



# Monterey One Water

MONTEREY COUNTY, CALIFORNIA

## CONTRACT DOCUMENTS

for

### CASTROVILLE PUMP STATION VFD AND PLC INSTALLATION

Monterey One Water  
14811 Del Monte Blvd.  
Marina, CA 93933  
831-883-6182

**April 19, 2018**

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## 00100 – NOTICE INVITING BIDS

Monterey One Water("M1W") will receive bids by electronic submission only for the CASTROVILLE PUMP STATION VFD AND PLC INSTALLATION (the "Project") no later than **2:00 pm on April 19, 2018**. Bids received after said time shall be returned unopened. The electronic bid management system will not accept late bids. Bids shall be valid for a period of 90 calendar days after the Bid opening date.

Bids must be submitted on M1W's Bid Forms.

The Contract Documents will be available electronically, at no cost, through Procore at [www.procore.com](http://www.procore.com). To access and download the Contract Documents, Bidders must send an email to Yohana Vargas, at [Yohana@my1water.org](mailto:Yohana@my1water.org) to receive a direct link to the Contract Documents. To the extent required by Section 20103.7 of the Public Contract Code, upon request from a contractor plan room service, M1W shall provide an electronic copy of the Contract Documents at no charge to the contractor plan room.

It is the responsibility of each prospective bidder to download and print all Contract Documents for review and to verify the completeness of the Contract Documents before submitting a bid. Any Addenda will be posted on Procore. It is the responsibility of each prospective bidder to check Procore through the close of bids for any applicable addenda or updates. M1W does not assume any liability or responsibility based on any defective or incomplete copying, excerpting, scanning, faxing, downloading or printing of the Bid Documents.

Each Bid shall be accompanied by cash, a certified or cashier's check, or Bid Bond in an amount not be less than ten percent (10%) of the submitted Total Bid Price.

The successful Bidder will be required to furnish a Performance Bond and a Payment Bond each in an amount equal to one hundred percent (100%) of the Contract Price, PRIOR TO EXECUTION OF THE Contract. 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 California Code of Civil Procedure Section 995.120, and that is a California admitted surety insurer.

A "MANDATORY" Pre-Bid Conference is scheduled for **10 am on April 11, 2018** at M1W's Regional Treatment Plant located at 14811 Del Monte Blvd, Marina. Bids will not be accepted from any bidder who did not attend the mandatory Pre-Bid Conference. Prospective bidders may not visit the Project Site without making arrangements through Yohana Vargas, Contracts Administrator.

Pursuant to Section 22300 of the Public Contract Code of the State of California, the successful Bidder may substitute certain securities for funds withheld by M1W to ensure its performance under the contract.

The Director of Industrial Relations has determined the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute the Contract which will be awarded to the successful bidder, copies of which are on file and will be made available to any interested party upon request at M1W Main Office, 5 Harris Court, Bldg. D, Monterey, CA 93940 or online at <http://www.dir.ca.gov/dlsr>. A copy of these rates shall be posted by the successful bidder at the job site. The successful bidder and all its subcontractor(s) shall comply with all applicable Labor Code provisions, which include, but are not limited to the payment of not less than the

required prevailing rates to all workers employed by them in the execution of the Contract, the employment of apprentices, the hours of labor and the debarment of contractors and subcontractors.

Pursuant to Labor Code sections 1725.5 and 1771.1, unless project that is exempt pursuant to the small project exemption specified therein, 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 Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a Contract, the Bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project.

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. In bidding on this Project, it shall be the Bidder's sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this contract and applicable law in its Bid.

Each Bidder shall be a licensed contractor pursuant to sections 7000 et seq. of the Business and Professions Code in the following classification(s) throughout the time it submits its Bid and for the duration of the contract: C-10.

M1W shall award the contract for the Project to the lowest responsive, responsible Bidder as determined by M1W from the BASE BID ALONE. M1W reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding process.

For further information, contact Jennifer Gonzalez, Engineering Manager, at [jennifer@my1water.org](mailto:jennifer@my1water.org) or 831-883-6172

**END OF NOTICE INVITING BIDS**

## 00200 – INSTRUCTIONS TO BIDDERS

### ARTICLE 1. GENERAL

Bids must be submitted to M1W on the Bid Forms which are a part of the Bid Package for the Project. Bid and Contract Documents may be obtained as specified in the Notice Inviting Bids.

M1W may also make the Contract Documents available for review at one or more plan rooms, as indicated in the Notice Inviting Bids. Please Note: prospective bidders who choose to review the Contract Documents at a plan room must contact M1W to obtain the required Contract Documents if they decide to submit a bid for the Project.

### ARTICLE 2. EXAMINATION OF SITE AND CONTRACT DOCUMENTS

At its own expense and prior to submitting its Bid, each Bidder shall visit the site of the proposed work and fully acquaint itself with the conditions relating to the construction and labor required so that the Bidder may fully understand the work, including but not limited to difficulties and restrictions attending the execution of the work under the contract. Each Bidder shall carefully examine the plans and drawings, and shall read the Contract Documents, and all other documents referenced herein. Each Bidder shall also determine the local conditions which may in any way affect the performance of the work, including local tax structure, contractors' licensing requirements, availability of required insurance, the prevailing wages and other relevant cost factors, shall familiarize itself with all federal, state and local laws, ordinances, rules, regulations and codes affecting the performance of the work, including the cost of permits and licenses required for the work, and shall make such surveys and investigations, including investigations of subsurface or latent physical conditions at the site or where work is to be performed as may be required. Bidders are responsible for consulting the standards referenced in the Contract. The failure or omission of any Bidder to receive or examine any contract documents, forms, instruments, addenda, or other documents, or to visit the site and acquaint itself with conditions there existing shall in no way relieve any Bidder from any obligation with respect to its Bid or to the contract and no relief for error or omission will be given except as required under State law. The submission of a Bid shall be taken as conclusive evidence of compliance with this Article.

### ARTICLE 3. ADDENDA

M1W reserves the right to revise the Contract Documents prior to the Bid opening date. Revisions, if any, shall be made by written Addenda. All Addenda issued by M1W shall be included in the Bid and made part of the Contract Documents.

All addenda will be posted to M1W's electronic bid management system. Please Note: Bidders are responsible for ensuring that they have received any and all Addenda. Failure to acknowledge all Addenda may be sufficient cause for rejecting the Bid.

### ARTICLE 4. BID SUBMISSION REQUIREMENTS

Bids shall be submitted electronically through the Procore website. Unless otherwise specified herein, the Bid Forms shall be uploaded (.pdf file) and submitted through Procore. No other method of submitting bids will be accepted. Bidders may not submit bids by fax, email, telephone, mail, or other means; any bids received through any means other than Procore will be returned unopened.

Bids shall be submitted on the Bid Forms provided with the Contract Documents. Bids shall be properly executed, all blank spaces shall be filled in, and any interlineations or alterations shall be formally explained and initialed by the Bidder. Failure to comply with this requirement may be cause for rejection of Bid.

Partial or incomplete Bids will not be considered. Each Bidder shall submit its Bid in strict conformity with the requirements of the Contract Documents. Unauthorized additions, modifications, revisions, conditions, limitations, exclusions or provisions attached to a Bid may render it non-responsive and may cause its rejection. Bidders shall not delete, modify, or supplement the printed matter on the Bid Forms, or make substitutions thereon.

It is the responsibility solely of Bidder to see that its Bid is properly submitted in proper form and prior to the stated closing time. THE ELECTRONIC BID MANAGEMENT SYSTEM WILL NOT ACCEPT LATE BIDS. M1W will only consider bids that have transmitted successfully and have been issued a confirmation number with a time stamp from Procore indicating that the Bid was submitted successfully. Bidders shall be solely responsible for informing themselves with respect to the proper utilization of the online bid management system, for ensuring the capability of their computer system to upload the required documents, and for the stability of their internet service. Failure of the Bidder to successfully submit an electronic Bid shall be at the Bidder's sole risk, and no relief will be given for late and/or improperly submitted Bids.

Bidders experiencing any technical difficulties with the bid submission process may contact Procore Support at <https://support.procore.com>. Neither M1W nor Procore make any guarantee as to the timely availability of assistance or assurance that any given problem will be resolved by the bid submission date and/or time.

Bids shall indicate the full legal name and business address and California license number of Bidder, including its street address if different from its mailing address, shall be signed with the usual signature of the person or persons authorized to bind Bidder, and shall be dated. A Bid by a partnership or joint venture shall list the full names and addresses of all partners or joint venturers. The State of Incorporation shall be stated and the corporate seal shall be affixed to any Bid to which a corporation is a party as a Bidder. The name of each signatory shall be typed or otherwise clearly imprinted below each signature. When requested by M1W, satisfactory evidence of the authority of any signatory on behalf of Bidder shall be furnished.

The preparation of a Bid shall be by and at the expense of Bidder.

#### **ARTICLE 5. LIST OF DOCUMENTS TO INCLUDE IN BID**

The following is a list of required forms or documents that must be completed and delivered to M1W as part of a complete Bid:

- Bid Acknowledgement
- Bid Schedule (input into Procore)
- Bid Security
- Public Works Contractor Registration Certification Form
- Non-Collusion Declaration Form
- Contractor Information and Experience Form
- List of Subcontractors Form

Safety Program Worksheet & Certification  
Certification of Local Work Force  
Certification of Drug Free Workplace Requirements  
Debarment and Suspension Certification

All Bids must be submitted, filed, made, and executed in accordance with State and Federal law relating to Bids for contracts of their nature whether said laws are expressly referred to herein or not.

#### **ARTICLE 6. ELECTRONIC SCHEDULE OF PAY ITEMS**

The electronic Bid Schedule (bid price) must be completed by each bidder and properly submitted through Procure. Failure to complete the Bid Schedule will result in an incomplete and non-responsive bid.

The electronic Bid Schedule will be incorporated into the Contract Documents.

Bidders must provide pricing for every bid item. The costs of any work shown or required in the Contract Documents, but not specifically identified as a pay item are to be included in related pay items and no additional compensation shall be due Contractor by virtue of Contractor's compliance with the Contract Documents.

The Bid Schedule included in the printed bid documents is for informational purposes only. **DO NOT submit a printed/pdf Bid Schedule.** Bidders shall only submit the electronic Bid Schedule with its Bid.

The estimated quantities for unit price items are for purposes of comparing bids only and M1W makes no representation that the actual quantities of work performed will not vary from the estimates. Final payment shall be determined by M1W from measured quantities of work performed based upon the unit price.

#### **ARTICLE 7. BID GUARANTEE (BOND)**

No Bid will be considered unless it is accompanied by a Bid Security of not less than ten percent (10%) of the Total Bid Price. The Bid Security shall be in the form of (a) cash, (b) a cashier's check made payable to M1W, (c) a certified check made payable to M1W, or (d) a Bid Bond, in the form set forth herein, executed by an admitted surety insurer, as defined in Code of Civil Procedure section 995.120, in favor of M1W.

