave. This area is called the “West Side Access Road”.

To provide a smoother surface over this approximately 120-foot long x 20-foot-wide swath of the west side of the channel, this portion of the new ASR will be topped with a layer of gravel harvested from the low flow channel to provide a gravel travel surface. The travel surface will cover the ASR to a depth of about 2-inches.

The on-site gravel may be harvested from areas in the channel. Location and quality of material will be approved by the Engineer.

This material will be “watered and wheel rolled”. Compaction testing will not be performed.

Payment for this item includes all excavation, stockpiling, and transportation; all effort to construct this item, complete in place.

19. **CONCRETE FISH WEIR**

Comply with section 51 of the Caltrans Standard Specification and these special provisions.

These are paid EACH.

The Contractors attention is directed to the “Record Drawings” for the details which were used to build the original Concrete Fish Weir which was lost in 2017. Note that the concrete fish weir is surrounded by 10 soil anchors which are paid as a separate item.

20. **TIMBER FISH WEDGE**

The Timber Fish Wedges are a unique item built from wood and galvanized steel.

The Contractors attention is directed to the “Record Drawings” for the details which were used to build the original Timber Fish Wedges, which were lost in the 2017 event. That information, augmented with review of the existing adjacent Timber Fish Wedges, and interaction with the Engineer, must be the basis for fabricating and installing the Timber Fish Wedges.

These are paid EACH.

21. **PARKING LOT REPAIR**

Comply with section 39 of the Caltrans Standard Specification and these special provisions. This is a lump sum item.

The City has arranged access across private property to the work area. See the “Temporary Construction Easement” (TCE) exhibits for more information in Appendix 2.

Note that access will be provided from Kellogg Ave. to the “west wall”, and from the Flood Control Access Ramp which is located about 3600 feet south on Kellogg Ave.
There are other existing flood control easements on the east side of the project, along the Mission City Auto property, but at the time these plans were prepared Engineers envisioned that access from Hollister Ave. was not practical for this project.

Note that the Contractor will travel across privately-owned paved parking lots and driveways. The contractor must review the worksite before mobilizing, take clear photographs (with dates and locations labeled) and a narrated video of the pavement before moving any equipment on site.

At the time these plans were developed the Engineer envisioned there could be impact to the pavements, striping, and perhaps other improvements on the site.

After all work is completed, the Contractor must coordinate with the Engineer to review the condition of these pavements and the other components of the private properties and develop a plan and scope of work to repair anything which may have been affected by the construction.

After the repair / mitigation work is complete, contractor must take another series of photographs and narrated video to document the condition of the properties after the project is finished, when all equipment is off site, and the pavements are swept. These records will be provided to the City.

For the purpose of this contract “Parking Lot Repair” is defined to include:

- Documenting the condition of the parking lots as noted
- Removing, patching, repairing any damage to parking lots to the satisfaction of the Engineer
- If patches/ repairs include striped areas, restriping as necessary
- Sweeping the parking lots within the limits of the TCE’s and nearby areas as a “good neighbor”
- Performing all work to provide parking lots / driveways which are “equal or better” than when the work began

22. MOBILIZATION
Comply with the Caltrans Standard Specification and these special provisions. This is a lump sum item.

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13 WATER POLLUTION CONTROL

Add to the end of section 13-1.01A:
The specifications in section 13 for water quality monitoring apply to work activities whenever they occur in water:

The receiving water for this project is the Pacific Ocean.
Inspect the concrete washouts daily if concrete work occurs daily or weekly if it does not occur daily.

Add to the end of section 13-2.01A:

Add between the 4th and 5th paragraphs of section 13-2.01C:
The following RWQCBs will review the authorized WPCP:
1. Central Coast RWQCB office located at 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401

Replace 1st paragraph of section 13-6.03C with:
Provide temporary drainage inlet protection around drainage inlets as changing conditions require. Drainage inlet protection must be an appropriate type for conditions around the drainage inlet.

Replace section 13-12 with:
13-12 TEMPORARY CREEK DIVERSION SYSTEMS
13-12.01 GENERAL
13-12.01A Summary
Section 13-12 includes specifications for constructing, maintaining, reconstructing, and removing temporary creek diversion system (TCDS), and restoring creek bed to original condition. The temporary diversion system is used to divert upstream water flows to allow construction in a dry or dewatered location.

13-12.01B Definitions
Not Used

13-12.01C Submittals

13-12.01C(1) Temporary Creek Diversion System Plan
Within 20 days of Contract approval, submit 3 copies of the Temporary Creek Diversion System Plan (TCDSP). The TCDSP must include:
1. Installation and removal process, including equipment, platforms for equipment, and access locations.
3. Calculations supporting the sizing of piping, channels, pumps, or other conveyance by using FHWA HY-8 or other equivalent method. Calculate the discharge water flow rate and velocity anticipated where it discharges on any erodible surface, so its conveyance does not cause erosion within the project or at the discharge to the water body. Temporary
culverts attached to banks, walls, or other locations must be designed to hold the full weight of the culvert at capacity and restrain the culvert for any expected hydraulic forces.

4. Plans showing locations of diversion, including layouts, cross sections, and elevations.
5. Materials proposed for use, including MSDS if applicable.
6. Operation and maintenance procedures for the TCDS.
7. Restoration plans showing before and after conditions, including photos of existing conditions for areas disturbed during the installation, operation, and removal of the TCDS.
8. Monitoring and reporting plan to ensure applicable water quality objectives are met. This includes schedule of work including Temporary BMP implementation as part of the Construction Site BMP strategy, and SWPPP or WPCP as applicable. Use with section 13-3.01A.
9. Details of the pumping system, if used, including power source, debris handling, fish screens, and monitoring requirements.
10. Fish passage plan, following the Caltrans Fish Passage Design for Road Crossings, CA Department of Fish and Wildlife (CDFW), CA Salmonid Stream Habitat Restoration Manual, and National Marine Fisheries Service (NMFS), Guidelines for Salmonid Passage at Stream Crossings, as required by the applicable PLACs.
11. The TCDS design must demonstrate how it will comply with section 13-12.03A, water tightness, and prevent seepage.
12. Contingency plan to remove workers, equipment, materials, fuels, and any other work items that will cause pollution or violation of PLACs during a rain event out of the flow area. Develop the contingency plan for when a 12-inch freeboard cannot be maintained and overtopping of the coffer dams may occur.

If revisions are required, the Engineer notifies you of the date when the review stopped and provides comments. Submit a revised TCDSP within 15 days of receiving the comments. The Department's review resumes when a complete TCDSP has been resubmitted.

Submit an electronic copy on a read-only CD, DVD, or other Engineer-authorized data storage device and 4 printed copies of the authorized TCDSP.

If the RWQCB or other regulatory agency requires review of the authorized TCDSP, the Engineer submits it to the RWQCB for review and comment. If the Engineer orders changes to the TCDSP based on the RWQCB's comments, submit a revised TCDSP within 10 days.

All submittals which include plans, specifications, and calculations must be sealed and signed by a civil engineer registered in the State.

13-12.01D Quality Assurance
Not Used

13-12.02 MATERIALS

13-12.02A Gravel
Gravel must:
1. Be river run gravel obtained from a river or creek bed with gradation of 100 percent passing a 3/4 inch sieve and 0% passing a 3/8 inch sieve
2. Be clean, hard, sound, durable, uniform in quality, and free of any detrimental quantity of soft, thin, elongated or laminated pieces, disintegrated material, organic matter, or other deleterious substances
3. Be composed entirely of particles that have no more than 1 fractured face
4. Have a cleanliness value of at least 85, as determined by California Test 227
13-12.02B  Impermeable Plastic Membrane
Impermeable plastic membrane must be:

1. Single ply, commercial quality, polyethylene with a minimum thickness of 10 mils complying with ASTM D2103. You must use stronger plastic membrane if required as part of design to resist hydraulic forces.
2. Free of holes, punctures, tears or other defects that compromise the impermeability of the material.
3. Suitable for use as an impermeable membrane.
4. Resistant to UV light, retaining a minimum grab breaking load of 70 percent after 500 hours under ASTM D4355.

13-12.02C  Gravel-Filled Bags
Gravel-filled bags must comply with section 13-5.02G.

The 2nd paragraph of section 13-5.02G does not apply.

13-12.02D  Plastic Pipes
Plastic pipe must comply with section 61-3.01 and must:

1. Be clean, uncoated, in good condition free of rust, paint oil dirt or other residues that could potentially contribute to water pollution
2. Be adequately supported for planned loads
3. Use watertight joints under section 61-2.01.
4. Be made of a material or combination of materials that are suitable for clean water and which do not contain banned, hazardous or unlawful substances
5. For temporary pipes not reused on the project you may use the following materials:
   5.1. PVC closed-profile wall pipe must comply with ASTM F1803
   5.2. PVC solid wall pipe must comply with ASTM D3034, ASTM F679, AWWA C900, AWWA C905, or ASTM D2241 and cell class 12454 defined by ASTM D1784
   5.3. HDPE solid wall pipe must comply with AASHTO M 326 and ASTM F714
   5.4. Polyethylene large-diameter-profile wall sewer and drain pipe must comply with ASTM F894

13-12.02E  Rock
Rock layer must comply with the table titled Rock Gradation for 7-inch-thick Layer in section 72-4.02.

13-12.02F  Pumping System
Pumping system must:

1. Comply with section 74-2.02B
2. Be equipped with secondary containment
3. Be free of fuel and oil leaks
4. Meet intake screen regulatory requirements

13-12.02G  Seepage Pumping System
If seepage occurs in the dewatered work area, the water must be removed by sump pumps as part of the TCDS.

Seepage pumping system must:

1. Comply with section 74-2.02B
2. Ensure discharge water conform with PLACs or is treated on site
3. Be free of fuel and oil leaks

13-12.02H Discharge Water Energy Dissipation and Erosion Control
Discharge water from pumps, pipes, ditches, or other conveyances must have BMPs to
dissipate the flows and velocity of water discharged from the temporary diversion system if
erosion would otherwise occur.

Energy dissipation measures:
1. May be plastic sheeting, flared end sections, rubber matting, or other materials appropriate
   for the design hydraulics
2. Must be anchored to prevent movement by expected flows
3. Must be removed when the TCDS is removed

13-12.03 CONSTRUCTION
13-12.03A General
Do not use motorized equipment or vehicles in areas of flowing or standing water for the
construction or removal of the TCDS in compliance with section 13-4.03.

Remove vegetation to ground level and clear away debris.
Place temporary or permanent fill as allowed by PLACs.
Do not construct or reconstruct TCDS if the 72-hour forecasts predict a 50 percent or greater
chance of rain in the project area.
Stop all work and remove all material and equipment from the creek between upstream and
downstream cofferdams if the 72-hour forecasts predict a 50 percent or greater chance of rain
in the project area and the predicted rainfall is estimated to produce a flow rate exceeding the
design capacity of the TCDS.
If the required freeboard cannot be maintained and overtopping may occur, implement
contingency plan to remove all workers, equipment, and potential sources of pollution from the
dry working area of the creek bed.
Lap and join joints between the edges of impermeable plastic membrane with commercial-
quality waterproof tape with minimum 4-inch lapping at the edges.
Seal openings or penetrations through the impermeable plastic membrane with commercial
quality waterproof tape.
The TCDS must be water tight to keep the work area dry for construction and prevent the
creation of pollutants. Maintain all portions of the TCDS and fix leaks as soon as they are
discovered.

13-12.03B Maintenance
Maintain the TCDS to provide a minimum freeboard of 12 inches between the water surface
and the impermeable top of the cofferdams.
Do not discharge runoff from existing or proposed drainage systems into the dry work area
between the cofferdams. Runoff from these systems may be connected to the diversion pipe or
conveyed by pipes downstream of the cofferdam.
Prevent leaks in the TCDS. Provide seepage pumps as necessary and keep the work area dry to prevent the creation of sediment-laden water.

Repair holes, rips and voids in the impermeable plastic membrane with commercial-quality waterproof tape. Replace impermeable plastic membrane when patches or repairs compromise the impermeability of the material.

Repair TCDS within 24 hours after the damage occurs.

Prevent debris from entering the TCDS and receiving water.

Remove and immediately replace gravel, gravel-filled bags, impermeable plastic membrane, or plastic pipes contaminated by construction activities.

Remove sediment deposits and debris from the TCDS as needed. If removed sediment is deposited within project limits, it must be stabilized and not subject to erosion by wind or water, under sections 19-1.01 and 19-2.03 B.

13-12.03C Removal
When no longer required, remove all components of TCDS. Return the creek bed and banks to the original condition.

Do not excavate the native creek material. Backfill ground disturbance, including holes and depressions caused by the installation and removal of the TCDS with gravel. Maintain the original line and grade of the creek bed.

13-12.04 PAYMENT
Not Used

DIVISION VI STRUCTURES
46 GROUND ANCHORS AND SOIL NAILS

Add to section 46-3:

Soil Anchors shall meet the following criteria:

1) Cellular concrete mattresses must be anchored as shown on the plans.

2) Note that many of the anchors pass through the special “open” cells.

3) The 10 anchors around the concrete fish wier and “Timber Wedge” will require removal / modification of some “blocks” of the concrete ASR, while preserving the integrity of the polypropylene rope. The “hole” will be patched with concrete supplied by the contractor.

4) Care must be given to protect the revetment tendons.

5) Modifications to the ASR may be required to penetrate the ASR; this shall be repaired as directed by the Resident Engineer.
6) **Soil Anchor System must be Manta Ray Type MR-4 or approved equal.**

7) Minimum Ultimate Tensile strength of the anchor and its components (including the anchor and attachment hardware) must be **16000 pounds**.

8) All components of the earth anchor must be hot dip galvanized per ASTM A-123 / ASTM A-153.

9) Anchor rods must have a diameter of **.75 inches** (not 5/8-inch which is used for guy wires).

10) Anchors must be installed at the locations and angles shown on the project plans.