The Bid Security must be submitted by courier or walk in directly to M1W as follows:

Monterey One Water  
Attn: Yohana Vargas  
14811 Del Monte Blvd.  
Marina, CA 93933

The Bid Security **must be received prior to the specified date and time for bid opening.**

#### **ARTICLE 8. PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION**

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 Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a contract, the bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project. To this end, Bidder shall sign and submit with its Bid the Public Works Contractor Registration Certification on the form provided, attesting to the facts contained therein. Failure to submit this form may render the bid non-responsive. In addition, each Bidder shall provide the registration number for each listed subcontractor in the space provided in the Designation of Subcontractors form. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

#### **ARTICLE 9. SAFETY PROGRAM WORKSHEET & CERTIFICATION**

All Bidders must meet the requirements of M1W's safety program, which sets forth specific criteria relating to a contractor's Experience Modification Rate (EMR), Recordable Incident Rate, and Lost Time Incident Rate. All Bidders must meet the specific criteria to be eligible to be awarded a contract.

For a bidder to be considered responsible, and for the bidder's bid to be considered, the bidder shall meet at least two of the three minimum safety criteria specified in Paragraphs 9A. through 9C. hereinafter. Bidder shall submit the appropriate forms from Section 00400 as part of the Bid to demonstrate the bidder's Safety Qualifications. Bidders will be allowed to exercise the option of meeting only one of the three minimum safety criteria, but in doing so, the Bidder will be required to provide services of a third party State Licensed Safety Engineering consultant specializing in construction safety that is acceptable to the OWNER.

The third party State Licensed Safety Engineering consultant will be used in the capacity of reviewing Contractor's Site Safety and Project Safety Plans; providing quarterly monitoring of site safety; reviewing special safety hazards not addressed in the Contractor's safety plans; and reviewing and evaluating safety incidents that occur during the project.

- A. Experience Modification Rate (EMR) - Experience modification rates are calculated by the insurance industry as a way to determine equitable workers' compensation insurance premiums. It is calculated as a three-year moving average. Due to particular safety hazards inherent in working in a wastewater handling or treatment facility, the OWNER has deemed it necessary that a BIDDER and its First Tier Subcontractors shall have a current three-year average EMR rating equal to or lower than that specified in the EMR Form in Section 00400 to be considered a responsible BIDDER.
- B. Recordable Incident Rate (RIR) - The recordable incidental rate is a measure of all occupational injuries and illnesses that occur within an organization. The RIR is a good measure of the frequency of injuries, and can be verified by the BIDDER's insurance carrier. A BIDDER shall have a current three-year average RIR rating equal to or lower than that specified in the RIR Form in Section 00400 to be considered a responsible BIDDER.



- C. Lost Time Incident Rate (LTIR) - The LTIR is a good indicator of the severity of a company's occupational injuries and can also be verified to the BIDDER's workers' compensation insurance carrier. A BIDDER shall have a current three-year average LTIR rating equal to or lower than that specified in the LTIR Form in Section 00400 to considered a responsible BIDDER."

All Bidders must complete and sign under penalty of perjury the M1W Safety Program Certification on the form provided, and submit with its Bid. Bidders acknowledge that failure to provide the required information may render its bid non-responsive.

**ARTICLE 10. LOCAL HIRING REQUIREMENT**

All Bidders must comply with M1W Ordinance No. 2004-02, which sets forth the requirements regarding the Local Hiring Requirement for Public Works Projects. A copy of M1W's Local Hiring Requirement Ordinance is available upon request. Bidders are responsible for familiarizing themselves with the contents thereof before submitting a bid.

Bidders shall make a good-faith effort to hire qualified individuals who are residents of the Monterey Bay Area (Monterey, Santa Cruz and San Benito Counties), in sufficient numbers so that no less than fifty percent (50%) of the Bidder's total construction work force for the Project, including subcontractor work force, measured in labor work hours, is comprised of Monterey Bay area residents. This same requirement applies to all subcontractors.

Bidders shall ensure that any and all listed subcontractors are not disqualified pursuant to Section 8 of M1W Ordinance No. 2004-02. Prospective contractors may consult the list, available from the contact person indicated in the Bid Documents, of contractors and subcontractors, if any, who are currently disqualified.

Bidders shall also include the local hiring requirement in each and every subcontract relating to the Project. Every subcontractor must complete and sign under penalty of perjury a Certification of Good-Faith Effort to Hire Monterey Bay Area Residents, on the form provided. Bidders are responsible for subcontractor compliance.

Every Bidder must complete and sign under penalty of perjury a Certification of Good-Faith Effort to Hire Monterey Bay Area Residents, on the form provided, and submit said Certification with its Bid.

**ARTICLE 11. INSURANCE REQUIREMENTS**

The successful Bidder shall procure and maintain the insurance in the form and in the amount specified in the Contract Documents.

**ARTICLE 12. WITHDRAWAL OF BID**

Any bid may be withdrawn either personally or by written request, incurring no penalty, at any time prior to the scheduled closing time for receipt of bids. Requests to withdraw bids shall be worded so as not to reveal the amount of the original bid. Withdrawn bids may be resubmitted until the time and day

set for the receipt of bids, provided that resubmitted bids are in conformance with the instructions herein.

Bids may be withdrawn after bid opening only by providing written notice to M1W within five (5) working days of the bid opening and in compliance with Public Contract Code Section 5100 et seq., or as otherwise may be allowed with the consent of M1W.

**ARTICLE 13. BIDDERS INTERESTED IN MORE THAN ONE BID**

No Bidder shall be allowed to make, file or be interested in more than one bid for the same work unless alternate bids are specifically called for. A person, firm or corporation that has submitted a sub-proposal to a Bidder, or that has quoted prices of materials to a Bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders. No person, firm, corporation, or other entity may submit a sub-proposal to a Bidder, or quote prices of materials to a Bidder, when also submitting a prime Bid on the same Project.

**ARTICLE 14. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS**

In accordance with the provisions of the Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code Sections 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to M1W. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

**ARTICLE 15. SALES AND OTHER APPLICABLE TAXES, PERMITS, LICENSES AND FEES**

Contractor and its subcontractors performing work under this Contract will be required to pay California sales tax and other applicable taxes, and to pay for permits, licenses and fees required by the agencies with authority in the jurisdiction in which the Work will be located, unless otherwise expressly provided by the Contract Documents.

**ARTICLE 16. PERMIT AND INSPECTION FEE ALLOWANCE**

Notwithstanding anything contained herein, the Bid Form may contain an allowance for the Contractor's cost of acquiring traffic control permits and for construction inspection fees that may be charged to the Contractor by the Agency of Jurisdiction. The allowance is included within the Bid Form to eliminate the need by bidders to research or estimate the costs of traffic control permits and construction inspection fees prior to submitting a bid. The allowance is specifically intended to account for the costs of traffic control permits and construction inspection fees charged by the local Agency of Jurisdiction only. No other costs payable by Contractor to the Agency of Jurisdiction are included within the allowance.

**ARTICLE 17. FILING OF BID PROTESTS**

Any bid protest relating to the form or content of the Bid or Contract Documents must be submitted in writing to M1W's Contracts Administrator at least ten (10) business days before the original date set for the bid opening. Any bidder who submits a bid without making a protest shall be deemed to have

waived any objection to the form or content of the Bid or Contract Documents not previously stated in writing.

Bidders may file a “protest” of a Bid with M1W’s Contracts Administrator. In order for a Bidder’s protest to be considered valid, the protest must:

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

If the protest does not comply with each of these requirements, M1W may reject the protest without further review.

If the protest is timely and complies with the above requirements, M1W’s Contracts Administrator, or other designated M1W staff member, shall review the protest, any response from the challenged Bidder(s), and all other relevant information. The Contracts Administrator will provide a written decision to the protestor.

The procedure and time limits set forth in this Article are mandatory and are the sole and exclusive remedy in the event of a Bid protest. Failure to comply with these procedures shall constitute a failure to exhaust administrative remedies and a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings.

#### **ARTICLE 18. AWARD PROCESS**

Once all Bids are opened and reviewed to determine the lowest responsive and responsible Bidder, M1W’s Board may award the contract. The apparent successful Bidder should begin to prepare the following documents: (1) the Performance Bond; (2) the Payment Bond; and (3) the required insurance certificates and endorsements. Once M1W notifies the Bidder of the award, the Bidder will have ten (10) working days from the date of this notification to execute the Contract and supply M1W with all of the required documents and certifications. Regardless of whether the Bidder supplies the required documents and certifications in a timely manner, the Contract time will begin to run twenty (20) working days from the date of the notification. Once M1W receives all of the properly drafted and executed documents and certifications from the Bidder, M1W shall issue a Notice to Proceed to that Bidder.

#### **QUESTIONS**

Questions regarding this Notice Inviting Bids may be directed to Jennifer Gonzalez, Engineering Manager, at 831-883-6172 or email at [jennifer@my1water.org](mailto:jennifer@my1water.org) . No other members of M1W’s staff or Governing Board should be contacted about this procurement during the bidding process. Any and all inquiries and comments regarding this Bid must be communicated in writing, unless otherwise instructed by M1W. M1W may, in its sole discretion, disqualify any Bidder who engages in any prohibited communications.

**END OF INSTRUCTIONS TO BIDDERS**

00400 – BID FORMS

1.1 Bid Acknowledgement.

Name of Bidder: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Business Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Business Street Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_

\_\_\_\_\_

Pursuant to and in compliance with the Notice Inviting Bids for **CASTROVILLE PUMP STATION VFD AND PLC INSTALLATION PROJECT**, and the other Contract Documents relating thereto, the undersigned Bidder, being fully familiar with the terms of the Contract Documents, the current general prevailing wage rates, local conditions affecting the performance of the Project, the character, quality, quantities and scope of the work, and the cost of the work at the place of performance, hereby proposes and agrees to furnish to the Monterey One Water all of the labor, materials, equipment, tools, transportation, and services, and other items necessary to conduct and complete said work, within the time stipulated in the Contract Documents and in strict conformity with the Contract Documents, including Addenda Nos. \_\_\_\_, \_\_\_\_, and \_\_\_\_, for the price or prices set forth in the Bid Schedule.

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

Executed at \_\_\_\_\_, on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
(Contractor Name )

\_\_\_\_\_  
(Name and Title)

(Corporate Seal)

\_\_\_\_\_  
(Signature)

1.2 Bid Schedule.

**IMPORTANT:**

**THE ELECTRONIC BID SCHEDULE MUST BE COMPLETED BY EACH BIDDER AND PROPERLY SUBMITTED THROUGH THE ELECTRONIC BID MANAGEMENT SYSTEM.**

**FAILURE TO COMPLETE THE ELECTRONIC BID SCHEDULE WILL RESULT IN AN INCOMPLETE AND NON-RESPONSIVE BID.**

**THE FOLLOWING BID SCHEDULE FORM IS INCLUDED FOR INFORMATIONAL PURPOSES ONLY. BIDDERS SHALL ONLY COMPLETE THE ELECTRONIC SCHEDULE OF PAY ITEMS.**

The electronic Bid Schedule will be incorporated into the contract documents.