11) All anchors must meet the minimum embedment length of **20-feet** (along the axis of the anchor rod) specified on the project plans after the proof test as specified below. It shall be the responsibility of the installer to drive the anchors to a sufficient depth prior to proof testing such that the anchors will meet this minimum embedment length after the proof test.

12) All anchors must be proof tested along the axis of the anchor rod to the minimum proof test specified. The proof test load shall be held for a period of one minute during which time the movement of the anchor shall not exceed ½ inch (12mm).

13) The proof load for for this project is **12,000 pounds**.

14) The installer must keep a record of installation and test for each anchor that records the anchor specifics (anchor and rod model, installation angle), proof test results, final embedment length.

15) The proof testing device must have been calibrated or “Load Verified” within the past 1 year. It will be the responsibility of the installer to supply the Calibration or Load Verification Certificate.

16) The Anchor system must have a steel plate at the top for holding down the concrete mattresses. See construction details for more information. This item is paid separately as MISCELLANEOUS METAL: ASR TIE DOWN CONNECTION.

17) The Contractor may propose substitution (subject to approval by the Designer, Bengal Engineering), for a different anchor head as is appropriate for soil conditions provided that all of the above criteria are met.

**Replace 46-3.04 PAYMENT:**

Soil anchors are measured as **each**.

Verification and proof testing for soil anchors is included in the price paid for as soil anchors.

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APPENDIX 1

Sample Notifications

• 2-Week Advance “Here We Come” Sample
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City of Goleta
Notice to Area
Businesses, Residents, & Schools

The City is pleased to inform you that during the next month, Contractor Name, in conjunction with the City of Goleta, will be performing various San Jose Creek Channel Repair work in your neighborhood as part of the City’s 9009A San Jose Creek EMERGENCY Channel Repair Project.

The work will be occurring on within the San Jose Creek channel approximately 300-feet downstream of Hollister Avenue adjacent to the Kellogg Square parking lot. Construction is anticipated to take approximately 20 working days.

We apologize for any inconvenience this may cause and ask for your patience and cooperation so that we may complete this work as soon as possible.

The work will generally be performed between the hours of 7:30 a.m. and 5:00 p.m. However, there are work hour restrictions in some instances (i.e., vicinity of schools). Local access will be maintained during most of the work. However, parking restrictions will be necessary and will be posted a minimum of 72-hours in advance of the work.

Some or all of the following repair work will be performed in your area:

1. Excavation of portion of channel.
2. Installation of concrete mat on channel bottom.

If you have any questions or require additional information please contact the following:

Contractor Contact: _______________________________
Contractor Company Name: _______________________
Contractor Local (805) phone number: __________________________

ENGLISH AND SPANISH TRANSLATIONS
APPENDIX 2

Right of Way - Temporary Construction Easements
<table>
<thead>
<tr>
<th>APN</th>
<th>Site Address</th>
<th>Owner Name</th>
<th>Approving Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>071-140-061</td>
<td>330 S. Kellogg Avenue, Suite A, Goleta CA 93117</td>
<td>Feliz Properties, LLC</td>
<td>Right of Entry approved June 2020</td>
</tr>
<tr>
<td>071-140-058</td>
<td>Kellogg Square, Goleta, CA 93117</td>
<td>Kellogg Square LLC,</td>
<td>TCE approved November 2019</td>
</tr>
</tbody>
</table>
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FELIZ PROPERTIES

TEMPORARY CONSTRUCTION EASEMENTS - EXHIBITS
LEGAL DESCRIPTION
APN 071-140-061

A Shared Non-Exclusive easement over, under, through and across those portions of Rancho La Goleta, in the City of Goleta, County of Santa Barbara, State of California, shown as Parcel D in Parcel Map No. 11270 filed in Book 7, Page 49 ofParcel Maps in the Office of the County Recorder of said County, described as follows:

Commencing at the northeasterly corner of Parcel D of said Map mentioned above, thence along the northerly line of said Parcel D, N89°02'41" W 6.31 feet to a point on the westerly line of that certain 6.00 foot wide parcel of land as described in the grant deed to Santa Barbara Flood Control and Water Conservation District recorded in June 08, 1972 as instrument No. 21044 in Book 2405, Page 155 of Official Records of said County; thence continuing along said northerly line of Parcel D N89°02'41" W 44.32 feet to The True Point of Beginning;

Thence 1st leaving said northerly line of Parcel D S00°57'19" W 96.79 feet to a point on that westerly line of that certain 6.00 foot wide parcel of land,

Thence 2nd along said 6.00 foot wide parcel of land S30°23'31" W 30.52 feet;

Thence 3rd leaving said 6.00 foot wide parcel of land N00°57'19" E 108.37 feet;

Thence 4th N89°02'41" W 253.76 feet to a point on the westerly line of Parcel D;

Thence 5th along the westerly line of Parcel D N00°10'34" W 15.00 feet to the northwest corner of said Parcel D;

Thence 6th along said northerly line S89°02'41" E 313.38 feet to the True Point of Beginning.

Said Described parcel containing 5,462 Square Feet more or less.

Bearings are based on the California Coordinate System Zone 5, distances are ground and scaled to fit found monuments, multiply distances by 0.9999405 to obtain grid level distances.

End of Description

EXHIBIT B
SHARED NON-EXCLUSIVE EASEMENT
OF A PORTION OF
APN 071-140-061

EXHIBIT A

CITY OF GOLETA
COUNTY OF SANTA BARBARA
STATE OF CALIFORNIA
1"=60'

WATERS CARDENAS
LAND SURVEYING, LLP
www.waterscardenas.com
Phone: 805-967-1184
LEGAL DESCRIPTION
APN 071 140 061

A Temporary Construction Easement over, under, through and across those portions of Rancho La Goleta, in the City of Goleta, County of Santa Barbara, State of California, shown as Parcel D in Parcel Map No. 11270 filed in Book 7, Page 49 of Parcel Maps in the Office of the County Recorder of said County, described as follows:

Commencing at the northerly corner of Parcel D of said Map mentioned above, thence along the northerly line of said Parcel D, N89°02'41"W 6.31 feet to a point on the westerly line of that certain 6.00 foot wide parcel of land as described in the grant deed to Santa Barbara Flood Control and Water Conservation District recorded in June 08, 1972 as instrument No. 21044 in Book 2405, Page 155 of Official Records of said County and further being a point on a 466.31 foot radius curve concave northwesterly whose radial center bears N70°59'14"W and the True Point of Beginning;

Thence 1st along said westerly line of said 6.00 foot wide parcel of land and southwesterly along the arc of said curve through a central angle of 13°06'30" a distance of 106.69 feet;

Thence 2nd leaving said westerly line of 6.00 foot wide parcel of land and the easterly property line of said Parcel D, N00°57'19"E 96.79 feet to the northerly line of said Parcel D;

Thence 3rd along said northerly line of said Parcel D S89°02'41"E 44.32 feet to the True Point of Beginning.

Said Described parcel containing 2,363 Square Feet more or less.

Bearings are based on the California Coordinate System Zone 5, distances are ground and scaled to fit found monuments, multiply distances by 0.9999405 to obtain grid level distances.

End of Description

EXHIBIT D
TEMPORARY CONSTRUCTION EASEMENT OF A PORTION OF APN 071-140-061

EXHIBIT C

CITY OF GOLETA
COUNTY OF SANTA BARBARA
STATE OF CALIFORNIA
1"=60'

WATERS CARDENAS
LAND SURVEYING, LLP
W.C. 17-002

URL: www.waterscardenas.com
KELLOGG SQUARE

TEMPORARY CONSTRUCTION EASEMENTS - EXHIBITS
EXHIBIT “C”
(Temporary Construction Easement Legal Description)

Parcel: HB-2-3

A portion of land in the City of Goleta, County of Santa Barbara, State of California, being a portion of Parcel C per map recorded as Parcel Map No. 11270 in Book 7, Page 49 of Parcel Maps in the office of the County Recorder of said County.

Said portion of land is described as follows:

Commencing at the northeast corner of said Parcel C; thence, along the northerly line of said Parcel C, S 89°40'21" W, 6.80 feet, to the TRUE POINT OF BEGINNING; thence,

1st S 1°18'52" E, 30.27 feet to the beginning of a tangent curve; thence,

2nd Along the arc of said curve having a radius of 467.00 feet, concave westerly through a central angle of 6°08'26", in a southwesterly direction 50.05 feet; thence,

3rd S 85°07'55" E, 4.77 feet to a point on the westerly line of an easement described per Instrument No. 2013-0015448 of Official Records, also being the beginning of a non-tangent curve; thence,

4th Along said westerly line, along the arc of said curve having a radius of 471.00 feet, concave westerly through a central angle of 13°58'29", having a radial bearing of S 85°07'37" E, in a southwesterly direction 114.88 feet to a point on the southerly line of said Parcel C; thence,

5th Along said southerly line, N 89°02'49" W, 60.89 feet; thence,

6th N 00°57'11" E, 15.00 feet; thence,

7th N 05°04'24" E, 19.09 feet; thence,

8th N 30°06'36" E, 20.80 feet; thence,

9th N 58°08'22" W, 2.76 feet; thence,

10th N 32°25'12" E, 8.54 feet; thence,

11th N 59°25'07" W, 3.07 feet; thence,

12th N 32°24'47" E, 9.34 feet; thence,
13th    N 56°32'07" W, 2.91 feet; thence,
14th    N 32°14'03" E, 9.18 feet; thence,
15th    N 53°08'48" W, 2.92 feet; thence,
16th    N 31°14'56" E, 8.75 feet; thence,
17th    N 60°42'31" W, 2.48 feet; thence,
18th    N 27°37'09" E, 8.28 feet; thence,
19th    N 62°22'51" W, 2.33 feet; thence,
20th    N 29°09'56" E, 18.36 feet; thence,
21st    N 61°31'54" W, 7.59 feet; thence,
22nd    N 30°35'52" E, 8.30 feet; thence,
23rd    N 59°24'08" W, 4.02 feet; thence,
24th    N 30°35'52" E, 9.48 feet; thence,
25th    N 57°56'59" W, 4.25 feet; thence,
26th    N 32°03'01" E, 8.73 feet; thence,
27th    N 57°56'59" W, 5.08 feet; thence,
28th    N 32°43'58" E, 9.89 feet; thence,
29th    N 57°16'02" W, 5.37 feet; thence,
30th    N 32°43'58" E, 8.34 feet; thence,
31st    N 57°16'02" W, 5.37 feet; thence,
32nd    N 32°43'58" E, 9.55 feet; thence,
33rd    N 57°52'00" W, 18.79 feet; thence,
34th    N 05°47'35" E, 4.59 feet to a point on the northerly line of said Parcel C; thence,
35th    Along said northerly line, N 89°40'21" E, 64.13 feet to the TRUE POINT OF BEGINNING.
Containing an area of 11,498 square feet, more or less.

Bearings and distances as shown herein are based upon the California Coordinate System of 1983 (CCS83) Zone 5.

This real property description was prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Signature: Shane C. Sobecki  Date: 02/02/18  
Shane C. Sobecki, PLS
EXHIBIT “D”
(Temporary Non-exclusive Access Easement Legal Description)

Parcel: HB-2-2

A portion of land in the City of Goleta, County of Santa Barbara, State of California, being a portion of Parcel C per map recorded as Parcel Map No. 11,270 in Book 7, Page 49 of Parcel Maps in the office of the County Recorder of said County.

Said portion of land is described as follows:

Beginning at the southwest corner of said Parcel C; thence,

1st Along the westerly line of said Parcel C, N 0°10'42" W, 15.00 feet; thence,

2nd S 89°02'49" E, 256.82 feet; thence,

3rd S 0°57'11" W, 15.00 feet to a point on the southerly line of said Parcel C; thence,

4th Along said southerly line, N 89°02'49" W, 256.53 feet to the point of beginning.

Containing an area of 3,850 square feet, more or less.

Bearings and distances as shown herein are based upon the California Coordinate System of 1983 (CCS83) Zone 5.

This real property description was prepared by me, or under my direction, in conformance with the Professional Land Surveyor’s Act.

Signature: Shane C. Sobecki

Shane C. Sobecki, PLS

Date: 02/02/18

[Seal]
APPENDIX 3

Environmental Permits
Notice of Exemption

To: Office of Planning and Research
   P.O. Box 3044, Room 113
   Sacramento, CA 95812-3044
   County Clerk
   County of: Santa Barbara
   105 East Anapamu St.
   Santa Barbara, CA 93101

From: (Public Agency): City of Goleta
   130 Cremona Drive, Suite B
   Goleta, CA 93117

Project Title: San Jose Creek Storm Damage Permanent Repair

Project Applicant: City of Goleta

Project Location - Specific:
San Jose Creek 300 feet downstream of Hollister Avenue Bridge

Project Location - City: Goleta
Project Location - County: Santa Barbara

Description of Nature, Purpose and Beneficiaries of Project:
Permanent repair of San Jose Cr storm damage to prevent flooding/property damage

Name of Public Agency Approving Project: City of Goleta

Name of Person or Agency Carrying Out Project: City of Goleta

Exempt Status: (check one):
☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☐ Categorical Exemption. State type and section number: 15301 Existing Facil, 15302 Replacement
☐ Statutory Exemptions. State code number:

Reasons why project is exempt:

Repair of previously permitted structure when no sensitive aquatic species present

Lead Agency
Contact Person: Charlie Ebeling
Area Code/Telephone/Extension: 805-961-7576

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: [Signature]
Date: 2/7/17
Title: Public Works Director

☐ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Revised 2011
December 30, 2019

Charlie Ebeling
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117
cebeling@cityofgoleta.org
(805) 961-7576

Dear Mr. Ebeling:

Final Streambed Alteration Agreement, Notification No. 1600-2019-0182-R5, San Jose Creek Permanent Storm Damage Repair

Enclosed is the final Streambed Alteration Agreement (Agreement) for the San Jose Creek Permanent Storm Damage Repair (Project). Before the California Department of Fish and Wildlife (CDFW) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, CDFW determined your Project is exempt from CEQA and filed a Notice of Exemption (NOE) on the same date it signed the Agreement.