Bidders must provide pricing for every line item included in the Bid Schedule. Failure to do so will render the bid nonresponsive.

<b>SCHEDULE A – BASE BID</b>					
<b>Item</b>	<b>Description</b>	<b>Units</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Total</b>
A-1	Install new 2 200Hp 480vac 3Ph VFDs NEMA 12 enclosures and one PLC NEMA12 enclosure to a temporary location and run temporary power, controls and communications to the three new enclosures	LS	1	\$	\$
A-2	Install 1 remote I/O panel and run temporary power and communications to the new PLC panel.	LS	1	\$	\$
A-3	Disconnect pre-existing 200hp motors one at a time and wire up to the newly installed VFDs	LS	1	\$	\$
A-4	Remove three existing VFDs, annunciator panel, PLC panels, junction boxes cable trays, wires and prep and clean conduit	LS	1		
A-5	Disconnect the temporary VFDs & PLC, install it to the permanent location, run new wire using the existing conduit, and connect the motor	LS	1	\$	\$
A-6	Electrical- Start up, motor rotation, & Remote I/O verification	LS	1	\$	\$
A-7	Remove existing signal cable from the HACH controller and pull new Profibus cable	LS	1	\$	\$
A-8	PROGRAMMING: PLC, VFD, RIO, Profibus, HMI and Plant PAX to monitor and control the pump station	LS	1	\$	\$
A-9	PROGRAMMING: commissioning and verification	LS	1	\$	\$
A-10	As Built drawings	LS	1	\$	\$

1.3 Bid Bond

**Note: Not required when other form of Bidder's Security, e.g. cash, certified check or cashier's check, accompanies bid.**

The makers of this bond are, \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety and are held and firmly bound unto the Monterey One Water, hereinafter called M1W, in the penal sum of TEN PERCENT (10%) OF THE TOTAL BID PRICE of the Principal submitted to M1W for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying bid dated \_\_\_\_\_, 20 \_\_\_\_, for **CASTROVILLE PUMP STATION VFD AND PLC INSTALLATION**.

If the Principal does not withdraw its Bid within the time specified in the Contract Documents; and if the Principal is awarded the Contract and provides all documents to M1W as required by the Contract Documents; then this obligation shall be null and void. Otherwise, this bond will remain in full force and effect.

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

In the event a lawsuit is brought upon this bond by M1W and judgment is recovered, the Surety shall pay all litigation expenses incurred by M1W in such suit, including reasonable attorneys' fees, court costs, expert witness fees and expenses.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, the name and corporate seal of each corporation.

(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  
Name(s) of Signer(s)

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

#### DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

\_\_\_\_\_

Title(s)

- Partner(s)
  - Limited
  - General

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
 \_\_\_\_\_

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

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



1.4 List of Subcontractors

In compliance with the Subletting and Subcontracting Fair Practices Act Chapter 4 (commencing at Section 4100), Part 1, Division 2 of the Public Contract Code of the State of California and any amendments thereof, Bidder shall set forth below: (a) the name and the location of the place of business, (b) the California contractor license number, (c) the DIR public works contractor registration number, and (d) the portion of the work which will be done by each subcontractor who will perform work or labor or render service to the Bidder in or about the construction of the work or improvement to be performed under this Contract in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price. Notwithstanding the foregoing, if the work involves the construction of streets and highways, then the Bidder shall list each subcontractor who will perform work or labor or render service to the Bidder in or about the work in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price or \$10,000, whichever is greater. No additional time shall be granted to provide the below requested information.

If a Bidder fails to specify a subcontractor or if a contractor specifies more than one subcontractor for the same portion of work, then the Bidder shall be deemed to have agreed that it is fully qualified to perform that portion of work and that it shall perform that portion itself.

Name of Subcontractor	Work to be performed	Location of Business	CSLB License No.	DIR Registration Number

*(Attach additional sheets if necessary)*

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name & Title \_\_\_\_\_

**END OF LIST OF SUBCONTRACTORS FORM**

1.5 Bidder Information and Experience Form

Firm Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Business Address: \_\_\_\_\_ Fax: \_\_\_\_\_

Type of Entity:  Individual  Partnership  Corporation

License No. and Classification(s): \_\_\_\_\_ Years in Business: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Email: \_\_\_\_\_

Gross Annual Receipts for last year:  
 < \$500,000  < \$1 million  < \$5 million  < \$10 million  > \$10 million

Contractor Specialty:

- Roadway Construction (including signing, paving, sawcutting, and concrete)
- Roadway Painting/Striping
- Roadway Lighting & Electrical Signals
- Bridge & Tunnel Construction
- Water, Sewer, & Pipeline Construction
- Power & Communication Transmission Line (including conduit construction)
- Landscaping/Irrigation
- Other Heavy Construction (including parks, reclamation, reservoir, water & sewer treatment facilities)
- Masonry (including retaining walls and foundations)
- Concrete Retaining Walls
- Building Construction
- Other (describe): \_\_\_\_\_

---

Under what other or former names has Bidder's organization operated:

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

Are any disciplinary actions pending/ been taken against this license in the past five years? If yes, explain:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If Bidder has prequalified with M1W, has any information included in Bidder's prequalification package changed since it was submitted to M1W? If yes, explain:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**References**

The Bidder represents that it has successfully completed at least three (3) projects of a similar nature. Bidder's experience shall be verified by the following references, the accuracy and truthfulness of the information is guaranteed by the Bidder:

Reference #1:

Owner: \_\_\_\_\_

Project Name: \_\_\_\_\_

Contact: \_\_\_\_\_

Description of work: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Contract Value: \_\_\_\_\_

Email: \_\_\_\_\_

Project Completion Date: \_\_\_\_\_

Reference #2:

Owner: \_\_\_\_\_

Project Name: \_\_\_\_\_

Contact: \_\_\_\_\_

Description of work: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Contract Value: \_\_\_\_\_

Email: \_\_\_\_\_

Project Completion Date: \_\_\_\_\_

Reference #3:

Owner: \_\_\_\_\_

Project Name: \_\_\_\_\_

Contact: \_\_\_\_\_

Description of work: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Contract Value: \_\_\_\_\_

Email: \_\_\_\_\_

Project Completion Date: \_\_\_\_\_

**END OF BIDDER INFORMATION AND EXPERIENCE FORM**

1.6 Non-Collusion Declaration

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing Bid.

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

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

1.7 Public Works Contractor Registration Certification

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 Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.<sup>1</sup>

Name of Bidder: \_\_\_\_\_

DIR Registration Number: \_\_\_\_\_

DIR Registration Expiration: \_\_\_\_\_

Small Project Exemption: \_\_\_\_\_ Yes or \_\_\_\_\_ No

Unless Contractor is exempt pursuant to the small project exemption, Contractor further acknowledges:

1. Contractor shall maintain a current DIR registration for the duration of the project.
2. Contractor shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.
3. Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Name of Contractor \_\_\_\_\_

Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Dated \_\_\_\_\_

<sup>1</sup> If the Project is exempt from the contractor registration requirements pursuant to the small project exemption under Labor Code Sections 1725.5 and 1771.1, please mark "Yes" in response to "Small Project Exemption."

1.8 Monterey One Water Safety Program Worksheet and Certification

**A. EXPERIENCE MODIFICATION RATE**

M1W’s Safety Program requires that all contractors awarded a contract have a three-year average Workers’ Compensation Experience Modification Rate **less than or equal to 1.2 (120%)**.

Year	EMR
20__	_____
20__	_____
20__	_____
Three year Average: _____	

**B. RECORDABLE INCIDENT RATE**

M1W’s Safety Program requires that all contractors awarded a contract have a three-year average Recordable Incident Rate less than or equal to 4.8. The Recordable Incident Rate (or RIR) is calculated by multiplying the number of recordable cases by 200,000, and then dividing that number by the number of labor hours at the company.

Please calculate the RIR for the last three complete years as follows. Incident rate information should be available on your OSHA Log 300 and available from your insurance carrier.

1.0 Recordable Incidents:

Year	(a) Number of Recordable Cases	(b) Multiplier	(c) Annual rate = (a)x(b)
20__	_____	200,000	_____
20__	_____	200,000	_____
20__	_____	200,000	_____

2.0 Total Employee Hours Worked:

Year	(d) Number of Employee labor hours worked
20__	_____
20__	_____
20__	_____



1.0 Recordable Incident Rate:

Year	Recordable Incident Rate= (c)/(d)
20__	_____
20__	_____
20__	_____
Three year Average: _____	

**C. LOST TIME INCIDENT RATE**

M1W’s Safety Program requires that all contractors awarded a contract have a three-year average Lost Time Incident Rate less than or equal to 2.1. The Lost Time Incident Rate (or LTIR) is calculated by multiplying the number of incidents that were lost time cases by 200,000 and then dividing that by the employee labor hours at the company.

Please calculate the LTIR for the last three complete years as follows. Incident rate information should be available on your OSHA Log 300 and available from your insurance carrier.

1.0 Lost Time Incidents:

Year	(e) Number of Lost Time Cases	(f) Multiplier	(g) Annual rate = (e)x(f)
20__	_____	200,000	_____
20__	_____	200,000	_____
20__	_____	200,000	_____

2.0 Total Employee Hours Worked:

Year	(h) Number of Employee labor hours worked
20__	_____
20__	_____
20__	_____

3.0 Recordable Incident Rate:

Year	Lost Time Incident Rate= (g)/(h)
20__	_____
20__	_____
20__	_____
Three year Average:	_____

**D. BIDDER DECLARATION**

I declare under penalty of perjury under the laws of the State of California that the information provided in this M1W Safety Program Worksheet and Certification is true and correct. I understand and agree that the above information is subject to verification by my insurance carrier and/or agent and I will make all such information available upon request. I further understand and agree that failure to provide accurate information and meet M1W's Safety Program requirements is an express condition of award of contract. I waive any right to contest the rejection of my bid as nonresponsive for failure to meet M1W's Safety Program requirements set forth above.