Under CEQA, the filing of an NOE triggers a 35-day statute of limitations period during which an interested party may challenge the filing agency’s approval of the Project. You may begin the Project before the statute of limitations expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this letter, please contact Sarah Rains, Environmental Scientist, at (805) 498-2385 or by email at sarah.rains@wildlife.ca.gov.

Sincerely,

[Signature]
Erinn Wilson
Environmental Program Manager

c: Sarah Rains, CDFW, sarah.rains@wildlife.ca.gov
   Rosemary Thompson, Cardno Inc., rosemary.thompson@cardno.com

Conserving California’s Wildlife Since 1870
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
SOUTH COAST REGION 5
3883 RUFFIN RD.
SAN DIEGO, CA 92123

STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. 1600-2019-0182-R5
San Jose Creek

CITY OF GOLETA
SAN JOSE CREEK PERMANENT STORM DAMAGE REPAIR

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the City of Goleta represented by Charlie Ebeling (Permittee).

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) Section 1602, Permittee notified CDFW on August 9, 2019, that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC Section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project site is located within San Jose Creek approximately 300 feet downstream of Hollister Avenue Bridge in the City of Goleta, County of Santa Barbara, State of California. It is within the California U.S. Geological Survey (USGS) Goleta 7.5-minute quadrangle within Township 4 North, Range 28 West, Section 16. The Assessor’s Parcel Numbers (APN) associated with this project are 071-140-46; 071-140-56,58; 071-260-01,02,03,04,05,06,07,08; and 071-140-061.

PROJECT DESCRIPTION

Between 2012 and 2013 Permittee implemented the San Jose Creek Capacity Improvement Project authorized under CDFW streambed alteration agreement 1600-2008-0318-R5. That project included the removal and replacement of the concrete portion of San Jose Creek from Goleta Slough to Hollister Avenue Bridge. As part of
that project, articulated slope revetment (ASR) mats were installed along the bed of the stream. Fish passage components were incorporated in the design throughout the stream. In February of 2017, a winter storm damaged an approximately 112-linear-foot x 50-foot-wide segment of the ASR mats and Permittee conducted temporary repairs at that time. The currently proposed project will replace the temporary repairs with permanent repairs consisting of the same ASR mats and same fish passage design. Specific project details are as follows:

1. Install a stream by-pass diversion to be used in case of a rain event or an emergency need to convey water past the project area.
2. Remove the existing temporary repair rock slope protection (RSP).
3. Remove the temporary steel sheets that had been installed at the downstream limits of the RSP.
4. Construct channel subgrade improvements involving placement of crushed rock and engineering fabrics.
5. Install new ASR mats- these will be lifted from a truck by a crane and placed in the stream.
6. Install soil anchors through the new ASR mats.
7. Replace the concrete fish weir according to previously approved design. The fish weir had been removed as part of the temporary repairs.

All excavated materials (RSP and attached dirt- approximately 400-500 cubic yards) will be placed 200 feet downstream and allowed to dry prior to being exported to prevent dripping wet materials on public streets. Access to the work site will be from the top of the west bank using cranes and also from within the stream. For access from within the stream, equipment will enter the stream at an existing ramp approximately 3,600 feet downstream when the tide is not covering the ramp. Equipment used to complete the project includes: excavator, backhoe, wheel loader, skid steer loader, tool trucks, pick-up trucks, 10-wheel dump trucks, water truck, street sweeper, air compressors, welding truck, fuel and service truck, crane, semi-trucks and trailers, personal vehicles, concrete pump.

PROJECT IMPACTS

Potentially existing fish or wildlife resources the project could substantially adversely affect include: Fish: southern California steelhead (Onchorhynchus mykiss), tidewater goby (Eucyclogobius newberryi); Amphibians: California red-legged frog (Rana draytonii); Plants: southern tarplant (Centromadia parryi ssp. australis), Coulter’s saltbush (Atriplex coulteri), arroyo willow seedlings (Salix lasiolepis), and all other aquatic and wildlife resources in the area, including the riparian vegetation which provides habitat for such species in the area.
Permanent repairs to the stream within the 112-linear-foot segment will result in a total of 0.13 acre of permanent impacts. Access to the segment from 3,600 feet downstream will result in temporary impacts to 4.00 acres of the stream from crushing of vegetation by equipment. Vegetation is sparse and mostly non-native (Mediterranean mustard (*Hirschfeldia incana*), white sweet clover (*Melilotus albus*), cocklebur (*Xanthium spinosum*), puncturevine (*Tribulus terrestris*), smartweed (*Persicaria sp.*)) with arroyo willow seedlings scattered throughout. This stretch of the stream is also subject to annual maintenance activities as needed by Santa Barbara County Flood Control authorized under CDFW streambed alteration agreement 1600-2015-0053-R5. The adverse effects the project could have on the fish or wildlife resources identified above include: 1) Removal of vegetation, including non-native trees, and other vegetation will decrease the habitat used as cover, food sources, and nesting sites for all wildlife species, including amphibians. 2) Disturbing or exposing soil could increase the production of sediment, which could migrate downstream, or could suffocate frog egg masses if work is done in winter or early spring. 3) If work is done during the bird nesting season, nesting behavior could be disrupted, or nests abandoned and destroyed, including those of cavity nesters. 4) Heavy equipment could bury or crush small mammals or reptiles in burrows, destroy the nests or young of ground nesting birds, or run over individual animals that are not able to escape the path of the equipment. 5) Dust from operations could settle on vegetation and coat stomata, preventing the vegetation from normal respiration and reducing pollination, seed set, and photosynthesis. 6) Concrete released into water has a pH of 12, which is lethal to all aquatic wildlife. 7) Solid waste and litter could contaminate downstream water channels and the Pacific Ocean.

**MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES**

1. **Administrative Measures**

Permittee shall meet each administrative requirement described below.

1.1 **Documentation at Project Site.** Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency, upon request.

1.2 **Providing Agreement to Persons at Project Site.** Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.

1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the project site at any time during implementation in accordance with site safety and security protocols to verify compliance with the Agreement.

1.5 Project Initiation and Completion. Permittee shall notify CDFW, by e-mail, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities.

1.6 Changes in Project. In the event that the project scope, nature, or environmental impact is altered by subsequent permit conditions by a local, state or federal regulatory authority, Permittee shall either submit an Amendment request or re-Notify CDFW of any project modification which conflicts with current conditions or project description.

1.7 Implement as Proposed Unless Directed Differently by Agreement. The agreed work includes activities associated with the Project Location and Project Description that is provided above. Specific work areas and mitigation measures are described on/in the plans and documents submitted by Permittee with the Notification Package, and shall be implemented as proposed unless directed differently by this Agreement.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

2.1 General Monitoring. A wildlife biologist, having the appropriate permits, shall act as the biological monitor (monitor) for the project. The monitor shall be on site on a daily basis during the start of construction, during any water diversion activities, and if endangered or threatened listed species are present within 500 feet of any work. The monitor shall be on site at least twice a week during normal operations and shall survey for species prior to construction each day the monitor is present. If any non-listed species are found in the path of construction, the monitor shall move the species out of harm’s way to a safe location using the following protection measures implemented at the discretion of the monitor: 1) Utilize shovel, rake, or similar hand tool to gently re-direct the animal out of work area. 2) Install silt fence or other exclusionary fencing to prevent species from re-entering disturbance area. 3) Capture/relocate species to appropriate habitat outside the disturbance area. Any exclusionary devices installed shall be checked by the
monitor, or designee of the monitor, on a daily basis to check/ensure continued exclusionary device effectiveness. The monitor shall have authority to temporarily stop construction activities until the species is determined to be out of harm’s way. A biological monitor shall give tail-gate training to all contractors and explain all conditions, identify species, and ensure compliance prior to and during the construction.

2.2 **Incidental Take Permit for Rare, Threatened, or Endangered Species.** Permittee shall notify CDFW in the event of the discovery of any rare, threatened, or endangered species prior to commencement of construction; work may not proceed unless either: 1) CDFW concurs in writing that take of CESA-listed species is unlikely; or 2) an Incidental Take permit pursuant to Fish and Game Code section 2081 is acquired.

2.3 **Notification to the California Natural Diversity Database (CNDDB).** If any special status species are observed in project surveys, Permittee or designated representative shall submit CNDDB forms to the CNDDB for all preconstruction survey data within five (5) working days of the sightings, and provide to the CDFW’s Regional office digital copies of the CNDDB forms and survey maps.

2.4 **Special Status Plant Species.** Coulter’s saltbush and southern tarplant are species listed under California Native Plant Society’s Rare Plant Rank system as list 1B.2 and 1B.1 respectively (rare and endangered in California). Permittee shall have a qualified botanist survey the project site including a 15 foot buffer around the project site in areas that allow for a 15 foot buffer during the blooming season of both plants. Any occurrences of these plants within the project site and 15 foot buffer shall be flagged and the plants shall be avoided during project activities. All flagging shall be removed upon project completion.

2.5 **Fish Surveys.** If flowing or ponded water is within the proposed work limits, including after steelhead season (as defined in 2.9 below), Permittee shall have a qualified fisheries biologist with required federal permits survey the proposed work area to verify presence/absence of any sensitive fish species such as steelhead, tidewater goby, and any other fish species of special concern which may occur within the area. Survey methods shall conform to the current U. S. National Marines Fisheries Service, USFWS, and CDFW. If any threatened or endangered species are found, Permittee shall cease all work within a ¼ mile radius of the sighting and in all water (flowing or impounded), and shall contact CDFW within 24 hours of the sighting and shall request an onsite inspection by a CDFW representative (to be done at the discretion of CDFW) to determine if work shall proceed. The results of the surveys shall be provided to CDFW, along with copies of all field notes, prior to the completion of work or as otherwise specified.
2.6 **Reporting Steelhead.** If flowing or ponded water is within the proposed work limits of a stream known to have, or could contain steelhead, Permittee shall telephone the senior fisheries biologist, Mary Larson, at (562) 342-7186 and/or Environmental Scientist, Sarah Rains, at (805) 498-2385 prior to commencing activities within the bed, bank, and channel. Permittee shall leave his/her name, date and time called, telephone number, the stream name, work location, nature of planned activities and proposed schedule. Permittee shall report all fish mortality immediately to CDFW, and to NOAA Fisheries.

2.7 **Steelhead Seasons.** No work shall be conducted within the flowing or ponded water within the stream, which has potential to support steelhead. Adult steelhead and and/or smolts may be expected to be in the area, either spawning or passing through to upper spawning locations or out to the ocean during the months of November 1st through July 15th. Permittee may continue work past November 1st should it become necessary only if no measurable rain (0.1 inch or less) is forecasted for a 14-day period following October 31st. Otherwise, Permittee shall not work during these times unless permitted by NOAA. A National Marine Fisheries Biologist shall be contacted to coordinate additional fish salvage and avoidance measures.

2.8 **Steelhead Protection.** Any structure/culvert placed within the stream where fish may occur shall be designed, constructed, and maintained such that it does not constitute a permanent barrier to upstream or downstream movement of aquatic life including steelhead, or cause an avoidance reaction by fish that impedes their upstream or downstream movement. This includes but is not limited to the supply of water at an appropriate depth, temperature, and velocity to facilitate upstream and downstream fish migration. If any aspect of the proposed project results in a long-term reduction in fish movement, Permittee shall be responsible for all future activities and expenditures necessary (as determined by CDFW) to secure passage of fish across the structure.

2.9 **California red-legged frog – Pre-Project Survey.** Prior to the onset of any project-related activities, a biological monitor qualified to survey and handle red-legged frogs shall inspect the project work area and areas adjacent to the project area for California red-legged frog adults, tadpoles, and egg masses. At this time, the biological monitor shall identify appropriate areas to contain California red-legged frog adults and tadpoles taken from the project areas. These areas shall be in proximity to the capture site, contain suitable habitat, not be affected by project activities, and be free of exotic predatory species (i.e. bullfrogs, crayfish) to the best of the approved biologist’s knowledge. Movement of frogs shall only be performed by the qualified biological monitor. In the rare case that egg masses are found after July 1st, Permittee shall make every attempt to wait until the egg masses hatch to transport them.
2.10 **California red-legged frog – Exclusion Fencing and Protection.** Exclusion fencing shall be installed around the project area and staging area. After installation of the fence barrier, a biological monitor with appropriate permits to survey and handle California red-legged frogs shall daily inspect the project work area prior to the commencement of activities. If the biological monitor determines that sensitive species are not within the work area, equipment or materials may be moved onto the work site under the observation of the biological monitor. In the event California red-legged frogs are found in the project area, the biological monitor shall have the authority to halt work activities that may affect California red-legged frog adults, tadpoles, or egg masses until they can be moved out of harm's way. The biological monitor shall then direct and inspect all vegetation and sediment removal activities for the presence of frog adults, tadpoles, or egg masses. Vegetation removed shall be placed directly into a disposal vehicle and removed from the site. Vegetation shall not be piled on the ground unless it is later transferred under the direct supervision of the biological monitor or biologist.

2.11 **Nesting and/or Breeding Bird Surveys.** Permittee shall not remove or otherwise disturb vegetation on the project site from February 1 (January 1 for raptors) to September 1, to avoid impacts to breeding/nesting birds. If vegetation removal activities are scheduled during the nesting season, a focused survey for nests of such birds shall be conducted by an avian biologist no earlier than 3 days prior to the beginning of project-related activities. The results of the survey shall be e-mailed to R5LSACo@wildlife.ca.gov prior to commencement of work. Refer to Notification Number 1600-2019-0182-R5 when submitting the survey to the CDFW. If any nests are found, Permittee shall consult with the CDFW and the United States Fish and Wildlife Service (USFWS) regarding appropriate action. If a lapse in project-related work of 5 days or longer occurs, another survey and if required, consultation with the CDFW and USFWS, shall be required before project work can be reinitiated.