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

**END OF M1W SAFETY PROGRAM WORKSHEET AND CERTIFICATION**

1.9 Certification of Drug-Free Workplace Requirements

- I. The undersigned Bidder certifies that it will or will continue to provide a drug-free workplace by:
  - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Bidder's work place and specifying the actions that will be taken against employees for violation of such prohibition;
  - B. Establishing an ongoing drug-free awareness program to inform employees about:
    - 1. The dangers of drug abuse in the work place;
    - 2. The Bidder's policy of maintaining a drug-free work place;
    - 3. Any available drug counseling, rehabilitation, and employee assistance programs; and
    - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the work place;
  - C. Making it a requirement that each employee be engaged in the performance of the contract be given a copy of the statement required by Paragraph A;
  - D. Notifying the employee in the statement required by Paragraph A that, as a condition of employment under the Contract, the employee will:
    - 1. Abide by the terms of the statement; and
    - 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the work place no later than five calendar days after such conviction;
    - 3. Notify the employee that in the event of a major accident/incident resulting in loss of life, injury or damage to the facility, or equipment, all personnel involved shall be required to submit to substance testing as soon as possible after the incident, but not more than 4 hours after the incident.
  - E. Notifying the OWNER in writing within 10 calendar days after receiving notice under subparagraph D.2. from an employee or otherwise receiving actual notice of such conviction.
  - F. Taking on of the following actions, within 30 calendar days of receiving notice under subparagraph D.2., with respect to any employee who is so convicted:
    - 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of Federal and State law; or
    - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purpose by a Federal, State or local health, law enforcement, or other appropriate agency;
  - G. Making a good faith effort to continue to maintain a drug-free work place through implementation of Paragraphs A, B, C, D, E, and F.
- II. The Bidder may insert in the space provided below, the site(s) for the performance of work done in connection with this Contract:  
Place(s) of Performance: (Street address, city, county, state, zip code)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Dated \_\_\_\_\_

1.10 Debarment and Suspension Certification

Contractors, Subcontractors, Debarment and Suspension, Executive Order 12549; 2 CFR Part 180; 2 CFR Part 1532

CONTRACTOR certifies that it and its principals, and shall obtain certifications from its subcontractors that they and their principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- (b) Have not within a three (3) year period preceding this procurement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.
- (e) Suspension and debarment information can be accessed at <http://www.sam.gov>. CONTRACTOR represents and warrants that it has or will include a term or conditions requiring compliance with this provision in all of its contracts and subcontracts under this Agreement.
- (f) CONTRACTOR acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the termination, delay or negation of any Contract entered into pursuant to this procurement, or pursuance of legal remedies, including suspension and debarment.

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Dated \_\_\_\_\_

1.11 Good Faith Efforts Verification/Certification of Local Work Force

Project: \_\_\_\_\_

Bidder Name: \_\_\_\_\_

M1W, in accordance with M1W Ordinance No. 2004-02 (“Ordinance”), requires that bidders make a good faith effort to hire residents of Monterey Bay area. The goal of the Ordinance is that 50% of the total construction work force, measured in labor work hours, will be composed of Monterey Bay Area residents (“Local Hiring Goal”). Bidders that can meet the Local Hiring Goal without making the efforts identified herein may select Option 2 in this form, and sign the certification below.

Good faith efforts to meet the Local Hiring Goal include, but are not limited to, requesting the assistance of local labor union hiring halls and/or other community resources designated by M1W. A list of local labor union and other community resources contacts is attached hereto as Exhibit A. The list is not intended to be exhaustive, and bidders may contact additional sources not included in Exhibit A in an effort to hire Monterey Area residents.

Please either (i) provide the information contained under Option 1, using additional sheets of paper if necessary, or (ii) sign the certification under Option 2 below. **This form must be submitted with your bid.** Bidders selecting Option 1 should also submit mail logs, phone logs, electronic searches and communication, newspaper clippings or similar records documenting efforts to meet the good faith effort requirements to meet the Local Hiring Goal.

A bidder that already has a local workforce composed of Monterey Bay Area residents, and that can meet the Local Hiring Goal without making the efforts identified herein, is not required to make the good faith efforts identified in this verification form, but must sign the certification under Option 2 below.

**Option 1- Local Hiring Goal - Good Faith Efforts Verification:**

**1. Solicitation Lists/Publications.** The names and dates of each publication (please attach copies of advertisements or proofs of publication, and use additional sheets if necessary), or information related to solicitation lists for soliciting local work force participation:

Publications/Solicitation Lists	Dates of Advertisement/solicitation

2. The names and dates of contacts made with or written notices sent to local labor union hiring halls or other community resources soliciting local work force participation for this project. Include the dates, names of contacts made, and methods used for following up initial solicitations (please attach copies of solicitations, telephone records, fax confirmations, etc., use additional sheets if necessary):

Name of Entity Contacted and Contact Person	Date of Initial Solicitation	Follow Up Methods and Dates

3. Provide any additional data to support a demonstration of good faith efforts to meet the Local Hiring Goal (use additional sheets if necessary):

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**Option 2- Certification of Existing Local Work Force (sign only if applicable):**

Bidder has not made the good faith efforts identified above because bidder is able to meet the Local Hiring Goal (as defined above) with its existing work force, to be employed on this Project, which is made up of a sufficient number of Monterey Bay Area residents to meet the Local Hiring Goal. By signing below bidder certifies that it will meet the Local Hiring Goal, and commits to doing so as a contractual requirement if bidder is awarded the contract for the project identified above.

Name of Bidder: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

## Exhibit A to Local Hiring Good Faith Efforts Verification

### Local Union

Building Trades Council, Local  
10300 Merritt Street  
Castroville, CA 95012  
Office: (831) 869-3073  
<http://www.mscbctc.com/>

Carpenters, Local 505  
225 Searidge Road  
Aptos, CA 95003  
Office: (831) 688-5025  
Fax: (831) 688-5027  
<http://www.nccrc.org/>

Carpenters, Local 605  
910 2nd Ave  
Marina, CA 93933  
Office: (831) 883-1931  
Fax: (831) 883-1902  
<http://www.nccrc.org/>

IBEW, Local 234  
10300 Merritt Street  
Castroville, CA 95012  
Office: (831) 633-2311  
Fax: (831) 633-0570  
<http://www.ibew234.org>

Operating Engineers, Local 3  
325 Digital Drive  
Morgan Hill, CA 95037  
Office: (408) 465-8260  
Fax: (408) 778-1135  
<http://www.oe.org>

Painters and Drywall Finishers, Local 272  
406 Main St. #420  
Watsonville, CA 95076  
Office: (831) 768-6915  
Fax: (831) 768-6917  
<http://www.dc16iupat.org>

Plumbers & Steamfitters, Local 62  
11445 Commercial Pkwy.  
Castroville, CA 95012  
Office: (831) 633-6091  
Fax: (831) 633-1613  
<http://www.pipetrades62.com/>

Sheet Metal Workers, Local 104  
11060 Commercial Parkway  
Castroville, CA 95012  
Office: (831) 633-3585  
Fax: (831) 633-2947  
<http://smw104.org>

Teamsters, Local 890  
207 N. Sanborn Road  
Salinas, CA 93905  
Office: (831) 424-5743  
Fax: (831) 424-2091  
<http://www.teamsterslocal890.org/>

### Local Newspapers

Monterey Herald  
The Californian Register  
Pajaronian  
Monterey County Weekly  
Santa Cruz Sentinel

### Web Portals

<https://monterey.craigslist.org/>  
<https://sfbay.craigslist.org/scz/>  
<http://www.peopleready.com/>

### Other

Labor Ready  
1103 N Main St  
Salinas, CA 93906  
(831) 755-1555  
Labor Ready  
5157 Soquel Dr  
Soquel, CA 95073  
(831) 475-9292

## 00505 – CONTRACT

This Contract is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Monterey One Water (“M1W”) and \_\_\_\_\_ (the “Contractor”), for performance of the following public work of improvement \_\_\_\_\_ (the “Project” or the “Work”), which shall be performed in accordance with the all plans, specifications and other contract documents attached to or incorporated into this Contract.

### SECTION 1 - SCOPE.

1.1 Contractor shall furnish all necessary management, supervision, labor, materials, tools, supplies, equipment, plant, services, engineering, testing and/or any other act or thing required to diligently and fully perform and complete the Project in accordance with the Contract Documents, which is generally described as follows:

#### **Castroville Pump Station VFD and PLC Installation**

Without limiting the foregoing description, Contractor’s scope of work includes, but is not limited to, the following:

- Submit all required samples, product data, certificates, operations and maintenance instructions, guarantees, and other submittals no later than five (5) days after the date M1W issues a Notice to Proceed.
- Obtain all necessary permits and approvals for the Work.
- Protect all materials to be used in the Work in accordance with the specifications.
- Protect existing facilities and personal property.
- Attend a preconstruction conference with M1W to discuss schedule, access, sequence of work, and other issues.
- Prepare and submit a written daily activity report to M1W for each day on which work is performed, including weekends and holidays when worked, and submit the reports to M1W no later than the next business day. The daily reports shall, at a minimum, include the following information: construction activities and locations, construction crew sizes of general and subcontractors, start or completion of activities, progress on construction activities (including units or portions of work completed), tests or inspections performed, deliveries of material or equipment, delays or potential delays, visitors to the site, weather conditions, construction equipment used, and personal injuries or damage to property.
- The Contractor shall be responsible for unloading, hoisting and otherwise handling its own materials, supplies and equipment.
- Coordinate with owner-scheduled events.
- The Contractor is responsible for researching and complying with all local codes, agencies and jurisdictions that regulate and govern the Work.
- Contractor shall set up, identify, coordinate, provide safe access, and obtain all inspections for its work, as required by any authorized agency or applicable code, prior to covering up work



1.2 The following documents shall be referred to collectively as the "Contract Documents," each of which is incorporated into and made part of this Contract by reference:

- Approved and fully executed change orders
- Addenda (if any)
- Special Conditions (if applicable)
- Technical Specifications
- Plans and Drawings
- Contract
- Notice Inviting Bids
- Information to Bidders
- Contractor's Bid Forms and Addenda
- Public Works Contractor Registration Certification
- List of Subcontractors
- Payment and Performance Bonds (if required)
- Monterey One Water, "Standard Specifications and Drawings," as last revised
- Standard Specifications for Public Works Construction "Greenbook", latest edition, Except Sections 1-9
- Standard Plans for Public Works Construction, latest edition
- Applicable Local Agency Standards and Specifications, as last revised
- Any other documents contained in or incorporated into the Contract

1.3 The Contract Documents are intended to be complementary, and a requirement in one document is as effective as if it appeared in all of the Contract Documents. In the event of a conflict between any of the Contract Documents, the documents shall be given effect in the order set forth above.

1.4 Contractor shall comply with all requirements of the Contract Documents. Where there is a conflict between the requirements of the several Contract Documents, the more stringent requirements shall govern.

## **SECTION 2 - PRICE**

2.1 M1W agrees to pay, and Contractor agrees to accept, the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Contract Price") subject to adjustments for changes in the work as may be directed in writing by M1W, as payment in full for the Work. Work to be done at unit prices will be paid based on actual quantities of work performed and accepted.

2.2 Contractor shall submit a payment application for the total work completed once each month and upon completion of the Project and satisfaction of all conditions of the Contract Documents. M1W shall make payment within thirty (30) days of receipt of an undisputed payment application, less five percent (5%) retention.

2.3 Pursuant to Public Contract Code Section 22300, for monies earned by the Contractor and withheld by M1W to ensure the performance of the Contract, the Contractor may, at its option, choose to substitute securities meeting the requirements of Public Contract Code Section 22300.

2.4 Contractor agrees to furnish, as a condition of payment, payroll affidavits, receipts, vouchers, certified payroll reports, and other documents, in form satisfactory to M1W, prior to receipt of any payment. Contractor shall submit Conditional and Unconditional waivers and release of lien upon (as provided in Civil Code Sections 8132, 8134, 8136 and 8138) on behalf of itself, subcontractors and suppliers that furnished labor, material, equipment or services to the Project.

### **SECTION 3 - TIME**

3.1 Contractor shall complete the Project no later than twenty-eight (28) calendar days following M1W's issuance of the Notice to Proceed (the "Contract Time").

3.2 Time is of the essence of this Contract.

3.3 Contractor shall provide M1W with scheduling information in a form acceptable to M1W, including any changes made by M1W in the scheduling of work. Contractor shall coordinate its work with that of all other contractors, subcontractors and suppliers so as not to delay or damage their performance.

3.4 If Contractor fails to complete the Project within the Contract Time, M1W will sustain damage. It is and will be impracticable to determine the actual damage which M1W will sustain in the event of and by reason of such delay, therefore Contractor will pay to M1W \$500 for each and every calendar day beyond the time prescribed to complete the Work; Contractor agrees to pay such liquidated damages as herein provided, and in case the same are not paid, agrees that M1W may deduct the amount thereof from any monies due or that may become due the Contractor under the Contract.

3.5 It is further agreed that in case Contractor fails to complete the Project in all parts and requirements within the Contract Time, M1W shall have the right to extend the Contract Time or not, as may seem best to serve the interest of M1W; and if it decides to extend Contract Time, M1W shall further have the right to charge to the Contractor, his heirs, assigns or sureties, and to deduct from the final payment for the work, all or any part, as it may deem proper, of the actual cost of engineering, inspection, superintendence, and other overhead expenses directly chargeable to the Contract that accrue during the period of such extension.

3.6 The Contractor will not be assessed with liquidated damages or the cost of engineering and inspection during the delay in the completion of the Project caused solely by acts of God or of the public enemy, fire, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes; provided, that the Contractor shall within three (3) days from the beginning of any such delay, notify the Engineer, in writing of the causes of delay. M1W shall ascertain the facts and the extent of delay, and his findings thereon shall be final and conclusive.

3.7 In the event that Contractor's work is delayed for any reason, including acts of M1W, Contractor's sole remedy shall be an extension of time equal to the period of delay, provided Contractor has given M1W written notice of the commencement of delay within three (3) days of its occurrence.

### **SECTION 4 - LABOR**

4.1 The Contractor shall perform all work during the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday unless otherwise specified in the Special Provisions or authorized by M1W in writing. If

the Contractor wishes to work during any other hours or on weekends, written permission must be received from M1W. The request must be received at least two (2) working days in advance of any work. No work will be allowed on M1W Holidays except in the case of an emergency. A listing of M1W Holidays is on file in the office of M1W. If Contractor requests overtime work in which M1W will incur costs, Contractor shall be responsible for payment of M1W's costs incurred in connection with the overtime work. M1W will invoice the Contractor at time and one half to cover the costs incurred. If Contractor does not pay the invoice within ten (10) days, M1W may deduct the amount billed from other payments due or to become due to Contractor under the Contract.

4.2 The Contract is subject to California Labor Code Sections 1720 and following, and Contractor and any subcontractor shall pay not less than the specified prevailing rates of wage to all workers employed in performance of the Work. Pursuant to the provisions of Section 1770 of the California Labor Code, M1W has obtained the general prevailing rate of wages and employer payments for health and welfare, vacation, pension and similar purposes in M1W, as determined by the Director of the Department of Industrial Relations, a copy of which is on file in the office of M1W, and shall be made available for viewing to any interested party upon request. Contractor shall post, at appropriate conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned. The Contractor and each subcontractor shall forfeit as a penalty to M1W not more than Two Hundred Dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate in violation of the Labor Code. In addition, the difference between the prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

4.3 Pursuant to Labor Code Section 1776, the Contractor and each subcontractor shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury. In the event of noncompliance with the requirements of this Section, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying any item or actions necessary to achieve compliance with this section. If Contractor or subcontractor does not comply after such ten (10)-day period, the Contractor shall, as a penalty to M1W, forfeit One Hundred Dollars (\$100) for each day, or portion thereof, for each worker until strict compliance is effectuated.

4.4 In accordance with Labor Code section 1771.4, the Contractor and each subcontractor shall furnish the certified payroll records directly to the Department of Industrial Relations ("DIR") on a weekly basis and in the format prescribed by the DIR, which may include electronic submission. Contractor shall comply with all requirements and regulations from the DIR relating to labor compliance monitoring and enforcement. The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

4.5 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 Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the

Department of Industrial Relations to perform public work. This Project will be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

4.6 Contractor's attention is directed to the provisions in Section 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under the Contractor. It shall be the responsibility of the Contractor to effectuate compliance on the part of itself and any subcontractors with the requirements for employment of apprentices. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

4.7 It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Contractor shall therefore comply with such Labor Code sections to the fullest extent required by law.

4.8 Pursuant to the requirements of Division 4 of the Labor Code, the Contractor will be required to secure the payment of worker's compensation to its employees in accordance with the provisions of Section 3700 of the Labor Code. Prior to commencement of work, the Contractor shall sign and file with the Engineer a certification in the following form:

"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 before commencing the performance of the work of this contract."

4.9 Contractor shall submit to M1W, in advance of excavation five feet or more in depth and an estimated expenditure in excess of twenty-five thousand dollars (\$25,000), a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five feet or more in depth. If such plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations, and all costs therefor shall be included in the Contract Price. Nothing in this section shall be deemed to allow the use of a shoring, bracing, sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this section shall be construed to impose a tort liability on the Owner, any of its officers, officials, partners, employees, agents, consultants or volunteers. The Owner's review of the Contractor's excavation plan is only for general conformance to the Construction Safety Orders. Prior to commencing any excavation, the Contractor shall designate in writing to the Owner the "competent person(s)" with the authority and responsibilities designated in the Construction Safety Orders.

4.10 Full compensation for conforming to the requirements of this section shall be considered as included in the Contract Price, and no additional compensation will be allowed therefore.

## **SECTION 5 - CHANGES IN WORK**

5.1 Contractor shall make no changes in the Work without written direction from M1W. Contractor shall not be compensated for any change made without M1W's written direction. No changes in the work covered by this Contract shall exonerate any surety or any bond given in connection with this Contract. Owner may reject materials or Work that does not meet the requirements of the Contract Documents. If Owner does so, Contractor shall promptly remove the rejected materials or work and replace it with materials or work that meet the requirements of the Contract Documents, at no additional cost to Owner. The Contractor may request consideration of substitute materials; Owner's approval of any substitution will be at the Owner's sole discretion.

5.2 If M1W directs the Contractor in writing to make changes in the work that materially affect the cost of performing the work, the Contract Price will be adjusted based on one of the following:

- (1) Where the work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities involved in the changed Work;
- (2) By a combination of existing and new unit prices and related quantities for the changed work;
- (3) Time and Materials, calculated as set forth in Section 6.3, below; or
- (4) By mutual acceptance of a lump sum.

5.3 The cost for extra or changed work performed on a Time and Materials basis shall be determined as follows:

5.3.1 Labor: Contractor will be paid cost of labor for workers used in actual and direct performance of extra work, including only :

(a) Actual Wages: Actual wages paid shall include any employer payments to or on behalf of workers for health and welfare, pension, vacation, and similar purposes.

(b) Labor Surcharge: Payments imposed by local, county, state, and federal laws and ordinances, and other payments made to, or on behalf of, workers, other than actual wages as defined above, such as taxes and insurance. Labor surcharge shall be and shall not exceed that set forth in California Department of Transportation official labor surcharges schedule which is in effect on date upon which extra or changed work is accomplished and which schedule is incorporated herein by reference as though fully set forth herein.

5.3.2 Material: Only materials furnished by Contractor and necessarily used in performance of extra Work will be paid for. Cost of such materials will be cost, including sales tax and delivery charges, to purchaser (Contractor, Subcontractor or other forces) from supplier thereof, except as the following are applicable: (a) If cash or trade discount by actual supplier is offered or available to purchaser, it shall be credited to M1W notwithstanding fact that such discount may not have been

taken. (b) For materials salvaged upon completion of extra Work, salvage value of materials shall be deducted from cost, less discounts, of materials. (c) If M1W determines that cost of a material is excessive, then cost of material shall be deemed to be lowest reasonably available wholesale price at which material is available in quantities concerned delivered to Site, less any discounts described in (a), above.

5.3.3 Equipment: For Contractor-owned equipment, payment will be made at rental rates listed for equipment in California Department of Transportation official equipment rental rate schedule which is in effect on date upon which extra Work is accomplished and which schedule is incorporated herein by reference as though fully set forth herein. If there is no applicable rate for an item of equipment, then payment shall be made for Contractor- or Subcontractor-owned equipment at rental rate listed in the most recent edition of the Association of Equipment Distributors (AED) book.

(a) For rented equipment, payment will be made based on actual rental invoices. Equipment used on extra Work shall be of proper size and type.

(b) Cost of equipment shall be calculated at rental rate for equipment of proper size and type, as determined by M1W. Rental rates paid shall be deemed to cover cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Unless otherwise specified, manufacturer's ratings, and manufacturer-approved modifications, shall be used to classify equipment for determination of applicable rental rates. Rental time will not be allowed while equipment is inoperative due to breakdowns.

(c) Individual pieces of equipment or tools having a replacement value of \$100 or less, whether or not consumed by use, shall be considered to be small tools.

5.3.4 Work Performed by Special Forces or Other Special Services:

When M1W and Contractor, by agreement, determine that special service or item of extra Work cannot be performed by forces of Contractor or those of any Subcontractors, service or extra Work item may be performed by specialist. Invoices for service or item of extra Work on basis of current market price thereof may be accepted without complete itemization of labor, material, and equipment rental costs when it is impracticable and not in accordance with established practice of special service industry to provide complete itemization. In those instances wherein Contractor is required to perform extra Work necessitating a fabrication or machining process in a fabrication or machine shop facility away from Site, charges for that portion of extra Work performed in such facility may, by agreement, be accepted as a specialist billing. In lieu of overhead and profit provided in paragraph 5(a), below, fifteen percent (15%) will be added to specialist invoice price, after deduction of any cash or trade discount offered or available, whether or not such discount may have been taken.

5.3.5 Overhead Defined

The following constitutes charges that are deemed included in overhead for all Contract Modifications, including work performed on a Time and Materials basis. Contractor shall not invoice or receive payment for these costs separately: Drawings: field drawings, Shop Drawings, etc., including submissions of drawings; Routine field inspection; General Superintendence; General administration and preparation of cost proposals, schedule analysis, Change Orders, and other supporting documentation; Computer services; Reproduction services; Salaries of project engineer, superintendent, timekeeper,

storekeeper, and secretaries; Janitorial services; Small tools, incidentals and consumables; Temporary on-Site facilities (Offices, Telephones, Plumbing, Electrical Power, lighting; Platforms, Fencing, Water, Home office expenses; vehicles and fuel used for work otherwise included in the Contract Documents; Surveying; Estimating; Protection of Work; Handling and disposal fees; Final cleanup; Other incidental Work; Related warranties.