2.12 **Active Breeding and/or Nesting.** If construction occurs during the breeding season and breeding activities and/or a bird nest is located, Permittee shall do one of the following to avoid and minimize impacts to nesting birds:

1) Implement default 300-foot minimum avoidance buffers for all passerine birds and 500 foot minimum avoidance buffer for all raptor species. The breeding habitat/nest site shall be fenced and/or flagged in all directions, and this area shall not be disturbed until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the project.
2) Develop a project-specific Nesting Bird Management Plan. The site-specific nest protection plan shall be submitted to CDFW for review and comment. The Plan should include detailed methodologies and definitions to enable a CDFW qualified avian biologist to monitor and implement nest-specific buffers based on topography, vegetation, species, and individual bird behavior. This Nesting Bird Management Plan shall be supported by a Nest Log which tracks each nest and its outcome. The Nest Log will be submitted to CDFW at the end of each week.

3) Permittee may propose an alternative plan for avoidance of nesting birds for CDFW concurrence.

2.13 Do Not Disturb or Destroy Bird Nests. This Agreement does not allow Permittee, any employees, or agents to destroy or disturb any active bird nest (Fish and Game Code § 3503 et seq.) at any time of the year.

2.14 Wildlife and Avian Biologist. A wildlife biologist shall be an individual experienced with construction level biological monitoring, who is able to recognize species in the project area, and who is familiar with the habits and behavior of those species. Wildlife biologists shall have academic and professional experience in biological sciences and related resource management activities as it pertains to this project. For the purpose of nesting bird surveys an avian biologist must have field experience directly related to finding nests and monitoring them for the specific purpose of determining breeding status, egg incubation, chick maturity, and estimating fledge date.

2.15 Pets. Permittee shall not permit pets on the construction site.

2.16 Safety. Permittee shall ensure that no guns/or other weapons are on-site during construction, with the exception of security personnel and only for security type functions. No hunting shall be authorized during construction.

2.17 Public Trespass. The work area shall be secured from trespass when (as determined by CDFW) fish or wildlife resources are vulnerable to damage from unsupervised public access.

2.18 Rodent control. No rodent poisons or rodenticide shall be used to control rodents. These products, even used properly, can lead to secondary exposure to wildlife.

Work Areas and Vegetation Removal
2.19 **Limits of Disturbance.** The project footprint boundary shall be clearly staked in the field prior to project activities. Removal of native vegetation and sediment shall not exceed the limits approved by CDFW.

2.20 **Vegetation Removal.** Except as addressed in this Agreement, no native vegetation with a dbh in excess of three (3) inches shall be removed or damaged without prior consultation and approval of a CDFW representative.

2.21 **Trimming.** Trimming is defined herein as the removal of vegetation to the extent necessary to allow a specific level of access (e.g., single lane of vehicles) for specific types of equipment (e.g., excavator or horizontal drill). There shall be no vegetation removal in excess of what is necessary to allow the level of access needed.

**Avoid/Minimize Effects of Equipment and Access**

2.22 **Equipment and Vehicle Leaks.** Any equipment or vehicles driven and/or operated within or adjacent to the stream shall be cleaned prior to entering the stream, checked, and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life including oil, grease, hydraulic fluid, soil, and other debris. In addition, equipment shall be cleaned daily to ensure non-native species are not introduced into mitigation areas, or spread between project sites. Cleaning of equipment shall take place outside of the stream. No equipment maintenance or fueling shall be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas. Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the stream shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak.

2.23 **Minimize Vehicle Parking.** Vehicles may enter and exit the work area as necessary for project activities, but may not be parked overnight in areas other than the designated staging areas, existing parking lots or driveways within ten (10) feet of the drip line of any trees; nor shall vehicles be parked where mechanical fluid leaks may potentially enter the waters of the state.

2.24 **Pollution and Litter Laws.** Permittee shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of Permittee to ensure compliance.

2.25 **Spills.** The clean-up of all spills shall begin immediately. CDFW shall be notified immediately by Permittee of any spills and shall be consulted regarding clean-up procedures.
2.26 **Vacuum Trucks or Pumps.** If vacuum trucks or pumps are used to clean up any contamination, or for any other use, the vacuum hose shall be placed in a 3 to 4 square foot area, protected on all sides by exclusionary fencing to lower velocities and to prevent the uptake of any aquatic life.

2.27 **Wet Concrete.** No concrete or any cement product may be poured if measurable rain is forecasted within 15 days. If any concrete is poured after November 1st, a quick cure ingredient shall be added to the concrete mix to ensure a faster set or drying time. Cement and concrete shall not be poured within 150 feet of a stream during the rainy season. Cement shall not be poured in or near a flowing stream, to reduce the potential for significant adverse impacts to the stream, water, or biota without prior approval. To prevent the release of materials that may be toxic to fish and other aquatic species, the poured concrete structure(s) shall be isolated from water and allowed to dry/cure for a minimum of 30 days. As an alternative, the Permittee shall monitor the pH of any water that has come into contact with the poured concrete. If this water has a pH of 9.0 or greater, the water shall be pumped to a tanker truck or to a lined off-channel basin and allowed to evaporate or be transported to an appropriate facility for disposal. During the pH monitoring period, all water that has come in contact with poured concrete shall be isolated and not allowed to enter the water or otherwise come in contact with fish and other aquatic resources. The water shall be retested until pH values become less than 9.0. Once this has been determined, the area no longer needs to be isolated. Results of pH monitoring shall be made available to CDFW upon request. A non-toxic substance that can buffer the pH shall be made available on site to use if any contamination to water occurs.

2.28 **Pollution, Sedimentation, and Litter.** No debris, soil, silt, sand, bark, slash, sawdust, rubbish, construction waste, cement or concrete or washings thereof, asphalt, paint, oil or other petroleum products or any other substances which could be hazardous to aquatic life, or other organic or earthen material from any logging, construction, or other associated project-related activity, shall be allowed to contaminate the soil and/or enter into or placed where it may be washed by rainfall or runoff into, waters of the State. Any of these materials, placed within or where they may enter a stream or lake, by Permittee or any party working under contract, or with the permission of Permittee, shall be removed immediately. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high-water mark of any stream or lake.

2.29 **Rock, Gravel, and/or Other Materials.** Rock, gravel, and/or other materials shall not be imported to, taken from, or moved within the bed or banks of the stream,
except as addressed in this Agreement. Water shall not be pumped from the channel and used for dust control or any other use in the project.

2.30 **Removal of Existing Structure.** When removing any existing structure, Permittee shall contain all materials, including dust from the channel, at the end of every day. Tarps shall be suspended under the structure to contain dust, especially concrete dust, and the area shall be vacuumed on a daily basis.

2.31 **Water Diversion- Coffer Dam.** Should water be present during project activities, prior to start of construction, Permittee shall implement the water diversion plan using the cofferdam as described in the notification for this Project. The coffer dam shall be constructed of a non-erodible material which does not contain soil or fine sediment. The coffer dams and stream diversion system shall remain in place and functional throughout the construction period. Any failure to the coffer dam for any reason shall be repaired immediately.

2.32 **Restore Normal Flows.** Permittee shall remove the cofferdam and shall restore normal flows to the effected stream immediately upon completion of work at that location.

2.33 **Weather Limitations.** Permittee's activities within the stream shall be limited to the dry period of the year, when the stream is not actively flowing, and/or when no measurable rain (1/2 of an inch) with 50% or greater probability is forecasted within 72 hours. If measurable rain with 50% or greater probability is predicted within 72 hours of construction, all activities within streams shall cease and protective measures to prevent siltation/erosion shall be implemented/maintained. No work shall be conducted within streams during rain events.

2.34 **Post-Storm Event Inspection.** After any storm event, Permittee shall inspect all sites scheduled to begin or continue construction within the next 72 hours. Corrective action for erosion and sedimentation shall be taken as needed. National Weather Service 72-hour weather forecasts shall be reviewed prior to the start of any phase of the project that may result in sediment runoff to the stream, and construction plans adjusted to meet this requirement. The National Weather Service forecast can be found at: [http://www.nws.noaa.gov](http://www.nws.noaa.gov).

2.35 **Hours of Operation and Lighting.** No night work requiring the use of artificial lighting is permitted in areas within streams.

2.36 **Trash Receptacles.** Permittee shall install and use fully covered trash receptacles with secure lids (wildlife proof) to contain all food, food scraps, food wrappers, beverage and other miscellaneous trash. Permittee shall pick up all debris and waste daily.
Best Management Practices

2.37 Best Management Practices. Permittee shall actively implement Best Management Practices (BMPs) to prevent erosion and the discharge of sediment and pollutants into streams during project activities. BMPs shall be monitored and repaired if necessary to ensure maximum erosion, sediment, and pollution control. Permittee shall prohibit the use of erosion control materials potentially harmful to fish and wildlife species, such as mono-filament netting (erosion control matting) or similar material, within and adjacent to CDFW jurisdictional areas. All fiber rolls, straw waddles, and/or hay bales utilized within and adjacent to the project site shall be free of non-native plant materials. Fiber rolls or erosion control mesh shall be made of loose-weave mesh that is not fused at the intersections of the weave, such as jute, or coconut (coir) fiber, or other products without welded weaves. Non-welded weaves reduce entanglement risks to wildlife by allowing animals to push through the weave, which expands when spread.

Exotic and Invasive Species

2.38 Invasive Species Education Program. Permittee shall conduct an Invasive Species Education Program for all persons working within the project site prior to the commencement of any project activities. The program shall consist of a presentation from a biologist that includes a discussion of the invasive species currently present within the project site as well as those that may pose a threat to or have the potential to invade the project site. The discussion shall include a physical description of each species and information regarding their habitat preferences, local and statewide distribution, modes of dispersal, and impacts. The program shall also include a discussion of BMPs to be implemented at the project site to avoid the introduction and spread of invasive species into and out of the project site. Permittee shall provide Interpretation for non-English speaking workers, and the same instruction shall be included for any new workers prior to their performing any work within the project site. The program shall be repeated annually for projects extending more than one year. Copies of program materials shall be maintained at the project site for workers to reference as needed.

2.39 Invasive Species. Permittee shall conduct project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one project site to another. Prevention BMPs and guidelines for invasive plants can be found on the California Invasive Plant Council’s website at: http://www.cal-ipc.org/ip/prevention/index.php.

2.40 Inspection of Project Equipment. Permittee shall inspect all vehicles, tools, boots, and other project-related equipment and remove all visible soil/mud, plant
materials, and animal remnants prior to entering and exiting the project site and/or between each use in different streambeds.

2.41 **Notification of Invasive Species.** Permittee shall notify CDFW immediately if an invasive species not previously known to occur within the project site is discovered during project activities by submitting a completed Suspect Invasive Species Report (available online at: [http://www.dfg.ca.gov/Invasives/inv_reporting/sightingReport.html](http://www.dfg.ca.gov/Invasives/inv_reporting/sightingReport.html)) and photos to the Invasive Species Program by email at: [invasives@wildlife.ca.gov](mailto:invasives@wildlife.ca.gov). Notification may also be provided by calling (866) 440-9530. Upon receiving notification, CDFW will provide Permittee with guidance for further action as appropriate to the species.

2.42 **Herbicide Use.** All herbicides, surfactants, and other pesticides utilized within or adjacent to CDFW jurisdictional areas and other sensitive aquatic habitat areas shall be registered for aquatic use by the California Department of Pesticide Regulation (CDPR).

2.43 **Herbicide Sprays in Wind.** Permittee shall only utilize herbicide sprays via aerial or ground application when wind speed measures less than 10 mph.

2.44 **Herbicide Spray Dye.** Permittee shall ensure all herbicide sprays utilized within and adjacent to streams and sensitive habitat areas contain a dye (registered for aquatic use by CDPR) to prevent overspray.

3. **Compensatory Measures**

3.1 **Mitigation For All Disturbance.** 4.00 acres of stream consisting of concrete sidewalls and ASR mats along the streambed vegetated with non-native plants and sparse arroyo willow seedlings will be temporarily impacted by crushing of vegetation as equipment accesses the worksite. Permanent impacts to 0.13 acre of the same type of habitat will occur from the work necessary to repair the damaged ASR mats and replace the fish weir. This entire area is accessed and maintained by Santa Barbara County Flood Control to keep the channel free of debris and vegetation that will cause flooding. Existing vegetation is the result of seeds settling out and colonizing from upstream. Except for the value of providing fish passage, this section of San Jose Creek is considered of low-quality habitat due to the concrete side walls, ASR mats, and maintenance regime. Impacts are considered negligible and no compensatory mitigation is required. All other potential impacts can be avoided and minimized through implementation of the measures in this Agreement. If additional impacts occur to the project site not addressed in this Agreement, Permittee shall consult with CDFW for additional mitigation requirements.
4. Reporting Measures

Permittee shall meet each reporting requirement described below.

4.1 Survey Results and Documentation. Permittee shall submit all requested survey results and documentation required throughout this Agreement to one or all of the three following choices: 1) CDFW’s San Diego Fish and Wildlife office at 3883 Ruffin Road, San Diego, CA, 92123, Attn: Lake and Streambed Alteration Program, 2) electronically to R5LSACompliance@wildlife.ca.gov, or 3) electronically to Sarah Rains, Environmental Scientist, at sarah.rains@wildlife.ca.gov. Please note the Streambed Alteration Agreement number in the subject line for all methods of reporting.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Charlie Ebeling
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117
(805) 961-7576
cbeling@cityofgoleta.org

To CDFW:

Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123
Attn: Lake and Streambed Alteration Program
Notification #1600-2019-0182-R5

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers,
employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW’s endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee’s alone.

**SUSPENSION AND REVOCATION**

CDFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

**ENFORCEMENT**

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

**OTHER LEGAL OBLIGATIONS**

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse...
disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall submit to CDFW a completed CDFW “Request to Amend Lake or Streambed Alteration” form and include with the completed form payment of the corresponding amendment fee identified in CDFW’s current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to CDFW a completed CDFW “Request to Amend Lake or Streambed Alteration” form and include with the completed form payment of the minor amendment fee identified in CDFW’s current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement’s term. To request an extension, Permittee shall submit to CDFW a completed CDFW “Request to Extend Lake or Streambed Alteration” form and include with the completed form payment of the extension fee identified in CDFW’s current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).
If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605(f)).

**EFFECTIVE DATE**

The Agreement becomes effective on the date of CDFW’s signature, which shall be: 1) after Permittee’s signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html.

**TERM**

This Agreement shall expire on December 31, 2024, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expiriates or is terminated, as FGC section 1605(a)(2) requires.

**AUTHORITY**

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

**AUTHORIZATION**

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

**CONCURRENCE**

The undersigned accepts and agrees to comply with all provisions contained herein.

**CITY OF GOLETA**
FOR DEPARTMENT OF FISH AND WILDLIFE

Erinn Wilson
Environmental Program Manager I

Prepared by: Sarah Rains
Environmental Scientist

Date
12/31/19
Central Coast Regional Water Quality Control Board

November 1, 2019

Charlie Ebeling  
Director of Public Works  
City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117  
Email: cebeling@cityofgoleta.org

VIA ELECTRONIC MAIL

Dear Mr. Ebeling:

WATER QUALITY CERTIFICATION NO. 34219WQ20 FOR SAN JOSE CREEK PERMANENT REPAIR PROJECT, SANTA BARBARA COUNTY

Thank you for the opportunity to review your August 9, 2019 application for water quality certification of the San Jose Creek Permanent Repair Project (Project). The application was completed on August 13, 2019. All supplemental information requested was received on October 28, 2019. The project, if implemented as described in your application and with the additional mitigation and other conditions required by this Clean Water Act Section 401 Water Quality Certification (Certification), appears to be protective of beneficial uses of State waters. We are issuing the enclosed Certification. Should new information come to our attention that indicates a water quality problem, we may require additional monitoring and reporting, issue Waste Discharge Requirements, or take other action.

Your Certification application and submitted documents indicate that project activities have the potential to affect beneficial uses and water quality. The Central Coast Regional Water Quality Control Board (Central Coast Water Board) issues this Certification to protect water quality and associated beneficial uses from project activities. We need reports to determine compliance with this Certification. All technical and monitoring reports requested in this Certification, or any time after, are required per Section 13267 of the California Water Code.

Failure to submit reports required by this Certification, or failure to submit a report of technical quality acceptable to the Executive Officer, may subject you to enforcement action per Section 13268 of the California Water Code. The Central Coast Water Board will base enforcement actions on the date of certification. Any person affected by this Central Coast Water Board action may petition the State Water Resources Control Board (State Water Board) to review this action in accordance with California Water Code Section 13320; and Title 23, California Code of Regulations, Sections 2050 and 3867-3869. The State Water Board, Office of Chief Counsel, PO Box 100, Sacramento, CA 95812, must receive the petition within 30 days of the date of this Certification. We will provide upon request copies of the law and regulations applicable to filing petitions.
If you have questions please contact **Mark Cassady** at (805) 549-3689 or via email at Mark.Cassady@waterboards.ca.gov, or Phil Hammer at (805) 549-3882. Please mention the above certification number in all future correspondence pertaining to this project.

Sincerely,

for
John M. Robertson
Executive Officer

Enclosure: Action on Request for CWA Section 401 Water Quality Certification

cc: With enclosures

Rosemary Thompson  CWA Section 401 WQC Program
Cardno Division of Water Quality
E-mail: rosemary.thomposon@cardno.com State Water Resources Control Board

Theresa Stevens Tessa Gallagher
U.S Army Corps of Engineers Central Coast Water Board
Caltrans Liaison
E-mail: Theresa.Stevens@usace.army.mil E-mail: Tessa.Gallagher@waterboards.ca.gov

Ed Pert Mark Cassady
California Department of Fish and Wildlife Central Coast Water Board
E-mail: Ed.Pert@wildlife.ca.gov Email: Mark.Cassady@waterboards.ca.gov

Melissa Scianni
U.S. Environmental Protection Agency
Region 9
E-mail: scianni.melissa@epa.gov
Action on Request for
Clean Water Act Section 401 Water Quality Certification
for Discharge of Dredged and/or Fill Materials

PROJECT: San Jose Creek Permanent Repair

PERMITTEE: Charlie Ebeling
Director of Public Works
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

ACTION:
1. ☐ Order for Standard Certification
2. ■ Order for Technically-Conditioned Certification
3. ☐ Order for Denial of Certification

STANDARD CONDITIONS:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment per section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

2. This Certification action is not intended to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed per 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license was being sought.

3. The validity of any non-denial Certification action (Actions 1 and 2) is conditioned upon total payment of the fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADMINISTRATIVE CONDITIONS:

1. This Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.

2. In the event of a violation or threatened violation of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of Section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
3. In response to a suspected violation of any condition of this Certification, the Central Coast Water Board may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the Central Coast Water Board deems appropriate, provided that the burden, including costs, of the reports shall have a reasonable relationship to the need for the reports and the benefits obtained from the reports.

4. In response to any violation of the conditions of this Certification, the Central Coast Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.

5. The Central Coast Water Board reserves the right to suspend, cancel, or modify and reissue this Certification, after providing notice to the Permittee, if the Central Coast Water Board determines that the Project fails to comply with any of the terms or conditions of this Certification.

6. A copy of this Certification, the application, and supporting documentation must be available at the Project site during construction for review by site personnel and agencies. A copy of this Certification must also be provided to the contractor and all subcontractors who will work at the Project site. All personnel performing work on the proposed Project shall be familiar with the content of this Certification and its posted location on the Project site.

7. The Permittee shall grant Central Coast Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this Certification and/or to determine the impacts the Project may have on waters of the State.

8. The Permittee must, at all times, fully comply with the application, engineering plans, specifications, and technical reports submitted to support this Certification; all subsequent submittals required as part of this Certification; and the attached Project Information and Conditions. The conditions within this Certification and attachment(s) supersede conflicting provisions within Permittee submittals.

9. The Permittee shall notify the Central Coast Water Board within 24 hours of any unauthorized discharge to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional BMPs or other measures that will be implemented to prevent future discharges.

10. This Certification is not transferable to any person except after notice to the Executive Officer of the Central Coast Water Board. The Permittee shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new responsible party containing a specific date for the transfer of this Certification's responsibility and coverage between the current responsible party and the new responsible party. This agreement shall include an acknowledgement that the existing responsible party is liable for compliance and violations up to the transfer date and that the new responsible party is liable from the transfer date on.
11. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law. This Certification expires if Project construction does not begin within five years from the date of this Certification. If this Certification does not expire as described above, it remains in effect until the Permittee complies with all Certification requirements and conditions.

12. The total application fee for this project is $1,884. The remaining application fee payable to the Central Coast Water Board is $0. Annual fees may apply.

CENTRAL COAST WATER BOARD CONTACT PERSON:

Mark Cassady  
(805) 549-3689  
Mark.Cassady@waterboards.ca.gov

Please refer to the above certification number when corresponding with the Central Coast Water Board concerning this project.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that as long as all the conditions listed in this Certification are met, any discharge from the San Jose Creek Permanent Repair Project shall comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, which requires compliance with all conditions of this Certification.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Permittee’s project description and the attached Project Information and Conditions, and (b) compliance with all applicable requirements of the Central Coast Water Board’s policies and Water Quality Control Plan (Basin Plan).

for                     November 1, 2019  
John M. Robertson  Date  
Executive Officer  
Central Coast Water Board
# PROJECT INFORMATION AND CONDITIONS

| Application Date | Received: August 9, 2019  
<table>
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<th>Completed: August 13, 2019</th>
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| Permittee        | Charlie Ebeling  
|                  | Director of Public Works  
|                  | City of Goleta  
|                  | 130 Cremona Drive, Suite B  
|                  | Goleta, CA 93117  
|                  | cebeling@cityofgoleta.org  
|                  | 805-961-7576 |
| Permittee        | Rosemary Thompson  
| Representatives  | Cardno  
|                  | 201 N. Calle Cesar Chavez  
|                  | Santa Barbara, CA 93101  
|                  | Rosemary.thompson@cardno.com  
|                  | 805-979-9413 |
| Project Name     | San Jose Creek Permanent Repair |
| Application Number | 34219WQ20 |
| Type of Project  | Channel Construction and Maintenance |
| Project Location | Goleta  
|                  | Latitude: 34.434519  
|                  | Longitude: -119.819290 |
| County           | Santa Barbara |
| Receiving Water(s) | San Jose Creek  
|                  | 315.31 South Coast Hydrologic Unit |
| Water Body Type  | Streambed |
| Designated Beneficial Uses | Municipal and Domestic Supply (MUN)  
|                  | Agricultural Supply (AGR)  
|                  | Ground Water Recharge (GWR)  
|                  | Water Contact Recreation (REC-1)  
|                  | Non-Contact Recreation (REC-2)  
|                  | Wildlife Habitat (WILD)  
|                  | Cold Fresh Water Habitat (COLD)  
|                  | Warm Fresh Water Habitat (WARM)  
|                  | Migration of Aquatic Organisms (MIGR)  
|                  | Spawning, Reproduction, and/or Early Development (SPWN)  
|                  | Rare, Threatened or Endangered Species (RARE)  
|                  | Freshwater Replenishment (FRSH)  
|                  | Commercial and Sport Fishing (COMM) |
| Project Description (purpose/goal) | The purpose of this project is to replace a temporary channel repair made following storm damage in 2017. Channel improvements were originally made in 2012-2013 as part of the San Jose Creek Capacity Improvement Project, replacing the concrete bed with articulated slope revetment (ASR). The Permittee proposes to replace the lost ASR along 112 linear feet of channel.  
|                  | Central Coast Regional Water Quality Control Board (Central Coast Water Board) staff understands that the project includes the following activities: |
1. Install a stream diversion system.
2. Remove temporary repair rock slope protection.
3. Construct subgrade improvements using crushed rock and engineering fabrics.
4. Install new ASR mats.
5. Install soil anchors through the ASR mats.
6. Replace the concrete fish weir that was removed as part of the temporary repair.

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Federal Public Notice</td>
<td>N/A</td>
</tr>
<tr>
<td>Dept. of Fish and Wildlife Streambed Alteration Agreement</td>
<td>Streambed Alteration Agreement is pending. Final, signed copy shall be forwarded immediately upon execution.</td>
</tr>
<tr>
<td>Status of CEQA Compliance</td>
<td>Categorical Exemption</td>
</tr>
<tr>
<td>Lead Agency:</td>
<td>City of Goleta</td>
</tr>
<tr>
<td>Total Certification Application Fee</td>
<td>$1,884</td>
</tr>
<tr>
<td>Area of Disturbance</td>
<td>Approximately 0.13 acre / 134 linear feet total</td>
</tr>
<tr>
<td></td>
<td>Streambed: 0.13 acre / 112 linear feet permanent, 0.005 acre / 22 linear feet temporary</td>
</tr>
<tr>
<td>Dredge Volume</td>
<td>N/A</td>
</tr>
<tr>
<td>Excavation Volume</td>
<td>N/A</td>
</tr>
<tr>
<td>Fill Volume</td>
<td>Approximately 457 total cubic yards</td>
</tr>
<tr>
<td></td>
<td>Streambed: 435 cubic yards permanent, 22 cubic yards temporary</td>
</tr>
<tr>
<td>Compensatory Mitigation Requirements</td>
<td>No compensatory mitigation is required. The project is a structural replacement of what existed prior to storm damages in 2017.</td>
</tr>
<tr>
<td>Project Requirements</td>
<td>Project practices that are required to comply with 401 Water Quality Certification are as follows:</td>
</tr>
<tr>
<td></td>
<td>1. All personnel who engage in construction activities or their oversight at the project site (superintendent, construction manager, foreman, crew, contractor, biological monitor, etc.) must attend trainings on the conditions of this Certification and how to perform their duties in compliance with those conditions. Every person shall attend an initial training within five working days of their start date at the project site. Trainings shall be conducted by a qualified individual with expertise in 401 Water Quality Certification conditions and compliance.</td>
</tr>
<tr>
<td></td>
<td>2. All work performed within waters of the State shall be completed in a manner that minimizes impacts to beneficial uses and habitat. Measures shall be employed to minimize land disturbances that will adversely impact the water quality of waters of the State. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation.</td>
</tr>
<tr>
<td></td>
<td>3. Portions of the project that occur below top of creek banks or in other waters of the State shall be stabilized for the winter prior to November 1 of each year, either by completing construction of those</td>
</tr>
</tbody>
</table>
portions of the project (including installation of permanent erosion control measures) or by implementing winterization stabilization measures capable of effectively stabilizing the area and preventing erosion under winter rain and flow conditions generated by the 10-year 24-hour storm event. No construction activities shall be conducted below top of creek banks or in other waters of the State during the winter period (November 1 – May 30), unless prior written approval has been obtained from Central Coast Water Board staff. Requests to conduct construction activities below top of creek banks or in other waters of the State during the winter period shall be submitted to Central Coast Water Board staff at least 21 days prior to the planned winter period work date. If approval is obtained, the Permittee shall implement the approved winter work as specified in the Central Coast Water Board staff approval and as described in any documentation submitted by the Permittee while seeking the approval.

4. The Permittee shall implement and maintain an effective combination of erosion and sediment control measures (e.g., revegetation, fiber rolls, erosion control blankets, hydromulching, compost, straw with tackifiers, temporary basins) to prevent erosion and capture sediment. The Permittee shall implement and maintain washout, trackout, dust control, and any other applicable source control BMPs.

5. Erosion and sediment control measures and other construction BMPs shall be implemented and maintained in accordance with all specifications governing their proper design, installation, operation, and maintenance.

6. At any time of year, the Permittee shall not conduct construction activities below top of creek banks or in other waters of the State during rain events or on any day for which the National Weather Service has predicted a 25% or more chance of at least 0.1 inch rain in 24 hours (Predicted Rain Event). The Permittee shall install effective erosion control, sediment control, and other protective measures no later than the day prior to the Predicted Rain Event, and prior to the start of any rainfall. Construction activities below top of creek banks or in other waters of the State may resume after the rain has ceased, the National Weather Service predicts clear weather for at least 24 hours, and site conditions are dry enough to continue work without discharge of sediment or other pollutants from the project site.