#### 5.3.6 Overhead for Time and Materials

For work Contractor performs on Time and Materials at M1W's direction, the following markups will be added to the cost of labor, materials and equipment, calculated as described above.

- (a) Overhead and profit on labor shall be fifteen percent (15%).
- (b) Overhead and profit on materials shall be fifteen percent (15%).
- (c) Overhead and profit on equipment rental shall be ten percent (10%).

(d) When work is performed by a first tier Subcontractor, Contractor shall receive a five percent (5%) markup on Subcontractor's total costs of extra work. First tier Subcontractor's markup on its Work shall not exceed fifteen percent (15%).

(e) When extra Work is performed by a lower tier Subcontractor, Contractor shall receive a total of five percent (5%) markup on the lower tier Subcontractor's total costs of extra work. Contractor and first tier Subcontractors and lower tier Subcontractors shall divide the fifteen percent (15%) markup as mutually agreed.

(f) Notwithstanding the foregoing, in no case shall the total markup on any extra work exceed twenty percent (20%) of the direct cost, notwithstanding the actual number of Contract tiers.

(g) On proposals covering both increases and decreases in Contract Price, overhead and profit shall be allowed on the net increase only as determined in this paragraph. When the net difference is a deletion, no percentage for overhead or profit will be allowed, but rather a deduction shall apply.

(h) The markup shall include profit, small tools, cleanup, supervision, warranties, cost of preparing the cost proposal, jobsite overhead, and home office overhead. No markup will be allowed on taxes, insurance, and bonds.

5.4 If M1W directs the Contractor in writing to make changes in the Work that materially affect the time required to perform the Work, M1W will make a reasonable adjustment to the Contract Time.

## **SECTION 6 - CLAIMS AND DISPUTES**

6.1 If any dispute shall arise between M1W and Contractor regarding performance of the work, or any alleged change in the work, Contractor shall timely perform the disputed work and shall give written notice of a claim for additional compensation for the work to M1W within three (3) days after commencement of the disputed work. Contractor's failure to give written notice within the three (3)-day period constitutes an agreement by Contractor that it will receive no extra compensation for the disputed work.

6.2 All public works claims between the Contractor and M1W shall be resolved pursuant to the procedures set forth in Public Contract Code Section 9204. M1W will provide a written response to the Contractor identifying what portion of the claim is disputed and what portion is undisputed within 45 days of receipt of the claim, unless the parties mutually agree to extend the time for response. If M1W does not respond within the 45-day time period, or as extended by mutual agreement, the claim shall be deemed rejected in its entirety.

If the Contractor disputes M1W's response, or if M1W fails to respond within the statutory time period(s), the Contractor may so notify M1W within 15 days of the receipt of the response or the failure to respond, and demand an informal conference to meet and confer for settlement. Upon such demand, M1W shall schedule a meet and confer conference within 30 days.

Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion thereof remains in dispute, M1W shall provide the Contractor with a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any portion of the claim that remains in dispute shall be submitted to nonbinding mediation. The selection of the mediator shall be in accordance with Public Contract Code section 9204 and M1W and the Contractor shall equally share the associated mediator fees. Each party will be responsible for its own attorney's fees and other costs.

6.3 Submission of a claim, properly certified, with all required supporting documentation, and written rejection or denial of all or part of the claim by M1W, is a condition precedent to any action, proceeding, litigation, suit, or demand for arbitration by Contractor..

6.4 Notwithstanding any other provision herein, claims of \$375,000 or less shall be resolved in accordance with the procedures set forth in Section 20104 et seq. of the Public Contract Code.

6.5 In addition to any and all requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, construction claims and/or changed conditions, the Contractor must comply with the claim procedures set forth in Government Code section 900 et seq. prior to filing any lawsuit against M1W. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, construction claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if the prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against M1W.

6.6 Pursuant to Public Contract Code Section 9201, M1W shall provide Contractor with timely notification of the receipt of any third-party claim relating to the Contract.

## **SECTION 7 - INSPECTION AND PROTECTION OF WORK**

7.1 Responsibility for, and security of, all work and materials is the responsibility of the Contractor until final acceptance of the Project by M1W.

7.2 Contractor shall make the work accessible at all reasonable times for inspection by M1W. Contractor shall, at the first opportunity, inspect all material and equipment delivered to the jobsite by others to be used or incorporated in the Contractor's work and give prompt notice of any defect therein.



Contractor assumes full responsibility to protect the work done hereunder until final acceptance by M1W.

7.3 When the Work is completed, Contractor shall request, in writing, a final inspection. Within ten (10) days of the receipt of such request, M1W shall make a final inspection. The Contractor or its representatives may be present at the final inspection. The purpose of such final inspection shall be to determine whether the Work has been completed in accordance with the Contract Documents, including all change orders and all interpretations and instructions previously issued.

## **SECTION 8 - ASSIGNMENT AND SUBCONTRACTING**

8.1 Contractor shall give personal attention to the performance of the Contract and shall keep the Work under its control.

8.2 No subcontractors will be recognized as such, and all persons engaged in the work of construction will be considered as employees of the Contractor, who will be held responsible for their work which shall be subject to the provisions of the Contract and specifications.

8.3 No subcontractor who is ineligible to bid work on, or be awarded, a public works project under Labor Code Sections 1771.1 or 1777.7 can bid on, be awarded or perform work as a subcontractor on the Project. The Contractor is prohibited from performing work on the Project with a subcontractor who is ineligible to perform work on a public works project under these sections of the Labor Code.

8.4 When a portion of the work which has been subcontracted by the Contractor is not being prosecuted in a manner satisfactory to M1W, the subcontractor shall be removed immediately on the requisition of M1W and shall not again be employed on the work.

8.5 Contractor may not assign performance of the Contract may not be assigned except upon written consent of M1W.

## **SECTION 9 - TERMINATION**

9.1 Should Contractor fail within seven (7) calendar days from receipt of M1W's written notice to correct any default, including but not limited to failure perform the Work in accordance with the Contract Documents, failure to comply with the directions of M1W, or failure pay its creditors, M1W may terminate this Contract. Following a termination for default, M1W shall have the right to take whatever steps it deems necessary to correct Contractor's deficiencies and charge the cost thereof to Contractor, who shall be liable for the full cost of M1W's corrective action, including reasonable overhead, profit and attorneys' fees.

9.2 M1W may at any time terminate the Contract at M1W's convenience upon five days written notice to Contractor; in the event of termination for convenience, Contractor shall recover only the actual cost of work completed to the date of termination, which costs are documented to M1W's satisfaction, plus a reasonable amount not to exceed fifteen percent (15%) of the actual cost of the Work performed for overhead and profit. Contractor shall not be entitled to any claim or lien against M1W for any additional compensation or damages in the event of such termination.

9.3 If M1W terminates Contractor for cause, and if it is later determined that the termination was wrongful, such default termination shall automatically be converted to and treated as a termination

for convenience. In such event, Contractor shall be entitled to receive only the amounts payable under this section, and Contractor specifically waives any claim for any other amounts or damages, including, but not limited to, any claim for consequential damages or lost profits.

## **SECTION 10 - HOLD HARMLESS AND INDEMNIFICATION**

To the fullest extent allowed by law, Contractor shall defend (with counsel of M1W's choosing), indemnify and hold M1W, its officials, officers, directors, agents, employees, and representatives free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, arising out of or in connection with the performance of the Work or this Contract, including claims made by subcontractors for nonpayment, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. To the fullest extent permitted by law, Contractor shall defend, at Contractor's own cost, expense and risk, with M1W's choosing, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against M1W, its officials, officers, directors, agents, employees and representatives. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against M1W, its officials, officers, employees, directors, agents, employees and representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse M1W, its officials, officers, directors, agents, employees and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code Section 2782.

## **SECTION 11 - BONDS AND INSURANCE**

### **11.1 Bonds.**

11.1.1 Within ten (10) days after being notified of the award of the contract, and before M1W will execute the agreement for construction, the Contractor to whom the Contract is awarded shall furnish and file with M1W Performance and Payment Surety bonds as set forth below.

11.1.2 Contractor shall submit the bonds on the forms provided with the Contract Documents, duly executed by a responsible corporate surety listed in the United States Department of the Treasury circular entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," authorized to do business in the State of California and acceptable to M1W conditioned upon the faithful performance by the Contractor of all requirements of the Contract Documents. Each of the bonds shall be in a sum no less than one hundred percent (100%) of the Contract Price.

### **11.2 Insurance**

#### **11.2.1 General.**

(a) Contractor shall obtain, at its sole cost and expense, all insurance required in this Section.

(b) Certificates of such insurance and copies of the insurance policies and endorsements shall be delivered to M1W within ten (10) days after being notified of the award of the contract, and before execution of the agreement for construction by M1W.

(c) Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to M1W that it has secured all insurance required hereunder. Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to M1W that the subcontractor has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for M1W to terminate this Contract for cause. Contractor shall furnish M1W with original certificates of insurance and endorsements effective coverage required by this Contract on forms satisfactory to M1W. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms acceptable to M1W. All certificates and endorsements must be received and approved by M1W before Work commences.

11.2.2 Workers' Compensation Insurance. The Contractor shall provide workers' compensation insurance for all of the employees engaged in Work under this Contract, on or at the Site, and, in case any of sublet Work, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees as prescribed by State law. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this Contract, on or at the Site, is not protected under the Workers' Compensation Statutes, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected. The Contractor is required to secure payment of compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. The Contractor shall file with M1W certificates of his insurance protecting workers. Company or companies providing insurance coverage shall be acceptable to M1W, if in the form and coverage as set forth in the Contract Documents.

11.2.3 Employer's Liability Insurance. Contractor shall provide Employer's Liability Insurance, including Occupational Disease, in the amount of at least one million dollars (\$1,000,000.00) per person per accident. Contractor shall provide M1W with a certificate of Employer's Liability Insurance. Such insurance shall comply with the provisions of the Contract Documents. The policy shall be endorsed, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement and contain a Waiver of Subrogation in favor of M1W.

11.2.4 Commercial General Liability Insurance. Contractor shall provide "occurrence" form Commercial General Liability insurance coverage at least as broad as the most current ISO CGL Form 00 01, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury which may arise from or out of Contractor's operations, use, and management of the Site, or the performance of its obligations hereunder. The policy shall not contain any exclusion contrary to this Contract including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 39); or (2) cross-liability for claims or suits against one insured against another. Policy limits shall not be less than \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Defense costs shall be paid in addition to the limits.