7. Any erodible material stockpiled that is not actively being used during construction shall be covered and surrounded with a linear sediment barrier.

8. Sediment or debris from any temporarily windrowed material shall be prevented from entering into the low flow channel.

9. The Permittee shall retain a spill plan and appropriate spill control and clean up materials (e.g., oil absorbent pads) onsite in case spills occur.

10. The Permittee shall employ best management practices for concrete waste management, including for concrete used as a construction material or where concrete dust, debris, or slurry result from
demolition, grinding, or coring. Concrete washout shall not occur in
storm drains, open ditches, streets, or streams.

11. The Permittee shall confine all trash and debris in appropriate
enclosed bins and dispose of the trash and debris at an approved
site at least weekly.

12. All construction vehicles and equipment used on site shall be well
maintained and checked daily for fuel, oil, and hydraulic fluid leaks
or other problems that could result in spills of toxic materials.

13. All vehicle fueling and maintenance activity shall occur at least 100
feet away from waterways and in designated staging areas, unless
a requested exception on a case-by case basis granted by prior
written approval has been obtained from Central Coast Water Board
staff.

14. All dewatering/diversion methods shall be installed such that natural
flow is maintained upstream and downstream of the project area.
Any temporary dams or diversions shall be installed such that the
diversion does not cause sedimentation, siltation, or erosion
upstream or downstream of the project area. All dewatering /
diversion methods shall be removed immediately upon completion
of dewatering / diversion activities. Any dewatering / diversion must
be implemented in compliance with the submitted Creek Diversion

15. All construction-related equipment, materials, and any temporary
BMPs no longer needed shall be removed and cleared from the site
upon completion of the project.

16. Central Coast Water Board staff shall be notified if mitigations as
described in the 401 Water Quality Certification application for this
project are altered by the imposition of subsequent permit conditions
by any local, state or federal regulatory authority. The Permittee
shall inform Central Coast Water Board staff of any modifications
that interfere with compliance with this Certification.

<table>
<thead>
<tr>
<th>Monitoring and Reporting Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Permittee shall conduct the following monitoring:</td>
</tr>
<tr>
<td>1. Visually inspect the project site and areas of waters of the State adjacent to project impact areas following completion of project construction and for one subsequent rainy season to ensure that the project is not causing excessive erosion, stream instability, or other water quality problems. If the project does cause water quality problems, contact the Central Coast Water Board staff member overseeing the project. You will be responsible for obtaining any additional permits necessary for implementing plans for restoration to prevent further water quality problems.</td>
</tr>
</tbody>
</table>

The Permittee shall provide the following reporting to RB3_401Reporting@waterboards.ca.gov [Note: Annual fees are based on submittal of reporting item 2 below]:

1. Streambed Alteration Agreement - Submit a signed copy of the Department of Fish and Wildlife’s streambed alteration agreement to the Central Coast Water Board immediately upon execution and prior to any discharge to waters of the State.

2. Certification Termination Report – To terminate Certification coverage, the Permittee must submit for Central Coast Water Board
staff review and approval a Certification Termination Report demonstrating compensatory mitigation success criteria achievement and monitoring completion. The Certification Termination Report shall include all information required for Annual Project Status Reports as specified below. The Certification Termination Report may serve as the final Annual Project Status Report. The Certification Termination Report submittal must include “Certification Termination Report” in the title.

3. Annual Project Status Report – The Permittee shall submit to the Central Coast Water Board an Annual Project Status Report by May 31 of each year following the issuance of this Certification, regardless of whether project construction has started or not. At a minimum, Annual Project Status Reports shall address activities conducted during the prior calendar year. The Permittee shall submit Annual Project Status Reports until the Permittee has conducted all required monitoring, mitigation has achieved all success criteria, and the Permittee has submitted a Certification Termination Report. Each Annual Project Status Report shall include at a minimum:

a. The status of the project: construction not started, construction started, or construction complete.
b. The date of construction initiation, if applicable.
c. The date of construction completion, if applicable.
d. If project construction is complete:
   i. A summary of daily activities, monitoring and inspection observations, and problems incurred and actions taken;
   ii. Identification of when site personnel trainings occurred, description of the topics covered during trainings, and confirmation that every person that engaged in construction activities or their oversight at the project site was trained.
   iii. A description of the results of the annual visual inspection of the project site and areas of waters of the State adjacent to project impact areas, including:
      1. Erosion conditions;
      2. Stream stability conditions;
      3. Water quality and beneficial use conditions;
      4. Clearly identified photo-documentation of all areas of permanent and temporary impact, prior to and after project construction; and
      5. Clearly identified representative photo-documentation of other project areas, prior to and after project construction.
   6. If the visual inspection monitoring period is over, but water quality problems persist, the Annual Report shall identify corrective measures to be undertaken, including extension of the monitoring period until the project is no longer causing excessive erosion, stream instability, or other water quality problems.
SUBJECT: Nationwide Permit (NWP) Verification

Charlie Ebeling
City of Goleta
130 Cremona Drive, Suite B
Goleta, California 93117

Dear Mr. Ebeling:

I am responding to your request for a Department of the Army permit for your proposed project, San Jose Creek Permanent Repair Project (Corps File No. SPL-2019-00608-TS). The proposed project is located in the San Jose Creek channel downstream of the Hollister Avenue Bridge in the city of Goleta, Santa Barbara County, California (lat/long: 34.434519 / -119.81929)

Because this project would result in a discharge of dredged and/or fill material into waters of the U.S., a Department of the Army permit is required pursuant to Section 404 of the Clean Water Act (33 USC 1344; 33 CFR parts 323 and 330).

I have determined construction of your proposed project, if constructed as described in your application, would comply with NWP 3 Maintenance. Specifically, and as shown in the enclosed figure(s), you are authorized to:

1. Install a temporary stream flow by-pass to be used in case of rain, or to convey water from an unexpected situation such as a broken waterline from an upstream source. The bypass would include a cofferdam upstream of the work area fitted with a plastic pipe extending from the cofferdam to downstream of the work area. Pumps or “gravity” line may be used to convey very low flows around. The pipe would discharge to the dry channel downstream of the work area.
2. Remove the existing rock slope protection from the project area (the rock covers a 112-foot-long x 50-foot-wide x 2-foot-deep area in the existing channel). This rock was placed in 2017 as a temporary repair. The rock will be exported.
3. Remove temporary steel sheets (about 6 feet long) at downstream limits of existing temporary rock slope protection (or cutoff the sheet pile below the work area).
4. Construct the channel subgrade improvements: this includes crushed rock and filter fabric to improve the soft channel subgrade.
5. Install 14 ASR [articulated concrete] mats in the 112-linear-foot long by 50-foot-wide channel. These will be lifted from trucks by crane, and placed in the channel.
6. Install soil anchors through the new ASR mats.
7. Replace the concrete fish weir which was removed as part of the temporary repair in 2017.

For this NWP verification letter to be valid, you must comply with all of the terms and conditions in Enclosure 1. Furthermore, you must comply with the non-discretionary Special Conditions listed below:

1. This permit is contingent upon the issuance of a Section 401 Water Quality Certification (WQC) from the Central Coast Regional Water Quality Control Board (RWQCB). The Permittee shall abide by the terms and conditions of the Clean Water Act Section 401 WQC. The Permittee shall submit the Section 401 WQC to the Corps Regulatory Division (preferably via email) within two weeks of receipt from the issuing state agency. The Permittee shall not proceed with construction until receiving an email or other written notification from Corps Regulatory Division acknowledging the Clean Water Act 401 WQC has been received, reviewed, and determined to be acceptable. If the RWQCB fails to act on a request for certification within 60 days after receipt of a complete application, please notify the Corps so we may consider whether a waiver of water quality certification is warranted pursuant to 33 CFR 325.2(b)(1)(ii).

2. Prior to initiating construction in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a complete set of final detailed grading/construction plans showing all work and structures in waters of the U.S. All plans shall be in compliance with the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated February 10, 2016 (http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/651327/updated-map-and-drawing-standards.aspx). All plan sheets shall be signed, dated, and submitted on paper no larger than 11x 17 inches. No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or email), Corps Regulatory Division approval of the final detailed grading/construction plans. The Permittee shall ensure that the project is built in accordance with the Corps-approved plans.

3. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:
   A) Date(s) work within waters of the U.S. was initiated and completed;
   B) Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
   C) Color photographs (including map of photopoints) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S. such that the extent of authorized fills can be verified;
D) One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
E) Signed Certification of Compliance (attached as part of this permit package).

4. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter waters of the U.S. areas upstream or downstream of the maintenance reach shown on the enclosed drawings. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

5. This Corps permit does not authorize you to take any threatened or endangered species, in particular the southern California steelhead (*Oncorhynchus mykiss*) or adversely modify its designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply).

6. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Regulatory Division and Archeology Staff within 24 hours (Theresa Stevens at 805-585-2146, and Danielle Storey at 213-452-3855 OR Meg McDonald at 213-452-3849). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

**This verification is valid through March 18, 2022.** If on March 18, 2022 you have commenced or are under contract to commence the permitted activity you will have an additional twelve (12) months to complete the activity under the present NWP terms and conditions. However, if I discover noncompliance or unauthorized activities associated with the permitted activity I may request the use of discretionary authority in accordance with procedures in 33 CFR part 330.4(c) and 33 CFR part 330.5(c) or (d) to modify, suspend, or revoke this specific verification at an earlier date. Additionally, at the national level the Chief of Engineers, any time prior to March 18, 2022, may choose to modify, suspend, or revoke the nationwide use of a NWP after following procedures set forth in 33 CFR part 330.5. It is incumbent upon you to comply with all of the terms and conditions of this NWP verification and to remain informed of any change to the NWPs.

A NWP does not grant any property rights or exclusive privileges. Additionally, it does not authorize any injury to the property, rights of others, nor does it authorize interference with any
existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in the Regulatory Program. If you have any questions, please contact me at (805) 585-2146 or via email at theresa.stevens@usace.army.mil. Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

Theresa Stevens, Ph.D.
Senior Project Manager
North Coast Branch
Regulatory Division

Enclosures
CERTIFICATE OF COMPLIANCE WITH DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: SPL-2019-00608-TS

Name of Permittee: City of Goleta, Charlie Ebeling

Date of Issuance: August 26, 2019

Upon completion of the activity authorized by this permit and the mitigation required by this permit, sign this certificate, and return it by ONE of the following methods;

1) Email a digital scan of the signed certificate to theresa.stevens@usace.army.mil

OR

2) Mail the signed certificate to
   U.S. Army Corps of Engineers
   ATTN: Regulatory Division SPL-2019-00608-TS
   60 SOUTH CALIFORNIA STREET, SUITE 201
   VENTURA, CALIFORNIA 93001-2598

I hereby certify that the authorized work and any required compensatory mitigation has been completed in accordance with the NWP authorization, including all general, regional, or activity-specific conditions. Furthermore, if credits from a mitigation bank or in-lieu fee program were used to satisfy compensatory mitigation requirements I have attached the documentation required by 33 CFR 332.3(l)(3) to confirm that the appropriate number and resource type of credits have been secured.

_________________________________ ________________________________
Signature of Permittee           Date
COMPLIANCE DELIVERABLES CHECKLIST FOR
DEPARTMENT OF ARMY PERMIT

Permit Number: SPL-2019-00608-TS

Name of Permittee: City of Goleta, Charlie Ebeling

Date of Issuance: August 26, 2019

Please submit this checklist along with all required compliance deliverables (listed in the table below) to the Corps via email to splregcbad@usace.army.mil. Upon receipt, the Corps will review proffered deliverables for sufficiency and, if approved, return an electronically-signed/dated copy of this checklist to you. PM provides e-signature upon receipt/approval of each compliance deliverable – PM returns the signed checklist to the applicant/agent in a progressive manner.

<table>
<thead>
<tr>
<th>Condition #</th>
<th>Compliance deliverable</th>
<th>Corps approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>Submit Notification of Commencement of Work</td>
<td></td>
</tr>
<tr>
<td>Special</td>
<td>Submit section 401 water quality certification.</td>
<td></td>
</tr>
<tr>
<td>Condition #1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special</td>
<td>Submit final grading and engineering plans.</td>
<td></td>
</tr>
<tr>
<td>Condition #2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special</td>
<td>Submit 45-day post construction report.</td>
<td></td>
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<tr>
<td>Condition #3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>Certificate of Compliance with Department of the Army Nationwide Permit (use enclosed form)</td>
<td></td>
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<tr>
<td>Condition #30</td>
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</tbody>
</table>

Upon receipt and approval of all items listed in the table above, the Corps will consider you in full compliance with compliance deliverable requirements in your permit authorization. Note, however, that any ongoing reporting obligations associated with the permit may
remain unaffected by this compliance deliverables determination.
Enclosure 1: NATIONWIDE PERMIT (NWP) NUMBER 3: Maintenance

1. NWP 3 Terms:

3. Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP also authorizes the removal of previously authorized structures or fills. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project. This NWP also authorizes the removal of accumulated sediment and debris within, and in the immediate vicinity of, the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays. (b) This NWP also authorizes the removal of accumulated sediments and debris outside the immediate vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization. (c) This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After conducting the maintenance activity, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. (d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects. Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Authorities: Section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act (Sections 10 and 404)) Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act section 404(f) exemption for maintenance.
2. **General Conditions**: The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. **Navigation**. (a) No activity may cause more than a minimal adverse effect on navigation.

   (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

   (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. **Aquatic Life Movements**. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. **Spawning Areas**. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. **Migratory Bird Breeding Areas**. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. **Shellfish Beds**. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. **Suitable Material**. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. **Water Supply Intakes**. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. **Adverse Effects From Impoundments**. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.
17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species
Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including
previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to
determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. **Designated Critical Resource Waters.** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. **Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g.,
conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be
addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions
added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. **Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. **Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

______________________________________________
(Transferee)

______________________________________________
(Date)

30. **Compliance Certification.** Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. **Activities Affecting Structures or Works Built by the United States.** If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. **Pre-Construction Notification.** (a) **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

1. He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

2. 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) **Contents of Pre-Construction Notification:** The PCN must be in writing and include the following information:
(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity’s purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity’s compliance with the terms and conditions of the NWPs, including the need for
mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies’ concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

3. Regional Conditions for the Los Angeles District:

1. For all activities in waters of the U.S. that are suitable habitat for federally listed fish species, including designated critical habitat for such species, the permittee shall design all new or substantially reconstructed linear transportation crossings (e.g. roads, highways, railways, trails, bridges, culverts) to ensure that the passage and/or spawning of fish is not hindered. In these areas, the permittee shall employ bridge designs that span the stream or river, including pier- or pile-supported spans, or designs that use a bottomless arch culvert with a natural stream bed, unless determined to be impracticable by the Corps.

2. Nationwide Permits (NWP) 3, 7, 12-15, 17-19, 21, 23, 25, 29, 35, 36, or 39-46, 48-54 cannot be used to authorize structures, work, and/or the discharge of dredged or fill material that would result in the "loss" of wetlands, mudflats, vegetated shallows or riffle and pool complexes as defined at 40 CFR Part 230.40-45. The definition of "loss" for this regional condition is the same as the definition of "loss of waters of the United States" used for the Nationwide Permit Program. Furthermore, this regional condition applies only within the State of Arizona and within the Mojave and Sonoran (Colorado) desert regions of California. The desert regions in California are limited to four USGS Hydrologic Unit Code (HUC) accounting units (Lower Colorado -150301, Northern Mojave-180902, Southern Mojave-181001, and Salton Sea-181002).

3. When a pre-construction notification (PCN) is required, the Los Angeles District shall be notified in accordance with General Condition 32 using either the South Pacific Division PCN Checklist or a signed application form (ENG Form 4345) with an attachment providing information on compliance with all of the General and Regional Conditions. The PCN Checklist and application form are available at: http://www.spl.usace.army.mil/Missions/Regulatory/PermitProcess.aspx. In addition, unless specifically waived by the Los Angeles District, the PCN shall include:

   a. A written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States;
b. Drawings, including plan and cross-section views, clearly depicting the location, size and dimensions of the proposed activity as well as the location of delineated waters of the U.S. on the site. The drawings shall contain a title block, legend and scale, amount (in cubic yards) and area (in acres) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The ordinary high water mark or, if tidal waters, the mean high water mark and high tide line, should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation. All drawings shall follow the Updated Map and Drawing Standards for the South Pacific Division Regulatory Program (Feb 2016), or most recent update (available at the South Pacific Division website at: http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences.aspx/);

c. Numbered and dated pre-project color photographs showing a representative sample of waters proposed to be impacted on the project site, and all waters proposed to be avoided on and immediately adjacent to the project site. The compass angle and position of each photograph shall be documented on the plan-view drawing required in subpart b of this regional condition.

d. Delineation of aquatic resources in accordance with the current Los Angeles District’s Minimum Standards for Acceptance of Aquatic Resources Delineation Reports (available at: http://www.spl.usace.army.mil/Missions/Regulatory/Jurisdictional-Determination/).

4. Submission of a PCN pursuant to General Condition 32 and Regional Condition 3 shall be required for specific regulated activities in the following locations:

   a. All perennial waterbodies and special aquatic sites throughout the Los Angeles District as well as intermittent waters within the State of Arizona for any regulated activity that would result in a loss of waters of the United States. The definition of “loss of waters of the United States” for this regional condition is the same as the definition used for the Nationwide Permit Program.

   b. All areas designated as Essential Fish Habitat (EFH) by the Pacific Fishery Management Council, and that would result in an adverse effect to EFH, in which case the PCN shall include an EFH assessment and extent of proposed impacts to EFH. EFH Assessment Guidance and other supporting information can be found at: http://www.westcoast.fisheries.noaa.gov/habitat/fish_habitat/efh_consultations_go.html.

   c. All watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south.

   d. The Santa Clara River watershed in Los Angeles and Ventura counties, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Franciscquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River.
e. The Murrieta and Temecula Creek watersheds in Riverside County, California for any regulated activity that would result in a loss of waters of the U.S. The definition of “loss of waters of the United States” for this regional condition is the same as the definition used for the Nationwide Permit Program.

f. All waterbodies designated by the Arizona Department of Environmental Quality as Outstanding Arizona Waters (OAWs), within 1600 meters (or 1 mile) upstream and/or 800 meters (1/2 mile) downstream of a designated OAW, and on tributaries to OAWs within 1600 meters of the OAW (see http://www.azdeq.gov/index.html).

g. All waterbodies designated by the Arizona Department of Environmental Quality as 303(d)-impaired surface waters, within 1600 meters (or 1 mile) upstream and/or 800 meters (1/2 mile) downstream of a designated impaired surface water, and on tributaries to impaired waters within 1600 meters of the impaired water (see http://www.azdeq.gov/index.html).

5. Individual Permits shall be required for all discharges of fill material in jurisdictional vernal pools, with the exception that discharges for the purpose of restoration, enhancement, management or scientific study of vernal pools may be authorized under NWPs 5, 6, and 27 with the submission of a PCN in accordance with General Condition 32 and Regional Condition 3.

6. Within the Murrieta Creek and Temecula Creek watersheds in Riverside County the use of NWPs 29, 39, 42 and 43, and NWP 14 combined with any of those NWPs shall be restricted. The loss of waters of the U.S. cannot exceed 0.25 acre. The definition of “loss of waters of the United States” for this regional condition is the same as the definition used for the Nationwide Permit Program.

7. Individual Permits (Standard Individual Permit or 404 Letter of Permission) shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.

8. In conjunction with the Los Angeles District's Special Area Management Plans (SAMPs) for the San Diego Creek Watershed and San Juan Creek/Western San Mateo Creek Watersheds in Orange County, California, the Corps' Division Engineer, through his discretionary authority has revoked the use of the following 26 selected NWPs within these SAMP watersheds: 03, 07, 12, 13, 14, 16, 17, 18, 19, 21, 25, 27, 29, 31, 33, 39, 40, 41, 42, 43, 44, 46, 49, and 50. Consequently, these NWPs are no longer available in those watersheds to authorize impacts to waters of the United States from discharges of dredged or fill material under the Corps' Clean Water Act section 404 authority.

9. Any requests to waive the applicable linear foot limitations for NWPs 13, 21, 29, 39, 40 and 42, 43, 44, 51, 52, and 54, must include the following:

   a. A narrative description of the affected aquatic resource. This should include known information on: volume and duration of flow; the approximate length, width, and depth of the waterbody and characters observed associated with an Ordinary High Water Mark (e.g. bed and bank, wrack line, or
scour marks) or Mean High Water Line; a description of the adjacent vegetation community and a statement regarding the wetland status of the associated vegetation community (i.e. wetland, non-wetland); surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information.

b. An analysis of the proposed impacts to the waterbody in accordance with General Condition 32 and Regional Condition 3;

c. Measures taken to avoid and minimize losses, including other methods of constructing the proposed project; and

d. A compensatory mitigation plan describing how the unavoidable losses are proposed to be compensated, in accordance with 33 CFR Part 332.

10. The permittee shall complete the construction of any compensatory mitigation required by special condition(s) of the NWP verification before or concurrent with commencement of construction of the authorized activity, except when specifically determined to be impracticable by the Corps. When mitigation involves use of a mitigation bank or in-lieu fee program, the permittee shall submit proof of payment to the Corps prior to commencement of construction of the authorized activity.

4. **Further information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

   ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
   (x) Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

   (a) This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
   (b) This permit does not grant any property rights or exclusive privileges.
   (c) This permit does not authorize any injury to the property or rights of others.
   (d) This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

   (a) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
   (b) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
   (c) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
   (d) Design or construction deficiencies associated with the permitted work.
   (e) Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
   (a) You fail to comply with the terms and conditions of this permit.
   (b) The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
   (c) Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.

7. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition H below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

8. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.
PROJECT LIMITS:
FROM APROX. 300 FEET SOUTH OF HOLLISTER AVE.
TO APROX. 420 FEET SOUTH AS MEASURED ALONG SAN JOSE CR.
UPSTREAM CONFORM AT "SJC" STA: 58+64.63
SCALE: 1"=5'

DETAIL 1 - TYP.
MATCH ORIGIN, ELEV. OF ASR.
NOTE EXIST. ANCHORS IN WALL.

NOTES:
1. CHANNEL WALLS ARE NOT QUITE PARALLEL BECAUSE THE CHANNEL IS TRANSITIONAL TO A NARROWER WIDTH UPSTREAM.
2. EXISTING RSP & STEEL SHEET PILE IS NOT SHOWN.
3. SOLDIER PILES SUPPORTING WALL NOT SHOWN.

DOWNSTREAM CONFORM AT "SJC" STA: 57+48.24
SCALE: 1"=5'

NOTE EXIST. ANCHORS IN WALL.

TYPICAL SECTIONS
(UPSTREAM + DOWNSTREAM CONFORMS)
SCALE AS SHOWN
S-1
NOTES:
1. THIS PLAN IS FOR THE LAYOUT OF THE CHANNEL GRADING.
2. TEMPORARY CONSTRUCTION EASEMENTS ARE NOT SHOWN. SEE RIGHT OF WAY MAPPING BY OTHERS.
3. SEE CONTECH SHOP DRAWINGS FOR LOCATION OF ASR & SOIL ANCHORS IN ASR MATTRESSES.
4. SEE RECORD DRAWING S-12, DETAIL 2 FOR LAYOUT OF THE 10 ADDITIONAL SOIL ANCHORS AROUND THE CONCRETE FISH WEIR.

TOTALS:

SCALE: 1"=10' H & 1"=2' V

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1. This plan is only for the layout and connection of the ASR to the existing channel walls.
2. The channel walls are built from both cast-in-place and precast components supported by steel soldier piles encased in a rectangular concrete bolster. These details are not shown.
3. Do not drill into the soldier piles.
4. At the time of construction, the walls extended 3 feet below the elevation of the ASR, as shown on the typical cross sections.
5. Contractors' attention is directed to the row of existing eyebolts which attached the ASR to the wall. This row of anchors defines the elevation of the mid-point of the ASR.
6. Width of the concrete backfill distance from wall to ASR varies.
7. ASR may be "open" (Type 50) or "closed" (Type 55). This plan shows the concept of the wall connection - not the style of the ASR.
8. Soil anchors are not shown.
NOTES:
1. REATTACH METAL BAFFLES IN PLACE (14 TOTAL).
2. FASTEN WITH 2" DIA. X 3" LONG EPOXY EMBEDDED ANCHOR BOLTS OR APPROVED EQUAL.
3. USE 3 ANCHORS PER BAFFLE, MIN.
1. This plan is a concept for diverting creek water during the work.
APPENDIX 4

Purchase Order Information for Articulated Slope Revetment
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### Quotation

**Quote # QUO-368374-W5R9H2**

**Date** | 7/31/2019  
**Quote #** | QUO-368374-W5R9H2  
**Account Name** | Bengal Engineering  
**Contact Name** | Scott Onishuk  
**Project Name** | San Jose Creek Capacity Improvement Project  
**Project #** | 442345  
**City/State** | Goleta, CA  
**Phone** | 303-241-8154  
**Fax** |  

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<td>EA</td>
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**Total** | $49,429.66  
**(Tax not included)** |  
**Net Total** | $49,429.66  

### Standard Notes

1.1. Spreader Bar rental rate is $500/week until returned. Customer will be invoiced $20,000 for spreader bar if not returned within 30 days of the final shipment of material.  
2. Typical spreader bar weighs 3,800-lbs.  
3. Bar will arrive with delivery of mats, but may not necessarily arrive on initial truck.  
4. Spreader Bar rental does not include rigging or cables.

2. All orders must be shipped within 30 days of manufacture or a storage charge applies equal to a maximum of 5% per month of the selling price of the stored material.

3. Allowable unloading time for delivery trucks is two (2) hours. Demurrage charges of $75.00 per hour thereafter will be added.

4. One or more of the products quoted herein is nonstandard and not returnable. A down payment equal to 1/3 of the item(s) total is required and must be received prior to commencement of any performance by Contech. Tax will be applied unless a sales tax exemption document has been provided prior to invoicing.

5. Prices are based on standardized loading to achieve full truckloads. If special loading requirements are needed additional freight charges will be added.

6. Prices are f.o.b. origin with freight allowed to the jobsite with unloading by others at a truck accessible location.

7. Prices for rolled geosynthetic materials are for full roll quantities only. If roll sizes are not shown contact Contech for available roll sizes.

8. Quotation is based upon estimated (not guaranteed) quantities. Buyer must verify final quantities needed prior to commencement of work by Contech. If Buyer elects to purchase from Seller only a portion of the material quoted, Seller retains the right to adjust its prices.

9. The estimated lead time for the submittal package is 1-2 weeks from the receipt of a signed purchase document and receipt of the required design documents and project information. Approval review process is in addition to stated timeframes. The estimated manufacturing lead time for initial shipment of this material is 6-8 weeks from the receipt of approved submittal documents.

10. The sale of these materials requires a preconstruction meeting be held that must include Contech and all parties directly involved in the construction process.

11. This material will be manufactured for this particular project and is not subject to cancellation. See Section 19 of the Contech COS.

12. This quotation expires 30 days from the date shown. Prices are firm for shipment within 90 days of the date of quotation and are subject to a maximum escalation of 8% for each 30 days thereafter.
Scope Of Work

ArmorFlex

Pricing includes the following work by Contech:

1. Quantities
   a. The quantities and block class(es) quoted herein are based on representation of the project by others and our interpretation of their project plans and specifications.
   b. Actual quantities needed may vary and is to be determined by the BUYER who agrees to pay for all quantities shipped and invoiced.
   c. The buyer is responsible for verifying final quantities and block class(es) necessary to fulfill the requirements of the project.

2. Spreader/Lifting Bar
   a. If requested, a lift bar (not including rigging or cables) can be rented directly from Contech.
   b. Spreader Bar rental rate is $500/week until returned. Customer will be invoiced $20,000 for spreader bar if not returned within 30 days of the final shipment of material.
   c. Typical spreader bar weighs 3,800-lbs.
   d. Bar will arrive with delivery of mats, but may not necessarily arrive on initial truck.