(a) Such policy shall comply with all the requirements of this Section. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit Contractor's indemnification obligations to M1W, and shall not preclude M1W from taking such other actions available to M1W under other provisions of the Contract Documents or law.

(b) All general liability policies provided pursuant to the provisions of this Section shall comply with the provisions of the Contract Documents.

(c) All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, under-ground excavation, removal of lateral support, and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Contractor of that part of the indemnification contained in these General Conditions relating to liability for injury to or death of persons and damage to property.

(d) If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, M1W may require additional coverage to be purchased by Contractor to restore the required limits. Contractor may combine primary, umbrella, and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the additional insured endorsement described in the Contract Documents.

(e) All policies of general liability insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

11.2.5 Automobile Liability Insurance. Contractor shall provide "occurrence" form Automobile Liability Insurance at least as broad as ISO CA 00 01 (Any Auto) in the amount of, at least, one million dollars (\$1,000,000) per accident for bodily injury and property damage. Such insurance shall provide coverage with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible, in a form and with insurance companies acceptable to M1W. All policies of automobile insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

#### 11.2.6 Builder's Risk ["All Risk"]

(a) Contractor shall provide and maintain builder's risk insurance (or installation floater) covering all risks of direct physical loss, damage or destruction to the work in an amount not less than 100% of the contract value, to insure against such losses until final acceptance of the work by M1W. Such insurance shall insure at least against the perils of fire and extended coverage, theft, vandalism and malicious mischief, and collapse. M1W, its directors, officers, employees, and authorized volunteers shall be named loss payee on any such policy. The making of progress payments to the Contractor shall not be construed as creating an insurable interest by or for M1W or be construed as relieving the Contractor or his/her subcontractors of responsibility for loss from any direct physical loss, damage or destruction occurring prior to final acceptance of the work by M1W. The Contractor shall provide a certificate evidencing this coverage before commencing performance of the Work.

(b) The named insureds shall be Contractor, all Subcontractors of any tier (excluding those solely responsible for design work), suppliers, and M1W, its elected officials, officers, employees, agents and authorized volunteers, as their interests may appear. Contractor shall not be required to maintain property insurance for any portion of the Work following acceptance by M1W.

(c) Policy shall be provided for replacement value on an "all risk" basis. There shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for any ensuing loss from faulty workmanship, nonconforming work, omission or deficiency in design or specifications; (2) coverage against machinery accidents and operational testing; (3) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures and all other properties constituting a part of the Project; (4) transit coverage, including ocean marine coverage (unless insured by the supplier), with sub-limits sufficient to insure the full replacement value of any key equipment item; and (5) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off the Site. Such insurance shall be on a form acceptable to M1W to ensure adequacy and sublimit.

11.2.7 Additional Insureds; Waiver of Subrogation. M1W, its elected officials, officers, employees, agents and authorized volunteers shall be named as Additional Insureds on Contractor's All Risk policy and on Contractor's and its subcontractors' policies of Commercial General Liability and Automobile Liability insurance using, for Contractor's policy/ies of Commercial General Liability insurance, ISO CG forms 20 10 and 20 37 (or endorsements providing the exact same coverage, including completed operations), and, for subcontractors' policies of Commercial General Liability insurance, ISO CG form 20 38 (or endorsements providing the exact same coverage). Notwithstanding the minimum limits set forth in this Contract for any type of insurance coverage, all available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as Additional Insureds hereunder. Contractor and its insurance carriers shall provide a Waiver of Subrogation in favor of those parties.

#### 11.2.8 Form And Proof Of Carriage Of Insurance

(a) Any insurance carrier providing insurance coverage required by the Contract Documents shall be admitted to and authorized to do business in the State of California unless waived, in writing, by M1W's Risk Manager. Carrier(s) shall have an A.M. Best rating of not less than an A:VII. Insurance deductibles or self-insured retentions must be declared by the Contractor. At the election of M1W, the Contractor shall either 1) reduce or eliminate such deductibles or self-insured retentions, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses. If umbrella or excess liability coverage is used to meet any required limit(s) specified herein, the Contractor shall provide a "follow form" endorsement satisfactory to M1W indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

(b) Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or cancelled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to M1W; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to M1W its directors, officials, officers, employees, agents and volunteers.

(c) The Certificate(s) and policies of insurance shall contain or shall be endorsed to contain the covenant of the insurance carrier(s) that it shall provide no less than thirty (30) days written notice be given to M1W prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, M1W may terminate the Contract or stop the Work in accordance with the Contract Documents, unless M1W receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. Contractor shall not take possession, or use the Site, or commence operations under this Contract until M1W has been furnished original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this section. The original endorsements for each policy and the Certificate of Insurance shall be signed by an individual authorized by the insurance carrier to do so on its behalf.

(d) The Certificate(s) of Insurance, policies and endorsements shall so covenant and shall be construed as primary, and M1W's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(e) M1W reserves the right to adjust the monetary limits of insurance coverages during the term of this Contract including any extension thereof if in M1W's reasonable judgment, the amount or type of insurance carried by the Contractor becomes inadequate.

(f) Contractor shall report to M1W, in addition to Contractor's insurer, any and all insurance claims submitted by the Contractor in connection with the Work under this Contract.

11.2.9 Subcontractor Insurance Requirements. Contractor shall require all tiers of subcontractors working under this Contract to provide the insurance required under this Contract unless otherwise agreed to in writing by M1W. Contractor shall make certain that any and all subcontractors hired by Contractor are insured in accordance with this Contract. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold M1W harmless from any damage, loss, cost, or expense, including attorneys' fees, incurred by M1W as a result thereof.

## **SECTION 12 - WARRANTY**

Contractor warrants to M1W that all materials and equipment furnished shall be new, free from faults and defects and of good quality. Contractor hereby warrants its work against all deficiencies and defects for the period required by the Contract Documents or the longest period permitted by California law, whichever is greater. Unless otherwise stated in the Contract Documents, warranty periods shall begin upon the filing of the Notice of Completion and shall be for one year.

This Section shall not limit M1W's rights under this Contract or with respect to latent defects, gross mistakes, or fraud. M1W specifically reserves all rights related to defective work, including but not limited to defect claims pursuant to California Code of Civil Procedure Section 337.15.

## **SECTION 13 - COMPLIANCE WITH STATE STORM WATER PERMIT**

Contractor shall be required to comply with all aspects of the State Water Resources Control Board (State Water Board) Water Quality Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity (Permit),

including any amendment or renewal thereof, and with the lawful requirements of any local agency having jurisdiction over the location where the Work is to be conducted, regarding discharges of storm water to separate storm drain systems or watercourses. M1W expressly reserves the right to procure coverage under the Permit for the Work site if Contractor fails to proceed in a manner that complies with the requirements of the Permit. M1W additionally reserves the right to hire additional contractors to maintain compliance at the Work site. Whether Contractor has adequately maintained compliance with the Permit shall be M1W's sole determination. Any costs incurred by M1W in procuring coverage under the Permit, or drafting and/or implementing a SWPPP for the Work site shall be paid by Contractor.

#### **SECTION 14 - LAWS TO BE OBSERVED**

14.1 Contractor shall keep itself fully informed of all existing and future state and federal laws and county and municipal ordinances and regulations that in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

14.2 Contractor shall at all times observe and comply with, and shall cause all of its agents and employees to observe and comply with all such existing and future Federal, State and local laws, ordinances, regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority over the Project; and shall protect and indemnify M1W, and all officers and employees thereof connected with the Project, against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by M1W's representative or their employees. If any discrepancy or inconsistency is discovered in the plans, drawings, specifications, or contract for the work in relation to any such law, ordinance, regulation, order or decree, Contractor shall promptly report the same to M1W in writing.

14.3 This Contract shall be governed by and construed in accordance with the laws of the State of California.

#### **SECTION 15 - UTILITIES AT THE WORK SITE**

##### **15.1 Existing Utilities**

The location of known existing utilities and pipelines are shown on the Plans in their approximate locations. However, nothing herein shall be deemed to require the Owner to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the project can be inferred from the presence of other visible facilities, such as buildings, cleanouts, meter and junction boxes, on or adjacent to the site of the Project.

Contractor shall take all steps reasonably necessary to ascertain the exact location of all underground facilities prior to doing work that may damage such facilities or interfere with their service, including but not limited to calling Underground Service Alert to locate utilities in accordance with the procedures described in Government Code 4215 et seq. Contractor shall protect from damage any utility facilities that are to remain in place, be installed, relocated or otherwise rearranged.

If Contractor while performing the Work discovers utility facilities not identified in the Contract Documents, Contractor shall immediately notify M1W and the utility owner. M1W shall arrange the

removal, relocation, or protection of existing main or trunk line utility facilities located at the site of the Work but not identified in the Contract.

If the Contractor is required to locate, repair damage not due to the Contractor's failure to exercise reasonable care, and remove or relocate existing main or trunk line utility facilities, it shall be compensated under Section 6 of this Contract – Changes in the Work - including payment for equipment on the Project necessarily idled during such work.

Contractor will not be entitled to damages or additional payment for delays caused solely by the failure of M1W, or the owner of the utility, to provide for removal or relocation of existing main or trunk line utility facilities not identified in the Contract Documents, except for equipment necessarily idled during such work.

Contractor shall not be assessed liquidated damages for delay in completing the WORK solely attributable to the failure of M1W, or the owner of the utility, to provide for removal or relocation of existing main or trunk line utility facilities not indicated in the Contract Documents with reasonable accuracy.

The right is reserved by M1W and the owners of facilities or their authorized agents, to enter the job for the purpose of making such changes as are necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. The Contractor shall cooperate with forces engaged in such work and shall conduct his operations in such a manner as to avoid any delay or hindrance to the work being performed by such other forces.

Attention is directed to the possible existence of underground facilities not known to M1W, or in a location different from that which is shown on the plans or in the Special Provisions.

The Owner will assume the responsibility for the timely removal, relocation, or protection of existing main or trunk line utility facilities located on the Project site if such utilities are not identified by the Owner in the Contract Documents or which can reasonably be inferred from the presence of other visible facilities.

## 15.2 Utility Location

It shall be the Contractor's responsibility to determine the exact location and depth of all utilities, including service connections, which have been marked by the respective utility owners and which the Contractor believes may affect or be affected by the Contractor's operations. The Contractor shall not be entitled to additional compensation nor time extensions for work necessary to avoid interferences nor for repair to damaged utilities if the Contractor does not expose all such existing utilities as required by this section.

The locating of utilities shall be in conformance with Government Code Section 4216 except for the Owner's utilities located on the Owner's property and not on public right-of-way.

Pursuant to Government Code section 4216.2 the Contractor shall contact the appropriate regional notification center at least two (2) working days but not more than fourteen (14) calendar days before performing any excavation. The Contractor shall request that the utility owners conduct a utility survey and mark or otherwise indicate the location of their service. The Contractor shall furnish to M1W



written documentation of its contact(s) with the regional notification center prior to commencing excavation at such locations.