3. Delivery
   a. Buyer shall approve mat layout and provide sequencing prior to commencement of production.
   b. The estimated lead time for the submittal package is approximately 1-2 weeks from the receipt of signed purchase document and receipt of the required design documents and project information. Approval review process is in addition to stated timeframes. The estimated manufacturing lead time for initial shipment of this material is 6-8 weeks from the receipt of approved submittal documents unless specified elsewhere. Please note that mat layout drawings are not P.E. stamped drawings.
   c. The buyer and seller will agree to a specific delivery date at the time the order is placed. This date will be confirmed or modified as necessary by our production representative and the buyer prior to production of materials. Once an agreed upon date has been established, the buyer will be asked to confirm in writing the agreed upon date. In the event the buyer cannot accept delivery by the agreed upon date, the buyer will be invoiced for the material in full and pay a storage fee not to exceed 5% per month of the selling price of the stored materials.
   d. Sequential mat shipping is not guaranteed.

4. Geotextiles
   a. The performance of the block system is dependent on the geotextile included herein.
   b. The quantity shown for the geotextile is an estimate based upon interpretation of the plans.
   c. Overlaps and waste may require up to 30% additional square footage of geotextile than the square footage of the block revetments. This additional amount has been included in the pricing of this job.

5. Other
   a. Damage to access roadways is not the responsibility of the trucking firm or Contech.
   b. Mats must be grouted end to end (where cable loops meet). Also, most projects require all gaps between mats greater than 2” to be grouted. Cost of grouting is the responsibility of the contractor.

6. To the fullest extend permitted by law, customer shall defend, indemnify, hold harmless and reimburse Contech and its affiliates, parent corporations, officers, directors, employees and agents, as well as its successors in interest, from for and against any and all claims, liens, suits, actions, losses, costs, expenses, damages, penalties and liabilities, including but not limited to attorney’s and expert witness fees, whether actual or alleged, and whether directly incurred or from third parties, which arise out of or relate to the provision of Contech owned equipment for customer’s or its contractor’s, employee’s or agent’s use or the use of the Contech owned equipment by the customer, its contractors, employees or agents.

Payment terms are 1/2% - 10, net 30 days from date of invoice unless otherwise noted as non-standard above. If non-standard, payment terms are at order acceptance and prior to start of production, 2/3 net 30 days from date of invoice. This offer is subject to credit approval. Prices quoted apply only to the referenced project and are in effect for 30 days from the date of quotation. Seller reserves the right to adjust prices after 30 days from the date of quotation but the Contech Cos remain applicable. Prices are based on estimated quantities shown. If a different quantity is purchased, Contech reserves the right to adjust the prices. This quotation contains the entire agreement with respect to purchase and sale of products described and supersedes all previous communications. Buyer’s signature below, direction to manufacture, or acceptance of delivery of goods described above, shall be deemed an acceptance of the Contech Cos. Seller expressly rejects any other terms and conditions. Prices are F.O.B. origin with freight allowed to the jobsite with unloading by others at a truck accessible location. This quotation is issued by Contech Engineered Solutions LLC for itself and/or on behalf of one or more of its subsidiaries, including but not limited to Keystone Retaining Wall Systems LLC.

Acceptance

WE HEREBY ORDER THE DESCRIBED MATERIAL SUBJECT TO ALL TERMS AND CONDITIONS OF THIS QUOTATION AND IN THE Contech COS INCLUDED HEREWITH AND VIEWABLE AT www.conteches.com/cos

Company

By

Title

Date

Contech Engineered Solutions LLC.

By Andrew Runk

(0) 303-241-8154

(Cell)
1. ACCEPTANCE. This quotation is an offer to sell to potential customer(s). BUYER ACCEPTS THIS OFFER TO BUY ALL THE PRODUCTS SPECIFIED HEREIN WIT

2. LIMITED WARRANTIES. Seller warrants that it can convey good title to the products sold under this contract and that they are free of liens and encumbrances. Seller also warrants that the products sold under this contract are substantially free from defects in material and workmanship for a period of one year after the date of delivery. There are no express or implied warranties with respect to products sold hereunder which are misused, abused or used in conjunction with equipment not properly designed, used or maintained, or which are used, supplied for use or made available for use in any nuclear application of which Seller has not been notified in writing at the time of delivery of the products sold hereunder. SELLER MAKES NO OTHER WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WARRANTIES OF MERCHANTABILITY AND ALL IMPLIED WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE ARE DISCLAIMED BY SELLER AND EXCLUDED FROM THIS CONTRACT.

3. LIMITATION OF BUYERS REMEDIES AND SELLER’S LIABILITY. Buyer’s liability hereunder is limited to the obligation to repair or replace only those products which have been found to have been defective in material or workmanship at the time of delivery, or allow credit, at its option. Seller’s total cumulative liability in any way arising from or pertaining to any product or service sold or required to be sold under this contract shall NOT IN any case exceed the purchase price paid for such products or services. IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR COMMERCIAL LOSS, LOST PROFITS, CLAIMS FOR LABOR, OR CONSEQUENTIAL, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES OF ANY TYPE, WHETHER BUYER CLAIM BE BASED IN CONTRACT, TORT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE. IT IS EXPRESSLY AGREED THAT BUYER’S REMEDIES EXPRESSED IN THIS PARAGRAPH ARE BUYER’S SOLE AND EXCLUSIVE REMEDIES.

4. LIMITATION OF BUYERS REMEDIES AND SELLER’S LIABILITY FOR FAILURE OR DELAY IN DELIVERY. NO DELIVERY DATES ARE GUARANTEED. BUYER’S SOLE AND EXCLUSIVE REMEDY FOR ANY DELAY IN DELIVERY SHALL BE LIMITED AS SET FORTH IN PARAGRAPH 3 OF THIS CONTRACT.

5. FORCE MAJEURE. In any event and in addition to all other limitations stated herein, failure by Seller to perform any act, including but not limited to any delay in delivery or performance, which is (i) due to any act of God, the performance of which is not reasonably possible, (ii) beyond Seller’s reasonable control whether of similar or dissimilar nature to those above enumerated, or (iii) due to any strike, labor dispute, or difference with workmen, whether with or without permission of the Seller. Buyer shall incur by reason of Buyer’s failure to comply with this paragraph.

6. PASSAGE OF TITLE. Title to the products sold hereunder shall pass upon delivery to the carrier at the point of shipment. Neither Buyer nor the consignee shall have the right to divert or reconsign such shipment without the prior written consent of Seller. Buyer agrees to pay all costs and charges of storage incurred by reason of Buyer’s failure to comply with this paragraph.

7. PAYMENTS AND LATE CHARGES ON PAST DUE ACCOUNTS. Buyer represents that Buyer is solvent and can and will pay for the products sold to Buyer in accordance with the terms hereof. If Buyer fails to pay with any provision or to make payments in accordance with the terms of this contract or any other contract between Buyer and Seller, Buyer may at its option defer shipments or, without waiving any other rights it may have, terminate this contract. All deliveries shall be subject to the approval of Seller’s Credit Department. Seller reserves the right, at its option, to require payment in cash or security for payment, and if Buyer fails to comply with such requirement, Seller may terminate this contract. A late charge of 1%-½% monthly (18% annual rate) or the maximum lawful interest allowable by state law, if less, will be imposed on all past due accounts, and Buyer is responsible for all costs of collection including without limitation reasonable attorneys’ fees and court costs.

8. TRANSPORTATION CHARGES. Delivered prices or prices involving competitive transportation adjustments shall be subject to appropriate adjustment to reflect changes in transportation charges.

9. CLAIMS BY BUYER. Buyer shall thoroughly inspect products sold under this contract to verify conformance with the specifications of the contract. Buyer must notify Seller of claims for failure or delay in delivery within 30 days after the scheduled delivery date. Buyer must notify Seller of any claims for nonconforming or defective products within 30 days after the nonconformity or defect was or should have been discovered. In addition, Buyer must provide an opportunity to investigate the claim before Buyer disposes of the material, or else Buyer’s claim will be barred. Buyer’s nonconformity liability will be limited to shortages, or other cause alleged to have occurred or existed at or prior to delivery to the carrier unless the Buyer shall have entered full details thereof on its receipt to the carrier.

10. MECHANICAL PROPERTIES; CHEMICAL ANALYSES. Data referring to mechanical properties or chemical analyses are the result of tests performed on specimens obtained from specific locations of the product(s) in accordance with prescribed sampling procedures. Any warranty thereof is limited to the values obtained at such locations and by such procedures. There is no warranty with respect to values of the materials at other locations.

11. WAIVER. Failure or inability of either party to enforce any right hereunder shall not waive any right in respect to any other future rights or occurrences.

12. DELIVERY. Unless otherwise agreed to in writing by the Seller, the Buyer hereby agrees to take delivery of the materials on this order within the later of thirty (30) days after the wanted date shown on the face of the order or within thirty (30) days after notification, oral or written, that the materials are ready for shipment. In the event that the Buyer does not arrange to take delivery of the materials in accordance with this Contract, Seller, at Seller’s option, may: (a) invoice the Buyer for the materials less freight if applicable; store the material in Seller’s for a period not to exceed sixty (60) days from the date of invoice; charge a storage fee to exceed 5% per month or fraction thereof of the selling price of the stored materials; add any applicable price increases listed on the face of the order; charge for any repair work to protective coatings harmed by weathering while such material is being stored; and charge applicable freight when shipment to the Buyer is made. Materials remaining in storage after sixty (60) days from the invoice date shall become the property of the Seller for disposition, at the Seller’s discretion. In that event, Buyer shall not be liable for the invoice price of the materials, but shall be liable for the storage fee and any repair work to protective coatings; or (b) cancel the order and invoice the Buyer for cancellation charges, which shall be 25% of the selling price of the materials if the materials are standard, in-stock material, or the full selling price if the materials are special or nonstandard in nature and were especially fabricated for the Buyer.

13. PERIOD OF LIMITATIONS. Buyer and Seller agree that any action by Buyer against Seller relating to this contract or the products sold hereunder, including, without limitation, any action for breach of contract or warranty, or otherwise in connection with the products sold under this contract, must be commenced by Buyer against Seller within one year after the cause of action thereon accrues or one year of delivery of the products sold hereunder, whichever is later.

14. APPLICABLE LAW. This contract shall be governed by, and construed and enforced in accordance with, the laws of Ohio.

15. TAXES. No taxes imposed with respect of the sale of the products or services sold hereunder are included in any quotation by Seller. All applicable taxes shall be added and paid by Buyer in addition to the purchase price.

16. BUYER’S RIGHT OF TERMINATION. Buyer may terminate this contract in whole or in part in notice in writing to Seller. Seller shall hereupon cease work and transfer to Buyer title to all contract materials and supplies acquired by Seller specifically for the purpose of performing this contract and, to the extent specifically acquired by Seller, the Buyer may terminate this contract and, Buyer shall pay Seller the sum of (i) the invoice price of all materials remaining in storage longer than one year after the invoice date; (ii) the contract price for all products which have been completed prior to termination; (iii) the cost to Seller of the material or work in process as shown on the books of Seller in accordance with the accounting practice consistently maintained by Seller plus a reasonable profit thereon, but in no event more than the contract price; (iv) reasonable cancellation charges, if any, paid by Seller on account of any commitment(s) made hereunder.

17. SELLER’S RIGHT OF TERMINATION. In addition to the other rights of termination provided for in this contract, and if this contract is made pursuant to any governmental rate or regulation, plan, order or other directive, upon the directive, effected or impaired termination thereof, Seller shall have the option of canceling this contract in whole or in part.

18. WAIVER. Failure or inability of either party to enforce any right hereunder shall not waive any right in respect to any other future rights or occurrences.

19. DELIVERY. Unless otherwise agreed to in writing by the Seller, the Buyer hereby agrees to take delivery of the materials on this order within the later of thirty (30) days after the wanted date shown on the face of the order or within thirty (30) days after notification, oral or written, that the materials are ready for shipment. In the event that the Buyer does not arrange to take delivery of the materials in accordance with this Contract, Seller, at Seller’s option, may: (a) invoice the Buyer for the materials less freight if applicable; store the material in Seller’s for a period not to exceed sixty (60) days from the date of invoice; charge a storage fee to exceed 5% per month or fraction thereof of the selling price of the stored materials; add any applicable price increases listed on the face of the order; charge for any repair work to protective coatings harmed by weathering while such material is being stored; and charge applicable freight when shipment to the Buyer is made. Materials remaining in storage after sixty (60) days from the invoice date shall become the property of the Seller for disposition, at the Seller’s discretion. In that event, Buyer shall not be liable for the invoice price of the materials, but shall be liable for the storage fee and any repair work to protective coatings; or (b) cancel the order and invoice the Buyer for cancellation charges, which shall be 25% of the selling price of the materials if the materials are standard, in-stock material, or the full selling price if the materials are special or nonstandard in nature and were especially fabricated for the Buyer.

20. PERIOD OF LIMITATIONS. Buyer and Seller agree that any action by Buyer against Seller relating to this contract or the products sold hereunder, including, without limitation, any action for breach of contract or warranty, or otherwise in connection with the products sold under this contract, must be commenced by Buyer against Seller within one year after the cause of action thereon accrues or one year of delivery of the products sold hereunder, whichever is later.

21. CONFLICTING PROVISIONS OFFERED BY BUYER. Any terms and conditions of any purchase order or other instrument issued by the Buyer, in connection with the subject matter of this document, or any additions to or inconsistent with the terms and conditions expressed herein, will not be binding on Seller in any matter whatsoever unless accepted by Seller in writing.

22. SEVERABILITY. In case any provision of this contract shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

23. APPLICABLE LAW. This contract shall be governed by, and construed and enforced in accordance with, the laws of Ohio. Buyer and Seller specifically agree that any legal action brought relating to this contract shall be brought and tried exclusively in the county and state where the Buyer’s principal place of business is located.

REV. 03/15