After the utility survey is completed, the Contractor shall commence "potholing" or hand digging to determine the actual location of the pipe, duct, or conduit. M1W shall be given notice prior to commencing potholing operations. The Contractor shall uncover all piping and conduits, to a point one (1) foot below the pipe, where crossings, interferences, or connections are shown on the Drawings, prior to trenching or excavating for any pipe or structures, to determine actual elevations. New pipelines shall be laid to such grade as to clear all existing facilities, which are to remain in service for any period subsequent to the construction of the run of pipe involved.

The Contractor's attention is directed to the requirements of Government Code Section 4216.2 (a)(2) which provides: "When the excavation is proposed within 10 feet of a high priority subsurface installation, the operator of the high priority subsurface installation shall notify the excavator of the existence of the high priority subsurface installation prior to the legal excavation start date and time, as such date and time are authorized pursuant to paragraph (1) of subdivision (a) of 4216.2. The excavator and the operator or its representative shall conduct an onsite meeting at a mutually-agreed-on time to determine actions or activities required to verify the location of the high priority subsurface installation prior to start time." The Contractor shall notify M1W in advance of this meeting.

## **SECTION 16 - TRENCHES**

### **16.1 Trenches Five Feet or More in Depth.**

16.1.1 The Contractor shall submit to M1W, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five feet or more in depth. If the plan varies from shoring system standards forth in the Construction Safety Orders of the Division of Industrial Safety in Title 8, Subchapter 4, Article 6, California Code of Regulations, the plan shall be prepared by a registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations, and all costs therefor shall be included in the Contract Price. Nothing in this section shall be deemed to allow the use of a shoring, bracing, sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this section shall be construed to impose a tort liability on the Owner, any of its officers, officials, partners, employees, agents, consultants or volunteers. The Owner's review of the Contractor's excavation plan is only for general conformance to the Construction Safety Orders.

16.1.2 Prior to commencing any excavation, the Contractor shall designate in writing to M1W the "competent person(s)" with the authority and responsibilities designated in the Construction Safety Orders.

### **16.2 Excavations Deeper than Four Feet.**

16.2.1 If work under this Contract involves digging trenches or other excavation that extends deeper than four feet below the surface, Contractor shall promptly, and before the following conditions are disturbed, notify M1W, in writing, of any:

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

(b) Subsurface or latent physical conditions at the site differing from those indicated by information made available to bidders prior to the deadline for submitting bids.

(c) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

16.2.2 M1W shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, shall issue a change order under the procedures described in the Contract Documents.

16.2.3 In the event that a dispute arises between M1W and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all Work to be performed under the Contract. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the parties.

#### **SECTION 17 - WAIVERS OF LIEN**

Upon request the Contractor shall submit a complete list of major suppliers and/or subcontractors who will be providing material and/or labor for the performance of the Work, and shall submit with each payment request waivers of lien from each major supplier and/or subcontractor. Sample forms to be used will be furnished by M1W.

#### **SECTION 18 - CLEAN-UP**

Contractor will remove from the project site all debris resulting from performance of the Work no less often than daily. If Contractor fails to do so, M1W may, after twenty-four (24) hours' notice to Contractor, clean up the site and deduct the cost from the Contract Price.

#### **SECTION 19 - LICENSE REQUIREMENT**

Contractor's attention is directed to Business and Professions Code Sections 7000 et seq. concerning the licensing of contractors. At the time Contractor enters into this Contract and all times Contractor is performing the Work, Contractor shall have a valid license issued by the Contractors State License Board in the classification stated in the Notice. All bidders and subcontractors shall be licensed in accordance with the laws of this State and any contractor or subcontractor not so licensed is subject to penalties imposed by such laws.

## **SECTION 20 - MISCELLANEOUS**

### **20.1 Entire Agreement**

This Contract represents the entire agreement between M1W and Contractor and supersedes any prior written or oral representations. No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the Contract Documents.

### **20.2 Records and Audits**

20.2.1 Contractor and its subcontractors shall establish and maintain records pertaining to this contract. Contractor's and subcontractors' accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of all costs charged under this contract, including properly executed payrolls, time records, invoices and vouchers.

20.2.2 Contractor shall permit M1W and its authorized representatives to inspect, examine and make copies of Contractor's books, records, accounts, and any and all data relevant to this Contract at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by Contractor pursuant to this contract and shall provide such assistance as may be reasonably required in the course of such inspection. M1W further reserves the right to examine and re-examine said books, records, accounts, and data during the three (3)-year period following the termination of this Contract; and Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatever for three (3) years after the termination of this Contract.

20.2.3 Pursuant to California Government Code Section 8546.7, the parties to this Contract shall be subject to the examination and audit of representative of the Auditor General of the State of California for a period of three (3) years after final payment under the contract. The examination and audit shall be confined to those matters connected with the performance of this contract including, but not limited to, the cost of administering the contract.

### **20.3 Clayton Act and Cartwright Act**

Section 7103.5 of the Public Contract Code specifies that in entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 commencing with Sec. 16700) of Part 2 of Division 7 of the Business Profession Code, arising from purchase of goods, services or materials pursuant to the contract or subcontract. Pursuant to Public Contract Code Section 7103.5 the Contractor and all of its Subcontractors hereby offer and agree to assign to M1W all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 commencing with Sec. 16700) of Part 2 of Division 7 of the Business Profession Code, arising from purchase of goods, services or materials pursuant to this Contract. This assignment shall become effective when M1W tenders final payment to the Contractor without further acknowledgement by the parties.

20.4 Site Superintendent

The Contractor shall provide competent supervision and staffing of the Work as approved by M1W. The Contractor or designated representative shall be present at the site at all times while work is actually in progress. Superintendent must be able to proficiently speak, read and write in English.

20.5 Character of Workers

If any subcontractor or person employed by the Contractor shall appear to M1W to be incompetent or to act in a disorderly or improper manner, he shall be discharged immediately on the request of M1W, and such person shall not again be employed on the Work.

20.6 Notices

All notices permitted or required under this Contract shall be given at the following address, or at such other address as the parties may provide in writing for this purpose:

**M1W:**

Monterey One Water  
5 Harris Ct, Suite D,  
Monterey, CA 93940  
Email: Yohana@my1water.org  
Attn: Yohana Vargas

**CONTRACTOR**

[INSERT NAME OF CONTRACTOR]  
[INSERT ADDRESS]  
Email: \_\_\_\_\_  
Attn.: \_\_\_\_\_

The parties may designate, in writing, other individuals to whom notice is to be given. Notices shall be deemed to be received upon personal delivery to the addresses above; if sent by email, upon delivery; if sent by overnight delivery, upon delivery as shown by delivery service records; if sent by facsimile, upon receipt as confirmed by the sending facsimile equipment; if by United States Postal Service, five days after deposit in the mail.

20.7 State License Board Notice

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

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

**[CONTRACTOR]**

**MONTEREY ONE WATER**

By \_\_\_\_\_

By \_\_\_\_\_

Name and Title: \_\_\_\_\_

Paul A. Sciuto  
General Manager

License No. \_\_\_\_\_

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

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

*(CONTRACTOR'S SIGNATURE MUST BE  
NOTARIZED AND CORPORATE  
SEAL AFFIXED, IF APPLICABLE)*

Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Legal Counsel for Monterey One Water

**END OF CONTRACT**

## 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

#### DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

\_\_\_\_\_ Title(s)

\_\_\_\_\_ Title or Type of Document

- Partner(s)
  - Limited
  - General

\_\_\_\_\_ Number of Pages

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

\_\_\_\_\_ Date of Document

Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ Signer(s) Other Than Named Above

**00600 – BOND FORMS**

1.1 Performance Bond.

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the Monterey One Water, (hereinafter referred to as "M1W") has awarded to \_\_\_\_\_, (hereinafter referred to as the "Contractor") an agreement for \_\_\_\_\_, (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated \_\_\_\_\_, (hereinafter referred to as "Contract Documents"), the 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 M1W 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 M1W, its Board, members of the Board, 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 incurred by M1W 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 M1W, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect M1W 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 M1W'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 M1W to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at M1W's option:

- i. Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
- ii. 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 M1W, 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 M1W under the Contract and any modification thereto, less any amount previously paid by M1W to the Contractor and any other set offs pursuant to the Contract Documents.
- iii. Permit M1W 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 M1W under the Contract and any modification thereto, less any amount previously paid by M1W to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that M1W 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 M1W, when declaring the Contractor in default, notifies Surety of M1W'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

Title \_\_\_\_\_

(Attach Attorney-in-Fact Certificate)

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

#### DESCRIPTION OF ATTACHED DOCUMENT

Individual  
 Corporate Officer

\_\_\_\_\_ Title(s)

Partner(s)       Limited  
     General

Attorney-In-Fact  
 Trustee(s)  
 Guardian/Conservator  
 Other:  
 Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_

\_\_\_\_\_ Title or Type of Document

\_\_\_\_\_ Number of Pages

\_\_\_\_\_ Date of Document

\_\_\_\_\_ 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

#### DESCRIPTION OF ATTACHED DOCUMENT

Individual  
 Corporate Officer

\_\_\_\_\_ Title(s)

Partner(s)       Limited  
     General

Attorney-In-Fact  
 Trustee(s)  
 Guardian/Conservator  
 Other:  
 Signer is representing:  
 Name Of Person(s) Or Entity(ies)

\_\_\_\_\_

\_\_\_\_\_ Title or Type of Document

\_\_\_\_\_ Number of Pages

\_\_\_\_\_ Date of Document

\_\_\_\_\_ Signer(s) Other Than Named Above

**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**

1.2 Payment Bond (Labor and Materials).

KNOW ALL MEN BY THESE PRESENTS That

WHEREAS, the Monterey One Water (hereinafter designated as "M1W"), by action taken or a resolution passed \_\_\_\_\_, 20\_\_\_\_, has awarded to \_\_\_\_\_ hereinafter designated as the "Principal," a contract for the work described as follows: Castroville Pump Station VFD and PLC Installation (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 M1W 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 M1W 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 M1W 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 \_\_\_\_\_

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 COUNTY OF \_\_\_\_\_

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WITNESS my hand and official seal.

Signature of Notary Public \_\_\_\_\_

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 Corporate Officer

\_\_\_\_\_ Title(s)

Partner(s)       Limited  
     General

Attorney-In-Fact  
 Trustee(s)  
 Guardian/Conservator  
 Other:  
 Signer is representing:  
 Name Of Person(s) Or Entity(ies)

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\_\_\_\_\_ Title or Type of Document

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Individual

Corporate Officer

\_\_\_\_\_ Title(s)

\_\_\_\_\_ Title or Type of Document

Partner(s)

Limited

General

\_\_\_\_\_ Number of Pages

Attorney-In-Fact

Trustee(s)

Guardian/Conservator

Other:

\_\_\_\_\_ Date of Document

Signer is representing:

Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_ Signer(s) Other Than Named Above

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**END OF PAYMENT BOND**